

RESPA in Chapter 13 Bankruptcy Cases

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RESPA, Real Estate Settlement Procedures Act, has specific provisions which deal with mortgage servicing and generally found in either 12 U.S.C. § 2605 or § 2609. [O. Max Gardner III](#) explains in his article, [What Does RESPA Have to do with Consumer Bankruptcy Cases?](#), that the use of **RESPA** in a chapter 13 bankruptcy case, “can provide the attorney for the Chapter 13 debtor with some of the very best discovery outside of a contested case or Adversary Proceeding.”

If you don't know who [O. Max Gardner III](#) is, then you've been living under a rock. Without bragging too much about the man I have yet to meet and learn from, he goes on to explain the **QWR**, or Qualified Written Request for information from your loan servicer. Section 2605 is known as the “**Servicer Act**,” according to Gardner's article, and is where the authority for the **QWR** arises. It's interesting to note that I recently received a response to a **QWR** from a law firm, representing Aurora Loan Services LLC (“Aurora”). I don't believe my questions were unreasonable and I certainly did not ask for the “kitchen sink.” However, I was on a fishing expedition and did not make note of any servicing problems because quite frankly I had no idea what I would find. So, apparently the loan servicers now have a need for counsel to respond to our inquiries.

I do like Max's questions and I think attorneys who represent consumers in chapter 13 bankruptcy cases should take full advantage of the information he provides so generously. Thanks [Max](#)! I'll see you soon in **Boot Camp**!

By Christine Wilton