

PRESENTED AT

12th Annual Consumer Bankruptcy Practice

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**Surveys for
Hello from the Other Side:
Judge Panel on Ethics and Court Procedures**

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Judge Jeff Bohm

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Procedures Page: <http://www.txs.uscourts.gov/content/united-states-bankruptcy-judge-jeff-bohm>

Survey Questions:

- 1) What are some mistakes you see consumer lawyers make in presenting their issues either in writing and/or in court?
 - Failure to attach proposed orders with their motions in violation of the applicable local rule, which results in a dismissal of the motion.
 - Failure to provide sufficient grounds for extending a deadline (such as extending the deadline for filing schedules and SOFA). Typically, the motion simply says that cause exists because the Debtor has simply not gotten around to meeting with his attorney to review the information. I need a more compelling reason to grant such an extension (for example, death in the family or need to travel due to family illness, etc.).
- 2) What is the most important thing that consumer lawyers can do to prepare themselves or their clients for a contested hearing?
 - Make sure that they have complied with the local rules for witness lists and exhibits.
- 3) What are some pet peeves or recurring problems that you see and wish would change?
 - The filing of modified Chapter 13 plans on the eve, or the same day, of a hearing on the Trustee's motion to dismiss.
 - The so-called "surrender" by a debtor of the residence or the vehicle when, in fact, the debtor remains in possession of the residence or the vehicle.
 - The filing of "Notice of Withdrawal of Motion" without setting forth the reason for the withdrawal. I like to know why a motion is being withdrawn because I want to know whether the motion should have ever been filed in the first place. For example, if a motion to lift stay is filed, and then it is withdrawn because the movant has discovered that the debtor was never in default, I may require the movant to pay the attorneys' fees incurred by the debtor for having to file a response to the motion.

- The filing by debtor's counsel of a motion to extend the automatic stay when the debtor has not yet filed a wage order. I believe wage orders are very effective and increase the chances of a Chapter 13 case being successful, and because the statute gives me discretion as to whether to extend the stay, I will exercise my discretion to deny the request unless a wage order is in place (note: if a wage order is not possible because the debtor is self-employed, then I need to see an EFT order or an ACH order in place).
 - Proposed orders that contain numerous grammatical errors.
- 4) When you're interacting with lawyers outside of court, what are some things you enjoy and some things that create discomfort or concern?
- I am certainly uncomfortable and unhappy if any comments are made about pending cases. Fortunately, this has happened very rarely.
- 5) Which reaffirmations will you always approve? Always Deny? Which are the hardest to decide?
- I will approve reaffirmations when the Debtor gives me credible testimony that paying the obligation will not be an undue hardship and when the Debtor's attorney accompanies the Debtor to the hearing and represents to me that he has counseled the Debtor. I will also sometimes approve reaffirmation agreements where solely the Debtor appears in court, pro se, and gives me credible testimony that payment will not be an undue hardship.
 - The most difficult ones to decide are when it is a very close call about the Debtor's ability to make the payment, particularly when the Debtor is clearly an honest person who is really attempting to keep the car to go to work and take children to school.
- 6) What local rules or procedures do you see consumer lawyers overlooking, disregarding, or not knowing?
- Frequent failure to submit proposed orders with motions and responses.
- 7) How do you like to see lawyers interact with each other? Is there anything you frequently wish occurred before the parties come to the court for relief?
- My perception of the consumer lawyers in the Southern District of Texas is that they are very professional and frequently confer with one another. If there is one area for improvement, it is perhaps that I would like to see each and every attorney come to court having already conferred with their respective clients in advance of the hearing.

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