

## Contract for Bankruptcy Services

\_\_\_\_\_ (clients) have contacted Heller & Thyen, P.A. for information regarding the filing of a bankruptcy. On, \_\_\_\_\_ 2019, the client(s) met with an Attorney to discuss his/her bankruptcy options. This contract is provided pursuant to 11 U.S.C. § 528 to clearly explain what services will be provided and the fees to be charged for those services.

### 1) **Services to be Provided:**

The Attorney will provide the following legal services to the Client contingent upon being paid for those services:

- The Attorney will certify that he has performed a reasonable investigation into the circumstances that gave rise to the petition, pleading or written motion, and that the Attorney determined that the petition or other pleading is well grounded in fact and warranted under the law and that the petition or pleading is not an abuse under § 707(b)(1).
- The signature of the Attorney on the petition shall constitute a certification that the Attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.
- The Attorney will pull a public records search through Westlaw's PeopleMap. The Client acknowledges that this information will be used to supplement the Client's answers and not in lieu thereof.

### 2) **Bankruptcy Fees:**

- Consumer Single or Joint Filing - Chapter 7 – Heller & Thyen, P.A. attorney's fees for a single or joint Chapter 7 bankruptcy is \$1,500.00 if you pay in full or \$1,700.00 if you do a partial payment with a co-signer; this fee includes obtaining your credit report. Additionally, there is a Court filing fee of \$335.00 to file your bankruptcy petition.
- Consumer Single or Joint - Chapter 13 – Heller & Thyen, P.A. attorney's fees for a Chapter 13 bankruptcy is \$3,000.00, or \$3,500.00 if over-median. This fee includes obtaining your credit report(s). Additionally, there is a Court filing fee of \$310.00 to file your bankruptcy petition. This is the "no-look" fee allowed by the bankruptcy court. If your case is complicated, we reserve the right to bill your case hourly at a rate of: \$300.00 per hour for partner attorney, \$250.00 per hour for associate attorney, and \$100.00 per hour for paralegal time. The minimum billable increment is 1/10<sup>th</sup> of an hour (6 minutes).
- Business or Other Complex Cases - Heller & Thyen, P.A. attorney's fees for individuals with business debts is \_\_\_\_\_; this fee includes obtaining your credit report(s). Additionally, there is a Court filing fee of \$335.00 (Ch 7) or \$310.00 (Ch 13) to file your bankruptcy petition. If your case is complicated, we reserve the right to bill your case hourly at a rate of: \$300.00 per hour for partner attorney, and \$100.00 per hour for paralegal time. The minimum billable increment is 1/10<sup>th</sup> of an hour (6 minutes). Heller & Thyen, P.A. reserves the right to require payment of additional fees if additional legal services are required before your case can be filed.
- Heller & Thyen, P.A. earns it's attorney's fees as they complete their work. In the event your case is not filed for any reason, Heller & Thyen, P.A. is entitled to the hourly rate of services performed.
- There is also an additional fee of approximately \$15.00 per session that Client(s) pay directly to the credit counseling agencies to obtain the required before and after credit counseling sessions.
- Chapter 13 lien strip cases – If your case involves a Motion to Value in an effort to strip off an unsecured second mortgage, the fee will be calculated on an hourly basis, with a minimum fee

will be \$4,000, but can be higher depending on the amount of time necessary to complete the process.

3) **General Payment Terms:**

- Chapter 7 – The Court filing fee and all attorney fees have to be paid in full prior to filing a Chapter 7 bankruptcy with the exception of those using a co-signer.
- Chapter 13 – Client(s) are required to pay \$310.00 before Heller & Thyen, P.A. will file their Chapter 13 bankruptcy. Our remaining attorneys fees and costs will be paid through the Client(s)' Chapter 13 bankruptcy plan.
- Chapter 7 Monthly Payment – Once Heller & Thyen, P.A. is retained, a payment of no less than \$100.00 per month shall be paid until the balance has been paid in full.
- Chapter 13 Pre-Filing Payments – If your case is not filed within 30 days of the retainer, we require an ongoing payment of \$100.00 a month which will be applied toward your attorney fees.
- Required Deposit – A deposit of \$100.00 is required for a **Chapter 7** case, and a deposit of \$100.00 is required for a **Chapter 13** when client(s) returns the Bankruptcy Worksheet. This deposit is for the financial analysis. **This deposit is non-refundable.** Once this initial deposit is paid to Heller & Thyen, P.A., client(s) will be able to refer their creditors to Heller & Thyen, P.A. **This deposit does not stop garnishment, levies, or ongoing litigation proceedings.**
- Refund – Any fees that have been paid but not yet earned will be refunded to the client upon request, after an analysis to calculate the amount of fees that have been earned.
- Late Payments – A \$25 late fee will be added for each month a payment is not made. Payments are due the 1<sup>st</sup> of each month. A payment is considered late if not made within the 5 business days of the date due.
- Post-Petition Services – For post-petition services that cannot be reimbursed to the attorney through the plan due to lack of available funds in the plan, the client agrees to pay the attorney directly for compensation of said services.
- No Activity: – If a case has had no activity within six months of the date of the retainer due to client's delay, Heller & Thyen, P.A. will close the file.

4) **The Client's Obligations:** A complete list of client's obligations is included in the "Notice of Responsibilities" pursuant to Bankruptcy Rule 107-3-1, a copy of which will be provided to you and can also be found on our website.

- Client(s) will provide complete, accurate and truthful information to the Attorney so that a proper analysis can be made of Client's financial situation and correct advice can be given to Client(s)' as to bankruptcy options.
- Client(s) will provide complete, accurate and truthful information so that the Attorney can accurately prepare and complete the bankruptcy petition, statements and schedules.
- Client(s) will provide all information and documents that are required to be provided to the Court, Trustee, or other parties in interest in the course of the bankruptcy case proceeding.
- **Client acknowledges that the Attorney will not research creditor information, including addresses, account numbers, or balances. The Client must provide this information to the Attorney in writing. Failure to do so may result in unsecured debts subject to non-dischargeability.**
- Client(s) give Heller & Thyen, P.A. the authority to pull and review their credit report(s).
- Client(s) give Heller & Thyen, P.A. the right to perform searches mainly using internet search engines and Westlaw's PeopleMap, which provide information on Client(s)' property, liens, mortgages, judgments, and other information significant to their bankruptcy filing.
- Client(s) will attend the 11 U.S.C. § 341 Meeting of Creditors and other hearing or meetings required, and will provide all of the documentation required to be presented at those meetings.

- Client(s) will contact Heller & Thyen, P.A. with any new mailing addresses and telephone numbers throughout the bankruptcy.
- If you currently paying child support you **must** stay current on your payments or risk enforcement of a wage-withholding order under a judicial or administrative order, or statute, including obligations accruing from both before and after the filing. Failure to remain current on support claims is grounds for conversion or dismissal of a case, the debtor must be current on post-petition obligations in order to confirm a plan, the plan must provide for priority payments or support debts and the debtor may not obtain a discharge unless such obligations are paid in accordance with the terms of the plan.
- If the Client(s) file a Chapter 13, section 1307(e) requires the Court to either dismiss upon the failure of the debtor to file a tax return as required under section 1308.
- Client(s) must participate in a prebankruptcy credit counseling under Section 109(h), with limited exceptions. Client(s) recognizes that without participating in the pre-bankruptcy credit counseling, Client(s) will not receive the required certificate that is necessary file their bankruptcy petition, in most circumstances. Client(s) are solely responsible for paying the fee needed to obtain said certificate.
- Prior to receiving a discharge, the individual debtor(s) must complete a personal financial management course pursuant to 11 U.S.C. § 727(a)(11). The debtor(s) will be responsible for any such costs associated with the financial management course.

5) **Services Not Provided:** Client acknowledges that Attorney does not represent Client in any other type of case, lawsuit or proceeding other than Client's bankruptcy case. The Attorney may make a special appearance in a court, other than the Bankruptcy Court, for the purpose of filing a notification of Client's bankruptcy proceedings, and to suggest to another court that Client's proceedings should be stayed. Sending or receiving any summons or complaint, or notifying the Attorney of a pending lawsuit does not obligate the Attorney to represent Client in that lawsuit or before that court. Any representation of Client in a state court proceeding, including without limitation: collection lawsuits, foreclosure lawsuits, and etc., is not included in this Bankruptcy Retainer Agreement. Any referral made to another Attorney to represent Client is a courtesy only. The Attorney is not associated with any other Attorney outside of the undersigned Attorney's law offices.

- Bankruptcy conversions: \$500.00, plus the remainder of your 13 fees.
- Producing reaffirmation agreements under any circumstance
- Emergency petition preparation and rush filing: \$250.00
- Rescheduling 1<sup>st</sup> Meeting of Creditors: \$250.00
- Amending Schedules if the error was on the part of the Client: \$200.00 per amendment.
- Adding additional creditor(s) post filing: \$25.00 per creditor
- Modifying Chapter 13 post-confirmation: \$750.00, plus reimbursement of costs.
- If a Motion to Dismiss or Motion for Relief from Stay is filed in your case, we charge a minimum of \$500 to review and/or assist in resolving the motion, even if the result is not in your favor.
- Recapturing garnished wages: \$200.00
- Answering Summons and Complaints: \$250.00 plus litigation at \$165 per attorney hour
- Re-opening a bankruptcy case: minimum \$500.00 plus filing fee
- Negotiating purchase money security interests/secured claims: \$50.00 per creditor
- Obtaining title reports
- Appeals to the BAP, District Court or Court of Appeals
- Correcting credit reports

- Any adversary proceeding filed by the Trustee, U.S. Trustee, or any other party on any basis, including, without limitations, proceedings to determine dischargeability of debts
- Hourly rate for Chapter 13 Bankruptcy work is \$300.00 per hour for partner attorney, \$250.00 per hour for associate attorney, and \$100.00 per hour for paralegal time.
- Hourly rate for federal litigation (FDCPA, automatic stay, and discharge injunction violations) is \$300.00 per hour for partner attorney, \$250.00 per hour for associate attorney, and \$100.00 per hour for paralegal time.
- It is possible that our fees will exceed the amounts listed above, at which time additional fees may apply.
- Judgment Removal: \$200.00 per judgment, plus a court filing fee.
  - While the bankruptcy will discharge a debt that has been reduced to a judgment, bankruptcy will not discharge judgments from you state court records. This can be done through a separate process in district court after the discharge is entered in the bankruptcy. This will involve additional costs to you and is not included in our fee that was charged to file your bankruptcy. If you own non-homesteaded property in a county where a judgment has been entered, that judgment acts as a lien on that non-homestead real estate. Having the judgment discharged in district court will act to eliminate the lien. In those situations, it is possible that the judgment creditor objects to the discharge of judgment and the removal of the judgment would have to be litigated.

6) Client understands that certain debts cannot be discharged in bankruptcy. Client agrees that Client is still liable to repay any debt not discharged in Client's bankruptcy. Client understands that the debts listed below are common examples of the types of debts that cannot be discharged in bankruptcy. Client further understands that the list of non-dischargeable debts may be expanded by legislation or court decisions and Attorney has no control over the type of debts that may be or become non-dischargeable.

- a. Certain types of taxes, custom duties, or debts to pay taxes or custom duties.
- b. Student loans.
- c. Debts owed for spousal or child support.
- d. Debts owed to the spouse, former spouse, or child in a domestic relations proceeding.
- e. Debts arising from a previous bankruptcy wherein discharge of that particular debt was waived.
- f. Debts owed for money, property, services, extension-or-removal, or refinancing of credit, if obtained by false pretenses, or false representations, or actual fraud.
- g. Consumer debts for luxury goods obtained within ninety (90) days of the date of filing of the bankruptcy petition.
- h. Cash advances obtained within seventy (70) days of the date of the filing of the bankruptcy petition.
- i. Debts owed for fraud or defalcation while acting in a fiduciary capacity, or embezzlement or larceny.
- j. Debts owed for fines, penalties, or forfeitures payable to and for the benefit of governmental entity.
- k. Debts owed for death or personal injury arising from the operation of a motor vehicle, boat, or aircraft while intoxicated by drugs or alcohol.
- l. Client understands that individuals who file for relief under Chapter 7 or Chapter 13 of the Bankruptcy Code are subject to audits by the U.S. Trustee. If Client's case is selected for an audit, Client agrees to pay Attorney the customary hourly rate for representing Client in such audit.

7) **Reaffirmation Agreements:** Secured creditors, i.e., your home mortgage lender, or your vehicle loan, **ARE REQUIRED TO BE, AND WILL BE LISTED AS CREDITORS** in your bankruptcy.

If you continue to make the payments to these lenders, you will be allowed in most circumstances to retain the collateral, i.e., the house or car. Most secured creditors want you to sign a reaffirmation agreement, which re-obligates you to pay under the terms of your original loan with them. If you do not sign this agreement, the loan is otherwise discharged in your bankruptcy, but if you wish to retain the collateral, you must continue to make the regular monthly payments to your lender. If you do sign it, you are once again legally liable to pay on the entire balance of the loan, regardless of whether you retain or lose the collateral after your bankruptcy. **Often times without a reaffirmation agreement, these secured loans will show up as “included in a Chapter 7 bankruptcy discharge” on your credit report. In other words, future payments to these secured lenders may not show up on a credit report following your bankruptcy filing. Conversely, late payments won’t be reported either. With respect to mortgage accounts, not reaffirming can sometimes affect your ability to later obtain a loan modification with these lenders. This is not a legal consequence but rather a policy of the lender with no basis in the law. A case cannot be re-opened to file a reaffirmation agreement, nor do our judges believe that one is necessary in the case of real property in order for a debtor to express his or her intent to remain in the home. If you have any further questions on reaffirmation agreements, discuss them with your attorney. HELLER & THYEN, P.A. CANNOT AND WILL NOT DRAFT THE REAFFIRMATION AGREEMENTS.**

8) **Understanding Risks of Bankruptcy.** I understand that there are inherent risks in filing for bankruptcy, including the fact that property may be liquidated (sold) by the Court to pay debts in some cases. I also understand that a new bankruptcy law is subject to different interpretations and that there are inherent risks in how the Judge and Courts will apply various provisions. Examples may include how to compute or calculate income, how and when to liquidate assets or property, what exemptions apply to protect my property, whether property may be sold to satisfy domestic support obligations, whether I qualify for a Chapter 7 or Chapter 13, whether and to what extent another states exemption law may apply to determine what property I can keep, how payments to creditors or a Chapter 13 trustee are calculated and determined, how long a case will be pending, how my good faith will be judged in filing a case, and how and to what extent my finances will be subject to an audit and examination in detail.

9) Client acknowledges that Client has read and understands all the terms contains in this Bankruptcy Retainer Agreement

Date \_\_\_\_\_

\_\_\_\_\_  
Client

Date \_\_\_\_\_

\_\_\_\_\_  
Client

Date \_\_\_\_\_

\_\_\_\_\_  
Heller & Thyen, P.A.