

The Bankruptcy Process: Credit Counseling and Petition Preparation

The Ball is Rolling

If you have made it to this point, congratulations on having the courage to confront your financial issues and taking the initiative to improve your situation. Often, the first step is the most difficult and it is somewhat smoother sailing from here. You have got past the idea that [bankruptcy is wrong](#) and you are on your way to a [fresh start](#).

There is still a lot of work to be done and your diligence and attention to detail are important, however, you have put the confrontation and consultation behind you.

At this point, you have had your consultation, signed your retainer, paid your fees and have provided an inordinate amount of documentation to your lawyer. The ball is rolling and picking up speed, so what's next?

The Credit Counseling Faree Course

Many a bankruptcy lawyer believe that the [credit counseling course requirement is one big waste of time](#). Regardless, this pre-filing requirement was instituted in 2005 with the introduction of the [Bankruptcy Abuse Prevention and Consumer Protection Act \(BAPCPA\)](#). The noble intention of this credit counseling requirement was to dissuade unnecessary bankruptcy filings and prevent repeat filings.

Right or wrong, waste of time or not, this credit counseling course must be completed within 180 days of the filing of your bankruptcy petition. It must be completed through a credit counseling agency approved by the [Department of Justice's U.S. Trustee Program](#). A complete (and unnecessarily long list) can be found [here](#).

During the credit counseling session, a counselor will review your financial status by looking at your assets, liabilities and your current income and expenses. A recommendation will be made as to whether bankruptcy is necessary but no legal advice may be given by the counselor. More important than the recommendation is the certificate generated once you complete the course as this provides proof to the Bankruptcy Court that you have completed this pre-filing requirement.

Preparing the Petition

Now we get down to the nitty-gritty. This is the true grunt work performed by your bankruptcy lawyer or a qualified member of his/her staff. Personally, I like to prepare all of my client's petitions as I find it gives me an intimate look into their financial state of being.

The bankruptcy petition is a set of forms, schedules and statements. I like to view the petition as a window into your financial history. It tells the financial story of your life leading up to the time you file bankruptcy. It also provides a current snap-shot of your financial state at the time of filing.

The bankruptcy petition will ultimately be filed with the Bankruptcy Court and submitted to the trustee. Containing a complete list of your assets, liabilities and financial affairs, it gives the court and the trustee the ability to dissect your case and ultimately, determine an outcome.

Honesty and Accuracy



Again, your bankruptcy petition must contain a complete and accurate accounting of all of your assets, liabilities and the state of your financial affairs leading up to the bankruptcy filing. Your petition is prepared and ultimately signed under penalty of perjury. [Official Form 1](#) of the voluntary petition states as follows:

“I declare under penalty of perjury that the information provided in this petition is true and correct.”

Lying on a bankruptcy petition, besides being irresponsible and wrong, is a Federal offense punishable by fine or worse, imprisonment. You must be honest, forthcoming and disclose anything and everything that might be relevant to your lawyer to avoid problems post-filing. [Just ask Lenny Dykstra](#) (my favorite baseball player growing up) what happens when you are not forthcoming during the bankruptcy process.

In addition, under BAPCPA’s due diligence requirement, attorneys are also held responsible (to a certain extent) for the truthfulness and accuracy of the information and content of the petition.

So, the ball is rolling and both you and your attorney are working hard to make sure everything is accurate, honest and ready to go...

Next Up, Part 3: Petition Review and Submission to Court

Image courtesy of [lejoe](#).