

Pro Bono Bankruptcy Training Program

Material

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Acknowledgement. This training material was funded in part by the Endowment for Education of the National Conference of Bankruptcy Judges. In funding the grant, the Endowment does not endorse nor express any opinion about the methodology utilized, or any conclusions, opinions, or results contained in any report, article, book, or other writing based on the research funded by the Endowment.

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MODULE 1 - BANKRUPTCY OVERVIEW (Manual and PowerPoint)

There are many factors a client will need to consider in deciding whether to file bankruptcy. The attorney's role is to help the client understand the factors that are relevant based on the client's specific financial situation. This will include reviewing with the client what may and may not be possible in the bankruptcy process. This Module assists attorneys in that process by providing information needed to effectively counsel consumer clients.

This Module provides an overview of bankruptcy law. It gives attorneys a general understanding of the legal issues that arise in a consumer bankruptcy case. After an overview of the sources of bankruptcy law and available chapters for bankruptcy protection, we explain the concept of the bankruptcy estate. This includes a discussion of exemptions, property that a debtor is permitted to

remove from the bankruptcy estate and keep to assist with the fresh start. Next we explain the automatic stay in bankruptcy, which prohibits collection efforts against the debtor while the bankruptcy case is pending. We then explain the scope of the bankruptcy discharge and identify nondischargeable debts. In Sections 2 and 3, we provide an overview of chapter 7 and chapter 13 cases, respectively. Finally, in Section 4 we discuss important considerations in counseling a client who is considering filing bankruptcy.

MODULE 2 - PRE-FILING CONSIDERATIONS (Manual and PowerPoint)

Determining the best course of action for a client in financial distress requires a thorough understanding of that client's specific financial situation. Therefore, the first step in advising a client about bankruptcy is to gather the necessary information. After the information is collected, it can be analyzed to determine whether bankruptcy is the best option for the client or whether other possible avenues for relief are available. If bankruptcy is the right choice for the client, the next decisions are what is the most appropriate chapter of the Bankruptcy Code under which to file and when to file the petition for relief. Finally, the client should be advised about satisfying the prepetition credit counseling requirement and making arrangements to pay, or seek a waiver of, the bankruptcy filing fees and related expenses. This Module reviews these pre-filing considerations. It also discusses several attorney responsibilities and client representation issues that are unique to bankruptcy practice.

MODULE 3 - PREPARING THE BANKRUPTCY SCHEDULES (Manual and PowerPoint)

Once the debtor has decided that bankruptcy is appropriate in a particular case, most of the remaining work for the attorney involves the preparation of the necessary papers for the initial filing. This Module uses a sample case to illustrate how to prepare the forms used in a typical chapter 7 bankruptcy case. A full set of filled-in forms based on the sample case is attached to this Module as Appendix A. Portions of the forms are referenced in this Module to highlight particular issues.

The Official Forms used for this Module and for the set of filled-in forms are the revised forms that went into effect on Dec 1, 2015.

MODULE 4 - GETTING TO DISCHARGE: STEPS AFTER THE CASE IS FILED (Manual and PowerPoint)

The focus of this Module is on the essential activities that occur in most cases after the bankruptcy petition is filed. These remaining steps help the debtor achieve the ultimate goal in individual bankruptcy cases, the granting of a discharge. These steps include representation of the debtor at the meeting of creditors, satisfying the document production requirements, dealing with secured debt, and completing the financial education course. This Module also discusses final steps that should be taken before closing the debtor's case to help the debtor get the most from the bankruptcy discharge and the fresh start opportunity. A checklist of the key actions to take after the initial filing is provided at the end of this Module. A timeline showing the important deadlines in a typical chapter 7 case is also provided at the end of this Module.

MODULE 5 - REPRESENTING DEBTORS IN STUDENT LOAN HARDSHIP DISCHARGE CASES (Manual)

This module covers the representation of consumer debtors who are seeking a discharge of student loans based on undue hardship under section 523(a)(8) of the Bankruptcy Code. Many consumer

debtors who bring undue hardship dischargeability actions do so without attorneys. One goal of this module is to encourage attorneys to take on these cases so that more debtors will have the benefit of attorney representation.

Student loan discharge cases provide an excellent opportunity for inexperienced attorneys to gain litigation and trial experience. Because the legal and factual issues in these cases are narrow in scope and brought in an adversary proceeding within the bankruptcy case, they also present a unique opportunity for business bankruptcy attorneys to take on pro bono representation without extensive knowledge of consumer bankruptcy law or the need to represent the debtor in the underlying bankruptcy case. Regardless of the motivation, this manual provides a step-by-step guide to handling such cases, from the initial case evaluation through to trial.

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