

Client Relationships: Ethical Considerations for Conflicts, Divorces of Clients, Divorces from Clients, and Other Convivial Client Issues

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Jeopardy Answers and Questions

Before & After

1. This mandatory financial training for debtors was added under BAPCPA.

What is credit counseling?

Credit Counseling –Section 521(b)

Personal Financial Management Class – Section 722(a)(11)

2. This “not so nice” test was implemented as a threshold to filing a chapter 7.

What is the Means test?

Section 707(b)(2)(A)

Section 1325(b)(3)

3. This family obligation had its priority level raised in 2005.

What are domestic support obligations (alimony, maintenance, and support)?

Section 101 (14A)

Section 523(a)(5) dischargeability of DSOs

4. Since 2005, attorneys have been hunting down these government documents of their clients to file with the case.

What are tax returns?

Section 521(e)(2)

5. This provision was revised in 2005 in order to limit the protections given to a serial filer.

What is the automatic stay (section 362)?

Extension of the automatic stay Section 362(c)(3)(B)

and

Imposition of the automatic stay Section 362(c)(4)(B)

Divorce

6. An attorney must get this from his clients before representing them if they are in the midst of a divorce.

What is informed consent or waiver of conflicts?

7. This remedy could be invoked if a divorcing couple partitions property in fraud of creditors.

What is fraudulent conveyance?

8. An attorney should do this if he discovers his clients filed for divorce for the purpose of hiding assets from creditors.

What is tell the court, dissuade the clients, or terminate representation?

9. This recent Fifth Circuit case holds that homestead cannot be partitioned on the eve of bankruptcy if it hinders or delays creditors.

What is Wiggains?

Wiggains v. Reed, (In re: Wiggains)

10. The debtors may fail this “tough” test when married but pass as individual filers.

What is the Means Test?

Section 707(b)(2)(A)

Creditor Issues

11. This recent Supreme Court case decided that it is not a violation of the Fair Debt Collection Practices Act to file a proof of claim for a time-barred debt.

What is Midland Funding v. Johnson?

581 U.S. _____ (2017)

12. You should file this when your client disputes the creditor’s proof of claim.

What is an objection to claim?

Section 502(a)

13. If a creditor fails to timely file its proof of claim this person can still attempt to include the claim to be paid.

What is the debtor (or trustee)?

Section 501(c)

14. A prepetition payment to a creditor during this time period could be seen as a preference.

What is 90 days?

Section 547(b)(4)

15. A creditor can file this when it believes that the chapter 13 plan does not properly treat its claim.

What is an objection to confirmation?

Section 501(c)

Automatic Stay

16. This section of the Bankruptcy Code stays collection actions against the debtor.

What is section 362?

17. These family law financial obligations can be modified in a divorce case without seeking relief from the automatic stay.

What are domestic support obligations?

Section 362(b)(2)(A)(ii)

18. The date that the stay terminates by operation of law.

What is discharge or dismissal?

19. In a hearing on relief from stay, this party has the burden of proof on all issues other than debtor's equity in the property.

What is the party opposing relief from stay?

20. These kinds of rights with respect to children are not stayed in a divorce case.

What are child custody and visitation?

Section 362(b)(2)(A)(iii)

Potpourri

21. If the stay is lifted, on this day the secured creditor may foreclose on your client's home.

What is the first Tuesday of the month?

22. In Texas, a fee for filing a chapter 13 case that a court will generally approve without review is called this.

What is a no look fee?

23. This is one of the most commonly violated ethical rules.

What is competence or diligence or conflict of interest?

24. This debt that many young people incur is ordinarily not dischargeable.

What is student loan debt?

Section 523(a)(8)

25. Bankruptcy first originated in this century.

What is the 16th century?

FINAL JEOPARDY

THE DISCHARGE

This section and subsection of the Bankruptcy Code provides for the nondischargeability of domestic support obligations.

What is section 523(a)(5)?

Client Courtship

26. The “lucky” Bankruptcy Code chapter a debtor with low income and only unsecured debt might use.

What is chapter 7?

27. The “unlucky” Bankruptcy Code chapter a debtor with home mortgage arrears would likely use if he wants to keep his house.

What is chapter 13?

28. The number of days after filing the petition that you have to file the schedules and plan.

What is 14?

Federal Rules of Bankruptcy Procedure Rule 1007(c)

29. The name of the standard attorney’s fee for filing a chapter 13 case.

What is the base fee or no-look fee?

See your Local Rules for details

30. This kind of personal check for attorney's fees from a debtor might be a bad idea.

What is a post-dated check?

Continuing Complacency

31. What you file when your client has incorrectly listed property on his schedules.

What are amended schedules?

Federal Rules of Bankruptcy Procedure Rule 1009

32. What you must get from your former creditor client to continue to represent your current debtor client.

What is informed consent in writing?

33. One thing you can't give your debtor client when he needs money.

What is a loan?

34. A reaffirmation of a debt to keep a 2017 Hummer should not be approved by the attorney if this would result.

What is undue hardship?

Section 524(c)(3)(B)

35. Another name for the fiduciary duty owed to your client.

What is duty of loyalty?

Bad Break-ups

36. This must be filed when your chapter 13 debtor no longer wants to continue his case.

What is a motion to dismiss?

Section 1307(b)

37. This must be filed with the court when terminating representation of the debtor.

What is a motion to withdraw (or substitute counsel)?

38. This must be done when your debtor client is concealing assets and refuses to rectify the situation.

What is withdraw representation (or tell the court)?

39. What you must do to collect your fees if your debtor client dismisses his case.

What is file a fee application?

40. This motion should be filed if your chapter 7 debtor client inherits money after discharge, but within 180 days of filing the case.

What is a motion to reopen case?

Section 350(b)

Ethical Rules

41. This rule book should be referred to when contemplating an ethical issue.

What are the Texas Disciplinary Rules of Professional Conduct?

42. The term for the highest standard of care that an attorney owes to his client.

What is fiduciary duty?

43. This provision of the Texas Disciplinary Rules prohibits sharing of information with the spouse of your debtor client.

What is Rule 1.05 (Confidentiality of Information)?

44. This provision prohibits attorney loans to a debtor client.

What is Rule 1.08(d) (Conflict of Interest: Prohibited Transactions)?

45. You may have violated this rule of ethics if you refuse to call back your client.

What is Rule 1.03 (Communication)?

Avoiding Malpractice

46. This section of the Bankruptcy Code could be used to set aside a collusive divorce division of property.

What is § 548?

47. This Disciplinary Rule may be violated when divorcing debtor clients disagree about how to proceed.

What is Rule 1.06 (Conflict of Interest)?

48. This Bankruptcy Code section prohibits chapter 7 filings that would be an abuse of chapter 7 or in bad faith.

What is section 707?

49. This Bankruptcy Code section was added in 2005 to classify consumer debtor attorneys as debt relief agencies.

What is section 526?

50. This Bankruptcy Rule prohibits filing motions for harassment or improper purpose.

What is Rule 9011?

FINAL JEOPARDY

AUTOMATIC STAY

Periodic cash payments to creditors to protect their property interest.

What is Adequate Protection?

Section 1326 (a)(1)(C)

EXTRA

Literature

51. This court created the Texas ethics rules.

What is the Supreme Court of Texas?

52. In this year the ethics rules were enacted.

What is 1989?

53. This Justice is known as the “father of professionalism” and led the way for the Texas Ethics Rules.

Who is Justice Eugene Cook?

54. These ethical rules apply specifically to judges.

What are the Ethical canons or Code of Judicial Conduct?

55. Every 4 years they occur and federal judges may not participate except to vote.

What are elections?