

**TRUSTEE TOP THIRTY LIST**  
**Office of Chapter 13 Trustee Herbert L. Beskin**  
**June 2, 2017, WD of VA Bankruptcy Conference**

PLAN

1. Make sure every creditor on Schedules D and E is provided for in the plan
2. Make sure payments in paragraphs 3 and 5B, divided by 0.9, are less than the monthly plan payment
3. Use suggested language for ongoing mortgage cases and file “first day” order with the plan
4. Check claims before plan is filed
5. Attorney fees in plan: make sure \$#'s are correct and total of fees accounts for previous attorney fee orders already entered.
6. Paragraph 3.B: remember to account for principal & interest payments that the Trustee paid prior to surrender.
7. Remember to look at the Order Confirming plan “other provisions” prior to filing a modified plan to see if treatment of claims has changed or funding has changed

BEFORE 341 MEETING

8. Set up TFS payment or submit wage deduction order (“WDO”) when plan filed
9. Set up automatic payment of regular post-petition mortgage payments if there are arrears at time of filing (Bill Pay)
10. Make sure to include the following with 341 documents:
  - a. Provide proof of support income or expense
  - b. Provide prior Homestead Deed(s)
  - c. Provide Deed to real estate – and make sure the legal interest shown on Schedule A matches the documents
  - d. If you are alleging large expenses for medical needs or non-filing spouse debt, provide documents which support the deduction, including a summary of what they show
  - e. If you are asserting a Lanning adjustment on Line 43 of Form 122: provide documents which support the amount taken and how calculated

FOR CONFIRMATION HEARING

11. Provide some response to each Trustee Report item before the first confirmation hearing
12. Verify that Debtor’s payments are current and some automatic payment system is in place (ie – TFS or WDO)
13. Look at Trustee’s Matter Calendar for Trustee’s recommendations and order language, and alert Trustee’s staff immediately if you disagree
14. Trustee recommendation/status emails are sent prior to each hearing to attorneys and/ or their staff. If we receive no response to Case Administrator’s (“CA”) email, it is presumed by the CA that you agree with the recommendation provided by the Trustee.
15. If a case is “ready” for confirmation with other provisions, please respond promptly to the CA’s email confirming that you agree or disagree with the other provisions prior to the hearing.

INSURANCE CLAIMS FOR TOTALED VEHICLES

16. In cases where the Debtor’s vehicle has been deemed a total loss post confirmation, check the plan for the treatment of the vehicle (paid under plan or direct by debtor) and the Trustee’s website to see if the claim has already been paid in full before referring the insurance company to the Trustee’s office.
17. Reach out to Cassandra for insurance payment information

## TRUSTEE MOTIONS TO DISMISS

18. Contact our staff (Cassandra) as soon as you know what your response will be to the Motion to Dismiss. In most cases the attorney's office will know well before the hearing that the Debtors won't be opposing dismissal.
19. If there has been more than one default in plan payments, Trustee will want an automatic payment going forward.
20. If no payments from Debtor(s) for a significant period of time, Trustee will not endorse an Order Resolving until payments have resumed, and in most cases an automatic payment has to be in place and working.
21. If additional attorney fees are requested in an Order Resolving, remember to increase the current base gross by the additional fees, plus Trustee's commission (i.e.: \$150 divided by 0.9 or \$250 divided by 0.9)

## ORDERS FOR ENDORSEMENT

22. *Too Early Orders* aren't so great. When you send over an Order for a hearing too soon before the hearing (1-2 weeks), chances are that the final review by the Trustee has not been made yet and the Order cannot be endorsed until that review is complete. This means we're holding the Order and we really can't be checking every day to see if the review is complete. This sometimes results in a late endorsement which is the exact opposite of your intent in sending it early. If you do send an early order, you will need to contact RC 4 or 5 days before Court so that he can check on the order and let Herb know that it's waiting for review.
23. *Too Late* orders aren't so great either. So there's a sweet spot of around 3-4 days before the hearing date when you can expect the matter to be reviewed. Please try to get the early order in then. But waiting until the day before the hearing is often too late and the Judge may not enter your Order even if the Trustee endorses it.
24. Amended/Corrected Orders: Please give us a brief explanation of why the Order is being amended or corrected. We don't always have a context for why an Order must be changed. If the Judge or Law Clerk has rejected the Order then it is very important for us to know the reason so that when RC is reviewing orders going forward, he will know Court policy or if he has missed something in his review of the Order.
25. Measure twice, cut once. Okay, that's an old carpenter saying but it holds true when you are preparing Orders. Take care to make sure your Orders contain accurate information so that you will receive instant endorsement and save lots of time over having to correct or explain to RC things that don't make sense.
26. Read the Orders that are endorsed on behalf of your employer-attorney. We often see Orders that are endorsed by Debtor's counsel but contain inaccurate statements or terms that are disadvantageous to your clients.
27. About lift stay Orders: When the Stay is lifted on property, the Order must include a statement that tells the Trustee to cease making payments if that is the intent of the Order; also, the Order will usually need a statement about a time limitation for filing any deficiency claim. The Judge has standardized this time limit to be 180 days for vehicles and for real estate.
28. There are exceptions that can impact the Debtor. You should check to see if the Stay has been lifted in the past and the time limit for filing a deficiency claim has already expired. Also, all plans have a statement in paragraph 11.C (usually) that states that the time limitation for filing a deficiency claim begins when the confirmation order is entered or order lifting stay is entered—whichever come first!. If a lift stay Order comes in before the confirmation Order is entered, we use the start date in the lift stay Order. If it comes in after, we use the start date of the day the confirmation Order is entered.
29. Orders extending the time for filing plans, schedules, and other documents in a new case: The Trustee and Staff Attorney will endorse an order asking for more time, but the required documents need to be filed so that Herb or Angela have at least 5 working days before the 341 Hearing date to review those documents. If you ask for an extension that gives them less than 5 days, they will ask you to revise it.
30. Who reviews which Orders? Cassandra reviews Orders Resolving and gives endorsement. Court preparers for Charlottesville (Jennifer Wagoner), Lynchburg (Alexis Pennington), and Harrisonburg (Jen Schindler & Angela Scolforo) review and endorse Orders waiving notice on plans, "early" continuation Orders, and other Orders as needed. Please copy RC on all Orders because he keeps an archive of all the Orders that are endorsed. He reviews almost all of the rest of the Orders.