

I am deciding between bankruptcy attorneys, one that costs less and will perform the bare minimum, and another that costs more and provides more, which one should I hire?

8 December 2012

Answer: Probably the one that plans to do more for you. Here is one example of why hiring the best lawyer you can afford to file a bankruptcy for you, one who is more likely to stay current on the law, may be worth it. It is *In re Belforte*, Case No. 10-22742-JNF, (decided Oct. 1, 2012) a recent decision issued by the Massachusetts Bankruptcy Court.

In *In re Belforte* the debtor filed a chapter 7 bankruptcy. One of the debtor's debts was a personal line of credit issued by the local credit union. The debtor indicated to the credit union on a handwritten note when applying for an extension of the credit line that it was sought to pay for "tuition [and] books" for the debtor's children's education. After the bankruptcy petition was filed, the credit union objected to the line of credit being discharged. It produced the handwritten note as evidence (likely not provided previously by the debtor to her attorney). The credit union argued that the debt should be deemed a student loan that is not dischargeable in bankruptcy. Despite the fact that the loan was not associated with the student loan program the credit union offered and the credit union imposed no control over how the funds were to be spent, the court found it should be deemed a student loan under § 523(a)(8)(A)(ii) of the bankruptcy code. The practical effect was likely that the debtor thought the debt would be discharged, but it was not.

Now, before thinking the debtor's attorney in this case was negligent, we must speculate some and add some reality to the mix. It is assumed the debtor did not indicate the debt could be a student loan to the attorney or provide the hand written note. And further, even if she did, it is arguably unreasonable to expect an attorney to probe the debtor's characterization of every single loan they have, such as checking the purpose stated on every loan application (let alone a hand written note). And for these reasons, this situation is likely to happen again.

However, the more general point is that a lawyer that takes care and stays current on the law is *more likely* to catch this issue, and the plethora of other possible issues that can complicate and change the benefit of a bankruptcy. Such a lawyer is more likely to become aware of potential issues and advise his client of matters the client would want to know. And, such a lawyer typically is not the least expensive one.

We hope you consider what this post has to say prior to engaging a bankruptcy or any kind of attorney. In the event that you are considering filing bankruptcy or taking another type of legal action, feel free to give us a call.

Contact: George E. Bourguignon, Jr., Esq.
Phone: (508) 769-1359 or (413) 746-8008
Email: gbourguignon@bourguignonlaw.com
Website: <http://www.bourguignonlaw.com>