
13 NEWS[®]

Volume 2 Issue 5

February, 1996

EDITOR'S COMMENTS:

**WHAT TO EXPECT AT A CHAPTER 13
MEETING OF CREDITORS IN THE
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA**

Kathleen A. Laughlin
Chapter 13 Trustee

Pursuant to the bankruptcy code, debtors must attend what is referred to as the "Meeting of Creditors" hearing.¹ In the United States Bankruptcy Court for the District of Nebraska this hearing is conducted and recorded by the Standing Chapter 13 Trustee.

The Bankruptcy Judges will not be present because the Judges are statutorily prohibited from attending these hearings.² The debtor(s) and the debtor(s)' attorney are required to attend. If the case is a joint case, both debtors should appear unless hardship exists. If both debtors do not appear and a creditor and/or the Trustee request an examination of the non-attending spouse, the Meeting of Creditors will be rescheduled.

The Meeting of Creditors is not a court hearing, and an individual does not have to be an attorney to ask questions of the debtor here. Creditors, their agents, and/or their attorneys may conduct an examination of the debtor(s) that is relevant, succinct, and to the point. Appropriate questions might include but are not limited to a discussion of:

- a. the acts, conduct, property liabilities, and financial situation of the debtor;
- b. any matter which may affect the administration of the estate,
- c. any matter which may affect the debtor(s)' right to a discharge;
- d. the operation of any business and desirability of continuing it;
- e. the source of funding the plan and the consideration thereof; and
- f. any other matter relevant to the case or the formulation of the plan.

Editorial comments, emotional tirades, personally attacks, and sheer ventilation of one's frustrations are inappropriate and will not be permitted. Moreover, in-depth, depositions-type questioning should usually be handled through a Bankruptcy Rule 2004 examination. Typically, numerous cases are handled during the afternoon, and lengthy interrogations delay the proceedings and frustrates participants.

The Chapter 13 Trustee will notify the debtor(s), debtor(s)' attorney, creditors, and other entities originally scheduled by the debtor(s) not less than 20 days notice by first-class mail of the Meeting of Creditors pursuant to Bankruptcy Code § 341(a) and Bankruptcy Rule 2002(a). To assure proper notification debtor(s) and debtor(s)' attorney must provide accurate addresses for creditors upon the schedules which are used by the Trustee's office to give notice.

These hearings are held in Omaha, Nebraska, Lincoln, Nebraska, and North Platte, Nebraska. The Meeting of Creditors for Omaha cases is held at the Assistant U.S. Trustee's Office, Braiker-Brandeis Building, 210 South 16th Street, Suite 530, Omaha, Nebraska 68102. Lincoln cases are heard in the Denney Federal Building, Lincoln, Nebraska, 100 Centennial Mall North, 16th & "O" Streets, 2nd Floor, Room 255. North Platte cases are conducted in the Federal Building also known as the U.S. Post Office Building, North Platte, Nebraska (300 East 3rd Street, 3rd Floor, small Courtroom). The debtors' testimony is usually not lengthy, and usually only

a few creditors or their attorneys have attended.

Meetings of Creditors may be continued or rescheduled only in emergency situations. If a debtor does not appear for the first regularly scheduled meeting, the meeting may be routinely scheduled for the next regularly scheduled Meeting of Creditors. Only creditors who have appeared on the first date set for the Meeting of Creditors or others who have specifically requested notice of the meeting will be notified of the rescheduled date. If a debtor does not appear for the second scheduled Meeting of Creditors, the Chapter 13 will move to dismiss the case.

The Chapter 13 Trustee would like to be forewarned of any unusual circumstances where persons might require special assistance or where additional planning is necessary to conduct the hearings.. Examples of these kinds of situations might include but are not limited to:

- a. visually or hearing impaired debtors;
- b. speech impaired debtors;
- c. non-English speaking debtors
- d. debtors who require a Guardian/ Conservator;
- e. Emotionally charged situations where additional security precautions might be advisable
- f. debtor's employer requires a letter that debtor's attendance has been required

**HOW TO REQUEST A TRANSCRIPT OF A
CHAPTER 13 MEETING OF CREDITORS IN
THE U.S. BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA**

A request for a transcript of a Meeting of Creditors must be done in writing and should be directed to Kathleen A.

Laughlin, Standing Chapter 13 Trustee, P.O. Box 37544, Omaha, Nebraska 68137-0544, telephone (402) 697-0437, toll free telephone number (800) 884-0437. The following information must be included in the letter:

- a. Name of the Debtor and the Co-debtor
- b. Bankruptcy case number assigned by the Clerk
- c. Place, date, and time of the Meeting of Creditors
- d. Name, address, city, state, and zip code of the requesting party
- e. If time is of the essence, the date by which the transcript must be prepared

Any costs for the Trustee's handling, shipping, and delivery must be prepaid.

The actual transcription of the Meeting of Creditors testimony will be performed by an independent contractor, specifically:

**Dar's Word Processing
3508 California Street
Omaha, Nebraska 68131
(402) 345-0125**

The proprietor is Daria Swazee, and she has been subcontracting this work from the United States Bankruptcy Court for the District of Nebraska for over ten years.

The Chapter 13 Trustee's Office will forward to the subcontractor as soon as possible the following:

- a. A copy of the cassette tape recording of the Meeting of Creditors
- b. A transmittal sheet which shows . . .
- c. Place, date, and time of the Meeting of Creditors
- d. Bankruptcy case number
- e. Name of Debtor and Co-debtor
- f. Name of the Standing Chapter 13 Trustee
- g. Appearance of counsel and/or parties in interest
- h. Tape number, side, start, and stop times
- i. Copy of the written request for the transcript from an interested party.

Dar's Word Processing will prepare the transcript and deal with the requesting party directly regarding further instructions, billing methods, and payment terms.

¹ 11 U.S.C. § 521(5)

² 11 U.S.C. § 341(c)



Have you seen Volume 29, No. 2 of the Creighton Law Review (February, 1996)? It contains a **Symposium - Issues in Bankruptcy and the 1994 Amendments** including:

Marianne B. Culhane, *Home Mortgages and the Bankruptcy Reform Act of 1994*, 29 Creighton L. Rev. 467 (1996)

David G. Hicks, *The October Surprise: The Bankruptcy Reform Act of 1994 - An Analysis of Title II - The Commercial Issues*, 29 Creighton L. Rev. 499 (1996)

Oliver B. Pollak, *"Be Just Before You're Generous": Tithing and Charitable Contributions in Bankruptcy*, 29 Creighton L. Rev. 527 (1996)

Michaela M. White, *Direct Payment Plans*, 29 Creighton L. Rev. 583 (1996)

Michaela M. White, *Divorce After the Bankruptcy Reform Act of 1994: Can You Stay Warm After You Split the Blanket?*, 29 Creighton L. Rev. 617 (1996)

THE TRUSTEE PROUDLY INTRODUCES..



Processing cutoff for checks in March will be the third (3rd) Friday of the month or March 15, 1996. Checks will be mailed on the fourth (4th) Friday of the month or March 22, 1996.

The Cutoff for confirmation orders is Tuesday, March 12, 1996.

Marilyn "Hired Gun"

Marilyn is "camera shy," but we finally got her cornered. She has been with the Trustee's office for 3 1/2 years. Ms. Abbott received her undergraduate degree in sociology from Creighton University in 1972, and graduated from the Creighton University School of Law in 1980. She was a Law Clerk for the Honorable Donald R. Ross, Judge, Eighth Circuit Court of Appeals, and had previously engaged in private practice with extensive experience in commercial litigation representing both debtors, creditors, and "Kings."

EDITOR'S COMMENT

This newsletter is being published to facilitate communication between the Chapter 13 Trustee's Office and the many people we serve. The information is not meant to constitute legal advice or recommendations to individuals. If you would like to contribute an article, conference or program information, law review article, book review, comment, or question for further feedback from others, please call me directly or mail your item to:

***Kathleen A. Laughlin
P.O. Box 37544
Omaha, NE 68137-0544
(402) 697-0437 (Omaha)
(800) 884-0437 (Toll Free)
Fax (402) 697-0538***