

# **Bankruptcy Basics for Low-Income Clients 2021**

## **Live Webcast**

**All Faculty Presenting Remotely via Zoom**

**April 7, 2021**

**9:00 am – 5:00 pm (Pacific Time)**

## **Why You Should Attend**

Although pre-COVID-19 the economy was improving and foreclosures in many parts of the country were in decline due to rising home values, financially marginalized people still file bankruptcy in disproportionate numbers and the impacts of COVID-19 and the economic fallout and rise in unemployment may lead to an increase in new bankruptcy filings, particularly for low-income borrowers. 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 is ever changing (all of the forms changed effective January 1, 2021) and can be quite complicated with even the simplest form of bankruptcy, Chapter 7. This basic 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 hopes to develop practitioners who will volunteer their time and skills to those who cannot afford representation. 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
- Duties and due diligence of the attorney
- How the discharge works and the effectiveness of the automatic stay
- How to protect the debtor's property through exemptions
- An overview of the means test for the low-income client
- Issues in bankruptcy to be aware of and understand

This program was designed for practitioners, paralegals and legal assistants who are new to the practice of bankruptcy. It is a basic "How to File a Chapter 7" program.

## **Who Should Attend**

If you would like 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 in the practice of Chapter 7 bankruptcy.

## **AGENDA**

9:00

### **Opening Remarks**

***Sally J. Elkington***

9:15

### **Overview – Chapter 7 Bankruptcy**

- Purposes and broad definition
- Sources of bankruptcy law
- The participants
- Debt relief agency
- Presentation of the bankruptcy case to be analyzed

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

10:15

### **Duties of the Attorney in a Bankruptcy Case**

#### **Interviewing the client and evaluating the case – Role playing**

- Due diligence
  - Getting client information and goals
  - Explaining bankruptcy
  - Advising client
- Trustee avoidance issues
- Reviewing for jurisdiction, eligibility, and venue
- Reviewing alternatives to filing for bankruptcy
- Evaluating the bankruptcy process: Chapter 7 vs. Chapter 13
- Secured, priority, unsecured debts
- Debts not generally discharged
- Bankruptcy planning

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

11:15 Break

11:30

## **Section 707(b) – Means Test Overview and Filing a Chapter 7 Bankruptcy Case**

### **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

### **Filing a Chapter 7 Bankruptcy Case**

- Credit counseling
- Petition and schedules –
- Amending the Chapter 7 schedules
- Financial Management Certificate

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

12:30 Lunch

1:45

## **Bankruptcy Estate and Exemptions**

- Property of the bankruptcy estate
- Domiciliary requirements for exemptions
- State exemptions – System 1 and 2
- Federal exemptions
- Homestead exemptions
- Lien avoidance under 522(f)
- Preference recovery

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

2:45

## **The Automatic Stay and Discharge of Debts in Bankruptcy Cases**

- Section § 362 – Automatic Stay
  - Violation of the automatic stay
  - Limitations of the automatic stay
  - Termination and lifting of the stay
- Debts that may be challenged by the creditor
- §707 actions by the trustee or creditor

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

3:45 Break

4:00

**The 341(a) Hearing aka Meeting of Creditors and After the Filing of the Chapter 7 Bankruptcy**

**The 341(a) Hearing aka Meeting of Creditors**

- Preparing the client for the 341(a) meeting
- Attorney preparation for the 341(a) meeting
  - §521 documents
  - Trustee requirements
- The 341(a) hearing – Role playing
- 2004 Exam

**After the Filing of the Chapter 7 Bankruptcy**

- After the 341(a) hearing
- Reaffirmation, Surrender and Redemption
- Discharge
- Closing the case
- Questions and answers

***Erik Clark, Sally J. Elkington, Carl R. Gustafson***

5:00 Adjourn

**Faculty:**

**Chair:**

**Sally J. Elkington**  
Bankruptcy Practitioner  
Elkington Law  
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