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# ABI Consumer Commission Report:

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## Selected Topics of Interest in Chapter 13 Cases

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### Selected Topics

§ 1.01 Student loans

§ 2.05 Repeat filers

§ 2.07 Notice of final cure process

§ 3.03 Attorney's Fees

§ 3.04 Attorney competency

§ 3.10 Debt Limits

§ 4.01 Racial justice

§ 4.03 Reserve funds

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§ 4.04 Dirt for debt

# Student Loans

Recommendations particularly important in Chapter 13:

- Add an eleventh priority to § 507(a) for these loans, without requiring payment in full beyond a five-year plan but allowing payment of interest
- Interpret § 1322(b)(1) to allow preferential payment of the loans, subject only to the best interest test
- Interpret § 1322(b)(5) to allow cure and maintenance
- Interpret § 1322(b)(10) as inapplicable to these loans



# Repeat filers

§ 109(g): The order of dismissal (in a first case) should be limited to prohibiting a new filing 180 days, but that period may be:

extended up to 720 days for substantial abuse or

reduced based on changed circumstances and good faith.

Grounds for the limit on refiling:

- Willful failure of debtor to abide by court orders or propose a plan in good faith
- Willful and substantial default
- Repetitive dismissed bankruptcies
- Willful failure to appear
- Any abuse of Title 11 other than 707(b), the means test

Not a new case after voluntary dismissal after a stay motion (§ 109(g)(2) would be deleted).

Also available as part of the eCourse

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