

## **PROGRAM SUMMARY 9-18-21**

By: Gary R. Wallace-Program Summary Committee Chair

### **cdcbaa Holds Eighth Meeting and MCLE Program of 2021: “Meet the Chapter 13 Trustees’ Staff Attorneys.”**

On September 18, 2021, the CDCBAA held its eighth members meeting and MCLE program of the year. To help mitigate the spread of COVID-19, the meeting and program were conducted as a live webinar via Zoom video. The program topic was: **“Meet the Chapter 13 Trustees’ Staff Attorneys.”** The distinguished panel featured Aki Koyama|Staff Attorney for Chapter 13 Trustee Kathy Dockery, Brian Wirsching|Staff Attorney for Chapter 13 Trustee Amrane Cohen, Masako Okuda|Staff Attorney for Chapter 13 Trustee Nancy Curry, and Renee Blume|Staff Attorney for Chapter 13 Trustee Elizabeth Rojas. CDCBAA President Hale Antico moderated.

Ms. Blume began by addressing the advantages of stipulations rather than motions for modifications, suspensions and extensions up to 90 days pursuant to LBR 3015. Ms. Blume stated that Ms. Rojas’ office and at least several judges strongly favor stipulations as a means of keeping the debtors’ legal fees to a minimum. By contrast, Mr. Wirsching stated that Mr. Cohen’s policy is to prefer that debtors follow the court’s order confirming the plan, as that is the operative order in the case; so, a motion to the court is required. In addition, the panel speakers confirmed that the policies of the various trustee’s offices differ somewhat with respect to other matters, such as suspension of tax refund turnover requirements, requests to extend plan terms to 84 months, CARES Act forbearance claims, and hardship discharge requests due to COVID-19 loss of income. One issue as to which the trustees all agree is that they will object to requests for an early discharge under new temporary section 1328(i) if the discharge conflicts with the other requirements of section 1328. The panel also discussed in more detail modification requests under the new CARES Act (sections 1329(d) and 501(f)) for plans that were confirmed not later than March 26, 2021. It was noted that the deadline for doing so is currently March 26, 2022 and that court approval is required by that date; so, counsel should be certain make such motions well in advance of that date. In addition, tax returns must be provided before the trustees will decide whether to object to such requests.

The panel also discussed some of the new exemption laws applicable to California filers. One of the issues discussed was the sometimes overlooked requirement that the debtor acquire the homesteaded property more than 1215 days prior to the bankruptcy filing to obtain the maximum homestead benefit. It was suggested that counsel obtain a copy of their clients’ grant deed and be prepared to provide that to the trustee. The panel also discussed their understanding and application of C.C.P. 704.220 and 704.225’s expanded protection for debtors’ deposit accounts. In particular, Mr. Wirsching stated that Mr. Cohen requires that debtors file a declaration with the court in support of any non *de minimis* claim under 704.225 that money held in a deposit account is “necessary for the support of the judgment debtor and the spouse and dependents...”

The panel also spent some time discussing the curious ruling of the United States Supreme Court in *City of Chicago v. Fulton* 141 S. Ct. 585 (2021) and the response from judges within the Central District, especially Hon. Neil W. Bason, who organized a panel that helped create a simplified process via a form-based motion (see LBR Form F4001-1.seized.property.motion).

Participants were encouraged to ask questions and partake in several polls during the discussion, which the zoom technology permits them to do remotely.

An extremely helpful outline that contains both a variance chart detailing the different trustee policies as well as important trustee contact information, along with print-outs of some of the pertinent case law discussed, was provided to all registered participants.

The next CDCBAA members meeting and Zoom MCLE program will be held on October 9, 2021. The topic will be "MIND YOUR Ps AND Qs (AND Os): THE 522 (HOMESTEAD) EXEMPTIONS." Our panelists will include Brandon J. Iskander of Shulman Bastian Friedman & Bui LLP, and Derek W. May of the Law Offices of Derek W. May. We hope you will join us.



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