

Circle of Love – February 11, 2021 – Laura L. Donaldson

The Circle provides a useful discussion of recent case law, practice and procedural matters and local rule updates discussed between practitioners, government agencies and the Courts. The meeting began with Chair Laura Donaldson providing an overview of upcoming Debtor Creditor section events with reminders to save the dates and register. The events include the annual Saturday Session scheduled for 03/12/2021, Northwest Bankruptcy Institute (NWBI) on 4/23 and 4/24/2021 and the Annual Meeting to be held in person in Sunriver, Oregon on 10/29 and 10/30/2021. Updates for these events are posted on the Debtor Creditor Section website at <https://debtorcreditor.osbar.org>.

Charlene Hiss, Clerk of the Court discussed a new motion event to request a Chapter 13 discharge under §1328(i). Proposed procedures and timelines for filing the motion were discussed with the group. The provision remains in effect through 12/27/21. She also provided a useful summary of the bankruptcy provisions creating this new code subsection in the CAA (Consolidated Appropriation Act of 2021) found in the US Bankruptcy Court Eastern District of Missouri: <https://www.moeb.uscourts.gov/news/consolidated-appropriations-act-2021-and-bankruptcy>.

Jordan Hantman, Attorney for Wayne Godare (Chapter 13 Trustee) discussed the existing CARES Act provision which sunsets on March 27, 2021. The provision allows extension of Chapter 13 plans to 84 month terms due to COVID. Jordan offered counsel the ability to obtain a list of delinquent cases from his office which may be eligible for modification under this provision.

Jonas Anderson, Assistant United States Trustee discussed new Chapter 11 quarterly fees, UST updates including final rules and streamlining of operating reports in non-small business cases. On December 21, 2020, the United States Trustee Program published a final rule in the Federal Register entitled “Procedures for Completing Uniform Periodic Reports in Non-Small Business Cases Filed Under Chapter 11 of Title 11.” This final rule will be effective 180 days after publication, June 21, 2021, and governs the filing of pre-confirmation monthly operating reports (MORs) and quarterly post-confirmation reports (PCRs) by all debtors except those who are small businesses or who, in accordance with the CARES Act, elect relief under subchapter V of chapter 11. These new forms must be used for all report filings on or after June 21, 2021. See <https://www.justice.gov/ust/chapter-11-operating-reports> for further information.

Judge Renn also reminded counsel to pay attention to the rule changes which started December 1, 2020 including changes to service provisions in LBR2002-1(j). The provision, which previously limited notice to only those creditors who have filed proof of claims, has been deleted.

Richard Parker discussed the student loan litigation project being developed through the assistance of debtor and creditor counsel alongside members of the bankruptcy court to help pro-se litigants. This is an opportunity for newer attorneys to gain litigation experience on a limited representation basis to assist litigants who cannot otherwise afford counsel. Rich also discussed Chicago v. Fulton and the basic requirements to attempt to regain possession of vehicles in Chapter 13.

Jeff Werstler, IRS discussed that Henry Muehlick, who has worked with our bar for many years retired September 30, 2021. Susan Lathrop will now work larger tax liability cases with Jeff. Jeff reminded practitioners to watch computation of priority timelines in Chapter 13s. He asked practitioners

to save litigation and reach out to their office prior to filing an objection to claim if there is disagreement. Practitioners should remind their self-employed clients to make estimated tax payments and file returns timely. The IRS is filing 1305 claims for large tax liabilities incurred post-petition which can affect Chapter 13 debtor's ability to obtain a discharge.

The next Circle of Love meeting is scheduled for May 13, 2021 at 4:30 p.m. via ZOOM. Contact Laura at laura@kunidonaldson.com if you miss the invite on the debtor-creditor list serve.