

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 13, 2016 ~ 12:00 - 1:00 PM

AGENDA

1. Introduction of Sharrah Leclair and Emerson Howe, Case Administrators Theresa Davidson
2. Whether to defer entry of discharge until 341 mtg is closed Judge Brown
A follow up discussion from the last BB meeting~
 - S.O. #10-01 says the discharge will be held until mediation is complete, BUT it is superseded by LR's adopted in 2012 (and revised in 2015).
 - The LR's are silent on this question.
 - As a matter of practice, the Clerk's Office has continued to delay entry of discharges until mediation was completed.
 - That will change, and discharge will enter in the ordinary course (consistent with LR's) *unless* a new SO is entered to formally adopt the practice of delaying entry of discharge until mediation complete.
 - The Court will either enter a Standing Order to formalize current practice, OR chge local practice & enter dischg even if med going on - to comport w/LR's.
3. Consolidation Update: Judge Brown
 - in March, JCUS approved consolidation of District of Vermont.
 - next step is for Congress to approve; timing unclear.
 - Process moving forward with Jeff Eaton as Acting Clerk of Bk Court.
4. Proposal allowing non-Debtor to file motion to close mediation. Judge Brown
 - See VT LBR 4001-7f - redlined version attached.
5. Proposal to modify motions and p/o to declare D current on mortgage Jan Sensenich
 - to specify date as of which D is current & date 1st pmt due from D to mtgee.
 - Redlined version of revised motion and revised proposed order attached.
6. Practice Tip: Remember to list all docs in question when seeking ext of time. Judge Brown
 - An issue arises & OSC issued when some docs are left out of the motion / order.
7. Automatic adjustment of certain dollar amounts in the Code and Title 28. Judge Brown
 - See attachment setting out all changes.
8. A 5-Minute Tax Tip for Bankruptcy Attorneys Melissa Ranaldo
8. 2016 CLE Update Judge Brown
 - April 1 VBA CLE: "Dealing with Distressed Farmers"
 - June 9 VBA CLE: "When and How to File a Chapter 12 Bankruptcy Case"
 - July 21-23 NACTT Conference – Philadelphia, PA
 - October 14 VBA Annual CLE: possible focus: "The Homestead Exemption"
 - October 20 Nat'l Paralegal Ass'n Conference – includes bk session – Burlington Hilton
 - Holiday CLE – December 2, 2016 potential date. Program to include: "Intro to Bk'cy"
9. Any other topics for today? Or our next meeting? Heather Cooper

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court
Have a question about them? Contact Maria Dionne at 802-657-6432 or maria_dionne@vtb.uscourts.gov
No fee and no pre-registration required. Bottled water will be provided.

VT. LBR 4001-7(f)

CHANGE PROPOSED / DISCUSSED AT APRIL 13, 2016 BB MEETING

(f) Post-Mediation Requirements and Obligations.

- (1) Within 14 days of the conclusion of the mediation, the mediator must file a report of mediation (Vt. LB MM Form #6) that:
 - (A) sets out the names and addresses of all persons who attended the mediation session(s), identifying their role in the mediation and specifically identifying the representative of each party who had decision-making authority;
 - (B) a statement as to whether any person required to participate in mediation failed to
 - (i) attend the mediation,
 - (ii) make a good faith effort to mediate, or
 - (iii) timely supply documentation, information, or data requested by the mediator;
 - (C) a summary of the results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties, if available; and
 - (D) if the mediation failed because a party (or parties) failed to follow through on a proposal or an instruction from the mediator, describes those circumstances.
- (2) Within 14 days of the filing of the report of mediation, the party who filed the motion for mediation (Vt. LB MM Form #1) must file a post-mediation motion or stipulation, with a proposed order declaring mediation closed (Vt. LB MM Form #11), seeking entry of an order that:
 - (A) finds that the parties have had a full opportunity to mediate the subject mortgage;
 - (B) states whether the mediation proceeded in good faith;
 - (C) states whether an agreement was reached; and
 - (D) sets a status hearing for a date shortly after the conclusion of any trial modification period, or establishes a scheduled next step necessary to move the case forward.
- (3) If the party who filed the motion for mediation fails to timely file the motion or stipulation to close mediation, or if at any time mediation is not proceeding as set forth in this Rule, any party to the mediation may file a motion to close the mediation.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

Debtor.

) Case No.:

) Chapter 13

**TRUSTEE'S MOTION FOR ORDER DETERMINING THAT THE DEBTOR IS
CURRENT IN MORTGAGE PAYMENTS TO *[Mortgagee]* PURSUANT TO
VT LBR 3015-2 (j) (8) AND NOTICE OF FINAL CURE PURSUANT TO FED. R.
BANKR. P. 3002.1(f)**

Jan M. Sensenich, Chapter 13 Standing Trustee, pursuant to VT LBR 3015-2(j)(8) and Fed. R. Bankr. P. 3002.1(f), moves this Court for an Order determining that the debtor in this case is current with respect to his/her/their mortgage payments to *[mortgagee]*, and also gives the mortgagee notice of the final cure of any default under the mortgage. In support the trustee states as follows:

1. The debtors' case was filed on _____. The debtors' first post-petition mortgage payment came due on _____.
2. At the time the case was filed the debtors' monthly mortgage payment was \$_____ [doc #_____].
3. The following Notices of Mortgage Payment Change were filed during the case:

Doc. #	New Payment Amount	New Payment Effective Date

4. _[#_] mortgage payments have come due since the case was filed.
5. Attached to this motion as Exhibit A is a report showing all disbursements to *[mortgagee]* by the trustee in this case. The payments listed on Exhibit A comprise all payments toward the debtors' pre-petition mortgage arrearage, administrative arrearage and all regular monthly (conduit) mortgage payments made during the Plan.
6. The trustee made _[#_] Conduit Mortgage Payments of \$_____, totaling \$_____.

7. The trustee made _[#_] Administrative Arrearage Payments of \$_____, totaling \$_____.
8. Between Conduit Mortgage Payments and Administrative Arrearage Payments, the trustee has made a total of _____ post-petition mortgage payments, totaling \$_____.
9. Given that the first post-petition mortgage payment was due _____, _____ post-petition payments have been made on the debtors' mortgage through _____.
10. The debtors' first post-bankruptcy mortgage payment is due on _____.
11. The debtors' pre-petition mortgage arrearage was _____. (doc. #___)
12. The trustee made total payments of _____ to cure the pre-petition mortgage default.

Accordingly, trustee requests that this Court enter an order determining that:

- a) the debtors have cured any pre-petition arrears owed to the mortgagee;
- b) the debtors have made all post-petition mortgage payments, through the trustee, due from the date this case was filed through _____; and
- c) the debtors' first post-bankruptcy mortgage payment is contractually due on _____.

Dated:

Jan M. Sensenich
Chapter 13 Standing
Trustee
P.O. Box 1326
Norwich, VT 05055

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:) Case No.:
)
) Chapter 13
)
)
Debtor.)
)
)
)

**ORDER DETERMINING THAT THE DEBTOR HAS CURED ALL PREPETITION MORTGAGE
DEFAULTS AND IS CURRENT POST-PETITION ON MORTGAGE PAYMENTS TO
[mortgagee]**

Upon motion of the Chapter 13 Trustee pursuant to VT LBR 3015-2(j)(8) and notice under Fed. R. Bankr. P. 3002.1(f) for an order determining that the debtor(s) in this case are current on their mortgage payments to [mortgagee]. Service of the motion and notice having been given to the mortgagee, Debtor(s), and Debtors' attorney, and no objection or adverse interest appearing and it appearing to the Court based on the representations of the Trustee's Motion and exhibits, that in fact the debtor(s) are current on their mortgage payments, NOW THEREFORE,

IT IS ORDERED AND DETERMINED AS FOLLOWS:

(1) the debtor(s) have cured any mortgage arrearage or default existing on the date that this bankruptcy case was filed;

(2) the debtor(s), by their payments through the Office of the Chapter 13 Trustee, have made all payments due during the pendency of this case through _____, including all monthly payments and any other charges or amounts due under their mortgage with [mortgagee].

(3) the Debtors' first post-bankruptcy mortgage payment is to be made directly by the debtors to the mortgagee beginning with the payment due on _____

(4) the mortgagee shall be precluded from disputing that the debtor(s) are current (as set forth herein) in any other proceeding.

Dated:
Burlington, Vermont

Hon. Colleen A. Brown
U.S. Bankruptcy Judge



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

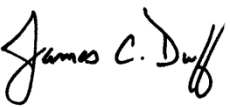
JAMES C. DUFF
Director

WASHINGTON, D.C. 20544

March 23, 2016

MEMORANDUM

To: Judges, United States Bankruptcy Courts
Clerks, United States Bankruptcy Courts
Bankruptcy Administrators

From: James C. Duff 

RE: AUTOMATIC ADJUSTMENT OF CERTAIN DOLLAR AMOUNTS IN THE
BANKRUPTCY CODE, TITLE 28, AND OFFICIAL AND DIRECTOR'S BANKRUPTCY
FORMS (**INFORMATION**)

On April 1, 2016, 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 will become effective. The adjusted dollar amounts will apply to cases filed on or after **April 1, 2016**.

In the Bankruptcy Reform Act of 1994, as amended by the Bankruptcy Abuse and Consumer Protection Act of 2005 and Pub. L. No. 110-406 (2008), Congress provided for the automatic adjustment of these dollar amounts at three-year intervals. The relevant provisions are codified in 11 U.S.C. § 104(a). The adjusted dollar amounts will affect, among other matters:

- the eligibility of a debtor to file under chapters 12 and 13 of the Bankruptcy Code;
- the definition of a small business debtor;
- certain maximum values of property that a debtor may claim as exempt;
- the maximum amount of certain claims entitled to priority;
- the calculation of the "means test" for chapter 7 debtors;
- the duration of a chapter 13 plan;
- the minimum aggregate value of claims needed to commence an involuntary bankruptcy case;
- the minimum value for trustee avoidance actions; and

- the value of “luxury goods and services” deemed to be nondischargeable where the trustee may commence certain proceedings to recover a money judgment or property.

The adjustments reflect the change in the *Consumer Price Index for All Urban Consumers* published by the United States Department of Labor for the three-year period ending December 31, 2015, and are rounded to the nearest \$25. Use of this formula to adjust the specified dollar amounts is prescribed by 11 U.S.C. § 104(a).

On February 22, 2016, the adjusted dollar amounts were published in volume 81, number 34, of the *Federal Register*, at pages 8,748-49, as required by 11 U.S.C. § 104(b). On March 14, 2016, a correction to include a previously omitted adjusted dollar amount was published in volume 81, number 49, of the *Federal Register*, at page 13421. The next three-year automatic adjustments of these dollar amounts will be published before March 1, 2019, and will take effect April 1, 2019. Attached is a chart showing the affected sections of the Bankruptcy Code and Title 28 and both the current and adjusted dollar amount in those sections.

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

- Official Form 106C, Schedule C: The Property You Claim as Exempt;
- Official Form 107, Statement of Financial Affairs for Individuals Filing for Bankruptcy;
- Official Form 122A-2, Chapter 7 Means Test Calculation;
- Official Form 122C-2, Chapter 13 Calculation of Your Disposable Income;
- Official Form 201, Voluntary Petition for Non-Individuals Filing for Bankruptcy;
- Official Form 207, Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy;
- Official Form 410, Proof of Claim;
- Director's Form 2000, Required Lists, Schedules, Statements, and Fees; and
- Director's Form 2830, Chapter 13 Debtor's Certification Regarding Domestic Support Obligations and Section 522(q).

The revised forms will be effective on April 1, 2016, and will apply to cases filed on or after that date. Prior to the April 1, 2016, effective date, the revised forms incorporating the dollar amount changes will be available on the pending bankruptcy forms page at <http://www.uscourts.gov/rules-policies/pending-rules-amendments/pending-changes-bankruptcy-forms>. Once effective, the revised forms will be available on the bankruptcy forms page at <http://www.uscourts.gov/forms/bankruptcy-forms>.

Questions concerning the adjusted dollar amounts in the Bankruptcy Code, Title 28, and Official and Director's Bankruptcy Forms may be directed to Daniel Isaacs-Smith, Judicial Services Office, at (202) 502-3129 or via email at [Daniel Isaacs-Smith@ao.uscourts.gov](mailto:Daniel_Isaacs-Smith@ao.uscourts.gov).

Attachment

cc: Chief Judges, United States Courts of Appeals
Chief Judges, United States District Courts

ATTACHMENT
Effective April 1, 2016

Affected Sections of Title 28 U.S.C. and the Bankruptcy Code	Dollar Amount to be Adjusted	New (Adjusted) Dollar Amount¹
28 U.S.C.		
Section 1409(b) - a trustee may commence a proceeding arising in or related to a case to recover		
(1) - money judgment of or property worth less than	\$1,250	\$1,300
(2) - a consumer debt less than	\$18,675	\$19,250
(3) - a non consumer debt against a non insider less than	\$12,475	\$12,850
11 U.S.C.		
Section 101(3) - definition of assisted person	\$186,825	\$192,450
Section 101(18) - definition of family farmer	\$4,031,575 (each time it appears)	\$4,153,150 (each time it appears)
Section 101(19A) - definition of family fisherman	\$1,868,200 (each time it appears)	\$1,924,550 (each time it appears)
Section 101(51D) - definition of small business debtor	\$2,490,925 (each time it appears)	\$2,566,050 (each time it appears)
Section 109(e) - debt limits for individual filing bankruptcy under chapter 13	\$383,175 (each time it appears)	\$394,725 (each time it appears)
	\$1,149,525 (each time it appears)	\$1,184,200 (each time it appears)
Section 303(b) - minimum aggregate claims needed for the commencement of an involuntary chapter 7 or 11 petition		
(1) - in paragraph (1)	\$15,325	\$15,775
(2) - in paragraph (2)	\$15,325	\$15,775
Section 507(a) - priority expenses and claims		
(1) - in paragraph (4)	\$12,475	\$12,850
(2) - in paragraph (5)(B)(i)	\$12,475	\$12,850
(3) - in paragraph (6)(B)	\$6,150	\$6,325
(4) - in paragraph (7)	\$2,775	\$2,850

¹ The New (Adjusted) Dollar Amounts reflect a 3.016 percent increase, rounded to the nearest \$25.

Section 522(d) - value of property exemptions allowed to the debtor		
(1) - in paragraph (1)	\$22,975	\$23,675
(2) - in paragraph (2)	\$3,675	\$3,775
(3) - in paragraph (3)	\$575 \$12,250	\$600 \$12,625
(4) - in paragraph (4)	\$1,550	\$1,600
(5) - in paragraph (5)	\$1,225 \$11,500	\$1,250 \$11,850
(6) - in paragraph (6)	\$2,300	\$2,375
(7) - in paragraph (8)	\$12,250	\$12,625
(8) - in paragraph (11)(D)	\$22,975	\$23,675
Section 522(f)(3) - exception to lien avoidance under certain state laws	\$6,225	\$6,425
Section 522(f)(4) - items excluded from definition of household goods for lien avoidance purposes	\$650 (each time it appears)	\$675 (each time it appears)
Section 522(n) - maximum aggregate value of assets in individual retirement accounts exempted	\$1,245,475	\$1,283,025
Section 522(p) - qualified homestead exemption	\$155,675	\$160,375
Section 522(q) - state homestead exemption	\$155,675	\$160,375
Section 523(a)(2)(C) - exceptions to discharge		
(1) - in paragraph (i)(I) - consumer debts for luxury goods or services incurred < 90 days before filing owed to a single creditor in the aggregate	\$650	\$675
(2) - in paragraph (i)(II) - cash advances incurred < 70 days before filing in the aggregate	\$925	\$950

Section 541(b) - property of the estate exclusions		
(1) - in paragraph (5)(C) - education IRA funds in the aggregate	\$6,225	\$6,425
(2) - in paragraph (6)(C) - pre-purchased tuition credits in the aggregate	\$6,225	\$6,425
(3) - in paragraph (10)(C) - qualified ABLE program funds in the aggregate	\$6,225	\$6,425
Section 547(c)(9) - preferences, trustee may not avoid a transfer if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of property is less than	\$6,225	\$6,425
Section 707(b) - dismissal of a chapter 7 case or conversion to chapter 11 or 13 (means test)		
(1) - in paragraph (2)(A)(i)(I)	\$7,475	\$7,700
(2) - in paragraph (2)(A)(i)(II)	\$12,475	\$12,850
(3) - in paragraph (2)(A)(ii)(IV)	\$1,875	\$1,925
(4) - in paragraph (2)(B)(iv)(I)	\$7,475	\$7,700
(5) - in paragraph (2)(B)(iv)(II)	\$12,475	\$12,850
(6) - in paragraph (5)(B)	\$1,250	\$1,300
(7) - in paragraph (6)(C)	\$675	\$700
(8) - in paragraph (7)(A)(iii)	\$675	\$700
Section 1322(d) - contents of chapter 13 plan, monthly income	\$675 (each time it appears)	\$700 (each time it appears)
Section 1325(b) - chapter 13 confirmation of plan, disposable income	\$675 (each time it appears)	\$700 (each time it appears)
Section 1326(b)(3) - payments to former chapter 7 trustee	\$25	\$25