

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re

GUIDELINES PERTAINING TO
BANKRUPTCY PETITION PREPARERS IN
EASTERN DISTRICT OF CALIFORNIA
CASES

General Order 23-06

It is ordered that the following guidelines are issued pursuant to Local Bankruptcy Rule 1001(d) and concern the compensation and conduct of bankruptcy petition preparers¹ in the Eastern District of California bankruptcy cases. They reflect rebuttable presumptions which the court may, upon motion, notice to the debtor, case trustee and U.S. Trustee, modify in a particular case or class of cases.

1. Bankruptcy petition preparers are authorized to provide typing and document filing services and may type bankruptcy petitions, forms, and other documents and submit them for filing with the Clerk’s Office. They are not authorized to practice law and are prohibited from giving legal advice, which includes, but is not limited to, the following advice:

- a. Whether to file bankruptcy;
- b. The Bankruptcy Code chapter under which to file a petition;
- c. How the debtor should respond to a question, or questions, set forth in bankruptcy forms and/or the information to be provided in other documents filed in connection with a bankruptcy case;
- d. The exemptions available to the debtor and/or which the debtor should claim;
- e. Whether particular debts are dischargeable or nondischargeable;

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Section 110(a) of the Bankruptcy Code (11 U.S.C. § 110(a)) defines “bankruptcy petition preparer” as a person, other than an attorney or an employee of an attorney, who prepares for compensation a petition or other document for filing by a debtor in a U.S. bankruptcy court or a U.S. district court in connection with a bankruptcy case.

- f. The effect that filing bankruptcy will have on a foreclosure action and/or whether the debtor will keep their home;
- g. Whether the debtor may avoid or eliminate any lien or recover any property as a result of bankruptcy;
- h. Whether the debtor may and/or should redeem property;
- i. Whether the debtor may and/or should reaffirm a debt;
- j. Whether the debtor is entitled to a discharge under the Bankruptcy Code, and/or what defenses the debtor may have to an objection to discharge; and
- k. The tax consequences of any aspect of the bankruptcy case.

2. The fee paid by the debtor to a bankruptcy petition preparer for typing and filing a bankruptcy petition may not exceed \$200.00, including expenses (such as photocopies, postage, telephone charges, and courier services.)

3. According to section 110(g) of the Bankruptcy Code (11 U.S.C. § 110(g)), the fee for filing a bankruptcy petition must be paid by the debtor directly to the Clerk of the U.S. Bankruptcy Court. No part of the filing fee may be collected or received by the bankruptcy petition preparer from the debtor or on behalf of the debtor for payment to the Clerk by the bankruptcy petition preparer.

4. Upon motion of the debtor, the trustee, a creditor, the United States Trustee, or upon its own motion, the court may disallow and order the turnover of all, or a portion, of the fee paid to a bankruptcy petition preparer. The entire fee may be ordered forfeited where the bankruptcy petition preparer has acted incompetently or illegally, has violated any provision of section 110 of the Bankruptcy Code (11 U.S.C. § 110), or has failed to comply with the provisions of these Guidelines.

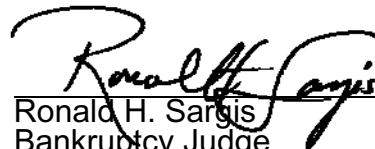
5. Before preparing a bankruptcy petition or first document for filing, or accepting any money from or on behalf of the debtor, a bankruptcy petition preparer shall provide a copy of these Guidelines to the debtor, together with a copy of the *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119). The debtor shall read and sign the notice, and a copy of the signed notice

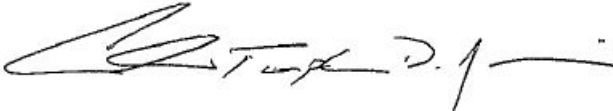
1 will be provided to the debtor by the bankruptcy petition preparer. The original
2 plus one copy of the *Bankruptcy Petition Preparer's Notice, Declaration, and*
3 *Signature* must be filed with the court along with the petition or the first
4 document prepared by the bankruptcy petition preparer.


- 5 6. Debtors, trustees and others who believe a bankruptcy petition preparer has
6 violated any provision of section 110 of the Bankruptcy Code (11 U.S.C. § 110)
7 should so advise the Office of the United States Trustee.

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10 DATED:

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13 Fredrick E. Clement
14 Chief Bankruptcy Judge

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13 Ronald H. Sargis
14 Bankruptcy Judge

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14 _____
15 Christopher D. Jaime
16 Bankruptcy Judge

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14 _____
15 René Lastreto II
16 Bankruptcy Judge

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18 _____
19 Honorable Jennifer E. Niemann
20 United States Bankruptcy Judge