

**HOW TO START AND GROW
A BANKRUPTCY PRO BONO PROGRAM**

Mary Anne Lucey, Philadelphia, Pennsylvania; malluce@hotmail.com

**George Cauthen, Columbia, South Carolina;
george.cauthen@nelsonmullins.com**

Eric L. Frank, Philadelphia, Pennsylvania; efrank@dwplaw.com

James L. Baillie, Minneapolis, Minnesota; jbaillie@fredlaw.com

Brief Description:

At least 132 legal services and pro bono programs have recently been identified as providing bankruptcy pro bono legal services. The panel discussion will describe resources and discuss how to start bankruptcy pro bono programs, and how to grow and fund them.

Topical Outline:

- I. CHARACTERISTICS OF A SPECIALIZED BANKRUPTCY PRO BONO PROGRAM
 - a. Focus on bankruptcy and debtor-creditor representation
 - b. Active involvement of the bankruptcy bar
 - c. Support of bankruptcy judges
- II. STRUCTURE OF BANKRUPTCY PRO BONO PROGRAMS
 - a. Bar association approved pro bono programs
 - b. Legal services programs with pro bono components
 - c. Free standing programs
 - d. Court sponsored programs
 - e. Other social services sponsors
- III. SURVEY OF BANKRUPTCY PRO BONO PROGRAMS
- IV. SOUTH CAROLINA PROGRAM
 - a. Clinics: South Carolina Bar Pro Bono and Public Service division sponsors clinics for the public on bankruptcy
 - b. Referrals: Most come from the South Carolina Centers for Equal Justice (Legal Services), some from trustees or clerk's office
 - c. Volunteers: South Carolina Bankruptcy Law Association, in coordination with South Carolina Bar Pro Bono Program

- d. Types of cases handled: chapter 7 cases that fit the income levels of Legal Services, some chapter 13s where original attorney passes away or disbarred; child support collection; Habitat for Humanity foreclosures

V. PHILADELPHIA PROGRAM- - CONSUMER BANKRUPTCY ASSISTANCE PROJECT

- a. Outreach program
- b. Referrals from outside agencies
- c. Volunteers: Attorneys and law students
- d. Mentor component
- e. In-house provision of services
- f. Types of cases handled: chapter 7 full service (discharge and dischargeability proceedings, redemption, reaffirmation, lien avoidance) for income eligible clients in Philadelphia County

VI. MINNESOTA PROGRAM

- a. Adversary proceedings
 - (i) dischargeability
 - (ii) student loan discharge
- b. Debtor advice
- c. Case filing
- d. Outstate clinic day
- e. Law student spring break

VII. 10 KEYS TO SUCCESS

Successful programs usually have certain things in common. These are the keys to success:

- a. One or more highly respected bankruptcy lawyers leading the charge to create the program.
- b. One or more interested bankruptcy judges actively involved in designing and promoting the program.
- c. “Ownership” by the bankruptcy bar association, thus giving access to volunteers, expertise, energy, and funding.
- d. Thoughtful analysis of the kinds of cases to be handled and how the prospective clients will find their way to the bankruptcy pro bono project.
- e. Successful recruitment campaigns to assure the necessary number of volunteers and the provision of training and back-up help.
- f. Thoughtful analysis of the administrative tasks involved with the project, the costs, and the sources of funding.
- g. Integration with existing local legal services offices and volunteer attorney programs.
- h. Funding sources to pay for costs incurred by volunteers, to fund cooperation with local legal services offices or volunteer attorney programs, etc.
- i. Cooperation with other groups in the community.

- j. A three-way balance among the number of clients, the volunteers, and the administration of the programs.

VIII. Service Types

- a. Case filing
- b. Clinic/brief advice for filing
- c. Pro se materials
- d. Adversary proceedings
- e. Reaffirmations
- f. Law school clinics
- g. Amicus briefs

IX. FUNDING

- a. American College of Bankruptcy : see www.amercol.org for examples and for grant form.
- b. Local Bankruptcy Bar
 - (i) Bar treasury
 - (ii) Fund raising events
- c. Court special funds
- d. National Conference of Bankruptcy Judges
- e. Court fines
- f. Funds generally available to legal services and pro bono programs
 - (i) IOLTA
 - (ii) State funding
 - (iii) Filing fees
 - (iv) Cy pres
 - (v) Private local foundations
 - (vi) Law firms and lawyers

X. LAW SCHOOLS

- a. Using less students
- b. Clinic programs
- c. Special programs

XI. DEALING WITH CONSUMER BANKRUPTCY ATTORNEYS

- a. Is bankruptcy pro bono needed?
- b. Could cases be free generating?
- c. Will consumer bankruptcy lawyers do all the work?
- d. Are consumer bankruptcy lawyers already doing pro bono?
- e. Are there other reasons for consumer attorneys to support pro bono?

XII. CONFLICTS AND WAIVERS

XIII. SUPPORT

- a. ABA Section of Business Law/ABA Center for Pro Bono
- b. National Consumer Law Center
- c. List serve – BLS
- d. List serve – NCLC
- e. Website
- f. MSBA website

XIV. PROBLEMS CREATED BY BAPCPA (**separate program**)

XV. WHAT CAN WE DO TOGETHER?

Notes:

Bibliography & Website Links:

1. How to Begin a Pro Bono Program in Your Bankruptcy Court, A Starter Kit for Lawyers and Judges
<http://www.abanet.org/legalservices/publications/probono.html>
2. Survey of bankruptcy pro bono programs
Pro Bono Bankruptcy Programs and Resources
<http://www.dsl.psu.edu/publications/probono/index.cfm>
3. ABA pro bono bankruptcy list serve
bkprobono@mail.abanet.org
email Shelly Crocker to be added: scrocker@crockerkuno.com
4. ABA Center for Pro Bono
<http://www.abanet.org/legalservices/probono/home.html>
<http://www.abaprobono.org>
5. National Consumer Law Center list serve
admin@lists.nclc.org
6. ABA Section of Business Law – (Committee on Pro Bono)
www.abanet.org/buslaw
7. ABA – Katrina
<http://www.abanet.org/Katrina>
8. Minnesota State Bar Association Website
<http://www.practicelaw.org/bankruptcy/NEphp>

9. Los Angeles Website

<http://www.dsl.psu.edu/publications/probono.pdf>

10. Washington D.C. Website

http://www.dcbars.org/for_lawyers/pro_bono/about_the_program/serving_the_community/bankruptcy.cfm

[dcbars.org/for_lawyers/pro_bono/about_the_program/serving_the_community/bankruptcy.cfm](http://www.dcbars.org/for_lawyers/pro_bono/about_the_program/serving_the_community/bankruptcy.cfm)

11. CBAP Website coming soon

#3236014\2