



LASC

The Legal Aid Society of Columbus





LASC

The Legal Aid Society of Columbus

Consumer Law Issue Spotting

Identifying issues and options for low-income clients

Melissa Linville
The Legal Aid Society of Columbus
(614) 737-0155
merville@columbuslegalaid.org

William Ross
LASC
(614)737-0141
Wross@columbuslegalaid.org

Common Issues of Concern

- Bankruptcy;
- Current debt collection lawsuit;
- Post-Judgment debt collection lawsuit that has recently started impacting the client;
- Debt collection harassment;
- Foreclosure;
- Car-related problems;
- Student loan cases.

Step 1 – Determine Collectability

- Determine who the creditor is because federal and state governments follow different rules.
- Uncollectable income:
 - Social Security/Social Security Disability (SSDI);
 - Supplemental Security Income (SSI);
 - Unemployment benefits;
 - Veteran’s benefits;
 - Pensions;
 - VA Benefits.

Assets

- Wages: Creditor cannot leave an individual with less than \$217/week, AFTER deductions.
- Assets:

Exemption	Description
\$475	Bank accounts, cash, tax refunds not yet received (even if not filed yet)
\$1600	Jewelry
\$3775	Automobile equity (value minus what they still owe)
\$12,625	Clothing and household items (up to \$575 each item)
\$23,700	Recent auto accident where someone owes them money for bodily injury
\$2400	Tools of trade (carpenter tools, plumbing tools, etc.)
\$136,925	Real Property that the client lives in

Step 2 – Evaluate the stage of the litigation process [FORECLOSURE]

- **Pre-Foreclosure:** Advise client to speak to a housing counselor.
 - Homeport;
 - Homes on the Hill;
 - Apprisen.

Housing counselors can help clients explore their options such as applying for a loan modification, working out a payment plan, and personal budget assistance.

Foreclosures cont.

Current Foreclosure Proceeding: Ask the client if they wish to keep their home and can make reasonable monthly mortgage payments. If yes, LASC may be able to assist, particularly if one of the following scenarios apply:

- Client has considerable equity in the home;
- Client is generally able to make monthly payments, but one specific event rendered him unable to recently;
- Client has a defense to the foreclosure.

Foreclosures cont.

- **Mediation:** The mediation program at the court has changed but it is still available to a client. We recommend requesting it.
- **Post-Judgment:**
 - Foreclosure procedure: 1) bank will schedule a sheriff sale likely at least 30 days from judgment; 2) Sale will take place and the property may or may not sell; 3) confirmation of sale. Cannot predict the time between sale and confirmation or between judgment and sale.
 - Filing bankruptcy can delay a sheriff sale or confirmation of sale, but does not stop it from happening. Bank can request relief from stay to proceed w/sale.
 - Banks generally do not attempt to collect on judgment amounts.

Evaluate the stage of the Litigation Process [Creditor Lawsuit]

- **Pre-Judgment:** If the client has collectable income, LASC may be able to assist with the case.
 - Answer due 28 days after the date of service;
 - Pro se motion for extension of time;
 - Bankruptcy option.
- **Post-Judgment:** Did the client receive service? Are there any defenses?

Bankruptcy

- **When to recommend Bankruptcy:**
 - Client has multiple pending lawsuits and/or judgments and is employed;
 - Client has considerable past-due utility debt and is facing a utility shut-off notice;
 - Client has a license suspension due to an accident and is unable to pay the amount due.
 - Client has **not** filed Chapter 7 Bankruptcy within the past 8 years.

Bankruptcy

- **Chapter 13:**
 - 3-5 year income-based repayment plan. Discharge granted after plan completed.
 - Why Ch. 13?
 - Over median income;
 - Collectable assets;
 - Avoid foreclosure b/c you can include mortgage arrearage into payment plan;
 - No LASC programs.
- **Chapter 7:**
 - 3-5 months;
 - Preferable for our clients.

Legal Aid's Bankruptcy Services

- **Reduced-Fee Chapter 7 Referrals** – Under 200%; \$685 for non-home owners and \$785 for homeowners.
- **Pro Bono Chapter 7 Referral** – Under 100% with an emergency need to file;
- **In-House Representation** – Between 100% and 200% with an emergency need to file;
- **By-Pass Program** – LASC drafts letters to creditors for long-term, uncollectable clients.

Bankruptcy By-Pass Clinic

- **Target:** Long-term, uncollectable clients.
- **Program Logistics:** Bi-monthly clinics where supervised law students meet with elderly and disabled clients one-on-one. LASC distributes cease and desist letters to creditors.
- **Eligibility Requirements:**
 - Client has a fixed income and it is not likely to go up in the future.
 - Client is receiving phone calls from creditors on a regular basis.
 - Client does not have any collectable assets.

Chapter 7 Pro Bono Referral

- **Eligibility Requirements:**
 - Client is under 100% of the poverty line

Family Size	Max. Yearly Income	Max. Monthly Income
1	\$12,140	\$1012
2	\$16,460	\$1372
3	\$20,780	\$1732
4	\$25,100	\$2092
5	\$29,420	\$2452
6	\$33,740	\$2812
7	\$38,060	\$3172
8	\$42,380	\$3532

Eligibility Requirements, Cont.

- Client has not filed Ch. 7 within the last eight years;
- Client is current in his car payments;
- Client must be facing one of the following emergencies to qualify for the pro bono referral program:
 - Utility shut-off notice;
 - Wages are being garnished, or they *may* be garnished (cl. has a judgment, or is in the middle of the a credit card case AND has collectable income);
 - License suspension – if a client’s license is suspended for some reason other than a DUI, Points, Child Support Arrears, or unpaid parking tickets, filing bankruptcy may allow them to get their license back.

- **Reduced-Fee Chapter 7 Referrals:**
 - Client is under 200% of the poverty line;
 - Not filed Ch. 7 bankruptcy within the last 8 years;
 - If the client qualifies for the by-pass program, but still wants to file, we can offer them a reduced-fee referral.
- **In-House Chapter 7 Representation:**
 - Client is under 200% of the poverty line and has an emergency that would validate filing.
- LASC may be able to assist clients in-house with misc. bankruptcy issues such as adversaries and preferential transfer cases on a case-by-case basis.

Veterans

- Additional Legal Resources:
 - Captain Jonathan D. Grassbaugh Veterans Project 614-292-0290
 - No income-eligibility requirement;
 - Project facilitated through The Ohio State University Moritz College of Law.
 - Operation Legal Help 1-877-759-6182
 - Statewide;
 - 200% of the poverty line.

Student Loan Issues

Generally, not dischargeable in bankruptcy.

- First ask who the client owes?
 - If the client owes on a federal student loan, they have a number of options unavailable with private loans; Check National Student Loan Database – nslds.ed.gov
 - If the client has a current lawsuit involving a school directly, LASC may be able to assist.
 - If a debt buyer has purchased the student loan, LASC is also interested in those case.
 - If the client owns a private student loan, there are few options.
- Is the client able to make any payments in an effort to renew loan payments? If the client has defaulted on their federal student loans, they have a few different options and should contact their lender :
 - Loan Rehabilitation;
 - Settlement;
 - Consolidation.
- If the client is disabled and has federal student loans, it is best to direct her to file a Total and Permanent Disability Discharge and can begin the process by calling 1.888.303.7818 or visiting www.disabilitydischarge.com.

Fees and grant overpayments:

- Generally will be a lawsuit or attempt to collect from the school directly;
- Collection attempt is often very aggressive;
- \$800-\$1600 realm;
- School claims that the client did not withdrawal appropriately/timely and owes the school directly for a variety of fees or grant overpayments.
- LASC is interested in these cases if the case is **pre-judgment**.
- Schools are often not calculating the fees correctly.
- **May** be dischargeable in a bankruptcy.

Car Cases

- Used car contract issues: “as is”; warranty dispute;
- Car repair complaint – mechanic did not fix car appropriately;
- Repossession –
 - Did client receive notice after the repo as to where her car was located? Right to remove personable belongings.
 - If client was not behind on payments and repo was inappropriate, LASC may be able to assist.

Credit Reports

- **Credit Reports – Annualcreditreport.com**
 - If the client is interested in accessing a free copy of their credit report, he/she can pull one up online at annualcreditreport.com or he can fill out a form available at the clinic and mail away for it.
 - If the client is interested in disputing something on the credit report, he/she should take the following steps:
 - Contact both the credit reporting company (Experian, TransUnion, or Equifax) and the creditor/company that provided the information.
 - Explain in writing what you think is wrong, why and include copies of documents that support your dispute.

Thank you for volunteering to participate in our brief advice clinics!

Melissa Baker Linville
Staff Attorney
(614)737-0155
mlinville@columbuslegalaid.org

William Ross
Staff Attorney
(614)737-0141
wross@columbuslegalaid.org