Welcome to 22nd Annual Consumer Bankruptcy Seminar for the N.D. Indiana

Wifi: MPAC-Prod

Password: showtime

Please remember:

- Silence phones
- Submit Ask the Judge Questions
- Leave your Certificate of attendance for appropriate hours
- Leave lunch card out for servers at lunch
- Streaming attendees add key words for each session to certificate
- Participate, but use microphones for benefit of streaming attendee
- Return certificate of attendance by October 2 to avoid late certification fee
- Wifi info:

Thank you to:

- All presenters
- Staff of Tracy Updike and Paul Chael for work leading up.
- Pro Show Promotions, and Palais Royale
- All of your for coming and participating
- Seminar Committee

Keywords

Remember and write on certificate

COURT AND CLERK'S OFFICE UPDATE

HONORABLE CHIEF JUDGE JAMES R. AHLER

AMBER E. CRAIG, CLERK

CARL J. HALL, ATTORNEY ADVISOR

JUDGES MEETINGS

Fort Wayne

May 7 – May 8

South Bend

September 9 – September 10

PROCEDURAL CHANGES

- The Court and the Clerk's Office continue to work on procedural differences within the divisional offices.
- Some differences may continue for specific court and operational needs.
- Our goal is to make the courts more efficient, make procedures consistent, and to make it easier for litigants and counsel.
- If you notice any procedural differences or have any suggestions, please let us know!

BANKRUPTCY THRESHOLD ADJUSTMENT ACT

- Version was passed by the Senate on August 3, 2026.
- Similar version was passed by the House on September 16, 2026.
- Would raise the debt limit for Subchapter V cases to $7.5 million.
- Would raise the debt limit for Chapter 13 cases to $2.75 million.
- Removes the distinction between secured and unsecured debt when calculating the debt limit for Chapter 13 cases.
- Only applies to cases commenced after the date the legislation is enacted.

LOCAL BANKRUPTCY RULE B-1009-1

- Paragraph (a) was changed to clarify the requirements for amendments.
- Paragraph (a)(2) was deleted and Paragraph (c) was amended to address recent changes regarding electronic service in accordance with Rule 9013(b).

LOCAL BANKRUPTCY RULE B-7016-1

Paragraph (c)(8) was amended to require a comprehensive list of the specific exhibits each party will offer into evidence at trial

LOCAL BANKRUPTCY RULE B-2016-1

Increase in the presumptively reasonable fee for Chapter 13 cases was discussed at Judges' Meeting in May.

The fee was increased from $4,000.00 to $4,500.00.

Change took effect on July 27, 2026.

LOCAL BANKRUPTCY RULE B-2016-1 (CONT.)

Additions to the Rule have been posted for comment.

Added subsection (e) establishing a no less than three (3) year review of the presumptively reasonable fee and discussing the best evidence for increase.

Added several paragraphs in the commentary on history, purpose, evidence, and the review process.

LOCAL BANKRUPTCY RULE B-9011-1

- Rule has been posted for comment.
- This rule will replace the signature and document retention requirements currently in the Seventh Amended Order on Electronic Filing.
- Allows for the use of a digital signature created using a commercially available digital signature software product that provides signature authentication.
- Maintains current document retention requirements and sanctions for non-compliance with court request.

DOCUMENT FILING

- When filing documents be sure to select all party filers.
- This includes all parties that have signed the document.

EMAIL NOTIFICATIONS FROM ECF

- There are times where a document you filed is modified by the Clerk's Office.
- You should receive a notification from ECF to review the modification.
- It is important to check the notification to ensure there is not something further you need to do or there was something you may have missed.

UPLOADING PDF'S

1. Please review PDFs before you upload them.
2. If you accidentally upload the wrong PDF, the Clerk's Office will update the docket to match what you have attached.
3. This will result in the docket reflecting a different filing.

AMENDED DOCUMENTS

- When filing an amended document, be sure to link it.
- The amended document must be linked to the original document only.
- Not all amended schedules require the payment of a fee.
- Only amended schedules d and e/f require a fee if they are amended.

THANK YOU!

Case Law Review and Report from the Committee on Practice and Procedure

Hon. Robert E. Grant
Angela Marshall
Robert Davidson
Christopher R. Schmidgal

The Plan is the plan!!

Presenting Evidence in Consumer Bankruptcy cases

Hon. James R Ahler, Chief Judge

Amy Godshalk, Staff Attorney to Paul R Chael, Trustee

Dan Whitten, Whitten and Whitten

Mortgages and Rule 3002.1: Challenges and Applications.

Tracy L. Updike, Standing Chapter 13 Trustee

Jessica Owens, Attorney at Doyle & Fouty, P.C.

Jeffrey Arnold

Amy Thomas , Office of Tracy Updike

3002.1 - PRACTICE TIPS

When might the Trustee or Debtor want to file the Motion to Determine Status – "the mid case review"

- There has been a service transfer
- Trustee has paid the pre-petition arrears in full
- Trustee or Debtor caught up on missed post-petition payments
- Questions about the application of funds
- Others?

The Official Form – Response to the Motion to Determine Status – “the mid case review”

Official Form 410C13-M1R (12/25)

United States Bankruptcy Court
_____________ District of _____________

In re __________________________, Debtor   Case No. _______
Chapter 13

Response to [Trustee's/Debtor's] Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim

_________________________ (claim holder) states as follows:

1. The following information relates to the mortgage claim at issue:

Name of Claim Holder:_______________ **Court claim no.** (if known):___________

Last 4 digits of any number used to identify the debtor's account: ___ ____ ____ ____

Property address: ____

____
City   State   ZIP Code

2. Arrearages

The total amount received to cure any arrearages as of the date of this response is

$__________________.

Check all that apply:

- ❑ As of the date of this response, the debtor has paid in full the amount required to cure any arrearage on this mortgage claim.
- ❑ As of the date of this response, the debtor has not paid in full the amount required to cure any prepetition arrearage on this mortgage claim. The total prepetition arrearage amount remaining unpaid as of the date of this response is:

  $ _________________.
- ❑ As of the date of this response, the debtor has not paid in full the amount required to cure any postpetition arrearage on the mortgage claim. The total postpetition arrearage amount remaining unpaid on the date of this response is:

  $ __________________.

3. Postpetition Payments

(a) Check all that apply:

- ❑ The debtor is current on all postpetition payments, including all fees, charges, expenses, escrow, and costs.
- ❑ The debtor is not current on all postpetition payments. The debtor is obligated for the postpetition payment(s) that first became due on: ____/____/_____.
- ❑ The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing.

(b) The claim holder attaches a payoff statement and provides the following information as of the date of this response:

i. Date last payment was received on the mortgage: ____/____/_____
ii. Date next postpetition payment from the debtor is due: ____/____/_____
iii. Amount of the next postpetition payment that is due: $___________
iv. Unpaid principal balance of the loan: $___________
v. Additional amounts due for any deferred or accrued interest: $___________
vi. Balance of the escrow account: $___________
vii. Balance of unapplied funds or funds held in a suspense account: $___________
viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: $___________

4. Itemized Payment History

Include if applicable:

Because the claim holder asserts that the arrearages have not been paid in full or states that the debtor is not current on all postpetition payments or that fees, charges, expenses, escrow, and costs are due and owing, the claim holder attaches an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal residence; and
- all amounts the claim holder contends remain unpaid.

[5. If needed, add other information relevant to the response.]

_________________________________ Date ___/____/_____
Signature

Print _________________________________ Title _______________
Name

Company _________________________________

If different from the notice address listed on the proof of claim to which this response applies:

Address _________________________________
Number   Street

____
City   State   ZIP Code

Contact phone (_____) ____– _______ Email __________________

The person completing this response must sign it. Check the appropriate box:

- ❑ I am the claim holder.
- ❑ I am the claim holder's authorized agent.

What to Know About the

Response to the Motion to Determine Status – “the mid case review”

- You will be required to state whether you agree that the debtor has:
  - Cured the prepetition arrears;
  - Cured any post-petition arrears; and
  - Paid the required amounts for any post-petition fee notices that may been filed up to that point in time.
- **Even if you agree** that the debtor is current, you are required to attach a payoff statement AND provide the requested information in part 3(b) of the form including:
  - Date of last payment received;
  - Date and amount of next post-petition payment;
  - Unpaid principal balance and any additional amounts for deferred or accrued interest;
  - Balance of the escrow account;
  - Balance of unapplied funds held in suspense;
  - Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid.

What to Know About the New Official Form - continued

- **<u>If you disagree</u>** that the debtor is current or has paid the amounts required, you have to fill out all of the information we just described PLUS:
  - An itemized payment history detailing the following information from the date of the bankruptcy filing through the date of the response including:
    - All prepetition and postpetition payments received;
    - The application of all payments received;
    - All fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal residence; and
    - All amounts the claim holder contends remain unpaid.

Practice Tips for Efficiency with the Trustee's Office for the 3002.1 Process:

- Ensure that Response Forms are **fully** completed!
  - Part 2: The amount required to cure any pre-petition <u>AND</u> post-petition arrearage has been paid in full, if appropriate
  - Part 3: Complete entries for the loan information
    - Blank spaces lead to additional correspondence needed, time and potential Motion for Determination
    - Ensure that the information provided in Part 3 matches the Payoff Statement attached-- if not, note why

- If there is an entry that is out of the ordinary, explain
  - Concerns may be easily resolved with contact information, explanations noted and communication
  - Large escrow deficiencies
    - Provide an escrow account history
  - Deferred amounts due to a past Loan Modification
    - Note this, if applicable

Helpful or confusing?

- [ ] As of the date of this response, the debtor has not paid in full the amount required to cure any postpetition arrearage on the mortgage claim. The total postpetition arrearage amount remaining unpaid on the date of this response is

$ ________________.

- This amount should include payments received to cure any default occurring as of the date of the petition or thereafter, but not payments for postpetition fees, charges, expenses, escrow, and costs

viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid:

- **Practice Point:** – On an escrowed loan, negative escrow will be recouped in the next escrow analysis

Can I get a post-petition reinstatement? Response to Motion to Determine Status and Response

- Nowhere on the Response form is there a post-petition reinstatement amount but it can be calculated using the form in conjunction with pay history and 3002.1 Notices filed with the court.
- Reinstatement Total Includes
  - Missed Monthly Payments
    - Section 2 includes the total amount of post-petition payments due and owning.
      - **Practice Pointer** – Always double check the math.
        - Form includes the post-petition due date in section (b) iii.
        - Payment amounts are included in pay history; Proof of Claim; and Payment Change Notices
  - Advances – Fees/Charges/Expenses/Cost
    - Fees and cost are in pay history and 3002.1 Post-Petition Fees Notices
      - **Practice pointer** – Creditor has a 180 days to file Post-Petition Fee Notice so if recent it may only be showing on the pay history.

Notice of Postpetition Mortgage

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

	Description	Dates incurred		Amount
1.	Late charges		(1)	$ 0.00
2.	Non-sufficient funds (NSF) fees		(2)	$ 0.00
3.	Attorney fees		(3)	$ 0.00
4.	Filing fees and court costs		(4)	$ 0.00
5.	Bankruptcy/Proof of claim fees	10/1/2025,	(5)	$ 875.00
6.	Appraisal/Broker's price opinion fees		(6)	$ 0.00
7.	Property inspection fees		(7)	$ 0.00
8.	Tax advances (non-escrow)		(8)	$ 0.00
9.	Insurance advances (non-escrow)		(9)	$ 0.00
10.	Property preservation expenses. Specify:		(10)	$ 0.00
11.	Other. Specify: POC 410a History	10/1/2025	(11)	$ $325.00
12.	Other. Specify: Plan Review	10/9/2025	(12)	$ $150.00

When to objection to Notice of Postpetition Mortgage Fees, Expenses, and Charges

- Do the fees and cost seem abnormal high for the service?
- Are the fees and cost meet with Fannie and Freddie Guidelines?
- Has an invoice been attached?
- Has the attorney provided a Lodestar breakdown?
- Is the Debtor current with the Trustee but incurring charges like property inspections or late charges?

CONCLUSIONS AND QUESTIONS

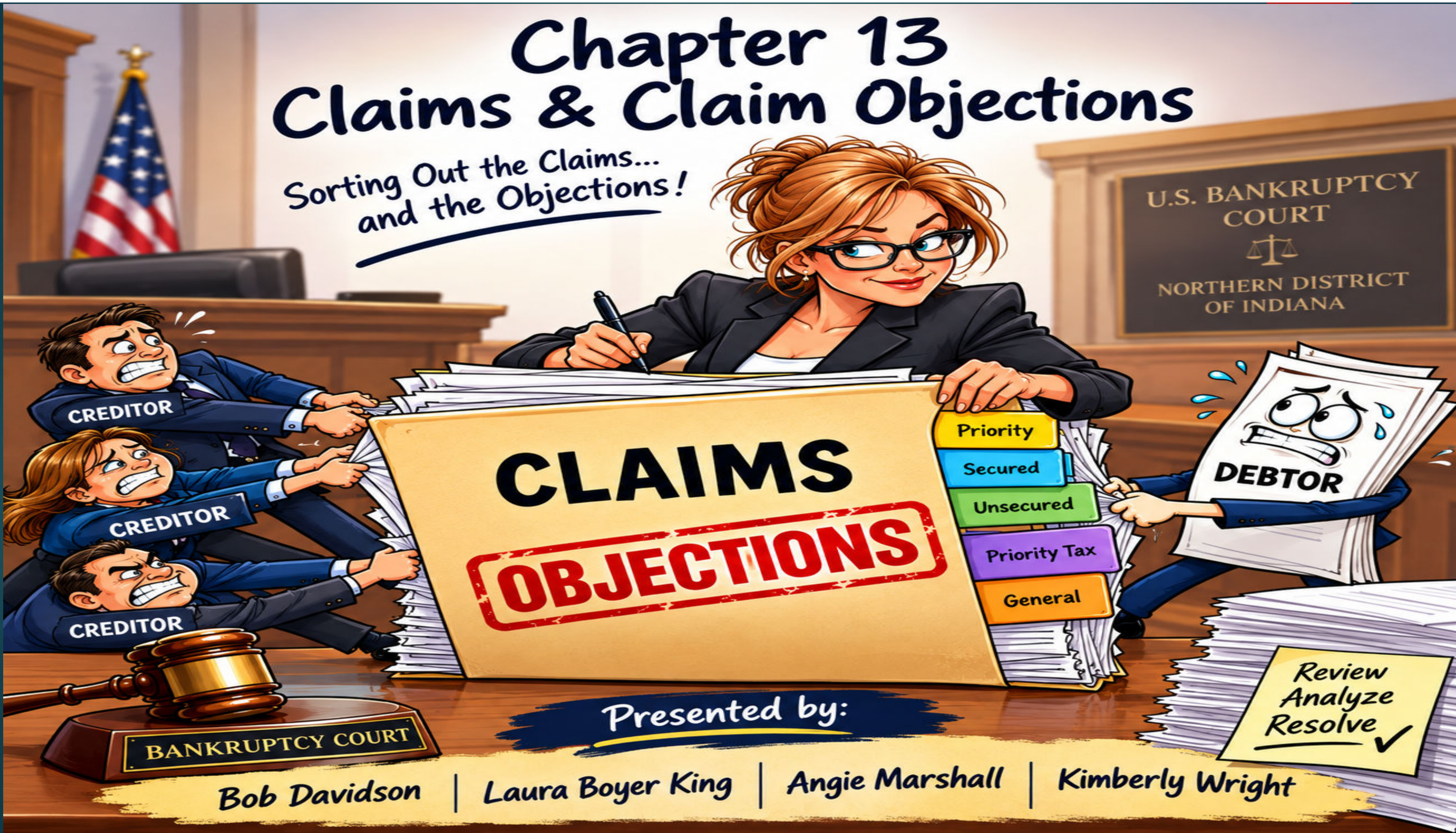
Enjoy Lunch

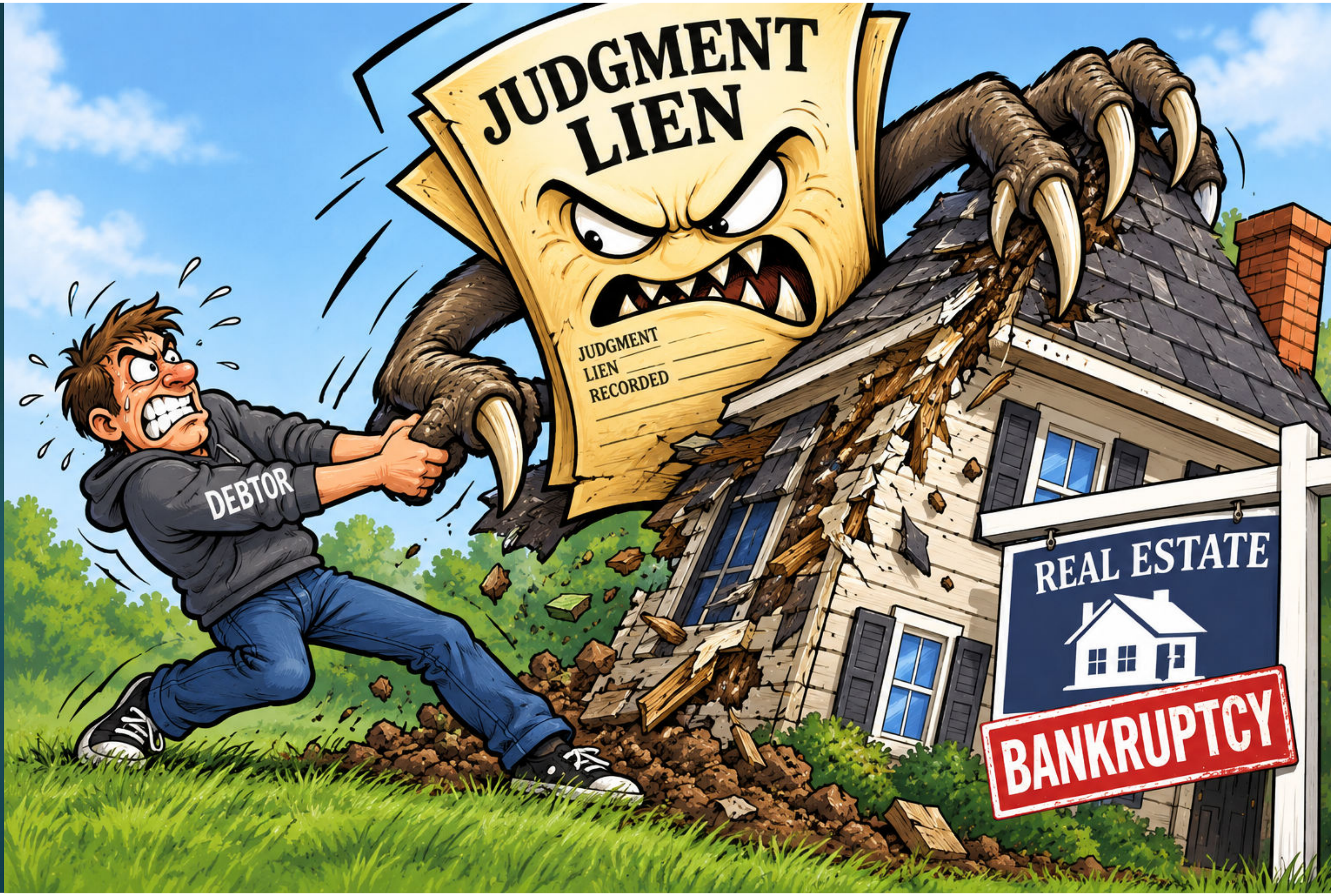
- Back at 1:00

- Place meal card at you space

ETHICS: HANDLING THE DIFFICULT CLIENT

- Douglas R. Adelsperger, Chapter 7 Trustee, Attorney, Adelsperger Law Offices
- Christopher R. Schmidgal, Chapter 7 Trustee, Partner, Weiss, Schmidgal and Hires
- Mystery clients


Chapter 13
Claims & Claim Objections
Sorting Out the Claims...
and the Objections!
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
CREDITOR
CREDITOR
CREDITOR
CLAIMS
OBJECTIONS
Priority
Secured
Unsecured
Priority Tax
General
DEBTOR
Review
Analyze
Resolve
BANKRUPTCY COURT
Presented by:
Bob Davidson | Laura Boyer King | Angie Marshall | Kimberly Wright


JUDGMENT LIEN
JUDGMENT
LIEN
RECORDED
DEBTOR
REAL ESTATE
BANKRUPTCY

Sales of Real Estate and Hiring Realtors

TRACY L. UPDIKE, CHAPTER 13 TRUSTEE
PAUL R. CHAEL, CHAPTER 13 TRUSTEE

Considerations and Benefits

- Automatic Stay in place until sale
- Sale can be Free and clear of liens
- Court Approval takes time for impatient realtors
- Open process can discourage lopsided deals
- Needs to be to a BFP for FMV
- Purchaser gets benefits from court ordered sale
- Hard to change deal after approval without new approval

Hiring the Realtor-usually the first step

- Needs Court approval like other "Professionals"
- Beware co agency provisions- Realtor should be working for Estate- Usually will draw a Trustee objection
- Realtor needs to disclose the process so time frames allow for Court approval.
- Commission should be clear. If extra fees are in contract, make clear in the Motion to Employ
- Realtor needs to know the players and time frames to expedite
- Debtor's attorney is the one drafting the Motion to sell

Other early steps

- Get title work early in case of liens not previously discovered
- Consider HOA fees and liens
- Determine who gets paid at closing and who the Trustee pays
- Will proceeds pay off case
- Does it need a plan modification?
- What other adjustments could come up

The Motion to Sell-Utilize 363(f)

- Set forth the terms and attach the contract as Exhibit
- Set forth who the Title company is to pay
- Set forth the Debtor exemption and whether Title Company of Trustee Disburses that
- Exemption should match Schedule C
- Is an amendment to Schedule C needed?

Crafting the Order

- This will be the Bible for the Title company
- Trustee Cannot agree to things not in the order
- If TBE property are there TBE liens to be paid
- Title company should pay:
  - Consensual mortgages, closing costs, taxes
  - Balance to trustee to pay Exemption, creditor claims, other liens and income tax claims or liens
  - Any authority for anticipated adjustments should be included or have to start over

Sale for less than FMV

- Might be possible if pays 100% of claims
- Make appropriate disclosures about whom and why
- Many commercial house buyers promise side deals

Sales with Non Bankruptcy Co-Owners 363(h)

- Partition not practical
- Sale of undivided interest won't realize FMV
- Benefit to estate outweighs detriment to co-owner
- Not part of a power supply system
- Maybe co-owner can be a party.
- Consent or AP necessary to affect

Applicable Rules

- FRBP 6004
- FRBP 9014
- FRBP 2002(a)
- Local rule B-2002-2Local Rule B-2014-2
- Local Rule B-9013-2
- Local Rule B-9014-1

Ask the Judge
Ask the Trustee

HON. JAMES R AHLER

HON. ROBERT E GRANT

HON. PAUL E. SINGLETON

PAUL R CHAEL STANDING TRUSTEE

TRACY UPDIKE, STANDING TRUSTEE

Thank you for Attending!
See you next year.