

CALIFORNIA LAW BUSINESS

Debt Relief

by [Howard Ehrenberg](#)

A bankruptcy trustee who sees 200 debtors in six hours offers nine ways to use your two minutes to best advantage.

In addition to being the bad-air quality, low-speed chase, fake body-part capital of the world, Los Angeles is also this country's leading producer of bankrupt debtors.

Last year, more than 120,000 businesses and individuals located in the Central District of California filed for protection under Chapter 7 of the United States Bankruptcy code. As a trustee, by appointment of the United States Trustee, it is my job, no, my pleasure, to review and administer in the neighborhood of 3,500 of those bankruptcy filings per year.

While the majority of people who file bankruptcy have experienced some genuine financial hardship, (i.e., lost their job, suffered an illness or injury, etc.) and are therefore deserving of the relief afforded to them by the code, there are, on the other hand, a small number of people out there who seek to take advantage of the system and abuse the offer of a "fresh start."

I think it might be important to note here that generally, Trustees don't do this work just for the fees earned. In most cases we receive just enough to cover the costs of our no asset administration. I view myself as a spokesperson or representative for the honest, hard working people of this city - sort of the last line of defense between the "good" debtors and the .001 percent of the population who aspire to be "bad" debtors.

Every few weeks, I conduct a massive cattle-call hearing during which I sit behind a very big desk at the front of a tiny room with no windows and one exit. My very big desk blocks the exit. If you want out, you gotta tell the truth. Next to me, riding shotgun, sits my trust assistant. Together we try to scowl a lot and basically put fear into the debtors. Most of the time, the ugly faces work and by the time the debtors arrive at the "big desk," they are sufficiently terrified into telling me the truth, the whole truth, and nothing but the truth.

Some will surreptitiously confess that they forgot to list the family dog in the schedules. I usually inform them that in most cases, the family dog is exempt, unless of course it's Lassie or something (hey, don't forget, this is Los Angeles). Others might remember a knickknack on a shelf, a set of left-handed golf clubs, one ski in a closet, or an autographed photograph of Ernest Borgnine. And as tempting as the Borgnine photo was, I thanked all of them for their forthrightness and allowed them to keep their treasured possessions.

But once in a while, you get a tough nut to crack (usually accompanied by a bankruptcy attorney who specializes in representing "tough nuts"), and this is where my special intuitive skills and general overall pickiness come into play. I live for these moments...I can sense the kill.

You see, I interview 200 debtors in a single day over the course of five or six hours. This comes out to be about 30 per hour and you don't have to work at JPL to figure out that each debtor therefore gets less than two minutes to convince me that they are worthy of a discharge. This truncated period of time is usually just fine with debtors, as they are anxious to be done with the proceeding and probably could not withstand more than 120 seconds of my blistering questions anyway. But, if an interview with a particular debtor (like the aforementioned "tough nut") takes more than two minutes, that often indicates that something in this debtor's petition or testimony does not pass the smell test. They're selling me a bill of goods. And I ain't buyin'.

The debtor who has failed to disclose an asset or eve of bankruptcy transfer of property will employ a variety of clever devices in an attempt to prevent me from discovering the truth. I, on the other hand, am always amused by the fact that with all the hours of planning they have obviously devoted to pulling off this caper, they have failed to take into account the fact that as a Trustee who pores over hundreds of bankruptcy petitions per month, it is unlikely that they can conceive of a scam that hasn't been tried hundreds of times before.

So, having established that I have just about every trick in the book and a few that could only be found in the pocket parts, the following is my advice (with tongue firmly implanted in cheek) to debtors, creditors, their counsel and all parties in interest.

- **Rule 1.** Bring a screaming child to the hearing. (Important Note - It need not be your own child, as I no longer conduct those messy random DNA tests). I guarantee that if you have a screaming child, I will hear your case first.
- **Rule 2.** Do not wear the Rolex unless you can prove it's a fake, because when your schedules reflect that the total aggregate value of your jewelry is \$450, it is definitely a poor strategy for you to bust out the good stuff. The wife, therefore, should not wear the diamond-studded Miss America Crown, and guys, keep it simple - Casio watches are definitely OK.
- **Rule 3.** Just plain ol' don't show up for the first hearing. The initial shock of receiving a notice of commencement can make a creditor want to kill. He often will arrive at the 341 (a) meeting of creditors looking for blood - your blood. Stay away. I will continue the meeting at a later date, usually three weeks later, and by then either the creditor will have cooled off or will have moved on to harass his other receivables, preferably the ones that are not protected by section 362 of the bankruptcy code.
- **Rule 4.** Pretend not to speak or understand English. While I am sympathetic to those who genuinely do not speak English (who by the way, are allowed and encouraged to bring a translator) I am infuriated by people who have managed to operate a business or enter into a lease without having enough command of the English language to answer a simple question like, "where is my money?" (OK - technically it's not my money. Pursuant to Bankruptcy Code Section 704, it is my job to recover nonexempt assets of the blah blah blah for the so on and so on, but all of that notwithstanding, as far as everyone on the wrong side of the "big desk" is concerned . . . it's my money.)
- **Rule 5.** Spread your nonessential purchases of luxury goods out over the course of a full year. Don't go crazy with holiday shopping in December only to file your bankruptcy case in January. Be creative - give a few gifts on Groundhog Day.

- **Rule 6.** When you travel, don't stay at the best hotels. If you are going to try your luck at gambling, (or at least claim in your sworn testimony that you lost your money gambling) please give the courtesy to have not stayed in the Frank Sinatra suite at Caesar's. I can't afford to stay there, so neither should you.
- **Rule 7.** Dress slovenly, (Important Note - this rule should be used in conjunction with Rule 2. Since the first impression is very important, try to look as financially burdened as possible. Dirt is bad, but wrinkles are good).
- **Rule 8.** Rehearse. The more pathetic you are, the better. If you are going to fake a heart problem, please practice clutching the correct side of your chest before you get to the creditor's meeting.
- **Rule 9.** Compliment my assistant. She may try to influence my decision. And besides, she's a Scorpio.

And remember, if you have nothing to hide, you have nothing to worry about.