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Confidential BANKRUPTCY INFORMATION & FAQ Report

What Every Person Should Know
Before Filing Bankruptcy

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2011

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Confidential BANKRUPTCY INFORMATION & FAQ Report

What Every Person Should Know Before Filing Bankruptcy

Do not rely on creditors, rumors, friends, or Forums for your bankruptcy information. They are often wrong!

This is confidential information that many people don't learn until it is too late!

This report will help you avoid making some **big** mistakes, such as endangering your assets and jeopardizing your ability to have your Chapter 7 or Chapter 13 bankruptcy successfully discharged.

Before making the decision to pursue bankruptcy, eliminate crippling debt, and put yourself back on the road to financial health you should know the facts.

Here is the information and the answers to frequently asked questions you need to know before filing bankruptcy!

Bankruptcy Alternatives

Should I consider credit counseling before filing bankruptcy?

Credit Counseling allows you to wrap unsecured debts into one smaller payment with less interest. It is mainly used to handle credit card debt and you must go into default for the counseling agency to cut your payments and interest rate. This results in a reduced credit score and if you already have competitive interest rates and low payments this solution will likely not help you.

Should I consider debt settlement?

Debt Settlement allows you to pay less than the full amount of the debt owed. It handles unsecured debt, such as credit cards. You must go into default on your debts before you will be offered a reduced payoff. This will destroy your credit and put you at risk for lawsuits. In addition, you should expect to pay an average of 55% of the debt back to your creditors and pay the IRS income taxes for this forgiven debt.

What if I do nothing?

This is a very ineffective strategy. The best result you may hope to obtain is temporarily stopping harassment. You will have ruined credit with continued negative history resulting in the inability to purchase a house or car and limited job opportunities. Your opportunities may be further limited by the fact that getting a job, filing taxes, registering a vehicle, or buying a house will show-up on the radar of your creditors and likely end in lawsuits, garnishments, and other legal troubles.

Bankruptcy Asset Protection

Do I get to keep my property?

Normally, you keep everything. Most cases are “No Asset” cases, meaning the trustee does not take any property from the client. For example, you can keep your home, car(s), furniture, appliances, and retirement accounts if they fall under Colorado exemption law amounts. If an asset is not exempt your attorney can help you plan so you do not have to turnover and lose the asset to your creditors.

Will someone come to my house and look at my property?

We have never had a client visited at home. If you have nonexempt property, we can do legal pre-bankruptcy planning to protect it or negotiate a favorable buy back from the trustee. Most clients do not lose any property.

What will creditors want from me in bankruptcy?

In a Chapter 7 bankruptcy they will generally expect to receive nothing unless you have assets that will be turned over in the bankruptcy. A good bankruptcy attorney will help you pre-plan to minimize or eliminate turnover of assets.

In a Chapter 13 bankruptcy creditors will generally expect to receive what you can afford over 3-5 years and then to be discharged with nothing further paid.

What if I forget to list an asset in my bankruptcy?

Your attorney can amend your filed documents and add the asset, However, if you hide assets you risk being caught and prosecuted for a federal crime. An experienced bankruptcy attorney can help you protect assets or use their value instead of losing it to creditors. There is always a legal solution.

Bankruptcy and Cars

How many cars am I allowed to have?

You may have as many vehicles (cars and motorcycles) as you want. However, there are two exceptions: 1) if they exceed your exemption amount then we will help you plan so you do not have to turnover and lose the asset to your creditors; and 2) if the vehicles have loans on them then you may be limited to having as many vehicles as you have drivers in your family.

What bankruptcy information do I need to know that can save my car?

Continue to make your regular payment. If you fall behind on payments then filing a Chapter 13 will allow you to catch-up on payments and keep your car. In both Chapter 7 and Chapter 13 you may qualify for programs that allow you to refinance your car for its value if it is upside down. These programs are called Redemption and Cramming. Regardless of your ability to save your current car, you should have very little problem getting another car. Car dealers are very liberal and often provide loans immediately after your case is filed. You may have a high interest rate, but you will get the added benefit of rebuilding credit through your new loan.

When can I purchase a car?

Most dealers are happy to put you in a car as soon as you file your case. It is important to shop around for the best deals and rates even though you may feel apprehensive about your situation. There is a large part of the auto industry dedicated to providing auto loans to people in or just recently out of bankruptcy, for example, www.722Redemption.com.

Bankruptcy and Credit

What about my credit?

The longer you wait to file bankruptcy the worse your credit score will become and the harder it will be for your credit to recover after your bankruptcy. Waiting to file may build a negative credit history comprised of late payments, collections, charge-offs, lawsuits, foreclosures, and judgments. This history will remain on your credit report in addition to your bankruptcy and will take years to drop-off; making it harder to quickly rebuild your credit.

Once you have filed for bankruptcy you will likely receive immediate offers of credit. Banks know you cannot file another bankruptcy for years, and with little or no debt plus stable income, you become a good credit risk.

Can I keep one credit card for future use?

You are required under the bankruptcy code to disclose all assets and all debt. So, you do have to list all your credit cards. As a practical matter, the credit card companies subscribe to services that notify them of all bankruptcy filings. Once they discover you have filed bankruptcy, they will close your account, often after you have made another payment. You are much better off to just use your debit card like a credit card for future reservations and purchases or get a new credit card after bankruptcy.

How can I rebuild my credit after bankruptcy?

To rebuild credit you must use credit. In the past, it was difficult to gain credit after filing bankruptcy. That has changed. You will be offered credit shortly after you have filed. Just be very careful as you build credit not to overdo it and end up in a bad situation.

In addition, it is important that after bankruptcy, you make every home, car, and other installment payment on time.

Once your case is filed, you may apply for new credit that will help you establish a positive credit history. The easiest way to begin using credit and increasing your credit score are credit cards and car loans. There are many lenders who provide credit cards and car loans immediately after you file. A quick Google search will provide you with the most up to date offers.

How can I get a copy of my credit report for free?

The quickest way is at www.annualcreditreport.com. This is a free service. Beware! Credit reports are not necessarily accurate.

Bankruptcy and Home Mortgages

Should I withdraw 401k money to keep paying on my house?

You need to be very careful with this strategy. If you take a loan on your 401k then you are creating another monthly payment which may be worse for your financial situation. If, instead, you withdraw money you are creating a tax liability to the IRS. Paying back a loan or tax liability may make it impossible to get caught up on past due mortgage payments or make monthly expenses too high and force you into bankruptcy to save your home. Consider, as an alternative, not paying the second or higher mortgages as there is less risk they initiate foreclosure, modifying your mortgage, or using Chapter 13 bankruptcy to save your house and stop foreclosure. Foreclosures take months to years before they happen in Colorado.

Should I use credit cards to pay the mortgage?

I have seen many people bankrupt themselves using this strategy. You are creating another monthly payment to the credit card company and if you do not pay your credit cards they will ruin your credit. If you cannot afford the mortgage without credit cards, then you need to be realistic as to whether you can afford the mortgage at all. Remember, you can always go delinquent on the mortgage and save your home with a mortgage modification or Chapter 13 bankruptcy or both.

How do I handle my short sale and a bankruptcy?

If possible short sell your home prior to bankruptcy. Otherwise, you may short sell a property while in bankruptcy; however, you should provide your attorney with at least 45 days notice of your intentions. A short sale while in bankruptcy requires court approval and sometimes even a hearing. Make sure the attorney you hire is experienced in getting court approval or you may not get your sale through.

What should I do before selling my home if I plan to file bankruptcy?

If you have equity, then establish a separate account for the proceeds of the sale. Do not co-mingle any of the funds. Setting the proceeds aside in a separate account will preserve your homestead exemption and allow you to rollover funds into a new residence without risking their loss in the bankruptcy.

If you anticipate filing bankruptcy before your home is sold, then you may need to receive court approval for the sale, while the bankruptcy is open. In Chapter 7 bankruptcy court approval often takes around 45 days. In Chapter 13 bankruptcy you generally must wait for your Chapter 13 Plan to be confirmed. In both situations make sure to set the closing only after speaking with your attorney about your intentions or you will likely be disappointed.

What bankruptcy information do I need to know that can save my house?

Continue to make your regular payment. If you fall behind on payments then filing a Chapter 13 will allow you to catch-up. Chapter 13 bankruptcy allows you to spread out all past due arrearages over 3-5 years, so you can get caught-up over time. You can employ this strategy at any time before a foreclosure sale. In addition, Chapter 13 has the added benefit of allowing you to remove a 2nd or higher mortgage from your home if your home equity does not secure the mortgage (aka you are upside down).

When can I purchase a home?

If your debt is high or you have some negative credit history, then you are currently either completely ineligible to buy a home or would pay a very high interest rate. There are home loans generally available 2-3 years after bankruptcy. We recommend that you save a down payment, maintain consistent employment, and pay all expenses on time. You will need to take on some small debt like a credit card or car loan in order to rebuild your positive credit history. Meet with a mortgage broker at least 1 year prior to your anticipated purchase in order to get advice on any actions you should take to enhance your chances.

Bankruptcy Discharge of Debt

What debt is discharged, what debt is not?

Most debts are dischargeable. Common dischargeable debts are credit card bills, medical debts, repossessions, judgments, collections, back rent, utilities, short sale deficiency, foreclosure deficiency, mortgages, car loans, and certain IRS, State, and other taxes.

Common non-dischargeable debts include student loans, child support, certain taxes, and criminal fines and penalties.

Will my doctor continue to treat me if I discharge his bills?

Our clients seem to have no difficulty continuing with normal care when a hospital bill is being discharged. Clients who work with small private practice doctors will likely need to pay that professional and often work out a payment plan to keep using the service. Otherwise, they just switch doctors.

Are court judgments discharged?

In general, civil judgments not related to divorce are discharged unless fraud can be proven. Filing your case also stops wage garnishment, eviction, foreclosure, and repossession.

Can creditors keep calling me after my discharge?

No. Creditors should stop contacting you as soon as your case is filed. If they are still contacting you as late as your discharge it is usually due to a mistake in their computer systems. Provide them with your case number and send a copy of your discharge. This will resolve the issue. If they persist then speak with your attorney.

Bankruptcy Facts

What is the history and economic reason for bankruptcy?

This is a simplified version of the history and economic reasoning. I am sure not everyone will be satisfied who reads it. However, I think it is important to glance at the history and economic value of bankruptcy to understand the United States and our capitalist system.

The concept of bankruptcy is often defined against the back drop of indentured servitude and slavery. If you owed money to someone you had a duty to that person and if you could not completely pay back the money you became the property of that person. You would then work off the debt to gain your freedom.

In England there were also debtor's prisons. However, when the United States was founded, it became very important to establish a better system of debt relief. Bankruptcy was written into the Constitution. The Constitution provides that Congress shall have the power *"to establish . . . uniform laws on the subject of bankruptcies throughout the United States."* U.S. Const. art. 1, section 8.

For Capitalism to sustain itself, people, and especially business owners, needed to be able to take risks without fearing prison or other punishment. The ability to take risks is what the “American Dream” is all about. Congress has continued to help individuals and businesses, while trying to balance corporate interests by restructuring the bankruptcy laws. The latest overhaul of the bankruptcy laws was in 2005.

Currently credit allows not only a business owner to take risks, but the American consumer to spend more money than they currently have in cash – to pay for things in small amounts over time. Bankruptcy then allows people who cannot pay back the credit they used to walk away from the debt (Chapter 7) or pay as much as they can afford (Chapter 13).

After a discharge the business owner can start a new business and employ more people – think Donald Trump – and the consumer can begin to spend and purchase new items. Without the ability to receive a fresh start we cannot get people to aggressively pursue their dreams or spend money freely. Our economy is based on spending instead of saving. Spending and an increasing population support and grow our American dreams. Bankruptcy allows this to continue.

Is bankruptcy found in The Bible?

Bankruptcy gains some historical and religious context through The Bible. There are many passages in regards to the concept of bankruptcy. A few that are popular include the following:

- *Nehemiah 10:31b: “Every seven years we will let our fields rest, and we will cancel all debts.” – Contemporary English Version*
- *Deuteronomy 15:1-2: “Every seven years you must announce, “The LORD says loans do not need to be paid back.” Then if you have loaned money to another Israelite, you can no longer ask for payment. – Contemporary English Version*

It is important to note that I have run across different feelings about bankruptcy from different religious figures even within the same religion and we have also filed bankruptcy for religious leaders.

Who files for bankruptcy?

Many people who file for bankruptcy were fine until something, such as joblessness, illness, divorce, or foreclosure made their financial lives unstable. The entire spectrum of society is represented in bankruptcy filings, from people who are just making ends meet to professionals, business owners, and corporations.

What are the statistics?

Millions of Americans are experiencing the same problems right now and are using bankruptcy as their solution. On average, over **1.2 million** bankruptcy cases are filed every year since 1996. In Colorado alone, there were **32,509** cases filed in 2010.

Bankruptcy Issues

What are the most common issues that arise in bankruptcy cases?

Tax Refunds

If you anticipate receiving a tax refund, you should discuss this with your attorney before filing. You should expect to file taxes, receive the refund, and to have your attorney direct you on how to spend it before filing. Do not pay anyone back with this money unless your attorney has approved.

Paying Back Creditors

If you have paid a creditor more than \$600 in the 90 days before filing your case, then the bankruptcy trustee may want to sue that creditor and have the money returned and evenly distributed to all creditors. Generally, the resolution to this issue is waiting 90 days before filing.

Paying Back Family Members and Other Insiders

Most importantly, unsecured loans from family and friends are treated the same under the law as your Visa card. They are dischargeable debts and you cannot prefer payment to them over other creditors prior to filing bankruptcy. However, unlike a Visa card these “insiders” are considered special and the bankruptcy trustee may go back up to 1 year and sue the insider to have the money returned and evenly distributed to all creditors. Generally, the resolution to this issue is waiting 1 year before filing, filing a Chapter 13 instead of a Chapter 7, or reversing the transaction. Your attorney can describe the risks and benefits of each option, so you can make the best decision for yourself.

But I feel “guilty” about filing bankruptcy.

Courts view bankruptcy as the “responsible approach” if you can no longer pay your debt. Many people continue to acquire debt they know they will never repay. It is much better to recognize that you cannot repay your debt, “draw a line in the sand,” and agree to be responsible for all future debt. Further, you must consider your families future. High debt could keep you from purchasing a home and funding your children’s education.

What should I tell my children about our bankruptcy?

With younger children this is a very personal family matter and each parent should use their discretion. You may consider discussing the stress and emotions you are feeling and making sure your child understands that they are not the cause of this tension.

With adult children, unless you are a co-debtor, borrowed money, co-own property, are custodian of an asset, or have other financial dealings with them then they would likely not have any connection to your bankruptcy or knowledge of your filing.

If you do have a financial connection, then your child has the same rights and protections as any other creditor or property owner. They may have to be notified of your bankruptcy filing by the court or even get their own attorney to protect their interests.

An experienced bankruptcy attorney can determine whether any issue of concern need to be addressed before filing. Speak to your attorney early on in your case if any of these issues are of concern to you.

Bankruptcy Lawyers

Can I hire any attorney or do I need a bankruptcy specific attorney?

Bankruptcy law is very specialized. I would only go with an experienced bankruptcy attorney. Attorneys who are not familiar with bankruptcy may make mistakes that cost you time and money. If you choose an inexperienced or non-bankruptcy specialist they will be learning on your case and on your dollar.

It is important to note that an experienced bankruptcy attorney could give a detailed step-by-step diagram to a non-bankruptcy attorney and the inexperienced bankruptcy attorney will almost always make mistakes. Also, if there are problems they will not be qualified to help fix them. I know this because I have trained attorneys to be bankruptcy attorneys and you can lay it out for them, but they may learn the hard way. Don't let this happen in your case.

Big picture: Bankruptcy with an experienced attorney creates as little risk for you as possible. Inexperienced attorneys increase your risk for expensive problems.

What is the best way to find the right bankruptcy attorney in Colorado?

Ask for a referral from an attorney you know, a family member who has an attorney contact, or someone you know who has filed bankruptcy. In addition, I would use Google to learn about bankruptcy attorneys and research law firms. This is a relationship and you want someone who is not going to just prepare some documents, but take an active role in your specific issues and concerns.

Once you have found a few law firms of interest, then you should meet with 2-3 attorneys, look at the law firms as a whole (attorneys and staff) and go with an attorney with at least a few years of experience and a professional and comforting staff.

Tip: Make sure to ask whether the person you are meeting with for your first consultation is an attorney. There are high volume law firms where you may be treated more like a number than

a person and you will meet with a paralegal. Sometimes the paralegal even lets you assume they are an attorney. These Firms pride themselves on having the attorney do as little work as possible and having their staff do all the work. Their work may reflect the lack of attorney participation in your case.

How do I minimize attorney costs while getting good service?

Understand what is *not* included. Ask the attorney at the initial meeting:

1. What is not included?
2. How much for non-included services if I need them?
3. Anything else we have not discussed I could be charged for?

Generally attorneys charge a flat fee that covers your case up to the 341 Meeting of Creditors and they call this “full representation.” This is not full representation. Your case will last for a minimum of 60 days after the 341 Meeting and will take another month or so before it closes.

Most attorneys will charge more for anything that happens between the 341 and closing of your case. This is why a case looks “cheap” up front. When you need help on your case before it closes you will be charged \$100s to \$1,000s for the work.

Tip: Find an attorney who gives you the fee for your entire case all the way to closing. You will then know the cost and risks up front.

What questions should I ask before hiring a bankruptcy lawyer?

How long have you been practicing bankruptcy?

The goal in asking this question is to find an attorney with expertise and experience in handling similar cases to yours. Anyone with less than 1 year experience is learning on the job. I have found that attorneys with 3 or more years of experience are generally adept at basics and can handle most simple cases. In addition, Chapter 13 cases are so complex; some bankruptcy attorneys do not handle them. If your case may be a Chapter 13, then ask whether they have filed a Chapter 13 and how much experience do they have in Chapter 13.

Do you handle bankruptcy litigation?

The goal in asking this question is twofold: First, by asking this question it may help you find an attorney who can handle anything that may happen in your case from an objection to your discharge, to a hearing on whether you can remove the 2nd lien from your house. Second, it tells you if the law firm goes to bat for its clients and has the experience to take an argument all the way to hearing. You don’t want your lawyer to just rollover if something you need may go to hearing. Not all bankruptcy lawyers handle bankruptcy litigation.

If you are considering a short sale: If I need to short sale my house during the bankruptcy can you help me?

The goal in asking this question is to determine whether the attorney is familiar with short sales and will help you. Some attorneys do not handle this work or do not know what to do. A warning flag may be that the attorney cannot clearly explain why you should not short sale your home, but insists it is a bad idea.

If I need any of the services not covered in your quote do you have experience providing these services or would you have to refer me to another attorney?

The goal in asking this question is to find out if the attorney has experience handling complex matters. Experience in complex matters helps the attorney see and prevent complex matters from arising in your case and reduces your risk. Make sure the attorney does not dismiss this question. When the improbable happens you want someone who can take control and handle your matter.

Who will be my attorney? Do I get to meet an attorney before my case is filed? Are they employed by your firm or do they just show up at hearings?

The goal in asking these questions is to gauge how closely you will work with an attorney versus legal staff. Also, will you know the attorney who is going to your hearing or will you have to add that to things you will worry about on the day of your hearing.

If their fees seem low: How can you provide good service to your Clients with such low fees? If their fees seem high: Why pay more for your services?

The goal of these questions is to find out whether you are going to get the level of service you expect. Generally, attorneys are like any other service; the more you pay the better the service.

Bottom Line: Go with the lawyer or firm you feel most comfortable. Ask enough questions to give you a positive feeling. If you sense something is not right or you are taking a risk, then move on.

Does hiring a bankruptcy lawyer stop creditor and collector harassment?

It depends on the bankruptcy law firm. At our law firm yes. At other law firms the attorneys do not want to stop your harassment, because they believe it makes you pay and file your case faster or they do not stop harassment because they do not like taking creditor calls.

Bankruptcy Pre-Planning

What to do 6 months before you plan to file?

- Find an attorney you are comfortable with and get a personalized strategy mapped out for filing your case.
- Do not give away property. This includes transferring the title into someone else's name or selling property for less than it is worth.
- Do not make payments on loans to family members or other people close to you.
- Keep paying on loans for items you want to keep, such as a car or house.
- Do not make any major financial moves without consulting your attorney.

Every piece of information above has an exception, a way to make it right, or a way to minimize risk. Your attorney can keep your case moving smoothly and should be involved in your decision making at least 6 months before you anticipate needing to file.

What not to buy within 90 days of filing?

Do not purchase on credit a luxury good or service costing more than \$500. These debts are presumed to be nondischargeable. You are purchasing a luxury good or service if it is not reasonably necessary for you or your families support or maintenance.

Should I max out my credit cards before filing for Chapter 7?

There are multiple risks to taking this action. If you spend money on credit cards and you have no intention of paying the money back, for example you do not make any payments after you make the purchases, you are evidencing your intent to defraud the creditor. If you commit fraud and are caught then this debt may be non-dischargeable. In addition, you also risk running into trouble with the timing of the filing of your case. Your attorney can help you develop a strategy to reduce risk in filing your case if you have already gone down this path and it may include making a few minimum payments on credit cards.

Should I spend as much money as possible prior to filing Chapter 7?

No! You should protect as much money as possible prior to filing Chapter 7 bankruptcy. You want to stand on solid financial ground afterwards and recover as quickly as possible. This is the exact reason why you want an experienced attorney to help you protect your assets. It is your hard earned money and you should keep as much value as legally possible to get you back on your feet quickly.

What bankruptcy information should I know that could save me money?

Hire an experienced bankruptcy attorney. The cases where people lose the most money are cases where people lose assets, such as their tax refunds. Most of the losses could have been avoided with pre-bankruptcy planning by an experienced attorney. These cases are ironic in that people often lose money by trying to save money. For example, a person decides to represent themselves and files a bankruptcy without understanding how to properly protect assets. They may have saved money up front, but I have seen them lose thousands of dollars in valuable property that far exceeded the cost of an experienced bankruptcy attorney.

Bankruptcy Process

What do I need to do prior to filing my case?

In order to be eligible to file for bankruptcy — Chapter 7 or Chapter 13 — you must complete a pre-filing briefing with a credit counseling company. You do not need to worry about

accomplishing this task before meeting with an attorney. When your case is filed, your attorney will file with the bankruptcy court the certificate you receive from the approved credit counseling agency. Your certificate may be received over the Internet or the phone, and the work you do with an attorney prior to the certification will help prepare you for an efficient completion of this part of the process.

What happens once my bankruptcy is filed?

You are assigned a case number, judge, and trustee. You are immediately protected from creditor harassment. Garnishment, foreclosure, and creditor court cases are stopped. The bankruptcy court mails notice of the filing to all of your creditors and sets the date for your bankruptcy hearing.

How long does bankruptcy take?

Part of this depends on the law firm you use. Our staff will prepare the necessary court documents from the information you provide to us through our questionnaire or through an interview. You will then simply sign the documents after which we will file the documents with the bankruptcy court. Once we file your case, your hearing will be 20 to 40 days later and, in a Chapter 7, you will be discharged 60 day after that and your case will close shortly thereafter. In Chapter 13, the first payment is due to the trustee 30 days after filing the Chapter 13 plan. The plan generally lasts 36-60 months.

What is the hearing called that I go to?

You may hear it referred to as the 341 Meeting of Creditors, Bankruptcy Hearing, or Creditors Meeting.

What is the purpose of the bankruptcy hearing and what happens at the hearing?

The purpose of the 341 Meeting of Creditors is to ask questions. There is *no* judgment as to whether you will receive a discharge of your debts. There is no judge. A trustee, who is a lawyer, swears you in and asks if the information your attorney filed for you is correct, if you listed all your assets and debts, and clarifies any confusing information.

A typical hearing lasts about 10 minutes. Creditors normally do not show up. Hearings are held throughout the state and your hearing location will be determined by your county of residence. If an individual creditor or the trustee has an issue with your case, then that will be handled through your attorney and generally will be limited to very specific issues and not whether you're going to "*receive a bankruptcy.*"

Some clients feel some level of anxiety or fear leading up to the meeting with the bankruptcy trustee, but there is no reason to fear the trustee. Your attorney will make sure the process goes smoothly and will meet with you before the meeting to discuss any details. After the

meeting, most people comment on how simple the process was and that it was not as bad as they had feared.

What will the creditors do at the bankruptcy hearing?

A creditor coming to a 341 Meeting is very rare. However, if one does show-up they are limited to asking relevant questions. As previously stated there is nothing decided at the meeting. The goal of any questions would be to determine if there is any reason for the creditor to believe their debt should survive the bankruptcy and then later pursue their case in the bankruptcy court. The most common reason a debt is not discharged is fraud.

How can I be prepared for my hearing?

You must bring state-issued photo identification and your social security card to your meeting. A W-2 with your social security number may also be acceptable. There are other documents that need to be provided to the trustee before your meeting can take place, and your attorney will discuss these issues with you.

Are there any other standard hearings I may need to attend?

If you file a Chapter 13 case, there is one additional hearing you may need to attend. This is called a Confirmation Hearing, and it takes place after your Meeting of Creditors. At the hearing, the trustee will make a recommendation to the judge as to whether your proposed plan is sufficient to satisfy the requirements under the Bankruptcy Code. The judge then gives final approval on your repayment plan or tells your attorney to make adjustments and file a new plan.

Bankruptcy Qualifications

Do I qualify for bankruptcy?

Yes. The good news is that everyone qualifies for bankruptcy. It is just a matter of which chapter of bankruptcy. Chapter 7 bankruptcies have certain income requirements, but there are exceptions that can get you a Chapter 7 even if you have high income. Chapter 13 is generally a partial payback of debts and what is not paid back is discharged.

Can I be turned down for bankruptcy after my case is filed?

Not unless there is something extraordinary about your case — like having another Chapter 7 bankruptcy in the last 8 years, you are dishonest in your Court filings, or other more serious issues surface such as fraud.

Also, there are times when we try to help you file a Chapter 7 bankruptcy, but the Court would prefer you were in a Chapter 13. In those cases, if the Court decides you cannot use Chapter 7 you may still receive a discharge under Chapter 13.

Bankruptcy and Student Loans

Can I still get student loans after I file bankruptcy?

Federally guaranteed student loans should not be affected by bankruptcy. However, private loans may be affected, but chances are you would not be eligible anyway if you already have high debt and a poor credit score. We have represented many college students who have gone on to borrow and continue normally with their studies after discharging their debt.

Can you get rid of student loans in bankruptcy?

Yes. Generally, this requires a court hearing where it must be proved that you are experiencing a physical or mental hardship so severe that repayment is not an option. In addition, the Court would like to see that you have exhausted other administrative remedies prior to pursuing a discharge of the loans in bankruptcy.

Bankruptcy Types

What is the difference between Chapter 7 and Chapter 13?

Chapter 7 provides for a discharge without further payment to creditors. Under Chapter 13, you generally pay back only a part of your debt over 3-5 years. With Chapter 13, you can repay past due home or car loans over time to get caught up and save these assets. You may also qualify to completely remove your 2nd or higher mortgage, which can be a huge savings.

What information do I need to know before filing Chapter 7?

Chapter 7 Bankruptcy has no payment plan, eliminates your dischargeable debts, provides a fresh start, allows you to keep protected property, and generally last 3 or more months.

Most Chapter 7 cases protect 100% of a client's property. This includes such items as your house, cars, jewelry, household goods, tools used for work, life insurance, retirement, and many other items.

What may initially seem a simple matter, Chapter 7 Bankruptcy, is best handled by skilled professionals who will help you get the most from your bankruptcy while protecting assets.

What information do I need to know before filing Chapter 13?

Chapter 13 Bankruptcy is a repayment plan for 3-5 years and whatever dischargeable debts were not paid are eliminated at the end of the plan.

Payments are based on your income and the type of debt that you have. Arrearages on secured debts (i.e. past due payments on house, car, etc.) must be accounted for in full if you plan on keeping the item. Also, priority debts (i.e. taxes, maintenance/support, etc.) must be paid for in full in your Chapter 13 Bankruptcy.

Generally, unsecured creditors do not need to be accounted for 100% in creating a bankruptcy payment plan. Unsecured creditors (i.e. credit cards, personal loans, medical bills, etc.) who would be discharged in a Chapter 7, will likely have the majority of their debt discharged in a Chapter 13. However, in a Chapter 13, unsecured creditors may receive some of the money paid into the Chapter 13 payment plan, if you have enough income.

Once the plan has paid in full and payments have ended, the dischargeable claims that have not been paid are discharged.

Most Chapter 13 cases protect 100% of a client's property. This includes such items as your house, cars, jewelry, household goods, tools used for work, life insurance, retirement, and many other items.

In Chapter 13, some unprotected property that would be lost in a Chapter 7 may be kept by paying more money every month to the trustee. Reorganizing payments in this fashion is often referred to as "reconciling."

Chapter 13 Bankruptcy requires a complex plan to be created and approved by the Court. Many Colorado attorneys do not handle Chapter 13 bankruptcy due to its complexity or have limited experience. Hire an attorney experienced in Chapter 13 bankruptcy and its complexities.

Conclusion

There's a lot to think about when you're moving toward bankruptcy. However, you don't have to remember all of this information. That's your attorney's job!

Stay in touch with your attorney and keep communicating about financial decisions, changes in circumstances and anything else likely to impact your bankruptcy. With the help of a specially-trained attorney skilled in bankruptcy matters, your bankruptcy can be the start of a new life.

About the Author

Brian Methner is the Owner of Methner & Associates. He is the author of 8 White Papers on legal and financial issues, Co-Author of [Helping Clients Through Difficult Times](#) a Continuing Professional Education book published by Thomson Reuters, Named 2010 Colorado Super Lawyers Rising Star in Bankruptcy, interviewed on 9 News, and quoted in the New York Times article "Going Bankrupt is Harder to Do."

Methner & Associates can be contacted at (877) 319-7405 or you can learn more online at www.MethnerLaw.com. Methner & Associates offer a free initial consultation with an attorney who will review your situation, provide legal options, answer your questions, and quote you a fee in writing for services.

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