OOPS!

WHEN YOU REALLY, REALLY MESS UP

Some Practical Ideas for Fixing, or at Least Mitigating, Common Bankruptcy Practitioner Errors

Prepared for the 15th Annual Consumer Bankruptcy Seminar - Houston, Texas

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"A good lawyer commits malpractice every day. He just doesn't let anyone find out about it." **John T. Ratliff, Jr.** - Civil Trial Advocacy Course - The University of Texas School of Law.

"Too err is human, to forgive, divine." **Alexander Pope**

"We made too many wrong mistakes." **Yogi Berra**

YOU ARE GOING TO MAKE MISTAKES

Let's face it. You're going to screw up. It's inevitable. As inevitable as the sun rising in the East. And if you're like me, you will do it in a spectacular or embarrassing fashion. But the mark of a good lawyer is what happens *after* that lawyer makes a mistake. Yes, it's better not to make mistakes, and you should put procedures in place in your practice to minimize errors. You should have your secretary keep a backup of your docket and remind you when hearings are coming up. You should have someone double-check your documents to make sure there aren't any glaring errors: two sets of eyes are better than one. You should have an attorney review every document which leaves your office. You should train your staff not to blindly type those documents, but to question whether you really meant to say that, or put that number there, or file that document in this case. The easiest mistake to fix is the one you never make. The second easiest is the one you catch before it goes out the door.

But no matter how careful you are, there are going to be mistakes, whether by you, your staff, or your client. And no matter's who's mistake it is, you will get the blame.

How you handle mistakes can mean the difference between simple embarrassment and

malpractice. Between an understanding client and a grievance with the State Bar. Between losing money versus losing your law license. Any honest lawyer will admit that he or she has messed up on multiple occasions. If you're lucky, you can catch and fix the mistake before anyone finds out about it. If you're not, you may need the assistance of your friends, your opponent, or even the Court to fix the problem.

It is impossible in this paper to cover all the myriad ways you might mess up. There are as many ways to make mistakes as there are pleadings filed. All this paper can offer is some practical advise as to how to fix the more common errors, and some general advise on how to handle errors which are not covered by this paper.

Just realize that certain files are going to be snake-bit. Once an error creeps in to a snake-bit file, no matter how hard you try to fix it, no matter how careful you are, no matter what you do, the errors in that file will multiply like rabbits. With any like, the case will dismiss before it drives you completely crazy.

Most importantly, remember (1) that what goes around comes around so be nice to your opponents when they mess up so they will be nice to you and (2) if you are honest and forthright with the Court, the judge can be your strongest ally in getting out of a jam. Fortunately all of our judges don't like to see lawyers get into trouble and will do what they can to help you out if you are forthright with them.

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