

Clients Behaving Badly: The Ethics of Addressing Client Misconduct

CREDITOR BREAKOUT SESSION

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**Clients Behaving Badly: The Ethics of Client Misconduct
Creditor Breakout Session**

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and

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Chicago Consumer Bankruptcy Conference

- I. Receiving a Referral from a Client.
 - a. Authority to Represent the Client.
 - i. Is it a referral? If so, what is the client asking you to do?
 - ii. Authority to represent the client and all pertinent information included.
 - 1. Type of referral, debtor's name, loan number, bankruptcy case number, facts, loan documents and figures.
 - b. Contents of Referral.
 - i. Mortgage
 - 1. Mortgage; note; assignment, if applicable; figures.
 - ii. Vehicle
 - 1. Retail installment contract/note; title; figures.
- II. Motion for Relief
 - a. Preparing and filing the Motion for Relief.
 - i. Figures.
 - 1. Pre-petition v. Post-petition.
 - 2. Payment history.
 - 3. Payment changes.
 - a. Proper notice of payment change.
 - ii. Documents
 - 1. Mortgage, note, and assignments.
 - b. Hearing on the Motion.
 - i. Payment history.
 - ii. Funds received between filing and hearing date.
 - iii. Debtor notification of payment changes.
 - iv. Service transfers.
 - c. Relief Granted.
 - i. Rule 3002.1.
- III. Proof of Claim
 - a. Preparing the Proof of Claim.
 - i. Figures.
 - 1. Pre-petition v. Post-Petition
 - 2. Dates
 - a. Definition of "incurred."
 - ii. Secured v. Unsecured.
 - iii. Documents required.
 - 1. Escrow analysis
 - b. Approval and Verification of Figures.
 - i. Bar Date v. Objection to Confirmation.
 - ii. Signature.
 - c. Filing the Proof of Claim.

- i. Deadline.
 - ii. Documents included.
 - iii. Redaction.
- IV. Objection to Confirmation.
 - a. Proof of Claim approved and filed prior to confirmation hearing.
 - b. Objecting prior to deadline.
 - c. Service transfers.
 - d. Trustee recommendation of plan without all creditors included in plan.
 - e. Standing; objecting to confirmation without a filed claim.
- V. New Rule 3002.1
 - a. Notice of Mortgage Payment Change.
 - i. Filed timely v. filed late.
 - ii. Consequences of not filing.
 - iii. Discrepancies.
 - b. Notice of Post-Petition Fees, Expenses and Charges.
 - i. Definition of “incurred.”
 - ii. Cost of filing.
 - c. Notice of Final Payment Cure.
 - i. Response required.
 - ii. Breakdown of amounts outstanding.
 - iii. Cost of filing.
- VI. Adversary Cases.
 - a. Lien stripping.
 - i. BPO v. Appraisal.
 - ii. Appraiser testimony.
- VII. Sanctions.
 - a. Receiving bankruptcy notice.
 - b. Failing to return vehicle.
 - c. Violating discharge injunction.
- VIII. Demands on the Credit Bar.
 - a. Timelines.
 - b. Communication issues.
 - c. Free legal advice.