

Bankruptcy Retainer Agreement

"We are a debt relief agency. We help file for bankruptcy relief under the Bankruptcy Code."

This Agreement is made _____ (date). In consideration for services to be rendered to _____ ("Client") by the Law Offices of Daniel H. Alexander, PLC and/or any associated attorney (hereafter referred to as "Attorney") in connection with representing Client regarding Chapter 7 Bankruptcy, Client, jointly and severally, agree to the following fees and terms:

1. Fees and Costs
 - a. **A minimum retainer of \$695.00 for a Ch. 7 bankruptcy** is to be paid by Client upon submission of the client questionnaire and this Agreement to Attorney. The Attorney will not review Client's documents until the retainer is paid. The retainer is non-refundable unless the Client has a legal plan that covers attorney's fees. For legal plan members, this minimum retainer is applied toward the filing fee(s) and the Third Party Auditor costs. For legal plan members, if Attorney is unable to represent Client, the retainer, minus actual costs such as a filing or Auditor fee, is refundable. Client understands that such amount will be credited against any amount Client owes Attorney. Client acknowledges that, if they do not have a legal plan that completely covers bankruptcy, the entire flat fee/minimum attorney fee and all costs must be paid in full prior to the attorney filing any documents on Client's behalf.
 - b. **Standard Attorney Fees for Bankruptcy**: A minimum attorney fee (flat fee) of **\$2,500.00 for a Ch 7** bankruptcy is required to be paid to Attorney by Client for representation of Client regarding bankruptcy. Such amounts, plus costs, are due and payable prior to the attorney filing any documents on Client's behalf. In extraordinary cases, Attorney charges additional fees above the minimum fee at a rate of \$300.00 an hour. Client will be made aware of the extraordinary fees prior to such fees being charged. Client acknowledges that Attorney only handles Ch 7 bankruptcies and will not handle any other type of bankruptcy for the Client. If a 341 Creditor's Meeting is rescheduled or continued due to the Client failure to appear at the meeting or failure to provide their valid driver's license and social security card at the meeting, then attorney will charge the client by the hour for the amount of time spent for the rescheduled or continued meeting and for the travel time.
 - c. **Fees regarding Legal Plan Members with Bankruptcy Coverage**: If Client is a valid member of a legal plan that fully covers Attorney fees for bankruptcy then there will be no charge for Attorney fees to client as Attorney will accept such payment by the legal plan as full payment for the minimum / flat fee. If the legal plan member has partial bankruptcy coverage then the legal plan payment will be deducted from the minimum / flat fee charged and Client will owe the remaining balance as a co-pay to the legal plan payment. If the case warrants extraordinary time and fees, and they are not covered by the legal plan, Client will be responsible for such extraordinary fees at the hourly rate as stated above. A legal plan member must remain an active member of the legal plan during the bankruptcy process in order for there to be coverage through the legal plan. Client acknowledges that an attorney that may be associated in to represent Client may be an out of network attorney.
 - d. **Costs to be paid by Client**: Costs are in addition to the above attorney fees. Such amounts are not covered by a legal plan and are due and payable prior to the attorney filing any documents on Client's behalf (all listed amounts are approximate): **The minimum costs, other than Attorney Fees, that will be incurred by Client is: \$695.00 for Ch. 7 bankruptcy.** These minimum costs are comprised of the following: The bankruptcy court charges of **\$335.00 filing fee for a Ch 7.** Further, the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) requires that attorney's perform due diligence and investigate their clients cases to assure that the information provided to the Court is accurate. The minimum costs associated and charged to client with the required due diligence is as follows: Third Party Auditor (Bankruptcy Assistant) **\$360.00 for Ch. 7.**
 - e. In addition to the required fees and costs above, the following costs may also be incurred on behalf of client as needed: costs for obtaining Credit Report(s); Creditor Contact Assurance (contact info to serve notice on creditors); Tax return verification; Real Estate Valuations (appraisals); Auto Valuations (appraisals; Verification of Assets and Debts; Nationwide Bankruptcy Search; Asset Search; drafting and filing of amendments to the Petition, Schedule(s) and other documents, copies at a rate of \$0.10 per page and other costs incurred on the behalf of Client. Such amounts will be deducted from the retainer received by attorney. Any costs above and beyond the retainer received by attorney will be billed to client and is due and payable upon receipt of the bill and prior to the attorney filing any documents on Client's behalf.

All payments are considered late 10 days after the billing date (billing date means: date bill sent to client). Delinquent accounts and late payments are subject to a \$25 a month service charge and interest charges of 10% per annum.

f. Client agrees that if any check given in payment to Attorney is returned for insufficient funds, Client will immediately pay Attorney a \$25.00 return check fee in addition to the amount of the returned check. This payment and any future payments must thereafter be paid in cash or money order.

g. Attorney is authorized to associate and employ other counsel to assist in representing Client, at Attorney's own expense. If another attorney is associated, Attorney may divide the attorney's fees 50/50, or as otherwise agreed. Client is informed that, under the Rules of Professional Conduct of the State Bar of California, such a division may be made only with the Client's written consent after a full disclosure to the Client in writing that a division of fees will be made and of the terms of such division. Client hereby expressly consents to the above division of attorney fees, if any.

2. In accordance with this Agreement, Attorney shall provide Client with the following services:

- a. Review and analyze Client's financial circumstances based on information provided by Client.
- b. Based on the information provided by Client, advise Client of the options available to Client under the U.S. Bankruptcy Code.
- c. Identify information Client needs to provide Attorney in order for Attorney to provide the services under this Agreement.
- d. Advise Client of the appropriate requirements in connection with the filing of a Chapter 7 bankruptcy, including the duties of Client connected with such filing.
- e. Assuming Client directs Attorney to file a bankruptcy petition, Attorney will provide all typical services in such proceeding, including, preparing and filing the petition, appearing at Court hearings and Section 341 creditors' meetings, preparation of legal memoranda, and communication with the trustee, opposing counsel and parties.
- f. If Client's proceeding requires additional, but not customary work, Attorney will inform Client directly, and enter into a separate written contract for such services to fully apprise Client of the fees, payment requirements, and expected services to be provided.

3. Client agrees that the only services Attorney will provide under this Agreement are listed in Section 2 of this Agreement. By way of example, and not limitation, the following matters are types of services not included within the scope of this Agreement and for which Attorney will not take any action on Client's behalf, without a written request and/or a separate Retainer Agreement and payment of an additional fee:

- a. Motions to revoke a discharge;
- b. Removal of a pending action in another court;
- c. Obtaining title reports;
- d. The determination of real estate or tax liens;
- e. Appeals to the BAP, District Court of Court of Appeals;
- f. Correcting credit reports;
- g. Any adversary proceeding filed by the Trustee or any other party on any basis, including, without limitations, proceedings to determine discharge ability of debts and motions to set aside preferential payments;
- h. Preparing reaffirmation agreements, negotiating the terms of reaffirmation agreements proposed by creditors, motions to redeem personal property, and negotiating reaffirmation agreements when Client's income is not sufficient to rebut the presumption of undue hardship and special circumstances do not warrant the signing of a reaffirmation agreement;
- i. Making a special appearance in a state or district 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;
- j. Motion to impose or enforce the automatic stay; and
- k. Representation of Client in any state court proceeding, including without limitation, collection lawsuits and foreclosure lawsuits.

4. **Client understands and agrees that Client must make a full and complete disclosure of all assets, debts, liabilities, creditors, and debtors before the bankruptcy petition can be prepared and filed with the court.** Client agrees to hold Attorney harmless in the event Client fails to disclose any assets, debts, liabilities, creditors, or debtors. Before the bankruptcy petition can be prepared and filed, Client must also provide Attorney copies of all of the documents listed in Attachment A to this Agreement.

5. **Attorney will perform the required due diligence but cannot be required or responsible for knowing everything about Client. Client acknowledges the attorney will not research all of client's creditor information. It is Client's responsibility to provide complete and accurate information, including social security numbers, debtor and creditor information and addresses, and account numbers and balances. Client must provide this information to Attorney in writing. Failure to do so may result in such undisclosed debts not being discharged in the bankruptcy proceedings.**

6. Credit Counseling: Client acknowledges that attendance at pre-petition credit counseling is required before the bankruptcy petition can be filed. Client understands that attendance at post-petition counseling must also take place within the time frame specified by statute. **Client acknowledges that the bankruptcy cannot be filed without the certificate of completion of the pre-petition credit counseling. Client understands that no discharge of debts will be issued if the post-petition credit education is not completed within the statutory time frame.**

7. Discharge of Attorney and Withdrawal from Representation: Client may discharge Attorney at any time, but will remain liable for any outstanding fees or costs owed to Attorney for his services. Attorney may fully withdraw with Client's consent or for good cause at any time upon giving reasonable notice including as a result of: Client's failure to pay for Attorney's services and costs; Client's failure to cooperate with the Attorney; Client's failure to honor the terms of this Agreement; Client failure to follow advice on a material matter or; if any fact or circumstance arises or is discovered that would render continuing representation unlawful or unethical. If a retainer has been given, any unearned portion shall be refunded to client. Client agrees to execute appropriate documents drafted by Attorney for the purpose of withdrawal.

8. Since the outcome of negotiations and litigation is subject to factors which cannot always be foreseen, Client acknowledges and understands that Attorney has made no promises or guarantees to Client concerning the outcome of this representation and is unable do so. Nothing in this Agreement shall be construed as such a promise or guarantee.

9. Client agrees that Attorney may discard or shred Client records after one (1) year of the completion of the Client's bankruptcy case. Client should request to receive their file if they want it stored longer.

10. Client understands that certain debts cannot be discharged in bankruptcy. Client agrees that Client will be liable to repay any debt not discharged in Client's bankruptcy case. 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 by the 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.

11. Client understands that filing bankruptcy does not automatically discharge or remove liens from any real estate. Client agrees that Attorney will not take any action to avoid (remove) any lien on real estate unless Client specifically authorizes Attorney to do so in writing. Client agrees that Attorney will rely on Client's statements concerning ownership of real property and any liens attached to Client's real property. Client agrees that no real estate title search will be conducted. Client agrees that Attorney will not conduct a public records search for lawsuits filed against Client or judgments granted against Client. Client must separately order and pay for a real estate title search, or public records search for lawsuits or judgments, if Client's wishes to obtain one. **Client agrees to hold Attorney harmless if Client later discovers liens, lawsuits or judgments against Client or against Client's real estate.**

12. 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 understands that such representation is not part of this agreement and Attorney may not agree to handle such audit. However, if Attorney agrees to represent Client in such an audit an additional retainer agreement must be signed specific to the audit and client agrees to pay Attorney, at a minimum, the customary hourly rate (presently \$300 an hour) for representing Client in such audit.

13. Client understands that Attorney may charge additional fees if Client waits longer than ninety (90) days from the first date Attorney is retained to provide the Attorney with all information to finalize the bankruptcy petition and schedules due to additional due diligence and updating required to finalize the bankruptcy.

14. California Business and Professions Code Sections 6200-6206 give Client the right to submit any dispute, as to fees arising from professional legal services under this Agreement, to arbitration. Client can obtain a form with which to request fee arbitration from a local Bar Association such as the Placer County Bar Association, P. O. Box 4598, Auburn, California 95604-4598.

15. Client acknowledges receipt of a copy of the California State Bar's publication entitled "What Can I Do If I Can't Pay My Debts," which discusses various aspects and options relating to bankruptcy protection. If needed Client can download another copy from attorneys website at www.dalexander.com

16. **Client understands and will not do any of the following the 90 days before filing bankruptcy or after filing bankruptcy until you receive a discharge: 1) use their credit card(s); 2) give anything away; 3) accept any gifts, and; 4) pay anyone (other than for your bankruptcy attorney, taxes, rent, mortgage or car payment) more than \$600 total.**

17. Client acknowledges that Client has read and understands all the terms contained in this Agreement and that, whether written, spoken, recorded or transcribed by any other means, no other terms are made part of this Agreement. Client is in agreement with the terms of this Agreement and has signed on the signature line below. Client further acknowledges that Client has received a copy of this Agreement.

Dated:

Client Signature
Print Name:

Client Signature (if filing jointly)
Print Name:

Attorney

ATTACHMENT A

DOCUMENTS TO BE PROVIDED BY CLIENT

Certificate of completion of credit counseling

**A Credit Report from at least one of the three major credit reporting agencies
(To get free credit reports you can go to: www.annualcreditreport.com)**

Paystubs for last 6 months

Documents showing income from other sources for last 6 months

Tax returns, 1099s, W-2s for the last 2 years

All bank statements for last 6 months

All statements and bills from the last 1 month for every creditor

Savings account passbooks and statements for last 6 months

All documents relating to IRAs, 401Ks, college savings accounts, and other retirement accounts

Brokerage account statements or other records relating to stocks, bonds, money market funds, etc.

Documents relating to land ownership

- Deeds
- Mortgages and trust deeds, including records of payment or default
- Land purchase or sale contracts, including records of payment or default
- Property insurance policies
- Property tax bills, including records of payment or default
- Homestead declarations
- Documents evidencing ownership of cemetery plots

Documents relating to debtor's business

- complete and current asset and inventory schedules
- list of all accounts receivable (including names and addresses of parties owing on those accounts)
- customer lists (including names and addresses)
- rent rolls
- employee lists with compensation rates
- balance sheets
- profit and loss statements
- audited financial statements
- property appraisals
- copies of financial statements given to banks or others for credit purposes
- outstanding loan/line of credit documentation
- list of all shareholders and/or partners
- all documents relating to unions and collective bargaining agreements
- copies of all pension and retirement or profit-sharing plans and related documents
- documents relating to other employer-provided group benefits (health insurance, life insurance, disability insurance, etc.)
- "key man" insurance policies
- supplier contracts

Automobile registration and title documents

- pink slips
- registration cards
- leases

Insurance policies

- life
- disability
- casualty
- liability
- property
- workers' compensation, etc.

Contracts signed by debtor, or other documents under which liability claims may be asserted

- leases
- guarantees
- purchase agreements
- judgment(s) against the debtor
- if the debtor is recently divorced or separated, marital settlement agreements, support orders, property division judgment and other documents relating to liabilities arising out of the marriage dissolution or separation.

Copies of all promissory notes, loan and security agreements, UCC filings, payment books on loans

Accounts payable records including bills and most recent statements and payments, and names, addresses and account numbers

Creditor demands for payment including letters and bills from collection agencies or lawyers representing creditors

Lawsuits/legal actions by or against debtor

- foreclosure proceedings
- collections proceedings, etc

Lists of debtor's property (if not already included in questionnaire)

- tangible;
- intangible;
- real estate; and
- personal property

All written appraisals for any property owned by debtor

Verification of debtor's disabled veteran status for debtors asserting such exemption from means test

List of all property (real or personal) transactions within the last 2 years (including gifts)