BANKRUPTCY LAW NEWSLETTER

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MATTERS OF REDBURN CLARIFIES CHAPTER 13 ELIGIBILITY

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Chapter 7 Trustee
Foster, Swift, Collins & Smith, P.C.

A. Introduction

As a Chapter 7 Trustee, my bankruptcy practice consists of rivers of routine matters punctuated by highly emotional and thoroughly contested cases. I have yet to develop the instincts to predict when the seemingly mundane will boil over into heated battle.

On paper, Mark L. Redburn seemed like an ordinary chapter 7 debtor. He and his wife Pamela lacked sufficient assets net of exemptions and liens to pay a dividend to creditors. The only question in Mark's case was the valuation of his stock ownership in R.A.L. Corporation (d/b/a A-Z Rentals)("R.A.L."), a company on the ropes.

Starting with the first meeting of creditors, events in the Redburn case quickly shattered the facade of tranquility and normalcy. In one corner appeared the Debtors, compliant and soft spoken. In the other corner appeared a small crowd of creditors. The creditors had two things in common. First, they held judgments against Mr. Redburn from a state court lawsuit alleging fraud, misrepresentation and breach of fiduciary duty in connection with equity financing for R.A.L. Second, the creditors drew strength and unity from their membership in one of the world's largest and most prominent labor unions. The creditors wanted their money back, please.

The bankruptcy system insures a fair fight, regardless of how the numbers stack up. This particular fight blossomed into dozens of appearances on the Lansing docket and spanned three separate proceedings, each with different case numbers and parties. The fight emerged as a battle of epic proportions, on a human if not a monetary level. Fortunately, the fight brought squarely into focus several fundamental and unanswered legal issues, prompting the much

needed decision of Matter of Mark L. Redburn, 193 B.R. 249 (Bankr. W.D. Mich., 1996). Specifically, the Redburn decision clarifies who is eligible for relief under chapter 13.

B. Summary Of Decision

The issue in Redburn was "whether a judgment debt which is subject to a nondischargeability action in a pending chapter 7 case should be deemed 'noncontingent' and/or 'liquidated' within the meaning of Section 109(e) to determine chapter 13 eligibility." 193 B.R. at 252. Some brief history provides the necessary context for this issue.

Mark Redburn formed R.A.L. in 1987. R.A.L. rented various tools and equipment to the public. Following two stock offerings which raised more than $300,000, R.A.L.'s financial situation deteriorated, ultimately ending in a liquidating chapter 11 proceeding.

Twenty-three R.A.L. investors filed suit in state court against R.A.L., Mr. Redburn and others, claiming fraud and misrepresentation in connection with the offerings. In the Fall of 1991, Mr. Redburn and the plaintiffs entered into a stipulation and consent judgment in the aggregate amount of $303,219.80.

On December 2, 1992, the Redburns filed their chapter 7 Petition (assigned to Judge Stevenson). Twenty-three judgment creditors predictably filed an adversary proceeding seeking a determination of nondischargeability under Sections 523(a)(2)(A) & (a)(4). The twenty-three adversary proceeding plaintiffs eventually winnowed their numbers to twelve (hereinafter the "Twelve Angry Men").

Even from the standpoint of a neutral observer, the adversary proceeding attained high drama. From a legal standpoint, the Twelve Angry Men felt they had a strong case for nondischargeability, especially under subsection 523(a)(2)(A). After all, the state court stipulation reported that "Defendant Mark L. Redburn misrepresented certain facts to the Plaintiffs to induce the Plaintiffs to invest monies in R.A.L. Corporation [with specific examples following]." A serious debate raged, however, over the admissibility and consequences of the damning stipulation.

On literally a more visceral level, the tempo of the proceeding slowed to accommodate Mr. Redburn's urgent need for a liver replacement.
Through the miracle of medicine, Mr. Redburn obtained a new lease on life. His other fresh start, however, must wait.

On the eve of trial in the adversary proceeding, Mr. Redburn filed a chapter 13 petition (assigned to Judge Gregg) naming the Twelve Angry Men as claimants. After briefing and a hearing, Judge Gregg held that Mr. Redburn did not satisfy the eligibility requirements in Section 109(e), which states:

> "Only an individual with regular income that owes, on the date of the filing of the petition, non-contingent, liquidated, unsecured debts of less than $250,000 ... may be a debtor under chapter 13 of this title."

Were the judgments, which on their face exceeded $250,000, known in the legal sense noncontingent and liquidated?

The Court first looked to the Schedules to ascertain the Debtor's nondispositive characterization of the judgment claims. 193 B.R. at 255, citing Comprehensive Accounting Corp v Pearson (In re Pearson), 773 F.2d 751, 757 (6th Cir., 1985). The Debtor denoted each claim as "contingent" and "disputed," but did not check the box labeled "unliquidated." The Debtor then described the amount of each claim as "unknown."

1. Known v. Unknown

Naturally, the Twelve Angry Men and their state court judgments dominated Mr.

Redburn's consciousness. The Court discounted the Debtor's contention that the amounts of the debts were "unknown." After noting that the Debtor knew the exact amounts awarded to each of the judgment creditors and the 7% interest accrual thereon, the Court concluded that "the debtor cannot circumvent this limitation on eligibility by simply ignoring what he knows and listing the amounts of the debts as 'unknown' in his schedules. To decide otherwise would eviscerate the chapter 13 eligibility requirements." 193 B.R. at 256, citing In re Mannor, 175 B.R. 639, 641 (Bankr. E.D. Mich., 1994); Matter of McGovern, 122 B.R. 712, 714 (Bankr. N.D. Ind., 1989).

Moreover, the Court rejected the Debtor's argument that the debts were "unknown" because they were "disputed." The Court correctly noted that the term "disputed" does not appear in the eligibility standard. 193 B.R. at 257.

2. Liquidated v. Unliquidated

Next, the Court analyzed whether the debts were "unliquidated." Curiously, the Debtor did not check the box denoting the claims as "unliquidated," but thereafter took that position in his brief in support of confirmation. After quoting from the similar case of In re Troyer, 24 B.R. 727 (Bankr. N.D. Ohio, 1982), the Court reasoned that the consent judgments of specific dollar amounts constituted "liquidated" debts. Specifically, the Court gave full faith and credit to the state court judgments as to their amounts, leaving to federal adjudication the dischargeability of the debts. 193 B.R. at 257-258.

3. Contingent v. Noncontingent

Finally, the Court analyzed whether the debts were "non-contingent" within the meaning of Section 109(e). Here, the Debtor argued that the debts were contingent because they are now subject to non-dischargeability actions in the pending chapter 7 case.

Unfortunately, the Code does not define the term "contingent." Therefore, the Court adopted the well-settled definition from common law that "a debt is noncontingent if all events giving rise to liability occurred prior to the filing of the bankruptcy petition." 193 B.R. at 259, citing In re Nicholes, 184 B.R. 82, 88 (9th Cir., B.A.P., 1995). Using this standard, the Court easily concluded that the pre-petition judgments of the Twelve Angry Men constituted noncontingent debts. Id. The Court held that the future potential discharge does not render the debts "contingent" for purposes of chapter 13 eligibility. In so concluding, the Court reasoned that a chapter 7 discharge does not invoke as to contested debts until after Section 523(a) adjudication. 193 B.R. at 260.

C. Conclusions and Observations

The Redburn decision covers broad legal territory, and defines the nexus between nondischargeability and chapter 13 eligibility. This nexus takes center stage as debtors and their counsel increasingly adopt so-called "chapter 20" filings as a comprehensive solution.

The decision prompts several general observations:

1. Do not take lightly the seemingly innocuous boxes in schedule forms used to characterize debts.

2. The debtor has an implied duty to know her debts, and conduct due diligence when in doubt.

3. For eligibility review, the debtor's recitation of a debt is relevant, but not dispositive. Equally important is whether the creditor asserts a claim that can be calculated with legal certainty.

4. An unstated rule potentially emerges from this opinion. It appears that debts rendered nondischargeable remain noncontingent despite a debtor's appeal.

CASES OF INTEREST

Enclosed from Larry A. VerMerris is a copy of the Michigan Court of Appeals decision in South Haven Marine, et al v Hanson, et al.. This decision deals with the issue of standing to sue after a Trustee has been appointed.

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Enclosed from Larry A. VerMerris is a case summary of the U.S. Supreme Court decision in Seminole Tribe of Florida v Florida. The result is that a Bankruptcy Court cannot issue a money judgment against a state.

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Enclosed from Larry A. VerMerris is an article from the Bankruptcy Service Current Awareness Alert (CBC) which indicates that 11 U.S.C. §523(a) has been amended to add a new category of debt that is excepted from discharge.

STEERING COMMITTEE MINUTES

The next meeting will be held on June 21, 1996 at noon at the Peninsular Club in Grand Rapids.

LOCAL BANKRUPTCY NOTICE

Enclosed from Mark VanAllsburg is a memo from the Court and the Court Motion Calendar for June and July, 1996.

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Enclosed from Mark VanAllsburg is a Notice Concerning Publication of Proposed Local Court Rules. The Bankruptcy Court for the Western District of Michigan is in the process of revising its local court rules which were last amended on March 1, 1993.

Copies of the proposed local bankruptcy rules will be provided without charge to persons who request them in writing. Request for copies should be mailed to Clerk, Bankruptcy Court, PO Box 3310, Grand Rapids, MI 49501 or may be faxed to the Court at (616) 456-2919.

The Court will accept comments on the proposed local rules until **July 1, 1996.**

LOCAL BANKRUPTCY STATICS

The following is a summary of the number of bankruptcy cases commenced in the United states Bankruptcy Court for the Western District of Michigan (Lower Peninsula) during the months of April of 1996. These figures are compared to those made during the same period one year ago and two years ago.

Bankruptcy Chapter	April of 1996	April of 1995	April of 1994
Chapter 7	589	412	357
Chapter 11	3	6	8
Chapter 12	1	3	3
Chapter 13	206	127	140
Totals	799	548	508

Bankruptcy Chapter	January - April of 1996	January - April of 1995	January - April of 1994
Chapter 7	2069	1534	1441
Chapter 11	26	24	30
Chapter 12	2	9	5
Chapter 13	827	524	530
§304	0	0	0
Totals	2924	2092	2006

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Affirmed.

Sharp v. Cavanaugh, et al. (Lawyers Weekly No. **24397** - 2 pages) (per curiam) (Neff, Saad and Markey, JJ.).

Summary by EW.

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Governmental Immunity - Slip and Fall on Sidewalk

Where plaintiff slipped and fell on ice that had collected on a sidewalk where two slabs of concrete had settled, defendant-city is immune from suit because the sidewalk was not hazardous in its original condition.

"The ice was in a depression in the sidewalk where two slabs of concrete had settled, but the pavement was not broken or cracked. Plaintiff's complaint alleged that the ice was an unnatural accumulation, that the depression was purposely constructed by defendant and was a nuisance, and that defendant failed to correct the condition and failed to warn of the existence of the condition." Defendant was granted summary disposition.

No Liability

Cities are liable for sidewalk defects. But under the natural accumulation doctrine, cities are not liable for accidents caused by natural accumulations of ice and snow unless the city's affirmative action to alter the natural accumulation increases the hazard, or where the city has affirmatively altered the sidewalk's condition to cause an unnatural accumulation.

The trial court properly found that neither exception applied in this case. "The court based its decision in part on *Wesley v City of Detroit*, 117 Mich. 658 ... (1898). In *Wesley*, the Court found that an inclined sidewalk which was not unsafe or dangerous in its original condition but was made unsafe solely by the accumulation of ice and snow did not give rise to liability for defendant city."

Plaintiff had "no evidence that the sidewalk was unsafe or dangerous in its original condition. Based on the documentary evidence before it, the trial court found that, although there was a dip in the sidewalk, it was neither cracked nor broken and was therefore not dangerous in its original condition."

Affirmed.

Wright v. Bradley, et al. (Lawyers Weekly No. **24434** - 2 pages) (per curiam) (Doctoroff, C.J. and McDonald, J., and Sullivan, J., former Court of Appeals judge sitting by assignment).

Summary by EW.

(See accompanying story on Page 1.)

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beneficiary designation card but left the beneficiary designation line blank, the proceeds of the life insurance policy are payable to the default beneficiaries named in the policy itself — the decedent's surviving children — and not to the decedent's ex-wife, who had been named on a previous beneficiary card.

The decedent had an employer-provided life insurance policy. On the original beneficiary card, he named his then-wife. After the divorce, the decedent filled out a new beneficiary card that named "Ex-wife Karen" as beneficiary. Later, he signed another beneficiary card but did not name a beneficiary.

The decedent died. Plaintiff-ex-wife claims the proceeds, as does defendant — the estate of one of the decedent's children. The administrator of the child's estate claims the decedent agreed to name her as a beneficiary in exchange for a reduction in child support. The decedent has two other children who are third-party defendants in this suit.

The trial court found for plaintiff. We reverse.

Substantial Compliance

"To the extent that the trial court ruled that [the decedent] did not substantially comply with the insurance policy's requirement that changes of the beneficiary be 'in writing,' we disagree. Substantial compliance with an insurance policy's change of beneficiary requirements is sufficient to effect a change in beneficiary.... There is substantial compliance with policy requirements where an insured 'has done all he can to change a beneficiary[.]'... Here [the decedent] signed the beneficiary designation card, but left the beneficiary designation line blank. We conclude that [the decedent] substantially complied with the policy's requirement that beneficiary changes be made 'in writing' notwithstanding the fact that [the decedent] left the beneficiary designation line blank."

The form provided that by signing it, all other beneficiary designations were revoked. The policy provides for default beneficiaries in the event no beneficiary is named. "According to the plain language of the insurance policy coupled with the language of the beneficiary designation form, [the decedent] revoked plaintiff as beneficiary and invoked the default provision of the policy...." Therefore, the proceeds shall be paid equally to the decedent's three surviving children.

Reversed.

Cason v. Bennett-Brown v. John Hancock Mutual Life Ins. Co. (Lawyers Weekly No. **24400** - 5 pages) (per curiam) (Murphy, J., and Fink, J., sitting by assignment) (Markman, J., dissenting).

Summary by EW.

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Legal Malpractice - No Standing to Sue

Where plaintiffs sued defendant-attorneys for malpractice, their suit was properly dismissed because once the bankruptcy to develop a condominium project. When the project suffered financial problems, the marina filed for chapter 11 bankruptcy. Plaintiffs then operated the marina as debtors-in-possession. The bankruptcy court appointed a trustee and authorized the trustee to retain defendant-law firm as special counsel. Defendant-Hanson was also retained as special counsel. Defendant-Hanson negotiated the sale of the marina to Patterson. Defendant-Hanson drafted a warranty deed, which reserved a utility easement for plaintiffs. When Patterson refused to purchase the property because of the utility easement, defendant-Hanson modified the deed and removed the easement. On June 21, 1989, defendant-Shaw signed the deed on the bankruptcy trustee's behalf.

On June 21, 1991, plaintiffs sued defendants for malpractice, based on defendants' failure to include the utility easement in the deed. Plaintiffs did not join the bankruptcy trustee. Plaintiffs then amended their complaint to add the trustee — more than two years after the alleged malpractice occurred. The bankruptcy court granted the trustee permission to sue defendants, stating that any proceeds from the suit would belong to the bankruptcy estate.

The trial court granted defendants summary disposition, finding that plaintiffs lacked standing to sue without the bankruptcy court's permission. "Only the trustee could file a suit on behalf of the bankruptcy estate. Because the trustee did not join the suit until the statute of limitations had expired, the trial court held that the matter was time-barred." The trial court also denied plaintiff's motion to amend their complaint.

Plaintiffs argue that the trial court erred by determining that plaintiffs were not entitled to sue after the trustee was appointed. We disagree.

Appointment

"[O]nce a trustee is appointed on behalf of the estate's creditors in a chapter eleven proceeding, the debtor of the estate ceases to be a debtor-in-possession. The bankruptcy code defines 'debtor-in-possession' as a 'debtor *except when a person that has qualified under section 322 of this title is serving as trustee in the case.*'"

Therefore, once a trustee was appointed, plaintiffs were no longer debtors-in-possession. Thus, "the trial court properly determined that, because only the trustee could file a suit on behalf of the estate, plaintiffs lacked standing to file suit."

South Haven Marine, et al. v. Hanson, et al. (Lawyers Weekly No. **24398** - 4 pages) (per curiam) (Doctoroff, C.J., and Hood and Gribbs, JJ.).

Summary by MLC.

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No-Fault - Motorcyclist Recovers Benefits

Where plaintiff-motorcyclist lost control of his motorcycle and was injured

Full Opinions
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THE WEEK'S OPINIONS

❖ MICHIGAN COURT OF APPEALS

UNPUBLISHED OPINIONS

CIVIL

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Affirmed.

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Affirmed.

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Insurance - Beneficiary Designation

Where the decedent-insured signed a beneficiary designation card but left the beneficiary designation line blank, the proceeds of the life insurance policy are payable to the default beneficiaries named in the policy itself — the decedent's surviving children — and not to the decedent's ex-wife, who had been named on a previous beneficiary card.

The decedent had an employer-provided life insurance policy. On the original beneficiary card, he named his then-wife. After the divorce, the decedent filled out a new beneficiary card that named "Ex-wife Karen" as beneficiary. Later, he signed another beneficiary card but did not name a beneficiary.

The decedent died. Plaintiff-ex-wife claims the proceeds, as does defendant — the estate of one of the decedent's children. The administrator of the child's estate claims the decedent agreed to name her as a beneficiary in exchange for a reduction in child support. The decedent has two other children who are third-party defendants in this suit.

The trial court found for plaintiff. We reverse.

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"To the extent that the trial court ruled that [the decedent] did not substantially comply with the insurance policy's requirement that changes of the beneficiary be 'in writing,' we disagree. Substantial compliance with an insurance policy's change of beneficiary requirements is sufficient to effect a change in beneficiary.... There is substantial compliance with policy requirements where an insured 'has done all he can to change a beneficiary[.]'... Here [the decedent] signed the beneficiary designation card, but left the beneficiary designation line blank. We conclude that [the decedent] substantially complied with the policy's requirement that beneficiary changes be made 'in writing' notwithstanding the fact that [the decedent] left the beneficiary designation line blank."

The form provided that by signing it, all other beneficiary designations were revoked. The policy provides for default beneficiaries in the event no beneficiary is named. "According to the plain language of the insurance policy coupled with the language of the beneficiary designation form, [the decedent] revoked plaintiff as beneficiary and invoked the default provision of the policy...." Therefore, the proceeds shall be paid equally to the decedent's three surviving children.

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Summary by EW.

ruptcy trustee had been appointed, plaintiffs no longer had standing to sue as debtors-in-possession.

Plaintiffs operated a marina and started to develop a condominium project. When the project suffered financial problems, the marina filed for chapter 11 bankruptcy. Plaintiffs then operated the marina as debtors-in-possession. The bankruptcy court appointed a trustee and authorized the trustee to retain defendant-law firm as special counsel. Defendant-Hanson was also retained as special counsel. Defendant-Hanson negotiated the sale of the marina to Patterson. Defendant-Hanson drafted a warranty deed, which reserved a utility easement for plaintiffs. When Patterson refused to purchase the property because of the utility easement, defendant-Hanson modified the deed and removed the easement. On June 21, 1989, defendant-Shaw signed the deed on the bankruptcy trustee's behalf.

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Therefore, once a trustee was appointed, plaintiffs were no longer debtors-in-possession. Thus, "the trial court properly determined that, because only the trustee could file a suit on behalf of the estate, plaintiffs lacked standing to file suit."

South Haven Marine, et al. v. Hanson, et al. (Lawyers Weekly No. **24398** - 4 pages) (per curiam) (Doctoroff, C.J., and Hood and Gribbs, JJ.).

Summary by MLC.

States Can't Be Sued In Federal Court, Says U.S. Supreme Court

A state can't be sued in federal court unless it has waived its sovereign immunity, says the U.S. Supreme Court in a 5-4 decision that overrules a case from 1989.

This is true even if Congress has specifically authorized such a suit under a federal statute.

A dissenting Justice said this means that states may be completely immune in any case where the plaintiff has an exclusively federal remedy. For instance:

- A bankruptcy court can't issue a money judgment against a state;
- A state can't be sued for a toxic waste clean-up under federal law;
- A state university can't be sued for infringing a copyright or a patent; and
- A state can't be sued for an antitrust violation.

The dissenting Justice called this result "shocking."

However, the majority said it was required by the Eleventh Amendment.

The only exception is cases arising under the Fourteenth Amendment, which the majority said contains a separate provision authorizing suits against states even if they don't consent.

The Court's 152-page opinion contains extensive historical and constitutional analysis.

This particular case involved a federal statute that allows an Indian tribe to sue a state in federal court to force it to negotiate over gambling rights. The Court said the statute is unconstitutional.

U.S. Supreme Court. Seminole Tribe of Florida v. Florida, No. 94-12. March 27, 1996. Lawyers Weekly USA No. 9907855 (152 pages). To order a copy of the opinion, call 800-933-5594.

Rehnquist, C.J., delivered the opinion of the Court. Stevens, J., filed a dissenting opinion. Souter, J., filed a dissenting opinion in which Ginsburg and Breyer, JJ., joined.

§ 507(a)(8)(A)(ii) and concluded that the tolling provision applies only when an offer in compromise is made after the IRS issues an assessment. The District Court affirmed the Bankruptcy Court after finding no ambiguity in the statutory phrase at issue.

The Sixth Circuit noted the Bankruptcy Court's specific holding that, had Congress intended § 507(a)(8)(A)(ii) to apply to offers in compromise made by taxpayers prior to the IRS's formal assessment of taxes, Congress would have done so expressly and unambiguously. The Sixth Circuit said that a review of § 507's legislative history reveals Congress's concern that debtors might use an offer in compromise to delay negotiations with the IRS, following the IRS's formal assessment of unpaid taxes, until the debtors' tax liability loses priority status. The statute was therefore enacted to give the IRS 240 days to collect the taxes that are due following its formal assessment of unpaid taxes. Indeed, § 507 attempts to balance two competing interests: the debtor's interest in obtaining a fresh start free from creditors' claims; and. the IRS's interest in collecting unpaid taxes. In the case at hand, the IRS simply waited too long to collect the debtors' unpaid 1981 and 1983 federal income taxes, concluded the Sixth Circuit.

The IRS had conceded in Bankruptcy Court that it is not required to postpone or suspend collection efforts when a debtor submits an offer in compromise to the IRS. Local IRS offices decide whether to suspend collection activities when an offer in compromise is pending. Accordingly, the lower courts properly found that the IRS, through no fault of the debtors, allowed more than 240 days to pass after formally assessing the debtors before collecting the debtors' 1981 and 1983 tax debts, the Sixth Circuit determined.

5—Bankruptcy-related legislation enacted

Amendments to the bankruptcy-related provisions in Title 28 of the United States Code were enacted on January 26, 1996 as part of P.L. 104-99, 110 Stat. 26-47, entitled "An Act Making Appropriations for Fiscal Year 1996 to Make a Downpayment Toward a Balanced Budget, and for Other Purposes." This Act amended 28 USCS § 1930(a)(6) to provide for the continuation of quarterly fees to the United States trustee in a Chapter 11 case after confirmation of the plan and until the case is dismissed or converted. The Act also amended 28 USCS § 589a(b)(5) to provide that the amount to be deposited in the United States Trustee System Fund under that paragraph — 60% of the fees collected under 28 USCS § 1930(a)(6) — is to be deposited only until a reorganization plan is confirmed. The Act amended 28 USCS § 589a(f)(2) to provide that the offsetting collections to be deposited to the United States Trustee System Fund under paragraph (2) — 40% of the fees collected under 28 USCS § 1930(a)(6) — is to be deposited only until a reorganization plan is confirmed. The Act then added a new paragraph (3) to 28 USCS § 589a(f) to provide that the offsetting collections to be deposited to the United States Trustee System Fund under subsection (f) now includes 100% of the fees collected under 28 USCS § 1930(a)(6) after a reorganization plan is confirmed.

Also the President has signed into law a bill which amends 11 USCS § 523(a) to add a new category of debt that is excepted from discharge. This legislation adds a new paragraph (17) to § 523(a) to except from discharge certain filing fees and other costs and expenses imposed by a court, regardless of the debtor's poverty or status as a prisoner.

6—Second Circuit sets forth appropriate standard for "ordinary business" under § 547(c)(2) exception

The ordinary course of business exception to the preference avoidance rule provides a safe harbor from the trustee's avoidance powers for certain preferential payments. The exception, under Code § 547(c)(2), consists of three elements, one of which under subparagraph (C) requires that the transfer be made according to ordinary business

From the Court:

Staff News: The court "family" has increased by another member. Andrew Walton Chamberlain was born to Dennis Chamberlain (Judge Howard's law clerk) and Judy Walton (formerly Judge Howard's law clerk and also a case trustee) on April 18. Andrew weighed 8 lb. 7 oz. and measured 21 inches. Judy was back at work 4 days later.

Intake Tips: Cases are still running 35% ahead of last year's rate. The intake clerks have several requests which will make processing cases easier. First, do not staple the original petition and schedules together. We waste time pulling the staples. Never staple the mailing matrix to anything. Second, please put the designation "dba" or 'fdba" or "aka" of "fka" on the petition before an assumed name to tell us whether a debtor is running a business, was running a business now closed, or whether the debtor used another name in the past for another reason. We need to enter this information into the computer and if you do not use the appropriate designation, we often have to call and ask the status. Third, please reduce the paper you send to us by asking that we time-stamp and return only a copy of the petition. We only time-stamp the petition in any case. This practice will save you lots of postage.

Marquette construction: Please remember that the elevator in the federal building in Marquette will be out of service beginning June 1. If you have a handicapped client, or if you have reason to believe a party to a bankruptcy hearing or first meeting will be unable to access the court facilities because they are unable to negotiate the stairs, please call either the court, the trustee or the U.S. Trustee to warn us of the problem.

Proposed Bankruptcy Rules: New local rules are being published for comment. See the announcement in this issue of the Newsletter. Comments are due by July 1.

Credit Cards: The bankruptcy court is now accepting VISA© and MASTERCARD© in payment for fees and services. This is particularly useful to those firms which charge copies to a monthly account. If you would like more information about the payment option, please call Julie McMahon at (616) 456-2902.

COURT MOTION CALENDAR

	Monday	Tuesday	Wednesday	Thursday	Friday
JUNE	3	4 GG HG	5 COURT ADMIN. MT.	6 GK SG	7 HK
	10 SK	11	12	13	14
	17	18 GG SM	19 SM	20 GK ST	21 HL
	24 HG	25 GL HK	26	27 GT	28 GT
JULY	1 SK GG	2	3 SG	4 INDEPENDENCE DAY	5
	8	9	10	11	12 HG GK
	15 SG HM	16 GG HM	17 HM	18 ST	19 ST HK
	22	23	24	25 GT	26 GT HL
	29	30 GL HG	31 COURT ADMIN. MTG.	1 GK	2 HK

United States Bankruptcy Court
Western District of Michigan
Gerald R. Ford Federal Building
PO Box 3310
Grand Rapids, MI 49501

Mark Van Allsburg
Clerk

Notice Concerning Publication of Proposed Local Court Rules

The Bankruptcy Court for the Western District of Michigan is in the process of revising its local court rules which were last amended on March 1, 1993. The proposed rules, if adopted, will replace all existing local court rules. These proposed rules vary from the existing rules in the following respects:

* The rules have been renumbered to correspond to the numbering system of the Federal Rules of Bankruptcy Procedure.

* General Orders 5- 10 have been incorporated into the local rules:

  # 5 - Faxed Pleadings
  # 6 - Applicability of FRCP 16 and 26 to Adversary Proceedings
  # 7 - Determination of Place of Holding Court
  # 8 - Jury Trials
  # 9 - Election of Ch. 11 Trustee
  # 10- Small Business Reorganizations

* The objection period for most motions served with opportunity to object has been reduced to 15 days.

* A one-page summary of each chapter 13 plan (and amendments to plans) must be filed with the plan or amendment.

* Forms for a notice of abandonment and for the chapter 13 plan summary have been added as exhibits to the rules.

* Only attorneys admitted to practice before the U.S. District Court for the Western District of Michigan will be allowed to practice before the Bankruptcy Court.

* Legal briefs must be double-spaced and filed in triplicate.

* Numerous other minor changes.

THE COURT WILL ACCEPT COMMENTS ON THE PROPOSED LOCAL RULES UNTIL JULY 1, 1996.

Copies of the proposed local bankruptcy rules will be provided without charge to persons who request them in writing. Requests for copies should be mailed to Clerk, Bankruptcy Court, PO Box 3310, Grand Rapids, MI 49501 or may be faxed to the Court at (616) 456-2919.

ISSUE SUMMARY

NAME OF CASE: _____

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CHAPTER: _____

RELIEF SOUGHT: _____

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ISSUE: _____

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BENCH DECISION: _____

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REPORT SUBMITTED BY: _____

Western Michigan Chapter of the
Federal Bar Association
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