Marcia R. Meoli

From: Marcia R. Meoli, Editor <mmeoli@hannpersinger.com>
Sent: Friday, October 26, 2007 4:02 PM
To: Marcia Meoli
Subject: SPAM-LOW: Federal Bar Association - Bankruptcy Section

Federal Bar Association

Bankruptcy Section Newsletter
October 2007

This newsletter is published by the Federal Bar Association, Bankruptcy Section, for the Western District of Michigan. Prepared by lawyers with busy practices, every effort is made to publish on a quarterly basis. For your records, here are the dates of newsletters for the recent past: August 2007, April 2007, January 2007, October 2006, July 2006, February 2006, October 2005, June 2005, February 2005, October 2004, May 2004, January 2004, October 2003, July 2003, April 2003 and January 2003.

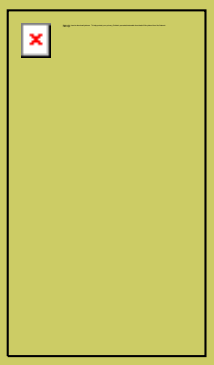
To view this email in its best format (green and tan background, with the tree logo at the top), we suggest that you set your internet software to "HTML" view. On versions of INTERNET EXPLORER, click "tools" then "options" then "environment". Under the "views" tab, click "default read view" and set to "HTML", instead of "plain text".

In this issue

Judgment Lien Wars, Article by Peter A. Teholiz

JUDGMENT LIEN WARS

In Star Wars, R2D2 projects a hologram of Princess Leia that starts Luke Skywalker on his mission to rescue her, resulting in his becoming a Jedi and saving the galaxy. Holograms are favorite tools of science fiction movies, because they look and act as if they have real substance, while being only an illusion. (See footnote 1.) Judgment liens in Michigan are the legal equivalent of a hologram - they seem on their surface to be an excellent and efficient method of collecting a debt. On closer examination, though, judgment liens are just as illusory, especially when viewed through the special prism of bankruptcy.



Upcoming dates:

1. 20th Annual FBA Summer Seminar: July 24-26, 2008, Boyne Highlands, Michigan.

2. FBA Steering Committee meets typically on the 3rd Friday for lunch at the Peninsular Club in downtown Grand Rapids. Check in advance with President Dan Kubiak @ DKubiak@mmbjlaw.com

3. Sixth Circuit Judicial Conference - May 7-10, 2008 in Chattanooga, Tennessee. See our court's

Judgment liens are governed by MCLA 600.2801 et seq. A judgment lien attaches to a debtor's real property if a notice of judgment lien is properly recorded with the register of deeds in the county where the property is located. MCLA 600.2803. It attaches to all property owned by the debtor in the county, or all property acquired by the debtor in the county thereafter. **Id.** Consequently, the judgment lien need not include a legal description. MCLA 600.2805(2). The judgment lien does not attach to tenancy by the entireties property unless the judgment is entered against both husband and wife. MCLA 600.2807 (1); Cf **In re Spears,** 313 BR 212, 216 (WD Mich. 2004) (judgment lien act explicitly reflects the "time-worn principle" of protecting tenancies by the entireties).

To obtain a judgment lien, a Notice is provided to the clerk of the court that entered the judgment. The clerk "shall" certify the Notice if it includes all of the following:

1. The case caption and docket number.
2. The current name and address of the creditor, and if the debtor has an attorney, the attorney.
3. The name and last known address of the debtor, along with the last four digits of his or her social security number or tax identification number.
4. The current balance due on the judgment.
5. The date that the judgment was entered, the date of its expiration, and the expiration date of the judgment lien.
6. A signature by the creditor or by the creditor's attorney.

MCLA 600.2805(1). If the judgment amount is less than $25,000.00, a copy of the judgment lien that has been certified by the court must be served on the debtor at his or her last known address by certified mail. MCLA 600.2805(3). If the judgment lien is $25,000.00 or more, then a copy of the certified notice must be personally served on the debtor. MCLA 600.2805(4). In either case, proof of service must be filed with the Court.

The result of a failure to serve the Notice of lien on the judgment debtor is unclear. MCLA 600.2803 provides that the judgment lien attaches at the time that the lien is recorded (or for after acquired property, at the time that the property is acquired by the debtor). Thus, service does not impact the date of priority. The statute makes service mandatory, though, so presumably, a failure to serve will invalidate the lien. Assuming that service is accomplished, under the plain language of the statute, the priority of the lien will date from the recording of the notice, not the later service date. If service is not accomplished, then the lien will be invalid.

How does this "relation back" interplay with the filing of a bankruptcy - can a trustee set aside a judicial lien when the lien is recorded prior to the filing, but the service is not accomplished until afterwards? 11 U.S.C. 546(b) provides that a trustee's avoidance powers are subject to any generally applicable law that:

"permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection[.]"

If the service of process of the notice of lien is equivalent to perfection of the lien, then 546(b) saves a non-served notice from an intervening bankruptcy. Unfortunately, there are no cases construing the priority of a judgment lien as against a mortgage or other lien recorded after the judgment lien, but prior to notice of the judgment lien being served. Because the plain language of the judgment lien statute holds that priority dates from the date of recording (MCLA 600.2807(2)), it would appear that the judgment lien holder could "perfect" by serving notice after the recording of the lien.

webstie for more information.

4. ABI Detroit Bankrutpcy Consumer Conference: November 12, 2007 at the Troy Marriott in Troy, Michigan. See abiworld.org .

Bankruptcy Section Steering Committee:

A. Todd Almassian
David C. Andersen
Dan E. Bylenga, Jr.
Daniel J. Casamatta
W. Francesca Ferguson
Daniel R. Kubiak, Chair
John T. Piggins
Lori L. Purkey
Steven L. Rayman
Marcia R. Meoli, Editor
Harold E. Nelson, Past Chair
Brett N. Rodgers
Peter A. Teholiz
Mary K. Viegelahn Hamlin
Robb Wardrop
Norm C. Witte

Quick Links...

United States Bankruptcy Court, Western District of Michigan

Local filing statistics

United States Trustee Program, including means test tables and other BACPA data

Judgment liens have priority over a lien recorded after the notice of judgment lien is recorded. MCLA 600.2807(2). This statute lists several exceptions, including purchase-money mortgages, construction liens, state and federal tax liens, a lien for unpaid assessments that arise from recorded restrictions, and liens that have priority by operation of law. In addition, advances under a previously-recorded future advance mortgage have priority over the judgment lien. A subsequent mortgage will also have priority over the judgment lien if the proceeds are used to pay:

1. Purchase money mortgage debt;
2. A subsequent refinancing of purchase money mortgage debt; or
3. A non-purchase money mortgage recorded prior to the judgment lien.

Id. These latter mortgage provisions severely restrict the overall ability to collect on a judgment lien, since they give priority to many mortgage transactions that might otherwise trigger payment.

There is no right to foreclose on a judgment lien. MCLA 600.2819. Instead, payment is triggered upon a conveyance of an interest in the property, a sale under a land contract, or a refinancing. **Id.** When this occurs, the proceeds payable to the creditor are limited to the equity in the property after payment of all senior liens, property taxes, and costs and fees necessary to close the sale or refinancing. MCLA 600.2807(3). The Act is silent on whether the judgment lien accrues interest, although given that MCLA 600.2811 requires the creditor to discharge the judgment lien upon payment "in full" of the judgment, one can infer that the judgment lien accrues interest at the applicable judgment rate.

When the debtor files bankruptcy, a judgment lien is subject to being set aside as a preference under 11 U.S.C. 547, or as a fraudulent conveyance under 11 U.S.C. 548. In addition, to the extent that the judgment lien impairs an exemption, the debtor has the right to set the judgment lien aside under 11 U.S.C. 522(f). What many practitioners may not realize is that the judgment lien act itself also provides for termination. MCLA 600.2809(6)(d) states that a judgment lien is extinguished when the following is recorded with the register of deeds: A copy of the debtor's discharge in bankruptcy; and a copy of the bankruptcy schedules listing the judgment debt. This provision is inapplicable if "an order entered in the judgment debtor's bankruptcy case determining that the debt is nondischargeable is recorded with the register of deeds."

This section raises numerous issues. (See footnote 2.) First, the statute provides only for the recording of an order of non-dischargeability entered by the bankruptcy court. Certain categories of non- dischargeable debts, most notably spousal obligations and debts arising out of divorce judgments, can be decided by state courts. Under the plain reading of the statute, the recording of a determination of non- dischargeability entered by a state court has no effect on the termination of the judgment lien through bankruptcy. (See footnote 3.) Because the state court determination typically will be made by the state court that issued the judgment lien in the first place, this problem may be resolved at the time of the determination of non-dischargeability.

This section also gives a timing problem to a chapter 7 trustee. Because the discharge is not effective until the discharge of the debtor, a trustee faced with a potential sale of real estate subject to an otherwise non-avoidable judgment lien is well advised to wait until after the discharge has been entered, before selling the property. Once the discharge has been entered, the trustee can extinguish the judgment lien and keep the proceeds from the subsequent sale for the estate. If the trustee sells the property before extinguishing the lien, the lien would have to be paid out prior to payment the estate.

United States Bankruptcy Courts

Chapter 13 Trustee Brett N. Rodgers

Chapter 13 Trustee Mary K. Viegelahn Hamlin

Federal post judgment rate of interest

State Bar of Michigan

American Bankruptcy Institute

National Association of Bankruptcy Trustees

National Conference of Bankruptcy Judges

National Association of Consumer Bankruptcy Attorneys

National Association of Chapter 13 Trustees

Federal Bar Association of Western Michigan

Pro bono procedures and client retainer agreement

US District Court civility plan

New dollar amounts in bankrutpcy

Information on reporting bankrutpcy fraud

Another issue arises where the creditor was not listed in a no-asset chapter 7 case. For example, assume that a judgment lien has been properly filed and served prior to the bankruptcy. Through inadvertence, the creditor is not listed (or more likely, because the underlying debt has been sold several times, only the original holder of the debt is listed and not the assignee and holder of the judgment lien). The debtor receives his or her discharge and the case is closed as a no-asset case. Even though the creditor was not listed, its debt is subject to the discharge as set forth in **In re Madaj**, 149 F3d 467 (6th Cir. 1998). However, under the circumstances, the judgment lien is still a valid encumbrance on the debtor's property (the lien is extinguished when the discharge and schedules are recorded, not when the discharge is entered). Cf **In re Tarnow**, 749 F2d 464 (7th Cir. 1984) (secured liens pass through bankruptcy unless specifically modified by a plan of reorganization). The debtor can move to reopen the bankruptcy case for the purpose of adding creditors. Reopening the case, though, is within the discretion of the court, and depending on the specific circumstances, it may elect not to do so. See **In re Tarkington,** 301 BR 502 (Bankr. ED Tenn. 2003) (Court refused to reopen bankruptcy case to allow debtors to set aside judicial lien where they knew of judgment as of the date of the bankruptcy and should have therefore known of judgment lien).

Chapter 13 adds yet another twist on the treatment of judgment liens - is a judgment lien a secured or unsecured claim? 11 U.S.C. 1325(5) deals with the treatment of secured creditors and requires that they receive the allowed amount of their secured claim. 11 U.S.C. 506(a) indicates that an allowed claim secured by a lien on property of the estate is a secured claim "to the extent of the value of such creditor's interest ... in the property." Given that a judgment lien cannot be foreclosed, the lien has no value in the absence of a sale (or a refinance, if the debtor takes out some equity from the property). (See footnote 4.) If a chapter 13 plan provides that the creditor receive payment of the judicial lien in accordance with MCLA 600.2807(3) only upon sale or an appropriate refinance, the plan would be providing for full payment of the value of the lien. Pursuant to 11 U.S.C. 1325(5)(B), the creditor would be entitled to retain the judgment lien, at least until discharge (when under MCLA 600.2809(6)(d), the lien could be extinguished), but in the interim, no payments would need to be made. And since the secured claim would be "paid in full", no payment would need to be made as an unsecured claim.

For a chapter 13 creditor, the situation is somewhat akin to facing Darth Vader with a pea shooter. The creditor could elect to retain its judgment lien in the hope that the property is sold or refinanced prior to discharge. In such a case, though, the creditor would not be entitled to any distribution as an unsecured claimant, and would receive nothing in the chapter 13. Alternatively, the creditor could waive its lien and elect to file an unsecured claim. This would allow the creditor to receive a portion of the unsecured dividend, but it would also release the judgment lien from the property. If the debtor sold or refinanced the property during the chapter 13, the creditor would only receive a percentage as an unsecured creditor, not the full payoff due to the judgment lien. (See footnote 5.) Chapter 11 has similar provisions for individual debtors, 11 U.S.C. 1141(d)(5), but in addition, provides for the discharge of debts for non-individual debtors upon confirmation of the plan. 11 U.S.C. 1141(d)(1). For a judgment lien creditor in a non-individual chapter 11 case, he or she would be advised to waive the judgment lien, if it appears likely that confirmation will occur.

Just as science has been unable to create an effective hologram like the one projected by R2D2, so has the Michigan legislature failed to create an effective collection tool in a judgment lien. Perhaps, in future years, both may occur, but until then, a judgment lien for creditors in the bankruptcy process is about as useful as today's toy light sabers.

Footnotes:

1. Except in the myriad of Star Trek episodes that take place on the holodeck which has somehow malfunctioned.

2. Not the least of which is how to accomplish the recording when neither the schedules nor the discharge is in recordable form. Presumably, one could record an affidavit with the documents as attachments, indicating that they are true and accurate copies of the documents filed in the bankruptcy case.

3. Theoretically, one could bring a non-dischargeability action in bankruptcy court based on the state court determination, in order to obtain the requisite bankruptcy court order. I question how receptive a bankruptcy judge would be to such litigation.

4. In **In re Paul Potts Builders, Inc.,** 608 F2d 1279 9th Cir 1979) a chapter 7 trustee argued that a mechanics lien was void on the grounds that the statute of limitations to file an action to foreclose it had expired prior to the bankruptcy. The Court of Appeals refused to so rule, finding that California law distinguished between the lien itself and the right to foreclose it. Hence, upon a sale of the property, the lien still had to be paid. This case, though deals with a liquidation, and not a reorganization, so it is difficult to predict whether the same result would have occurred if the debtor were attempting to keep the property, rather than a trustee trying to sell it.

5. A plan might provide that (a) the creditor retain its lien until discharge, (b) receive payment as an unsecured creditor in the amount of its claim, and (c) receive payment in full upon sale or appropriate refinance. Such a treatment would probably avoid an objection from the creditor, as it provides as much as the creditor would otherwise expect. However, such treatment could bring an objection from the chapter 13 trustee, on the basis set forth in the article.

Footnote style was revised from author's text, due to electronic limitations.

Retirement party for Judge Stevenson

We honored Judge Jo Ann C. Stevenson upon her retirement on September 29, 2007 at the Pantlind Ballroom in the Amway Grand Hotel in downtown Grand Rapids, Michigan. An estimated 250 people attended.

It was a great time to socialize with people we see often. It also included many people we do not see much anymore: Jackie Malone, Judge Stevenson's calendar clerk; Sherry Pastula, Judge Stevenson's former assistant; Timothy Curtin, retired bankruptcy lawyer; Alexander Lispey, Circuit Court Judge and former chapter 7 bankrutpcy trustee; Marilyn Howard, widow of the late Judge Laurence E. Howard, longtime bankruptcy judge for Western Michigan; and Kalynne Brookens, now of Indiana, and James A. Shepherd, now of California, both former law clerks for the court.

We were treated to a video of people reminiscing about Judge Stevenson, including Judge Jeffrey R. Hughes, present bankruptcy judge for Western Michigan; attorney Paul Davidoff; Jahel Nolan, Judge Stevenson's legal clerk; Susie Logie, good friend of Judge Stevenson; and Marshall Grate, Judge Stevenson's husband. This was often touching, but also humorous, especially when we discovered that Judge Stevenson has proven herself to be an effective "thief catcher" (referring to a time where someone attempted to steal her purse).

Speakers included Steven Rayman, master of ceremonies, Hal Nelson and Judge James D. Gregg, longtime colleague of Judge Stevenson on the bench. Judge Gregg's remarks were quite well taken, as he recognized Judge Stevenson's passion for her work, the people in her life, and really everything that she does.

Particularly touching was the recognition that Judge Stevenson cared so much for the people around her and showed it many times, especially in times of need. This seemed to be a

recurring theme. An example of this is a statement, written prior to the party, from Hal Nelson's wife, Marlene, another friend of Judge Stevenson:

She is sincere: she gives you her full attention, she remembers a book you treasured, she asks about Elizabeth and Kevin (not just "the kids");

She is cynical but not maliciously; She confides yet she is discreet;
She is vulnerable - never denying anxiety or hurt yet she is strong and independent;
Her sharp wit spares its recipient a deep cut,
brilliant but not in an intimidating way - she genuinely loves to absorb new information;
generous, thoughtful, grateful (pun unintended but interesting!) her thank-you notes are treasured nuggets of affirmation;
She has a positive aura filled with swirls of joy and yearning - I feel energized after spending time with her.

We will miss Judge Stevenson, of course. Hopefully we take with us her great attributes: keen focus on the pertinent issues to get the job done, true caring for the welfare of others and passion for all that we do in life.

Thank you to the members of the event subcommittee for all their hard work: Mary Hamlin, Steven Rayman, Brett Rodgers, Mike Maggio and Jahel Nolan.

Message from the Chief Judge regarding continuing education

Here is part of a recent important announcment from Judge Gregg. Please see information about the upcoming Detroit seminar with the upcoming events, in the right hand column of this newsletter, near the top.

As you are aware, I have announced and reiterated my policy regarding continuing legal education many times during the past eight months. Although the State Bar of Michigan does not mandate continuing legal education, I strongly encourage that each of you attend a minimum of one bankruptcy education seminar each year.

NOTICE IS AGAIN GIVEN that attorneys who fail or neglect to attend a bankruptcy education seminar during the calendar year 2007 shall be required to attend fees hearings in all of my cases. I desire to ascertain that attorneys who represent parties in bankruptcy cases, contested matters and adversary proceedings are competent to adequately represent their clients.

FURTHER NOTICE IS GIVEN that those attorneys who have attended a bankruptcy education seminar during the calendar year 2007 shall receive a presumption of competency. For those attorneys who attended bankruptcy seminars, I will only conduct fees hearings when an objection is filed or when I, based upon my independent review of a fee application, may have questions.

The FBA Bankruptcy Section (Western Michigan) seminar was attended by 201 persons. The Clerk of the Court, as well as all bankruptcy judges, has a record of those attorneys who attended that seminar. Also, I will be obtaining a list of attendees for the ABI Central States Workshop, which occurred in June, and the ABI Detroit Bankruptcy Consumer Conference, which shall take place in November 2007.

For those of you who have not already attended a bankruptcy seminar, I strongly urge you to attend a seminar of your choice. As the year draws to a close, one option might be the ABI Detroit Bankruptcy Consumer Conference.

If you have any further questions about this policy, you may direct your written inquiries to my judicial assistant, Ms. Shelli Combs.

James D. Gregg
Chief Judge, U. S. Bankruptcy Court (WDMI)

From the clerk of the court

1. Scott W. Dales was sworn in as U. S. Bankrutupcy judge on October 4, 2007. The ceremony was held at 2:00 p.m. in the Grand Rapids courthouse.

2. On October 1, 2007, the court held a portrait hanging ceremony for outgoing Judge Jo Ann C. Stevenson, after her retirement party on September 29, 2007 (see article in this newsletter).

3. Note that the means test amounts are changed as of October 15, 2007. They are available on the internet (see links on this newsletter). Most bankrutpcy preparation software programs can be updated to reflect these changes.

Recent events/announcements

1. Congratulations to Scott W. Dales, who is now our bankrutpcy judge. After graduating from the George Washington University Law School, Scott served as a law clerk to the Hon. Con. G. Cholakis of the United States District Court for the Northern District of New York. After his first clerkship, he entered private practice in Albany, New York. In 1998, Scott moved to Grand Rapids to serve as Judge Gregg's law clerk, and in 2000 he joined Dykema Gossett as an associate in the firm's bankruptcy practice group. Since 2003, Scott has served as in-house counsel for National City Bank in Kalamazoo, Michigan. He is married and has three children.

2. Former United States Bankrutpcy Judge Marvin Heitman passed away on September 26, 2007. Judge Heitman served the court in Northern Michigan until 1987. Letter, cards or condolences may be sent to Mrs. Jackie Heitman, 907 West Magnetic, Marquette, MI 49855.

3. Carol Chase has joined attorneys Dave Burleson, Steve Bylenga and paralegal Ninette Chalom at Fresh Start Legal Group. They have a Grand Rapids office in the Brass Works Building with satellite offices in Muskegon, Holland and Kalamazoo. New address: Fresh Start Legal Group, 648 Monroe Ave., NW, Suite 400A, Grand Rapids, MI 49503. Phone (616)458-777, Toll Free (888)310- 3002, FAX (616)719-5407. See Freshstartlegal.com

4. Robert E. L. Wright of Miller, Canfield, Paddock and Stone moderated a panel at the American Bar Association's Dispute Resolution Section conference and was appointed to a three-year term on the ADR Oversight Committee, Kent County Circuit Court. He was appointed to a one-year term as co- chair of the Standing Committee on ADR Practice Management, Business and Skills Development for the ABA Dispute Resolution Section. He was also appointed to the Mediation Advisory Board of the Institute for Continuing Legal

Education ("ICLE").

If you have information regarding any professional award, achievement or other event regarding a member of our bar or other person involved in our practice, or regarding you, please let us know. Please supply sufficient information for us to report it, or to find the information to do so. You may email it to the editor, address below. Thank you.

Summaries of recent cases

2007 BANKRUPTCY CASES: August 1 - September 30, 2007

Published 6th Circuit Cases

In re Parker, -- F.3d. --, 2007 WL 2416173 (6th Cir. (Ky.) 2007) - Plaintiff, debtor's prior bankruptcy attorney, brought an adversary proceeding to enjoin the debtor from pursuing legal malpractice claims against him after those claims were purchased in a court-approved sale. Debtor continued prosecuting the claim despite the sale, and plaintiff sought injunctive relief. The bankruptcy court granted the injunction and the district court affirmed. The Sixth Circuit affirmed, characterizing debtor's appeal as an effort to collaterally attach the bankruptcy court's Order of Sale, which was moot under § 363(m). The Sixth Circuit declined to adopt a controlling approach to § 363(m), reasoning that both the per se majority approach and Third Circuit approach led to the conclusion that any challenge to the Order of Sale was moot. Debtor allowed his opportunity to contest jurisdiction to pass by not appealing the Order of Sale and not obtaining a stay of the Sale. The Sixth Circuit also concluded that the Ant-Injunction Act, 28 U.S.C. § 2283, did not apply since Plaintiff's injunction fell within an exception. The Anti-Injunction Act prohibits federal courts from staying state court proceedings "except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." The "expressly authorized" language included injunctions under bankruptcy laws, and 11 U.S.C. § 105 authorizes bankruptcy courts to enforce its judgments. The bankruptcy court's injunction enforced its prior Order of Sale, which was made under § 363. Affirmed.

Published Bankruptcy Appellate Panel Cases

In re R.W. Leet Electric, Inc., 372 B.R. 846 (6th Cir.BAP, 2007) - 11 U.S.C. § 547 preference action by Chapter 7 trustee against construction supplier whom debtor paid within the 90-day pre-petition period. The Bankruptcy Court for the Western District of Michigan granted summary judgment for the defendant supplier, concluding as a matter of law that the supplier had been paid with trust funds under the Michigan Building Contract Fund Act. The Court further concluded that the trustee could not prove that the payments were the property of the debtor, as required by § 547(b). On appeal, the Panel first agreed with the trustee that (a) it was necessary to trace the challenged payments to trust funds in order to prove that the debtor paid the supplier with trust funds, and (b) that the supplier, not the trustee, bore the burden of tracing the funds. The trustee met the burden under § 547(g) of establishing a transfer of the debtor's property by showing that the supplier had been paid be a general, commingled bank account that was in no way designated as a trust account. Accordingly, the Panel ruled that the Court erred in holding that the trustee failed to present a prima facie case under § 547(b) that the supplier had been paid with property of the estate. The Panel next concluded that funds which the debtor borrowed and deposited into its general account (which contained trust funds as well) were not a replacement for or substituted form of trust funds after the debtor first reduced the account balance to well below the amount of the trust funds deposited. Finally, the Panel

concluded that there were material factual issues which precluded summary judgment, as the supplier's only evidence did not establish the source of the debtor's payment. Reversed and remanded.

W.D. Michigan Bankruptcy Cases

In re Brown, -- B.R. --, 2007 WL 2702333 (Bkrtcy.W.D.Mich. 2007) - Chapter 7 trustee objected to state law homestead objection claimed by debtor in Chapter 13 case after case converted. Debtor argued the objection was untimely under Fed.R.Bkr.P. 4003(b) since it was not raised within 30 days after the Chapter 13 meeting of the creditors. The Bankruptcy Court, Judge Hughes, adopted the "minority view" of interpreting the Rule, under which the thirty-day objection period starts over when a Chapter 13 case is converted to Chapter 7. The Court reasoned that Rule 4003(b) establishes a timeframe in which a party in interest must challenge a debtor's effort to exempt property from the bankruptcy estate, and creates a new objection period when a case is converted to a different chapter. However, the trustee's objection to the debtor's exemption was moot because the property had revested in the debtor when the Chapter 13 plan was confirmed pursuant to § 1327(b).

Thank you to Dan Bylenga for the preparation of these summaries.

email: mmeoli@hannpersinger.com