

**CHAPTER 13 QUARTERLY NEWSLETTER
SEPTEMBER 2022****1. INCREASE IN CHAPTER 13 DEBT LIMIT TO \$2.75 MILLION**

On March 21, 2022, the President signed the Bankruptcy Threshold Adjustment and Technical Corrections Act. Among the Act's provisions was an increase in the Chapter 13 debt limit to \$2.75 million.

Please note the new debt limit of \$2.75 million does not require a separate calculation for secured and unsecured debt. The debt limit is a total debt limit for all debt combined.

The Act provides that the new debt limit will be effective for 2 years from the effective date, unless extended. The new debt limit will help debtors who previously could not file a Chapter 13 due to the old secured and unsecured debt limits.

2. AMENDING CHAPTER 13 PLANS FOR INTEREST RATE

Please note that when a plan provides for a cram down of interest rate that the plan must provide for prime + 2% risk factor **AS OF THE DATE OF CONFIRMATION**.

Unfortunately, the Federal Reserve has been increasing interest rates on Wednesdays, requiring some plans to be amended prior to the Thursday confirmation docket or the confirmation is adjourned to allow said amendments.

The Chapter 13 website www.chapter13info.com provides a link to the most current interest rate.

As a reminder, plans which are amended simply for a change in the interest rate as a result in changes made by the Federal Reserve, do not require service on the parties. However, when filing the amended plan on docket, counsel should provide an explanation that the plan is being amended only to adjust for a change in interest rate.

3. DOCUMENTS MUST BE SUBMITTED THROUGH THE PORTAL

As most counsel are aware, the Chapter 13 office uses a portal system for the submission of documents such as bank statements, tax returns, and insurance.

The portal system provides an encryption which helps provide an additional level of security in protecting the party's personal identifiable information. Therefore, the Chapter 13 office cannot accept documents sent through email. Email is not encrypted and not secure.

While it may seem easier to send things by email these items will not be reviewed or accepted. Additionally, counsel could be exposing themselves to liability issues by sending personal identifiable information through email.

4. MOTION TO DISMISS FOR PLAN EXCEEDING 60 MONTHS

In the coming weeks, counsel will be seeing motions to dismiss as their clients' plans have exceeded 60 months. The 60-month duration was approved by the Court in the Order Confirming Plan pursuant to 11 USC § 1322(d) and 11 USC § 1325(a)(1).

These motions to dismiss are for cases for which the debtor did not ask for an extension of the plan up to 84 months. The right to extend plans up to 84 months is now expired.

In many of these plans, which have now exceeded 60 months, the debtors have paid in thousands of dollars but either due to missed payments, partial payments or post-petition claims, the plan is exceeding 60 months.

For plans which have provided significant performance, the Trustee would prefer not to dismiss the case. Therefore, the Trustee is willing to sign an agreed entry to give the debtor an additional time but with the condition that once a new deadline is set, the plan will be either eligible for a discharge or the case will be automatically dismissed.

A copy of this agreed entry for counsel to review is attached to this newsletter. The Trustee asks the parties to remember that this is a resolution proposed by the Trustee and may or may not be approved by the Court.

5. MAKING TFS ONLINE PAYMENTS

Some counsel have requested information on how the TFS online payment program used by the Chapter 13 office works.

TFS is a third-party vendor for debtors, who need to make direct payments into their Chapter 13 plan. The TFS program collects the money from the debtor on a date which is chosen by the debtor. TFS then holds the funds for 5 days to ensure that the funds will not be voided or called back by the party making the payment. Once TFS submits the payments to the Chapter 13 office, those payments are guaranteed into the plan. At that point, should the individual making the payment default in said payment in any way it is TFS's responsibility to recover said payments.

It should also be noted that if the debtor is making payments through the TFS program, the Chapter 13 office considers the payments timely made even though they may be held for 5 days. Debtors are encouraged; however, if they are making conduit mortgage payments, to make their payments in a sufficient amount of time to allow those conduit mortgage payments to be made. In most cases, debtors requiring direct payments and their plan requires a conduit mortgage payment, the Chapter 13 payment should be made by the 10th of each month.

6. PERSONAL FINANCIAL MANAGEMENT COURSE

The Chapter 13 office will continue to sponsor an on-line Personal Financial Management Course through the Trustee Education Network. Information regarding the online program is available on the Chapter 13 website at www.chapter13info.com. There is no charge to take the course online for Chapter 13 debtors who have filed in Akron, Ohio.

Please note: in a joint case, each debtor must take the on-line course separately and use two different e-mails. The software program generates the required certificates of completion partly based on e-mails to keep track of who has taken the required course.

Please find attached to this newsletter, a flyer for the on-line course that counsel may share with their clients in Chapter 13 cases.

7. MAKING SURE TO CLAIM EXEMPTIONS IN SCHEDULE C

Some Chapter 13 plans recently filed failed to take the automobile or homestead exemption. By not taking the appropriate exemptions on these items, counsel may not be able to strip judgement liens or second mortgages.

The reason counsel may not be able to strip judgement liens and second mortgages is that by not taking the appropriate exemption, counsel is attempting to subtract exemptions which are not claimed on petition schedule C.

It is not clear if this is simply a software issue but the Trustee advises counsel to review petition schedule C before filing to make sure all the appropriate exemptions have been taken so that counsel can advocate on a stripping of judgement liens and second mortgages on behalf of their client.

The Court has declined to approve lien stripping and second mortgage cram down if the appropriate exemptions have not been claimed on Schedule C.

8. POST-CONFIRMATION MOTIONS TO MODIFY

Please remember in Akron that when modifying a plan post-confirmation, it is not necessary to file an amended plan.

However, it is necessary to file a detailed motion to modify which explains how the previous plan is being modified. The requested changes should be expressly stated as this will assist all parties in interest to quickly review the motion. In many cases, counsel will find little opposition to the motion once the requested changes have been fully explained.

9. MOTIONS TO REINSTATE

Recently, there has been an increase in cases which are being dismissed mostly on procedural grounds as there has been no response by counsel or their clients.

Immediately after the case is dismissed, there is a motion to reinstate filed to resolve the procedural items. Filing motions to reinstate is very time consuming for all parties in the bankruptcy system.

Please note that if the Trustee files a motion to dismiss and counsel has a proposed resolution but needs additional time to work with their client please contact the Chapter 13 office.

COMMUNICATION IS KEY! If the motion to dismiss is scheduled on the Court's docket and counsel needs additional time, counsel should either file a response with the Court requesting additional time or let the Chapter 13 office know that more time is needed and specifically how much additional time is necessary.

Resolving issues before an order of dismissal goes on a case is a less time-consuming process than seeking to reinstate the case.

10. CHAPTER 13 CASE ADMINISTRATORS AS OF OCTOBER 1, 2022

Please find attached an update list of Chapter 13 Case Administrators as of October 1, 2022.

SAVE THE DATE(s)

**ABI
CONSUMER PRACTICE EXTRAVAGANZA!
TO BE HELD VITRUALLY
NOVEMBER 10 TO NOVMEBER 18, 2022**

2022 BANKRUPTCY BENCH-BAR RETREAT

**NORTHERN DISTRICT OF OHIO
SAWMILLCREEK, HURON, OHIO
OCTOBER 14, 2022**

**FRANK M. PEES CEC SEMINAR
WESTERVILLE, OHIO
OCTOBER 14, 2022**

Motion to Dismiss for Plan Exceeding 60 Months
Agreed Entry Resolving Motion to Dismiss

**THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

IN RE:) CHAPTER 13
) CASE NO:
DEBTOR AND JOINT DEBTOR NAME)
) ALAN M. KOSCHIK
) BANKRUPTCY JUDGE
)
) TRUSTEE'S MOTION TO DISMISS
) AS THE PLAN EXCEEDS 60
) MONTHS AND 21 DAY
) OBJECTION PERIOD

Now comes Keith L. Rucinski, Chapter 13 Trustee, and hereby requests an order of dismissal in this case pursuant to 11 USC Section 1307(c). The debtor(s) are in material default of their approved plan.

Pursuant to 11 USC Section 1322(d) and 11 USC Section 1325(a)(1), the debtor(s) plan was approved by the Court not to exceed 60 months.

The Trustee states the following:

1. The debtor(s) case was filed on <plan filing date>.
2. From the filing date, the number of months this plan is projected to run is <number of months>.
3. The monthly plan payments are <plan payment>.
4. The debtor(s) have paid in a total of <total payments to date>.
5. The plan provides for conduit mortgage payments _____ Yes _____ No.

6.

Insert any additional info needed.

7. As the debtor(s) have made significant efforts to complete their plan, the Trustee is willing to enter an Agreed Entry with the debtor(s) whereby the debtor(s) must commit to a date certain to complete the plan or the case will be automatically dismissed.

CHAPTER 13

Keith L. Rucinski
Trustee
One Cascade Plaza
Suite 2020
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krucinski@ch13akron.com

8. The debtor(s) should discuss this Agreed Entry with their attorney. Dismissal of this case is not in the debtor(s) best financial interest.
9. The Agreed Entry is subject to US Bankruptcy Court approval.

NOTICE

Pursuant to 11 USC § 102, unless a party in interest request a hearing on this pleading, the Court may grant the relief requested without further hearing or notice.

Parties that want to be heard on this matter must file a response to this pleading within 21 days from the date in the below certificate of service.

The response must be filed with the US Bankruptcy Court at:

**US Bankruptcy Court
2 South Main Street
455 John F. Seiberling Federal Building
Akron, Ohio 44308-1810**

In addition to filing a response with the Court, parties requesting a hearing must serve all parties in the below certificate of service wither through the mailing address provided, or where applicable, by the Court's Electronic Filing System (ECF).

Respectfully submitted,

/s/ Keith L. Rucinski

Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
One Cascade Plaza, Suite 2020
Akron, OH 44308
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent to:

Debtor and Joint Debtor Name
Address
City, State, Zip
(via Regular Mail)

Attorney Name (via ECF)

Keith L. Rucinski, Chapter 13 Trustee (via ECF)

Office of the US Trustee (via ECF)

Date of Service: **Date**

By: **user name**
Office of the Chapter 13 Trustee

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**THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In Re:)	
)	CHAPTER 13
DEBTOR AND JOINT DEBTOR)	CASE NO:
NAME)	
)	ALAN M. KOSCHIK
DEBTOR(S))	BANKRUPTCY JUDGE
)	
)	AGREED ENTRY TO RESOLVE
)	TRUSTEE'S MOTION TO DISMISS
)	FOR PLAN EXCEEDING 60 MONTHS
)	
)	SETTING DEADLINE FOR PLAN
)	COMPLETION AND TERMS FOR
)	IMMEDIATE DISMISSAL SHOULD
)	DEBTOR(S) FAIL TO COMPLY WITH
)	AGREED ENTRY

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The Chapter 13 Trustee, Keith L. Rucinski, and the debtor(s) in this case, by and through undersigned counsel agree to resolve the Trustee's motion to dismiss on the following terms and conditions.

The parties state the following:

1. Pursuant to 11 USC 1307(c)(6), the Trustee filed a motion to dismiss in this case as the debtor(s) plan had exceeded 60 months.
2. The Trustee's motion was filed on or about <date of motion>.
3. The parties agree that the Trustee's motion to dismiss is incorporated herein

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as if fully rewritten

4. The parties further agree, that any response to the Trustee's motion to dismiss filed by the debtor(s) is incorporated herein as if fully rewritten.
5. Given the significant performance by the debtor(s) in this plan, the parties are asking the US Bankruptcy Court to grant the debtor(s) additional time to complete their plan and earn a discharge in their case.
6. The Trustee has no objection to the debtor(s) request to extend the duration of their plan.
7. In no circumstance shall the debtor(s) case extend past <date to complete>. Should the debtor(s) not complete the plan payments by this date, the Trustee is authorized to file an Order of Dismissal without a notice or hearing.
8. The debtor(s) agree that their monthly plan payments shall be in the amount of <payment amount>.
9. Further, the Trustee is authorized to immediately file an Order of Dismissal should any of the following occur:
 - A. The debtor(s) fail to turnover their entire federal and state tax refunds to the Trustee so that the funds can be used to expedite plan completion. The debtor(s) expressly waives any exemption in the tax refunds and shall not be entitled to the standard \$1500 tax refund hold back that debtor(s) are generally allowed in Akron. If the debtor(s) fail to turnover their entire tax refunds, the Trustee shall be allowed to file an Order of Dismissal without a hearing or notice.
 - B. Should any creditor file a claim for post-petition debt, this plan is subject to immediate dismissal, subject to the debtor(s) right to object to the claim and have that objection sustained by the Court. The debtor(s) will have thirty (30) days to file an objection from the date the post-petition claim is filed or otherwise resolve a post-petition claim; otherwise, the Trustee shall be allowed to file an Order of Dismissal without a hearing or notice.
 - C. Should the debtor(s) fail to pay the full amount of their Chapter 13 plan payment monthly the Trustee shall be allowed to file an Order of Dismissal without hearing or notice.
 - D. Should the debtor(s) fail to disclose to their attorney and the Trustee any unexpected income (inheritance, lottery winnings, insurance proceeds, etc.) the case shall be subject to immediate dismissal.

IT IS SO ORDERED.

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Submitted by:

/s/ Keith L. Rucinski
Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
Joseph A. Ferrise, Esq.
Ohio Reg. No. 0084477
One Cascade Plaza, Suite 2020

Attorney Name, Esquire
Counsel for the Debtor
Ohio Reg. No. _____
Address
City, State, ZIP

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cc:

Debtor Name
Address
City, State, ZIP
Debtor
(via Regular U.S. Mail)

Attorney Name, Esq.
Debtor's Counsel
(via ECF at south266@aol.com)

Amy Good, Esquire
Office of the U.S. Trustee
(via ECF at Amy.L.Good@usdoj.gov)

Keith L. Rucinski, Chapter 13 Trustee
(via ECF at krucinski@ch13akron.com)

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Personal Financial Management Course

THIS COURSE IS REQUIRED TO EARN YOUR DISCHARGE !

Online Chapter 13 Bankruptcy Course Finally Financial Freedom!

** The Trustees' Education Network (TEN) – an affiliate of the National Association of Chapter 13 Trustees – has created an online financial management course for the benefit and financial education of Chapter 13 debtors. This course is approved by the United States Trustee Program. **

THIS COURSE IS FREE!

*****THIS COURSE IS ABLE TO BE COMPLETED PRIOR TO YOUR 341 HEARING WITH THE TRUSTEE*****

SIGN UP ONLINE AT WWW.13CLASS.COM

WHAT YOU WILL NEED TO SIGN UP

- Unique Trustee Identifier Number
 - **TEN13010**
- Bankruptcy Case Number
- Your full Name “exactly” as shown on bankruptcy petition
- A valid email address (each debtor will need a separate email address)
- Your bankruptcy Schedules A/B, D, and E/F for Lesson 1 and Schedules I and J for Lesson 3.



You must complete the entire course (all lessons and quizzes) to receive a Certificate of Completion from the Trustees' Education Network. Once you complete all coursework, the Trustees' Education Network will send a Certificate of Completion to you and to your Bankruptcy Court.

*****Course satisfies legal requirements for debtors' Certificate of Completion and to gain a discharge of their bankruptcy case.***

****Other course providers may charge you a fee for this course.***

Chapter 13 Case Administrators as of October 1, 2022

Phone: (330) 762-6335
Fax: (330) 762-7072
Web: www.chapter13info.com

**Office Of
The Chapter 13 Trustee**
Keith L. Rucinski, Trustee

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DUE TO THE VOLUME OF CASES, ITEMS SUBMITTED TO THE INCORRECT EMAIL CANNOT BE PROCESSED. PLEASE FOLLOW THE BELOW LISTINGS.

341 DOCUMENT SUBMISSIONS

ANY DOCUMENTS SUBMITTED FOR **341 HEARINGS OR 341 ADJOURNMENTS** NEED SUBMITTED THROUGH THE CHAPTER 13 PORTAL IN ORDER TO BE REVIEWED FOR THE HEARINGS. THE DEADLINE FOR DOCUMENT SUBMISSIONS IS THE FRIDAY BEFORE THE HEARING DATE.

CASE ADMINISTRATORS BY CASE NUMBERS FOR **CONFIRMED CASES**

<u>Case No.**</u>	<u>Staff Member</u>	<u>Extension</u>	<u>Email</u>
00-15	Holly Byler	225	hbyler@ch13akron.com
16-32	Monica Andrick	222	mandrick@ch13akron.com
33-50	Aggie Royer	228	aroyer@ch13akron.com
51-84	Tammy Rowe	227	trowe@ch13akron.com
85-99	Jennifer Neunz	221	ineunz@ch13akron.com

**Last two digits of case number.