

TBBA

Calendar of Events

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Welcome to the 2004-2005 session of the Tidewater Bankruptcy Bar Association. First, I want to thank Alex Pincus for all the hard work he did as president last year. Membership rose to approximately 120; the seminar was well-done and the January social was absolutely fabulous! Special thanks to Ellsworth Summers and Steve Richards for the seminar, and to the indefatigable Karen Crowley for the party. As those who attended know, we now are (thanks once again to Karen) one of the few bar associations in the country with our own theme song!

At the last luncheon meeting, Michelle Dickerson spoke to us about her latest project concerning decision making by individual debtors and members of corporate boards. Her presentation was informative and thought-provoking, and, for the first time, CLE credit was available for those who attended. We are now committed to having one hour of CLE credit available for most, if not all, of the luncheon presentations. For dues paying members, this will be an added benefit of membership. Non-members seeking lunch and CLE credits are welcome to attend for a charge of \$35.00 or to have lunch only for \$20.00.

The first of our membership luncheons will be held on Friday, May 14, 2004 starting at 12:00 noon at the Waterside Marriott. The program will focus on the auction process as it relates to bankruptcy. Please come, visit with colleagues, support your association, eat and earn CLE credits.

Your Board is currently busy making this another good year for the TBBA. The Association is financially solvent and blessed with talented individuals willing to take time from overstuffed schedules to do the hands-on work required for this organization to thrive. In addition to planning for luncheons and education, we are in the process of updating the website - [www.tidewaterbankruptcy.org](http://www.tidewaterbankruptcy.org) - under the watchful eye of John Ryan, and of revitalizing the newsletter, with Kimberly Stegall and Ismael Calderon sharing that responsibility.

I will also remind you that each member of the TBBA has access to a special service that has been coordinated by Pete Zemanian for several years. Through an agreement with the Court, the TBBA Opinion Service disseminates opinions issued by Judge Adams and Judge St. John to any member of the TBBA who signs up. This service was recently updated, and the opinions are now delivered via e-mail. If you have not yet signed up, and are a member of the TBBA, just complete and fax the form contained at the end of this newsletter or contact Pete if you have any additional questions.

As we go through this year, please keep in contact with the Board. If there are things that could be done better, please let us know. Once in awhile, if there is something that we have done well, please let us know that also. Finally, if you would like to help in any way with the TBBA, really let us know. The TBBA has

thrived since 1990 on the strength of the volunteer service of its members. We hope this never changes.

In the next issue of the newsletter, I would like to give a brief history of the TBBA. If you have stories and recollections of the last fourteen years, please call, write or e-mail me. Thanks.

## Chapter 13 Administration

by George W. Neal, Trustee

I was asked to prepare an article for the newsletter outlining some of the more common problems that have a negative impact upon the timely flow of a case from the filing date through confirmation. The Trustee's primary interest is to assure that the case is complete and accurate, that everyone's interests are protected, and that the case flows through the system in a timely manner.

From my perspective, there are four major stumbling blocks that frequently delay the process. Each one in itself requires a minimum of time to complete but, if not properly accomplished, can delay the flow of the case. The four issues are (a) proofread the case before it is filed; (b) make sure all information is accurate; (c) communicate with the Trustee either through notes in the schedules or a letter of explanation for unusual situations that frequently arise; and (d) contact the Trustee's office to settle Motion to Dismiss/Objection to Confirmation at least 48 hours prior to the hearing date.

**Proofreading of Schedules/Plan Prior to Filing.** This is a very basic and simple administrative process but failure to do so will frequently delay the flow of the case. Sloppy work will result in more questions at the hearing because, although many of the issues appear to be typos, a Trustee cannot make an assumption. I am not saying that all cases are administrative nightmares, but a large percentage of the questions in a hearing could be resolved with a thorough proofread prior to the case being filed. For example, in a recent case, the savings account balance in Schedule B was \$72,496. I asked if this was correct or a typo. The debtor almost fainted.

**Assure Information is Accurate.** I am fully aware that getting timely and accurate information from your clients is not an easy task. No one is free from a surprise every now and then, but it is obvious in many cases that the right questions were either not asked or there was laxity in follow-through to get the information. It is not uncommon in a hearing to pursue questioning to determine the accuracy of an entry only to have the debtor quickly provide the correct answer. For example, in a recent case the income section disclosed a payroll deduction of \$200 a month for union dues for some administrative position. I asked if this was accurate and the debtor responded — "For heavens sake no." It's only \$17.95 per pay period.

**Communication with Trustee on Unusual Cases.** Very few hearing dates pass without having a very bizarre case. Absent information from the Debtor's attorney, the case review is limited to the information in the schedules. If explanatory notes are not included in the schedules or nothing was received from the attorney, appropriate questions are prepared for the Section 341. The length of the 341 is extended to the detriment of all concerned. I suggest that cases of an unusual nature receive a little extra attention and that either notes are included in the schedules or a letter explaining the unusual facts of the case be sent to the Trustee prior to the hearing.

**Timely Settlements of Motions to Dismiss/ Objections to Confirmation with Trustee.** The day before a court hearing and the short period between the Relief from Stay and the Trustee dockets are routinely busy times for the Trustee staff. Attorneys routinely wait and attempt to settle matters during these very busy times. This procedure can be frustrating for both the attorneys and Trustee staff. Your assistance by calling at a minimum of 48 hours prior to the hearing date will not only help the staff but can reduce your frustrations by getting matters settled well before the hearing date.

One additional item that is not necessarily a stumbling block but will assist in moving the case along is review of the Motion to Allow Claims. The purpose of this document is to assist the attorneys in their review of the case. Surprisingly, many seldom review the document. I encourage you to review the document and to let me know if you discover an error. I had rather discover an error early in the case as opposed to finding one at the end of the plan.

### **Word on the Street**

John D. McIntyre has a new tax deduction for 2004! Please congratulate John and Jackie on the birth of their second son. Alex Richard McIntyre was born on February 14, 2004 with impeccable timing.

We're sending another shout out to John and Kirsti Ryan on the birth of their first son, John Morgan Ryan, III, on February 5, 2004. The verdict is still out whether his nickname will be "Jack" or "Frank."

If you have any congratulations that we may have overlooked, please let us know. E-mail [kstegall@wilsav.com](mailto:kstegall@wilsav.com) or [icalderon@dmmlegal.com](mailto:icalderon@dmmlegal.com). If you have any additional suggestions on how we can serve or inform you better, please let us know that as well. If you have any complaints or criticisms, please e-mail [Robert.B.Van.Arsdale@usdoj.gov](mailto:Robert.B.Van.Arsdale@usdoj.gov).

### **Got Opinions?**

As you may know, Judges Adams and St. John have generously authorized the TBBA to circulate copies of selected local opinions to its membership. This service is free of charge to TBBA members and is currently facilitated by Pete Zemanian. If you have not already signed up with the service, please complete the form below and fax it to Sherrie McCloud at (757) 628-5566. Please note that if you are a former subscriber to the prior mail subscription service and have previously registered for this new electronic service, you need not re-apply.