



# THE SUFFOLK LAWYER

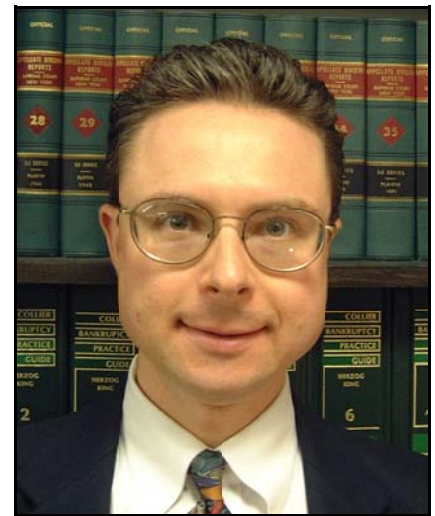
PUBLICATION OF THE SUFFOLK COUNTY BAR ASSOCIATION

DEDICATED TO LEGAL EXCELLENCE SINCE 1908 Vol. 22 No. 4 December 2005

## CONSUMER BANKRUPTCY

### Nine New Year's Resolutions Consumer Bankruptcy Practitioners Should Make

by Craig D. Robins, Esq.



CRAIG D. ROBINS, ESQ.

With another New Year approaching, now is the time to consider making some resolutions to make your consumer bankruptcy practice easier and more efficient.

**1. Prepare Your Clients for Hearings.** I am often amazed at the number of attorneys who neglect to have discussions with their clients to prepare them for the meeting of creditors. This becomes apparent when the clients fail to show up with their identification, do not know where to go, do not know or understand the basic questions the trustee asks, etc. Resolve to have a quarter-hour prep talk with each

client before the hearing and it will make your life easier.

**2. Deliver Documents on Time.** You know who you are. The 2005 Bankruptcy Act contains numerous requirements about filing various documents in a timely manner. Existing Local Rules for Chapter 13 cases also require you to file numerous mandatory disclosure documents with the trustee at least ten days prior to the Meeting of Creditors. You wait until the last minute and then deliver documents to the trustee or the court late, only to be yelled at or told to come back to court again. The

trustees hate you for this and your clients get angry at you. Simply resolve to deliver documents to the trustees and the court on time.

**3. Review Work Done by Support Staff.** I frequently observe trustees criticize very experienced practitioners for filing petitions with errors that should have been caught. In addition, I see trustees tell attorneys that their clients will not be examined because the attorney's office neglected to timely provide the trustee with documents. Everyone makes mistakes, but it is incumbent upon you to weed them out. Resolve to proofread the petition

carefully before filing. Since your support staff usually sends out the necessary documents to the trustee, resolve to review your bankruptcy file at least two weeks before the meeting of creditors to make sure that your support staff timely sent all necessary documents to the trustee. Also, consider calling the Chapter 13 Trustee's office to make sure that they received the documents.

**4. Sign Up for Some Pro-Bono Cases.** Contributing publicly and professionally to the legal profession and community is an important responsibility of being a member of the bar. The Volunteer Lawyers Project maintains a Pro-Bono Bankruptcy Clinic in which needy and deserving individuals, such as those afflicted by grave medical problems or the loss of an income-providing spouse, are pre-screened for eligibility. If you need an easy case to practice filing under the new laws, here is your chance. Resolve to take on some pro-bono bankruptcy cases. Call V.L.P. at 516-292-8299. Since the program began, I have taken about 140 pro-bono cases; you can at least take a few as well.

**5. Take Every C.L.E. Bankruptcy Course Offered During the Next Two Years.** The 2005 Bankruptcy Act is the most complicated overhaul of the Bankruptcy Code in several decades. Even the judges and trustees are not sure about how to implement the new laws. Since bankruptcy practice under the new act will be rapidly evolving, resolve to take as many Continuing Legal Education courses as possible on bankruptcy as this will be one of the few ways to effectively stay up to date. Also consider some of the multi-day workshops offered by the National Association of Consumer Bankruptcy Attorneys and other groups.

**6. Subscribe to *Consumer Bankruptcy News*.** Consumer bankruptcy practice today requires

that you stay up to date with news and current case law. *Consumer Bankruptcy News*, published biweekly, is by far the best periodical that is limited to all aspects of consumer bankruptcy practice. Resolve to subscribe and regularly read *Consumer Bankruptcy News*. Contact the publisher, LRP Publications at 800-341-7874 for more information.

**7. Read, Re-Read, and Read Again the New Laws.** There are so many new provisions of the 2005 Bankruptcy Act, that there is no way to remember them all unless you read them several times. (And they are several hundred pages long). Knowing that there is now increased attorney liability for slipping up (sanctions, costs and legal fees), should be incentive enough for you to resolve to regularly read and re-read the new laws and commentary about them. Don't laugh; I keep an extra copy in the room my wife calls my "personal library." Others call it the bathroom.

**8. Set Realistic Fees.** I see too many attorneys who charge such a small fee that they find it difficult to justify spending the necessary time to properly represent their client. These attorneys are constantly criticized by the court and trustees because they skip corners and neglect to provide adequate legal representation. Perhaps this will change with the advent of the 2005 Bankruptcy Amendment Act. Resolve to be realistic about how much time is necessary to properly administer a bankruptcy case, especially under the new laws, and then charge your client accordingly so that you are not tempted to skimp on your services.

**9. Know When Not to Take a Case.** Often attorneys are tempted to take on cases that they don't realize are beyond the scope of what they can easily handle. It's

unfortunate, but the 2005 Bankruptcy Amendment Act turned bankruptcy practice upside down. The new laws demand a much greater expertise on the part of counsel, greater due diligence, maintaining current bankruptcy software and more. If you only handled a nominal number of bankruptcy cases in the past, consider the additional legal work and potential attorney liability that you will now encounter with new bankruptcy law. Also, be aware that Chapter 13 cases are much more involved than Chapter 7 ones. If you don't do that much bankruptcy work, resolve to refer your bankruptcy cases to a specialist.

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*Editor's Note (revised 2008):*  
*Craig D. Robins, Esq., a regular columnist, is a bankruptcy attorney who has represented thousands of consumer and business clients during the past twenty years. He has offices in Medford, Commack, Woodbury and Valley Stream. (516) 496-0800. He can be reached at CraigR@CraigRobinsLaw.com. Please visit his Bankruptcy Website: CraigRobinsLaw.com.*