

# BANKRUPTCY PETITION PREPARERS

## HERE IS WHAT YOU SHOULD KNOW IF YOU USE A TYPING SERVICE, PARALEGAL, OR DOCUMENT PREPARATION SERVICE TO HELP YOU FILE YOUR BANKRUPTCY

Bankruptcy is a legal proceeding controlled by federal law. As a debtor in bankruptcy, you may retain an attorney to represent you or you may represent yourself without an attorney. You may also go to a bankruptcy petition preparer, sometimes called a "typing service" or "paralegal."

Federal law controls the services rendered by bankruptcy petition preparers. The law is designed to protect debtors as consumers of these services. If you use a bankruptcy petition preparer to assist you in preparing your bankruptcy documents, you should be familiar with your rights and their duties.

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### **What is a bankruptcy petition preparer?**

A "bankruptcy petition preparer" means a person, other than an attorney or an employee of an attorney, who prepares for a fee, a document for filing by the debtor in the United States Bankruptcy Court.

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### **What may a bankruptcy petition preparer not do?**

Bankruptcy petition preparers are not attorneys. Even the bankruptcy petition preparers who call themselves "paralegals" are not usually supervised by an attorney. They may not represent debtors in any bankruptcy proceeding and they may not give debtors any legal advice. Legal advice includes:

- Telling you which type of bankruptcy to file;
- Telling you not to list certain debts;
- Telling you not to list certain assets;
- Telling you what property to exempt.

Bankruptcy petition preparers may only type bankruptcy documents and must only charge a reasonable fee.

A bankruptcy petition preparer may not sign any bankruptcy document on your behalf. As the debtor, you must personally sign the bankruptcy documents.

A bankruptcy petition preparer may not collect, receive, or handle the court fees in connections with your bankruptcy case. That means that the bankruptcy petition preparer cannot accept from you, or another person on your behalf, any money in any form (i.e., cash, check, or money order) to pay your bankruptcy filing fees or other court fees.

A bankruptcy petition preparer is prohibited from advertising using the word "legal" or any similar term, and may not advertise under any category that includes the word "legal" or any similar term. This is to prevent bankruptcy petition preparers from misleading the public or a debtor into believing that the bankruptcy petition preparer is authorized to practice or otherwise give legal advice.

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**What must a bankruptcy petition preparer do for a debtor?**

If a bankruptcy petition preparer prepares a document for you for filing in your bankruptcy case, the bankruptcy petition preparer must sign the document and print on the document the preparer's name, address, and Social Security account number.

A bankruptcy petition preparer must provide you with a complete copy of the bankruptcy documents which he or she prepared for you, not later than the time when you sign the documents.

A bankruptcy petition preparer must file with the bankruptcy court a declaration signed under penalty of perjury disclosing any fee or compensation received from you, or any person on your behalf, for preparing your bankruptcy documents, and the amount of any fees still owing. The bankruptcy petition preparer must file this declaration with the court not later than ten days after the filing of your bankruptcy petition.

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**What can you do if a bankruptcy petition preparer causes you legal or economic injury?**

If your bankruptcy case is dismissed because the bankruptcy petition preparer acted negligently or with intentional disregard for the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, or if the bankruptcy petition preparer committed any fraud, unfair or deceptive act which cause you damage, then you may have the right to ask the court to order the bankruptcy petition preparer to pay:

- (a) your actual damages;
- (b) the greater of -
  - (i) \$2,000; or
  - (ii) twice the amount paid to the bankruptcy petition preparer for the preparer's services; and
- (c) your attorney's reasonable fees and costs for bringing the motion to recover damages.

If the bankruptcy petition preparer charged you an reasonably high fee for typing bankruptcy documents, you may request that the court review the reasonableness of the fees. If the court determines that the fees charged were excessive, the court may order the bankruptcy petition preparer to refund to you all or a portion of the fees you paid.

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**ADMONITION**

As a debtor in bankruptcy, you have rights and obligation defined by law. The choices you make when completing your bankruptcy documents, and throughout your bankruptcy, will have significant, serious, and long term legal and practical consequences. If you have questions regarding your legal rights and responsibilities, we urge you to consult with an attorney immediately. Bankruptcy is a civil proceeding and there is no right to free legal counsel. However, if you cannot afford to consult an attorney, your local Legal Aid Society may be able to provide you with free or affordable legal counsel.

If you believe that your rights have been violated or that a bankruptcy petition preparer failed to comply with the law, you may wish to contact an attorney, your bankruptcy trustee, or the United States Trustee.

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