

Bankruptcy Basics for Low-Income Clients

September 26, 2013

9:00 a.m. – 5:00 p.m.

Why You Should Attend

Although the recession is beginning to even out and foreclosures in many parts of the country are in the decline, the recession continues to affect financially marginalized people in disproportionate numbers. Many debtors are unrepresented and bankruptcy clinics are still in great demand. There is a critical need for pro bono attorneys to assist low-income clients at all levels. The practice of bankruptcy law changed dramatically with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). The implications of BAPCPA continue to develop in the Courts, all the way up to the Supreme Court. In the meantime the practice is ever changing and can be quite complicated with even the simplest form of bankruptcy, Chapter 7. This program was developed for brand new practitioners and those who are either not familiar with the practice or have not practiced bankruptcy law since the passage of BAPCPA. The program will focus on Chapter 7 bankruptcy, from the day a new client walks into your office to the day you receive notice that they have successfully received a discharge and their case is closed.

What You Will Learn

- An overview of Chapter 7 bankruptcy including legal sources, jurisdiction, venue, eligibility and the parties
- Your duties as a bankruptcy attorney and debt relief agency, how to evaluate and interview a client, how to choose between a Chapter 7 or Chapter 13, and your responsibilities of investigation (due diligence)
- How the discharge works and the effectiveness of the automatic stay
- How to protect the debtor's property through exemptions
- An in depth overview of the means test
- How to prepare the schedules in a Chapter 7 and prepare your client for the meeting of creditors

Who Should Attend

This program was designed for the practitioner, paralegal and legal assistant who is new to bankruptcy or new to BAPCPA. It is a basic "How to File a Chapter 7" program. If you want to volunteer in pro bono clinics, develop bankruptcy as one of your practice areas or are a new attorney who wants to develop a bankruptcy practice, this program will give you the tools you need to get started.

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Program Schedule

9:00

Program Overview and Introductions

Sally J. Elkington

9:15

Overview – Chapter 7

- Sources of bankruptcy law
- Jurisdiction
- Venue
- Eligibility
- The parties

Sally J. Elkington

10:15

Duties of the Attorney

- Debt relief agency
- Evaluating the client
- Interviewing the client
- Alternatives to filing for bankruptcy
- Evaluating the bankruptcy process: Chapter 7 vs. Chapter 13
- Due diligence

Sally J. Elkington

11:15

Networking Break

11:30

Discharge of Debts and the Automatic Stay

- Debts not generally discharged
- Debts that may be challenged by the creditor
- §707 actions by the trustee or creditor
- Violation of the automatic stay
- Automatic stay denied to persistent filers
- Automatic stay not applicable in certain actions

Sarah Lampi Little

12:30

Lunch

1:45

Bankruptcy Estate and Exemptions

- Property of the bankruptcy estate
- Transfers that the trustee may avoid
- California exemptions – System 1 and 2
- Homestead exemptions
- Domiciliary requirements
- Dealing with collateral

Carl R. Gustafson

2:45

Section 707(b) – Means Test Overview

- Who must take the means test?
- Calculating Debtor's Current Monthly Income (CMI)
- Application of §707(b) (7) exclusion
- Presumption of abuse

Sarah Lampi Little

3:45

Networking Break

4:00

Filing a Chapter 7 Bankruptcy Case

- Preparing to file a Chapter 7 petition
- Credit Counseling Certificate
- Preparing for 341(a) hearing
- Financial Management Certificate
- Amending the Chapter 7 schedules
- Discharge

Carl R. Gustafson

5:00

Adjourn

Faculty

Chairperson

Sally J. Elkington
Elkington Law
Oakland, California

Carl R. Gustafson
Lincoln Law
Pleasant Hill, California

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Program Attorney: Christina Thompson