

**OFFICE OF THE CHAPTER 13 TRUSTEE**

**CRAIG SHOPNECK, TRUSTEE**

For Cases Filed Under Chapter 13 in the United States Bankruptcy Court  
For the Northern District of Ohio – Eastern Division (Cleveland)

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**To:** Chapter 13 Attorneys  
**From:** Craig Shopneck, Chapter 13 Trustee  
**CC:** United States Trustee  
**Date:** May 8, 2007  
**Re:** Moratoriums on Plan Payments

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There has been an increase in the number of motions filed with the court seeking moratoriums on debtor plan payments. No doubt the rising number of moratoriums reflects adverse changes Debtors are experiencing in their financial situation during the term of their bankruptcy case. Often times, however, orders granting moratoriums do not accurately reflect the relief sought in the motion or the relief granted by the court. Because the Trustee's office relies on the court's order to determine what if any action the Trustee's office is to take, it is important that the order be accurate.

Generally an attorney will file one of two types of motions for moratorium. In the first, counsel seeks a moratorium of plan payments for a period of time that has already passed. Typically, this moratorium seeks a suspension of the debtor's plan payments during a period when the debtor was unable to make plan payments and the case is now delinquent in funding.

The second common moratorium occurs when an attorney seeks a suspension of upcoming plan payments and asks that any plan payments received by the Trustee during the specified suspension period be returned to the Debtor. This typically occurs when a Debtor experiences a sudden change in financial circumstances leading to a disruption of income and requiring an immediate but temporary halt to plan payments. An example may be a debtor experiencing a short term unpaid leave from work due to health reasons.

It is imperative that the motion for moratorium is clear in the relief being sought and that the order accurately reflects the relief granted. If you are seeking a suspension of upcoming plan payments and want plan payments that are received by the Trustee during the suspension period to be returned to the Debtor, be sure both your motion and order are clear in that regard. In addition, attorneys should not be seeking to have the Trustee return to the debtor any plan payments received by the Trustee if those funds have already been disbursed to creditors.

Please feel free to contact me at 216-621-4268 ext 139 if you have any questions or concerns regarding the Trustee office's administration of moratoriums.