

# **Keep it Simple: Tips for Consumer Bankruptcy Practice**

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Hon. Joshua P. Searcy, U.S. Bankruptcy Court, Eastern District of Texas  
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## I. Introduction

From the outside looking in, consumer bankruptcy practice often appears complex and difficult to comprehend. The purpose of bankruptcy, however, is simple: to give honest but unfortunate debtors a fresh start. While the process necessary to achieve this fresh start can indeed be complex and overwhelming for both debtors and attorneys, there are several easy steps attorneys can take to streamline their practices and make them more manageable. Although such advice may seem obvious, it can be easy for even seasoned attorneys to adopt methods and practices which unnecessarily complicate their daily work. This paper and the accompanying presentation are intended to outline and address some easy starting points for new or occasional consumer bankruptcy practitioners, and provide some reminders for more experienced attorneys. The law is a service profession. Finding ways to simplify a bankruptcy practice where possible can allow an attorney to focus on that service and helping vulnerable debtors move forward with their lives.

## II. Keep it Simple (and Read the Rules)

First, it may seem simple, but read and learn the local rules, both in the district where you practice most frequently and in those districts where you do not practice as often. Local rules dictating notice or other important requirements for filing a bankruptcy case vary between districts within Texas. Something that you do regularly in one district simply may not be acceptable in another district.

While not the most exciting task, it is better to take time to familiarize yourself with the local rules of a district rather than land on a court's radar for failing to follow seemingly simple instructions. Aside from the importance of maintaining a good reputation, reading (or not

reading) the local rules in a district can negatively effect your client's rights or the outcome of their case. By way of example, most motions in the Eastern District of Texas require negative notice language. Attorneys who either do not practice regularly in the district or are inexperienced sometimes prepare motions or pleadings as they would elsewhere, yet rules are not uniform between districts. It is readily apparent when an attorney has not reviewed the local rules, and the biggest disservice is to their client. *See Kollinger v. Hoyle (In re Kollinger)*, 551 Fed.App'x. 104, 107 (5th Cir. 2013) (affirming dismissal of Chapter 7 debtor's appeal because attorney's failure to receive notice was his own fault based on failure to follow E.D. Tex. L.R. CV-5(a)(3)).

### III. Get to Know Your Client

It may seem obvious, but get to know and communicate with your client. Ask questions and learn what has brought each particular client to your office for help seeking relief through bankruptcy. Then *listen*. People, especially those facing adversity, usually just want to know they are being heard and that someone understands or empathizes with them. Part of the intrigue of this practice is in getting to know your clients, and there are down sides to not taking time to do so. Consumer bankruptcy is a people-focused practice area, and clients do not always act according to plan or even in their own interests. It is easier to address issues with your client when you know them. In the same vein, knowing a client also allows you to more effectively manage expectations and deliver difficult news in challenging situations. Bankruptcy is a process that forces people to publicly divulge some of the most sensitive information in their lives. It can be intimidating and embarrassing. When you manage expectations and build trust with your clients, they are more likely to be forthcoming with information they might otherwise

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