



Assignment

Bankruptcy

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- 1) Create either a checklist or write a memo indicating all the questions to ask the debtors to determine which Chapter is best for them. Limit yourself to Chapters 7 and 13 consideration.
- 2) Write a memo to the attorney at BFL handling the case indicating the motions, issues, or problems you anticipate he/she will face with this client and file. This memo should concentrate on various issues including, if applicable, pre-petition planning, exemptions, secured assets, unsecured assets, priorities, non-dischargeable debts, executory contracts, abuses, creditor motions, etc. as indicated on class outline. Identify assumptions you make:
- 3) FOR EXTRA CREDIT -- Prepare an appropriate Bankruptcy Petition based on the following facts and circumstances. Identify assumptions you make for the purposes of this exercise:

Danny Daniels married Deborah in 1995. Deborah brought into the marriage a piece of real property located in Yolo County which Danny and Deborah currently rent out. The house is valued at \$150,000. They have a first trust deed on the property with Countrywide Home Loans for \$145,000.00 and a second loan they recently took out to pay debts of \$20,000.00 with Hard Times Loans. Hard Times Loans commenced foreclosure proceedings. The rental proceeds of \$700.00 per month are deposited into their joint account.

Danny had no assets at the time they were married, but did have a good job. Danny quit his job at \$ 60,000.00 per year, in January 2007 to open an art studio and woodworking shop. He has been losing money ever since. He has tools for woodworking, painting and sculpting, and repairs, and a computer.

In an attempt to build his business, he had only been taking home \$30,000 per year until three months ago when he stopped taking anything. He has debt to suppliers of \$ 10,000, but the inventory is not worth much more than that figure, one quarter of that being delivered within the last month. He has withheld payroll taxes for his employees to the state and Federal government, but has not made his quarterly payments for three quarters so he owes \$5,000 to the state of California (FTB) and \$5,000 to IRS. The Daniels have filed all tax returns on time.

Danny has an 8 year lease with 5 1/2 years remaining at a good rate for that studio location with rent at \$700 per month. He believes it is suitable for many types of businesses on a busy street.

In 2000 the Daniels bought a house for \$250,000 located at 500 N. Mariposa Avenue in Los Angeles, CA 90045. Deborah is working as a secretary at a law firm earning \$40,000 per year. Danny still owes monthly payments of \$250 to his ex-wife, and Deborah receives child support for one of the children at their home of \$200 per month. They have a child, Andrew, who is 4 years old.

They furnished the house three years ago with furnishing that cost them \$10,000. Danny keeps a gun collection worth approximately \$10,000. The other assets consist of \$4000 in a company-sponsored pension plan at Deb's company, and \$2000 in Danny's IRA. Danny estimates that the cost of his clothing is \$4000 and Deb estimates the cost of hers at \$5000. They have two cars, each of which they use for their transportation to and from work. Danny's car is a Ford worth about \$7,000, but he still owes \$5000 on it. Deb has an old 1967 Mustang worth maybe \$2,000.

Deborah is in the middle of a lawsuit against her ex-employer for wrongful termination. She is claiming \$100,000 in that lawsuit. She is represented by Charles Cummings.

Danny has a \$100,000 term life insurance policy. Deb has no insurance. Danny owns a hundred shares in IBC Incorporated, which is publicly traded on the New York Stock Exchange. He estimates those shares to be worth \$4000, but has a margin account at his broker, Charles Schwab & Company, which he pledged for a loan of \$2000.

Deb has a wedding ring worth \$2,500. They have a small savings account with \$1,250, and \$275 in their joint checking account. Deb has a separate account with \$1,300, which she just moved to a credit union. Danny previously filed a bankruptcy in 1994. Knowing they were going to file bankruptcy, Danny prepaid three months on his mortgage.

Danny and Deb owe the following people money: Danny owes \$4,500 on his Visa card for purchases made over the last three years. Part of the balance is for a \$500 cash withdrawal that he made 60 days ago and for part payment of a recent trip to Hawaii in the amount of \$1,500. Danny owes the following store charges: Macy's \$300, Comp USA \$450, J.C. Penny \$175. Deb has been a fairly free spender and owes \$6,500 on her Master Card, \$4,500 on her Visa, \$1,300 on her Discover card.

She is also a cross-defendant in the lawsuit she brought against her ex-employer. Her ex-employer is claiming \$75,000 against her, alleging that she misappropriated money while she was employed. They are represented by the Dewey firm. Part of the furniture in their house was bought from Sears, to whom they still owe \$1,800, and they entered into a regular merchandise agreement with Sears in connection with their purchase.

They have a first trust deed on their residence from Your Loan Company in the amount of \$125,000 and a second trust deed from another lender, E-Z Loans, for \$50,000.

In addition to other amounts specified above, their monthly bills are as follows:

1. Residence:
 - First mortgage - \$1,250;
 - Second mortgage - \$500;
2. Rental home:
 - First mortgage - \$750;
 - Second mortgage - \$100;
3. Food - \$600
4. Utilities - \$150
5. Transportation including gasoline - \$500
6. Car payments - \$300
7. Clothes - \$200
8. Medical insurance - \$300
9. Entertainment - \$250
10. Credit Cards - \$400
11. Child care - \$450
12. Telephone - \$ 50
13. Laundry - \$ 35

They have regularly been making \$400 payments on their credit cards for the last six months. They also recently gave a \$1,000 gift to Danny's Mother for her 60th birthday. Within the last three months, they had a refrigerator repossessed. They recently changed their bank accounts to Reddy Bank to avoid possible attachments. Their prior bank was Bank of America, where they have two of the credit cards.

Danny had a job paying \$ 60,000.00 per year before he left to start his own business. He has been applying in the field for replacement work. He has placed an ad to relet his store space. They have just taken a credit counseling class and have cut up their credit cards, not to use them again.

With their financial problems increasing, they have decided to file bankruptcy. Danny prefers Chapter 7 and Deborah prefers a Chapter 13. Their bankruptcy lawyer will charge \$1,500.00 and the filing fee. If appropriate (and only for extra credit), prepare a bankruptcy petition using the addresses listed below:

Charles Schwab & Company
155 N. Park Avenue
Los Angeles, CA 90012

Your Loan Company
922 Dead End Avenue
Los Angeles, CA 90012

Visa, Bank of America
555 S. King Street
Los Angeles, CA 90022

E-Z Loans
9229 Difficult Lane
Los Angeles, CA 90012

Macy's
250 Lucky Avenue
Los Angeles, CA 90067

Comp USA
777 Ruby Drive
Los Angeles, CA 90035

J.C. Penney's
650 Jack Street
Beverly Hills, CA 90210

M/C c/o Bank of America
542 Lake Street
Los Angeles, CA 90064

Visa
Americana Bank
235 Canada Drive
Los Angeles, CA 90035

Sears
2000 Windy Way Drive,
Chicago, IL 45054

Discover Card
999 Lost Street
Billings, Montana 80275

Charles Cummings
69 Screwers Court
Whine Country, CA 91263

Franchise Tax Board
Sacramento, CA 95336

Countrywide Home Loans
123 Friendly Lane
Calabasas, CA 92652

Hard Times Loans
777 Tough Luck Lane
Los Angeles, CA 90012

Larry Landlord
3113 Lomita Blvd.
Lomita, CA 90717

Ford Motor Credit Corp.
27 Rusty Bucket Street
Detroit, MI 46382

We Take Anyone Credit Union
6840 Fairfax. Ave.
Los Angeles, CA 90034

Bankrupts' Friends Lawfirm
4723 Dreary Lane
Los Angeles, CA 90045

Dewey Cheatum and Howe
555 Figueroa, Ste. 1100
Los Angeles, CA 90017

Reddy Bank
23500 Crenshaw Blvd..
Torrance, CA 90503

Internal Revenue Service
Backwoods, Utah 87334

Note: The mandatory task should take about ten hours. The extra credit should take about two hours.