



WINTONLAW

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If you are reading this, chances are that you have downloaded it from my website after receiving an email from me. As I mentioned during our telephone conversation, this is basic “Welcome to Bankruptcy information.”

**Bankruptcy Questionnaire.** Bankruptcy preparation is largely a matter of information gathering and input. As we discussed, I use an online system that is designed to capture most of the most important information by walking you through the process. If you’ve used programs like TurboTax before, it is somewhat similar to that.

Please start by logging in to the website [www.stopmybills.com](http://www.stopmybills.com). It will ask you for the “Attorney ID,” which is “wintoncases.” (Without the quotes.) It will walk you through the gathering and inputting of the information needed to prepare the bankruptcy petition and schedules. Once you have completed that, I will receive an email informing me that the data is completed ready for uploading. It is important that you input as much of the requested information as possible because once I access the data and upload it into my system, the only way you can make changes after that is by hand. You can’t re-access it later.

“Filing bankruptcy” basically means filing a Bankruptcy Petition and the accompanying “Schedules” with the United States Bankruptcy Court that handles your jurisdiction. We are in the Northern District of California, and, depending on what county you live in, the Court in which your case will be filed will be in either San Francisco, Oakland, San Jose or Santa Rosa. I believe at this time that we will be able to file your case in Santa Rosa.

The Schedules are the “official” documents and form the backbone of the entire process. They have been described by Judge Alan Jaroslovsky of the Santa Rosa Court as “sacred texts.” While that may sound hyperbolic, it illustrates how important at least one Federal judge thinks these documents and disclosures are. It is absolutely critical that they be thorough and accurate. Experience teaches that clients who take the time to follow the instructions and pay attention to the details can realize huge rewards in the “fresh start” and relief that is possible in the bankruptcy process.

*We have already discussed this a bit, but I cannot stress enough how important it is for you to be thorough, complete, accurate and truthful. There are too many horror stories that arise from problems with Bankruptcy Petitions and Schedules, and we want to avoid ALL of them. The best bankruptcy case is one that stays under the radar and attracts no attention. Therefore, it is my habit and preference to do as much work pre-filing as is required to make sure that little or no work is required post-filing. Consequences for "gaps in disclosures" can be dire, and can include such things as dismissals of cases, denials of discharge, criminal charges, etc. It is possible to correct errors in schedules, but post-petition amendments attract attention and are to be avoided unless absolutely necessary. Petitions and Schedules are executed "under penalty of perjury," so a later change is an implicit admission that something in the prior submission was false or in error.*

With that warning out of the way, be assured that the contents of the online data entry system are just worksheets. This is the raw material that I and my paralegal use to prepare your schedules themselves. They are **NOT** the actual schedules. Nothing will be filed with the Court until we have agreed together that the information is true and complete. So don't worry if you miss one or two things in this stage. It's a multi-iteration process.

2. **Credit Counseling Requirements.** There are now two online educational requirements that individuals must complete, and written Certifications that they have been done need to be provided to the Court. The first, the Credit Counseling Class" **MUST** be completed **prior** to (and within 180 days of) filing the petition, and the other must be completed *after* filing but *before* the discharge can be granted by the Court.

Note the following:

- A. In the case of a joint filing, both spouses must complete the course.
- B. They must be completed within 180 days of filing, so if you are not yet ready to file, then I would hold off for the moment or you may have to repeat it.
- C. To complete these on line, go to [www.startfreshtoday.com](http://www.startfreshtoday.com).
- D. You will also eventually have to complete the Debtor Financial Education course, and I believe that there is a discount if you pay for them both at the same time. However, the Credit Counseling course **MUST** be completed before you can even file. The other, while it must be completed before discharge, can wait for a while if you want to delay that.

***When you create your account with [www.startfreshtoday.com](http://www.startfreshtoday.com), make sure that you input my attorney code, which is Winton3222. This is the code that links you to me, and enables me to retrieve certificates, copies, account histories, etc.***

3. **If You Have Questions.** If you have questions, please ***email them to me.***

There is no penalty for asking questions and nothing of value to be gained by trying to guess what any of this arcane means. I can answer questions and get you through this in a fraction of the time it might take you to puzzle out the artificial logic of the Bankruptcy Code on your own. Email is also preferable to the phone as I can answer them quickly, and I sometimes turn my phone off during the day when I'm in meetings or working on larger projects.

Once I have received your completed questionnaire and certification of your having completed the Credit Counseling class, we will meet to answer any questions and I will then prepare the first draft of the schedules. That is when all fees must be paid (as to which more to follow below) because that is when my real work starts and I start to incur expenses preparing your case for filing.

4. **Stop Using All Credit Cards.** As of this moment, if you haven't already, you should stop using all credit cards, and stop paying on any debts or obligations you intend to discharge in bankruptcy. Also, if you owe any money to family members you should stop making any payments on those obligations now, as they are subject to being recaptured by the bankruptcy trustee.

5. **Attorneys Fees and Costs.** I have likely quoted you a fixed all-inclusive fee which, at this time, I believe that this will take care of everything, including all US Bankruptcy Court filing fees, document preparation fees, credit reports, etc. ***I will not know for sure until I have received the Bankruptcy Questionnaire Info back from you.*** A significant event that could affect the fees would be if we discovered that you are not eligible for Chapter 7, and that a Chapter 13 is required. In that case fees are largely dictated by the Court Rules. I don't anticipate this happening, however.

Please be aware that, while the fee is "fixed," there are a number of eventualities that are specifically excluded. We will go over these in more detail when we meet. But in the mean time, attached are two advisory documents prepared by the United States Bankruptcy Court, Northern District of California, one called the Notice to Assisted Persons" and the other "Guidelines for Attorneys Fees in Chapter 7 Cases." These tell you what you can expect from me or any other bankruptcy attorney, and also provides some other background information. They are worth reading and I recommend your taking the time to do so.

As noted, fees are "all-inclusive," and must be paid in full prior to filing. Please note that this isn't meant personally. If I am not paid prior to filing, then I am just another creditor and would require Court approval to be paid. At the time the retainer is paid, you and I will both sign a written fee agreement (which is required by both California state law and applicable Bankruptcy law). While I accept all major credit cards, DO NOT USE YOUR OWN CREDIT CARD FOR ATTORNEYS FEES. Debit cards, however, are fine because they are tantamount to cash.

6. **Open New Checking Account if Appropriate.** Last, if we didn't discuss it already, if you are seriously interested in going forward, I would strongly suggest opening a new checking account at a bank ***where you don't presently have an existing lender/financial relationship.*** This is for your protection, and is effective in preventing inconveniences like frozen checking accounts. *This is especially true if you use a credit union for anything at all.* In my experience, credit unions are not good at complying with various legal requirements in bankruptcy and it is my preference for clients to avoid them completely. *A good rule of thumb is that you should not keep money in a bank or entity with whom you have any sort of loan.*