

THE **MARSHALL**
CHRONICLES

JUNE 2007
VOLUME VI, NUMBER 6

What Will It Cost Me?

Each day we hear issues argued before Bankruptcy Judges and lately those issues have to deal with interpretation of the law under BAPCPA. Though the Bankruptcy Judges produce well founded and thoroughly thought out decisions on what they believe the law to read and mean, that interpretation is legally good in that Judge's court and any other court which follows the same logic. Bankruptcy Judges may be persuaded by other Bankruptcy Judge's decisions but are not bound by them by law.

Bankruptcy Judges are the first crucial step in ferreting out what the bankruptcy code means. After a decision is rendered at the bankruptcy court level, that decision can be appealed to the District Court or now under BAPCPA directly to the Circuit Court of Appeals. The Circuit Court is the Court that has the power to bind all the Courts in that jurisdiction and can be overturned only by the Supreme Court of the United States. The state of Illinois is in the 7th Circuit.

Recently a bankruptcy case made its way up the fast track to be argued before the 7th Circuit Court of Appeals. The case began with a ruling by Judge Goldgar. The case is *In re Wright*, 06 B 13363. The facts of the case are quite simple. The Wrights purchased a 2006 Dodge Magnum for \$27,000 and with fees and costs wound up financing \$28,067 at an interest rate of 16.95% through an installment contract that ended up with Drive Financial. The vehicle was purchased within 910 days prior to the date the bankruptcy case was filed. The debtors proposed as part of their plan a provision that stated that the car would be surrendered "in full satisfaction" of the claim of Drive Financial and that "no claim, secured or unsecured" will be paid. Drive objected to those terms. Going against the overwhelming wave of Bankruptcy Judges siding with the debtors' position, Judge Goldgar found for the creditor in his decision and denied confirmation of debtors' plan and that decision was appealed directly to the 7th Circuit Court of Appeals by the debtors.

The case surrounds the interpretation and interplay of sections 506 and 1325 of the bankruptcy code. Section 506(a) of the Bankruptcy Code allows the claim of an under-secured creditor to be split or bifurcated into a secured portion, which is the value of the collateral, and an unsecured portion, which is the remain-

der of the claim in excess of the value of the collateral. Under the new BAPCPA provisions in §1325(a)(5) of the Code, §506 does not apply to an automobile purchased within 910 days prior to the filing of the bankruptcy and thus a creditor's claim secured by a "910 car" cannot be bifurcated in a Chapter 13 plan. The result is that the vehicle is treated as fully secured and that treatment must be addressed in the proposed plan.

The disagreement/issue is how that newly defined secured claim will be treated when the debtor wants to surrender the collateral. When a debtor chooses to keep the vehicle, the debtor must pay the entire balance owed on the vehicle. But he/she can turn the tables and surrender the vehicle to the creditor in full satisfaction of its claim thus wiping out any deficiency unsecured

claim. The case was argued before the 7th Circuit on June 5, 2007. We'll let you know how the case turns out when a decision is rendered. The opposing arguments were summed up in the following excerpts from the brief filed by the parties.

From the Debtors' Perspective:

The bankruptcy court below denied confirmation of the appellants' Chapter 13 plan for two reasons, and the debtor's attorney argued that both are wrong. First, the court held that an undersecured creditor's right to a deficiency claim arises under state law, not §506. This theory is not supported by any legal authority and contradicts a long line of case law, including opinions of the United States Supreme Court, as well as more than a quarter of a century of bankruptcy practice. Second, according to the bankruptcy court, §506 "does not, and never did" apply to the surrender scenario anyway since it only applies to claims secured by collateral in which the bankruptcy estate has an interest, and the bankruptcy estate loses its interest in the collateral upon

surrender. This completely disregards the United States Supreme Court's opinions holding to the contrary, and §506's requirement that valuation be made for the "proposed," not actual, "disposition or use."

Appellants assert that §506 would apply to the surrender of a "910 car" in a Chapter 13 case but for the amended §1325(a)(5), and that the prohibition against the application of §506 amounts

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to prohibition against bifurcation and nothing else. Joining a minority of courts in reaching the opposite conclusion, the bankruptcy court in this case adopted the reasoning in *In re Particka*, 355 B.R. 616 (Bankr. E.D. Mich. 2006), that “the right of a secured creditor to recover a deficiency following a sale comes from state law, not from section 506.” Transcript of January 30, 2007 Hearing, Record on Appeal at 40-41. See also *In re Zehring*, 351 B.R. 675 (W.D. Wis. 2006); *In re Clark*, 2007 Bankr. LEXIS 590 (Bankr. N.D. Miss. Feb. 21, 2007); *In re Hoffman*, 2007 Bankr. LEXIS 3754 (Bankr. E.D. Mich. Dec. 29, 2006) (Amended Opinion); *In re Davis*, 2006 Bankr. LEXIS 3930 (Bankr. N.D. Ga. Dec. 14, 2006); *In re Blanco*, 2007 Bankr. LEXIS 682 (Bankr. N.D. Ill. March 12, 2007); *In re Morales*, 2007 Bankr. LEXIS 97 (Bankr. N.D. Ill. Jan. 11, 2007); *In re Duke*, 345 B.R. 806 (Bankr. W.D. Ky. 2006).

It must be noted that none of the courts following the “state law theory” cited any authority – whether statute or case law – in their support, except one another. The reason is simple: there is no authority to cite. An extensive case law search reveals that, until BAPCPA became law in 2005, no court, not even any of the

courts mentioned above, had held in a published opinion to the effect that “the right of a secured creditor to recover a deficiency following a sale comes from state law, not from section 506.” Obviously, it is not because filing an unsecured deficiency claim in a bankruptcy case is a new right, but because it has been well-established law that there is only one provision governing the allowance of secured and unsecured claims in bankruptcy cases, and that is §506. See *Associates Commercial Corp. v. Rash*, 520 U.S. 953, 961 (1997) (the first sentence of §506 “tells us that a secured creditor’s claim is to be divided into secured and unsecured portions, with the secured portion of the claim limited to the value of the collateral”); *Ron Pair Enterprises, Inc.* 489 U.S. 235, 238-39 (1989) (“Subsection (a) of §506 provides that a claim is secured only to the extent of the value of the property on which the lien is fixed; the remainder of that claim is considered unsecured”). See also *In re Fobian*, 951 F.2d 1149, 1151 (9th Cir. 1991); *In re Mason*, 315 B.R. 759, 761-62 (Bankr. N.D. Cal. 2004); *In re Barclay*, 275 B.R. 275, 279-80 (Bankr. N.D. Ala. 2001). These are pre-BAPCPA cases applying §506(a) when the debtor surrendered the collateral under §1325(a)(5)(C) or §1225(a)(5)(C), its Chapter 12 equivalent.

All the Hanging Paragraph (as §1325(a)(5) is called) does is to prevent a secured creditor’s claim from being “divided into secured and unsecured portions.” Nothing in BAPCPA or its legislative history suggests that it means more than that. The Bankruptcy Code is replete with references to “applicable non-bankruptcy law” where Congress so intended, see, e.g., §101(14A) (definition of “domestic support obligation”), §108(a) (extension of time), §362(b)(26) (setoff of tax liability), §365(f) (trustee’s sale of property jointly owned by debtor and non-debtor), §507(a)(1) (priority), and §1322(e) (amount necessary to cure a default). Nowhere in the Code does Congress allow an undersecured creditor a deficiency claim under “applicable non-bankruptcy law.” While a creditor’s unsecured deficiency claim may have arisen under state law if the collateral was liquidated prior to the filing of bankruptcy (because the estate never had an interest in it), once the bankruptcy petition is filed, §506 controls over any claim secured wholly or partially by collateral in which the bankruptcy estate has an interest.

The “state law” theory was rejected by most courts having considered the issue. *In re Pinti*, 2007 Bankr. LEXIS 744 (Bankr. S.D.N.Y. March 13, 2007), the court best summarized the majority’s reasoning: When an undersecured creditor seeks a deficiency claim against a debtor in bankruptcy, it should be emphasized that, however the deficiency might be calculated under state law, the creditor is seeking allowance of the deficiency as a bankruptcy claim. The Bankruptcy Code, and not state law, determines whether and to what extent such claim should be allowed in the bankruptcy estate. The starting point for allowance of a deficiency claim is Section 506(a)(1), which states that an allowed claim of a creditor that is secured by a lien on property in which the state has an interest is, first, “a secured claim to the extent of the value of such creditor’s interest,” and is to be treated as an unsecured creditor “to the extent that the value of such creditor’s interest... is less than the amount of such allowed claim.”

Section 506(a)(1) states that the value “shall be determined in light of the purpose of the valuation and of the proposed dispo-

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Newsletter Information: If you would like to contact us or submit ideas or articles for the newsletter, you can do so by: ✓ e-mailing us at newsletter@chi13.com , ✓ dropping your submission or idea in the anonymous newsletter folder located in the mail room, or ✓ leaving them with Dave Latz. Please remember when making a submission to the newsletter, it must be: ✓ type-written and ✓ submitted by the third Wednesday of the month via e-mail, a Word document or an ASCII file. We also ask that anyone who attends a seminar please be prepared to furnish the committee with a detailed article on its subject. You may also view this edition of THE MARSHALL CHRONICLES , as well as all the previously published issues, on the Chapter 13 Trustee website at http://www.chicago13.com/ .

Trustee Matters

Preparing The Budget For FY 2008



Howard "Chip" Wilkes, Senior Bankruptcy Analyst for the Chapter 13 Trustees in Region 11, has informed all Trustees to submit their FY 2008 Budget packet along with Trustee Evaluation forms to him on or before July 6, 2007. It is our goal to have all of the information to him on July 2, 2007. I know it would be hard to enjoy Independence Day knowing that the budget had not been completed and submitted. After the budget is sent to "Chip" for review, it is reviewed and signed by our United States Trustee, William "Bill" Neary, then, it is sent electronically to the Executive Office of the UST in Washington, D.C., for approval.

In addition to the instructions that accompany the budget packet, guidelines for completing the budget are found in Chapter 9, Paragraph H of the Handbook for Chapter 13 Trustees.

I involve all the staff in the budget process so that everyone can understand why I sometimes say "No" to requests that are not a part of the budget and have not been a part of the planning process. Sometimes, I will say: "No, maybe next year." If you have received a "No, maybe next year," this is your chance to include your requests as part of your objectives for this year and relate the cost to this year's budget. Otherwise, the answer will be repeated: No, maybe next year. Each year, we have placed the "Employees Wish List" on File Maker Pro so that employees can document what supplies they need to help make their job easier and to help perform more effectively. The list is up this year, however, I didn't review the list with the employees at the monthly staff meeting because over the years the list has not changed. Everyone wanted a different brand of colored high-lighters, everyone had to have a footrest under their desks, and the halogen lights some of you just "had to have" last year are now placed under your desks. I am told that a couple of the new employees have requested a different kind of mouse mostly found on Windows PCs that helps with scrolling up and down.

To prepare the budget, we take our most recent financial and caseload information to project where we will be in the future. Our existence is tied to our caseload and to planning. We always look at our goals and objectives to guide us in making the determination as to where we are going or where we hope to go. Last year it was a little harder to project, because our statistical base, which had been tied into previous numbers since FY 99, had changed drastically with the implementation of BAPCPA. This year, we can use last year's base to determine averages upon which to start our budgeting base for FY 08. We compiled past caseloads, receipts and receipts with/without refunds, disbursement, and disbursement subject to fees, fees, interest and other revenue to start the process.

The budget is made up of six components:

- I. Financial Summary
- II. Summary of Necessary Expenses
- III. Detail of Necessary Expenses
- IV. Detail of Necessary Expenses-Employee Benefits
- V. Yearly Allocated Expenses
- VI. Cases Handled

I. Financial Summary

As a road map, the Actual FY 06 numbers are taken from the Annual Report, the Projected FY 07 (projected because the year has not ended) and then the Proposed FY 08 numbers and the % change are listed as columns across the top.

The financial summary is divided into two parts:

A. The Trust Fund

We start out with our Trust fund beginning of the year balance, which is the balance that we ended with last year.

Trust Funds Received includes all of the money received from Chapter 13 debtors and all of the money refunded to them to arrive at the Net Trust fund receipts.

Trust Fund Disbursements is all of the Trust fund disbursements to creditors on which a fee was taken and all the trust funds disbursements in which no fee was taken to arrive at the Total Trustee Fund Disbursements.

The receipts are subtracted from the disbursements to arrive at the Total Trust Fund-End of Year number.

B. The Expense Fund

We start out with the Operating Reserve balance Beginning of the Year. (This is the number that we watch each month to make sure it does not go over 17%.)

Interest Received on Trust and Expenses Funds, Revenue from Awards under Section 503(b) Revenue from Noticing, Other Revenue, Revenue from Percentage Fees and Revenue from Fees on Direct Payments are added to arrive at Total Revenue. We have numbers listed under Revenue received on Trustee and Expense funds, Other Revenue and Revenue from Percentage Fees. We do not have any revenue from the others listed.

Less Operating Expenses (Operating Expenses are all of the necessary and allowable expenses which I will discuss in Section II.)

Balance of Funds Available for Compensation (Including Benefits) – this is Total Revenue less Operating Expenses.

Trustee Compensation – this amount is set in the Compensation Order which comes with the Budget Approval.

Total Expense Fund Balance – End of Year Balance of Funds available minus Trustee compensation.

Operating Reserve Percentage – the total expense fund balance divided by Operating Expenses cannot exceed 17%.

Average Trustee Fee Percentage – what is needed to fund the expense operation. The percentage the trustee takes on each disbursement not to exceed 10%.

II. Summary of Necessary Expenses

Operating Expenses are all of the reasonable, actual and necessary expenses we can budget during the year. Other companies call this their Direct Cost and Overhead and Facilities Cost. Necessary Expenses are: Employee Expenses, Office Rent and Utilities, Bookkeeping and Account Services, Computer Services, Audit Services, Consulting Services, Noticing, Telephone, Postage, Office Supplies, Bond Premiums, Publications and On-Line Services, Training (non-UST), Training (UST), Debtor

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Trustee Matters

Preparing The Budget

For FY 2008 (Continued from page 3.)



Education, Maintenance and Service Agreements, Travel, Equipment/Furniture Rental, Equipment/Furniture Purchases, Leasehold Improvements, and Other Expenses, i.e., Bank Charges, Criminal and Credit Checks

If there is no line item listed above, then it is not an allowable expense and the trustee cannot pay for it. Items such as flowers, alcohol, food, party supplies, gifts, dues or membership for professional organizations are not allowable.

III. Detail of Necessary Expenses

Fifteen of the twenty-one expenses listed contain lines for detail explanations in Section III. Audit Services, Telephone, Postage, Office Supplies, Training (UST) and Leasehold Improvements are not required to be detailed in this section.

IV. Detail of Necessary Expenses – Employee Benefits

The Detail of Necessary Expenses-Employee Benefits asks the name, position, hire date, wage class and hours worked for each employee. Salary, overtime, bonus, payroll taxes, health insurance, retirement, other benefits make up the total employee expenses. Our “other benefits” are transportation and a flexible benefits plan.

Cost of living adjustments for each Region are provided with the budget packet and are included in the salary adjustment for FY 2008. The cost of living adjustment has to be made before the merit increase is awarded. Merit increases are projected and included in the salaries even though actual staff evaluations are not conducted until August.

V. Yearly Allocated Expenses

We do not have to complete this section. The Qualifications and Standards for Standing Trustees (28 C.F.R. Part 58.4) prohibit a standing trustee from allocating expenses with himself or herself, with a relative, or with any entity in which the standing trustee or a relative of the standing trustee has a fi-

nancial or ownership interest if the costs are to be paid as an expense out of the fiduciary expense fund. A standing trustee may request a waiver from the United States Trustee under certain prescribed circumstances. If the United States Trustee grants a waiver from the prohibition on allocation, the trustee should complete Section V.

VI. Cases Handled

The reason docketing and keeping track of cases is so important is because this information is tracked in the budget. This section examines the Chapter 13 cases assigned to the Standing Trustee. The Court assigns new cases and that information is reconciled with information on the Court Website. Also, “Chip” always reminds us that the Cases Active-Start of the Period must be the same as the End of the Period Cases from the previous year.

- A. Cases Active- Start of the Period
- B. New Cases Filed During Fiscal Year (+)
- C. Cases Reopened During Fiscal Year (+)
- D. Transfers, conversion, Dismissals, Closures Of Reopened Cases (-)
- E. Adjustments During Fiscal Year
 - 1. Conversions to another chapter Pre-Confirmation (-)
 - 2. Conversion to another chapter Post Confirmation (-)
 - 3. Dismissals Pre-Confirmation (-)
 - 4. Dismissals Post-Confirmation (-)
 - 5. Cases Transferred in (=)
 - 6. All other adjustments (+) or (-)
- F. Cases closed on Completion of the plan (-)
- G. Cases closed on hardship discharge (-)
- H. Cases Active, End of Period (A+B+C+D+E+F-G)

A budget letter must accompany the packet with explanations of each request and explanations of changes greater than 5%. Additionally, Chip tells us to explain, explain and explain. We usually maintain a constant dialogue during this period with the UST office to address any concerns, issues and requests.

I made the deadline. Have a safe and happy 4th of July!

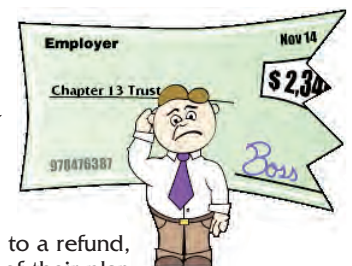
Marilyn O. Marshall, Standing Trustee

Financial Payroll Specialist Update

As the Payroll Specialist, I receive the payroll orders and am responsible for sending the orders to court. It is very important that the employer information provided by debtors on the payroll orders that we forward to court are accurate. There are several reasons why this information should be accurate. First, debtors’ plan payments are deducted from their payroll checks and sent from their employers through payroll deduction to the trustee. Second, bankruptcy judges need to receive accurate employer business names and addresses on the order. Moreover, if the information is not accurate, it can result in an incorrect name or address being entered into the system. Also, at the end of the case, if a debtor is entitled to a refund, inaccurate employer information can hold up the refund. Once the debtors have completed making all of their plan payments to the Trustee, the Trustee has to notify the employers by mail to stop sending in any more funds on the case. If the payroll address is not correct, the mail will return and this can delay the refund. It is imperative that our customers are in a position to start out with a fresh financial footing.

Do you know that there are a number of cases where I have attempted to notify the debtor’s employer to stop sending the Trustee money but we are still getting money on the case. The Trustee cannot send the debtor the refund if we are still receiving money on the case. We ask the debtor’s attorney to please provide the Trustee the correct name of the employer and correct mailing address. If your client changes employers, you will need to complete a new payroll control order. Payroll Control Orders were revised by the Judges last year. Please make sure you are using the correct Payroll Control Order form. A number of attorneys are not using the form approved by the judges. I can provide you with the appropriate form. Please call and ask for Juliana if you need one.

Juliana Dunklin



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sition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." (emphasis added). Thus, the valuation of a secured claim and allowance of any deficiency claim in a bankruptcy case is controlled by Section 506(a)(1), regardless of whether the property is to be "disposed of (as in a Chapter 13 plan that proposes surrender under Section 1325(a)(5)(C)) or "used" (as in a Chapter 13 plan proposing retention of the property under Section 1325(a)(5)(B)). Section 506(a)(1) also states that the test for valuation in that section will be used "in conjunction with any hearing ... on a plan affecting such creditor's interest." Because the Hanging Paragraph directs that Section 506 "shall not apply" to treatment of 910 Creditors' claims, there is no mechanism for allowance of an unsecured claim to those creditors, either as bifurcation of the claim (where the creditor receives the treatment under Section 1325(a)(5)(B)) or as a deficiency claim (for treatment under Section 1325(a)(5)(C)).

From the Creditors' Perspective:

Section 506(a) of the Bankruptcy Code provides that, for purposes of confirmation of a Chapter 13 Plan under §1325(a)(5) of the Bankruptcy Code, an undersecured creditor's claim based on a lien on property in which the bankruptcy estate has an interest, may be bifurcated into secured and unsecured portions according to the value of property. Section 1325 (a) of the Code, upon enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), now contains additional language in a "hanging paragraph" at the end of that Code Section that prohibits a debtor from bifurcating a secured creditor's claim under §506 if that creditor's collateral consists of a motor vehicle, purchased within 910 days of commencement of the case. This means that if a debtor wants to retain an "under 910 vehicle," the debtor must pay the secured creditor's claim in its entirety.

Appellants assert that the "hanging paragraph" also means that if a debtor surrenders an "under 910 vehicle" to a creditor, he or she may do so in full satisfaction of that creditor's claim. Under that theory, the creditor may not maintain an unsecured claim for any deficiency balance due after sale of the vehicle. Appellants proposed this treatment to Appellee in their Chapter 13 Plan.

Appellee argues that the bankruptcy court properly denied confirmation of Appellants' Chapter 13 Plan and correctly determined that the "hanging paragraph" does not allow a debtor to surrender an "under 910 vehicle" to a creditor in full satisfaction of its claim. Appellee agrees with the bankruptcy court that its unsecured claim for the deficiency owed arises under §502(a) of the Code, not §506(a), which does not, and has never had, any application to surrendered collateral in which the bankruptcy estate has no interest. Further, Appellee agrees with the bankruptcy court that Appellee's right to a deficiency claim arises under state law and §§501 and 502 of the Code, not §506.

Appellee further asserts that the language of the applicable statutes in this case are neither vague nor ambiguous in their

terms, and are only "ambiguous" in their application as evidenced by contradictory ruling by courts that addressed this issue. As such, an examination of legislative intent, and of the absurd results that would arise from Appellants' proposed interpretation of this issue, favor this Court's affirmation of the bankruptcy court's ruling and holding that a debtor may not surrender an "under 910 vehicle" to a creditor in full satisfaction of its claim.

Appellants' analysis is correct in one regard: §506 of the Code does not apply to Appellee's claim. However, this does not mean that Appellee is barred from maintaining an unsecured claim for a deficiency balance due for the vehicle. Instead, a proper analysis, as held by the courts in *In re Zehrung*, 351 B.R. 675 (W.D. Wisc. 2006), *Particka* and their progeny, is that §506 has never applied to a vehicle surrendered by a debtor and does not now permit a debtor to surrender an "under 910 vehicle" to a creditor in full satisfaction of its claim.

As an initial matter, the *Particka* Court reviewed "how §506 works generally and how it previously affected §1325(a)(5) pre-BAPCPA" to support "how the hanging paragraph changes §1325(a)(5) by making §506 inapplicable to the treatment of 910 creditors" and, further, reviewed "how claims are allowed under the Bankruptcy Code, whether pre- or post-BAPCPA." 355 B.R. at 619.

In particular, the *Particka* Court noted that: Section 502 of the Bankruptcy Code provides for the allowance of claims ... [and] Section 502(a) provides that a claim filed by a creditor is deemed allowed unless a party in interest objects. Section 502(b) provides for the disallowance of a claim if one of nine enumerated circumstances is shown to exist. The validity and enforceability of claims generally is determined by application of non-bankruptcy law, except as otherwise specifically provided by 502(b). 355 B.R. at 620 (citing *Butner v. United States*, 440 U.S. 48, 54-55, 99 S.Ct. 914, 59 L.Ed.2d 136 (1979) ["Property interests are created and defined by state law. Unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding."]; *Tate v. Nat'l. Acceptance Co. of Am. (In re Leeds Homes, Inc.)*, 332 F.2d 648, 649 (6th Cir. 1964) ["holding 'that the preliminary question of whether or not a claim exists ... must be determined with reference to state law,' 'to which federal law is then applied' in determining the allowability of that claim"] [citation omitted]); see also *In re Brown*, 339 B.R. 818, 821 (Bankr. S.D. Ga. 2006) (citing *Dewsnup v. Timm*, 502 U.S. 410, 415, 112 S.Ct. 773, 116 L.Ed.2d 903 (1992)). As such, the *Particka* Court noted that: Absent a bankruptcy case, it is generally if not universally, the law that a secured creditor may foreclose upon its security interest under non-bankruptcy law, apply the foreclosure sale proceeds to its debt and, to the extent that its claim is for a debt with full recourse, the debtor remains liable for any deficiency balance, which the creditor may then collect from the debtor as an unsecured claim. However, upon the filing of a bankruptcy case, if the property securing the debt becomes property of the bankruptcy estate under §541, then §506 operates to determine the extent to which the secured creditor's claim will be treated as a secured claim and the extent to which the creditor's allowed claim will be treated as an unsecured claim.

Anthony Olivadoti



Information Services Some Holds Barred



There's so much involved in administering a Chapter 13 bankruptcy case, it's probably impossible to summarize in one sentence (I've tried). But of all the activities performed by the trusteeship, among the major ones has to be the collection of funds from debtors and the allocation and disbursement of those funds to creditors.

So allocation and disbursement are central to what we do every day. Except when they aren't.

Sometimes there are reasons not to allocate, or not to disburse, at least temporarily when problems or questions need to be resolved for a case or claim. To facilitate the suspension of these activities, our office case administration system, CaseNET, provides a group of switches that we call claim control.

Sometimes people say they've put a case or a claim "on hold," but that simple phrase doesn't adequately convey what's been done, and here's why: it's possible to allocate and disburse funds, or to continue allocating, but not disbursing, or to cease both allocating and disbursing. And all of these settings may be applied individually to claims, to one or more plan groups, or to the case as a whole.

Even with all those possibilities, it's not hard to break it down. Starting with the basics, "allocation" means dividing the funds received from the debtor into the portions that will be used to pay creditors, and "disbursement" means making those payments to creditors. Sometimes we may have a bad creditor address, so we will stop disbursing until we are able to get a good one. In the meantime, we can continue allocating funds to that claim, so payments to the creditor don't fall behind.

Now we know we can have different settings for the allocation and disbursement switches. But how do we deal with different settings at various levels? For example, if OK to Allocate has different settings at the claim, plan group or case levels, which of those switches overrides the others?

Well, it isn't a democracy. The majority doesn't rule. And it isn't a strict hierarchy. The case doesn't always override the plan group or the claim. It is a system of consensus: a claim will not receive allocations unless OK to Allocate is turned on at the claim, plan group and case levels. If any of those is off, no money for that claim (and possibly others) is allocated. The disbursement switches work the same way.

Another way of saying it is that a No is more powerful than a Yes. Just because a claim says it's OK to Allocate doesn't mean it will receive funds if the case or plan group disagree. And the higher the level of the No, the more far-reaching it is. If a claim says No, the only thing affected is that claim. If a Plan Group says No, the effect is limited to the claims in that group. A No at the case level affects every claim.

If you get the notion that you want to "put a case on hold," it's a good idea, first, to figure out whether the hold is best applied to allocation or disbursement. Then you should ask what's the appropriate level to set the control switches.

For example, it's getting more common for the trusteeship to make current mortgage payments for debtors. There should never be a situation where mortgage payments are missed because of a problem with a different claim, and CaseNET no longer allows you to turn off allocation or disbursement for the case or a plan group if a current mortgage claim would be affected. With that example in mind, it's always a good idea when turning off allocation or disbursement switches to be conscious of what else is affected.

Cliff Tarrance

20 Questions For: Rita Saunders



Office Title: Financial Manager

If you could have named yourself, how would your name appear on your birth certificate? Rita Marie Walsh, as it did appear.

If you could build a house anywhere in the U.S., where would it be? Vancouver, Canada

When you were a kid, what profession or job did you want to have when you grew up? Nurse

If they made a movie about your life, what current actor/actress would play you? Julia Roberts – not that there would be any similarities.

What is your least favorite household chore? Washing floors.

What are your favorite books? Type: Good murder mysteries. Some Names: Deep Water Passage, Who Moved My Cheese.

If you could bring anything back from your childhood, excluding people, what would it be? Summer vacation.

When you were growing up what was your favorite...

Hair style/haircut? Shoulder length straight hair, even though I had to work at mine since it was naturally curly.

Cartoon? Bugs Bunny.

Cereal? Cocoa Puffs.

Sport? Volleyball.

Subject in school? Accounting, once I went to college.

Author? I did not start reading novels until I was a young adult.

Singing group? The Temptations.

Video game? Pac Man.

Family outing? Uncle John's cottage in Indiana.

Movie? Heidi.

If you wanted to be cool: You hung out with the cool kids.

I always wanted: Children.

Now that I'm older I wish: No special wishes.

July Birthdays, Anniversaries, And Other Notable Events

July is **National Hot Dog Month**.

Independence Day on July 4th.

All Staff Meeting on July 6th.

Happy Birthday to **James Leavitt** on July 13th!

Grunted Workers Day on July 13th.

Sports Cliché Week July 15th to July 21st.

National Ice Cream Day on July 15th.

Happy 9th Anniversary to **Carlos Lagunas** on July 20th!

Happy Birthday to **Telisha Emerson** on July 21st!

Hot Enough For Ya? Day on July 23rd.

Happy Birthday to **Monica Gonzalez** on July 27th!



**Case Administration
Welcome!**

On June 18th we added three new Case Administrators to the Claims Department. This group has a diverse amount of educational and work experience. Prior to their hire none of the new Case Administrators had any exposure to bankruptcy practice or procedures, so they are all in the same boat knowledge wise. We developed a progressive training plan, so that they can build a solid foundation of office operations. We wish to thank all designated staff that will be assisting with their overall development by sharing your knowledge and experience. As Ms. Marshall says, "Cream always rises to the top," so without further ado I introduce to you the De La Crème Mets.

Rosalind Lanier



Alma Martinez

Hello I am Alma Martinez,

I was born and raised in the city of Chicago. I am a very honest and friendly person but I can be shy at times. I attend Northeastern Illinois University majoring in Elementary Education with a minor in history. I have been happily married for a little over six years. I enjoy helping others and spending a lot of time with my family; my siblings consist of two sisters and a kid brother. I am a great team player and I excitedly hope to remain a member of your wonderful team. I thank all of you for the nice welcoming.



Elise Taylor

My name is Elise A Taylor and I am the mother of four children. I am a business major and also hold a MBA degree from Keller Graduate School of Management. For the past seven years I have been teaching at all levels from College to grammar school. I have been searching for an employer that will allow me to utilize my skills and talents and also afford me the pleasure of learning something new.

In my spare time I do various charitable and fund raisers with my Eastern Star Chapter, shop and travel.

I look forward to working with each of you!



Paulina Garga

Born and raised in Krakow, Poland I am a DePaul University alumnus with BA degrees in International Studies and Public Policy. Since I love to get involved and become dedicated to what I am doing, throughout last four years I have not only engaged in various organizations at DePaul University (I played v-ball on the club team; de-

fense of course, because of my amazing height), but also, since I am still very Polish in heart and mind, I got involved in the self-called "bettering the Polish community" by planning and coordinating large scale public relations/fund raising events for networking and the 'polaks' in Chicago area.

For the things I love to do, I would put traveling to new places and sports on the pedestal, as cliché as it sounds, Literally, I save every extra penny that I got for booking a trip somewhere, at least for one day and I can't wait to save enough to visit south-eastern Asia and New Zealand. As for the sports: I play v-ball, tennis, swim and ski in the winter.

I am very glad that my first serious job is with the Office of the Chapter 13 Trustee and I want to thank everyone for the warm welcome I have received here.

Around Town...



As we all know, just from looking through our office windows, the City of Chicago welcomes the 27th annual Taste of Chicago – the world's largest food festival – from June 29th until July 8th. As it comes to its history, the first Taste of Chicago was held in the summer of 1980 when a group of restaurateurs approached the Mayor of Chicago with the idea of a food festival on the Fourth of July. Inspired by a "build it and they will come" attitude, a relatively small budget of \$150,000, and confidence the event could attract thousands of Chicagoans, the festival was held on Michigan Avenue and at that point it was a one-day event.

However, since it was a great success for the city (250,000 attended the first "Taste," and food and soda sales grossed \$330,000) the next year the Taste of Chicago was moved to Grant Park and was greatly expanded in size and scope, growing to a 10-day event with more food vendors, as well as musical performances. In 2006, the Taste of Chicago was the best 10-day event ever for attendance and sales. A record total of 3.6 million people had visited the festivities. Attendance for the previous record 10-day event, in 2004, was 3.59 million, with \$12.33 million in revenue.

This year, Taste is again expected to exceed in its attendance and sales record again. At Taste we are not only able to try specialties from 64 different vendors (that include popular local food staples such as Chicago-style pizza, Chicago hot dogs, barbecued ribs, Italian Beef, Polish sausage, cheesecake, and a well-represented variety of ethnic and regional foods), but also participate in well-organized and pretty exciting entertainment.

As in previous years, Petrillo Music Shell offers performances by well-known musicians, such as Maze featuring Frankie Beverly and Lorenzo Owens on Friday, June 29th; Kenny Rogers on June 30th; Sara Evans and Craig Morgan on July 1st; John Mayer on July 4th; Lyfe Jennings on July 5th; The Black Crowes on July 6th; Cheap Trick on July 7th; and Los Lonely Boys on July 8th. What is more, this time the City of Chicago presents "Broadway in Chicago" – a concert headlined by the casts of Wicked and The Color Purple, along with the Show Choir of the Chicago Children's Choir.

As for the exciting novelties, this year's festival is hosting so-called "Taste Sports" that will include performances by various groups and sport teams (the Sky and the Bulls will be there), as well as diverse sports-related activities that we can participate in (Pilates, Cardio Kickboxing or Yoga). Also, for the first time, Taste presents its International Pavilion, where we will be able to listen to music and watch performances by artists from around the globe.

So if you don't know what to eat for lunch or what to do after 5 PM next week, I believe that the answer is self-explanatory. ☺

Paulina Garga



Did You Know?: Swimsuit Trivia

July is National Bikini Month.

- ☀ Swimsuits in the Victorian era were fashioned like dresses and constructed of heavy wool.
- ☀ The first modern swim trunks were introduced in the early 20th century. When wet, they weighed approximately nine pounds and had a tendency to fall down.



- ☀ During the 1920s, many women were arrested for wearing swimsuits that were deemed too scanty.
- ☀ It was not until 1932 that a men's topless swimsuit was marketed. The "Topper" had a detachable top that could be unzipped from the trunk bottom.

- ☀ The bikini was first introduced in 1946 by two French fashion designers, Jacques Heim and Louis Reard. It was named after the Bikini Atoll in the South Pacific, where the first post-war experimental explosions of atomic bombs took place.
- ☀ The first Sport's Illustrated "Swimsuit Edition" appeared on January 20, 1964, with Babette March on the cover. The best selling issue was the 25th anniversary issue with Kathy Ireland on the cover in 1989.
- ☀ The bikini became the official beach volleyball uniform for women in 1993, when the sport was officially recognized by the Olympic Committee.



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Why Did The Chicken Cross The Road?

It is a question old as they come. Why did that chicken cross the road? To try to answer this question, we've collected several hypothetical answers from familiar famous names.

Bill Gates: "I have just released eChicken 2007, which will not only cross roads, but will lay eggs, file your important documents, and balance your checkbook – and Windows Vista is an inextricable part of eChicken."

Grandpa: "In my day, we didn't ask why the chicken crossed the road. Someone told us that the chicken crossed the road, and that was good enough for us."

Ralph Nader: "Chickens are misled into believing there is a road by the evil tire makers. Chickens aren't ignorant, but our society pays tire makers to create the need for these roads and then lures chickens into believing there is an advantage to crossing them. Down with the roads, up with chickens."



Sir Isaac Newton: "Chickens at rest tend to stay at rest. Chickens in motion tend to cross the road."

George W. Bush: "It will be a long crossing that is for sure and we ask all pedestrians and automobiles for their patience as it crosses the road. But make no mistake about it, it will cross the road. It will prevail."

Albert Einstein: "Whether the chicken crossed the road or the road crossed the chicken depends upon your frame of reference."

Gilligan: "The traffic started getting rough; the chicken had to cross. If not for the plumage of its peerless tail the chicken would be lost, the chicken would be lost!"

Arnold Schwarzenegger: "He'll be baaack!"

Jerry Seinfeld: "Why do they call it a road anyway? Who knows it was a chicken? Maybe it was a duck."

Julius Caesar: "It came, it saw, it crossed."