

Courtroom Witnesses Random Act of Kindness

By Judge Catherine Peek McEwen

This heart-warming story is about a random act of kindness that is the stuff of a Ripley's Legal System Believe It or Not. Personal injury lawyer Joe Bryant was in my courtroom on a chapter 13 rocket docket day. He had pending a special counsel fee application for representing a chapter 13 debtor in a personal injury case. While waiting for his case to be called, he watched with interest, and compassion, as a regular chapter 13 debtor's lawyer pleaded her client's case in opposition to the chapter 13 trustee's motion to dismiss the case. The basis for the motion was noncompliance with the plan's provision requiring tax refunds to be devoted to the plan.

The chapter 13 debtor was a grandmother who had been taking care of some of her grandchildren, and yet another of her children had recently put more little ones under the grandmother-debtor's care. The debtor was under-medical but needed to be in a five-year plan to make it affordable enough to address what she was trying to accomplish. The hearing occurred in the 60th month of the case, meaning the debtor had slogged through to near completion of the plan, except for sending the chapter 13 trustee her 2015 tax refund of about \$660. The lawyer argued that the debtor cashed and spent her refund check because she desperately needed the money and that her Schedule J expenses were lately really more than what the record showed. The Court was unwilling to dismiss the case in the 60th month without giving the debtor a chance to save it. The Court offered a solution: How about giving the debtor time to borrow from friends and family?

Before the chapter 13 lawyer could volunteer to pay, Mr. Bryant's hand shot up. He then stood up and boomed, "I'LL PAY IT!" He then paused for a moment and added, more quietly, "I mean, if that's okay, Your Honor?" "Of course it's okay," I said, "but don't think this will have any bearing on how we deal with your application!" Showing he is "For the People," as his firm's brand suggests, Mr. Bryant gave the chapter 13 lawyer his card and asked her to send him information on how the check should be made out and where to send it. The check went out payable to her trust account the same afternoon. (Incidentally, the Court did approve Mr. Bryant's fee application.)

P.S. to chapter 13 lawyers: You can't expect a Joe Bryant-like gesture in every case, so it's best to make sure your client really, really, clearly understands he or she needs to ask for permission instead of forgiveness!