

BankruptcyAcademy.com

The Bankruptcy Academy 2006

**San Francisco Dec. 5 2006
1:30 p.m. – 3:30 p.m.**

The Cathedral Hill Hotel

Protecting Your Fees In Consumer Bankruptcy Cases

**Incorporating changes
Made by BAPCPA***

***The Bankruptcy Abuse Prevention & Consumer Protection Act
Of 2005**

**Morgan D. King
Of the California Bar**

THE RETAINER AGREEMENT

**Key reference; King's Fees 7 Ethics in Consumer Bankruptcy Cases
DVD: King, Protecting Your fees: The Retainer Agreement**

**Must have written fee agreement per BAPCPA
Required contents of fee agreement per BAPCPA**

Types of retainer agreement

- Classic retainer fee
- Security retainer agreement
- Advance payment for future legal services

The "Lamie" problem:

Debtors' attorneys cannot be paid out of property of the estate

The "Biggar" problem:

Uncollected fees for services are discharged

SPECIAL ISSUES REGARDING FEES

Prohibition against "fee-sharing"

Outsourcing

Paralegals – practicing law without a license

Logging billable time

- Specificity in entries
- Saving original time records
- Avoiding estimations
 - Phone calls
 - Legal research
 - Office conferences

- Phone conferences
 - Short written memorandum

Attention to source of fees

Disclosure

Of postpetition fees
Fees paid for non-bk services in previous year

Caveat: 707(b) Awards to trustee under BAPCPA

ISSUES WITH ELECTRONIC FILING

Must have signed original

Must retain signed original

Be careful about dates – consistency with e-filed versions

RECENT FEE CASE OPINIONS