

# WHAT YOU SHOULD KNOW ABOUT YOUR CHAPTER 13 CASE

Brief answers to most questions that come up while under a Chapter 13 Plan. Read this pamphlet completely to understand your obligations and responsibilities and then refer to it as needed when you have a question.

**PUT YOUR CASE NUMBER ON ALL PAYMENTS  
AND CORRESPONDENCE SENT TO THE  
CHAPTER 13 TRUSTEE OR THE COURT**

**CASH PAYMENTS ARE NOT ACCEPTED**

**PAYMENTS ARE ALSO NOT ACCEPTED IN  
THE OFFICE EITHER THROUGH THE  
POST OFFICE OR WALK-IN**

## **CALLS TO THE TRUSTEE'S OFFICE**

The Chapter 13 Trustee's phone number is (757) 961-3000. The office is open five days a week from 9:00 am to 4:00 pm. If you have a question which your attorney cannot answer, you may wish to ask the Trustee by writing a letter with your case number and your question. The Trustee and his staff cannot give any legal advice and encourage you to direct all legal questions to your attorney.

## **1) What is "Chapter 13 Bankruptcy"?**

Chapter 13 is one method under the Bankruptcy Code to obtain relief from your creditors while at the same time providing a fair means to pay them back as much as you can. It allows you to keep some or all of your property during the time you are paying your creditors back and it permits you to modify some contract payments and interest rates. Your plan can eliminate late charges and penalties and allows you to extend payments on some of your debts.

## **2) Do you know your case number?**

At the time your Chapter 13 petition was filed, the Bankruptcy Court assigned your case a number. **This number is very important.** You will need it whenever you write to the Trustee's office or when you make a payment to the Trustee. Your case number has been printed on the cover of this booklet.

## **3) What does your attorney do?**

Your attorney must continue to appear and represent you for as long as your case is active or until the judge permits your attorney to withdraw from your case. If you ever have a question concerning your case, a creditor, your rights, or your options, you should ask your attorney first. Be sure that you and your attorney have discussed fully whether additional legal services during your plan will cost you more money or whether the initial fee will cover all legal services. Keep in mind that all legal fees are monitored and regulated by the Bankruptcy Court and its officers. If you ever want to obtain a new attorney, an Order must be entered by the Court appointing a new attorney and relieving your prior attorney. Some examples of your attorney's responsibilities are:

1. Ensure that all secured debts are valid.
2. Handle disputes with your creditors.

3. Attend the meeting of creditors.
4. Appear at any other Court hearing related to your case.
5. Review proofs of claim filed by your creditors and object to any improper claims.
6. Assist you in overcoming any obstacles that may arise during the course of your plan by filing any necessary documents. This includes, but is not limited to, suspension of payments, Motions to obtain credit and Motions to buy or sell real estate.

**4) You are the one who is primarily responsible for the success of your bankruptcy plan. Your responsibilities include:**

1. Making all of your plan payments as they come due.
2. Making all of your domestic support payments while you are in Chapter 13.
  - a. You will be required to verify that your support payments are current before your Plan can be confirmed (approved by the Court).
  - b. You will be required to verify that you have made all of your support payments in order to receive your discharge (see paragraph 15).
3. You must certify that you have completed a course in financial management **before** you receive your discharge and give us written proof of this.
4. Please provide all information requested by the Trustee including, but not limited to, tax returns, W2 forms and pay stubs during the life of your plan.
5. You must file your tax returns on time throughout the life of the plan. Failure to do any of these things may result in the dismissal of your case and loss of your discharge.

## ***5) Do we have your correct address?***

You must keep us advised of your current mailing address for as long as you are under Chapter 13. The address on your petition will be used for all notices, correspondence and reports. **You must advise the Trustee's office, your attorney and the Bankruptcy Court in writing of your new address.**

## ***6) When must I make my first payment?***

Your full payment **must** be received in full within 30 days of the filing of the **Bankruptcy petition** with the court. The Trustee is required to report to the Bankruptcy Court your failure to commence your payment on time and the Trustee will promptly file a Motion to Dismiss. Payment must be received in the Trustee's Office, and **not** in your attorney's office. If you make the payment to your attorney within 30 days, and your attorney does not send it to the Trustee's office in time, your case will be dismissed.

Checks returned by the bank for insufficient funds will result in a motion to dismiss being filed in your case. If the check returned was for your **first payment**, your case **will be dismissed**.

You must continue to make your payments to the Trustee until your employer begins deducting money from your paycheck. It is your responsibility to check with your employer in order to determine exactly when your employer will begin making the payments.

**All payments must be made payable to: Gregory D. Stefan, Trustee**

## ***7) What else should I know about making payments?***

Your Chapter 13 plan payments can be made by automatic deductions (or debits) from your bank account. This is the most efficient way of making your payments and is the method preferred

by the Trustee's Office. You choose not only the particular bank account that you want debited but also the manner and timing of the monthly debits. You can choose to have your account debited twice a month, each for a half payment. There are a number of other options as well but please remember that your plan payment is due per the date stated on your Order Confirming Plan.

Signing up for this method of payment is very easy. You simply go to [www.TFSbillpay.com](http://www.TFSbillpay.com) and follow the simple directions. The sign-up process takes less than ten minutes. The Customer Service number for the automatic debit payment program is 888.729.2413. This booklet includes a brochure with additional information.

There is a small cost associated with this service which is tied to the amount of the funds being transferred. The cost ranges are \$0.99 to \$7.99 for each transaction but many transactions cost less.

Another easy method for making your payments is via the electronic eWage system. With this method, funds are automatically deducted from your pay checks and, via TFS, forwarded to the Trustee. Unlike the payroll deduction option (see below), there is no paperwork which shows that this is in any way related to a bankruptcy. Enrollment with the eWage system must be done by your attorney. The enrollment process takes just a few minutes.

Additionally, especially in circumstances where you need for the payment to arrive at the Trustee's office as quickly as possible, you may consider making the payment via MoneyGram to TFS. Before using this method for the first time, reach out to TFS for the information you need to provide to the MoneyGram location. Although somewhat more expensive than other methods, the MoneyGram method does insure that the payment is received by the Trustee at the earliest possible date (generally within 48 hours). A MoneyGram brochure is included within this booklet.

The only other approved method of payment is through payroll deduction at your place of employment.

## **PAYROLL DEDUCTION ORDERS.**

If you are paying by payroll deduction when your plan is confirmed, the Court will issue an order directing your employer to deduct your plan payment from your paycheck and send it to the Chapter 13 Trustee. It is important that both you and your employer understand that such an order is not a garnishment but rather is a voluntary deduction. A garnishment can come only from someone to whom you owe money. You do not owe the Court or the Trustee money. The Court is carrying out its duty to administer the plan you voluntarily filed. You gave the Court exclusive jurisdiction over your future income as long as you are actively involved in a Chapter 13 Plan. We find that most employers understand that you are making a serious effort to repay your debts instead of avoiding them and think more highly of an employee who seeks to repay his or her debts. If your employer has any questions, he or she may call our office for an explanation.

**PLEASE NOTE THAT ALL PLAN PAYMENTS MUST BE MADE VIA EITHER AUTOMATIC DEDUCTIONS FROM YOUR BANK ACCOUNT OR VIA PAYROLL DEDUCTIONS. NO OTHER PAYMENT IS PERMISSIBLE EXCEPT IN EXTRAORDINARY CIRCUMSTANCES AND ONLY WITH THE PERMISSION OF THE CHAPTER 13 TRUSTEE.**

## **OBLIGATION TO PAY**

Even though the Court will usually order your employer to deduct plan payments and send them to the Trustee, you must remember that **YOU** are ultimately responsible for making sure your payments are made. If your employer ever fails to make a plan payment deduction, you must tell your attorney that the deduction was not taken out of your pay and you must send the plan payment to the Trustee. It is a good idea to keep your pay stubs as a record of your payments. If the Trustee does not receive a required payment, any creditor in your case may ask the Court to dismiss the case. The Trustee **will** ask the Court to dismiss your case if you fail to make the required payments during any month of your plan.

***8) What if I am temporarily unable to make my Chapter 13 payment?***

If you are temporarily out of work, injured, or otherwise unable to make your payments required under the plan, **CONTACT YOUR ATTORNEY IMMEDIATELY to discuss all of your options.**

***9) What if I fail to make my payments?***

If you fail to make the payments to the Trustee as required by your plan, the Trustee will ask the Court to dismiss your case.

**It is very important to contact your attorney if you ever expect to miss a payment for any reason and to discuss all of your options.** Remember: the Trustee's office does not have the authority to allow you to miss a payment or to pay less than your plan requires. Only the Court can make that decision.

***10) What if my creditors continue to contact me?***

All of the creditors that you listed on your Chapter 13 petition are under an order for relief which prohibits them from contacting you in any way. You will hear this referred to as the "automatic stay". If you continue to get notices in the mail from your creditors, send them to your attorney. If you get personal, direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13 and give them your attorney's name and address. Under **NO** circumstances should you discuss the debt with them in any manner. Be sure you tell your attorney the name of the person who contacted you. Your attorney will want to follow up on such a call and the name of the person calling you is very important.

**DEALING WITH CREDITORS**

You may **not** deal directly with a creditor, just as a creditor may not deal directly with you. You cannot pick and choose some



particular creditor and pay them "on the side"; any such payments may be illegal. All creditors must be paid under the authority of the Court, by the terms of the law, and not by any personal desires. If you want to pay creditors, you must do so through your Chapter 13 plan.

### ***11) How will I know who is receiving my money?***

Most people are very interested in knowing how much they owe to their creditors and how much they have left to pay on their Chapter 13 plan. If you want to find out how much each creditor is owed and what your payoff balance is on your Chapter 13 plan, review your six month reports or write to the Trustee's office and ask for a "Debtor Printout". The Trustee's office will only send you such a printout once a year. The "Debtor Printout" will list the payoff balance to each of your creditors and of your Chapter 13 plan. It will not include any un-matured interest which your plan requires you to pay, nor does it calculate the actual percentage unsecured creditors will be paid. It is, therefore, only an approximate figure. Any request for the amount required to payoff your plan must be in writing to our office.

Also, please be aware that, as is explained on the last page of the booklet you may also consult the website operated by the National Data Center (i.e., [www.ndc.org](http://www.ndc.org)) in order to obtain valuable information about your case.

### **CLAIMS OF CREDITORS.**

While every creditor which you list on your Chapter 13 petition is given the opportunity to file a claim for payment, they are allowed only 90 days from the first meeting of creditors to file their claim. EXCEPTION: claims filed by government agencies have 180 days from the date the petition was filed. This is referred to as the "bar date". After the bar date, the Trustee will send you a copy of his Motion to Allow Claims. This is list of all of the creditors who have filed will claims, the amount of the claim and any interest requested. It will also show you which creditors did not file a claim.

The creditors who do not file claims will not receive any payments through your plan. Please review this carefully and call your attorney if you see any inaccuracies or have any questions or concerns about the motion or any claim. If an objection to any of the claims is to be filed, your attorney will be responsible for filing that on your behalf. If there are no responses or objections to this motion at the expiration of 30 days, an order will be entered and the claims will be paid as reflected in the Motion.

## **CLAIMS FOR TAXES AND PAST DUE PAYMENT ON CAR AND MORTGAGE LOANS**

In many instances, you benefit by having your attorney file a claim for a creditor who fails to do so. For instance, it works to your benefit to catch up your past due mortgages payments and /or past due car payments with your payments to the Trustee. Sometimes these important creditors neglect to file claims. If you owe taxes it also benefits you to pay them through the plan. Since the Trustee only pays the claims that are filed, you and your attorney should monitor the claims filed because you can file for a creditor who does not file a claim.

## **LATE CLAIMS.**

As noted above, creditors have 90 days after the Meeting of Creditors or government agencies have 180 days from the date the petition was filed to file their claims. Claims filed on behalf of a creditor by a third party (typically, the attorney), can only be filed within 30 days of the bar date. These proofs of claims will be allowed.

## **CREDITORS NOT LISTED.**

Creditors not disclosed by you when you file can cause quite a few problems. There are two kinds of undisclosed creditors: Those you owed money to when you filed your petition but forgot to list - we call them "unlisted creditors", and those creditors who have a bill that was incurred after you filed. We call these "post-petition creditors". If you find an undisclosed creditor, you should let your attorney know the details immediately. Time is very important

here, so do not delay if one shows up. Post-petition creditors are rare because you cannot borrow money or incur debt while under Chapter 13 Plan without Court approval. However, sometimes unforeseen expenses do arise. Post-petition debts should be brought to the attention of your attorney so that a review of your plan can be made and any adjustments made.

### **HOW CREDITORS ARE PAID.**

The money paid to the Trustee is used to pay your attorney, your creditors and the following expenses of administering your case.

### **Generally, creditors will be paid in the following order or as specified in the Chapter 13 Plan:**

Before confirmation, adequate protection payments will be paid according to your plan.

After confirmation, creditors will be paid in the following order as specified in the Chapter 13 Plan.

1. Administrative Claims/Professional Fees
2. Secured Claims (includes fixed monthly amount specified per the Plan);
3. Domestic Support Obligations; Priority Claims; and Administrative Claims (other than attorney fees); and
4. Unsecured Claims.

You are obligated to make **ALL** payments proposed in your plan (total funding). Should the claims filed be less or more than anticipated, the percentage of payment proposed will be adjusted. Your plan will not pay out early unless all claims filed are paid in full. In some instances when the claims filed are substantially greater than anticipated, your plan may have to be extended to provide the funding required.

## ***12) Are my cosigners protected?***

A cosigner, co-maker or guarantor on any of your consumer debts is generally protected from contact by the creditor by something called the "Co-debtor Stay". This automatic protection applies only in Chapter 13 cases. If the co-signer, co-maker or guarantor has given collateral for the loan, the creditor must request a hearing before the Judge in order to proceed against the property. The co-debtor stay will only protect co-signers, co-makers or guarantors for the amount of debt your plan proposes to pay. If your plan is not scheduled to pay all of the cosigner debt in full, a creditor may obtain permission to collect from the co-signer, co-maker or guarantor, that portion of the debt that your plan is not going to pay.

## ***13) Can I buy a house, car or anything on credit?***

When your plan is confirmed, you should not incur **any** debt, for as long as you are under Chapter 13. If, for some reason you feel that it is important for you to be able to buy something in installments, or to be able to borrow money, you must **FIRST** obtain the Court's permission. As is stated in paragraph 10 of your plan, you may not incur debt exceeding the cumulative total of \$5,000 principal amount during the term of your plan. You should give serious thought and contact your attorney for advice. If you decide it is in your best interest, your attorney will prepare the necessary pleadings. This process could take two weeks or more.

## ***14) Can I sell my property?***

You cannot dispose of any of your property, including real estate, without Court approval. If you want to sell property, trade-in or sell a car, or sell or refinance your home, or modify your mortgage, be sure to discuss it with your attorney. He or she must then prepare the necessary pleadings. This process could take two weeks or more.

### ***15) What do I need to do before my case is closed?***

1. You must complete a course in financial management from a provider approved by the United States Trustee. You must certify this to the Court and the Trustee in order to receive your discharge.
2. You must provide a signed Affidavit verifying that you have made all of your domestic support obligations during the pendency of your plan.

### ***16) What happens after I make my last payment?***

After your final scheduled payment is made, the Trustee will audit your case to ensure that all the requirements for discharge set by the Bankruptcy Code have been met. In some cases, additional funds are needed to meet these requirements. After all of your payments have been sent to your creditors, the Trustee will file his Report of Completion of Payments. If you are entitled to a discharge, the court will then send you your Discharge Order. **PLEASE KEEP YOUR DISCHARGE ORDER IN A SAFE PLACE. It is your proof that you successfully completed your plan.**

### ***17) Do I have to stay in Chapter 13?***

Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. No one can force you to remain under a Chapter 13 plan if you do not wish to remain. If you desire to stop your case, contact your attorney. However, you should understand that a voluntary dismissal will reactivate all unpaid or disputed debts, all interest, finance charges, all late charges not allowed by the Bankruptcy Court, and all claims of your creditors on their terms. The request for dismissal of your plan must be in writing and sent to the Bankruptcy Court.

### ***18) What happens to my credit rating?***

Your credit rating during and after completion of Chapter 13 plan

will be, as it is now and was in the past, the personal opinion of any lender who looks at your credit record. A credit rating is not A, B, or C, or 1, 2, or 3, it is a record of all your past credit performances. This record is made available to a creditor and he makes up his own mind, by his own standards, as to whether or not they want to grant credit to you. Suits, collections, attachments, Chapter 7 bankruptcies and Chapter 13 bankruptcies are indications, in one degree or another, of credit problems. After many years and thousands of paid in full Chapter 13 cases in this area, we find a good many knowledgeable lenders looking with respect upon those who have paid their debts in full under a Chapter 13 plan. Any credit record that has been blemished by a payment problem must be gradually rebuilt. Remember, though, that Chapter 13 is a good place to start.

### ***19) What if my creditors still call me?***

When a creditor has had his claim paid by Chapter 13, whether partially or in full, he should, and usually does, send the "paid in full" papers to you. Even if the creditor fails to do this, it is not too significant since the official records of the Court showing that your plan is completely paid and the fact that you received a discharge would overrule any claim he might make for additional money. Should you receive any request for additional money after your plan is completed, do not pay it without first talking to your attorney.

### ***20) What if I don't file my tax returns?***

In order to be entitled to bankruptcy relief, you must have filed the previous four years tax returns. Failure to file tax returns is cause for dismissal of your case. Your attorney should discuss with you what is required. If you have not filed all tax returns due by the date of your first Meeting of Creditors, the Trustee cannot determine the appropriateness, or "feasibility" of your plan. Therefore, your plan cannot go forward. If you have filed under Chapter 13 and have not filed your tax returns, the Trustee may certify your case for dismissal.

## **ONE FINAL WORD**

Complying with a Chapter 13 plan is not easy. You may have to make some real sacrifices to meet the obligations which you have specified in your plan and still live within your budget. Thousands of families have successfully completed their Chapter 13 plans and know that they have resolved their debt problems without filing Chapter 7 bankruptcy and have paid most, if not all, of their obligations to their creditors.

## **ANNOUNCEMENTS AT 341 HEARING FOR CHAPTER 13 DEBTORS**

### 1. COURT HEARINGS:

Your section 341 hearing is the only mandatory appearance you have in connection with your bankruptcy case. If other hearings are required, you will be notified of the date, time and place of that hearing. Upon receipt of such a notice, contact your attorney immediately so that you are advised about the status of your case.

### 2. MORTGAGE PAYMENTS:

If you are obligated to make mortgage payments, you must make those payments directly to the mortgage company on time. If you fail to do so, your mortgage company may obtain from the Bankruptcy Court an order granting relief from the automatic stay which will entitle them to foreclose on your home. If you do not understand this, or have any questions about it, contact your attorney immediately.

### 3. AUTOMOBILE INSURANCE:

If you drive a car, you must have automobile insurance. If you have title to the vehicle in question in your possession, you are only required to have liability insurance, or a SR-22 which can be obtained from the Department of Motor Vehicles. If a creditor holds title to your vehicle as security, you must have full coverage insurance. If you do not have insurance, you will be provided five (5) days in which to obtain the appropriate insurance. If you are unable to do so, you may be instructed as to where to park your vehicle until it is properly insured.

### 4. INCOME TAX RETURNS:

It is your responsibility to file all federal and state tax returns



both prior to and after the filing of the petition for bankruptcy. If your tax returns have not been filed, or become delinquent during the course of your Chapter 13 plan, you will not be entitled to the continuing protection of the Bankruptcy Court.

5. ACCURACY OF INFORMATION:

You have been provided a copy of the schedules and other paperwork filed on your behalf with the Bankruptcy Court. This constitutes the permanent record in the Court of your bankruptcy filing. It must be accurate in all respects. You are to review the paperwork which has been provided to you, and make sure it is correct. If it is not, contact your attorney immediately and arrange for corrections to be filed with the Bankruptcy Court and served to the appropriate parties. If your paperwork is later determined to be inaccurate, you may lose the benefit of the bankruptcy protection, and you may also face an assortment of Civil and Criminal penalties.

6. YOUR ATTORNEY:

Your attorney is one of the most important resources in connection with a successful Chapter 13 case. You should keep in contact with your attorney throughout the course of your Chapter 13, and if you have any questions, or if your circumstances change, make sure your attorney is aware of those facts. This will, to the maximum extent possible, assure the successful completion of your Chapter 13 plan.

**This Notice Is Hereby Given That Information  
Relating To Your Chapter 13 Bankruptcy Case Will Be  
Made Available On The Internet To Your Creditors  
And Other Parties Of Interest**

Pursuant to 11 U.S.C. § 1302(b)(1) and 704(7), your Chapter 13 Trustee has a duty, unless otherwise ordered by the bankruptcy court, to furnish information concerning the administration of your bankruptcy case as is requested by parties in interest.

In furtherance of this duty, the Chapter 13 Trustee will make the following information available to parties in interest who request such information:

Your name, address, bankruptcy case number, state and district in which your case is pending and the trustee assigned to your case. Your social security number will not be visible to parties in interest, but they will be able to search for your bankruptcy case using social security number. Furthermore, your employer's name will not be displayed.

Information regarding claims filed against your bankruptcy case including the identity of the claimant, the type of claim (e.g., priority taxes, secured, unsecured etc.), and the amount of the claim.

A history of all payments you make to the Chapter 13 Trustee in your bankruptcy case including the date and amount of each payment.

A history of all disbursements made by the Chapter 13 Trustee in your bankruptcy case including the date of the disbursement, the payee, and the amount.

The Chapter 13 Trustee reserves the right to make available other relevant information including, without limitation, the informal

notes taken by the Trustee's office at your Meeting of Creditors.

**You may review, without charge, the information about your Chapter 13 bankruptcy case that is posted on the Internet. If you believe the information about your bankruptcy case is inaccurate, you can contact the NDC to report the error and you should receive a written response from the NDC within thirty (30) days following receipt of such report.**

The URL address where your information is posted is <http://www.ndc.org> which is operated by the National Data Center, Inc., ("NDC"). You can contact the NDC at (866) 938-3639 extension 11 (website support).