

Volunteer Attorney Program Can Alleviate Bankruptcy Court's Massive Workload

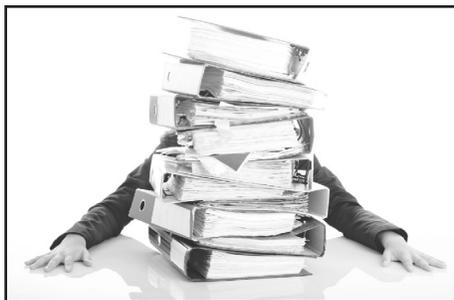
Bankruptcy courts are the perfect candidates for volunteer attorney programs.

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The Central District of California is home to the busiest bankruptcy court in the country. The court's motto is fittingly: "To provide efficiently justice to all parties affected by bankruptcy in the most populous and diverse district in the country." Many might think that the bankruptcy courts getting all the press, such as the Southern District of New York (where several mega bankruptcy cases, such as Lehman Brothers, Blockbuster and now Borders, were filed) or the District of Delaware (where cases including Washington Mutual and Mervyn's were filed), are the busiest bankruptcy courts. Consider that in 2010, 14,330 bankruptcy cases were filed in the Southern District of New York, and 4,605 bankruptcy cases were filed in the District of Delaware. In 2010, a staggering 142,407 bankruptcy cases were filed in the Central District of California. In one year, bankruptcy filings in the Cen-

tral District of California increased from 108,651 in 2009, to 142,407 in 2010, representing a 31.10 percent increase. By contrast, nationally, the percentage of bankruptcy filings increased by just 13.8 percent.

The overwhelmed bankruptcy judges of the Central District invariably report that their chambers and staff are overloaded and overburdened. Judges and their law clerks are taking work home, working late hours and weekends to prepare for hearings and review, prepare and enter the hundreds of orders that wait in queue. This is thankless work, considering that the salary for a bankruptcy judge in the



Central District of California is less than a first-year associate's salary at a large Los Angeles firm. In the meantime, attorneys report that it sometimes takes weeks, even months, for orders to get signed and entered, sometimes resulting in detrimental consequences.

The bankruptcy judges of the Central District need help. In this economy, there is simply no reason why the Court should not consider accepting volunteer attorneys

to help lessen the judges' massive backlog. Similar programs in other government agencies (e.g. the district attorney's of-

fice) have met with great success. Increasing amounts of unemployed attorneys are willing to volunteer their time for no pay, no benefits, and no promise of future employment. The Central District of California's bankruptcy court is the perfect candidate for a volunteer attorney program.

In the interest of full disclosure, one of the authors (Caroline) served as a law clerk at the

bankruptcy court for the Central District of California for seven years. After nearly three years in the private sector, she understands both sides of the coin. On the one hand, waiting weeks or months for an order to be signed and entered can cause some seriously harrowing problems. For instance, an order approving the sale of real property that does not get entered promptly could cause the buyer to walk for failure to close by the specified date. In more serious instances, an order that languishes in piles of other orders could result in the loss of a debtor's home.

On the other hand, anyone who thinks that his order is not getting entered because of laziness, inefficiency or disorganization, is sorely mistaken. If you have ever been scolded in open court for asking that your order be given priority over the hundreds of orders that are waiting in the "LOU" queue, you are not alone. But the admonishment comes for good reason. Judges' chambers receive at least 20-30 orders every day (and more on days immediately following a hearing), each of which must be carefully reviewed, not only



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for substance, but also for proper service and compliance with the Local Rules. More complicated orders can take hours to review. Consider that your order might stand in a queue behind hundreds of relief from stay orders.

Consider also that the review and entry of orders sometimes necessarily take a back seat to preparation of the court's motion calendars. The average judge in the Central District hears approximately 100 motions per week. Hearings often take hours and last into the late hours of the evening. Recent increases in self-represented litigants are another cause for chagrin within judges' chambers. Although self-represented litigants are specifically required to familiarize themselves with the Local Bankruptcy Rules, it is clear that many (if not most) do not. This results in pleadings and orders that do not comply with the Local Rules and must either be rejected or remediated by the judges, their law clerks and the clerk's office staff. In addition, the conversion to electronic filing and lodged order upload has resulted in large reductions in court staff. Thus, filings are up, but there are less people to handle the work.

Government agencies such as the public defender, and the city and district

attorney's offices across California are increasingly relying on young, unemployed lawyers to try misdemeanor cases. In addition, recent law school graduates are "flocking to the unpaid gigs as a way to shore up resumes at a time when jobs are limited." The state agencies discussed in the article have been subject to massive budget cuts, which has decimated legal staff. Thus, the volunteer programs were and are mutually beneficial to both the agencies and the volunteers.

For instance, the Los Angeles city attorney's office started its volunteer lawyer program in 2009, the same year it began mass layoffs. Since its start, the program has graduated more than 100 lawyers who have gone on to try more than 250 jury trials. While the volunteers are primarily unemployed recent law school graduates, some were hired by law firms that had deferred their start dates, agreeing to a fraction of their promised salaries.

In addition to the pool of qualified, unemployed attorneys who might be willing to volunteer their services at the Central District of California bankruptcy court, law firms might be interested in sending their young associates to court to gain some experience in analyzing legal briefs and

orders and writing bench memoranda. Although law student externs are already an integral part of many judges' chambers, perhaps law student externs can be trained specifically to review certain proposed orders submitted by counsel, so that the backlog on orders can be alleviated. In fact, the clerk's office might consider expanding its externship program to both law students and law school graduates. With so many law schools located within the Central District's boundaries, the court has potential access to a plentitude of fresh legal minds, who are eager to gain valuable work experience, at no cost to the court.

These volunteer attorney programs would seemingly outweigh any administrative costs or burdens associated with implementing such programs. In fact, the clerk's office has sought volunteers before — such as when the 2005 amendments to the Bankruptcy Code caused a glut of filings just prior to the enactment of the amendments. Today, we have a recessionary economy, coupled with a clearly overburdened and under-staffed bankruptcy court. The timing could not be better for the Central District bankruptcy court to implement a volunteer attorney program.