

OSB Professional Liability Fund presents

Potential Malpractice Risks for Bankruptcy Practitioners

Thursday, June 17, 2021
10:00 am - 11:00 am

OSB Event ID 78731 - 1 Practical Skills Credit

Speakers: **John Berge**
PLF Claims Attorney

Julia Manela
Watkinson Laird Rubenstein PC



Professional
Liability Fund

Materials

1. PowerPoint Slides
2. Helpful Resources
 - a. OSB Debtor-Creditor Section (<https://www.osbar.org/sections/debtorcreditor.html>)
 - News and Announcements (<https://debtorcreditor.osbar.org/>)
 - Newsletter (<https://debtorcreditor.osbar.org/newsletter/>)
 - Resources (<https://debtorcreditor.osbar.org/resources/>)
 1. Attorney Resources (<https://debtorcreditor.osbar.org/attorney-resources/>)
 - b. United States Bankruptcy Court District of Oregon (<https://www.orb.uscourts.gov/>)
 - Court Operations During COVID-19 Outbreak (<https://www.orb.uscourts.gov/court-operations-during-coronavirus-covid-19-outbreak>)
 - Information for Attorneys (<https://www.orb.uscourts.gov/information-attorneys>)
 - c. Oregon State Bar BarBooks (www.osbar.org > Login > BarBooks)
 - Creditors Rights and Remedies (Rev. 2016)
 - d. Multnomah Bar Association (<https://mbabar.org/> > Education)
 - e. American Bankruptcy Institute (<https://www.abi.org/>)
3. PLF CLEs
 - a. Learning the Ropes 2020: Bankruptcy (https://www.osbplf.org/cle_classes/learning-the-ropes-2020--bankruptcy/view/)
4. PLF Practice Management Forms
 - a. www.osbplf.org > Practice Management > Forms > Category > Bankruptcy
 - Bankruptcy Checklist (https://www.osbplf.org/assets/forms/practice_forms/Basic%20Bankruptcy%20Checklist.pdf)
 - Resources for New Bankruptcy Practitioners (https://www.osbplf.org/assets/forms/practice_forms/Resources%20for%20New%20Bankruptcy%20Practitioners.pdf)
 - b. www.osbplf.org > Practice Management > Forms > Category > Engagement Letters and Fee Agreements
5. PLF InPractice Blog
 - a. Resources for Improving Your Remote Court Hearing Experience (<https://www.osbplf.org/inpractice/resources-for-improving-your-remote-court-hearing-experience/>)
 - b. Hoarding and Dabbling, Oh My! (<https://www.osbplf.org/inpractice/hoarding-and-dabbling-oh-my-/>)
6. OSB CLE Seminars
 - a. <https://www.osbar.org/cle/> > CLE Seminars Product Catalog:
 - What You Should Know About Business Bankruptcy in Times of COVID-19 (11/5/20)
 - Picking the Right Toolbox: Chapter 11 or Receivership? (4/3/20)

- Legal and Practical Considerations: The Treatment of Real and Personal Property Leases and Licenses (4/3/20)
- The Fair Debt Collection Practices Act (4/3/20)
- The Fair Debt Collection Practices Act and a Consumer Bankruptcy Practice (4/3/20)
- Ethical Pitfalls When Representing Bankruptcy Clients (4/3/20)
- Ninth Circuit Case Review (4/3/20)
- Small Business Reorganization Act of 2019 (4/3/20)
- The King's Sword and Cyphers: An Exploration of Federal Tax Liens and Transcripts (4/3/20)
- 32nd Annual Northwest Bankruptcy Institute (4/5/19)
 1. Socially Awkward: Understanding the Legal Ethics of Being Online
 2. Bankruptcy Bermuda Triangle: Unbundling and Factoring in Consumer Bankruptcy Cases
 3. 363 Sales: Pertinent Issues and Alternatives
 4. Ninth Circuit Case Review
 5. Chapter 13 Recent Developments
 6. Student Loans and Bankruptcy
 7. The Highs and Lows of Marijuana Businesses and Bankruptcy
- Ethical Issues Arising in Bankruptcy (12/7/18)
- Arrested Discharge: When Criminal and Bankruptcy Law Collide (12/7/18)
- The Rocky Marriage of Family Law and Bankruptcy (12/7/18)
- How Bankruptcy Can Impact Your Clients: Basics for Criminal Law, Family Law, and Litigation Attorneys (12/7/18)
- Navigating Tax Matters in Bankruptcy (12/7/18)
- Death and Bankruptcy: Probate, Trusts, IRAs, and Inheritance Issues (12/7/18)
- The Intersection of Bankruptcy Law and Business Law (12/7/18)
- Bankruptcy Concerns for the Commercial Real Estate Lawyer (12/7/18)
- General Bankruptcy Law (12/7/18)
- How Bankruptcy Can Impact Your Clients: Basics for Business, Probate, Real Estate, and Tax Attorneys (12/7/18)

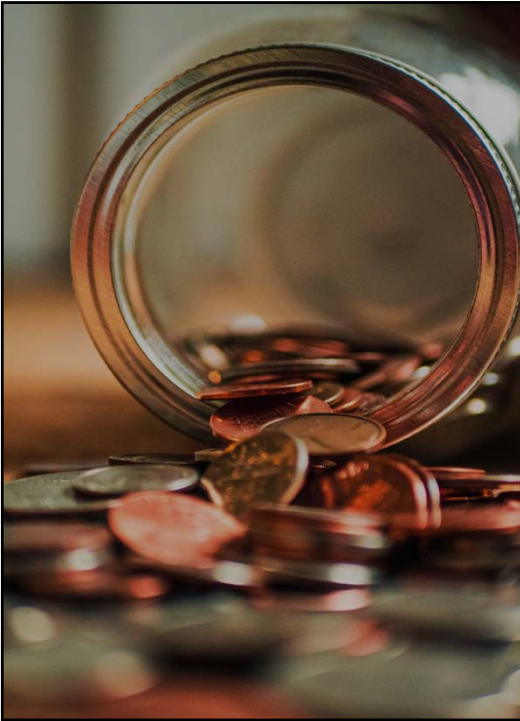


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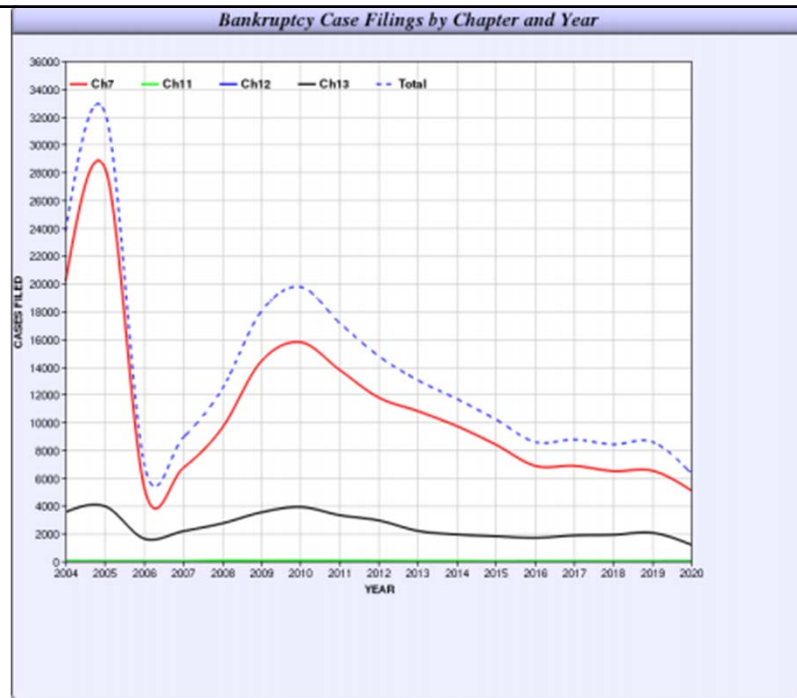
Topics

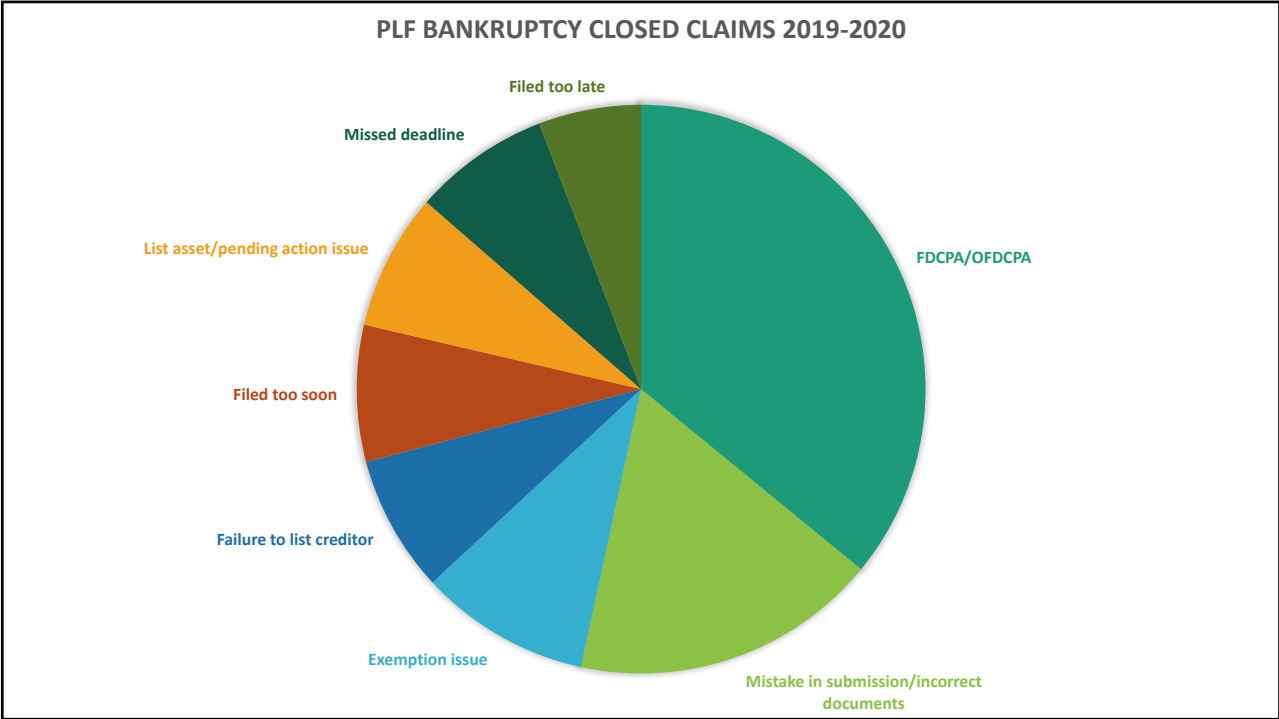
- COVID-19 and bankruptcy
- Bankruptcy claims data
- General malpractice issues
- Bankruptcy malpractice issues

COVID-19 and Bankruptcy

- Hardest hit industries
- CARES Act
- American Rescue Plan Act
- Corporate and personal bankruptcies

U.S
Bankruptcy
Court
District of
Oregon
(2004-2020)





General issues

- Transition to remote
- Inadequate systems
- Dabbling
- Changing court procedures
- Missed deadlines
- Unbundling

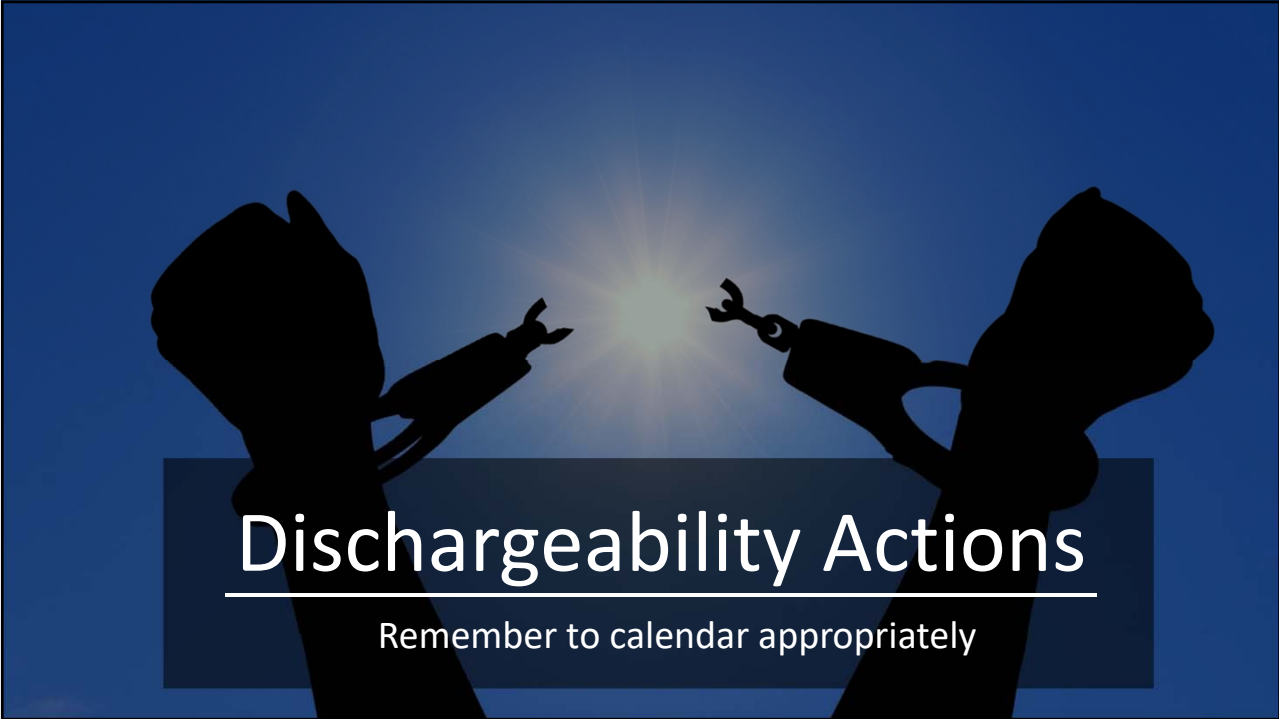


Bankruptcy Malpractice Issues



Interplay of Claims

- Who owns the claim?
- Claim timing
- Role of the trustee or trustee's counsel



Dischargeability Actions

Remember to calendar appropriately



Stay and Post Discharge Violations

- Applicability to creditors
- Real property foreclosure
- Objection to discharge
- Sanctions


Debtor Admissions

- Beware of other proceedings
- Possible effects

Exemption Issues

- Familiarize with possible exemptions
- Tight objection timeline





Failure to List an Asset or Liability

- Due diligence
- Review with client
- Inheritance?



Filing Too Soon

- Taxation issues
- Fraudulent transfer and preference
- Nonexempt property



Failure to Strip Liens on Real Property

Chapter 7 vs. Chapter 13

- Chapter 7 dismissal
- Trustee request for information
- Debtor refunds or inheritance

Debt Reaffirmation

- Voluntary
- Rescind reaffirmation agreement
- Affect on credit scores?

PLF Resources

www.osbplf.org > Practice Management/CLE

OSB Professional Liability Fund

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CLE	PRACTICE MANAGEMENT	ASSESSMENTS & EXEMPTIONS	COVERAGE	EXCESS COVERAGE	CLAIMS	ABOUT PLF	OAAP SERVICES	BLOG
PAST UPCOMING	COVID-19 COURT NOTICES FORMS SEARCH ALL RESOURCES PRACTICE MANAGEMENT ATTORNEYS INBRIEF BOOKS FROM THE PLF INPRACTICE BLOG SERVICES ABA RESOURCES DISCOUNTS NON-MEMBER LOGIN							

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PLF Blog *inPractice*

Practical Advice for Oregon Lawyers

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No Regrets: Tips to Help Clients Avoid Settler's Remorse

May 14, 2021



Settlements have always been common in the legal world, and they've arguably become even more widely used during the pandemic due to delays in court proceedings. Unfortunately, some of these clients sue for malpractice, believing they could have achieved a better settlement or a better result had they moved forward with litigation. You can reduce the likelihood of a malpractice claim and also strengthen your defense if a claim is brought.

by Rachel Edwards

Tommy and the Secure Tunnel: Virtual Private Networks

April 23, 2021



Recently an attorney, his spouse, and their child stayed a few nights at a resort hotel for spring break. The attorney – let's call him Tommy – pulled out his work laptop on the second night and reminded his family that he had to attend an online orientation....Tommy's spouse – let's call her Tuppence – did not remember him mentioning this meeting and cautioned him that the hotel's Wi-Fi network was not secure.

by Hong Dao

PLF Newsletter



Malpractice Prevention Education for Oregon Lawyers

<https://www.osbplf.org/practice-management/inbrief.html>

PLF *inBRIEF*

ISSUE 141 | OCTOBER 2020

Malpractice Prevention Education for Oregon Lawyers

Practicing with Professionalism During COVID-19

FEATURE

Submitted by the Publications Committee of the Oregon Bench and Bar Commission on Professionalism

What does it mean to practice law with professionalism? The COVID-19 pandemic and its repercussions throughout society shine a new light on that important question. The Oregon State Bar (OSB) adopted a Statement of Professionalism in October 1990, and the statement, amended most recently in 2019, is a useful place to seek guidance about how to practice with civility and professionalism. The Publications Committee of the Oregon Bench and Bar Commission on Professionalism prepared a few thoughts on how some of the principles (in bold, below) from the Statement of Professionalism offer guidance during this time:

■ I will promote the integrity of the profession and the legal system.

Customs and procedures in legal practice have suddenly and dramatically changed, such as the abrupt transition to videoconferencing for hearings. Although clients may be attending important events remotely, civility and respect for judges and the process remain critical. You should counsel clients about the expectations for conduct in the new virtual environments, and work with them to help them feel comfortable in these new, unfamiliar environments.

■ I will work to ensure access to justice for all segments of society.

Much of the professional world's response to the pandemic has been to turn to technologies for virtual communications. But not all parts of our population have any (or reliable) access to the technologies that, other, more privileged people have. Be mindful of these limitations and consider ways to ensure that all



arguments of society have access to the legal system in the new remote environments.

At a time like this, access to justice can be expanded through creative solutions. If an attorney's workload is temporarily diminished by the impacts of COVID-19, consider contacting the OSB.

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Contact Us



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