

# **Lou Jones Breakfast Chapter 7 Pro Se Help Desk**

October 14, 2014

## **I. THE BASICS OF THE PRO SE HELP DESK**

Location- Room 153 Federal Courthouse

Time- Thursdays from 9:00-10:30am

Being the First Attorney at the Help Desk

Briefly talking to the Pro Se Filers in the Waiting Area

Tell them to sign in

How long the wait may be

How long the meeting may take

What type of Bankruptcies the Help Desk assists with

List of Ch 13 attorneys in the Clerk's office

Where the Chapter 7 papers, waiver sheets, and Credit Counseling Sheets are located

## **II. THE PRO SE FILER**

Who comes to the Help Desk.

What to do if they do not speak English.

Dealing with belligerent people, or those with mental or emotional illness.

Usually the person will be scared of the system or nervous, in order to help them with filing it may help to try to calm their nerves by telling them about the bankruptcy process.

When are the busier times throughout the year.

What to do when it is busy and you know you will not be able to get to all of the pro se filers.

### **III. WHEN TO ASSIST A PRO SE FILER**

When the filer would like assistance with a chapter 7 Bankruptcy. The filer may not know right away what kind of Bankruptcy they need to file. Talking to them and asking them questions will help you know what chapter is the best for them.

Those who can afford a lawyer do not qualify. Ask them questions to see if they would fall in this category. Ex. If they say they have a yacht, then they should go hire an attorney.

Those who do not already have a lawyer. If they have a lawyer then you cannot help them. Even if they think they have a lawyer it is not a good idea to assist them.

Make sure you have them fill out the disclaimer form. Go over it with them to make sure they understand that you are not representing them, but that the lawyers at the desk can provide legal advice.

### **IV. COMMON QUESTIONS PRO SE FILERS ASK**

Should I file for bankruptcy?

What type of bankruptcy should I file?

How do I start a bankruptcy?

How much will it cost me to file bankruptcy?

Can I convert or dismiss my bankruptcy?

How often can I file for bankruptcy?

When I file for bankruptcy can my creditors keep calling me?

When I file for bankruptcy will my electric get turned back on?

After I file for bankruptcy then what happens?

What is a 341 hearing?

Will my creditors be at my 341 hearing?

Can I keep my house, car, clothes, tv, etc?

Can I file bankruptcy without my spouse?

How will bankruptcy affect my and/or my spouse's credit?

How long will it be on my credit report for?

What is a bankruptcy discharge?

What debts can be discharged in a bankruptcy?

## **V. COMMON QUESTIONS THAT AN ATTORNEY SHOULD ASK THE PRO SE FILER/ ISSUES THAT ARISE**

Make sure you ask them to sign the disclaimer.

Ask them if they have a lawyer or if they think they were represented at some point during their bankruptcy.

Ask them if they have ever filed for bankruptcy.

Even if they say no make sure to check PACER.

Ask them questions to make sure they are filing for the right chapter.

Ask them why they are filing.

Ask them if they have done credit counseling yet.

## **VI. CONFLICTS FOR ATTORNEYS**

If the filer has a lawyer then you can not help them and must tell them to go see their own lawyer.

If they do not know if they have a lawyer they need to call “their supposed lawyer” and see if they are represented.

If you are a trustee you need to see if they already have a case, if you were on the case, etc.

If you helped their spouse or ex file then you should not meet with them.

## **VII. Managing Expectations**

Setting realistic expectations is important; everyone needs to file TODAY! We recommend telling them it is a three part process to complete all the documents. This will help ensure their documents are done correctly, and their case successfully reaches completion. These instructions are provided to be a guide to help volunteers.

First, while the person is in the waiting area hand them a sheet that tells them what paperwork they need to begin (we will have a stack of them near the sign-in sheet). If they do not have the documents with them, explain that while we can still get started on the paperwork, they probably cannot complete and file the documents in the same day.

Second, if they do have the paperwork, it is helpful to guide them through the documents, starting with the Voluntary Petition through F. At this point, they're usually at a good "stopping point" and ready to gather more data. If they have recent copies of all their bills/credit report, have them go to the Clerk's office and type out their creditor matrix.

Third, once they have a typed up creditor matrix help them fill out the rest of the schedules, verify that their credit counseling is done, and send them to the Clerk to file their case!

## **VIII. FILLING OUT THE SCHEDULES**

First, talk to them about credit counseling.

Tell them how much it is going to cost to file for Chapter 7 bankruptcy.

If they would like a waiver tell them the factors the judge considers when deciding whether to waive the fee.

Statutory Factor- 28 U.S.C. § 1930(f)(1)

Discretionary factors

Whether the debtor paid an attorney

Whether debtor paid a petition preparer

Tax refund

Bank account

Available income

### Schedule A- Real Property

If they have real property this may be a good indicator that they should not be at the Help Desk.

If they have real property and are rightfully at the Help Desk then make sure you explain exemptions for real property.

### Schedule B- Personal Property

The debtor will need to list his or her personal property in these schedules.

Not every single plate, mat, etc need be listed unless it is very valuable.

When debtor is deciding how much the property is worth he or she should not price it at what he or she bought it for.

Instead the debtor should think about what someone would pay for it today (ex. If you were having a yard sale what would you be able to sell it for).

If the debtor has stocks, a high balance in savings or checking, boats, aircrafts, or other items that are worth a lot, then the Help Desk is probably not the right place for them.

You should go through Schedule B and help them list all their personal property.

### Schedule C

Explaining exemptions to the debtor. State that the law allows them to keep certain property. Be sure to choose either all state or all federal exemptions. Let them know they cannot mix and match.

There is a "cheat sheet" at the help desk with a list of common exemptions on it.

#### Schedule D-F

Make sure the debtor goes to the clerk and types out a creditor matrix and that their handwriting on Schedule D-F won't work!

Let them know the differences between secured and unsecured debtors.

#### Schedule H

If they have any co-debtors or co-signers make sure they understand the implications of that

#### Schedule I/J

This is where the debtor should list all income and all of his or her debts.

#### Statement of Financial Affairs/ Declaration

Go through each one with them and then at the end let them know if they lie they would be committing perjury.

#### Means Test

If they're over-median then they should be hiring an attorney.

## **IX. LAW STUDENTS**

The law students that come to the Help Desk are getting pro bono hours and experience. Some of the students will be 1Ls and completely new to everything, while others will be more advance and have already taken bankruptcy law or other creditor-debtor classes.

If they are new to the Help Desk let them start by telling the debtor about the disclaimer. Then let them shadow you and ask questions when appropriate.

You can ask them if they want to help ask the debtor questions, such as if they have ever filed bankruptcy, if they have an attorney, etc.

Once the student gets comfortable you can have them help the debtor fill out the forms with you present.

If it gets busy and a student is completely comfortable, ask them if they'd like to meet with the person one-on-one and help them fill out the forms. Make sure you double check the student's work with the individual before they leave.

The students are there to (1) help assist you and (2) learn from you. So feel free to explain why you are doing something, or if the student makes a mistake let them know what they did wrong and how to fix it.

## **X. OVERALL TIPS TO GIVE PRO SE FILERS**

1. Ask about prior filing and their eligibility for a discharge.
2. The debtor cannot already have an attorney.
3. Debtor in order to receive help from the pro se desk must be filing for a chapter 7 bankruptcy.
4. The debtor needs to take a credit counseling class before the case is filed.
5. The debtor must fill out all of the bankruptcy forms honestly.
6. The filing fee must be paid when due or the debtor must obtain a waiver.
7. The debtor must attend the 341 meeting and bring a picture id and social security number.