

September 27, 2017

Clifford J. White, III
Director of the Executive Office for U.S. Trustees
U.S. Department of Justice Executive Office for U.S. Trustees
441 G Street, N.W., Suite 6150
Washington, D.C. 20530

Re: Credit Counseling Guidelines for Bankruptcy Debtors Affected by Natural Disasters

Dear Director White,

We all watched in horror as our neighbors in Texas, Florida, and Puerto Rico suffered devastating losses of property, homes, and tragically life as a result of Hurricanes Harvey, Irma, and Maria. Many people and families now face both the emotional and financial hardships of recovering from their losses and trying to rebuild. Some will undoubtedly, through no fault of their own, have to file for bankruptcy. ***The National Association of Consumer Bankruptcy Attorneys (NACBA)¹ and the National Consumer Law Center, Inc. (NCLC)(on behalf of its low-income clients)² urge stronger relief for bankruptcy debtors in Texas, Florida, and Puerto Rico commensurate with the serious problems facing hurricane victims.***

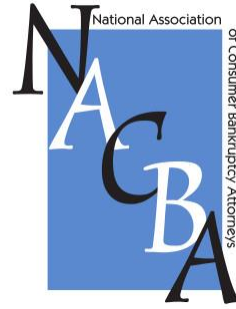
In 2005, following Hurricane Katrina the Executive Office for U.S. Trustees approved a waiver of credit counseling requirements in areas affected by the hurricane. The same steps should be taken ***for all current hurricane impacted areas in Texas, Florida, and Puerto Rico.***

You have stated that “even if conditions do not justify a United States Trustee granted statutory waiver of the credit counseling requirements under 11 U.S.C. section 109(h)(2) for a district, we will exercise prosecutorial discretion in considering whether to take action to dismiss the case of a debtor who, as a result of a natural disaster, experiences difficulty in obtaining a credit counseling certificate or whose filing was delayed beyond the 180-day period following the debtor's receipt of credit counseling.” We believe this ***is not nearly enough.***

No properly advised debtor would take the risk of filing a case without knowing whether the U.S. trustee will move to dismiss it, with all the adverse consequences that result from dismissal of a case. Similarly, “prosecutorial discretion” will not prevent private trustees or creditors from moving to dismiss cases. NACBA and NCLC strongly urge that the United States Trustee Program issue a temporary waiver of the statutory requirements for credit counseling and document production for bankruptcy filers in areas impacted by the devastation caused by Hurricanes Harvey, Irma, and Maria.

¹ [NACBA](#) is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors in bankruptcy. Formed in 1992, NACBA has more than 3,000 members in all 50 states and Puerto Rico.

² [The National Consumer Law Center](#) is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations that represent low-income and older individuals on consumer issues.



While BAPCPA purposefully makes it more difficult and complicated to file for bankruptcy, supposedly in order to reduce abuse of the system, it should not serve as a barrier for those who truly need it—like the current victims of Hurricanes Harvey, Irma, and Maria. Debtors who have faced losses because of this recent natural disaster cannot prevent such losses with credit counseling. A waiver of credit counseling is necessary to protect debtors impacted by this natural disaster from potentially having their bankruptcy cases dismissed as a result of their losses.

It is critical to remember that the bankruptcy system is an important safety net for people who suffer this kind of devastation. Given what these victims are facing, we should be providing them the time to take care of their immediate needs and not blocking them from being able to file for bankruptcy. NACBA and NCLC again urge you to implement a temporary waiver of the statutory requirements for credit counseling in all of the impacted areas of Texas, Florida, and Puerto Rico following the devastation caused by Hurricanes Harvey, Irma, and Maria.

Sincerely,

National Association of Consumer Bankruptcy Attorneys (NACBA)
The National Consumer Law Center, Inc. (NCLC)