

NACBA member Paul Uyehara testifies in Congress

On October 2, NACBA member Paul Uyehara testified on behalf of NACBA at the House Judiciary Subcommittee on Administrative and Commercial Law hearing on "The United States Trustee Program: Watch Dog or Attack Dog?? Here's Paul's report: "My testimony, much of which was prepared by NACBA president Henry Sommer, explained NACBA's criticisms of the UST program policies and practices - the apparent anti-debtor bias, burdensome document requests, complaints about insignificant or non-existent defects in filings, UST attendance at 341 meetings together with insignificant, irrelevant or just plain nasty questioning of debtors, failure to consider costs and benefits of demands made of debtors, overbearing auditors, erroneous filing of material misstatement notices, and overly aggressive litigation practices. In addition, I highlighted EOUST's ongoing failure to provide interpreters for limited English proficient debtors at meetings of creditors and their half hearted attempts to have the bankruptcy counseling agencies be accessible to these debtors.

Judge Jay Cristol (SDFL) started his frank testimony by saying the UST is not a dog, but a pack of unleashed pit bulls, whose leaders have viewed debtors as crooks and their lawyers as untrustworthy. He characterized almost all debtors as honest, decent and hardworking people defended by competent, well meaning lawyers of good character. He strongly criticized many BAPCPA requirements, the audit process, and the anti-consumer bias of the USTP and the politicized Executive Office for US Trustees. He closed by telling the story of his In re: Jean Raul Petit-Louis case in which he waived the credit counseling requirement after the Creole speaking debtor was unable to find credit counseling in a language he could understand, for which he properly faulted the UST. He noted sadly that the debtor was forced to dismiss by the aggressive tactics used by the UST seeking to overturn his decisions.

Former Buffalo UST lawyer Mary Powers provided a powerful indictment of EOUST from the inside, explaining how Washington and the regional UST office had devised reporting programs which kept counts of the number of abuse filings, pressures to demand documents, conduct examinations and aggressively hunt for evidence of wrongdoing by debtors, and her view that her office was viewed as not working hard enough to find abuse. In her eyes, management had little understanding of the reality of hardship faced by most debtors and viewed consumers as the opposition.

EOUST Director Clifford White, III, was the lead witness and sought to explain the importance and validity of their policies especially after passage of BAPCPA and the restraint he feels the program exercises in dealing with abuse allegations. In explaining how the rules committee devised the means to st Form 22, Judge Eugene Wedoff (NDIL) spent a lot of time explaining how, in his view, Mark Redmiles of EOUST was entirely fair and was not seeking to attack debtors as the form was drafted.

Subcommittee chair Linda Sanchez (D-CA) and member Hank Johnson (D-GA) were very interested in the NACBA testimony, criticized the apparent anti-debtor bias in the system and made several pointed references to the horrible case stories supplied by NACBA members that I mentioned in my testimony. They also supported my criticism of EOUST for failing to provide interpreter support for limited English proficient debtors for 341 meetings and bankruptcy counseling."

Conclusion

No one wants to live their life fearing the worst. By insuring yourself, you can at least rest assured knowing that you are prepared if your health takes a turn for the worse. As a result you or your family would not have to suffer the additional hardship of having to pay for your medical costs yourself. The good news is that if you can not afford insurance coverage, bankruptcy could eliminate your medical bills if necessary.