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BANKRUPTCY 101

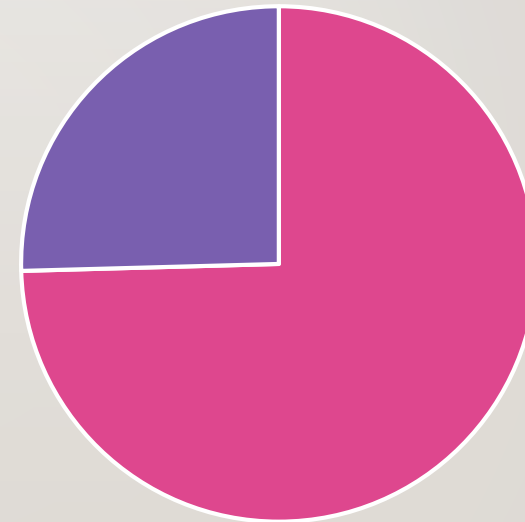
CTAO 2019 SPRING CONFERENCE

BANKRUPTCY FILINGS IN SOUTHERN DISTRICT OF OHIO FOR 2018—TOTAL 36,757 CASES (FROM AMERICAN BANKRUPTCY INSTITUTE)

- Bankruptcy filings have declined in the past several years.



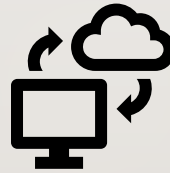
Filings 2018



■ Chapter 7 ■ Chapter 13 ■ Chapter 11

HOW TO FIND INFORMATION ABOUT A BANKRUPTCY CASE

- PACER: Public Access to Court Electronic Records: <http://pacer.pcs.uscourts.gov>-- Main site
- or <http://pacer.ohsb.uscourts> for the Bankruptcy Court for the Southern District of Ohio & <https://ecf.ohnb.uscourts.gov> for the Northern District of Ohio
- www.ohsb.uscourts.gov is the Bankruptcy Court address for the Southern District of Ohio & www.ohnb.uscourts.gov for the Northern District of Ohio
- www.13network.com for links to the various Chapter 13 Trustees
- Generally Chapter 7 Trustees do not have individual web sites (stay tuned though)



LIQUIDATION VS. REORGANIZATION

CHAPTER 7 VS. CHAPTER 13

- Chapter 7:
 - Often referred to as a liquidation proceeding. Debtors relinquish non-exempt property and receive a discharge of indebtedness.
 - Chapter 7 Trustee will examine the Debtor, liquidate assets, review claims, and pay creditors.
 - Quick process, generally less than 6 months unless there are significant assets to liquidate.
- Chapter 13
 - Often referred to as a reorganization proceeding.
 - Debtor keeps property, but must contribute monthly “Disposable Income” to a reorganization plan, generally over a 3-5 year period.
 - Chapter 13 Trustee collects the funds on a monthly basis and pays creditors.

DIFFERENT ROLES OF CHAPTER 7 & 13 TRUSTEES

CHAPTER 7 TRUSTEE

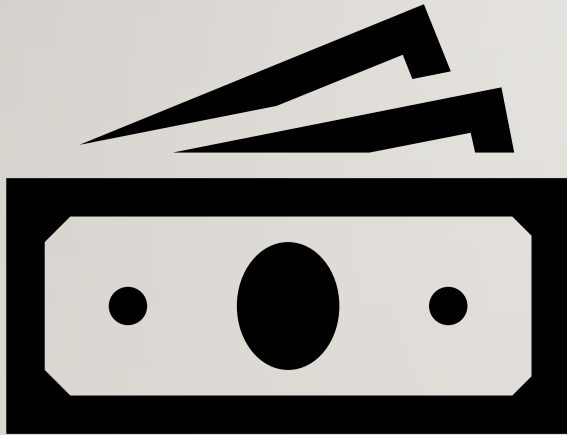
- Examine the Debtor and determine if assets are available to liquidate and pay creditors
- Liquidate/reduce assets to cash
- Examine claims & object if warranted
- File Final Report with notice of claims to be paid
- Move quickly and efficiently in the administration of the case



CHAPTER 13 TRUSTEE

- Examine the Debtor and determine the monthly income of the Debtor and verify all disposable income being contributed to the plan
- Through wage withholding collect monthly payments from the Debtor
- Distribute the payments to creditors on a monthly basis in accordance with a plan
- 3-5 years before plan complete and Trustee can submit Final Report

BANKRUPTCY BASICS



- **Automatic Stay**—means STOP collection efforts and enforcements of liens. Applies no matter whether the Debtor is liquidating or reorganizing.
- **Meeting of Creditors**—Opportunity for creditors to question the Debtor about his/her financial condition and other matters. Primarily used by the Trustee to obtain necessary information to administer the case.
- **Notices**—Sent at the onset of a case, containing vital information and dates.

IDENTIFICATION INFORMATION ON THE BANKRUPTCY NOTICE

Information to identify the case:

Debtor 1

First Name

Middle Name

Last Name

Last 4 digits of Social Security number or ITIN _____

EIN _____ - _____

Debtor 2

(Spouse, if filing)

First Name

Middle Name

Last Name

Last 4 digits of Social Security number or ITIN _____

EIN _____ - _____

United States Bankruptcy Court for the: _____ District of _____
(State)

[Date case filed for chapter 13

_____/_____/_____] OR

Case number: _____

[Date case filed in chapter _____

_____/_____/_____] OR

Date case converted to chapter 13

_____/_____/_____]]

MORE IDENTIFICATION INFORMATION

About Debtor 1:		About Debtor 2:	
1. Debtor's full name			
2. All other names used in the last 8 years			
3. Address		If Debtor 2 lives at a different address:	
4. Debtor's attorney Name and address		Contact phone	_____
		Email	_____
5. Bankruptcy trustee Name and address		Contact phone	_____
		Email	_____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.gov .		Hours open	_____
		Contact phone	_____

MEETINGS AND DEADLINES

7. Meeting of creditors

Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.

Creditors may attend, but are not required to do so.

_____ at _____
Date Time

Location: _____

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

8. Deadlines

The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.

Deadline to file a complaint to challenge dischargeability of certain debts:

You must file:

a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f), or
a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).

Filing deadline: _____

Deadline for all creditors to file a proof of claim (except governmental units):

Filing deadline: _____

Deadline for governmental units to file a proof of claim:

Filing deadline: _____

PLAN INFORMATION ON THE NOTICE

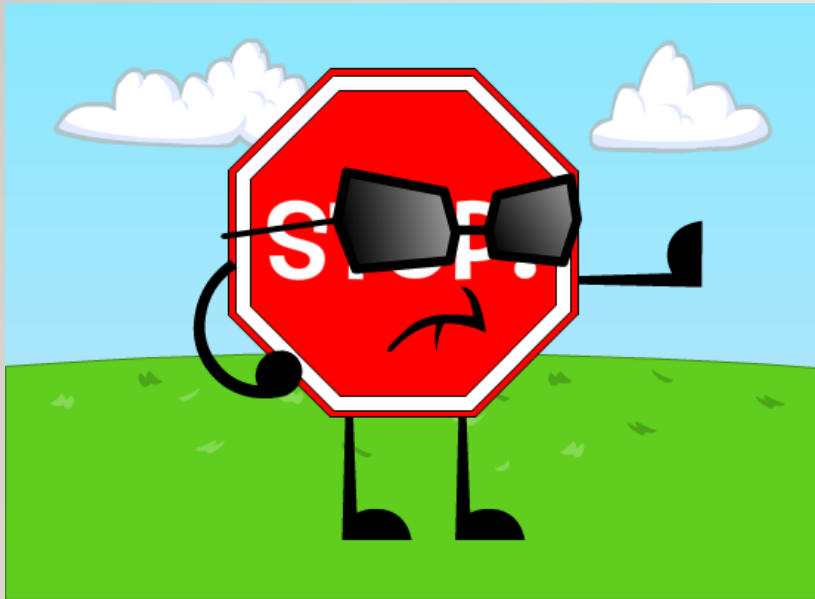
9. Filing of plan

[The debtor has filed a plan, which is attached. The hearing on confirmation will be held on: _____ at _____
Date Location: _____
Time]

Or [The debtor has filed a plan. The plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan and a notice of the hearing on confirmation will be sent separately.]

STOP: IN THE NAME OF THE AUTOMATIC STAY!



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- Automatic means automatic—happens with the filing of bankruptcy petition
- Everything stops: foreclosures, collection efforts, lawsuits, garnishments
- Goal: preserve the status quo and stop the grab for assets; allow the Debtor some breathing room

MORE CONCEPTS OF THE AUTOMATIC STAY

- Applies in each Chapter of the Bankruptcy Code
- Protects not only actions against the Debtor, but also actions against property of the estate
- Only if relief from the stay is sought and obtained may a party proceed



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RELIEF FROM THE STAY

- Most often obtained by a secured a secured party with a vehicle or real estate as collateral
- Obtained to allow an action to go forward to execute on collateral (repossess vehicle or foreclose on real estate)
- Will be granted for cause—non payment being the most frequent grounds
- May be granted where no equity in property and “not necessary for an effective reorganization”

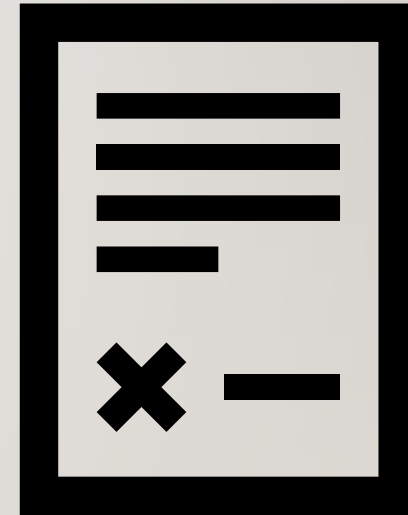
CLAIMS---HOW TO GET PAID

- Claims bar date—how set and when
- Official form for filing Claims
- Absolutely critical in Chapter 13 cases
- Not necessary for Chapter 7 cases, but also not impermissible



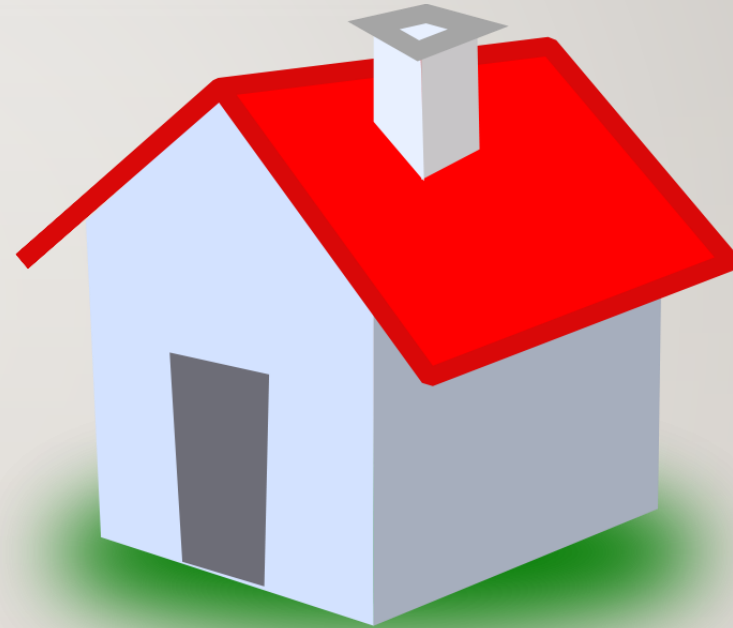
OFFICIAL CLAIM FORM

- In your materials
- Same for every bankruptcy case filed
- Attorney not necessary for filing



SECURED CLAIMS—HOW TO PROTECT YOUR LIEN

- Monitor the bankruptcy case
- In Chapter 13 cases make sure to pay attention to plan and how any arrearages in taxes will be handled
- File your claim



FINAL COMMENTS AND QUESTIONS??



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