

Table of Contents



Editor's Notes.....	1
I. Consumer Discharge.....	3
A. Introduction.....	3
B. Chapter 7 Discharge.....	4
C. Chapter 13 Discharge.....	5
D. Debtors Ineligible for a Discharge	6
1. Time Limit from Chapter 7 to Chapter 7.....	6
2. Time Limit from Chapter 7 to Chapter 13.....	7
3. Time Limit from Chapter 13 to Chapter 7.....	11
4. Time Limit From Chapter 13 to Chapter 13.....	13
5. More Cases.....	15
E. BAPCPA Requirements for Chapter 13 Discharges	16
F. Effect of Audit Issues on Chapter 7 Discharges (\$727(d)(4) on Revocation of Chapter 7 Discharge)	21
II. Attorneys' Fees In Chapter 13 Cases.....	25
A. Paying Debtor's Counsel	26
1. Cautionary Tales.....	26
2. How Much Is Enough for a Chapter 13 Case?.....	26
3. When Do I Get Paid?.....	28
4. Exception from Discharge	29
B. Paying Creditors' Counsel	29
III. Credit Counseling and Debtor Education	33

A. Curriculum	34
B. Issues Relating to Timing of Counseling.....	36
1. Within 180 Days.....	36
2. Repeat Filers.....	38
3. Counseling on the Petition Date	39
a. Must Be at Least One Day Prior to Petition Date.....	39
b. Counseling May Be Received on Petition Date....	40
C. Preliminary Questions on Eligibility.....	41
1. Is Credit Counseling a Jurisdictional Issue?	41
a. Not Jurisdictional.....	42
b. Jurisdictional	43
2. Does the Filing by an Ineligible Debtor Give Rise to the Automatic Stay?	43
a. No Stay Implicated.....	44
b. Stay Implicated.....	44
D. Strike or Dismiss, That Is the Question	44
1. Strike.....	45
2. Dismiss	46
E. Exemptions and Extensions.....	48
1. U.S. Trustee Certification of Insufficient Providers— §109(h)(2)	48
2. Exigent Circumstances—§109(h)(3)	49
a. What Type of Certification of Exigent Circumstances Is Required?	49
b. Are the Requirements for Exigency Met?	51

3. Disability, Incapacity and the Military—§109(h)(4)..	58
a. Incarcerated Debtors	58
b. Dead Debtors.....	60
c. Other Disabilities and Incapacities	60
F. A Sword or a Shield? Using the Failure to Get Credit Counseling to Dismiss Your Own Case	62
G. Reopening Cases for Debtor Education – A Second Educational Requirement.....	63
IV. Application of §707(B) to Converted Cases	65
V. Chapter 13 Plan Modifications.....	73
VI. Dead Debtors – Can Your Creditors Follow You to the Great Beyond?.....	77
Appendix A. Table of Cases	81
Appendix B. Case Summaries.....	87