Consumer Bankruptcy Circle Agenda

1. Introductions – go around and introduce selves

Reece Petric
Ann Kuntz
Tom Ratts
Laren Bird
Russ Garrett
Shanea Williams
David Jordan
Kirsten
Zoe
Todd Trewiller
Judge McKittrick
Brandon Taubman
John goonie
Grace Kaserman
Judge Pearson
Zoe Habcost
Robert Texter
Justin Leonard
Karla Mcclurg
Jonas Anderson
Griffin Butler
Judge Renn
Brian Wheeler
Andrea Brinholt
Theodore Pittio
Alyssa Graff
Ian Wallace
Scott Hutchison
Steven Gimley
Ann Chapman
Laura Zarro
Darrin Gee

2. Clerk's office update

Kirsten spoke about the local rules and the effort by the court to get them out earlier this year. Since there will be more time, she encouraged people to respond with comments.

Case filings continue increasing. May was a good month compared to the year before, with an overall increase of almost 26%. Chapter 13's and 7's are driving the majority of the increase.

Zoe is leaving for the state courts

3. Judges' update

Judge Renn: no updates.

Judge Pearson: no updates.

Judge McKittrick: Chapter 7's are up 25% compared to last year. Chapter 11's are up 133% from last year. Chapter 13's are up 4%. All numbers are year to date.

Judge McKittrick explained weighted case average and how the increase in 11's will help to maintain our judge and staffing levels, and a continued increase maybe even allow us to get our 5th judge back at some point.

Kirsten adds that it gives us real dollars for our clerk's office and brings staffing credits back to our office.

Question: Is the court seeing a corresponding increase in 7's fee waivers?

Judge McKittrick says he is but he is also getting most of the Ch 7's now so it is probably a function of the rotation he is on rather than an actual increase.

Kirsten explained that filing fees from bankruptcy courts go into a fund that helps fund the court in certain situations, such as a government shutdown. The more fees we collect, the better for that fund. The money we get doesn't help our budget because it is a separate fund. COVID shrunk that fund from 6 weeks of funding to 3 weeks, so this increase can help build it back up

4. UST update

Jonas update: US Trustee program contracts with independent accounting firms for audits. Two days ago they posted on their website that as of June 9, 2025 there will be no more Ch 7and 13 audits for now, due to budget constraints.

5. Updates from other trustee offices

Please go to website for debtor attorneys if you aren't used to working in the Portland office. They have a list of helpful information such as drafting errors, etc., to help with filings.

Nothing from Eugene trustee office

6. IRS updates

Robert: tax returns are not being filed. The IRS sends out letters constantly because people who file bankruptcy tend not to file taxes, but they need to. The IRS sends out a letter to parties and attorneys to remind them to file. They ask that those be responded to within 14 days. Then they also need to get the tax returns.

The IRS receives the tax returns electronically and sees two issues consistently. 1. they are not told if they are original, or 2. The returns are not signed. Robert asks debtors attorneys to make sure that if tax returns are sent to them electronically, they need to know if they are originals, and if so they need to be signed.

Question: If the attorney tells the IRS how the taxes were filed, will that get returns filed faster? No, they will get processed the same. They have no authority over that. However, if attorney sends one and the parties already filed theirs, it will result in a duplicate filing. If they have not filed, submitting them will result in them getting filed. If they are already filed, they need to know how long ago it was filed. Just make sure they are always signed and dated, and when they were filed if they have been already.

Another issue: proof of claims issue should be fixed by tomorrow. If you need something filed right away, they can upload right away to PACER. Contact them to see who can file it "manually"

If it isn't fixed by tomorrow, can attorneys file an objection to move things along? IRS would prefer not. Would prefer they call and ask them to file manually

The IRS has seen a lot of problems getting returns filed in Ch 11 cases. Payroll returns are the biggest issue.

Ch 13: 521J post-petition returns are required

1305 claims: new standard language in the plan saying attorneys aren't going to be paid. IRS will not file 1305 claims going forward to avoid this. A number of other states are doing this as well.

7. ODR updates

Justin: Oregon DOJ is the law firm for the state. There are two of them providing advice to all the state agencies and they also represent the attorney general. Oregon has been leading the 23 and Me case, at least behind the scenes in drafting everything. The issue is they are trying to sell everyone's personal data and the states are taking the position that even if we don't have specific statutes about this (which we don't in Oregon) people are entitled to privacy in their DNA. The sale can still proceed, but consent need to be given.

They also advise state agencies and those agencies have bankruptcy specialists. Dept of revenue, employment department, and child support. They aren't lawyers but they are specialized in their area.

8. ODOJ updates

Justin Leonard and Carla McClurg attended on behalf of Oregon DOJ and shared updates regarding the collection of domestic support obligations for Oregon Division of Child Support Services (DCS) in chapter 13 cases.

Oregon DOJ explained that DCS is responsible for collecting child and spousal support on behalf of support recipients. DCS is a conduit, meaning it sends 100% of what it collects directly to support recipients. In chapter 13, DCS collects unpaid pre-petition arrears (as set forth in its proof of claim) and ongoing required post-petition support payments

Oregon DOJ explained to attendees that, even though, domestic support obligations are entitled to first priority under the Bankruptcy Code per § 507(a)(1), this priority is not reflected in Oregon's Chapter 13 Plan In Oregon, no amount of domestic support claims are paid until after secured debt and attorney's fee claims are paid in full. In some cases, this has resulted in domestic support recipients not receiving any payments from the Trustee for years.

Oregon DOJ explained that its strategy for remedying this situation is now changing. BAPCPA provided DCS with the right to intercept tax refunds post-petition under § 362(b)(2)(F). DCS has been doing this regularly since BAPCPA to: (1) help bring post-petition obligations current and avoid a motion to dismiss, and (2) pay something to the support recipient on the arrears (and thereafter amend its claim). Oregon DOJ stated that chapter 13 trustees have recently expressed concern because DCS's intercepts of tax refunds – even when the debtor is not required to contribute the tax refund to fund the plan – can cause issues administering plans. Oregon's chapter 13 trustees have requested that going forward, DCS only use its intercept rights when they are spelled out in advance in the plan. DCS is now implementing this request.

Oregon DOJ explained that the tax refund intercepts have been a much-needed lifeline for support recipients, while also allowing DCS to give additional grace to post-petition defaults. Therefore, going forward, Oregon DOJ advised that DCS will be exploring new ways to address the needs of the support recipients and facilitating successful bankruptcy outcomes for chapter 13 debtors. Oregon DOJ specifically mentioned the following for debtors with support obligations:

- Assisting the chapter 13 trustees in identifying when DSO post-petition payments on Schedules I or J are not currently ordered and could be used to fund the plan;
- Requesting that tax returns be paid into the plan rather than to the debtor;
- Asking that the plan specifically include language advising that DCS has the right to intercept tax returns for the purpose of paying post-petition arrearages (with the remainder turned over to the Trustee);
- Requesting that administrative expense claims of debtors' counsel be paid contemporaneously with DSO pre-petition arrearage claims, with payments split 50/50 until debtors' counsel's claims are paid in full and then all available funds being paid to DCS until the DSO claim is paid in full; and,
- Seeking payment of post-petition support payments through the plan for self-employed debtors and/or debtors with poor payment histories.

Oregon DOJ explained that DCS wants chapter 13 debtors to have successful bankruptcy outcomes and hopes that stakeholders will be supportive of efforts to have support recipients receive payment sooner and on a more regular basis. Justin and Carla invited attorneys' questions and comments, including after the meeting

9. Update on resolving Motions for Relief from Stay

Had an issue getting motions for relief resolved. Getting an order is becoming impossible. Not sure how to advise debtors. Has told them to keep making the payment. Just not sure when to do.

10. Next Generation of Bankruptcy Lawyers update

Pro bono clinic was back in April: neither Reece no Zoe were able to attend.

Debtor/creditor annual conference is coming up. Put it in your pocket

11. Updates from anyone else?

12. Select next date/who's bringing food]

September 10 at 4:30

13. Anything for the good of the order?
14. Adjourn