

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN**

**Pro Bono Program**

**I. Introduction**

The United States Bankruptcy Court for the Eastern District of Michigan and the Advisory Committee of the Eastern District of Michigan Bankruptcy Court have determined that there is a need for a formal program to provide pro bono representation in certain types of bankruptcy litigation. Therefore, this program is established to provide representation without charge to the represented party, within the restrictions provided for in this program statement. The goal of the program is to give substance to the concept of equal justice under law. This goal is met because the bar recognizes its obligation to provide pro bono representation in appropriate circumstances.

The greatest need appears in adversary proceedings in which creditors or the trustee object to the discharge of individual debtor under 11 U.S.C. § 727(a) or in which creditors claim the non-dischargeability of certain debts under 11 U.S.C. § 523(a). Another area of need is in cases in which an indigent former spouse (creditor) sues the debtor, claiming the nondischargeability of the obligations in the parties' judgment of divorce.

An adversary proceeding is civil litigation in the bankruptcy court and in the bankruptcy case. The Federal Rules of Bankruptcy Procedure, the Federal Rules of Evidence, and certain of the Federal Rules of Civil Procedure apply. These adversary proceedings are non-jury and are normally completed within six months.

These adversary proceedings usually involve little formal discovery. The creditor files the action based on the conduct of the debtor. At the meeting of creditors, the debtor is required to testify and is usually questioned by the creditor regarding the potential grounds for the creditor's claim. At that point, the parties are generally aware of the allegations and documents involved.

**II. Scope of Representation**

The program provides representation only for individual debtors in actions under 11 U.S.C. § 523(a) (non-dischargeability) or § 727(a) (discharge objection), and for creditors in actions under 11 U.S.C. § 523(a)(5) or (15) (nondischargeability of alimony, support or property settlement obligations), including post-judgment motions at the trial court level.

The program does not provide representation for appeals to the District Court or to the Court of Appeals. These courts may have their own pro bono representation programs.

### **III. Screening And Qualifications for Representation**

Each individual seeking pro bono representation shall submit an application on a form available from the Clerk. This form requires the applicant to provide complete, accurate and current information concerning the applicant's income and assets, as well as other pertinent financial information. In evaluating the information provided in the application, the Court will also examine the applicant's bankruptcy schedules and statement of financial affairs. The Court may also require the applicant to provide proof of income or assets, such as recent pay stubs or bank account statements.

Generally, the Court will grant the application if:

(A) The applicant's current income does not exceed 200% of the current year's U.S. Department of Health and Human Services Poverty Guidelines for the applicant's family size (available from the clerk); and

(B) The applicant does not have sufficient assets to pay for the needed representation.

The determination will be made by the judge assigned to the adversary proceeding.

If the application is granted, the Court will enter an order appointing an attorney from the list of attorneys who have volunteered to provide pro bono representation in this program. The Court will provide to the attorney a copy of the pertinent pleadings in the adversary proceeding file, as well as a copy of the bankruptcy petition, schedules and statement of financial affairs.

The attorney who is appointed may file and serve on the pro bono client a motion for relief from the appointment order. The motion must establish good cause and be filed promptly so that the adjudication of the adversary proceeding is not delayed. If a motion for relief is granted, the Court will enter another order of appointment.

If the application for pro bono representation is denied, the Court will enter an order to that effect, stating briefly the cause for the denial, and mail it to the applicant.

### **IV. The List of Volunteer Pro Bono Attorneys**

The list of volunteer attorneys is maintained by the clerk. Generally, appointments from the list will be made in alphabetical order.

Any attorney may join or leave the list at any time simply by writing a letter to the bankruptcy clerk.

Because a sufficient number of attorneys have volunteered, the volume of appointments does not unduly burdened any particular volunteer attorney on the list.

## **V. Case Costs**

The applicant must pay any filing fees required by law. Litigation costs other than the filing fee and attorney fees can be advanced or reimbursed through this program upon application to the Court. If the applicant recovers any award in the adversary proceeding, the applicant shall reimburse to the program any costs advanced by the program.

Representation in these cases does not usually involve significant out of pocket expenses or costs. If the transcript of the meeting of creditors is necessary, the cost is minimal and the audio tape is available at nominal cost. Also, since the trials and discovery are conducted within this district, there is no need for travel or lodging expenses. Finally, if the services of an accountant or other professional are required, the attorney can contact the appropriate local professional organizations, who may themselves have pro bono programs.

Few requests for reimbursement of costs or expenses are made in the program. If such a request is made and approved, Court will then request funding by and through the Federal Civil Pro Bono Program administered by the United States District Court.

## **VI. Record Keeping**

The Court undertakes periodic review and evaluation of the program. To facilitate this, the bankruptcy clerk has the responsibility to keep appropriate records and statistics. Also, at the conclusion of a matter, the bankruptcy clerk may contact the pro bono attorney to obtain information about the representation, such as the number of hours expended and any suggestions the attorney might have to improve the program.

Steven W. Rhodes  
Chief U.S. Bankruptcy Judge  
May 22, 2002