



Property of the Estate

Presented by:
LEGAL EDUCATION DEPARTMENT
of
Attorneys' Title Fund Services, LLC

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Property of the Estate

Bankruptcy Basics for Real Estate Practitioners

Presented by: John B. "Jay" St. Lawrence
Fund Legal Education Attorney
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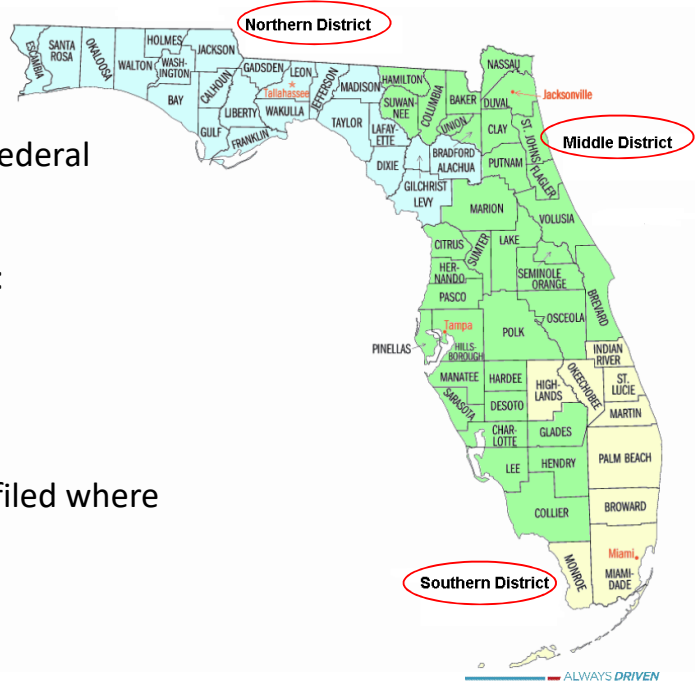
What is Bankruptcy?

- A legal process under which a borrower protects and/or liquidates assets in order to repay debts.
 - (Merriam-Webster)



Jurisdiction

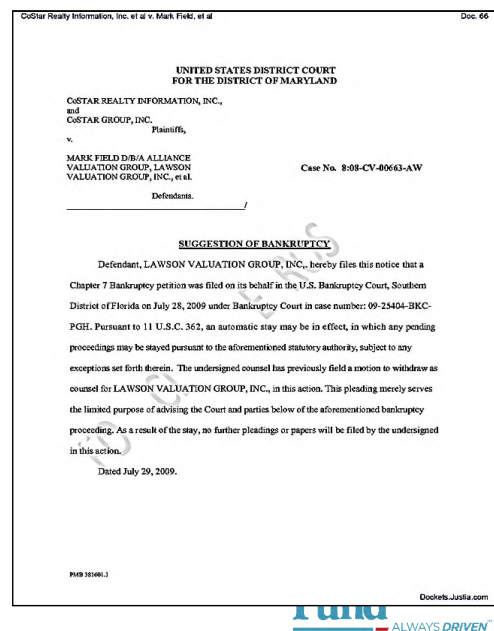
- Bankruptcy courts subset of Federal Courts
- Florida has 3 Federal Districts:
 - Northern
 - Middle
 - Southern
- Note: Bankruptcy not always filed where subject property located



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How Does Bankruptcy Become a Closing Issue?

- Suggestion of Bankruptcy appears in the chain (generally just when there is related litigation) or
- Party discloses bankruptcy
- Bankruptcy appears on the property appraiser's website
- Fund Title Notes require examination of a bankruptcy in cases *in which the current owner, or any owner within the last 7 years, was a debtor in bankruptcy while in title or within 4 years of being in title.* (TN 5.06.01)



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Useful Bankruptcy Terminology

- Bankruptcy Petition
 - Initial document filed to begin a bankruptcy case
 - Triggers automatic stay
- Automatic Stay
 - 11 U.S.C. Sec. 362 “injunction against the world” effective regardless of notice
- Bankruptcy Schedules
 - Forms “A-J” providing information on debtors’ assets, liabilities, etc.
 - Schedule A shows real property owned
 - Schedule C shows claimed exemptions, including homestead
- Lift of Stay
 - Order from bankruptcy court permitting specific actions as to property

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Useful Bankruptcy Terminology (cont'd)

- Discharge
 - Permanent injunction releasing a debtor from personal liability for specified debts
 - Does not eliminate liens or secured debts automatically
 - Some debts may be “excepted from discharge”
 - Not granted in every case
- ***NOTE:** “Discharge” is as to debtors, not the case. Entry of discharge does not necessarily mean the case is closed and the automatic stay is gone (although closure usually follows). “The debtors received their discharge.”

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Useful Bankruptcy Terminology (cont'd)

- Ch. 13 Plan / Ch. 11 Plan “Plan of Reorganization”
 - Statement proposing how creditors will be categorized and paid through the bankruptcy
- *Sec. 341 Meeting of Creditors*
 - Debtors must appear under oath
 - Trustee & creditors can ask questions
 - May be continued to another date
 - Conclusion of meeting starts timer for deadline for objections to claimed exemptions (such as homestead) – 30 days after *conclusion**
 - **or 30 days after schedules / petition amended if applicable*

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Useful Bankruptcy Terminology (cont'd)

- Dismissal
 - Terminates automatic stay
 - Usually means no discharge
 - Ch. 13 cases are often reinstated or converted to Ch. 7
 - Subject to an appeal period (usually 14 days)
- Abandonment
 - Trustee or Debtor will not administer property
 - Property returns to debtor
 - Still protected by Automatic Stay

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How Does Bankruptcy Work?

- Individuals or businesses (with spouses & co-debtors) file a petition
- Non-exempt property is liquidated
- Or a Ch. 11 or 13 Plan is confirmed and completed
- Discharge entered

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Fill in this information to identify your case:

United States Bankruptcy Court for the:
MIDDLE DISTRICT OF FLORIDA

Case number (known): _____

Chapter you are filing under:
☒ Chapter 7
☐ Chapter 11
☐ Chapter 12
☐ Chapter 13

☐ Check if this is an amended filing

Official Form 101
Voluntary Petition for Individuals Filing for Bankruptcy 12/15

The bankruptcy forms use you and Debtor 1 to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a joint case—and in joint cases, these forms use you to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses Debtor 1 and Debtor 2 to distinguish between them. In joint cases, one of the spouses must report information as Debtor 1 and the other as Debtor 2. The same person must be Debtor 1 in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name	<p>Write the name that is on your government-issued picture identification (for example, your driver's license or passport).</p> <p>First name: John</p> <p>Middle name: _____</p> <p>Last name and Suffix (Sr., Jr., II, III): Doe</p> <p>Bring your picture identification to your meeting with the trustee.</p>	<p>First name: _____</p> <p>Middle name: _____</p> <p>Last name and Suffix (Sr., Jr., II, III): _____</p>
2. All other names you have used in the last 8 years	<p>Include your married or maiden names.</p>	
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)		

Official Form 101 Voluntary Petition for Individuals Filing for Bankruptcy page 1

Chapters



- 7 (Individual or business liquidation)
- 13 (Individual reorganization)
- 11 (Business or high-debt individual reorganization)
- 9, 12, 15 (less common)

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Chapter 7 – Liquidation

- Sale of non-exempt assets (if any) with a pro-rata distribution to creditors, overseen by a “Trustee”
- Majority of Ch. 7 cases are “no asset”

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Fill in this information to identify your case:

United States Bankruptcy Court for the:
MIDDLE DISTRICT OF FLORIDA

Case number (previously): _____

Chapter you are filing under:
☒ Chapter 7
☐ Chapter 11
☐ Chapter 12
☐ Chapter 13

☐ Check if this an amended filing

Official Form 101
Voluntary Petition for Individuals Filing for Bankruptcy 12/15

The bankruptcy forms use you and Debtor 1 to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a joint case—and in joint cases, these forms use you to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses Debtor 1 and Debtor 2 to distinguish between them. In joint cases, one of the spouses must report information as Debtor 1 and the other as Debtor 2. The same person must be Debtor 1 in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part I: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name	Write the name that is on your government-issued picture identification (for example, your driver's license or passport). First name: John Middle name: _____ Last name and Suffix (Sr., Jr., II, III): Doe	First name: _____ Middle name: _____ Last name and Suffix (Sr., Jr., II, III): _____
2. All other names you have used in the last 8 years Include your married or maiden names.		
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)		

Official Form 101 Voluntary Petition for Individuals Filing for Bankruptcy page 1

Chapter 13 – Reorganization

Ch. 13 Plan

- Proposes repayment of a portion of debt over a period of time
- Especially good for spreading mortgage arrearages over time
- Up to 60 months
- **Commonly dismissed / reinstated**
- Can be converted to Ch. 7
- Treatment of secured debts ineffective if Plan not completed
- 75-80% of Ch. 13 plans fail

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Case 3:15-bk-00424-PMG Doc 6 Filed 02/13/15 Page 1 of 3

IN RE: CASE NO:
Joe and Jane Debtor 6:15-bk-00424-PMG
 Debtor(s) Chapter 13

CHAPTER 13 PLAN

COMES NOW, the debtor(s) and files this Chapter 13 Plan. The projected disposable income of the debtor(s) is submitted to the supervision and control of the Chapter 13 Standing Trustee, and the debtor(s) shall pay the following sums to the Chapter 13 Standing trustee:

PLAN PAYMENTS

Payment number by months	Amount of monthly plan payments
1 – 60	\$2,200.00

The debtor(s) shall pay by money order, cashier's check, or wage deduction, to Douglas W Newmy, Chapter 13 Standing Trustee, PO Box 2079, Memphis, TN 38101-2079. The debtor(s) name and case number must be indicated clearly thereon and received by the due dates for payments established by Court Order.

PAYMENT OF CLAIMS THROUGH THE CHAPTER 13 PLAN

Attorney fees	Claim Amount	Payment Amount	Payment Month Numbers
Robert Zipperer, Esquire	\$4,210.00	\$116.95	1 – 35
		\$116.75	36

Priority Claims

The fees and expenses of the trusts shall be paid over the life of the plan at the rate allowed as governed by the guidelines of the United States Trustee:

Claim	Payment	Payment Month

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Chapter 11 – Reorganization



- Plan of reorganization of debt for businesses and high-debt individuals
 - While maintaining possession and control over assets
 - Debtor becomes “Debtor-in-Possession”
 - May or may not have an individual trustee
 - Still under bankruptcy court jurisdiction



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How Does Bankruptcy End?

Discharge entered

- Debtors receive a discharge of their unsecured debts by court order at the successful conclusion of the case
- Not like “discharge” of a Lis Pendens. Discharge does not end the case immediately
- However, the bankruptcy case will usually be closed shortly after debtors receive their discharge

Case 10-35308-JKO Doc 135 Filed 09/11/15 Page 1 of 2
Form CGFD-40 (9/9/08)

REGISTERED
INSTR # 113280506
Recorded 10/01/15 10:00:16 AM
Florida Circuit Court
County Case 1320
RS, 2 Pages

ORDERED in the Southern District of Florida on September 11, 2015

Certified to be a true and correct copy of the original.
Joseph Palzone, Clerk
U.S. Bankruptcy Court
Southern District of Florida
By: *[Signature]*
Date: *09/11/15*

John K. Olson
United States Bankruptcy Judge

United States Bankruptcy Court
Southern District of Florida
www.flsb.uscourts.gov

Case Number: 10-35308-JKO
Chapter: 13

In re:
Joe and Jane Debtor
1234 Sesame Street
Somewhereville, FL 90210

DISCHARGE OF DEBTOR AFTER COMPLETION
OF CHAPTER 13 PLAN

It appearing that the debtor is entitled to a discharge,
IT IS ORDERED:

1. The debtor is granted a discharge under section 1328(a) of title 11, United States Code, (the Bankruptcy Code).
2. (If applicable) The Employee Wage Deduction Order(s) entered in this case is/are terminated.

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

Copies to: All Parties of record

* Set forth all names, including trade names, used by the debtor within the last 2 years. For joint debtors, set forth the last four digits of both social-security numbers or individual taxpayer-identification numbers (ITIN) or complete employer tax-identification numbers (EIN).

Page 1 of 2

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How Does Bankruptcy End?

Case closed

- Fully complete bankruptcy cases will be closed by court order. Upon closure, automatic stay ends and debts (such as mortgages) not discharged in the bankruptcy can be pursued
- **Case dismissed**
- An order of dismissal likewise ends the automatic stay
- But recall Ch. 13 bankruptcy cases are frequently reinstated
- Tip: If the case was recently dismissed, check PACER for Motions to Reinstate

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Examining Property in Bankruptcy

- Review petition
- Review schedules
- Review Plan of Reorganization (11, 13)
- Examine any motions and accompanying orders affecting the property
- But how ... ?



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PACER

- Public
- Access to
- Court
- Electronic
- Records

Pro tip:
Download docs as
.PDFs to avoid
paying for
repeated views



<https://pcl.uscourts.gov/pcl/index.jsf>

PACER Service Center will disable TLS 1.0 on our web servers on June 17, 2018.
Our servers will refuse connections using TLS 1.0 from that date.

The PACER Case Locator (PCL) is a national index for district, bankruptcy, and appellate courts. The PCL serves as a search tool for PACER, and you may conduct nationwide searches to determine whether or not a party is involved in federal litigation. Each night, subsets of data are collected from the courts and transferred to the PCL.

PACER Case Locator Features

- Use as a one-stop location to search all courts (appellate, bankruptcy, district) for cases.
- Save links to your preferred cases using the Saved Cases feature.
- Save your frequent searches using the Saved Searches feature.
- Customize a simple search to include advanced search features such as region and date range.
- Set your preferred landing page to customize your experience.
- Hide system messages and select preferred result columns with the User Options feature.

Login

* Required Information

Username *

Password *

Client Code

Login

Clear

[Forgot password?](#) | [Forgot username?](#) | [Need an account?](#)

NOTICE: This is a restricted government website for official PACER use only. Unauthorized entry is prohibited and subject to the U.S. Code. All activities and

Access to case information costs \$0.10 per page. The cost to access a single document is capped at \$3.00, the equivalent of 30 pages. The cap does not apply to name searches, reports that are not case-specific, or transcripts of federal court proceedings.

By Judicial Conference policy, if usage does not exceed \$15 in a quarter, fees are waived.

Newly filed cases will typically appear on this system within 24 hours. Check the Court Information page for data that is currently available on the PCL. The most recent data is available directly from the court.



PACER



U.S. Courts



Court Links



PCL Help



PACER FAQ



Statistics

CM/ECF Filer or PACER Login

Notice

This is a **Restricted Web Site** for Official Court Business only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

Electronic Bankruptcy Noticing (EBN)

Creditors, receive your court notices through free electronic bankruptcy noticing. Click [here for more information](#).

Instructions for viewing filed documents and case information:

If you do not need filing capabilities, enter your PACER login and password. If you do not have a PACER login, you may register online at <http://www.pacer.gov>.

Instructions for filing:

Enter your CM/ECF filer login and password if you are electronically filing something with the court.

Access to documents not available on PACER:

For information on how to obtain documents not available on PACER or to obtain copies of any publically available document, please click [here](#) to contact the court's copy service.

Authentication

Login:

Password:

Client code:

Login

Clear

[Need an account?](#) | [Forgot your password?](#)

Pro tip: You can go straight to bankruptcy PACER (select district) <https://ecf.flmb.uscourts.gov/cgi-bin/login.pl>

Notice

An access fee of \$0.10 per page or \$2.40 per document with an audio attachment, as approved by the Judicial Conference of the United States, will be assessed for access to this service. For more information about CM/ECF, [click here](#) or contact the PACER Service Center at (800) 676-6856.

CM/ECF has been tested using Firefox and Internet Explorer 11.

Navigating PACER

PACER Case Locator ★ New Search ★ Saved Items ★ Court Information ★ My Account

Welcome

Quick Searches

- [Find Cases](#)
- [Find Cases \(Advanced\)](#)
- [Find Parties](#)
- [Find Parties \(Advanced\)](#)
- [Find Bankruptcy by SSN/EIN](#)
- [Find Bankruptcy \(Advanced\)](#)

My Recently Run Saved Searches
No Saved Searches. [more...](#)

☐ Make this my PCL home page.

Contact Us Privacy & Security PACER FAQ

This site is maintained by the Administrative Office of the U.S. Courts, PACER Service Center.

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Navigating PACER

PACER Case Locator ★ New Search ★ Saved Items ★ Court Information ★ My Account

PACER Service Center will disable TLS 1.0 on our web servers on June 17, 2018. Our servers will refuse connections using TLS 1.0 from that date.

Party Search

Search Information
* Required Information [Advanced Party Search](#) | [Find Bankruptcy by SSN/EIN](#)

Party

Last Name or Entity Name * First Name Middle Name

☐ Exact Matches Only ?

Party Role

Court Type

NOTE: Newly filed cases will typically appear on this system within 24 hours. Check the [Court Information](#) page for data that is currently available on the PCL. The most recent data is available directly from the court.

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Navigating PACER

ECF Query Reports Utilities Logout

[Mobile Query](#)

Query

Alias	Related Transactions
Associated Cases	Status
Attorney	Trustee
Case File Location	View Document
Case Summary	Claims Register
Creditor	List of Creditors
Deadline/Schedule	
Docket Report	
Filers	
History/Documents	
Judge	
Notice of Bankruptcy Case Filing	
Party	

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Navigating PACER

ECF Query Reports Utilities Logout

Docket Sheet

Case number (closed)

☒ **Filed** to

☐ **Entered** to

Documents to

Include:

☒ Terminated parties

☒ Page counts for documents

☐ View multiple documents

Format:

☒ HTML

☐ Text

Sort by:

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Navigating PACER

ECF

Query

Reports

Utilities

Logout

Type of BK filing

Assigned to: Catherine Peek McEwen
Chapter 7
Voluntary
Asset
[Claims Register](#)

U.S. Bankruptcy Court
Middle District of Florida (Tampa)
Bankruptcy Petition #: 8:14-bk-06172-CPM

Chronology

Date filed: 05/29/2014
Debtor discharged: 08/29/2014
Joint debtor discharged: 08/29/2014
341 meeting: 07/25/2014
Deadline for filing claims: 10/27/2014
Deadline for objecting to discharge: 08/26/2014

U.S. Trustee
United States Trustee - TPA7/13
Timberlake Annex, Suite 1200
501 E Polk Street

Hyperlinks to documents

Filing Date	#	
05/29/2014	1 (53 pgs)	Voluntary Petition under Chapter 7. (Fee Paid.). Schedules A-J and Summary of Schedules. Statement of Financial Affairs. Statement of Intentions. Disclosure of Compensation. Statement of Income and Means Test Calculation. Filed by Kenneth Case on behalf of Thomas A. Verica Sr., Betty A. Verica. (Case, Kenneth) (Entered: 05/29/2014)
05/29/2014	2	Statement of Debtors Social Security Numbers Filed by Kenneth Case on behalf of Joint Debtor Betty A. Verica, Debtor Thomas A. Verica Sr.. (Case, Kenneth) (Entered: 05/29/2014)
05/29/2014	3 (1 pg)	Certificate of Credit Counseling. Date Course was Completed: 05/27/2014. Filed by Kenneth Case on behalf of Debtor Thomas A. Verica Sr.. (Case, Kenneth) (Entered: 05/29/2014)
05/29/2014	4 (1 pg)	Certificate of Credit Counseling. Date Course was Completed: 05/27/2014. Filed by Kenneth Case on behalf of Joint Debtor Betty A. Verica. (Case, Kenneth) (Entered: 05/29/2014)

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ECF

Query

Reports

Utilities

Logout

Joint Debtor
Betty A. Verica
7135 Kensington Ct.
University Park, FL 34201
MANATEE-FL
SSN / ITIN: xxx-xx-1733

represented by Veronica Adams Coulter
(See above for address)

Navigating PACER

Trustee
Nicole M Cameron
Nicole M. Cameron, P.A.
235 Apollo Beach Boulevard, #231
Apollo Beach, FL 33572
813-645-8787

represented by Nicole M Cameron, Attorney for Trustee
Nicole M. Cameron, P.A.
235 Apollo Beach Boulevard, #231
Apollo Beach, FL 33572
813-645-8787
Fax : 866-674-0164
Email: trustee@tampabay.rr.com

U.S. Trustee
United States Trustee - TPA7/13
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602
813-228-2000

You can "read" the docket report as a
chronology of the case history and documents

<u>1</u> (53 pgs)		Voluntary Petition under Chapter 7. (Fee Paid.). Schedules A-J and Summary of Schedules. Statement of Financial Affairs. Statement of Intentions. Disclosure of Compensation. Statement of Income and Means Test Calculation. Filed by Kenneth Case on behalf of Thomas A. Verica Sr., Betty A. Verica. (Case, Kenneth) (Entered: 05/29/2014)	
05/29/2014	<u>2</u>	Statement of Debtors Social Security Numbers Filed by Kenneth Case on behalf of Joint Debtor Betty A. Verica, Debtor Thomas A. Verica Sr.. (Case, Kenneth) (Entered: 05/29/2014)	
05/29/2014	<u>3</u> (1 pg)	Certificate of Credit Counseling. Date Course was Completed: 05/27/2014. Filed by Kenneth Case on behalf of Debtor Thomas A. Verica Sr.. (Case, Kenneth) (Entered: 05/29/2014)	
05/29/2014	<u>4</u> (1 pg)	Certificate of Credit Counseling. Date Course was Completed: 05/27/2014. Filed by Kenneth Case on behalf of Joint Debtor Betty A. Verica. (Case, Kenneth) (Entered: 05/29/2014)	

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Key Issues in Bankruptcy Sales

Property of the Estate

- Property of debtor becomes property of the bankruptcy estate upon filing
- Property of the estate cannot be sold without court permission

Automatic Stay

- “Injunction against the world”
- Effective regardless of notice the moment a bankruptcy is filed
- Actions taken in violation of the stay are void

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Sale During Bankruptcy

- Property titled in persons or entities currently in bankruptcy generally cannot be sold unless
 - Successfully claimed as exempt homestead in Ch. 7
 - T.N. 5.07.01
 - Abandoned constructively or expressly, or
 - Sold pursuant to a confirmed bankruptcy Plan or Motion for Sale approved by court order or duly noticed without objection (for “subject to” sales)

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• Sale During Bankruptcy – Ch. 7

Is the property exempt Homestead?

- Review Schedule C for claim of exemption
- Did a creditor object w/in 30 days of conclusion of 341 meeting or amendment to schedules or list of creditors?
 - If so, follow docket for resolution

- If exempt, Ch. 7 debtors can sell
- Requires proof property claimed exempt; no successful objection
- Residence less than 1215 days limits exemption to \$125,000 per debtor
 - Excess equity requires court order
- Non-homestead requires court order



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Sale During Bankruptcy – Ch. 7

- Property claimed as exempt?
- And has the time for creditors to object passed?
- Otherwise need court order

In re Thomas A. Verica, Sr., Betty A. Verica		Case No. _____	
Debtors			
SCHEDULE C - PROPERTY CLAIMED AS EXEMPT			
Debtor claims the exemptions to which debtor is entitled under:		<input type="checkbox"/> Check if debtor claims a homestead exemption that exceeds \$155,675. (Amount subject to adjustment on 4/1/16, and every three years thereafter with respect to cases commenced on or after the date of adjustment.)	
(Check one box)			
<input type="checkbox"/> 11 U.S.C. § 522(b)(2)			
<input checked="" type="checkbox"/> 11 U.S.C. § 522(b)(3)			
Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property Improved Real Property - Debtor's Homestead Location: 7135 Kensington Ct., University Park FL 34201	Fla. Const. art. X, § 4(a)(1); Fla. Stat. Ann. §§ 222.01 & 222.02	0.00	228,676.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Personal Savings Account - Institution: Bank of America Acct. No.: *****9924 Location: Lockwood Ridge & University Parkway, Sarasota, FL	Fla. Stat. Ann. § 222.201; 11 U.S.C. § 522(d)(10)(A)	100%	300.00
Household Goods and Furnishings Household Goods & Furnishings - Living/Family Room (sofa, armchair, loveseat, coffee table, end table, lamps, credenza, tv, sofa bed, bookcase) Location: 7135 Kensington Ct., University Park FL 34201	Fla. Const. art. X, § 4(a)(2)	250.00	250.00
Household Goods & Furnishings - Kitchen/Dining Room (table, chairs, dishes, buffet, china cabinet) Location: 7135 Kensington Ct., University Park FL 34201	Fla. Const. art. X, § 4(a)(2)	100.00	100.00
Household Goods & Furnishings - Patio/Outdoor (table, chairs, lounge, grill)	Fla. Const. art. X, § 4(a)(2)	35.00	35.00

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Sale During Bankruptcy (cont'd)

Ch. 13 Homestead sale

- Similar to Ch. 7 Sale but requires court order
- Appellate period must pass

Non-homestead sales

- Can be provided for in Plan or
- Motion to Sell (363 Sales)
 - Free and clear of liens
 - Subject to liens, or
 - In the ordinary course of business



Sale During Bankruptcy (cont'd)

Note the specifics of the Motion – What kind of sale is sought?

- **Free and Clear of Liens – TN 5.05.01**
 - Requires a court order authorizing the specific sale and terms
- **Subject to Liens – TN 5.05.02**
 - May not require an order if no timely objections filed
 - An objection filed within 7 days prior to sale creates a contested matter, which will be resolved by court order
- **Ordinary Course of Business – TN 5.05.03**
 - Requires an order listing properties authorized to be sold “in the ordinary course of business”

ECF			Query	Reports	Utilities	Logout
11/30/2015	167 (2 pgs; 2 docs)	Corrective Proof of Service of Order Granting Motion by Ford Motor Credit Company LLC for Approval of Stipulations for Adequate Protection to Creditor. Filed by Roger A Kelly on behalf of Creditor Ford Motor Credit Company LLC (related document(s) 164). (Attachments: # 1 Mailing Matrix) (Kelly, Roger) (Entered: 11/30/2015)				
	168	Application to Employ Hold Thyssen, Inc. as Listing Agent Filed by Roman V Hammes on behalf of				
	169 (14 pgs)	Motion to Sell Property Free and Clear of Liens (14435 Division St., Groveland, FL 34736). (Fee Paid.) Filed by Roman V Hammes on behalf of Debtor Progressive Plumbing, Inc. (Hammes, Roman) (Entered: 12/01/2015)				
12/01/2015		Number 47996247, Amount Paid \$ 176.00 (U.S. Treasury) (Entered: 12/01/2015)				
12/01/2015	170 (1 pg)	Notice of Claim Filed by Debtor/Trustee regarding Claim Number 31. Filed by the Debtor on behalf of Advantage Care, Inc.. (ADIClerk) (Entered: 12/01/2015)				

Select hyperlink to review motion


Locate Motion for Sale

- Property identified?

Note type of sale

- 363(f) Free & Clear of Liens
 - Requires order approving sale

Confirm property



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Case 6:15-bk-07275-KSJ Doc 169 Filed 12/01/15 Page 1 of 14

UNITED STATES BANKRUPTCY COURT
 MIDDLE DISTRICT OF FLORIDA
 ORLANDO DIVISION

Confirm type of sale

Example:
363(f) Free and Clear of Liens

In re:

Progressive Plumbing, Inc.,
Debtor.

Case No.: 6:15-bk-07275-KSJ
Chapter 11

MOTION TO SELL REAL PROPERTY FREE AND CLEAR OF ALL LIENS
(14435 Division Street, Groveland, FL 34736)

Debtor Progressive Plumbing, Inc. ("Plumbing"), pursuant to 11 U.S.C. § 363 and F.R.B.P. 6004, moves the Court for an order authorizing the sale of real property free and clear of all liens and in support states:

Request for Preliminary Hearing

- Rule 6004(c) requires the Debtor to provide the date of the hearing on this Motion and a deadline to object to this Motion.
- The Debtor asks the Court to set a preliminary hearing on this Motion to address the following:
 - The date on which this Motion will be decided; and
 - The deadline for interested parties to object to the relief requested in this Motion.
- Plumbing is a commercial plumbing contractor that owns real property located at 14435 Division Street, Groveland, FL 34736 (the "Property"). A copy of the legal description of the Property is attached as Exhibit "A".

Look for property ID
(Note: "Ex A")

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EXHIBIT A

Property Description

The property consists of a 6,000 s.f. prefabricated metal building, with a 4,000 s.f. concrete pad to the

Legal Description

Property Tax ID No:

01-22-24-420504000000

GROVELAND, GROVELAND FARMS 19-22-25 E 1/2 OF TRACT 40--LESS |
SR 50 & LESS E 33 FT FOR RD R/W--PB 2 PGS 10-11 |
ORB 1047 PG 1120 |

Full Legal Description to be provided

SEE ATTACHED

Address

14435 Division Street, Groveland, FL 34736

Exhibit A

Page 7 of 7

Review legal
description if
attached as exhibit

33

Commercial Contract

HOLD
THYSEN

1. PARTIES AND PROPERTY: Joshua F Wasden & Sharon A. Wasden ("Buyer")
Progressive Plumbing, Inc. ("Seller")

2. PURCHASE PRICE: \$ 290,000
Escrow Agent's address: 301 S. New York Avenue, Suite 200, Winter Park, FL 32789 Phone: 407-691-0505

3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME: Unless this offer is signed by Seller and Buyer and an executed copy delivered to all parties on or before 20th Nov., 2015, this offer will be withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be 3 days from the date the counter offer is delivered. The "Effective Date" of this Contract is the date on which the last one of the Seller and Buyer has signed or initiated and delivered this offer or the final counter offer. Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next business day. Time is of the essence in this Contract.

4. CLOSING DATE AND LOCATION: (a) Closing Date: This transaction will be closed on 27th December, 2015 (Closing Date), unless specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property insurance, Buyer may postpone closing up to 5 days after the insurance underwriting suspension is lifted.

Exhibit B

ALWAYS DRIVEN

- Review contract if needed
 - Parties
 - Property description
 - Price
- Is the proposed transaction the one approved by the court?

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176 (5 pgs)	Notice of Hearing on Motion to Sell Property Free and Clear of Liens Filed by Roman V Hammes on behalf of Debtor Progressive Plumbing, Inc. (related document(s) 169). Hearing scheduled for 1/6/2016 at 11:00 AM at Orlando, FL - Courtroom 6A, 6th Floor, George C. Young Courthouse, 400 W. Washington Street. (Hammes, Roman) (Entered: 12/08/2015)
202 (2 pgs)	Hearing Proceeding Memo: Hearing Held - APPEARANCES: Michael Nardella (Atty for Debtor) Mark Ahlers (First Green Bank) Jonathan Cohen (Allied) (telephone) Kim Lawson-Sapp also present (CFO for Debtor) RULING: (1) Status Conference continued to March 30, 2016 at 2:00 pm. (2) Debtor's Motion to Use Cash Collateral Authorized through (3) Debtor's Motion to Sell Property Free and Clear of Liens re: 14435 Division St., Groveland, FL 34736 (Doc # 169): Granted. by Mr. Nardella. (4) Debtor's Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement (Doc #191): Granted through March 25, 2016. Order by Mr. Nardella. (5) Motion to Use Cash Collateral for debtor Gracious Living Design Center, Inc. filed by Debtor Progressive Plumbing (Doc #196): Granted. Order by Mr. Nardella. Proposed Orders, if applicable, should be submitted within three days after the date of the hearing - Local Rule 9072-1(c). This docket entry/document is not an official order of the Court. (Dkt) (Entered: 01/07/2016)
208 (2 pgs)	Order Granting Motion To Sell Property Free and Clear of All Liens (Related Doc # 169). Service Instructions: Roman Hammes is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order. (Susan G.) (Entered: 01/20/2016)

Note hearing date

Look for result

Locate and select Order for review

35

ECF
Query
Reports
Utilities
Logout

To accept charges shown below, click on the 'View Document' button, otherwise click the 'Back' button on your browser.

View Document

View document

PACER Service Center

Transaction Receipt

Wed Jan 27 15:05:23 2016

Pacer Login:	ti0269:2702748:0	Client Code:	
Description:	Image:208-0	Case Number:	6:15-bk-07275-KSJ
Billable Pages:	4	Cost:	0.40

36

Order Page 1:

Confirm basic case information

Property ID may again be specified

ORDERED.

Dated: January 20, 2016


Karyl S. Jeannemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

PROGRESSIVE PLUMBING, INC.,
PROGRESSIVE SERVICES, LLC, and
GRACIOUS LIVING DESIGN
CENTER, INC.

Chapter 11
Case No.: 6:15-bk-07275-KSJ

Jointly Administered with
Case No.: 6:15-bk-07276-KSJ
Case No.: 6:15-bk-07277-KSJ

Debtors.

**ORDER GRANTING MOTION TO SELL
PROPERTY FREE AND CLEAR OF ALL LIENS**
(14435 Division Street, Groveland, FL 34736)

This matter came before the Court at a hearing on the Debtors' Motion to Sell Real Property Free and Clear of All Liens (Doc. No. 169) on January 6, 2016 (the "Motion"). At the preliminary hearing on this Motion on December 2, 2015, the Court ordered the creditors and parties in interest to file an objection to the Motion by January 4, 2016. The Court, having reviewed the docket and seeing that the notice of the objection deadline was served on all creditors and parties in interest on December 8, 2015 (Doc. No. 176), having found that no objections were filed, having heard the argument of the parties, and otherwise being fully advised in the premises,

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- Motion for Sale GRANTED
- Debtor / seller
- Property
- Type of Sale

ORDERS AS FOLLOWS:

1. The Motion is granted.
2. Debtor Progressive Plumbing, Inc. is authorized to sell the real property located at 14435 Division Street, Groveland, FL 34736 (the "Property") to Joshua F. Wasden and Sharon A. Wasden (the "Purchaser") in accordance with the terms outlined in the commercial contract attached to the Motion (the "Sale").
3. Sale Free and Clear. Pursuant to section 363(f) of the Bankruptcy Code, the Sale of the Property shall be free and clear of all liens, claims and interests and all liabilities of the Debtor whether known or unknown, including but not limited to liens, claims, and interests asserted by any Debtor's creditors, vendors, suppliers, employees, customers, executory contract counterparties, governmental units or lessors, including the Internal Revenue Service's tax lien recorded in the Official Records of Lake County, Book 1047, Page 1120. The Purchaser shall not be liable in any way (as successor entity or otherwise) for any claims that any of the foregoing parties or any other third party may have against any Debtor. The Sale of the Property to the Purchaser shall vest the Purchaser with all the right, title, and interest of the Debtor to the Property free and clear of liens, claims, and interests.
4. No Assumption of Liability. The Purchaser has not assumed and will not otherwise become obligated for any of the Debtor's liabilities.
5. Good Faith. The Purchaser is a good faith purchaser entitled to the benefits and protections afforded by Section 363(m) of the Bankruptcy Code; accordingly, the reversal, modification on appeal or vacatur by subsequent order of the Court of the authorization provided herein to consummate the Sale of the Property shall not affect the validity of the Sale of the Property to the Purchaser.

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Abandoned Property



- Expressly
 - Trustee gives notice
- Constructively
 - Case closed
 - Property not administered

Property Acquired During Bankruptcy

Ch. 7

- Most property acquired post-petition exempt
- Exception: bought w/in 180 days of filing with proceeds from inheritance, divorce, or life insurance
- Ch. 11 and 13
- Property acquired during pendency of bankruptcy case not exempt

Sale After Bankruptcy

Judgments and Liens

- Liens perfected prior to bankruptcy remain unless specifically eliminated or modified in bankruptcy
- Liens “stripped” or eliminated in Ch. 13 come back automatically if plan not completed
- Property acquired after bankruptcy filed not subject to liens for debts (such as judgments) discharged in bankruptcy
- Property held when bankruptcy filed but not listed in bankruptcy schedules remains property of the estate, potentially FOREVER
- May require recordation of proof of discharge of debt (such as judgment) that would otherwise result in a lien

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Wrap-up: Questions to Consider

- Is title holder currently in bankruptcy vs. past bankruptcy?
- Has the property been successfully claimed exempt homestead?
- Do we have a court order or confirmed Plan authorizing the sale?
- Were all creditors properly named and noticed?
- When in doubt, call Fund Underwriting



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More Bankruptcy Resources

- Standard Commitment Clauses Handbook – See Ch. 2 General Requirements, “N” Bankruptcy
- Title Notes Ch. 5 – Bankruptcy

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Chapter 5 — Bankruptcy

SC 5.01 Abandonment

TN 5.01.01 Abandonment of Property by Trustee (Rev. 12/09)

After notice and hearing, the bankruptcy trustee may abandon any property of the estate that is burdensome or that is of inconsequential value and benefit to the estate. 11 U.S.C. Sec. 554. Title to the property, which is abandoned to the debtor, vests in the debtor and is subject to all liens and encumbrances existing prior to the filing of the bankruptcy.

If no objection was filed and served after formal notice of intent to abandon the property was served on parties in the bankruptcy case, a title policy may be issued to a grantee from the debtor after the time for filing an objection to the notice of abandonment has expired. An objection should be filed and served within 14 days of the mailing of the notice or within the time fixed by the court. Bankruptcy Rule 6007. If an objection is filed, a title policy should not be issued until after a hearing, entry of an order abandoning the property, and the running of the appeal time.

An asset that was scheduled by the debtor in the debtor's petition and not administered before a case is closed is constructively abandoned to the debtor. 11 U.S.C. Sec. 554(c). Constructively abandoned property may be insured 14 days after the bankruptcy case is closed.

An unscheduled asset that was not administered is not abandoned and remains property of the estate. 11 U.S.C. Sec. 554(d). The bankruptcy case must be reopened and the unscheduled property abandoned, sold or determined to be exempt, or otherwise administered before title can be insured free of creditors' claims.

Note that the abandonment of estate property by the trustee terminates the automatic stay that protects property of the estate under 11 U.S.C. Sec. 362(c)(1), however, property abandoned to the debtor is property of the debtor protected by the automatic stay under 11 U.S.C. Sec. 362(a). The stay of acts against property of the debtor continues until an order is entered terminating the stay, discharging the Chapter 7 debtor, dismissing the case, or closing the case. 11 U.S.C. Sec. 362(c)(2). See also *In re Crusatner*, 8 B.R.581 (D. Ut.1981); and *In re Barry*, 11 B.R. 886 (WD. Pa.1981).

Property shown to be abandoned to the debtor as described above may be voluntarily conveyed by the debtor (including giving a deed in lieu of foreclosure), but a foreclosure action instituted against the debtor or property of the debtor without obtaining termination of the automatic stay would be void. *In re Murray*, 5 B.R.732 (D. Md.1980). However, further proceedings in the bankruptcy court may ratify or confirm actions taken in the foreclosure case after the stay. See Title Standard 2.4.



Bankruptcy 5-3

ALWAYS DRIVEN

THE END
Thank you for coming!

Property of the Estate
Bankruptcy Basics for Real Estate Practitioners

Presented by: John B. "Jay" St. Lawrence
Fund Legal Education Attorney
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CERTIFICATE OF ATTENDANCE

Certified Paralegals are required to record evidence of 50 hours of continuing legal education hours to renew the CP credential every 5 years. CLE hours are recorded in CPs' accounts through the [NALA online portal](https://www.nala.org/certification/certtest2view). Of the 50 hours, 5 hours must be in legal ethics, and no more than 10 hours may be recorded in non-substantive areas. If attending a non-NALA sponsored educational event, this certificate may be used to obtain verification of attendance. Please be sure to obtain the required signatures for verification of attendance. The requirements to maintain the CP credential are available from NALA's web site at <https://www.nala.org/certification/certtest2view>. Please keep this certificate in the event of a CLE audit or further information is needed.

PLEASE COMPLETE THE SPACES BELOW AND ATTACH A PROGRAM

Session Length In Hours	Session Topics (Description and Speakers)	Validation of Attendance
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Name of CP (Please Print)			NALA Account Number (On Mailing Label)		
			149113		
Signature of CP			Name of Seminar/Program Sponsor		
			Property of the Estate: Bankruptcy Basics / ATFS, LLC		
Address			Authorized Signature of Sponsor Representative		
			<i>John St. Lawrence</i>		
			Date of Educational Event:		
City:		State (XX):			
Preferred e-mail address			Location:		
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Level:	Intermediate
Approval Period:	04/01/2024 - 10/31/2025

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Certification Credits

Real Estate	1.0
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