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From the President

By: Nancy B. Clark

nbc@blclaw.com

Dear Members:

I hope you have all enjoyed 2015 as much as I have. Our seminars have been very well received this year, and we are already working very hard on next years seminars. I want to thank all of our seminar panelist, especially, our judges: Judge Kaufman, Judge Barash, Judge Bauer, Judge Clarkson, Judge Zurzolo, Judge Kwan, Judge Jury, and Judge Russell. Our Second Annual James T. King Bankruptcy Symposium which included Judge Keith Lundin, Chapter 13 Trustee, Henry Hildebrand, Professor Katherine Porter, Judge Meredith Jury and Jon Hayes was hugely successful and challenged our notions about Chapter 13. The Earle Hagen Memorial Golf, Tennis and Poker Tournament had a great turnout. I want to thank the Board of Directors of the CDCBAA. We meet before every seminar and work hard to live up to the standards established by past CDCBAA Boards which is made more challenging every year.

Finally, we come to the 2015 Calvin Ashland Awards Dinner. This year our Keynote Address will be given by the Honorable Richard Paez, Judge for the United States Court of Appeals for the Ninth Circuit. Judge Paez hales

from Utah. He received his Bachelor’s of Arts Degree from Brigham Young University in 1969 and his Juris Doctor from Boalt Hall School of Law, University of California, Berkeley in 1972. He was nominated to the Ninth Circuit Court of Appeals by former President Bill Clinton and was confirmed by the United States Senate in 1994. Last year he participated in our First Annual James T. King Bankruptcy Symposium and we are extremely honored that Judge Paez has returned to participate in the 2015 Calvin Ashland Award Dinner as our Keynote Speaker.

During our 2015 Calvin Ashland Award Dinner we will be presenting Magdalena Reyes Bordeaux with the Thomas B. Donovan Excellence Award. Maggie, as she is better known to us, received her Bachelor’s Degree from the University of California, Irvine and her Juris Doctor from the University of California, Los Angeles, School of Law. She has been a zealous advocate for the indigent in the Central District of California as Supervising Senior Staff Attorney for Public Counsel in the Consumer Law Project and Debtor Assistance Project. We honor her for her tireless work with this Award.

Last but not least, this year the Calvin Ashland Award for Attorney of the Year will be formally presented the family of our dear friend James T. King. Jim, or Rabbi Jimmy, as some called him, represented that best of the consumer debtor bankruptcy community. He was



Rand S. April, Hon. Judge Zurzolo, Nancy Clark and Maggie Bordeaux



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On September 21, 2015, golfers, tennis players, and poker competitors came out the annual Earle Hagen Memorial Golf Tennis and Poker Tournament to support Public Counsel’s Debtor Assistance Project (“DAP”). The Honorable Chief Bankruptcy Judge Sheri Bluebond made the opening remarks and The Honorable Judge Zurzolo presented sponsors of the event with certificates of appreciation for supporting pro bono work in the Los Angeles community. As you know, Public Counsel’s DAP provides legal assistance and representation to more than 3,000 individuals and families every year. Since it was established 15 years ago, Public Counsel has helped thousands of individuals navigate the bankruptcy system as they face foreclosures, job loss, major illness and other devastating life changes. CDCBAA is a proud sponsor of the event and it’s a wonderful way to support a great cause while catching up with old friends and mingle with members of the esteemed bankruptcy bench. This year, Earle Hagen Memorial Golf Tournament Executive Board honored Jim King for his extraordinary pro bono contributions throughout his legal career and for spearheading the Tournament. The Honorable Judge Robert Kwan made a touching tribute to Jim King and the Executive Board then presented his wife, Mari King, with the 1st Annual Jim King Public Service Award. This year, the Tournament raised \$25,000 to support Public Counsel’s DAP!

-Maggie Bordeaux

intelligent, knowledgeable, sensitive and compassionate. Judges, Trustees, opposing counsel all admired and respected him. His fellow debtor bankruptcy colleagues loved him. He gave to our community until his last breath. Those of us who knew him are better people for having known him. Before he passed away earlier this year, we were able to present him with the Calvin Ashland Award for Attorney of the Year. He is greatly missed and will never be forgotten.

Thank you all for your participation in the CDCBAA. It has been a privilege serving as your President this year and I look forward to 2016.

Sincerely,
Nancy B. Clark
CDCBAA President

What Would You Do?

By: Michael Gouveia
mgo29@att.net

This month our focus is on chapter 13 and I asked the following question to some of cdcbaa’s stars:

“YOUR CHAPTER 13 DEBTOR SUDDENLY LOST HIS JOB ON THE EVE OF YOUR FILING HIS PETITION AND HE HAS A FAMILY MEMBER THAT SAYS HE WILL CONTRIBUTE 100% OF THE DEBTOR’S PLAN PAYMENT AND LIVING EXPENSES. YOU MEET THE FAMILY MEMBER AND HE DOES NOT APPEAR RELIABLE. THE CLIENT WANTS TO SAVE HIS HOUSE BUT HIS PROSPECTS FOR A NEW JOB ARE DIM AND HE FILED A CHAPTER 7 FIVE YEARS AGO. YOU HAVE BEEN PAID YOUR ATTORNEY FEE.

What would you do?”

.....

“First, I would thank the client for paying my attorney’s fee.

Next I would advise him that there was a recent court opinion in Riverside by one Judge that disallowed contributions by a non-debtor if there is insufficient evidence of the ability to make those contributions for the plan term.

Then, I would explain that no other judges are, to my knowledge, following that opinion at this time, but they could, and there’s no way to know in advance which judge

cdcbaa **Upcoming Calendar**

January 30, 2016

10th Annual Review of 9th Circuit Decisions on Bankruptcy 2015

February 20, 2016

March 26, 2016

April 16, 2016

June 18, 2016

Meetings to be held at Southwestern Law School.
Please check www.bklawyers.org for up to date MCLE meeting information.



you are going to get.

So if you want to file on the current facts, you will be taking a risk that your plan may not be confirmed, and a dismissal would limit your automatic stay in a case filed within one year to 30 days, absent court order extending that.

I would probably advise that he wait to file until he gets another regular paying job. Of course, this all depends on whether the foreclosure sale on the house is occurring the next day, or whether he has more time to file his petition.

As a side note, if this was going to be a Riverside case (and, thus, subject to the possibility of getting Judge Yun), I would not have taken the client's money to begin with as I do not handle Riverside 13s for this very reason, as well as about 53 others".

Mark J. Markus
Law Office of Mark J. Markus
Studio City, CA

.....
"Feasibility is a confirmation issue. I would ask for a declaration from the debtor re his seeking a new job. I would also get a declaration from the contributor with any evidence of the contributor's ability to pay. Then I would let the Judge decide."

Peter Lively
Law Office of Peter Lively
Culver City, CA

.....
"First: I would ask for all necessary documentation from the friend to prove his ability to pay. If doesn't deliver 100% of what I ask for, I would not go forward.

Second: I would advise client that it is a waste of his money to file the case. If filing a Ch 7 would be appropriate, I would advise the client of that option. If said yes, I would charge something less than the full Ch 13 fee to cover the work I had done. If a Ch 7 was not appropriate, I would refund the unearned fee and send the client on his way. If he wanted the documents we were to file, which are his property under CA law, I would print them and redact all of my info and give them to the client.

Third: If I got all the documents from the third party that were solid evidence of his ability, I would spend more time exploring with him his motivations for helping. If I was not convinced that he would likely follow through, I would meet with my client privately to advise him of my

opinion. I might still file the case if I was certain my client understood the risk. I would probably require at least one plan payment be deposited in my attorney client trust account, before I filed the case”.

Patrick T. Green
Fitzgerald & Green, Attorneys at Law
Pasadena, CA

.....

Michael (or should I call you John Quinones?):

There’s one more fact that I think might make a difference. Would the debtor’s Chapter 13 plan be a 100% plan?

And are you asking whether, as debtor’s counsel, I would change schedule I to reflect solely contribution income rather than the now-former job income? Or file it pretending that the debtor is still employed?

If it were a 100% plan, I’d have no hesitation changing schedule I to reflect—the truth—that the debtor’s sole

source of income is contribution income, and proposing the plan anyway (and then praying that I don’t get Judges Johnson or Yoon assigned the case since they of course consider a family contribution declaration inadequate evidence of reliable income). The theory of course is that if creditors are getting 100%, what’s the harm in giving the debtor a shot? If the debtor can generate the funds necessary to make his plan payments, whether from the not-necessarily reliable family member, or from a third party, or from a new job, or from robbing the local convenience store, then what’s the harm in giving him that opportunity? If the debtor is unable to make the payments, then the case will dismiss.

If it is a less-than-100% plan, then it presents a bit more of an ethical dilemma since now creditors are being harmed, theoretically, by giving the debtor the opportunity to proceed in Chapter 13. But still, if the payments can be made, then the debtor buys the time needed to try and keep his house and restructure his debt, then I have no

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real issues with helping him get that opportunity. If the payments don't get made, all the creditors lose is a bit of time.

Jeffrey Hagen
Law Offices of Hagen & Hagen
Woodland Hills, CA

My analysis would start by figuring out if and when there is a sale date. If there wasn't one pending, I'd recommend the client pound the pavement to find a job ASAP. If the only option was the family contribution, I'd analyze that person's personal income and expenses to determine if them making the contribution is actually possible. Assuming the family member had sufficient income to cover their own expenses as well as the debtor's plan payment/living expenses, I'd put aside my own reliability judgment and leave it to the Court to determine feasibility.


Terrence Fanatuzzi
Law Office of Terrence Fantauzzi
Rancho Cucamonga, CA

"I believe the debtor is entitled to have an opportunity to save his principal residence. Based on a gut feeling, the lawyer should not deprive his client of the opportunity to make payments towards a chapter 13 plan that confirms with the code requirements. Even if payments were not made by the family member, the additional time provided to the client by filing the case may assist him with his mortgage situation or allow him to acquire another source of income".

Mathew Alden
Law Office of Mathew Alden
Ontario, CA

Thank you to those who shared their wisdom about this chapter 13 scenario.

IN OUR NEXT ISSUE, I WILL ASK: "WHAT IS THE BEST ADVICE YOUR BANKRUPTCY MENTORS GAVE TO YOU WHEN YOU WERE STARTING OUT IN THE FIELD?"

Mike Gouveia practices bankruptcy law in Riverside, CA and mentors new attorneys on old school practices. 

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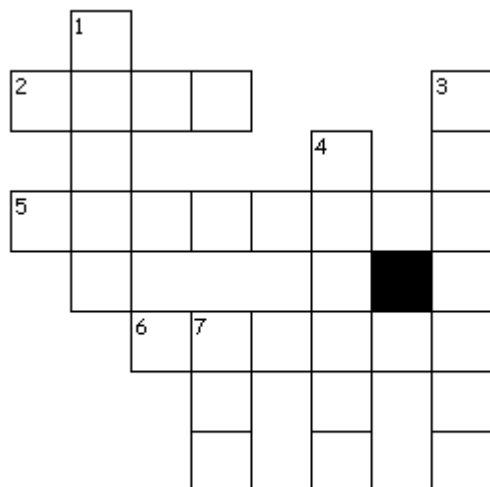
Never a Dull Moment!

Come have fun with our members at the various cdcbaa events throughout the year. Get your MCLE credits out of the way with unique insights from local Bankruptcy Judges, practitioners and other clerks of the court. We've opened 2016 registration and renewals and our first event is on January 30th.



**See you in
2016!!**

CDCBAA Case Name Crossword



Across:

2. INHERITENCE RECEIVED 180 DAYS
5. LIEN STRIP IN CHAPTER 7
6. APPLICABLE COMMITMENT PERIOD

Down:

1. DOMA CASE IN THE CENTRAL DISTRICT
3. GOOD FAITH AND MODIFICATION OF CH 13
4. NEGATIVE EQUITY OF VEHICLE
7. POWERS OF BANKRUPTCY COURT

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The CDCBAA Newsletter is brought to you by the Central District Consumer Bankruptcy Attorneys Association. Our goal is to provide quality continuing legal education. Please support CDCBAA by sending your tax deductible donations to:

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We thank you for helping us make a difference. Your ongoing support and commitment are invaluable.

cdcbaa

Central District of California Bankruptcy
Attorneys' Association

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Central District Consumer Bankruptcy Attorneys Association
Advancing the interests of Consumer Bankruptcy Practice in the Central District of California

2016 Membership

I hereby apply for membership in the *cdcbaa*, Central District Consumer Bankruptcy Attorneys Association, a nonprofit association, for calendar year 2016. I understand the basic goals of the organization are to: address issues and concerns which affect consumer bankruptcy attorneys and their clients in the Central District of California; and to provide educational and networking opportunities for attorneys who primarily represent consumer bankruptcy debtors. As a condition of membership, I declare as follows:

1. I am a duly-licensed attorney presently authorized to practice law in the Central District of California; and
2. I am interested in consumer debtor practice; and
3. I support the basic goals of the *cdcbaa* as outlined above.

I understand the *cdcbaa* is incorporated as a 501(c)(6) nonprofit organization and that a portion of my dues will not be deductible as a business expense because *cdcbaa* advocates within California for legislation on behalf of consumer debtors.

The 2016 calendar year membership fee is \$250.00, and includes one ticket to the Calvin Ashland Awards Dinner

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