

# BANKRUPTCY <sup>UP</sup>DATE

## August 10, 2018

If someone else would like to receive these <sup>UP</sup>dates, please send an email to [Mary\\_Frederickson@sdb.uscourts.gov](mailto:Mary_Frederickson@sdb.uscourts.gov).

### CLN Decision

You can use the link in the "Links" section below to view the following decision:

#### *Roggenbuck v. Social Security Administration*

**Issue:** Whether the Social Security Administration's pre-petition claim for the overpayment of benefits was not excepted from discharge under 11 U.S.C. § 523(a)(3) where the debtors had not scheduled the SSA as a creditor and where no assets were distributed to creditors, but where the parties disputed whether the SSA had actual knowledge of the bankruptcy case in time to file a nondischargeability complaint and disputed whether the SSA's claim would have been excepted from discharge as a product of fraud under 11 U.S.C. § 523(a)(2)(A) if a complaint had been timely filed?

**Ruling:** The SSA's claim was not excepted from discharge under 11 U.S.C. § 523(a)(3). After a trial, the Court found the SSA did not have actual knowledge of the debtors' bankruptcy case before the deadline expired for the SSA to file a fraud-based nondischargeability complaint. However, the Court held the SSA's claim would not have been

excepted from discharge under 11 U.S.C. § 523(a)(2)(A) if the SSA had been able to file a nondischargeability complaint, since the SSA would have been unable to show it justifiably relied on the incomplete income information the debtors provided to the SSA during the time the overpayments were made.

## **Chapter 12 and Chapter 13 Local Plan Form**

Please email to Kay Cee Hodson, Judge Nail's law clerk, any suggestions you may have for improving our chapter 12 and chapter 13 local plan form, especially as it relates to chapter 12 cases. Her email address is [Kay\\_Cee\\_Hodson@sdb.uscourts.gov](mailto:Kay_Cee_Hodson@sdb.uscourts.gov).

## **Links**

*[Roggenbuck v. Social Security Administration](#)*

[Previous Bankruptcy<sup>UP</sup> dates](#)

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