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SERIAL FILINGS
(Even Mikey Doesn't Like Them)

*By James W. Batchelor**

During the 1940, 1941 and 1942 baseball seasons, the Philadelphia Phillies finished dead last each year, averaging just under 108 losses per season. Over in the American League, during that same period, Connie Mack's Philadelphia Athletics also finished last each season. Between them, the two Philadelphia baseball clubs averaged 204 losses per season. The frustration felt by Philadelphia baseball fans must have been something akin to the frustration mortgage lenders feel when mortgagors prevent collection of delinquent accounts by serial bankruptcy filings.

Chapter 20's [initial Chapter 7 filing followed by a Chapter 13 petition] and the various multiples of Chapter 13 remain a nagging and persistent problem for the mortgage banking industry. The problem is inherent in the Code's lack of direction on when and how often a debtor may file a bankruptcy proceeding. Some debtors, and debtor's attorneys, have become very adept at the use of various forms of bankruptcy to hold off creditors almost indefinitely.

The only Code provision that in any way addresses the serial filing problem is §109(g), which prohibits a filing for 180 days if the previous case is dismissed for a willful failure to abide by a Court order or if there has been a voluntary dismissal after the filing of a relief from stay petition. These specific circumstances appear to be rarer than a Cubs World Series appearance. Even when Debtors fail to make required payments or show up at a Trustees scheduled show cause for dismissal, the failures seem to be the result of "extenuating circumstances" rather than willful failure. The inclusion of the word "willful" has effectively eliminated this as a provision having any use in the real world. I am aware of one case in the Eastern District of Michigan where the Court avoided the application of this provision after a dismissal with prejudice by simply reinstating the previous Chapter 13 and allowing an amendment.

In addition, Debtors whose defaults have caused the filing of a relief from stay petition almost never file voluntary dismissals. They simply let the Court dismiss the proceedings on a Trustee's motion. Any Debtor's attorney who would like a voluntary dismissal in light of a relief from

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stay motion would certainly be doing his client a disservice.

Mortgage lenders are left with the option of challenging serial filings on the rather amorphous concept of "good faith". To the credit of the Courts, and in the complete absence of any direction from Congress, they have tried to come up with a workable definition and set of criteria for the concept of good faith in a serial filing situation. The Courts have generally taken the case-by-case approach and looked at the totality of the circumstances. The factors or criteria used are not always the same, but the general nature of the inquiry is similar. The burden is on the Debtor to show good faith in light of the spirit and purpose of Chapter 13.

The Bankruptcy Appeal Panel for the 9th Circuit recently listed the factors they had found utilized by the Bankruptcy Courts in looking at the good faith question.[1]

1. The amount of the proposed payments and the amounts of the Debtor's surplus;

2. The Debtor's employment history, ability to earn, and likelihood of future increases in income;

3. The probable or expected duration of the plan;

4. The accuracy of the plan's statements of the debts, expenses and percentage of repayment of unsecured debt, and whether any inaccuracies are an attempt to mislead the Court;

5. The extent of preferential treatment between classes of creditors;

6. The extent to which secured claims are modified;

7. The type of debt sought to be discharged and whether any such debt is nondischargeable in Chapter 7;

8. The existence of special circumstances such as inordinate medical expenses;

9. The frequency with which the debtor has sought relief under the Bankruptcy Reform Act;

10. The motivation and sincerity of the Debtor in seeking Chapter 13 relief; and

11. The burden which the plan's administration would place upon the Trustee.

To this should probably be added the factor of a change in the Debtor's circumstances to which many Courts give great weight. The problem with this factor is nothing in life is static, and I have yet to meet a Debtor's attorney, worth his salt, who couldn't very effectively make a case for changed circumstances in any serial filing of a Chapter 13.

The application of the criteria, from the perspective of the mortgage lender, has been uneven. The equitable nature of the good faith inquiry itself leads to uneven results. Predictably, the results in the Chapter 20 area have been better than in the area of serial 13 filings. The problems are more obvious, and the potential abuse greater in the Chapter 20's and have been recognized as such by the Courts. The Bankruptcy Appeal Panel for the 9th Circuit addressed the problem in In re Metz, 67 B.R. 462 (BAP 9th Cir 1986), aff'd sub nomine Matter of Metz, 820 F2d 1495 (C.A. 9 1987):

> Chapter 20 also undermines the incentives built into Chapter 13 for debtors to pay their unsecured debts. If the Chapter 20 procedure is available, debtors will be tempted to avoid going directly into Chapter 13, where they may be required to use all disposable income to pay unsecured debts. 11 U.S.C. §1325(b)(1)(B). The purpose of Chapter 13 is to reward the debtor who undertakes to repay his unsecured creditors with more lenient treatment than accorded a liquidation Chapter 7 debtor. (Citation omitted.) '[T]he

special benefits bestowed upon a Chapter 13 debtor are premised upon his willingness to repay at least some portion of his debts...' (Citations omitted.) Chapter 20 cases, by circumventing the need to pay unsecured debts, pose a direct threat to the rationale for having Chapter 13.

at pp 465-466.

The Appeals Panel, however, declined to follow some earlier decisions[2] and make the filing of a Chapter 20 per se bad faith, choosing instead a case-by-case analysis. The general consensus among attorneys representing mortgage lenders seems to be that while Courts do seem to take a hard look at 20's, more and more are being filed. I know of no empirical data to support the proposition, but Chapter 20's appear to be cyclical. As the numbers decrease, Courts become more lenient in allowing Chapter 20 confirmations. As the Courts become more lenient, the numbers go up. As the numbers go up, the Courts get tougher and the numbers go down again.

Before leaving the Chapter 20 area, mention must be made of the recent decision of Judge Shelly of the Eastern District of Virginia in In re Huntley, 99 B.R. 306 (Bankr. E.D. Va. 1989). The holding is not new, nor is likely to have a great import on the Chapter 20 problem. But it is well written, well reasoned, and shows that bankruptcy law and real estate law need not pull in opposite directions, all traits that attorneys for mortgage lenders like to encourage in the bankruptcy bench.

The factual situation, in Huntley, is pretty common for the 7 - 13 serial filing. The Debtor went through a Chapter 7 and obtained a discharge. He subsequently filed Chapter 13. The only creditors listed were the mortgage holders. The Debtor was, of course, seriously delinquent on the mortgages and proposed curing the arrearage through the Chapter 13 plan. The Debtor, in his previous Chapter 7, had not bothered to reaffirm the mortgage loans.

The Court, in denying confirmation, noted that a Chapter 13 plan of reorganization can only deal with creditors having claims against the Debtor. In the Huntley case, the underlying mortgage debts represented by the promissory notes had been discharged in the 7. The mortgagees no longer could sue the Debtor on the note or for a deficiency. The creditor had only a lien on the collateral. The Debtor had no creditors and did not qualify for Chapter 13.

The Court notes the existence of a minority line of cases[3] holding the lien on the property consitutes a claim under §101(4) but finds their reasoning flawed. These minority cases ignore the distinction in real property law between the note or obligation and the pledge of security represented by the lien.

Good faith in the area of serial 13 filings is difficult to quantify. It seems more related to the patience of the Court than anything else. When serial filings become so numerous as to try the patience of the Court they lack good faith. The patience levels of the various Courts vary greatly. Until there is a move from the subjective to an objective standard, lack of consistency will continue to be the watchword in "good faith", to the continued frustration of mortgage lenders. The future is, however, not completely without hope.

One Court, the Northern District of Illinois, has taken a step toward an objective standard. Judge Barlient, in this decision in In re Jackson, 91 B.R. 473 (Bankr. N.D. Ill. 1988) sets forth the radical view that a Debtor should not be permitted to achieve through serial filings what the Code prohibits in a single filing. If the serial filing is a device to circumvent the limitations of the Code, it is per se bad faith. Jackson doesn't solve the problem, but its adoption throughout the country would help solve the most abusive of serial filings.

The real solution is not in the

Courts; it is in the Congress. One of the proposals being looked at by the Mortgage Bankers Association would amend §109 to prohibit the filing of a Chapter 13 within 180 days of a discharge under Chapter 7 or a dismissal of a previous Chapter 13. Until Congress gives some direction in this area, the frustration level of mortgage lenders will remain high.

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[1] In re Warren, 89 B.R. 87, 92 - 93 (BAP 9th Cir 1988)

[2] In re Diego, 6 B.R. 468 (Bankr. N.D. Cal. 1980); In re Troutman, 11 B.R. 108 (Bankr. E.D. N.Y. 1981)

[3] In re Klapp, 80 B.R. 540 (Bankr. W.D. Okla. 1987); Matter of Lagasse, 66 B.R. 41 (Bankr. D. Ct. 1986); In re Lewis, 63 B.R. 90 (Bankr. E.D. Pa. 1986)

RECENT BANKRUPTCY DECISIONS:

The following are summaries of recent decisions rendered by the federal district and bankruptcy courts in Michigan that address important issues of bankruptcy law and procedure. These summaries were prepared by Patrick E. Mears with the assistance of Larry A. Ver Merris.

Reid v. White Motor Corp., Case No. 87-4066 (6th Cir. Sept. 28, 1989). This case arose from the Chapter 11 case filed by White Motor Corporation ("WMC") in 1980. In 1971, WMC sold the assets of its Diamond Reo Truck Division to Diamond Reo, Inc. In 1977, the plaintiff-appellant, Patrick Reid, commenced a class action in Ingham County Circuit Court against WMC on behalf of former WMC salaried employees seeking severance pay in connection with this asset sale. Reid was a Michigan attorney and, in August, 1977, obtained an order from the state court certifying this litigation as a class action. In September, 1980, WMC filed its voluntary Chapter 11 petition in the Bankruptcy Court for the Northern District of Ohio, thereby staying the class action. In July, 1983, the state court dismissed the class action for failure to prosecute.

In 1981, Reid filed a general unsecured proof of claim on behalf of the class of salaried employees he purported to represent. The amount of this claim was stated as $3,097,791. Reid failed to confirm that he was the authorized agent of the claimant class in the Chapter 11 case and did not file a motion under Bankruptcy Rule 9014 to invoke Bankruptcy Rule 7023, "which mandated the procedure to be implemented in processing class proofs of claim in all bankruptcy proceedings." The individual members of the class never filed separate proofs of claim in

WMC's bankruptcy case. Thereafter, the bankruptcy court entered a bar order fixing a final date of August 30, 1983 to file claims in the case.

After the bar date passed, WMC's trustee objected to the class proof of claim and moved for summary judgment. The bankruptcy court granted this motion for the following six reasons described in the Sixth Circuit's opinion:

The bankruptcy court decided that (1) class proofs of claim cannot be used to circumvent the requirement of Bankruptcy Rule 3003 mandating the filing of individual proofs of claim; (2) class proofs of claim are disfavored in bankruptcy; (3) Reid did not comply nor did he attempt to comply with proper procedures to certify the class in this bankruptcy proceeding mandated by Bankruptcy Rule 9014; (4) Reid was not a creditor, and thus, could not maintain the proof of claim which he filed in his own right; (5) Reid had failed to prove that he was authorized to act on behalf of the putative class; and (6) Reid had failed to show cause why the bar deadline for filing proofs of claim should be extended to permit the filing of individual proofs of claim.

On appeal, the district court affirmed the judgment below, from which Reid appealed to the Sixth Circuit. The Sixth Circuit's opinion contains an extensive discussion of the time limits applicable to appeals from orders and judgments entered by bankruptcy and district courts. This discussion will not be addressed here. The Sixth Circuit then held that, although there is conflict in the case law, class proofs of claim are permissible in bankruptcy cases. However, the Sixth Circuit found that the bankruptcy court did not abuse its discretion in disallowing the class claim since Reid had "totally disregarded compliance with the bankruptcy procedures regulating the filing of class proofs of claim in a bankruptcy proceeding." In particular, Reid failed (i) to confirm his representative capacity; (ii) to identify the class he purported to represent; and (iii) to timely petition the bankruptcy court to invoke Bankruptcy Rules 9014 and 7023. In addition, Reid was not a proper class representative since he was only its attorney and not a member of the class.

In re Vause, Case No. 88-4096 (6th Cir. Sept. 25, 1989). In this decision, the Sixth Circuit interpreted the language of 11 U.S.C. §502(b)(6) defining and limiting the claims of lessors holding leases that have been rejected by the trustee or debtor in possession. In this case, the debtors were farmers and husband and wife. They filed a Chapter 11 petition on November 27, 1985, four days before their annual rent payment under a farm lease became due. This lease required the debtors to make annual rent payments of $36,000 on December 1st of each year. These payments were payments in arrears to allow the farmers to first harvest and sell their crops.

Along with their petition, the debtors filed a motion to reject this lease. In January, 1986, this motion was granted and the lessor filed a proof of unsecured claim in the sum of $72,000 for damages arising from the rejection of the lease. This was a two-part claim asserting past damages of $36,000 for 361 days' rent unpaid on the filing date under 11 U.S.C. § 502(b)(6)(B) and future damages of $36,000 for one-year's loss of future rent, the maximum permitted under 11 U.S.C. § 502(b)(6)(A). The debtors objected to the first part of this claim, arguing that, since the rent was not technically "due" on the filing date, the claim could not be allowed. the debtors relied on the plain language of 11 U.S.C. § 502(b)(6)(B) which permits a lessor holding a rejected lease to claim "any unpaid rent due under such lease . . ."

Both the bankruptcy and the district courts below agreed with the debtors and disallowed this portion of the lessor's claim. These decisions were reversed by the Sixth Circuit on appeal. The Sixth Circuit found that the word "due" as used in the statute was inherently ambiguous and should be construed in accordance

with the legislative history. In reviewing this history, the Sixth Circuit declared that the statutory language should be interpreted in a manner to allow this portion of the lessor's claim. The Sixth Circuit also held that this conclusion was equitable in order to prevent the debtors from obtaining a windfall.

In re Krohn, Case No. 88-3527 (6th Cir. Sept. 21, 1989). In this case, the Sixth Circuit construed the language of section 707(b) of the Bankruptcy Code which permits bankruptcy courts to dismiss consumer Chapter 7 cases on "substantial abuse" grounds. In this case, the individual Chapter 7 debtor was a financial business manager with a large industrial firm. In 1987, he earned a salary of approximately $80,000. After filing his Chapter 7 petition, the debtor and his non-bankrupt spouse sold their condominium and purchased a home valued at $156,000. In his budget filed with his petition, the debtor listed $700 per month for food expenses and $435 for recreation. The bankruptcy judge, acting sua sponte, dismissed the debtor's Chapter 7 case on substantial abuse grounds under 11 U.S.C. § 707(b). On appeal, both the district court and the Sixth Circuit Court of Appeals affirmed this dismissal order.

In its opinion, the Sixth Circuit articulated a "totality of circumstances" test for determining whether a case should be dismissed under 11 U.S.C. § 707(b).

> In determining whether to apply § 707(b) to an individual debtor, then, a court should ascertain from the totality of the circumstances whether he is merely seeking an advantage over his creditors, or instead is "honest," in the sense that his relationship with his creditors has been marked by essentially honorable and undeceptive dealings, and whether he is "needy" in the sense that his financial predicament warrants the discharge of his debts in exchange for liquidation of his assets. [citation omitted]. Substantial abuse can be predicated upon either lack of honesty or want of need.

In determining whether a debtor is "honest," the Sixth Circuit directed bankruptcy courts to consider the following factors: (i) the debtor's good faith and candor in filing schedules and other documents; (ii) the debtor's "eve of bankruptcy" purchases, if any; and (iii) the reasons for the debtor's Chapter 7 filing. In determining whether the debtor is "needy," bankruptcy courts should focus on the debtor's ability to pay his debts out of his future earnings. According to the Sixth Circuit, this factor alone "may be sufficient to warrant dismissal."

In re Dixon, Case No. 88-3472 (6th Cir. Sept. 19, 1989). In Dixon, the Sixth Circuit limited the power of individual debtors filing in Ohio to avoid judicial liens on exempt property under 11 U.S.C. § 522(f)(1). This Code provision permits individual debtors to avoid judicial liens on property only to the extent that the lien "impairs" an exemption. Since the Ohio legislature had enacted an "opt out" statute, individual debtors filing in Ohio may select only the exemptions available to them under state law. Focusing on the specific language of the Ohio statute, the Sixth Circuit held that the individual Chapter 13 debtors could not avoid a judicial lien on their homestead since there was no pending judicial sale of that realty. The Sixth Circuit noted, in dictum, that a contrary result would be reached if the debtors were able to select the federal exemptions.

Skidmore v. Northern Michigan University, Case No. M88-308 (W.D. Mich. Sept. 11, 1988). In this Chapter 7 case, Bankruptcy Judge James Gregg permitted one of the debtors, Denise Skidmore, to obtain the discharge of a portion of an educational loan. The debtor had commenced an adversary proceeding against Northern Michigan University and others seeking a determination that the balance due on her student loan was dischargeable under 11 U.S.C. § 523(a)(8) on "undue hardship" grounds. The balance due on this loan was $5,021.13 and, after

trial, Judge Gregg entered a judgment declaring that only $2,500 of this indebtedness was nondischargeable. The debtor held a degree in psychology but was unable to secure employment in this field in the Marquette area. She also was the mother of four children ranging in age from 3 to 11 years old.

On appeal, District Judge Douglas Hillman declared that the grant of a partial discharge of this debt was erroneous and remanded the case to Judge Gregg for a determination of a reasonable repayment schedule. Judge Hillman declared that a discharge of student loans on undue hardship grounds should be found only in rare cases based on "exceptional circumstances." Short-term hardship is an insufficient basis on which to discharge these debts. Judge Hillman found that the debtor was in good health but had not made a sufficient effort to find work. Judge Hillman also noted that the debtor's annual income of $21,986.40 exceeded the poverty level for Northern Michigan for a family of six, viz., $15,570. The fact that the debtor had four young children did not alter the result. According to Judge Hillman, the "ability of one parent to stay home and raise the children borders upon luxury."

In re Watervliet Paper Co., Inc., Case No. G89-30236 (W.D. Mich. August 28, 1989). In this decision, District Judge Benjamin Gibson affirmed the decision of Bankruptcy Judge JoAnn Stevenson requiring the Grand Rapids law firm of Clary, Nantz, Wood, Hoffius, Rankin & Cooper ("Clary Nantz") to waive its prepetition claim against the Chapter 11 debtor as a condition to representing the debtor in its bankruptcy case. Judge Stevenson's decision is reported at 96 Bankr. 768 and is analyzed in the March, 1989 issue of the Newsletter. In his opinion, Judge Gibson followed the majority view which holds that a law firm holding a prepetition claim against the debtor is not a "disinterested person" as defined in 11 U.S.C. § 101(13) and as required by 11 U.S.C. § 327(a).

Marathon Mortgage Corp. v. Lassner, Case No. 89-CV-70029 (E.D. Mich. Sept. 18, 1989). In this decision rendered by District Judge Bernard Friedman, summary judgment of nondischargeability in an adversary proceeding against a Chapter 7 debtor was affirmed on appeal. In June, 1987, the plaintiff commenced a civil action in Oakland County Circuit Court alleging that the debtor, George Lassner, had embezzled funds while in the plaintiff's employ. In November, 1987, the plaintiff and Lassner settled this action. In the settlement agreement, Lassner admitted all of the allegations in plaintiff's complaint. In 1988, Lassner commenced a Chapter 7 case. After Lassner rescinded a reaffirmation agreement with the plaintiff regarding this indebtedness, the plaintiff commenced this adversary proceeding for nondischargeability and moved for summary judgment on the basis of the debtor's admissions in the state court settlement agreement. Since the debtor failed to demonstrate to the bankruptcy court, by affidavit or otherwise, that he should not be bound by these admissions, Judge Friedman held that the bankruptcy court properly granted plaintiff's summary judgment motion.

Manufacturers Bank of Lansing v. Warren, Adversary Proceeding No. 89-0199 (Bankr. W.D. Mich. Sept. 22, 1989). This adversary proceeding was commenced by a bank lender against the guarantor of the bank's loans made to a corporation controlled by the guarantor. The complaint, filed under 11 U.S.C. § 523(a)(2)(A), alleged that the guarantor fraudulently represented to the lender that the corporate borrower had authority to pledge certain investor notes as security for the loans. The complaint further alleged that the lender relied on these representations in extending loans to the corporation and, as a consequence, suffered a loss of $495,858.31.

The debtor filed a motion to dismiss the complaint under Bankruptcy Rule 7012(b)(6), alleging that the complaint failed to state a claim upon which relief could be granted. Bankruptcy Judge JoAnn Stevenson denied this motion, finding that the

complaint was "sufficiently specific to allow [the guarantor] to defend against the charge." Judge Stevenson noted that neither party had filed affidavits, stipulated facts, or any other discovery materials with the court.

MESSAGE FROM THE CHAIRMAN

The Bankruptcy Section has been in full force for over a year now and it's time to reflect on our past accomplishments and future goals. Like an oak tree which draws its strength from several roots, our section has been nourished by its members.

The Newsletter editors have done an outstanding job on the case updates and our members have donated excellent articles. The committee on the proposed Bankruptcy Rules and Fee Guidelines has successfully worked with the Court, resulting in favorable consideration for the bankruptcy practitioner. The Retired Bankruptcy Judges Portrait Committee has produced portraits of all the retired Bankruptcy Judges in the Western District of Michigan, and these were unveiled earlier this month at a ceremony in Judge Howard's Courtroom.

Last year after the U.S. Trustee system received certification in Michigan, the Bankruptcy Section sponsored a seminar to introduce the U.S. Trustee system to the Bar. On August 24 - 26, 1989, we had our first annual seminar at Shanty Creek. It was attended by over 100 members. As an educational and social event, the Shanty Creek seminar was a huge success. The workshop sessions created an informal forum for the exchange of ideas and allowed the members to ask the experts those difficult questions. The Bankruptcy Section will continue to act as a liaison between the Court and the U.S. Trustee. We will listen to the members' concerns and address them in a straightforward manner.

To help us represent all members, I would like to see a Steering Committee member appointed from the Kalamazoo area, the U.S. Attorney's Office, and the U.S. Trustee's Office. New Steering Committee members will be elected in early Spring, 1990. If you are interested in serving or want to set up a volunteer, please let me know. Membership renewals for the local Federal Bar Association Bankruptcy Section will be sent out in October - November of this year for the 1990 membership year.

The Chapter 13 offices in the Western District of Michigan are now working on a Debtor/Attorney handbook with suggested forms and are planning a one-half day seminar in early 1990. The registration fee will be nominal to cover costs. The purpose of the seminar is to help simplify the Chapter 13 filing process. We hope to follow the debtors' filing seminar with a creditors' rights seminar later in the year.

Any organization's continued success depends on a group of members giving service to the membership body. At this time, I want to personally thank the Executive Committee of the FBA, the Court, and those members who have contributed so much to our organization.

Best regards,

Brett N. Rodgers, Chairman
Bankruptcy Section, F.B.A.

EDITOR'S NOTEBOOK

The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has released, for the purpose of receiving public comment, a preliminary draft of proposed amendments to the Bankruptcy Rules. These proposed amendments respond to the nationwide implementation of the U.S. Trustee system, the enactment of Chapter 12, as well as to implement provisions of the Retiree Benefits Bankruptcy Protection Act of 1988 which enacted Sections 1114 and 1129(a)(13) of the Code. It is not expected that any changes to the Rules will take effect before August, 1991.

Please note that the pre-filing notice form as published by the Bankruptcy Court contains an error in regard to the debt limitation in a Chapter 13 case. This misstatement is made under "Chapter 11 -- Advantages" where it states that the debt limit for secured debt is $300,000.00. The correct figure should be $350,000.00 per 11 U.S.C. §109(e). We understand that the Bankruptcy Court is in the process of correcting this form.

A similar error is found in the Chapter 7 form titled "Individual Debtor's Statement of Intention" wherein the reaffirmation section is referenced as §542(c). Obviously, the correct citation is §524(c).

Speaking of corrections, in my article on Entireties Property [Bankruptcy Law Newsletter, Vol. 1, No. 7] I cite to a case known as In re Dembs at 780. The entire citation should have read, 757 F2d 777 (6th Cir 1985). Also, in the same article I should have inserted an additional paragraph between 8. d. (4) and (5), as follows:

> If joint claims are timely filed, then the trustee should file an objection to the debtor's claim of exemption in regard to entireties property before expiration of the extended time deadline for filing an objection to the debtor's claim of exemptions. A hearing will then be scheduled on the Trustee's objection and, assuming that the joint claims are proper, the same should be upheld. Keep in mind that under Bankruptcy Rule 4003(c), the objecting party has the burden of proving that the exemptions are not properly claimed.

Larry A. Ver Merris

STEERING COMMITTEE MEETING MINUTES

A meeting was held on October 17, 1989 at noon at the Peninsular Club.

1. Carol Chase reported on possible Shanty Creek dates for next year's seminar. The consensus was that holding the seminar on Thursday - Saturday (like this year) would best meet with most schedules. However, a few

Committee members expressed an interest in moving the seminar to the Traverse City area, so Carol agreed to check on available accommodations there and report back to the Committee at a later date. In all probability, the seminar will be held in August regardless of the site.

2. A short discussion was had in regard to the proposed new local bankruptcy rules, which we hope to include with this edition of the Newsletter. It is expected that public comments will be accepted through December 15, 1989, but there will be no public hearings thereon. Your comments should be filed with the Clerk of the Bankruptcy Court. Please consult the proposed rules for more information.

3. Carol Chase reported that work on the Chapter 13 handbook for debtors' attorneys is progressing and that a meeting will be held at the end of this month with various practitioners who do quite a bit of Chapter 13 work.

4. Robert W. Sawdey made a brief report concerning the portrait hanging ceremony which took place on October 12, 1989 in the Bankruptcy Court.

5. Larry A. Ver Merris indicated that from a recent meeting of the local chapter of the Federal Bar Association attended by his office that approval was given to have a local mailing service mail out the monthly editions of the Newsletter. Previously this service had been performed by the Chapter 13 Trustees' Office. It was also strongly recommended that every possible use be made of the downtown courier services so as to save on postage. Consequently, for those of you who have offices in the downtown area, you may be receiving your future Newsletter editions by way of courier.

6. The next Steering Committee meeting has yet to be scheduled.

LOCAL BANKRUPTCY STATISTICS

The following is a summary of the number of bankruptcy cases commenced in the United States Bankruptcy Court for the Western District of Michigan during the period from January 1, 1989 through September 30, 1989. These filings are compared to those made during that same period 1 year ago.

	1/1/89-9/30/89	1/1/88-9/30/88
Chapter 7	2,475	2,043
Chapter 11	71	68
Chapter 12	13	27
Chapter 13	934	870