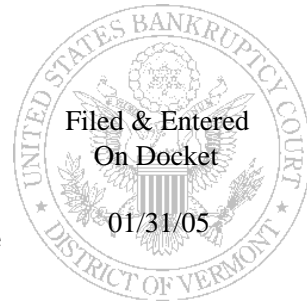


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**Pamela J. Fifield
Debtor.**

**Chapter 7 Case
04-10867**

Appearances: *John Canney, Esq.*
 Rutland, VT
 Trustee, Pro Se

Grant Rees, Esq.
Burlington, VT
Attorney for Creditor

SCHEDULING ORDER

On December 17, 2004, John R. Canney, III, in his capacity as the Chapter 7 Trustee in the above-referenced bankruptcy case (the “Trustee”), filed a memorandum of law in support of his amended notice of intent to sell residential real property, alleging, *inter alia*, that the recent, retroactive amendment to 27 V.S.A. § 341 is unconstitutional, as “it adversely affects property rights without notice.” (doc. # 31). The substantive legal issue presented is whether the first mortgage against the property is enforceable under 27 V.S.A. § 341. In light of the Trustee’s assertion that the amendment to this statute is unconstitutional, the Court must determine the constitutionality of the amendment before addressing the enforceability of the mortgage and whether the mortgagee, Countrywide Home Loans, Inc. (“Countrywide”), holds a secured claim in this case.¹ Countrywide has not yet had an opportunity to address the Trustee’s constitutionality claim.

In accordance with Fed. R. Bankr. P. 7024 and 28 U.S.C. § 2408, the Court provided notice to the Vermont Attorney General that the constitutionality of a Vermont statute has been called into question. (Doc. # 35). The Vermont Attorney General did not respond to the motion, seek to intervene in the action, or file any appearance in this matter.

Accordingly,

IT IS HEREBY ORDERED, that the Parties are directed to address in a memorandum of law whether the retroactive amendment to 27 V.S.A. § 341 is unconstitutional as “it adversely affects property rights without notice” in accordance with the following schedule:


1. Countrywide’s memorandum of law due no later than February 28, 2005;
2. The Trustee’s Reply memorandum of law due no later than March 21, 2005.

¹ Pursuant to a stipulation between the Trustee and Countryside the subject property has been sold and the question is thus actually how the mortgagee’s claim will be treated for purposes of distribution of the sale proceeds.

Unless the memoranda of law dictate otherwise, the Court will consider this matter fully submitted on March 22, 2005, or the filing of the Trustee's Reply Memorandum, whichever occurs earlier. .

SO ORDERED.

January 31, 2005
Rutland, Vermont



Colleen A. Brown
United States Bankruptcy Judge