

CHAPTER 13 PRACTICE

SEPTEMBER, 2004

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Do you know where the Judges stand in the Dayton Bankruptcy Court?

Do you know what changes have been made in the Local and National Rules?

Do you struggle with confirmation issues and objections?

Do you know how the U.S. Trustee affects the Chapter 13 program?

Do you have a Chapter 13 Handbook?

Do you have a recent list of published decisions?

Do you have ECF questions?

WE HAVE ANSWERS!

Mark your calendars for October 8, 2004.

These are a just a few of the questions we will be answering in this informative seminar. You will receive valuable information for attorneys as well as staff members. Knowledgeable professionals will be presenting insights that you will not want to miss! The seminar will be located at the Dayton Downtown DoubleTree at the corner of Third Street and Ludlow Street. One small fee will include a *Chapter 13 Practice*



book, breakfast, lunch, valet parking, **5.75 C.LE.** credits and information that will help your practice be more efficient, with a better understanding of the Chapter 13 practice and what is expected, along with valuable forms that will help your office grow.

(See p. 4 for agenda)

OCTOBER SEMINAR**HIGHLIGHTS**

- Local Bankruptcy Judges
- United States Trustees
- Local Counsel
- Chapter 13 Trustees
- Chapter 13 Staff

LINDA WRIGHT RECEIVES N.A.C.T.T. AWARDS

Linda Wright, Operations and Personnel Manager for the Chapter 13 Trustee's Office was recently awarded a Distinguished Service Award from N.A.C.T.T. The award was presented for her contributions in developing a curriculum regarding Chapter 13 practice and providing staff training for Chapter 13 Offices across the

country. A panel of five Office Managers participated in the training and development. This year's award was received in Las Vegas, Nevada. Linda was also awarded the same award in 2003 in Chicago, Illinois for her efforts. Linda has been managing the Dayton Chapter 13 Office for 15 years.



TIPS FROM THE DEPARTMENTS

PRECONFIRMATION DEPARTMENT

This has been a record breaking year for the office. On September 3, 2004 the Chapter 13 Office broke a record with 2,972 cases filed since the beginning of the fiscal year.

Please carefully check your electronic filings to be sure that documents that are filed with the Court are consistent with documents that are brought to the 341 Meeting of Creditors. Make sure that

final revisions are attached when e-filing your documents and not a previous version.

Be sure your staff are checking Debtor's social security numbers at the time of filing the petition. Make sure these numbers are consistent with Form 21 filed with Court.

If a Trustee's objection to confirmation is set for hearing and an agreement has been made to increase plan

payments, increase the dividend to the unsecured creditors or add tax refunds as additional plan payments, do not file a separate modification as we will provide the order. This will allow the case to confirm quicker and allow payments to begin disbursing sooner.

CLAIMS DEPARTMENT

Beginning September 1, 2004, the U.S. Bankruptcy Court has started accepting electronically filed proofs of claim. For more information on e-filing claims, please contact the Clerk's office.

We are still experiencing some problems with orders not being filed on Debtor objections to claims. Please be sure to submit your order after the 30 day notice period

if no responses are filed.

If a response is filed on a Debtor objection to a mortgage please contact the Creditor/Debtor attorney to try and resolve the issue. These issues cannot be resolved by the Trustee.

Please review your claims intentions. If you need to file a Debtor objection to a claim it needs to be done in a timely manner so the Chapter

13 Trustee does not begin disbursing on the claim.

CLOSING DEPARTMENT

Official payoffs must be requested in writing. Debtor(s) must provide the following information: 1) the source of the funds to pay off the plan, 2) the date the funds will become available and 3) a statement that the Debtor is serious about paying off the plan. Remember that an unofficial payoff is just that,

unofficial. They may not include 36 month base, additional payments, etc. Now that attorneys are on-line, if a plan has a mortgage, special provisions to pay claims, additional funds, etc., it is better to call or request an official payoff. Make sure to calculate your 36 month base figure. Plans must make

at least 36 months of payments.

Debtor refunds are held 30 days on completed cases and are sent to the attorney's office unless otherwise instructed by the attorney.

Do not forget to file your Orders on your attorney fee applications.

APPRAISALS

Debtor's counsel should start receiving real estate appraisals through Court. Please start checking your e-mails/PACER to see if the appraisal has been received. You will need to provide the Debtor with a copy of that appraisal.

IDENTIFICATION

Make sure your clients know to bring an **original picture ID** with them to Bankruptcy Court and the Chapter 13 Office. They will not be admitted without this.

Please remind your clients to provide **proof of social security number** at the Meeting of Creditors.

LEGAL DEPARTMENT

Make sure to check your pleadings for hearing dates as this may be the only notice you receive for a hearing. Be sure to check your e-mail for Meeting of Creditors and Confirmation notices.

Do not be afraid to call Scott as soon as you receive an objection to try and resolve the problem. With the number of cases being set for hearing, the earlier the case can be resolved, the better.

Remember the Trustee now uses a \$1,700.00 budget for a single debtor (and \$100.00 for each additional dependent), exclusive of housing, taxes and daycare. If you have a large budget item, e.g. medical, explain at the bottom of the Schedule J or on a separate page and be prepared to show documentation if asked.

DO NOT FORGET that if there are objections to valuation

and/or confirmation that all orders must be approved by the Chapter 13 Trustee. If there is no objection pending and the case is read into the record to confirm, we will not approve orders on valuations not properly before the Court.

If a matter is resolved by agreed order make sure your order is approved by our office within two weeks or it will be reset for hearing and not removed from the docket .

COURT

DOCKETS

Are you checking the Court dockets on **dayton13.com** to see if you have any hearings set?

We still have space available for our
October 8, 2004 seminar.
 Receive all the most recent updates
 Including the *Chapter 13 Plan.*

Are you a member of the **ONE LIST?**

GINA, CLAIMS DEPARTMENT



We would like to introduce you to **Gina of our Claims Department.**

Gina has been with our office since September 3, 2003. She came to us from National City Mortgage Company in Miamisburg where she was an Escrow Analyst .

She is responsible for processing secured claims for cases ending in numbers 76-00. In processing these claims she must review all documents pertaining to the claim. Among many of her

other duties, she files motions and orders to Court for Trustee Objections to Claims. She also processes Master Intentions to Claims and has many other responsibilities.

Gina has a wonderful smile and disposition and has been a very positive addition to our office.

Do you know you can make **plan calculations** off of the BSS website? Call the office for training.

CHAPTER 13 PRACTICE HOW TO GET THE WHOLE PICTURE

Receive useful and practical information to build your practice from experienced experts in one day.

- Chapter 13 Trustees and Staff
- United States Trustees
- Local Judges
- Clerk of Courts
- Local Creditor and Debtor Counsel

5.75 Hours of
C.L.E.

Receive a
Chapter 13 Practice book
of all the information you need from
filing to closing of a case.

Bring Your
Staff

Attorney	\$125.00
Gov't Employees	\$75.00
Staff	\$75.00

AGENDA

7:45—8:30	Registration and Light Breakfast
8:30—8:45	Jeff Kellner <i>Introduction to Program</i> <i>Bankruptcy Numbers in Dayton and Chapter 13</i>
8:45—9:45	Bankruptcy Judges <i>Chief Judge, Honorable Thomas F. Waldron and Honorable Larry S. Walter, Southern District of Ohio, Western Division, Dayton</i> <i>View From the Bench—The Good, The Bad And the Ugly</i>
9:45—10:15	Chapter 13 Trustees, Southern District of Ohio <i>Marge Burks, Cincinnati and Jeff Kellner, Dayton</i> <i>"What we like to see and really hate to see in Chapter 13 Cases"</i> <i>Local and National Rules Changes</i>
10:15—10:30	Break
10:30—11:00	Chapter 13 Pros and Cons <i>Debtor's attorney and Creditor's attorney</i> <i>Wayne Novick, John Jansing and Jeff Kellner</i> <i>Chapter 7 vs. Chapter 13</i> <i>Interest Rates, Confirmation Issues and Objections</i>
11:00—12:00	United States Trustee <i>Saul Eisen, United States Trustee, Region 9 and Alexander Barkan, Assistant United States Trustee, Columbus</i> <i>The United States Trustee Program</i> <i>What the U.S.T. reviews and files</i> <i>How they affect the Chapter 13 program</i>
12:00—1:15	Lunch
1:15—2:45	Dayton Chapter 13 Handbook <i>Jeff Kellner, Linda Wright and Scott Stout</i>
2:45—3:00	Break
3:00—3:45	Case Law Update <i>Scott G. Stout and Randal Harvey</i> <i>Local, BAP, 6th Circuit and Supreme Court Decisions</i>
3:45—4:15	Electronic Case Filing and Legal Issues <i>Richard West, Linda Wright and Mike Webb, U.S. Bankruptcy Clerk Office</i>
4:15—4:30	Questions and Conclusion

Sign up forms can be found by clicking the **Seminar** tab on the **Dayton13.com** website.



Chapter 13

Trustee's Corner



Mark your calendars for October 8th, 2004 for the Dayton Chapter 13 Seminar at the Doubletree Hotel in downtown Dayton. The Bankruptcy Judges, United States Trustee and Assistant United States Trustee are speaking as well as the Chapter 13 Trustee and his staff on various issues and several local practitioners. Topics include “The Good, The Bad and The Ugly” as the Court sees it, Chapter 13 Trustees (Dayton and Cincinnati) Case Law Update, Chapter 7 vs. Chapter 13, ECF, and a lengthy session on Chapter 13 forms, plan and procedures. C.L.E. credit is available. Registration is on the Chapter 13 website at www.dayton13.com.

The **Till decision** was rendered by the Supreme Court, giving us a guidance on the “interest rate” for secured creditors in chapter 13. The rate is the prime rate plus a risk factor of 1, 2 or 3%. The risk factors include repeated filings, amount of debt, feasibility and several other factors. This wording will be incorporated into the recommended Chapter 13 Plan to be distributed at the seminar.

Electronic Case Filing is in full force and our office is still trying to cope with the incoming emails and sending of documents. Let us know if you are having problems and we can discuss it at the seminar.

I encourage everyone to review our **website** weekly as it now has the upcoming hearings, many of the Chapter 13 forms, the Chapter 13 recommended plan and current events such as the registration for the Chapter 13 seminar on October 8th. We will soon add the Section 341 Meeting of Creditors weekly docket, Case Law Update and current events in chapter 13.

Jeff Kellner

Chapter 13 Trustee

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13 TRUSTEE**

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Jeffrey M. Kellner
Chapter 13 Trustee

DO NOT BE LEFT IN THE DARK

Sign up today

to be enlightened on Chapter 13 Practice.

Space is limited so sign up soon.