

## **MASH Training**

## **BANKRUPTCY**

### **General Observations**

Court interest in predatory lending issues and pace of proceedings

### **Chapter 7**

1. Automatic Stay and Process of Chapter 7
2. Trustee control of pre-petition claims
3. Limited jurisdiction for debtor adversary actions for post petition actions  
Goldstein v. Marine Midland Bank 201 B.R. 1 (Bankr. D. Me. 1996)

### **Chapter 13**

1. Automatic stay and Process of Chapter 13 (3 – 5 year plan; creditors file claims; plan confirmation; Motion to Allow/Disallow Claims)
2. Mortgage Cure through plan (available up to sale date; arrears in plan with no interest; current mortgage payments direct to mortgagee or through trustee; monitoring available of mortgagee post petition payment application; Section 524(i) discharge injunction violation)
3. Objection to mortgagee proof of claim (contested matter with discovery available; QWRs important; MADC or earlier)
4. Adversary Proceedings (Court jurisdiction of causes of action; bankruptcy estate; effect of rescission as remedy; escrow current mortgage payments; importance of plan performance on status of adversary proceeding; discovery and litigation process)
5. Motions for Relief from Stay (grounds for relief – prepetition conduct v. post petition conduct; resolutions – withdrawal of motion or Adequate Protection Orders)
6. Multiple filings (Section 109(g) jurisdictional limitation; temporary stay under Section 362(c)(3); no stay until court order under Section 362(c)(4))