

# EXXTRA! EXXTRA!

READ ALL ABOUT IT

A PERIODIC NEWSLETTER BY THE  
OFFICE OF THE UNITED STATES TRUSTEE, REGION 20

Volume 1, Issue 1  
May 2003

## A WORD FROM THE U. S. TRUSTEE



The mission of the United States Program, to enhance the efficiency and the integrity of the bankruptcy system, now includes a (relatively) new component — the National Civil Enforcement Initiative. The Civil Enforcement Initiative got officially underway in October of 2001, and has taken Region 20 in an exciting new direction. In addition to our trustee oversight duties, we now spend our time, energy and resources ferreting out fraud and abuse within the system. It is the Civil Enforcement Initiative that is largely responsible for this newsletter.

**EXXTRA! EXXTRA!** is our way of better disseminating news and information from around the Region and explaining our purpose and focus. We will address current topics (*News from Around the Region*), introduce you to Region 20 staff (*We're From the Government and We're Here to Help*) and discuss an area of the law, pattern, or practice

which has particular significance to our Region (*Feature*). We'll also look at the lighter side with *Points of Interest* and *Let's Eat*. Plus much, much more. So read and enjoy!

**EXXTRA! EXXTRA!** will be published periodically and can also be found at [http://www.usdoj.gov/ust/r20/Region\\_20.htm](http://www.usdoj.gov/ust/r20/Region_20.htm). We hope you find it interesting and informative.

Let me add a special thanks to this issue's reporters — Ron Andazola, Herbert Graves, Katherine Vance, Joyce Owen, Edward Walsh and Kelly Jordan. A special thanks, too, to Kathy Wieland for putting it all together. Good job!

Welcome to Region 20!

Mary E. May, U. S. Trustee

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## WE'RE FROM THE GOVERNMENT AND WE'RE HERE TO HELP



What do you really know about the Assistant U. S. Trustees? Here's a little insight into their lives.

**Ron Andazola.** It's been almost 10 years since I was lucky enough to be appointed AUST for the District of New Mexico. When I started on the job, I had been in private prac-

tice for several years and had been District Counsel for the U. S. Small Business Administration. I had also served a six-year term on the Board of Regents for my alma mater, Western New Mexico University, during which there seemed to be no end of difficult and controversial issues. While I knew I had some things to learn, I felt comfortable I could handle the new challenges. Suffice it to say, the learning curve has been steep, and I continue to be amazed by

how much there is still to learn. I know this sounds corny, but I am grateful for the chance to be part of a talented and dedicated group of people who are making a difference. Needless to say, I think I have one of the best jobs around.

My wonderful wife, Martha, is a registered nurse whose major flaw is a misguided determination to keep my golf addiction in check. We love watching movies with our two great kids and taking the odd vacation with them. Although we both love reading, she prefers Victorian novels while I, eminently more sensibly, favor history.

**Herbert Graves.** I practiced law in the Western District of Oklahoma for twenty-three years before joining the United States Trustee program. I watched the U. S. Trustee program begin as a "pilot program", struggle as it opened the Oklahoma City office and worked diligently at becoming certified. Never did I ever think I would go to work in government much less for the Office of the United State Trustee.

I majored in zoology and later went to law school because I enjoyed working with people and somehow thought I could mesh the two together to work in a legal medical context. That never seemed to happen, but my interest in people enabled me to work in both consumer and commercial bankruptcy. Growing up in western Oklahoma, I had a working knowledge of agriculture and represented a large number of farmers during the 1980s. This gave me the opportunity to help draft Chapter 12 of the Bankruptcy Code and to subsequently testify to Congress.

I joined the U. S. Trustee's Office in 1991. I originally thought I would stay about six years and return to private practice. I didn't expect to find such satisfaction in assisting in administering a national program and in having the opportunity to interact with the bankruptcy court, the U. S. Attorney's Office and other federal agencies. While approximately 51% of Region 20's case load is in Oklahoma, the Western District of Oklahoma's case load is very similar to the District of Kansas. It amazes me when I reflect that during my eleven years in the program that I have overseen the administration of over 130,000 cases.

When not working I spend most of my time gardening, looking after my grandson and, in the winter, skiing. Travel is also an interest and I spent a week in Seoul, Korea, in November followed by ski trips to Santa Fe and Taos. My 2004 plans include a return trip to France and Germany.

**Katherine Vance.** Some of you may think you are the old timers around here, but there are actually a few of us who on August 16, 1987 opened up offices within the Tenth Circuit, introducing the Office of the United States Trustee to the Bench, Bar and Public. While at the time it was rather overwhelming and somewhat humorous, it all began with a Fed-X at home the Saturday before, of three phone book sized manuals, news that my appointment (i.e., payroll) was not yet signed, but if I wanted, I could start anyway on Monday and hopefully Attorney General Meese would sign it the next week. Since I quit on Friday as the Estate Administrator for the Bankruptcy Court for the Eastern District of Oklahoma, my alternatives were limited!

Off I started, with two staff to open shop in a conference room in the Federal Courthouse in Tulsa. Our new space and

facilities included no desks or chairs, three phones dangling out of the ceiling, and around ten boxes of pleadings. Around 10 a.m., Judge Mickey Wilson summoned me to appear on the chapter 11 docket for some case I knew nothing about! We were off to a good start, as luckily I brought from my old days in private practice, my own Code and a few legal pads. After lunch, Dottie, the Bankruptcy Court Clerk, called and asked when were we picking up the pleadings that had been filed that day (about a foot high!) What to do with all the paper continues to be an unending question, even as we begin this new age of Electronic Case Filing!

Bruce and I still live out in the country; Grant will graduate from high school this May, while Emily moves up this fall to Middle School. We have gone from raising horses to cattle and show lambs for FFA and 4H. My father joined us two years ago to work on a book and lives in the bunk house. "Green Acres. . ."

For those of you from places far from here, so am I. I received a Bachelor of Arts degree in Government from St. Lawrence University in Canton, New York (we played Syracuse in basketball) and ventured down to Tulsa for a Juris Doctorate degree from the University of Tulsa College of Law. Life was good for this young lawyer, so I hung my shingle and have been an Okie ever since!

**Joyce Owen.** When the U. S. Trustee Program expanded nationwide in 1987, I was a law clerk for a Bankruptcy Judge in Illinois. The Judge encouraged me to apply, since I wanted to continue working in the bankruptcy area. When asked to interview with the U. S. Trustee in Wichita I agreed, but later asked my husband, "Where is Wichita?" He said, "It's quail heaven, let's go." (He is an avid hunter and raises and trains English Setters). I thought I would stay in Wichita a couple of years before moving back home to Illinois, but I'm still here 16 years later.

I'm still here because being an AUST is both challenging and rewarding. I am responsible for assuring that the Wichita office meets all its legal and administrative responsibilities for the District of Kansas. In addition to managing our office, I also serve on the ECF Oversight and Communication Committees, the Local Rules Committee, and the Bench and Bar Committee recently formed in Kansas City.

I enjoy reading, and listening to books on tape, since I spend a good deal of time commuting and traveling between Wichita, Topeka and Kansas City. Reading cookbooks, and occasionally making the recipes therein, is another of my interests. I also grow an herb garden each summer. I enjoy all types of music, but most often listen to the blues. My husband Mike and I regularly attend live musical performances, and recently went on a blues cruise, featuring many nationally known blues artists. We also enjoy camping, and attend the Walnut Valley Bluegrass Festival in Winfield, Kansas each September. Last year, our campsite (shared by about 40 near and dear friends) won the "Best of Campground" award from the festival organizers.

## 10TH CIRCUIT REVIEW



The courts in the Tenth Circuit have issued a number of opinions over the last several months. A few of the cases involving more novel issues are summarized below.

### **Chapter 13 Plan Language No Substitute for Adversary.**

*Altegra Credit Company v. Ernestine Dennis* (*In re Dennis*) 286 B.R. 793 (Bankr. W.D.Okla. 2002). Plaintiff held a mortgage on Debtor's home obtained by Debtor to enable Debtor to make home repairs. The Defendant-Debtor attempted to treat Plaintiff's claim as an unsecured claim which would be discharged upon completion of the plan and inserted language to that effect in the confirmed plan. Plaintiff brought an adversary proceeding for declaration that its lien was valid, enforceable, and unaffected by language in Chapter 13 plan or plan confirmation order treating it as unsecured creditor. On Defendant/Debtor's motion to dismiss, the bankruptcy court held that: (1) debtor could not transform secured debt into unsecured debt merely by identifying it as such in her plan; and (2) if debtor had good faith basis to contest validity of creditor's lien, it was up to debtor to commence adversary lien avoidance proceeding.

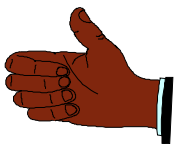
**No Set Off Here:** In *United States of America v. Wesley Allen Myers, et al.* (*In re Meyers*) 284 B.R. 478 (10th Cir. BAP (N.M.) 2002) the United States through the Department of Agriculture Farm Services Agency ("FSA") attempted to obtain a court order lifting the automatic stay to enable FSA to set off funds it owed to the Debtors for certain crop payments against what it claims the Debtors owe to FSA as holder of a foreclosure judgment. The relief was denied, because FSA as a creditor had "no claim against the debtors [it had been discharged in prior bankruptcy proceeding], FSA had nothing to setoff against what it owes to the debtors under the various agriculture programs."

**One For the Trustees - Turnover Those Tax Returns and Refunds:** *In re Beach*, 281 B.R. 917 (10<sup>th</sup> Cir. BAP (Kan.) 2002).

When debtors refused to turn over their 2001 state and federal tax returns as well as any portion of their refunds to the Chapter 7 trustee ("Trustee"), the Trustee brought a turnover action under 11 U.S.C. § 704(1) contending that these items were "property of the estate" and Section 521 which requires the Debtors to cooperate with the Trustee. The bankruptcy court found that when the Debtors filed for Chapter 7, they waived their right to the confidentiality of their tax documents, and that the documents had to be turned over to the Trustee. The Court also held that any portion of the Debtors' 2001 tax refunds attributable to their prepetition year were property of the estate and the Debtors were required to turnover any such portion received. The BAP affirmed.

**Notice to Attorney Can Be Notice to Client.** *Chanute Prod. Credit Assoc. v. Schicke* (*In re Schicke*), \_\_\_ B.R. \_\_\_ (10<sup>th</sup> Cir. BAP (Kan.) 2003), 2003 WL 1203935. The Credit Union failed to timely file a dischargeability complaint, because, according to the Credit Union, it never received notice of the Debtor's bankruptcy filing. The Credit Union filed a motion to reopen the case, so that it could file a Section 523 complaint. The requested relief was denied by the Bankruptcy Court. Although the Credit Union was listed as a creditor on the Debtor's bankruptcy schedules, the bankruptcy notice was sent in care of its former attorney, and according to the BAP, that was good enough. "Scheduling a creditor in care of any attorney-agent may not, depending on the facts of the case, be offensive under § 342(a) or due process. . . . This assumption holds even when the attorney's retention has been terminated by the client, if the termination is unknown to the debtor." By scheduling the Credit Union through its attorney/agent, "the Debtor gave the best notice of his Chapter 7 case that was possible under the circumstances." As a result, the Bankruptcy Court did not abuse its discretion when it refused to reopen Debtor's case, since any Section 523 complaint would have been time-barred.

## BEST OF CIVIL ENFORCEMENT



The Civil Enforcement Initiative consists of essentially two components – (1) to ensure consumer protection and (2) to address Debtor misconduct. Region 20 has taken its obligations under the Initiative seriously – ferreting out those debtors looking for a "head start," rather than the "fresh start"

promised by the Bankruptcy Code, protecting Debtors from attorneys who cannot or will not do their jobs, and otherwise policing the system as we work to make it more effective and efficient. A small sampling of our initial efforts are set forth below:

**\$37 Million Declared Non-Dischargeable under § 727.** The Oklahoma City office reports the entry of a default judgment on December 10, 2002, pursuant to 11 U.S.C. § 717(a)(4)(D), (a)(6) and (a)(7) declaring the debts of Debtor David Wayne Allen non-dischargeable. *In re David Wayne Allen*, BK-01-22568. Debtor was in the construction business in Oklahoma

and Texas. Debtor was an officer, director, owner of 49% of the stock and person in control of a corporation named Allen Construction Company, Inc. Debtor filed a joint Chapter 7 with his wife and a separate Chapter 7 for his corporation. Under oath at the meeting of creditors for the corporation, Debtor agreed to furnish to the trustee assigned to the case copies of corporate records, bank statements and imaged checks for two corporate bank accounts, but failed to do so. During the meeting of creditors for the Debtor's personal case, the Debtor agreed to provide to the trustee copies of a real estate contract relating to the sale of Debtor's residence, a copy of the Debtor's most recent homeowner's policy, copies of contracts to purchase two Volkswagen automobiles and copies of financial statements given to banks. The trustee subsequently obtained a court order which ordered the Debtor to bring the documents listed above and additional documents to a Rule 2004 examination. The Debtor appeared at the examination, did not bring the documents, and invoked his rights under the Constitution against self incrimination. The

Debtor's unsecured debt declared non-dischargeable exceeded \$37 million.

**Debtor Convicted of False Declaration.** The Wichita office reports that Martha S. Hathaway, Case No. 01-20694-7, entered into a plea of Guilty to Social Security Fraud in violation of Title 42, U.S.C. § 1383(a)(3)(A) and False Declaration in Bankruptcy in violation of Title 18 U.S.C. § 152. The office of the United States Trustee provided the United States Attorney with information related to the bankruptcy crime, specifically, a list of items of property and the transactions which should have been disclosed, but were not, on the debtor's bankruptcy schedules.

**Payments to Adult Children and 401(k) Plan Found Abusive.** The Albuquerque office reports that on February 10, 2003, the Bankruptcy Court for the District of New Mexico entered an order granting the U.S. Trustee's motion to dismiss the Chapter 7 proceeding of Margaret Bergstrom for substantial abuse. Based on evidence introduced by the U.S. Trustee at the final hearing, the Bankruptcy Court found that the Debtor's \$200 a month payments to her 30-plus year old children constituted disposable income. Further, the Bankruptcy Court found that the Debtor's 15% contribution to her 401(k) retirement was excessive and that the Debtor had additional disposable income of \$240 per month. Concluding that the monthly disposable income of \$440 would pay a significant percentage of the outstanding debt in a Chapter 13 proceeding, the dismissal was entered when the Debtor elected not to convert. As a result of the dismissal, over \$73,600 in unsecured debt was not discharged.

**Family indicted for conspiracy to defraud in bankruptcy in violation of 18 U.S.C. § 152(1).** The Oklahoma City office reports the indictment of William Larsen and Permelia "Pam" Larsen, husband and wife, and their son, Michael Dean Larsen, on charges that they conspired to defraud the bankruptcy estate of Bill's Sweeping, Inc, a Chapter 11 case filed on July 10, 1997, and subsequently converted to Chapter 7 on March 6, 1998. The Larsen family were officers and directors of the Debtor, Bill's Sweeping, Inc. In February, 1998, they formed Bill's Parking Lot Maintenance, a corporation, and proceeded to divert \$33,576 of accounts receivables from the Debtor to the new corporation, Bill's Parking. It is alleged that in one instance a check for \$15,039 was hand delivered back to the creditor and a new check was requested and issued to Bill's Parking. The investigation of the Larsen's began at the recommendation of the assigned panel trustee and upon the submission of a criminal referral by the United States Trustee's office.

**Court Enters Agreed Order Denying Discharge of Debtor.** On January 10, 2003, the Bankruptcy Court for the Northern District of Oklahoma entered an Agreed Order Denying Discharge in the case of Lisa Chan Phung Lam, No. 02-02765-R, Adv. No. 02-0224-R. The U.S. Trustee's Complaint Objecting to Discharge was filed on October 30, 2002, under 11 U.S.C. § 727, after review of the petition revealed a possible credit card scam. After the Debtor was subjected to a 2004 exam, Debtor's counsel agreed to an Order Denying Discharge, which admitted the allegations in the U.S. Trustee's Complaint.

**Cases converted after Motions to Dismiss Filed.** The Wichita office reports that in December of 2002, seven cases converted to Chapter 13 on the Kansas court dockets where § 707(b)

motions were pending. As a result, a total of \$542,000 of unsecured debt was not discharged.

**Case Dismissed for Substantial Abuse Based on Exaggerated Expenses.** The Tulsa office reports that on January 27, 2003, the Bankruptcy Court for the Eastern District of Oklahoma granted the U.S. Trustee's Motion to Dismiss the bankruptcy case of Charles and Patricia Carson, No. 02-73290, under 11 U.S.C. §707(b). Debtors received net income from VA benefits of \$3,957.28 each month and had expenses of \$3,942.97 for two people, including \$725.00 for food, \$567.00 for home maintenance & repairs and \$260.00 for clothing.

**Former Chapter 11 Trucking Company Owner Sentenced to Five Years for Fraud.** The Tulsa office reports that Michael Jeffrey Morris, former owner of Mid-Continent Transportation Company, Inc., entered a guilty plea in October and was sentenced on January 29th to five years and three months in prison and ordered to pay \$1.6 million in restitution relating to "check kiting" and "wire fraud" that occurred prior to the case being filed as a Chapter 11. The case was later converted to a Chapter 7 pursuant to a motion filed by the U. S. Trustee. The United States trustee's office provided valuable assistance to investigators and prosecutors throughout the process of obtaining the conviction. The Office spent a number of hours tracking bank accounts, corporate names, working with the trustees and other creditors who were stung in the Chapter 11. This debtor is one the office has been tracking for several years, and through various cases.

**Keeping Two Cars and Two Car Payments Constitutes Substantial Abuse for Single Debtor.** On February 25, the Bankruptcy Court for the District of Kansas, Topeka Division, sustained the United States Trustee's Motion to Dismiss pursuant to 11 U.S.C. § 707(b) in the case of Randy Jim Zechel. The debtor's schedules showed monthly income of \$2,474.75 and monthly expenses of \$2,551.00, which included payments of \$458.00 for a 1998 Chevy Silverado pickup and \$408.00 for the purchase of a 1996 Harley Davidson motorcycle. The debtor claimed the motorcycle, which had substantial equity, as his exempt "mode of transportation" under state law, while leaving the pickup, which was fully encumbered, non-exempt. The debtor planned to keep both vehicles. The U. S. Trustee did not claim that the exemption was not properly taken, but rather argued that the debtor needed only one vehicle and that if the other vehicle was returned to the secured creditor, that monthly payment could then be used to pay unsecured creditors in a Chapter 13. The Court sided with the U. S. Trustee and under the "totality of the circumstances" found that the Chapter 7 filing was a "substantial abuse," and gave the debtor 10 days to convert his case to a Chapter 13, or the case would be dismissed.

## FROM AROUND THE REGION



**ALBUQUERQUE. Bankruptcy Fraud Working Group Revived.** After a hiatus of several years, a meeting of the Bankruptcy Fraud Working Group for the District of New Mexico was held in the Albuquerque offices of the U.S. Trustee on March 27, 2003. There was very useful discussion as to how best to identify and refer cases

which served the enforcement priorities of the various agencies while at the same time pursuing bankruptcy crime. The Assistant U.S. Attorney charged with responsibility for prosecuting bankruptcy crimes was present and assured all participants that their referrals would be acted upon. The two attorneys in the Albuquerque office, both of whom have been designated as Special Assistant U.S. Attorneys, will provide support in those efforts. The Bankruptcy Fraud Working Group will meet on a quarterly basis.

**Video Conference.** While sitting at her headquarters in Wichita, the U. S. Trustee attended a recent staff meeting in Albuquerque through the magic of television. Both the Wichita and Albuquerque offices have been equipped with video conference equipment, which made the meeting possible. With the exception of an audio glitch, the "face to face" meeting was without incident, informative and will likely become a monthly occurrence.

**Oklahoma City. Judge Jackson and His New Guidelines.**

Judge Niles Jackson was appointed a U. S. Bankruptcy Judge in April, 2002, replacing Bankruptcy Judge John TeSelle who retired after fourteen years on the bench. Judge Jackson has implemented "Judge Jackson's Chapter 13 Guidelines," effective April 1, 2003, which replace the prior guidelines of Judge TeSelle. Judge Jackson's guidelines cover the majority of administrative issues relating to Chapter 13 practice before the Bankruptcy Court for the Western District. The guidelines may be found at <http://www.okwb.uscourts.gov>.

**TULSA. Business is Booming.** Its like the 80's!! The economy is down, but cases are up, both in 7's and 11's, and new attorneys are venturing into the neighborhood of the Bankruptcy Courts. New technology is approaching, with ECF starting very soon for the Eastern District, and the Northern District beginning the process. Paul Thomas, Trial Attorney, recently welcomed with "Mr. Roger's" opening lyrics the eager students at the Basic Bankruptcy Seminar, offering practical tips, web-sites with more information, names and phone numbers, and that age old practical advice, don't be afraid to ask!

We are finally winding down from the CFS case, and our new challenges are the weekly new Chapter 11 cases as a result of the downturn in the economy. American Airlines is the largest employer in Tulsa and its fate concerns everyone. Our trustee panel is smaller, with the resignation of Ken Mather, out of the Eastern District, and the retirement of Joe Adams, also from the Eastern District. Over fifty applications for the panel have been received, and new trustees will be selected soon.

Civil Enforcement efforts have been very successful, and the U.S. Attorney's office has recently announced two indictments for fraud committed in bankruptcy cases. In the Northern District, the judges held an open forum for attorneys to discuss issues between the Bench and Bar in an effort to improve the administration of justice. In the Eastern District, the Court will soon invite attorneys to an ECF Working Group to address implementation of the new electronic system for case filing. Working together, the Office the

U.S. Trustee and the bar are improving the representation of debtors, curbing efforts of those seeking to engage in the unauthorized practice of law, and opening a dialogue regarding reasonable fees and proper disclosure. The Bankruptcy Section continues to offer speakers to County Bar Meetings, and has been distributing cases and notes of interest to all members by the state wide Listserv.

**WICHITA. New Trustees.** The United States Trustee appointed two new Chapter 7 Panel Trustees effective April 1, 2003, to handle cases filed in Wichita. We are looking forward to working with them, and case appointments will start in May.

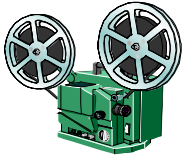
Linda S. Parks is a Managing Partner in the law firm of Hite, Fanning & Honeyman L.L.P. She has extensive experience in business transactions and commercial litigation. She was appointed by the Securities Investor Protection Corporation to serve as bankruptcy trustee for a securities corporation forced into Chapter 7 bankruptcy. She graduated from Washburn University School of Law.

Carl B. Davis is a partner in the law firm Davis & Jack, L.L.C. He frequently represents both debtors and creditors in bankruptcy matters. For the past 14 years he has represented one of the largest collection agencies in the State of Kansas. He has served as Co-Author and Lecturer for numerous seminars on collection law in the State of Kansas. He graduated from the University of Kansas School of Law.

**Electronic Case Filing (CM/ECF).** CM/ECF will be implemented in the Kansas Bankruptcy Court this fall. The new system will allow documents to be filed electronically, from a computer with internet access. It will allow 24 hour electronic access to all filed documents, at the time and location most convenient to users. As the implementation date draws closer, the Court will be providing information and training through a variety of sources. One of the best sources will be the website for the U.S. Bankruptcy Court, District of Kansas at <http://www.ksb.uscourts.gov/index.html>. At that site, choose the CM/ECF button, which takes you to the CM/ECF homepage at <http://www.ksb.uscourts.gov/cmecfinfo.html>. You can also go directly to the CM/ECF homepage. The Clerk's Office at your Desktop button provides information regarding the features and benefits of CM/ECF. There is a suggested hardware list, which details the equipment needed to successfully use CM/ECF. The skills checklist will be useful in determining what type of basic computer training users may need prior to using CM/ECF, such as file management skills and internet browser skills. The site contains online training that users can begin accessing now to learn more about how the system works, including how to file a new bankruptcy case, a motion, or an adversary proceeding. The Coming Soon section of the site features upcoming events and new information as it is available, and will be updated as needed to keep users informed of implementation progress.

**New Local Rules.** The new *Local Rules of the United States Bankruptcy Court for the District of Kansas*, which became effective March 17, 2003, can be found at <http://www.ksb.uscourts.gov/Docs/localrules2003.pdf>.

# FEATURE



## NEW PROGRAM POLICY FOR ACTIVE DUTY MILITARY

In light of recent events, a large number of our Nation's military men and women have been deployed overseas. As a matter of Program policy, the United States Trustee will now excuse unavailable Active Duty service members in the following circumstances:

- The Active Duty service member is a joint debtor and is unable to appear in person or telephonically because of mobilization or deployment;
- The joint debtor spouse attends the meeting of creditors and is able to testify competently regarding the household's financial affairs;
- No party in interest objects; and
- No indicia of fraud, bad faith, or lack of consent are present.

The Active Duty debtor's identity, mobilization or deployment, and consent to filing will be verified by the Office of the United States Trustee and should be done prior to the 341 meeting. In so doing, the U. S. Trustee may require that the joint debtor spouse attending the meeting produce copies of the Active Duty debtor's photo ID, proof of Social Security number, and deployment orders. To verify consent to the filing, the spouse appearing at the 341 meeting will be required to provide a "Consent to Filing" signed under penalty of perjury that affirms the Active Duty debtor is aware of and has agreed to the bankruptcy filing. If the United States Trustee is satisfied with the information provided and determined that no exceptions apply, the Active Duty debtor's appearance can be conditionally waived under the U. S. Trustee's administrative authority to conduct 341 meetings.

If at the 341 Meeting, a creditor objects to the meeting being conducted without the presence of the Active Duty debtor or if there is some indication of fraud, bad faith, or lack of consent, the 341 meeting should be adjourned. The trustee should immediately contact the U.S. Trustee's office to determine how to proceed under Section 521 of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. App. § 521, which requires a court to stay "any action or proceeding" unless the ability of the service member to prosecute an action or conduct a defense "is not materially affected by reason of his military service."

If you have any questions about the new policy, please contact the Office of the United States Trustee.

[Case Caption]

**CONSENT TO FILING**

The undersigned hereby declares, under penalty of perjury, the following:

1. I am the spouse of \_\_\_\_\_ ("Joint Debtor"), the joint debtor in the above-captioned bankruptcy.
2. Joint Debtor is aware of and has consented to the filing of a petition for relief under Chapter 7 of title 11 of the United States Code, 11 U.S.C. 101, *et seq.*, by or on Joint Debtor's behalf.
3. Joint Debtor is on active duty in the military, Joint Debtor has been deployed or mobilized, and that, as a result thereof, Joint Debtor is unable to attend the § 341 Meeting of Creditors.
4. Attached hereto is proof of Joint Debtor's identity and Social Security number.

DATED: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
 COUNTY OF \_\_\_\_\_ )

SUBSCRIBED AND SWORN this \_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
 Notary Public

My commission expires:

## ANALYZE THIS

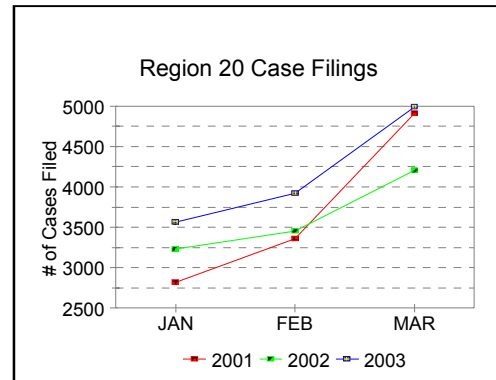


2003 started with a significant increase in the number of bankruptcy cases being filed in the Region. Bankruptcy case filings are up 15% for the first three months of 2003 (12,476) compared to the same time in 2002 (10,885). The 15% increase is consistent across Kansas, Oklahoma and New Mexico.

January and February 2003 started the year significantly higher than the prior years. March 2003 continued the trend of being one of the highest months for filing bankruptcy.

The increase in cases can put a strain on the bankruptcy system. The increased volume impacts debtors' counsel, the bankruptcy clerk's staff, trustees, and the U. S. Trustee's office. In some cities, it has been necessary to use an overflow day to conduct 341 meetings for Chapter 7 cases.

The Region's bankruptcy system appears to be holding up well under the increased workload. Everyone's efforts are especially appreciated at a time when the case filings are up.



## POINTS OF INTEREST

**El Morro or Inscription Rock.** Rising 200 feet above the valley floor near Ramah, New Mexico, this massive sandstone bluff was a welcome landmark for wary travelers. A reliable water-hole hidden at its base made El Morro (or Inscription Rock) a popular campsite. Beginning in the late 1500s, Spanish, and later, Americans passed by El Morro. While they rested in its shade and drank from the pool, many carved



El Morro or Inscription Rock

signatures, dates, and messages on the Rock. The earliest inscription was made by the Spanish conquistador, Juan de Onate in 1607. Before the Spanish, petroglyphs were inscribed by Ancestral Puebloans living on top of the bluff over 700 years ago. Today, El Morro National Monument protects over 2,000 inscriptions and petroglyphs, as well as Ancestral Puebloan ruins.

## LET'S EAT



Here is a delicious quick and easy coconut cake recipe from *Bon Appétit* (April 2001) magazine. It makes a great dessert for a BBQ or any type of warm weather celebration. I have made this cake several times for family and friends, and everyone loved it!

### OLD-FASHIONED COCONUT CAKE

#### Cake

- 1 18.5-ounce package butter recipe golden cake mix
- 3 large eggs
- ½ cup (1 stick) unsalted butter, room temperature
- 1/3 cup sweetened cream of coconut (such as Coco López)\*
- 1/3 cup water
- 1 tablespoon dark rum (Myers brand)

#### Frosting

- 2 8-ounce packages cream cheese, room temperature
- ½ cup (1 stick) unsalted butter, room temperature
- ½ cup sweetened cream of coconut
- ¾ cup powdered sugar
- 1 teaspoon vanilla extract

- 1 10-ounce package sweetened flaked coconut (about 3 cups)

For cake: Preheat oven to 375° F. Butter and flour two 9-inch-diameter cake pans. Combine all 6 ingredients in large bowl. Using electric mixer, beat mixture on low speed until smooth. Increase speed to medium and beat 4 minutes. Divide batter between prepared pans. Bake cakes until tester inserted into center comes out clean, about 25 minutes. Cool in pans 10 minutes. Cut around cakes to loosen; turn out onto racks. Cool completely.

For frosting: Using electric mixer, beat cream cheese, butter and cream of coconut in large bowl until smooth. Beat in powdered sugar and vanilla.

Place 1 cake layer, flat side up, on platter. Spread layer with ¾ cup frosting. Sprinkle with ¾ cup flaked coconut. Top with second cake layer, flat side down. Cover top and sides of cake with remaining frosting. Press remaining flaked coconut over top and sides of cake. Chill cake until frosting is firm, at least 1 hour. (Can be made 1 day ahead. Cover loosely and keep chilled until 1 hour before serving.)

\*Cream of coconut is available in the liquor section of most supermarkets.

Makes 12 servings.

Bon Appétit!

Kelly Jordan

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