

From: Pat Williams/WAEB/09/USCOURTS
To: Rules_Comments@ao.uscourts.gov
Date: 09/19/2011 02:01 PM
Subject: amendment of bankruptcy form C

I do not believe the proposed amendment to Sch C (exemptions) should be adopted as it will place a burden on Chapter 7 trustees.

Certainly the US Sup Ct decision Schwab allows a debtor to claim the FMV of an asset or the asset itself. Knowledgeable debtor counsel may certainly do so now. However in many districts a substantial percentage of Chapter 7s are filed by pro se debtors. They will not understand the significance of the 2 proposed options and will simply guess. Unfortunately even though the instructions say otherwise, some percentage of the pro se debtors will check neither or both boxes thus necessitating an objection or further inquiry by the Chapter 7 trustee.

More importantly, the professional standards of many Chapter 7 debtor lawyers do not meet the standards of those on the committee who have proposed this form change. The majority of Chapter 7 schedules do not contain an accurate estimate of the value of the home nor an accurate amount due for the home mortgage. It is not uncommon to have the values on the Sch A differ from the values on the Sch D or C. Encouraging the use of FMV as an exemption amount will necessitate Chapter 7 trustees, who are already under paid in no asset cases, to more quickly and thoroughly review and compare each Sch and more quickly and more thoroughly investigate the debtor's values and debt with increased risk of a failure to object to exemptions. This is an unnecessary burden.