

# Claims Information

The Chapter 13's role is one of much balancing. The Trustee in a Chapter 13 case works with everyone and for no one. The Trustee has many rights and powers that can be exercised for or against the interests of the debtor or a creditor! It is the policy of the United States Trustee Program that the total number of pending cases to be administered by any one Standing Trustee should not usually exceed 9,000. Chapter 13 Trustee expenses are not paid out of public funds, not from tax revenues or court fees or filing fees. The compensation comes from the estates they administer as a percentage fee charged upon each distribution made to claims filed by creditors of the debtor.

In order to get paid through a Chapter 13 plan, creditors must file a document called a "proof of claim" with the court. The proof of claim states the amount that you owe the creditor and attached to it is certain required documentation. Creditors have ninety days (90) from the §341 meeting to file proofs of claim (claims of governmental entities have one hundred eighty days (180) to file a claim).

Once a year, the Chapter 13 Trustee will supply the debtor, and their attorney, with a financial summary that will reflect all of the debtor's payments into the Chapter 13 Plan and all of the payments made to creditors by the Chapter 13 Trustee on the debtor's behalf. If at any time a debtor feels that all of their payments have not been recorded on the Trustee's records, the debtor should bring that issue to the Trustee's attention. Furthermore, the debtor is encouraged to review the list of creditors who have filed a claim in the bankruptcy

case. If it appears that a creditor has filed a claim for the wrong amount or if a creditor has filed a claim but the debtor has never had contact with that creditor, then an objection should be filed to the claim. The attorney for the debtor can immediately file an objection to the claim as soon as the debtor contacts their attorney and explains that a creditor has filed a claim that the debtor believes should not be paid in their Chapter 13 reorganization. If the debtor remains silent as to any information that is only within the personal knowledge of the debtor, neither the debtor attorney nor the



Trustee will know of any problem, and the Trustee will pay the claim as filed. Alternatively, it is imperative that the debtor lists all creditors to whom he owes a debt in order to earn a discharge with respect to such debt. If the debtor forgets to list and provide notice of the bankruptcy case to any creditor, the debt may not be discharged upon conclusion of the Chapter 13 case.

In addition to the duties of the debtor and the attorney for the debtor to review and object to improper claims, the Chapter 13 Trustee is charged with reviewing creditor claims and objecting to any claims that are not filed properly or that do not have the correct documentation. The Chapter 13 Trustee is under a duty to examine proofs of claim and to object to improper claims only if there is a purpose that will be served by doing so. The Chapter 13 Trustee may only object to claims that are not objected to by the debtor. Most objections filed by the Trustee relate to inconsistent dollar amounts claimed within the same proof of

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claim form or other types of incomplete or inconsistent information, duplicate claims filed by the same creditor (and perhaps an assignee or attorney for the creditor), claims improperly claiming entitlement to priority treatment and failure to attach the required statements according to changes in the Federal Bankruptcy Rules or documentary support for the claim.

Traditionally the Trustee in a Chapter 13 bankruptcy case is seen as an administrator that collects and disburses the funds paid into the Chapter 13 plan as well as continuing and propelling the case to fruition. If you review the historical and statutory notes to §1302, which establishes the Trustee’s duties, you can see in the original inception that “The principal administrator in a Chapter 13 case is the Chapter 13 Trustee.” 11 U.S.C.A. §1302.

In fact, according to the Federal Judiciary’s website (<http://www.uscourts.gov/bankruptcycourts/bankruptcybasics/chapter13.html>), the Trustee is an **impartial** administrator: “When an individual files a Chapter 13 petition, an **impartial** Trustee is appointed to administer the case.” 11 U.S.C. §1302.

<b>THE MARSHALL CHRONICLES</b>	
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If you would like to contact us or submit ideas or articles for the newsletter, you can do so by:	
✓ e-mailing us at <a href="mailto:newsletter@chi13.com">newsletter@chi13.com</a> ,	
✓ dropping your submission or idea in the anonymous newsletter folder located in the mail room, or	
✓ leaving them with Dave Latz.	
Please remember when making a submission to the newsletter, it must be:	
✓ type-written and	
✓ submitted by the third Wednesday of the month via e-mail, a Word document or an ASCII file.	
We also ask that anyone who attends a seminar please be prepared to furnish the committee with a detailed article on its subject.	
You may also view this edition of <b>THE MARSHALL CHRONICLES</b> , as well as all the previously published issues, all in full color, on the Chapter 13 Trustee website at <a href="http://www.chicago13.com/">http://www.chicago13.com/</a> .	



However, §1302 goes further by imposing upon the Trustee certain relevant duties of a liquidation Trustee prescribed by §704 through subsection (b)(1) where it makes clear that the Chapter 13 Trustee is no mere disbursing agent of the monies paid to him by the debtor under the plan. In essence, §1302 establishes the duties of a Chapter 13 Trustee and through §1302(b)(1) incorporates certain duties of a liquidation Trustee through §704. Neither §1302 nor §704 establishes the Trustee’s right or duty to file a response *on behalf of creditors* as it relates to an objection to claim. In fact, §1302(b)(2) demands the Trustee’s appearance at certain hearings that relate to (A) the value of property subject to a lien; (B) confirmation of a plan; or (C) modification of the plan after confirmation but remains silent as to objections to claim except for reviewing and objecting to improper proofs of claims. 11 U.S.C. §1302(a)(1) incorporates §704 into the Trustee’s duties. More specifically as it relates to claim objections §704(a)(5) is as follows:

*§704. Duties of Trustee (a) The Trustee shall –*  
*(5) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;*

It appears that Congress had the intention of allowing Chapter 13 Trustees as well as Chapter 7 Trustees the ability to file objections to improper proofs of claims on behalf of the bankruptcy estate. It is interesting to note that no code provision grants the Trustee the authority to file a response on behalf of creditors as relates to claim objections. The Trustee then should not file an answer to a claim objection on behalf of a creditor or file a response stating their opinion as to the validity or sufficiency of a claim subject to an objection as that would seem to be an attempt to expand their role in the claims process that was not intended by Congress. This would increase litigation by forcing claim objections to hearing if the Trustee disagreed with debtors as to the validity or sufficiency of a claim.

Congress specifically set out in F.R.B.P. 3001(f) that “a proof of claim executed and filed in accordance with these rules shall constitute *prima facie* evidence of the validity and amount of the claim.” Therefore, provided timely filing and absent an objection by a party in interest, the claim would pass through the system unchallenged. A need for Trustee approval does not exist. When presented with an objection, the Court rules as to the validity or sufficiency of the claims.

Congress only allows the Trustee, via §704(a)(5) the duty to review and object to improper claims filed against the bankruptcy estate. If the Court were to expand the role of the Trustee it seems that it would cause a conflict of interest not intended by Congress. Congress specifically sets out the

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## Trustee Matters

### Sample Rules Of Behavior Governing Computer Usage

Effective January 1, 2012, trustees must have rules governing the use of the trustee's computer system by the trustee's employees. These rules should explain the employee's responsibilities as a user and the penalties for noncompliance.

Although each employee has received a copy of the policy and signed the policy regarding the computer usage, I have come to discover that not everyone realizes the importance of this policy and its ramifications.

Our new case administration software uses most, if not all, of our bandwidth to connect to the Internet. We connect using a T1 line, which we thought was more than sufficient to handle the internet traffic. Currently, our main usage of the internet is to connect to the court's website to use PACER. With the court and TNG usage, our bandwidth is now maxing out. Therefore we have to monitor usage very closely. In monitoring usage, we discovered that we have been competing with other internet sites. Because some of the sites were streaming, we had to disconnect all internet services that were not job related. Actually, this is exactly what the policy requires us to do but we did not realize how important this policy was as it relates to day to day activities. We are only permitted to use the internet for job related tasks.

I am including a sample of the policy below for employee reference. This is a reminder that all employees must sign the policy acknowledging receipt of these rules of behavior and have an understanding of their responsibilities. A sample policy statement is found in Appendix K-1 of the Handbook for Chapter 13 Trustees. This policy will be strictly enforced.

*Marilyn O. Marshall, Trustee*



#### APPENDIX K-1 RULES OF BEHAVIOR GOVERNING COMPUTER USE

Trustees must have rules governing the use of the trustee's computer system by the trustee's employees. These rules should explain the employee's responsibilities as a user and the penalties for noncompliance. The section on user responsibilities should at a minimum include the following:

General:

1. Use trustee information systems for lawful, official use and authorized purposes in accordance with current guidelines.
2. Do not generate or send offensive or inappropriate e-mail messages, images, or sound files. Limit distribution of email to only those who need to receive it.
3. Do not open emails from suspicious sources and do not visit untrusted web sites.
4. Protect and safeguard all trustee information, including personally identifiable information (PII), per the sensitivity and value of the data at risk, from unauthorized access, unauthorized or inadvertent modification, disclosure, destruction, denial of service, improper sanitization or use, in accordance with applicable policy, practices, and procedures.
5. Report known or suspected security incidents (including loss of PH) upon discovery of the incident to the trustee.
6. Encrypt all trustee data on transportable/mobile computers (including laptops) and removable media which contains sensitive information.
7. Use only authorized media storage devices. Download files only from known and reliable sources and use virus-checking procedures prior to use.

8. Screen-lock or log off your computer when leaving the work area and log off when departing for the day.

Passwords:

9. Change passwords at least every 90 days or more often if compromised or if directed by your supervisor; choose a password at least 8 characters in length; and use at least 3 of the following 4 characters: upper case letters, lower case letters, numbers, and/or special characters.
10. Do not share passwords with anyone.

Hardware:

11. Do not add, modify, or remove hardware accessories or networks to a computer.

Software:

12. Comply with terms of software licenses and only use licensed and authorized software.
13. Do not install any software.
14. Do not change any configurations and/or settings of the operating system and security-related software without advance approval.
15. Do not attempt to access any electronic audit trails that may exist on the computer unless specifically authorized to do so.

I acknowledge receipt of these Rules of Behavior and understand my responsibilities as identified above. This includes my responsibility to ensure protection of PII that I may handle.

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_



## Legal

**Together Everyone Achieves More**

Within the trusteeship there is a legal department. Within the legal department there is a small group comprised of four women called the paralegal team. Our team has one common goal – to provide excellence to everyone we serve, both internally and externally, and to work with each other in accomplishing this goal. From the smallest tasks that we perform daily to the largest tasks we perform weekly, we are able to work together and communicate effectively as a team.

The creation of our “Daily Update,” which is sent each day via e-mail, is an excellent way for us to keep the lines of communication open with each other and our department manager. It was one of the first things created by the paralegals in an effort to make our department stronger and to increase our team building skills. It covers everything from communicating bankruptcy information, new and/or added changes, making suggestions, and sharing ideas that are discussed in our monthly department meetings. Sometimes, it consists of just a friendly reminder that one of us will be out of the office. Most importantly, it makes the members of our team aware of the tasks that each member is working on and how a member can be of assistance to another member.

Recently, we had a paralegal meeting to discuss our team progress. During this meeting we shared various famous quotes related to team building. We thought all of them were excellent and would like to share them for your enjoyment.

**Darlene (Judge Hollis):**

*“Individual commitment to a group effort – that is what makes a team work, a company work, a society work, a civilization work.”*  
~Vince Lombardi

I believe we all have worked hard individually to make sure that we do our part to make us, the paralegals, work well together as a team. At times, it can be a challenge to meet team goals, but we strive each day to assist each other as we complete each of our tasks. We understand that each of us has something different to contribute, that teamwork is a give and take, and all of us add value in one way or another to the team. It is our goal to foster a feeling of oneness, to give positive feedback, and to motivate and encourage each other.

**Sulethé (Judge Baer):**

*“Teamwork is the ability to work together as a common vision. The ability to direct individual accomplishments toward organizational objectives. It is the fuel that allows common people to obtain uncommon results.”* ~ Andrew Carnegie.

This is my favorite quote because I believe in the objectives of this organization. They are not common and this organization provides direction that is obtainable. Collectively, this keeps us motivated, inspired and encouraged to always look at the big picture: it’s not about us. We are a team that is part

of an extraordinary organization and we strive to provide extraordinary service together. Most importantly, we understand that the team’s attitude determines the team’s altitude and how it affects this organization.

**Elise (Judge Wedoff):**

*“Talent wins games, but teamwork and intelligence wins championships.”*  
~ Michael Jordan

We are a very talented group of women with varying years of experience both within and outside of the trusteeship. We are very creative, and we bring that together to meet the needs of the team on a daily basis. Each of us is always looking for ways to make our duties a little easier not for ourselves but the team as a whole. I must say that we have grown to work quite well together and we can count on each other no matter what the day-to-day tasks may bring. If we work late, we work late together. If we come in on the weekend, we come in together. If we decide that we are going to tackle a specific task, we do it together. There is a stereotype in the world, especially within the business world, that women cannot work together in a group. The ladies of the paralegal department strive to overcome that stereotype on a daily basis.

**Jennafer (Judge Goldgar):**

*“No member of a crew is praised for the rugged individuality of his rowing.”*  
~ Ralph Waldo Emerson

This really stands out to me because we are all trained as a team not as individuals. One cannot take all the glory of a job well done. Each of us has something to offer which when brought together can and will deliver the wow factor. We all have the same goal in mind, to be the best that we can be at our job functions.

We have accomplished so many hurdles and obstacles within the last few months that we are confident that we can accomplish whatever tasks are given to us as a TEAM in the future. Currently, we are working together to be up-to-speed for the TNG conversion. We each explore the program individually, but we meet weekly to bring our ideas and information gathered to the table for the betterment of the team.

*“Interdependent people combine their own efforts with the efforts of others to achieve their greatest success.”*

~ Stephen Covey

*The Paralegal Team:*

*Darlene Odom, Sulethé Mason, Elise Taylor, Jennafer Kempf*

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Trustee's capacity as it relates to the bankruptcy context in 11 U.S.C. §323.

11 U.S.C. §323 establishes the role and capacity of the Trustee as follows:

§323. Role and capacity of Trustee

- (a) The Trustee in a case under this title is the representative of the estate.
- (b) The Trustee in a case under this title has capacity to sue and be sued.

As an impartial representative of the bankruptcy estate, it could create a conflict of interest if the Trustee were to file a response or answer on behalf of any creditor in addition to the duty to object to improper proofs of claims. There could also be a conflict of interest if the Trustee were allowed to file a response in furtherance of its own agenda. To file an objection or response because such objection reduced the amount of fees the Trustee could charge would be in direct conflict with the Trustee's duty as an impartial representative of the bankruptcy estate as contemplated by 11U.S.C. §323 and could result in a breach of fiduciary duty to the bankruptcy estate. The Bankruptcy Code creates a system where the Trustee represents the bankruptcy estate and those interests alone. The Trustee has a financial interest in whether a claim is allowed or disallowed and Congress has wisely, through several specific code sections, limited the Trustee's involvement in the claims objection process.

The Trustee does not take into his or her possession or control property of the estate. The Trustee does not operate the debtor's business. Rather, the Trustee receives payments from the debtor, and disburses those payments to the debtor's creditors pursuant to the debtor's plan. The Chapter 13 Trustee does, however, counsel with and advise the Chapter 13 debtors on all matters relating to the plan other than legal matters. Though the code provides that the Trustee shall advise, other than on legal matters, and assist the debtor in performance under the plan, 11 U.S.C. § 1302(b)(4), the Trustee is prohibited from giving *legal* advice, and this section cannot be used as an argument that the Chapter 13 Trustee can be used as a substitute for effective debtor counsel. While there is no specific requirement in 11 U.S.C. §1302 that a standing Chapter 13 Trustee be disinterested, the Trustee clearly cannot have an interest adverse to the estate. The role of the Chapter 13 Trustee is unique. In short, the Chapter 13 Trustee is an odd mix of social worker and disbursing agent.



Jay Tribou, Staff Attorney

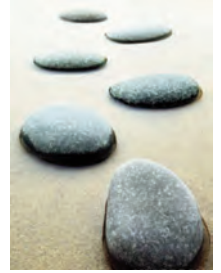
## Financial The Next Step

After working here part-time during college, I have finally become a full-time employee at Marilyn O. Marshall's Chapter 13 Trusteeship. This has been a work in progress. My very first summer as an employee I was the part-time receipts specialist. I then had the privilege of coming back as a part-time employee over subsequent summers where I would help out in the financial department. As time went on, I learned new tasks and would help out with the mail, front desk, and claim entry.

All of these experiences brought me to where I am now with my full-time position as a case administrator/auditor. I am still in the process of training, but have been auditing the pre-confirmed, converted/dismissed cases for a little over a month now. Previously these cases wouldn't have been audited, but upon Ms. Marshall's review, it was determined that all of these cases should be audited. The main item that I focus on when auditing these cases is making sure that the debtor attorney and the adequate protection payments are all paid correctly.

Since graduation, I have also had the privilege of achieving some of my dreams. Some of these include adopting a dog and buying my own motorcycle. I cannot wait to see what the future brings as I continue to learn new things every day that I come to work. It is always a privilege to work side by side with everyone in this office.

Kristen Kehl, Audit Specialist



## May's Notable Events

**May Day** on May 1st.

Happy Birthday to **Maude Tetteh** on May 1st!

Happy Birthday to **Rita Saunders** on May 2nd!

**All Staff Meeting** on May 4th.

**Mother's Day** on May 13th.

Happy Birthday to **Anthony Olivadoti** on May 13th!

Happy **1st Anniversary** to **Aaron Bowles** on May 16th!

Happy **1st Anniversary** to **Heather Crews** on May 16th!

**National Pizza Party Day** on May 18th.

Happy **25th Anniversary** to **Sandra Pillar** on May 18th!

**NATO Summit** May 20th and 21st.

**BSS Seminar** May 21st through the 23rd.

Happy **17th Anniversary** to **Anthony Olivadoti** on May 22nd!

Happy Birthday to **Heather Crews** on May 24th!

**Memorial Day** on May 28th (the office will be closed).

**NACTT Chicago Staff Symposium** on May 30th and 31st.



**Case Administration  
Mortgages**



In late 2011 the way the Case Administration department processed mortgage claims changed drastically. In the past, our office would review mortgage claims and supporting documents to insure there was no mortgage fraud taking place. Effective December 1, 2011, a new rule was implemented affecting the way our office processes and reviews mortgage claims as well as the creditor's requirements. All creditors who file a claim asserted amount against the debtor's principle residence are required to:

- ★ Use Form B10 attachment A supplements.
- ★ Include an itemized statement of pre-petition interest.
- ★ Provide a statement of fees.
- ★ Provide a statement of charges.
- ★ Include an itemized statement of pre-petition arrears.
- ★ Include an escrow statement if the mortgage includes an escrow account.

If the creditor fails to adhere to the new rule, our office is required to inform them by letter of any missing mortgage documents. In addition, our office will pursue all mortgage claims secured by real estate property. Creditors are required to file an amended claim if:

- ★ Form B10 attachment A is missing.
- ★ Creditor states there is an escrow account but there is no escrow statement attached.
- ★ If the arrears (amount necessary to cure default) amount listed on the face of the claim is different than the amount on Attachment A.
- ★ Recorded deed stamp is not provided.
- ★ Debtor's signature within the mortgage documents is missing.
- ★ Property address is not provided.
- ★ Documents supporting perfected interest in the collateral are missing.

Reasons the creditor will not need to amend their claim or mortgage attachments:

- ★ Proof of claims that are missing Form B10 will only need to be amended to include that particular form. No need for the creditor to attach the other supporting documents.
- ★ If a claim was amended and the arrears stayed the same, but the claim is missing attachment A, there's no need for the creditor to amend for a new attachment A.
- ★ Mortgage claims filed prior to December 1, 2011, are not required to use the new claim form (B10 Attachment A).

In following these requirements, this will make the processing of mortgage claim a lot smoother for our office as well as creditors.

*Cheryl Jones, Case Administrator*

**Information Services  
Informed Technology**



Some items of interest from the IT department:

Systems managers from the Region gathered at Trustee Glenn Stearns' office in Lisle in March. Highlights included touring the new Stearns office and meeting Frank Chen, who is the new systems person for Trustee Tom Vaughn. Since we are close to converting to TNG, it was helpful to discuss disbursement processing and backup procedures with the other IT folks.

Speaking of disbursement processing, we have completed our second month of disbursement training and balancing in TNG. The conversion team has gone through each step of the process one by one with a stopwatch so that we may nail down our timing and procedures for disbursement week once we go live.

Another accomplishment this week was the training and setup for auto-filing of documents in TNG. The interface with the Court and document management was a big selling point when Ms. Marshall chose to go with BSS and TNG for her case administration software. We learned how to set up and create documents in TNG which will be automatically filed on the court's website. No more merging data for your fillable orders and no more key strokes to file motions one by one!

*Sandra Pillar, IT Analyst*

**Money Tip**



Everyone should have an emergency fund. Shoot for up to six months of expenses in your fund in case you lose your job or become disabled. Where is the best place to keep this money? It should be secure and easily accessible. A good choice is a bank saving account, a CD, or a money market account that is FDIC-insured. Although you may receive a lower interest rate than other investment vehicles, you can get to your money quickly by using these types of accounts.

**Trivia Quiz Answers:  
Fascinating Trivia**



- |                                    |                  |
|------------------------------------|------------------|
| 1. 12.                             | 6. True.         |
| 2. Alaska.                         | 7. One thousand. |
| 3. 61,000.                         | 8. Honey.        |
| 4. "The Adventures of Tom Sawyer." | 9. Father's Day. |
| 5. It has no theme song.           | 10. Hong Kong.   |





**Trivia Quiz: Fascinating Trivia**


A potpourri of trivia for you this month. Do you need to peek at the answers? *(They're on page 6.)*

1. How many letters are there in the Hawaiian alphabet?
2. Which state has the highest percentage of people who walk to work?
3. What is the average number of people airborne over the United States at any given hour?
4. What was the first novel ever written on a typewriter?
5. What distinguishes the news show "60 Minutes" from every other television show?



6. True or False: Half of all Americans live within 50 miles of their birthplace.
7. If you were to spell out numbers, how far would you have to go until you would find the letter "a"?
8. What is the only food that does not spoil?
9. Which holiday has the highest number of collect telephone calls made?
10. Which world city has the most Rolls Royces per capita?






  
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The Marshall Chronicles is now available in full color,  
 both in print and on-line at [www.chicago13.com](http://www.chicago13.com)

**Did You Know: Photography Trivia**

May is National Photo Month. Take some pictures!

-  Louis Daguerre invented the first practical process of photography. He named this type of photograph after himself, calling it the daguerreotype.
-  Forms of cameras have been around since 1000 A.D., but film was not developed until 1884, when George Eastman invented a flexible, paper-based photographic film.
-  There are 12 cameras that have been left on the surface of the moon.



-  The first Polaroid camera was sold to the public in November 1948.
-  The original name for CANON cameras was "Kwanon," the Buddhist god of mercy. The name was changed to CANON in 1935 to avoid offending religious groups.
-  The photograph of U.S. Marines and a U.S. Navy corpsman raising the flag of the United States during World War II was taken by Joe Rosenthal on February 23, 1945. Raising the Flag on Iwo Jima is the only photograph to win the Pulitzer Prize for Photography in the same year as its publication.

