

VBA BANKRUPTCY LAW SECTION
BENCH-BAR BROWN BAG LUNCH MEETING
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge

United States Bankruptcy Court, Burlington

Wednesday, April 11, 2018 ~ 12:00 - 1:00 PM

Dial-in number: (888) 398-2342. Access code: 846 68 72#

If you dial into the meeting, please use your “mute” function, unless speaking.

AGENDA

1. NEW CHAPTER 13 CONFIRMATION ORDER - 12:00 PM JAN SENSENICH
 - See attachment
 - Send comments / questions to ch 13 trustee

2. POSSIBLE EXPANSION OF JOINTLY PROPOSED SCHEDULING ORDER JUDGE BROWN
 - See attachment (Form X)
 - Form has been updated and expanded: Is this useful or too much?

3. PRACTICE TIP re VT. LBR 4001-7(d)(7) JUDGE BROWN
 - Mediators need to send a copy of their Final Rpt of Mediation to James Layman at Vermont AG’s office: james.layman@vermont.gov
 - CM event is modified to include a reminder to mediator upon filing of the Final Report of Mediation

4. CLERK’S OFFICE UPDATES: THERESA DAVIDSON & JODY KENNEDY
 - April 20, 2018 Rutland Motion Calendar moved to April 27, 2018
 - June 6, 2018 Burlington Motion Calendar moved to June 5, 2018
 - Judge Brown, the court managers, AUST & case trustees met on 4/2/18 & the Federal Court advisory committee met on 3/30/18 (for their regular semi-annual meetings)
 - The Clerk will present highlights of those meetings, focusing on any discussions affecting bk’cy practice in this District, at the 6/8/18 BB

5. INTRODUCTION TO UPSOLVE 12:15 PM JUDGE BROWN & JONATHAN PETTS
 - See attachment describing Upsolve
 - Upsolve will work with Law Lines to assist low-income Vermonters to file no-asset chapter 7 cases *pro se*
 - Stacey Francese will be attorney contact at Law Lines
 - first Upsolve cases expected in next month or so

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court.

They are free and no pre-registration is required.

Have a question about them? Contact Maria Dionne @ 802-657-6432 or maria_dionne@vtb.uscourts.gov

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re: _____

Chapter 13

Case No. _____

Debtor.

Appearances:

The attorney for the debtor,

The Chapter 13 Trustee,

Jan M. Sensenich

Other appearances:

FINDINGS AND ORDER CONFIRMING CHAPTER 13 PLAN

A hearing on confirmation of the debtor's¹ chapter 13 Plan dated October 17, 2017, was held on September 13, 2017.

Based upon the record in this case and the evidence presented at the hearing, and after due consideration of the chapter 13 Plan, the chapter 13 trustee's preliminary report, any objections to the Plan, and the arguments presented at the confirmation hearing both in support of and opposition to the Plan,

THE COURT MAKES THE FOLLOWING FINDINGS:

- i. The Plan complies with the provisions of chapter 13, and all other applicable provisions of the Bankruptcy Code, as well as this Court's local rules, and judicial rulings.
- ii. All fees, charges, or amounts required to be paid before confirmation of the Plan or by the provisions of Title 28, United States Code, have been paid.
- iii. The Plan has been proposed in good faith and not by any means forbidden by law.
- iv. As of the effective date of the Plan, the value of property to be distributed under the Plan for each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.
- v. With respect to each allowed secured claim provided for in the Plan, the treatment complies with 11 U.S.C. §1325(a)(5).
- vi. The debtor will be able to make all Plan payments and to comply with the Plan.
- vii. The debtor filed this case in good faith.
- viii. The debtor is current on all domestic support obligations.
- ix. The debtor has filed all required tax returns.
- x. The Plan has been transmitted to all parties in interest and the notice of the confirmation hearing required by Federal Rules of Bankruptcy 2002 and 3015(d) has been given.
- xi. The debtor has appeared at all required meetings and hearings and is in compliance with all court orders issued in this case.
- xii. Any filed objections to the Plan not specifically addressed herein are insufficient to warrant denial of confirmation of this Plan.
- xiii. Debtor's attorney's fees proposed in the Plan and set forth below are reasonable.
- xiv. The debtor is in full compliance with 11 U.S.C. § 521.

¹ In a joint case, the term "debtor" shall refer to both debtors.

I. DESCRIPTION OF THE PLAN AS CONFIRMED

PART 1: ADDITIONAL RELIEF SOUGHT AND AUTHORIZED BY THE PLAN

- ☐ Reclassification or reduction in amount of secured claim, a change in the interest rate to be paid on an allowed secured claim, or other modification of the repayment terms of a secured claim, see Part 3.2 of the Plan, results in the following treatment of these secured claims: n/a.
- ☐ Avoidance of the following judicial liens or nonpossessory, nonpurchase-money security interests, see Part 3.4 of the Plan: n/a.

PART 2A: PLAN PAYMENTS AND LENGTH OF THE PLAN

- 2.1 Debtor will make regular payments to the trustee as follows:
\$700.00 monthly for 11 months and then \$120,700.00 one time payment and then \$700.00 monthly for 24 months, see Part 2.4 of the Plan.
- 2.2 Debtor will make payments in the following manner:
☐ pursuant to a payroll deduction order, the debtor's employer, Phillips shall withhold funds from each of the debtor's paychecks and send the funds, with the debtor's name and case no. (17-10432), addressed to:
Jan M. Sensenich, chapter 13 trustee
P.O. Box 39, Memphis, TN 38101-0039
☒ pursuant to an order authorizing an automatic bank account debit.
☐ other (specify): _____.
- If the debtor is making Plan payments through automatic deductions from a bank account, and the debtor fails to remain current on Plan payments, the chapter 13 trustee may file a proposed payroll deduction order on notice to the debtor and the debtor's attorney, and if the debtor fails to object to the order within ten (10) days of service of the proposed order, the Court may enter that order without a hearing.
- 2.3 Income Tax Refunds:
☐ Debtor will retain any income tax refunds during the Plan term;
☒ Debtor will supply the trustee with a copy of each income tax return filed during the Plan term within 14 days of filing the return and will turn over to the trustee all income tax refunds received during the Plan term; or
☐ Debtor will treat income tax refunds as follows: _____.

2.4 Additional payments: None.

2.5 **The total amount of payments the debtor will make under the Plan: \$145,200.00.**

PART 2B: AMOUNT OF ESTIMATED TRUSTEE DISBURSEMENTS UNDER THE PLAN

The trustee shall disburse funds paid under the Plan as follows:²

a.	Maintenance and cure of payments on secured claims (Part 3, § 3.1)		
	i. Pre-petition mortgage arrearage	\$	111,974.00
	ii. Estimated total of monthly post-petition mortgage payments	\$	6,915.30
b.	Modified undersecured claims (Part 3, § 3.2 total)	\$	0.00
c.	Secured claims excluded from 11 U.S.C. § 506 (Part 3, § 3.3 total)	\$	6,027.05
d.	Judicial liens or security interests partially avoided (Part 3, § 3.4 total)	\$	0.00
e.	Fees and priority unsecured claims (Part 4 total)	\$	17,795.01
f.	Nonpriority unsecured claims (Part 5, § 5.1, highest stated amount)	\$	1,170.63
g.	Maintenance and cure payments on nonpriority unsecured claims (Part 5, § 5.2 total)	\$	0.00
h.	Separately classified nonpriority unsecured claims (Part 5, § 5.3 total)	\$	0.00
i.	Trustee payments on executory contracts and unexpired leases (Part 6, § 6.1 total)	\$	0.00
j.	Nonstandard Plan payments (Part 8, total)	\$	0.00

The total amount the trustee shall disburse under the Plan: \$ 145,200.00

² If there is any difference between the amounts set out in this Order and the terms of the Plan, the terms of this Order control. The total amounts listed in Part 2B do not include any direct payments made by the debtor, which are included in Part 6 of the Plan.

PART 3: TREATMENT OF SECURED CLAIMS

3.1 Maintenance of payments and cure of defaults, if any:

Name of creditor	Collateral	Current installment pmt (inc. escrow)	Amt of pre-petition arrearage (if any)	Int rate on arrearage (if any)	Average monthly Plan pmt on arrears See Item No. 9 in Part III, below)	Total of post-petition mtge pmts by trustee [(amt of install pmt) x (mos in Plan + 2)]
FLAVIO RIZZO and VERUSHKA CANTELL		\$ 493.95	\$ 111,974.00	0.00%	\$ 3,110.39	\$ 6,915.30

Disbursed by:
☒ Trustee
☐ Debtor

3.2 Valuation of security, payment of fully secured claims, modification of undersecured claims.

None

3.3 Secured claims excluded from 11 U.S.C. § 506.

Name of creditor	Collateral	Amt of claim	Int Rate	Monthly Plan pmt	Estimated total pmts by trustee
CREDIT ACCEPTANCE CORP.	7024 (05 Honda Pilot)	\$ 5,607.00	4.75%	\$ 167.42	\$ 6,027.05

Disbursed by:
☒ Trustee
☐ Debtor

See orders entered on 03-15-17 (doc. #12345678) & 04-17-17 (doc. #87654321)

3.4 Lien avoidance pursuant to 11 U.S.C. § 522(f) and Federal Rule of Bankruptcy 4003(d).

None

3.5 Surrender of collateral:

Name of creditor	Collateral
TOWN OF ROCHESTER	

See order entered on 10-01-17 (doc. #88888888)

PART 4: TREATMENT OF FEES AND PRIORITY UNSECURED CLAIMS

- 4.1 General: The trustee's fees and all allowed priority claims, including domestic support obligations, other than those treated in Part 4.5 in the Plan, will be paid in full without post-petition interest.
- 4.2 Trustee's Fees: The trustee's fees are governed by statute and may change during the course of the case but are estimated to be 10.00% of Plan payments. During the term of the Plan, it is estimated they will total \$14,520.00.

4.3 Attorney's Fees: The balance of the fees owed to the attorney for the debtor, in the amount of \$3,000.00, shall be paid through the Plan.

4.4 Priority claims other than attorney's fees shall be paid as follows:

Creditor Name	Amount to be paid
<u>UNITED STATES TREASURY</u>	<u>\$ 275.01</u>

4.5 Domestic support obligations that have been assigned to or are owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4).

None

PART 5: TREATMENT OF NONPRIORITY (GENERAL) UNSECURED CLAIMS

5.1 Allowed nonpriority unsecured claims (not separately classified) will be paid as follows:

9.74% of the total allowed amount of these claims, an estimated payment of \$1,170.63

5.2 Maintenance of payments and cure of any default on nonpriority unsecured claims with a final payment due after the final Plan payment, pursuant to 11 U.S.C. § 1322(b)(5):

None

5.3 Separately classified nonpriority (general) unsecured claims:

None

PART 6: EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected.

None

PART 7: VESTING OF PROPERTY OF THE ESTATE

7.1 Property of the estate will vest in the debtor upon:
☒ Plan confirmation ☐ entry of discharge ☐ other (specify: _____)

PART 8: NONSTANDARD PLAN PROVISIONS

8.1 Nonstandard provisions in the Plan: None

8.2 Other requirements applicable to implementation of this Plan: Pay additional funds to prior attorney

II. RELIEF UNDER EMBEDDED MOTIONS

1. If relief has been sought under Part 3 of the Plan, then, pursuant to Vt. LBR 3015-1(b)(1)(A-D), the debtor has either obtained or been denied a separate Order pertaining to that relief as follows:

None

ORDER

III. DUTIES OF THE DEBTOR AND TRUSTEE DURING THE PLAN TERM

IT IS HEREBY ORDERED:

1. The chapter 13 trustee is authorized to, and shall, commence disbursements immediately, in accordance with the Plan, except that the trustee shall not begin disbursing mortgage payments until the mortgage creditor files a proof of claim or the Court orders otherwise.
2. (a) The chapter 13 trustee shall not perform the duties specified in 11 U.S.C. § 1302(c) unless this Court orders him to do so.

(b) If the debtor is operating a business, as defined in 11 U.S.C. § 1304(a), the debtor shall perform the duties as specified in 11 U.S.C. § 704(a)(8) and file periodic reports of the debtor's operations ("Operating Reports") in the form and frequency as the Court directs, pursuant to 11 U.S.C. § 1304(c).

(c) The debtor shall timely file all required federal and state tax returns, pay all taxes when due, and

[] the debtor shall provide copies of all tax returns (including any requests for an extension or filing deadlines) to the chapter 13 trustee within 14 days of filing them with the taxing authorities, or

[X] upon request of the chapter 13 trustee, at any time while the case is pending, the debtor shall provide copies of all requested tax returns (including requests for an extension of filing) to the trustee within ten (10) days of the chapter 13 trustee's request.
3. The debtor shall remain current on all post-petition domestic support obligations and the debtor's failure to pay post-petition domestic support obligations may constitute cause for conversion to chapter 7, or dismissal of the case under 11 U.S.C. § 1307(c).
4. Nothing in the Plan or in this Order shall be construed to limit the chapter 13 trustee's rights in any adversary proceeding filed under 11 U.S.C. §§ 544, 545, 547, 548 or 549.
5. If the debtor is operating a business without a tax account, the debtor shall open a separate bank account and promptly deposit into it all sums withheld from employees' wages and all employer payroll taxes, and shall make no disbursements from such account except to pay tax liabilities arising from payment of wages.
6. In the event this case is converted to chapter 7, and the chapter 13 trustee possesses funds aggregating more than \$2,500 at the time of conversion, the chapter 13 trustee shall forward all such funds to the debtor, in care of the debtor's attorney, if any, after ten (10) days from the first scheduled § 341(a) meeting in the chapter 7 case, unless, prior to that date, the chapter 7 trustee files and serves a written objection pursuant to 11 U.S.C. § 348(f)(2). In the event the funds in the chapter 13 trustee's possession at such time aggregate \$2,500 or less, or in the event this case is dismissed, the chapter 13 trustee shall forward all funds in the chapter 13 trustee's possession to the debtor in care of the debtor's attorney, if any. Nothing in this paragraph constitutes a determination of the rights of any particular party in such funds.
7. In the event a proof of claim for a priority claim or secured claim to be paid in the Plan is filed in an amount greater than that provided for under the Plan and, after notice of the filed claims, the debtor neither objects to the claim nor modifies the Plan to pay it in full, the term of the Plan, to the extent it is less than 60 months, shall be extended up to 60 months as necessary to pay that claim in full.
8. In the event a proof of claim for a priority claim or secured claim to be paid in the Plan is filed in an amount less than that provided for under the Plan, the difference between the amount provided for the claim in the Plan and the proof of claim shall be added to the dividend to be paid to unsecured creditors.

9. In the event the Plan calls for the curing of a mortgage arrearage, the trustee will commence disbursements for the mortgage arrearage claim as soon as the trustee has brought current the regular mortgage payments and paid all attorney's fees due under the Plan. The amount of each disbursement on the mortgage arrearage claim will vary depending on the amount of funds the trustee has on hand in the case and the number and amount of fixed monthly payments the trustee is obligated to make under the Plan.
10. If the amount actually due a secured or administrative creditor over the term of the Plan is less than the amount allocated to that administrative expense or secured claim in the Plan then, upon a stipulation of the debtor and chapter 13 trustee, the debtor may be authorized to use the funds available from this reduced amount due to cure a Plan payment arrears which arose during the last year of the Plan term.
11. The debtor is enjoined from incurring any debt in excess of \$2,500, while in a chapter 13 case, except that if the debtor obtains the chapter 13 trustee's consent, the debtor may (a) borrow up to \$18,000 for the purchase, or enter an agreement committing to pay \$300 per month for the lease of a motor vehicle; or (b) up to \$7,000 to pay extraordinary expenses necessary to support the debtor's health and general refund. See Vt. LBR 4001-5(b)&(c).
12. The debtor is also enjoined from selling any asset having a value of greater than \$2,500, without the prior written and filed consent of the chapter 13 trustee or an order of this Court.
13. (a) Unless waived by the chapter 13 trustee in writing, the debtor shall immediately report to the chapter 13 trustee any actual or projected increase in gross annual income of 10% or more above the gross income stated by the debtor in the most recently filed Schedule I.

(b) Except for those amounts listed in the schedules, the debtor shall report immediately to the chapter 13 trustee any right of the debtor or co-debtor to a distribution of funds (other than regular monthly income) or of property which exceeds a value of \$2,500. This includes the right to disbursement from any source, including but not limited to bonuses and inheritances. Any such funds to which the debtor or co-debtor become entitled shall be held by the debtor and not used without the trustee's consent or order of this Court.
14. (a) If the debtor has recently filed a tax return for a pre-petition tax period (with a federal taxing authority including but not limited to the Internal Revenue Service or any state taxing authority),
 - (i) the taxing authority which received that return may amend its claims after confirmation, and
 - (ii) the amount of any amended claim shall control the amounts to be paid, notwithstanding the amounts reflected in the Plan or this Order, unless the trustee or debtor files an objection to that amended proof of claim within 60 days of the filing date of the post-confirmation proof of claim and that objection is sustained.
(b) To the extent the allowed claim of the taxing authority is higher than the amount of the claim in this Order, the debtor shall move to modify the Plan, within 60 days from the date of the filing of the proof of claim, or after a ruling on any objection to the amended proof of claim, whichever is later, to pay that tax claim in full.

IT IS FURTHER ORDERED that notwithstanding any provision in the Plan to the contrary, the entry of this Order grants no relief that is only available through an adversary proceeding pursuant to Federal Rule of Bankruptcy Procedure 7001(6), including but not limited to an exception from discharge for a student loan debt under 11 U.S.C. § 523(a)(8).

IT IS FURTHER ORDERED that:

1. The debtor shall timely pay the trustee, and the trustee shall timely disburse all payments, required by the Plan and described above.
2. The Plan dated October 17, 2017, and as described above, is CONFIRMED.
3. All attorney's fees the debtor seeks to pay through the Plan are APPROVED.
4. ☒ There were no objections to confirmation of the Plan.
☐ Objections to the Plan filed by _____ are hereby overruled for the reasons stated on the record at the hearing or by separate order or memorandum of decision.
5. Other provisions: _____

_____, 2018
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

_____,
Debtor(s).

Chapter _____
Case # _____

[*Plaintiff's Name*],
Plaintiff,
v.
[*Defendant's Name*].
Defendant.

Adversary Proceeding
_____

JOINTLY PROPOSED SCHEDULING ORDER

1. Pursuant to Fed. R. Civ. P. 26(f), made applicable by Fed. R. Bankr. P. 7026(f), a meeting of the parties to this proceeding was held on *[date]*. The participants were:

_____ for plaintiff _____
[*name of attorney*] [name of party]

_____ for defendant _____
[*name of attorney*] [name of party]

2. It is agreed that the above-captioned adversary proceeding is (choose one):

_____ a core proceeding pursuant to 28 U.S.C. § 157(b)(2), over which this Court has constitutional authority to enter a final judgment; or

_____ a proceeding related to a case under Title 11 as to which all the parties have consented to the entry of final orders or judgment by this Court, pursuant to 28 U.S.C. § 157(c)(2); or

_____ a proceeding related to a case under Title 11 as to which all the parties have not consented to the entry of final orders or judgment by this Court, pursuant to 28 U.S.C. § 157(c)(2); or

_____ a core proceeding, pursuant to 28 U.S.C. § 157(c)(2), but is one over which, pursuant to Stern v. Marshall, 1325 S. Ct. 56 (2011), this Court lacks constitutional authority to enter a final judgment, and, either:

_____ the parties consent to this Court's entry of a final order, or

_____ the parties do not consent to this Court's entry of a final order; and instead seek proposed findings of fact and conclusions of law, analogous to those issued

_____ pursuant to 28 U.S.C. § 157(c)(2) and Bankruptcy Rule 9033, consistent with the Amended Standing Order of Reference issued June 28, 2012. *(If this applies only to some causes of action, specify which ones.)*

3. The parties propose that the following dates govern this adversary proceeding:
- a. The parties _____ will / _____ will not appear at the Court's scheduling conference.
If so, the parties request that the Court not enter a scheduling order pursuant to Fed. R. Bankr. P. 7016(b) until such scheduling conference occurs.
 - b. The parties will make their Fed. R. Bankr. P. 7026(a)(1) disclosures by [date].
 - c. The parties will file all supplements to disclosures and responses, pursuant to Fed. R. Bankr. P. 7026(e), by [date].
 - d. The parties will file all motions relating to joinder of parties, claims, or remedies, class certification, and amendment of the pleadings by [date].
 - e. Depositions: [set forth any unusual provisions re depositions, e.g., the following:]
 - i. _____ The parties anticipate they will need to take at least _____ (number) depositions and waive the 10-deposition limit set out in Rule 30(a)(2)(A)(i).
 - ii. _____ All depositions will be videotaped, and the parties need to state that fact in each notice of deposition.
 - iii. _____ The parties agree that the deposition of _____ (name of witness) will take in excess of the seven-hour limit on depositions established by Rule 30(d)(1), and the deposition of (name of witness) may take up to _____ (number) seven-hour days.
 - iv. _____ The parties will identify their expert witnesses in writing, and file that writing, on or before [date]. Expert depositions shall be completed on or before [date].
 - f. Interrogatories: The parties each agree to serve no more than _____ (number) interrogatories (rather than the 25-interrogatory limit under Rule 7033(a)(1))
 - g. Production of documents. [Set forth any unusual provisions re documents.]
 - i. _____ The parties concede that many of the documents necessary for trial preparation contain trade secrets, proprietary information, or confidential business information the parties do not wish to have disclosed to the public. No later than [date], the parties will negotiate the terms and procedures for a Stipulated Protective Order for the Court's consideration.
 - ii. _____ Other: [describe].
 - h. _____ The initial disclosures will merely describe relevant documents, identifying all documents the party wishes to submit under the protection of the Stipulated Protective Order. Copies of the documents identified in the initial disclosures will actually be exchanged _____ (number) days following the Court's entry of the Stipulated Protective Order. No Request for Production of Documents under Rule 34 may be served until _____ (number) days after this voluntary exchange of documents.

- i. Electronically Stored Information (“ESI”) : The parties agree to the following provisions regarding ESI:
 - i. _____ The parties agree that disclosure or production of ESI will be limited to data reasonably available to the parties in the ordinary course of business.
 - ii. _____ The parties agree that ESI will be produced in the following format and media: *[set forth production format(s), e.g., paper documents, image files such as PDF or TIFF, inclusion of metadata, native or near-native formats]*.
 - iii. _____ The parties agree that ESI will be produced using the following procedures: *[describe the procedure for exchange of ESI]*.
 - iv. _____ The parties agree that reasonable measures have been (or will be) taken to preserve potentially discoverable data from alteration or destruction in the ordinary course of business. *[describe the procedures used for preserving potentially discoverable data]*.
 - v. _____ The parties have identified the following issues or problems that may arise in connection with electronic or computer-based discovery: *[describe]*.
 - j. The parties will complete discovery by *[date]*. The parties reserve the right to seek additional time for discovery or to revise other provisions of this Schedule.
 - k. Alternative Dispute Resolution _____ will / _____ will not be used. If it is being used, it will commence no later than *[date]*, and the parties will file the Alternative Dispute Resolution Report by *[date]*.
 - l. The parties will file all dispositive motions by *[date]*.
 - m. The parties will file a Stipulation of Facts and Joint Final Pre-Trial Statement by *[date]*.
 - n. The parties request a final pre-trial conference not earlier than *[date]*.
4. The parties propose the following changes in the limitations imposed upon discovery pursuant to Fed. R. Bankr. P. 7026: *[describe]*.
 5. The parties request the following items be added to the scheduling or litigation procedures in this proceeding: *[describe]*.

Dated:

Attorney for Plaintiff

Dated:

Attorney for Defendant

SCHEDULING ORDER

IT IS HEREBY ORDERED that the dates proposed by the parties, and as set out above, are approved.

IT IS FURTHER ORDERED that the parties shall appear at a final pre-trial conference on _____ in the Bankruptcy Judge's chambers at the U.S. Bankruptcy Court at _____, Vermont.

SO ORDERED.

_____, 20____
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

UPSOLVE
Pro Bono Bankruptcy in a Box
[www.upsolve.org]

Upsolve's Mission

Upsolve works with legal aid organizations to make simple chapter 7 cases more manageable for *pro bono* attorneys, and to provide free, competent, and easily accessible legal services to low income individuals who need a bankruptcy discharge but can't afford to hire an attorney.

Upsolve's Background & Funding

Upsolve spun out of Harvard Law School's Access to Justice Lab in 2016. It is a not-for-profit funded by the Legal Services Corp, with grants from various sources including Harvard, Yale and Princeton Universities, and the American College of Bankruptcy Foundation.

How Upsolve Works: A 6-Step Process

First, debtors pass through an online screener to see if Upsolve is a good fit for them:

- Only potential debtors who meet these criteria are eligible for relief through Upsolve:
 - i. are individuals,
 - ii. meet the poverty limit and other eligibility criteria of the Legal Services Corp,
 - iii. do not own real estate,
 - iv. would be filing a simple no-asset chapter 7 case,
 - v. do not want to reaffirm any debts (other than for a vehicle), and
 - vi. are not seeking any legal relief other than a bankruptcy discharge.

Second, debtors make an account, using the Upsolve web app, and complete 3 steps online:

- i. fill out their info (using a user friendly, graphically explanatory, turbo tax-like set of questions),
- ii. take \$15 credit counseling course (using vendor recommended by Upsolve), and
- iii. take pictures of their pay stubs.

Third, after debtors get through Upsolve's web app, and appear to be eligible for relief, Upsolve orders their credit reports, tax returns, and populates the bankruptcy forms.

Fourth, Upsolve sends the bankruptcy forms to a *pro bono* attorney, who

- i. determines whether the debtor should file a no asset chapter 7 bankruptcy case,
- ii. reviews the bankruptcy petition, schedules and forms for accuracy,
- iii. completes the exemption schedule, and
- iv. provides limited *pro bono* assistance to the debtor.

- This “limited assistance” includes reviewing the fee waiver application and helping the debtor gather the documents the debtor needs to send to the chapter 7 trustee, in an envelope, so the debtor can pop that into the mail as soon as the trustee is appointed.

Fifth, the debtor signs the forms and files the bankruptcy case *pro se*.

- Upsolve attaches notice of *pro se* assistance with the name of legal aid org.

Sixth, Upsolve guides the debtor through the post-filing (\$10) financial management course and helps them prepare for the § 341 meeting (including sending reminders of that meeting).

The Upsolve Team

Co-Founders: bankruptcy attorney Jonathan Petts* and former Harvard Law School researcher Rohan Pavuluri

Advisory Board: Hon. Henry Callaway, Hon. Judith Fitzgerald (ret), Hon. Robert Gerber (ret), Hon. Allan Gropper (ret), NABT President Ronald Peterson

Additional Services Upsolve Provides

<i>Pro bono</i> attorney recruitment	<i>Pro bono</i> attorney training
Community outreach to publicize program	Live chat support for debtors

Current Upsolve Operations

14 States: Arizona, California, Connecticut, Florida, Idaho, New Jersey, New York, Maine, Washington, Ohio, Wisconsin, Pennsylvania, Nevada, and Vermont.

Vermont Implementation

- Stacey Francese at Vermont Law Lines will oversee Upsolve implementation in Vermont.
- Upsolve will go live in Vt as soon as local attorneys are trained; aiming for April 2018.
- * Jonathan Petts will be in Vermont to train attorneys at VLSP, and to attend the Bankruptcy Court’s Bench-Bar Meeting, on April 11, 2018.

For Further Information

- contact Jonathan Petts at Jonathan@upsolve.org,
- review online screening materials at www.upsolve.org
- see: www.marketwatch.com/story/this-startup-has-created-a-turbotax-equivalent-for-bankruptcy-2017-10-09 and https://www.washingtonpost.com/outlook/what-happens-when-you-cant-afford-to-go-bankrupt/2018/03/02/343fd882-1d8e-11e8-9de1-147dd2df3829_story.html?utm_term=.f85d143c4604