
Consumer *Pro Se* Debtors Guide

United States Bankruptcy Court Middle District of Alabama

Frank M. Johnson, Jr., Federal Building and U.S. Courthouse
One Church Street
Montgomery, Alabama

Effective December 1, 2015



The mission of the Bankruptcy Clerk's Office for the Middle District of Alabama is to uphold the integrity of the bankruptcy process and inspire public confidence by providing professional, courteous, and efficient service.

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Preface

The *Consumer Pro Se Debtors Guide* gives information about bankruptcy and bankruptcy filings to debtors who are filing without an attorney. From basic explanations of the different chapters of bankruptcy to a list of frequently asked questions, this guide will aid *pro se* debtors throughout their bankruptcy case.

Please note that this guide does not contain all of the information that a *pro se* debtor must know regarding bankruptcy filings. We recommend that you read Bankruptcy Code (Title 11, United States Code, § 521) to know and understand all of your duties as a debtor. If you have additional questions about your bankruptcy case, you should consult an attorney.

Clerk's Note

Federal statute prohibits anyone from the clerk's office from providing legal advice on any subject. Legal advice includes, but is not limited to, acting on a person's behalf in presenting a claim or defense to a court and advising a person on the benefits of a claim or defense. Clerk's office staff, therefore, will not provide information regarding:

- The application of laws and rules to individual claims or defenses
- The validity of jurisdiction in a particular court
- Whether a complaint properly represents a claim
- The best legal procedures to accomplish an objective in your case
- An interpretation of case law
- The probable result of taking or not taking action in a case
- Advice on who should receive proper notice or service

Privacy Act Requirements

The Judicial Conference of the United States adopted a policy in September 2001 regarding privacy and public access to electronic case files. This policy requires litigants in bankruptcy cases to modify or partially redact personal data identifiers contained in documents that will be made available electronically.

You should not include sensitive information in any document filed with the court

unless such inclusion is required by the Federal Rules of Bankruptcy Procedure or an official form or the inclusion is otherwise necessary and relevant to the case. If sensitive information must be included, the following personal data identifiers **must be** partially redacted from the pleading:

- Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.
- Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- Dates of birth.** If an individual's date of birth must be included in a pleading,

only the year should be used.

- d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In addition, exercise caution when filing documents that contain the following:

1. any personal identifying number, such as driver's license number;
2. medical records, treatment and diagnosis;
3. employment history;
4. individual financial information; and
5. proprietary or trade secret information.

The Fair Credit Reporting Act

The Fair Credit Reporting Act, 6 U.S.C. § 605, is the law that controls credit reporting agencies. It states that credit reporting agencies may not report a bankruptcy case on a person's credit report after ten years from the date the bankruptcy case is filed. Other credit information is removed after seven years. The larger credit reporting agencies belong to an organization called the Associated Credit Bureaus. The policy of the Associated Credit Bureau is to remove Chapter 11 and Chapter 13 cases from the credit report after seven years to encourage debtors to file under these chapters.

For more information, contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and "Fair Credit Reporting."

Notice to Consumer Debtors Under §342(b) of the Bankruptcy Code

The federal bankruptcy code directs debtors to certify that they read and understand the notice to consumer debtors under §342 (b) of the bankruptcy code. We have reproduced the notice for you over the next few pages:

This space is intentionally left blank.

Notice Required by 11 U.S.C. §342(b) for Individuals Filing for Bankruptcy (Form 2010)

This notice is for you if:

You are an individual filing for bankruptcy,
and

Your debts are primarily consumer debts.

Consumer debts are defined in 11
U.S.C. § 101(8) as “incurred by an
individual primarily for a personal,
family, or household purpose.”

The types of bankruptcy that are available to individuals

Individuals who meet the qualifications may file
under one of four different chapters of the
Bankruptcy Code:

Chapter 7 — Liquidation

Chapter 11 — Reorganization

Chapter 12 — Voluntary repayment plan
for family farmers or
fishermen

Chapter 13 — Voluntary repayment plan
for individuals with regular
income

**You should have an attorney review your
decision to file for bankruptcy and the choice of
chapter.**

Chapter 7: Liquidation

	\$245	filing fee
	\$75	administrative fee
+	\$15	trustee surcharge
	\$335	total fee

Chapter 7 is for individuals who have financial
difficulty preventing them from paying their
debts and who are willing to allow their non-
exempt property to be used to pay their
creditors. The primary purpose of filing under
chapter 7 is to have your debts discharged. The
bankruptcy discharge relieves you after
bankruptcy from having to pay many of your
pre-bankruptcy debts. Exceptions exist for
particular debts, and liens on property may still
be enforced after discharge. For example, a
creditor may have the right to foreclose a home
mortgage or repossess an automobile.

However, if the court finds that you have
committed certain kinds of improper conduct
described in the Bankruptcy Code, the court
may deny your discharge.

You should know that even if you file
chapter 7 and you receive a discharge, some
debts are not discharged under the law.
Therefore, you may still be responsible to pay:
most taxes;
most student loans;
domestic support and property settlement
obligations;

most fines, penalties, forfeitures, and criminal restitution obligations; and
certain debts that are not listed in your bankruptcy papers.

You may also be required to pay debts arising from:

fraud or theft;

fraud or defalcation while acting in breach of fiduciary capacity;

intentional injuries that you inflicted; and

death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs.

If your debts are primarily consumer debts, the court can dismiss your chapter 7 case if it finds that you have enough income to repay creditors a certain amount. You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 122A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to complete the other chapter 7 form, the *Chapter 7 Means Test Calculation* (Official Form 122A-2).

If your income is above the median for your state, you must file a second form—the *Chapter 7 Means Test Calculation* (Official Form 122A-2). The calculations on the form—sometimes called the *Means Test*—deduct from your income living expenses and payments on certain debts to determine any amount available to pay unsecured creditors. If your income is more than the median income
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for your state of residence and family size, depending on the results of the *Means Test*, the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b) of the Bankruptcy Code. If a motion is filed, the court will decide if your case should be dismissed. To avoid dismissal, you may choose to proceed under another chapter of the Bankruptcy Code.

If you are an individual filing for chapter 7 bankruptcy, the trustee may sell your property to pay your debts, subject to your right to exempt the property or a portion of the proceeds from the sale of the property. The property, and the proceeds from property that your bankruptcy trustee sells or liquidates that you are entitled to, is called *exempt property*. Exemptions may enable you to keep your home, a car, clothing, and household items or to receive some of the proceeds if the property is sold.

Exemptions are not automatic. To exempt property, you must list it on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

Chapter 11: Reorganization

	\$1,167	filing fee
+	\$550	administrative fee
	\$1,717	total fee

Chapter 11 is often used for reorganizing a business, but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

Read These Important Warnings

Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.

Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.

You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.

Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Chapter 12: Repayment plan for family farmers or fishermen

	\$200	filing fee
+	\$75	administrative fee
	\$275	total fee

Similar to chapter 13, chapter 12 permits family farmers and fishermen to repay their debts over a period of time using future earnings and to discharge some debts that are not paid.

Chapter 13: Repayment plan for individuals with regular income

	\$235	filing fee
+	\$75	administrative fee
	\$310	total fee

Chapter 13 is for individuals who have regular income and would like to pay all or part of their debts in installments over a period of time and to discharge some debts that are not paid. You are eligible for chapter 13 only if your debts are not more than certain dollar amounts set forth in 11 U.S.C. § 109.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, usually using your future earnings. If the court approves your plan, the court will allow you to repay your debts, as adjusted by the plan, within 3 years or 5 years, depending on your income and other factors.

After you make all the payments under your plan, many of your debts are discharged. The debts that are

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not discharged and that you may still be responsible to pay include:

domestic support obligations,

most student loans,

certain taxes,

debts for fraud or theft,

debts for fraud or defalcation while acting in a fiduciary capacity,

most criminal fines and restitution obligations,

certain debts that are not listed in your bankruptcy papers,

certain debts for acts that caused death or personal injury, and

certain long-term secured debts.

Warning: File Your Forms on Time

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to:

http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure.

Bankruptcy crimes have serious consequences

If you knowingly and fraudulently conceal assets or make a false oath or statement under penalty of perjury—either orally or in writing—in connection with a bankruptcy case, you may be fined, imprisoned, or both.

All information you supply in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the U.S. Trustee, the Office of the U.S. Attorney, and other offices and employees of the U.S. Department

of Justice.

Make sure the court has your mailing address

The bankruptcy court sends notices to the mailing address you list on *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). To ensure that you receive information about your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address.

A married couple may file a bankruptcy case together—called a *joint case*. If you file a joint case and each spouse lists the same mailing address on the bankruptcy petition, the bankruptcy court generally will mail you and your spouse one copy of each notice, unless you file a statement with the court asking that each spouse receive separate copies.

Understand which services you could receive from credit counseling agencies

The law generally requires that you receive a credit counseling briefing from an approved credit counseling agency. 11 U.S.C. § 109(h). If you are filing a joint case, both spouses must receive the

briefing. With limited exceptions, you must receive it within the 180 days **before** you file your bankruptcy petition. This briefing is usually conducted by telephone or on the Internet.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional course before you can receive a discharge. If you are filing a joint case, both spouses must complete the course.

You can obtain the list of agencies approved to provide both the briefing and the instructional course from: http://justice.gov/ust/eo/hapcpa/ccde/cc_approved.html.

In Alabama and North Carolina, go to:

<http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/ApprovedCreditAndDebtCounselors.aspx>.

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.

The Basics of Bankruptcy

This section of the guide contains information on basic bankruptcy terminology and the different chapters debtors may file. While it does not list all information on bankruptcy, this section does provide a brief overview of the most important facts of bankruptcy all debtors should know.

Bankruptcy Terminology

The following terms are used throughout this guide. Knowing the meanings of these words will be helpful for your understanding of your bankruptcy case.

1. Assets: property of any kind owned by the debtor, including real and personal property, and tangible and intangible property.
2. Collateral: property used as security for a debt.
3. Creditor: a person or business to whom the debtor owes money.
4. Default: failure to fulfill financial obligations, specifically paying debts owed to creditors.
5. Exempt Assets: property that a debtor is allowed to keep and that a creditor is not allowed to take.
6. Liabilities: money owed to others, specifically debt.
7. Lien: the legal right of a creditor to sell the collateral property of a debtor who fails to meet the obligations of a loan contract. A car loan is an example of a lien, where the bank is the lien holder who ensures that the loan is repaid, or the car will be repossessed.
8. Liquidation: the sale of a debtor's property with the intention to use the profit from the sold property to pay the debtor's creditors.
9. Non-exempt Assets: property of a debtor that can be sold to satisfy claims of creditors.
10. Petition: the document that initiates the filing of a bankruptcy case. A debtor must file with the court a petition that lists his name, address, estimated amount of assets and liabilities, and other information needed to begin a bankruptcy case.

11. *Pro Se*: a Latin term meaning representing oneself. Debtors are considered *pro se* if they choose to file bankruptcy without the help of an attorney.
12. Secured Debt: debt backed or secured by collateral to reduce the risk associated with lending it. Secured debt includes home mortgages and car loans. Creditors can seize property that is considered secured debt if the debtor enters default on that property.
13. Trustee: a court-appointed representative who acts on behalf of the bankruptcy estate to recover property of the bankruptcy estate. A trustee oversees a debtor's property in chapter 7 cases, and supervises the debtor's plan payments in chapter 12 and 13 cases.
14. Unsecured Debt: debt not backed or secured by collateral. Credit card bills, medical bills, and student loans are examples of unsecured debt. Creditors cannot collect property from the debtor who owes unsecured debt; they must sue the debtor and obtain a court judgment before they can receive any money from the debtor.

For more bankruptcy terms, visit the United States Courts website, www.uscourts.gov/glossary.

Chapter 7: Liquidation

Chapter 7 is considered the liquidation chapter. It is designed for debtors who do not have the ability to pay a significant part of their existing debts. A chapter 7 case can be filed by individuals, partnerships, or corporations whose financial situation cannot be fixed.

In a Chapter 7 case, a trustee is appointed to administer the possession of all of the debtor's property; however, a debtor can claim a certain amount of property as exempt. The non-exempt property is liquidated by the trustee and sold for money to be distributed to creditors.

A person files under Chapter 7 for all of his debts to be eliminated, or discharged. There are some non-dischargeable debts such as certain taxes, student loans, alimony, and support payments. The debtor must repay these debts.

Under certain circumstances, debtors may keep property that was purchased subject to a valid security interest. An attorney can explain the options that are available if you believe this applies to you.

Chapter 13: Repayment Plan

Chapter 13 cases are designed for individuals with a regular income who can repay all of their debts through monthly installments. Debtors are eligible to file chapter 13 if their unsecured debts are less than \$383,175, and their secured debts are less than \$1,149,525.

A Chapter 13 Plan is filed with the court to show how the debtor intends to repay creditors. This plan must be submitted to the court for approval before payments can begin. The period allowed by the court to repay debts is three years, not exceeding five years.

Chapter 13 filers may keep all of their property, both exempt and non-exempt, as long as they continue to make payments under the plan approved by the court. After completion of payments under the plan, the debtor's debts are discharged with the exception of alimony and support payments, certain kinds of taxes, and government fines.

The Bankruptcy Reform Act of 2005 states that a Chapter 13 filer cannot be granted a discharge of debts if the debtor:

1. Received a discharge in a case filed under Chapter 7, 11, or 12 bankruptcies during the 4-year period preceding the date of the order for relief under Chapter 13;
2. Fails to file the [Debtor's Certification of Completion of Instruction Course Concerning Financial Management](#) after the last plan payment, or after a time period ordered by the court has expired.
3. Is found guilty of a felony or liable for a debt of the kind described in section 533 of the U.S. Bankruptcy Code (Title 11 of the United States Code).

Frequently Asked Questions

How do I find out what I need to file my bankruptcy petition?

At the end of this document we have placed Form 2000. It is a checklist of everything you need to start your bankruptcy case. All of the forms referenced on the checklist can be found at www.uscourts.gov.

Do I need an attorney to file bankruptcy?

While you do not need an attorney to file bankruptcy, it is extremely difficult to successfully file as a *pro se* debtor. We recommend hiring a competent attorney to ease the bankruptcy process.

What if I cannot afford an attorney?

If you cannot afford an attorney, the Alabama Bar Association may be able to recommend an attorney who will take your case for a reduced fee or may dismiss the fee, depending on your financial circumstances. You may reach the Alabama Bar Association at these numbers: 334-269-1515 or toll free at 800-354-6154.

May I speak directly with a bankruptcy judge?

No. To preserve the impartiality of the court and to prevent the appearance of preferential treatment of a party, federal law prohibits any contact with the judge outside of the courtroom.

What are the consequences of filing for bankruptcy?

Depending on a debtor's financial situation and reasons for filing, the consequences of filing for bankruptcy protection may outweigh the benefits. Those considering bankruptcy should be aware of the following:

- Filing for bankruptcy protection is not free.

- Not all debts are dischargeable, which means that some debts will still have to be paid by the debtor. Secured creditors retain some rights which may permit them to seize property even after a discharge is granted. Alimony, child support obligations, and most tax debts are not dischargeable.
- Within fifteen days of filing a bankruptcy petition, schedules of the debtor's assets and liabilities must be filed. Failure to promptly file the appropriate schedules will result in dismissal of the bankruptcy.
- If a case is not dismissed and a discharge is entered by the court, the debtor is prohibited from being granted another discharge in Chapter 7 and 11 cases for six years.
- Fraudulent information given or unlawful acts performed by the debtor are grounds for denial of a discharge and may be punishable as criminal offenses.

Will an eviction be stopped if I file for bankruptcy?

The automatic stay goes into affect once you have filed a petition for bankruptcy, so your eviction will be stopped until the proceedings have been completed.

How do I obtain bankruptcy forms?

You can obtain bankruptcy forms from any legal stationery store or law library. All bankruptcy forms can also be downloaded from the United States Court's website, www.uscourts.gov. Local bankruptcy forms can be found on our website, www.almb.uscourts.gov.

What are exempt assets?

The Bankruptcy Code allows an individual debtor to hold back certain property from the bankruptcy process. Such property is called an exempt asset. Exempt assets are protected by state law from distribution to creditors. Examples of exempt assets include vehicles and home equity up to a certain value, and tools of your trade. In Alabama, a debtor may claim homestead exemptions of up to \$15,000 and personal property exemptions of up to \$7,500. Exemptions must be claimed on Schedule C or they are lost. If no one objects to the claimed exemptions within a specified time, those exemptions will not be included as part of your bankruptcy estate.

Deciding which assets are exempt can be one of the more important and complex parts of your bankruptcy case, often requiring legal judgment as to your particular circumstances. Failure to list all possibly exempt property and properly claim an exemption may result in the loss of the right to claim the exemption. If you have any questions, consult an attorney for help.

What is an Automatic Stay?

When it is filed, a petition to open a bankruptcy case automatically stops most creditor actions against the debtor or the debtor's property. This automatic stop is called an

automatic stay.

What can I do if a creditor tries collect money after I have filed bankruptcy?

A creditor that continues to try to collect a debt after the bankruptcy has been filed is in violation of the automatic stay. You should immediately notify the creditor in writing that you have filed bankruptcy and provide them with the case number and filing date or a copy of the petition that shows that bankruptcy was filed. If the creditor does not stop trying to collect the debt, you may need to take legal action against the creditor by obtaining an order from the court. This order prohibits the creditor from taking further collection action. If the creditor is willfully violating the automatic stay, the court can hold the creditor in contempt of court and punish him by fine or incarceration. Any such legal action brought against the creditor will be complex and will normally require representation by a qualified bankruptcy attorney.

Also, see the Fair Debt Collection Practices Act, 15 U.S.C. § 1692(c), which applies to collection agencies.

What is a Certificate of Service?

When you file a motion or pleading with the court, you must file a written statement explaining that you have mailed or delivered a copy of the motion to all interested parties. This is called a certificate of service. You must list the name and address of each person and attorney being served with the motion and the name of the party each attorney represents. You must then sign and file the certificate with your pleadings. You must file this certificate before the court may grant relief.

What is a 341 Meeting of Creditors?

The 341 meeting of creditors is a hearing all debtors must attend in any bankruptcy proceeding. It usually occurs between 20 and 50 days after the filing of the petition.

At this meeting, the trustee or bankruptcy administrator will review the your petition and schedules with you. You are required to answer questions under penalty of perjury (swearing or affirming to tell the truth) about your conduct, property, liabilities, financial condition, and any other matter that may affect the administration of the case or your right to discharge. The trustee or bankruptcy administrator will also ask questions to ensure you understand the bankruptcy process.

The meeting is referred to as a “meeting of creditors” because creditors are notified that they may attend and ask you questions pertaining to your assets or any other matter important to the administration of the case. It is also referred to as a “341 meeting” because it is required by section 341 of the Bankruptcy Code. It is not necessary for creditors to attend this meeting, and they do not waive any rights if they choose not to attend. The meeting usually lasts ten to fifteen minutes and may be continued if the trustee or bankruptcy administrator is not satisfied with the information presented.

If you fail to appear or provide the information requested, the trustee or bankruptcy administrator may request that the case be dismissed, or they may seek other relief against you for failure to cooperate.

What is the difference between secured, unsecured, and priority debt?

A secured debt is a debt backed by a mortgage or other pledge of collateral. It is a debt for which the creditor has the right to pursue upon default. Typically, items like a car or a house are used as collateral to secure consumer loans.

An unsecured debt is a debt that is not backed by any collateral. For example, if you have promised to pay someone a sum of money by a particular time and have not pledged any property, the money you owe is an unsecured debt.

A priority debt is a debt that must be paid before other debts. Section 507 of the Bankruptcy Code lists certain debts that are entitled to be paid ahead of most other unsecured debts. Priority debts include some taxes; wage claims of employees; and alimony or support of a spouse, former spouse, or child. Administrative debt is a type of priority debt. It occurs when someone provides goods or services to the bankruptcy estate during the bankruptcy case. Attorney's fees are an example of administrative debt, as are trustee's fees and costs.

What is a Reaffirmation Agreement?

A reaffirmation agreement is a contract with a creditor by which a debtor becomes legally obligated to pay all or a portion of an otherwise dischargeable debt. Such an agreement must be filed within 60 days after the first date set for the meeting of creditors. A debtor who signs a reaffirmation agreement has 60 days after the agreement is filed, or until his discharge date, whichever occurs later, to change his mind. Debtors entering into a reaffirmation agreement without legal representation will need to attend a hearing before a judge to determine if the agreement will be valid. Since a reaffirmation agreement takes away some of the effectiveness of your discharge, you are strongly advised to consult legal counsel before agreeing to a reaffirmation of a debt.

What is a redemption?

Bankruptcy redemption is an option in a Chapter 7 bankruptcy case that may allow you to keep a vehicle or other asset that is acting as collateral for secured debt. However, redemption may not be an option for all Chapter 7 debtors because it requires you to come up with cash up front. It essentially means that you will pay a secured creditor the current value of the property securing a debt. Bankruptcy redemption is only an option if you actually owe consumer secured debt.

What is a discharge?

A discharge releases a debtor from personal liability for certain debts, known as

dischargeable debts, that were incurred before the bankruptcy filing. It also prevents the creditors owed those debts from taking any action against the debtor to collect the debts. Additionally, the discharge prohibits creditors from communicating with the debtor, including telephone calls, letters, and personal contact, regarding the debt.

The discharge does not prevent secured creditors from seizing collateral if payments are not kept up, nor does it prevent collection of debts that are made after the filing of the bankruptcy. If a valid lien, such as a mortgage, was not eliminated in the bankruptcy case, a creditor may have the right to enforce it against the debtor's property after the bankruptcy has been discharged.

It is also important to realize that some debts are not dischargeable, and others are not dischargeable under certain circumstances. A debtor may voluntarily pay any debt that has been discharged.

If you have questions about your discharge, you should consult with an attorney.

Debts That Are Discharged:

The Chapter 7 discharge order eliminates a debtor's legal obligation to pay a debt that has been discharged. Most, but not all, types of debts are discharged if the debt existed on the date the bankruptcy case was filed. (If this case was begun under a different chapter of the Bankruptcy Code and converted to Chapter 7, the discharge applies to debts owed when the bankruptcy case was converted.)

Debts That Are Not Discharged:

- 1) Debts for most taxes;
- 2) Debts that are in the nature of alimony, maintenance, or support;
- 3) Debts for most student loans;
- 4) Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- 5) Debts for personal injuries or death caused by the debtor's operation of a motor vehicle while intoxicated;
- 6) Some debts which were not properly listed by the debtor;
- 7) Debts that the bankruptcy court specifically rules are not discharged;
- 8) Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts.

Can creditors be added after I file my bankruptcy?

Yes, you may add creditors at any time during your bankruptcy case. You must file, pay the required filing fee, and serve a motion to add creditors.

What if a creditor tries to collect money after I get a discharge?

You will want to make sure the creditor is aware of your discharge by mailing a copy of the discharge order to the creditor. Further actions will depend upon the specific facts of your case. In general, if a creditor does not cease collection efforts after you have provided notice of discharge, or if the creditor has commenced legal proceeding against you, you will likely need the assistance of an attorney to enforce the protection that a bankruptcy discharge gives.

What does it mean if a case is dismissed?

When a case is dismissed, or ended, filings can no longer be made on that case. Upon dismissal, the automatic stay ends allowing creditors to begin collecting on debts that were not discharged before the dismissal. Be aware that an order of dismissal itself will not free the debtor from any debt.

Often, a case is dismissed when the debtor fails to do something he must do (such as show up for the creditors' meeting, answer the trustee's questions honestly, produce books and records the trustee requests), or if it is in the best interests of the creditors. Unless the debtor appeals the order or seeks reconsideration of the order within ten days after entry of the order, the Clerk will automatically close the case.

What should I do if I cannot make my Chapter 13 payment?

If you cannot make a Chapter 13 payment on time according to the terms of the confirmed plan, you should contact the trustee by phone and by letter advising the trustee of the problem and whether it is temporary or permanent. If it is a temporary problem and the payments can be made up, you should advise the trustee of the time and manner in which the payments will be made. Significant changes in your circumstances may require that the plan be formally modified. If the problem is permanent and you are no longer able to make payments to the plan, the trustee will request that the case be dismissed or converted to another chapter. The determination of whether to modify, dismiss, or convert a case requires the same kind of analysis that is needed for the initial decision of whether to file bankruptcy and under what chapter. Therefore, you should seek counsel from a qualified bankruptcy attorney before attempting to make such a decision. If you delay making a voluntary decision and cannot make the plan payments, the court may dismiss the case.

What is a Motion for Relief from Stay?

Under certain circumstances, a creditor or a party seeking to continue an action outside of the bankruptcy will file a motion for relief from stay. Typically, the creditor is seeking to foreclose on property, sell it, and apply the proceeds to the debt in cases where there is no value in the property for the bankruptcy trustee to administer in excess of valid liens and claims of exemption. If a motion for relief from stay is filed in your case, you should contact a bankruptcy attorney. If you want to object to a motion for relief from stay, you must do so in writing by filing your objection with the Court on or before the objection date listed in the notice sent to you and appearing at the preliminary hearing scheduled in that

notice. Do not simply appear on the hearing date to state your objection, because relief will be granted and the hearing will not be held unless an objection has been filed.

What is an Adversary Proceeding?

An adversary proceeding is a lawsuit arising in or related to a particular bankruptcy case. It is commenced by filing a Complaint with the Court, and it is given a separate case number.

An adversary proceeding is the bankruptcy court's version of a civil complaint to:

- 1) Recover money or property.
- 2) Determine the validity, priority, or extent of a lien or other interest in property.
- 3) Obtain approval to the sale of both the interest of the estate and of a co-owner in property.
- 4) Object to or revoke a discharge.
- 5) Revoke an order of confirmation of a Chapter 11, Chapter 12, or Chapter 13 plan.
- 6) Determine the dischargeability of a debt.
- 7) Obtain an injunction or other equitable relief.
- 8) Subordinate any allowed claim or interest.
- 9) Obtain a declaratory judgment relating to any of the foregoing in points 1 through 8.

My ex-spouse filed bankruptcy and listed me as a co-signer on a scheduled debt. What can I do? Does my divorce decree protect me?

You should seek legal advice for a thorough explanation of your rights and obligations in this area as soon as you find out that your ex-spouse has filed bankruptcy.

How can I get a case reopened?

To reopen a case, you must file a Motion to Reopen and pay the appropriate filing fee in full (a filing fee is not required when the purpose of reopening the case is to enforce a discharge). The judge determines whether the case should be reopened. If necessary, he may hold a hearing to inform his decision.

How do I get a certified copy of a document?

To get a certified copy of a document, you must send a written request to the clerk's office. The request must include the case number, the filing date, and title of the document you want to have certified. Please include your name and a daytime phone number with the request. We will contact you regarding payment once the request has been received.

How do I retrieve documents from a case that has already been archived?

To retrieve copies of documents from the National Archives and Records Administration, you must obtain the case number, transfer number, location, and box number from the clerk's office.

Who do I notify about a possible fraudulent filing?

You should notify the trustee of the case and call or write to the bankruptcy administrators' office if you suspect a fraudulent filing.

Required Lists, Schedules, Statements, and Fees

The checklists below tell you the fees that are required when you file bankruptcy, what forms you must file, and the deadlines associated with each form.

Voluntary Chapter 7 Case

- ☐ **Filing Fee of \$245.** If the fee is to be paid in installments or the debtor requests a waiver of the fee, the debtor must be an individual and must file a signed application for court approval. Official Form 103A or 103B and Fed.R.Bankr.P. 1006(b), (c).
- ☐ **Administrative fee of \$75 and trustee surcharge of \$15.** If the debtor is an individual and the court grants the debtor's request, these fees are payable in installments or may be waived.
- ☐ **Voluntary Petition for Individuals Filing for Bankruptcy** (Official Form 101) or **Voluntary Petition for Non-Individuals Filing for Bankruptcy** (Official Form 201); **Names and addresses of all creditors** of the debtor. Must be filed WITH the petition. Fed.R.Bankr.P. 1007(a)(1).
- ☐ **Notice to Individual Debtor with Primarily Consumer Debts** under 11 U.S.C. § 342(b) (Director's Form 2010), if applicable. Required if the debtor is an individual with primarily consumer debts. The notice must be GIVEN to the debtor before the petition is filed. Certification that the notice has been given must be FILED with the petition or within 15 days. 11 U.S.C. §§ 342(b), 521(a)(1)(B)(iii), 707(a)(3). Official Form 101 contains spaces for the certification.
- ☐ **Bankruptcy Petition Preparer's Notice, Declaration, and Signature** (Official Form 119). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(b)(2).
- ☐ **Statement About Your Social Security Numbers** (Official Form 121). Required if the debtor is an individual. Must be submitted WITH the petition. Fed.R.Bankr.P. 1007(f).
- ☐ **Credit Counseling Requirement** (Official Form 101); **Certificate of Credit Counseling and Debt Repayment Plan**, if applicable; **Section 109(h)(3) certification or § 109(h)(4) request**, if applicable. If applicable, the Certificate of Credit Counseling and Debt Repayment Plan must be filed with the petition or within 14 days. If applicable, the § 109(h)(3) certification or the § 109(h)(4) request must be filed WITH the petition. Fed.R.Bankr.P. 1007(b)(3), (c).

- ☐ **Statement disclosing compensation paid or to be paid to a “bankruptcy petition preparer”** (Director's Form 2800). Required if a “bankruptcy petition preparer” prepares the petition. Must be submitted WITH the petition. 11 U.S.C. §110(h)(2).

- ☐ **Statement of Your Current Monthly Income** (Official Form 122A). Required if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Schedules of assets and liabilities** (Official Forms 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b),(c).

- ☐ **Schedule of Executory Contracts and Unexpired Leases** (Schedule G of Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Schedules of Your Income and Your Expenses** (Schedules I and J of Official Form 106). If the debtor is an individual, Schedules I and J of Official Form 106 must be filed with the petition or within 14 days. 11 U.S.C. § 521(1) and Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Statement of financial affairs** (Official Form 107 or 207). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Copies of all payment advices or other evidence of payment** received by the debtor from any employer within 60 days before the filing of the petition. Required if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Statement of Intention for Individuals Filing Under Chapter 7** (Official Form 108). Required ONLY if the debtor is an individual and the schedules of assets and liabilities contain debts secured by property of the estate or personal property subject to an unexpired lease. Must be filed within 30 days or by the date set for the Section 341 meeting of creditors, whichever is earlier. 11 U.S.C. §§ 362(h) and 521(a)(2).

- ☐ **Statement disclosing compensation paid or to be paid to the attorney** for the debtor (Director's Form 2030). Required if the debtor is represented by an attorney. Must be filed within 14 days or any other date set by the court. 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).

- ☐ **Certification About a Financial Management Course** (Official Form 423), if applicable. Required if the debtor is an individual, unless the course provider has notified the court that the debtor has completed the course. Must be filed within 60 days of the first date set for the meeting of creditors. 11 U.S.C. § 727(a)(11) and Fed.R.Bankr.P. 1007(b)(7), (c).

Voluntary Chapter 11 Case

- ☐ **Filing fee of \$1,167.** If the fee is to be paid in installments, the debtor must be an individual and must file a signed application for court approval. Official Form 103A and Fed.R.Bankr.P. 1006(b).

- ☐ **Administrative fee of \$550.** If the debtor is an individual and the court grants the debtor's request, this fee is payable in installments.

- ☐ **United States Trustee quarterly fee.** The debtor, or trustee if one is appointed, is required also to pay a fee to the United States trustee at the conclusion of each calendar quarter until the case is dismissed or converted to another chapter. The calculation of the amount to be paid is set out in 28 U.S.C. § 1930(a)(6). As authorized by 28 U.S.C. § 1930(a)(7), the quarterly fee is paid to the clerk of court in chapter 11 cases in Alabama and North Carolina.

- ☐ **Voluntary Petition for Individuals Filing for Bankruptcy** (Official Form 101) or **Voluntary Petition for Non-Individuals Filing for Bankruptcy** (Official Form 201); **Names and addresses of all creditors** of the debtor. Must be filed WITH the petition. Fed.R.Bankr.P. 1007(a)(1).

- ☐ **Notice to Individual Debtor with Primarily Consumer Debts** under 11 U.S.C. § 342(b) (Director's Form 2010), if applicable. Required if the debtor is an individual with primarily consumer debts. The notice must be GIVEN to the debtor before the petition is filed. Certification that the notice has been given must be FILED with the petition or within 15 days. 11 U.S.C. §§ 342(b), 521(a)(1)(B)(iii), 1112(e). Official Form 101 contains spaces for the certification.

- ☐ **Bankruptcy Petition Preparer's Notice, Declaration, and Signature** (Official Form 119). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(b)(2).

- ☐ **Statement About Your Social Security Numbers** (Official Form 121). Required if the debtor is an individual. Must be submitted WITH the petition. Fed.R.Bankr.P. 1007(f).

- ☐ **Credit Counseling Requirement** (Official Form 101); **Certificate of Credit Counseling and Debt Repayment Plan**, if applicable; **Section 109(h)(3) certification or § 109(h)(4) request**, if applicable. If applicable, the Certificate of Credit Counseling and Debt Repayment Plan must be filed with the petition or within 14 days. If applicable, the § 109(h)(3) certification or the § 109(h)(4) request must be filed WITH the petition. Fed.R.Bankr.P. 1007(b)(3), (c).

- ☐ **Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer"** (Director's Form 2800). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(h)(2).

- ☐ **Statement of Your Current Monthly Income** (Official Form 122B). Required if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders** (Official Form 104) or **Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders** (Official Form 204). Must be filed WITH the petition. Fed.R.Bankr.P. 1007(d).

- ☐ **Names and addresses of equity security holders of the debtor.** Must be filed with the petition or within 14 days, unless the court orders otherwise. Fed.R.Bankr.P. 1007(a)(3).

- ☐ **Schedules of Assets and Liabilities** (Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).
- ☐ **Schedule of Executory Contracts and Unexpired Leases** (Schedule G of Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Schedules of Current Income and Expenditures.** If the debtor is an individual, Schedules I and J of Official Form 106 must be used for this purpose. Must be filed with the petition or within 14 days. 11 U.S.C. § 521(1) and Fed.R.Bankr.P. 1007(b), (c).
- ☐ **Statement of Financial Affairs** (Official Form 107 or 207). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).
- ☐ **Copies of all payment advices or other evidence of payment** received by debtor from any employer within 60 days before the filing of the petition. Required if the debtor is an individual. Must be filed WITH the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).
- ☐ **Statement disclosing compensation paid or to be paid to the attorney** for the debtor (Director's Form 2030), if applicable. Required if the debtor is represented by an attorney. Must be filed within 14 days or any other date set by the court. 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).
- ☐ **Certification About a Financial Management Course** (Official Form 423), if applicable. Required if the debtor is an individual and § 1141(d)(3) applies, unless the course provider has notified the court that the debtor has completed the course. Must be filed no later than the date of the last payment under the plan or the filing of a motion for a discharge under § 1141(d)(5)(B). 11 U.S.C. § 1141(d)(3) and Fed.R.Bankr.P. 1007(b)(7), (c).
- ☐ **Statement concerning pending proceedings of the kind described in § 522(q)(1)**, if applicable. Required if the debtor is an individual and has claimed exemptions under state or local law as described in § 522(b)(3) in excess of \$155,675*. Must be filed no later than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under § 1141(d)(5)(B). 11 U.S.C. § 1141(d)(5)(C) and Fed.R.Bankr.P. 1007(b)(8), (c).

Chapter 12 Case

- ☐ **Filing Fee of \$200.** If the fee is to be paid in installments, the debtor must be an individual and must file a signed application for court approval. Official Form 103A and Fed.R.Bankr.P. 1006(b).
- ☐ **Administrative fee of \$75.** If the debtor is an individual and the court grants the debtor's request, this fee is payable in installments.
- ☐ **Voluntary Petition for Individuals Filing for Bankruptcy** (Official Form 101) or **Voluntary Petition for Non-Individuals Filing for Bankruptcy** (Official Form 201). **Names and addresses of all creditors** of the debtor. Must be filed WITH the petition. Fed.R.Bankr.P. 1007(a)(1).
- ☐ **Notice to Individual Debtor with Primarily Consumer Debts** under 11 U.S.C. § 342(b) (Director's Form 2010), if applicable. Required if the debtor is an individual with primarily consumer debts. The notice must be GIVEN to the debtor before the petition is filed. Certification that the notice has been given must be FILED with the court in a timely manner. 11 U.S.C. §§ 342(b), 521(a)(1)(B)(iii). Official Form 101 contains spaces for the certification.
- ☐ **Bankruptcy Petition Preparer's Notice, Declaration, and Signature** (Official Form 119). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition.

11 U.S.C. § 110(b)(2).

☐ **Statement of Your Social Security Numbers** (Official Form 121). Required if the debtor is an individual. Must be submitted WITH the petition. Fed.R.Bankr.P. 1007(f).

☐ **Credit Counseling Requirement** (Official Form 101); **Certificate of Credit Counseling and Debt Repayment Plan**, if applicable; **Section 109(h)(3) certification or § 109(h)(4) request**, if applicable. If applicable, the Certificate of Credit Counseling and Debt Repayment Plan must be filed with the petition or within 14 days. If applicable, the § 109(h)(3) certification or the § 109(h)(4) request must be filed WITH the petition. Fed.R.Bankr.P. 1007(b)(3), (c).

☐ **Statement disclosing compensation paid or to be paid to a “bankruptcy petition preparer”** (Director's Form 2800). Required if a “bankruptcy petition preparer” prepares the petition. Must be submitted WITH the petition. 11 U.S.C. §110(h)(2).

☐ **Schedules of Assets and Liabilities** (Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Schedule of Executory Contracts and Unexpired Leases** (Schedule G of Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Schedules of Current Income and Expenditures**. If the debtor is an individual, Schedule I and J of Official Form 106 must be used for this purpose. Must be filed with the petition or within 14 days. 11 U.S.C. § 521(1) and Fed.R.Bankr.P. 1007(b), (c).

☐ **Statement of Financial Affairs** (Official Form 107 or 207). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Copies of all payment advices** or other evidence of payment received by the debtor from any employer within 60 days before the filing of the petition if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Statement disclosing compensation paid or to be paid to the attorney** for the debtor (Director's Form 2030), if applicable. Must be filed within 14 days or any other date set by the court. 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).

☐ **Chapter 12 Plan**. Must be filed within 90 days. 11 U.S.C. § 1221.

☐ **Statement concerning pending proceedings of the kind described in § 522(q)(1)**, if applicable. Required if the debtor is an individual and has claimed exemptions under state or local law as described in §522(b)(3) in excess of \$155,675*. Must be filed no later than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under § 1228(b). 11 U.S.C. § 1228(f) and Fed.R.Bankr.P. 1007(b)(8), (c).

Chapter 13 Case

☐ **Filing fee of \$235**. If the fee is to be paid in installments, the debtor must file a signed application for court approval. Official Form 103A and Fed.R.Bankr.P. 1006(b).

- ☐ **Administrative fee of \$75.** If the court grants the debtor's request, this fee is payable in installments.

- ☐ **Voluntary Petition for Individuals Filing for Bankruptcy** (Official Form 101). **Names and addresses of all creditors** of the debtor. Must be filed WITH the petition. Fed.R.Bankr.P. 1007(a)(1).

- ☐ **Notice to Individual Debtor with Primarily Consumer Debts** under 11 U.S.C. § 342(b) (Director's Form 2010), if applicable. Required if the debtor is an individual with primarily consumer debts. The notice must be GIVEN to the debtor before the petition is filed. Certification that the notice has been given must be FILED with the petition or within 15 days. 11 U.S.C. §§ 342(b), 521(a)(1)(B)(iii), 1307(c)(9). Official Form 101 contains spaces for the certification.

- ☐ **Bankruptcy Petition Preparer's Notice, Declaration, and Signature** (Official Form 119). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(b)(2).

- ☐ **Statement of Social Security Number** (Official Form 121). Must be submitted WITH the petition. Fed.R.Bankr.P. 1007(f).

- ☐ **Credit Counseling Requirement** (Official Form 101); **Certificate of Credit Counseling and Debt Repayment Plan**, if applicable; **Section 109(h)(3) certification or § 109(h)(4) request**, if applicable. If applicable, the Certificate of Credit Counseling and Debt Repayment Plan must be filed with the petition or within 14 days. If applicable, the § 109(h)(3) certification or the § 109(h)(4) request must be filed WITH the petition. Fed.R.Bankr.P. 1007(b)(3), (c).

- ☐ **Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer"** (Director's Form 2800). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(h)(2).

- ☐ **Statement of Your Current Monthly Income** (Official Form 122C). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007.

- ☐ **Schedules of Assets and Liabilities** (Official Form 106). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Schedule of Executory Contracts and Unexpired Leases** (Schedule G of Official Form 106). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Schedules of Current Income and Expenditures** (Schedules I and J of Official Form 106). Must be filed with the petition or within 14 days. 11 U.S.C. § 521(1) and Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Statement of Financial Affairs** (Official Form 107). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Copies of all payment advices or other evidence of payment** received by the debtor from any employer within 60 days before the filing of the petition. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

- ☐ **Chapter 13 Plan.** Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 3015.
- ☐ **Statement disclosing compensation paid or to be paid to the attorney** for the debtor (Director's Form 2030), if applicable. Must be filed within 14 days or any other date set by the court. 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).
- ☐ **Certification About a Financial Management Course** (Official Form 423), if applicable. Must be filed no later than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under § 1328(b), unless the course provider has notified the court that the debtor has completed the course. 11 U.S.C. § 1328(g)(1) and Fed.R.Bankr.P. 1007(b)(7), (c).
- ☐ **Statement concerning pending proceedings of the kind described in § 522(q)(1)**, if applicable. Required if the debtor has claimed exemptions under state or local law as described in § 522(b)(3) in excess of \$155,675¹. Must be filed no later than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under § 1328(b). 11 U.S.C. § 1328(h) and Fed.R.Bankr.P. 1007(b)(8), (c).

¹ Amount subject to adjustment on 4/01/16, and every three years thereafter with respect to cases commenced on or after the date of adjustment.