

On The Docket



CAROLYN SWEENEY,
EDITOR

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Inner Workings: News and Advice

By Susan M. Thurston, Clerk of Court

Welcome to the spring edition of “*On the Docket*”. The last quarter has been extremely busy at the Court as our filings have continued to rise, particularly our Chapter 11 caseload. Since January, we have had 17 new Chapter 11 cases filed, compared to 19 filed for the entire 2009 year.

As we reported in our last edition, the Court adopted a loss mitigation program in November, 2009, and since then, as our experience with the program has grown, the court has issued two amendments – one in January and most recently in April. The most recent changes require that all status reports be filed in writing rather than having status conferences held in court. The new version also clarifies the proper grounds for objecting to such a request, and what the appropriate procedures are for noncompliance with the loss mitigation order. Red-lined and clean versions of the most recent changes are posted on the Court’s website – on the front page as well as under the Loss Mitigation section of our site, which includes helpful best practices,

frequently asked questions, instructions and forms.

In May, the courtroom will be taken out of service for two weeks to renovate the ceiling, lighting and carpeting. The work is scheduled for May 10-21, 2010, and we believe the improvements will make the courtroom more functional for all participants. Another innovation the Court is working on is the implementation of a new calendaring program, called CHAP, which was first developed by the Bankruptcy Court in Utah. The program integrates with CM/ECF, which makes it much more functional and seamless for the courtroom deputy and other court staff preparing the calendars and doing follow up minutes, orders and related tasks. While this program won’t have a tremendous impact on electronic users, you will notice a change in the look of the public calendar posted on the Court’s website, and most likely, some new looking minute and endorsement orders. CHAP is expected to go live at the beginning of June.

(continued on page 2)

The Top 10 Financial Tips for High School and College Students

Credit Abuse Resistance Education (CARE), a money-management program co-founded by the U.S. Bankruptcy Court in Western New York, provides 10 tips on how to avoid debt, manage your finances and establish a good credit score.

- 1) Create a budget
- 2) Open a savings account
- 3) Look for ways to save money
- 4) Use cash, debit, or checking account instead of credit card
- 5) Avoid credit card debt
- 6) Pay your bills on time
- 7) Pay debts off as quickly as possible
- 8) Minimize your student loan debt

9) Other things to avoid: Impulse shopping on the internet, expensive behaviors like gambling and drugs, opening multiple store charge accounts, and having more than three-year car loans, and rent-to-own transactions. Also, don't open credit card accounts to get "free stuff." Those accounts will hurt your credit rating, even if you don't use them.

10) Remember the consequences of consumer debt: Credit card and other consumer debt could hurt your future chances for a job, student loan, admission to graduate school, apartment or car loan. Today, everyone is pulling credit checks and using them to make decisions about your future.

Source: [Credit Abuse Resistance Education Program \(C.A.R.E\)](#)



(Inner Workings cont. from page 1)

Another initiative underway is a financial literacy outreach program called CARE (Credit Abuse Resistance Education). CARE was first developed by the Bankruptcy Court for the Western District of New York and is in use in bankruptcy courts throughout the country. The program involves visiting local high schools and discussing basic financial topics such as appropriate use of credit cards, the importance of a good credit score, proper budgeting and the impact of different interest rates on purchases. A team of attorneys and court staff have been assembled to conduct these presentations, which are given using PowerPoint, handouts and professional stories and experiences. For anyone interested in participating in this community outreach effort, please contact Training

Coordinator, Janet Tessier, at 626-3111, or by email at Janet_Tessier@rib.uscourts.gov. You can also learn more about the CARE program at <http://www.careprogram.us/>.

Lastly, we would like to announce that Administrative Projects Coordinator Linda Spaight will be on temporary detail to the Administrative Office of U.S. Courts in Washington, D.C. beginning May 1, 2010 for a one year assignment to work on the next generation of CM/ECF project. More information about this exciting opportunity is discussed on page 3. Also, to assist the Court in Linda's absence, former employee Jennifer Watts has returned and will be handling public support and information. Welcome back Jen!

Administrative Projects Coordinator Linda S. Selected for Temporary Duty Assignment

By Gail Kelleher, Chief Deputy Clerk

We are pleased to announce that Administrative Project & Training Coordinator Linda S. has been selected for a temporary duty assignment in Washington D.C. Please join us in congratulating Linda on being offered this remarkable opportunity.

Linda began her career as a case manager in 1991, later specializing in Chapter 11 bankruptcy matters. When the Bankruptcy Court converted to CM/ECF in 2003, Linda served as one of the Court's original trainers, guiding members of the bar and their staff through the transition from paper to electronic filing. For the last two years, Linda has held the position of Court's Administrative Project & Training Coordinator. She served as project manager when the Court converted from on-site CM/ECF training to on-line training modules, assisted in the development of the Court's COOP (Continuity of Operations Plan), and has established and administered a training plan for court staff. Her latest project is the implementation of the C.A.R.E. program – a

financial literacy program for high school students.

We're sharing Linda's background of achievement so that you may fully comprehend the loss the Court experienced with her departure to accept a temporary duty assignment. During the next twelve months, Linda will be working on the development of Next Generation CM/ECF, the new application for filing bankruptcy petitions and pleadings in the future. This opportunity will place her at the forefront of product development, providing input and bringing a wealth of knowledge and experience that will improve the functionality and ease of use for Court users, the Bar and the public.

This temporary duty assignment and learning opportunity was one that Linda could not pass up. We are extremely proud of her and wish her godspeed. And Linda, remember to take your ruby slippers with you because "there's no place like home". See you in 2011!

Holiday Closings

Please be advised that the U.S. Bankruptcy Court will be closed on the following days:

- Monday, May 31st - Memorial Day
- Monday, July 5th - Independence Day

Electronic Filing Tips and Traps

By Dina Fortes and Jody Venuti

Listed below are a few reminders of common mistakes made by e-filers:

- Amended Plans must be filed on the W.2 form and must include the confirmation date.
- All amended documents must contain the electronic signature of the debtor(s). [/s/ John Doe]
- Reaffirmations must now be filed with a Cover Sheet and with the amended Official Form B240A. A list of amended forms can be found on the Rhode Island Bankruptcy Court website and on page 7 of this newsletter.
- To amend a Chapter 13 plan after confirmation, the debtor must file a motion to amend the plan and file this amended plan as an attachment to the motion. See Local Rule 3015-2(d).
- Make sure current forms are used when filing documents.
- If you're not sure of which event to use, use the SEARCH feature located in the blue toolbar of ECF, it will present you with the event(s) that you need.
- If you did not receive a copy of this newsletter via email, you are not on the court's notification list for email blasts. You can submit your email address to jody_venuti@rib.uscourts.gov and we will add the address to our notification group.
- Privacy rights are still being violated by attorneys who are not redacting personal information such as social security numbers. Be certain to redact private information from any pleading filed with the court. By logging into CM/ECF you are indicating that you have redacted all private information pursuant to Fed. R. Bank. P. 9037.
- The size limit for attached pdf's is 50 pages; if your document is more than 50 pages you will need to break it down into 50 page increments to be accepted by the system.
- It is always a good idea to right click on your document before attaching to make sure the pdf is accurate, legible and upright. In addition, viewing the document before electronic filing will confirm that you are not inadvertently filing a confidential or privileged document.

Recent Court Decisions

Abigail B. Sneed, Esq., Law Clerk

The following is a short digest of some notable recent opinions from the Court and the Bankruptcy Appellate Panel for the First Circuit.

Chapter 13 Eligibility

***Pellegrino v. Boyajian*, 423 B.R. 586 (B.A.P. 1st Cir. 2010).**

Here, the Bankruptcy Appellate Panel affirmed this Court's decision in *In re Pellegrino*, 2009 WL 3102885 (Bankr. D.R.I. 2009), in which the Court determined that the below median income Debtors were ineligible for Chapter 13 relief because the one-time lump sum loan they received from a 3rd party was not sufficient stable income to allow them to make regular monthly plan payments. In affirming this Court's decision, the BAP held that, even if the loan proceeds is considered income, the Debtors' income is still insufficient to provide payments to creditors under a plan over the applicable commitment period. The Panel noted that the ability to make payments is a threshold requirement to proceed under Chapter 13.

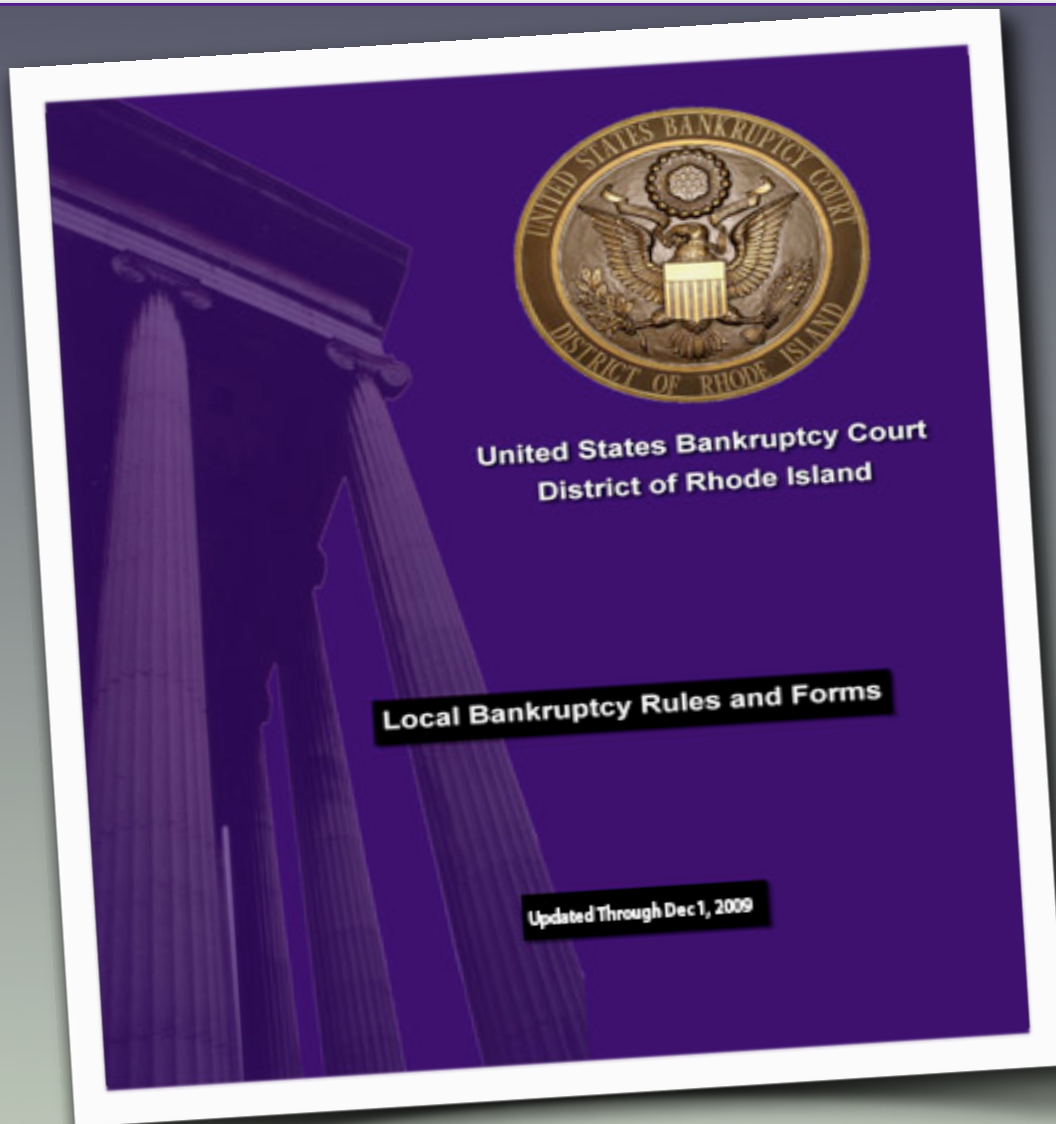
Legal Fees for Filing Proof of Claim

***In re Thompson*, 2010 WL 346391 (Bankr. D.R.I. 2010).**

In this case, the issue before the Court was whether consumer debtors are required to pay secured creditors for filing bankruptcy proofs of claim. Acknowledging the differing views on the issue, the Court took the position to address the issue fact specifically. If, based on the facts, the preparation and filing of the proof of claim was a ministerial act, fees are not allowed. On the other hand, if the creditor demonstrates that complex issues had to be resolved, which required professional skills and services, the Court may consider allowing reasonable fees for the secured creditor's work in preparing and filing the proof of claim.

Here, the Debtor's case was garden variety, and the creditor did not provide the Court with a reason why the creditor's clerical staff could not have filed the proof of claim without professional assistance, so the Court did not allow the creditor's legal fees.





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FORMS NOW AVAILABLE!

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For Further Information call 401-626-3100

APRIL 1 AMENDMENTS TO FEDERAL RULES AND NATIONAL FORMS (NON-TIME RELATED CHANGES)

Effective April 1, 2010, automatic adjustments to the dollar amounts stated in various provisions of the Bankruptcy Code and one provision in Title 28 of the United States Code became effective. The amended dollar amounts will be apply to cases filed after April 1, 2010.

Seven of the Official Bankruptcy Forms and two of the Director's Forms contain references to several of the affected dollar amounts.

Official Form 1, Voluntary Petition.

Official Form 6C, Schedule of Property Claimed as Exempt

Official Form 6E, Schedule of Creditors Holding Claims Entitled to Priority

Official Form 7, Statement of Financial Affairs

Official Form 10, Proof of Claim

Official Form 22A, Statement of Current Monthly Income and Means Test Calculation (Chapter 7)

Official Form 22C, Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)

Director's Form 200, Required Lists, Schedules, Statements and Fees

Director's Form 283, Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)

Form B240A, Reaffirmation Documents

Form 240A/B ALT. Reaffirmation Agreement

Form B240C ALT. Order on Reaffirmation Agreement



Notice of Contract Change

By Holly D'Agostino

If during the pendency of a Chapter 13 case, a contract change is to occur which will impact the amount or payments by the debtor under a loan document, the creditor is required to file a Notice of Contract Change, with 30 days notice to the debtor, debtor's attorney, and trustee. The notice shall set forth the changes in amounts owed by the debtor, including changes in

- a) interest rate;
- b) escrow payment requirement;
- c) insurance premiums;
- d) changes in payment address or other similar matters.



To file a Notice of Contract change go to Bankruptcy Events -> Ch 13 Notice of Contract Change. The notice will appear on the Claims Register and **not** on the Case Docket. **Please note:** although the notice may be **filed** electronically, it will not be served electronically. Creditors must indicate within their certificate of service that the notice was served by regular mail to the trustee, debtor and debtor's attorney. Notices that do not contain this language will be stricken. Additionally, Notices of Contract Change that do not provide the proper 30 days notice will also be stricken.

Within 30 days, debtors shall either adjust payments accordingly, or file a motion with the Court objecting to the contract change as set forth in the notice.

Similar procedures apply for outstanding obligations that arise post-petition in Chapter 13 cases. See LBR 3002-1(c)(2). The Chapter 13 Notice of Outstanding Obligations event is located directly under the Notice of Contract Change event.