

QUESTIONS & ANSWERS

**What You Absolutely MUST Know
Before Filing for Bankruptcy in
Colorado**

By
Attorney Bob Doig

Anyone considering implementing the information contained in this book is advised to seek professional legal advice. A book is not a lawyer. Only a licensed attorney may provide you with accurate legal advice.

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This book is dedicated to my family.

-Bob Doig

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What Is Bankruptcy?

Bankruptcy is a legal method that helps people who owe more than they can afford to pay. Bankruptcy laws allow people to work out a way to repay some or all of their debts, or to get their debts discharged so that they can get a “fresh start”.

The bankruptcy laws give people certain protections and benefits that otherwise wouldn't be available to them, like making their creditors stop all efforts to collect from them, unless the Bankruptcy Court specifically allows it.

In bankruptcy, people have to make full and complete disclosures of all of their assets, liabilities, and other financial information. They also must either:

(1) give up their non-exempt property so that it can be sold, with the proceeds going to pay their creditors; or

(2) put together a repayment plan that gives their creditors at least as much as they would have received if their assets were sold.

What Can Bankruptcy Do For Me?

Bankruptcy can:

- Get rid of your obligation to pay your debts. This is called a “discharge” of debts. The whole idea is to give you a “fresh start”.

- Stop a pending foreclosure on your house and give you the chance to catch up on missed payments.
- Prevent your car from being repossessed.
- Stop your wages from being garnished.
- Stop the harassing tactics of debt collectors.
- Stop any pending lawsuits against you.
- Restore your utility service if it's been shut off.

What Bankruptcy Can Not Do For You

Bankruptcy can't cure every financial problem. It's not necessarily the right thing for everybody with financial problems.

Usually bankruptcy can't:

- Get rid of rights of "secured" creditors. A "secured" creditor has a lien on your property, usually a house or a vehicle, as collateral for the loan. You can require them to accept your payments over time in the bankruptcy process and you can discharge any balance owed if they repossess or foreclose on your property. However, you usually can't keep the secured property unless you continue to make your payments.
- Get rid of certain specific debts listed in the Bankruptcy Code such as child support, alimony or maintenance, most student loans, court fines, and some taxes.
- Protect your cosigners from having to pay your debts. When somebody has co-signed on a loan for you, and you discharge the debt in bankruptcy, the cosigner is still liable to pay the debt.
- Discharge debts that arise after bankruptcy has been filed.

What Different Types Of Bankruptcy Should I Consider?

There are two basic types of cases:

Chapter 7 is known as “straight” bankruptcy, or liquidation. It requires you to give up property which is valued higher than the amount allowed for “exemptions,” so the Trustee can sell the property to pay your creditors. Usually, just about all of your property will be exempt and you won’t lose anything.

Chapter 13 is called a “wage earner plan”. It requires you to file a plan to pay at least part of your debts from your current income.

Either type of case may be filed by you as an individual or by you and your spouse jointly.

If your income is above the median income for a household the size of your household in Colorado, you may not be able to file a Chapter 7 case. If you have a certain amount of money left over after paying your monthly household expenses, the bankruptcy court could decide that you should not be able to file a chapter 7 case, in the absence of special circumstances.

Chapter 7 (Straight Bankruptcy)

In a Chapter 7 case, you file a petition requesting the bankruptcy court to discharge your debts. The basic idea is to discharge (wipe out) your debts. In exchange you agree to give up your non-exempt property. You get to keep all of your exempt property. In most cases, all of your property will be exempt. A chapter 7 case will not require you to pay any of your wages to the Trustee or to any of your creditors.

If you need to keep your property like a home or a car and are **behind** in your payments, a chapter 7 case might not be the best choice for you. A chapter 7 bankruptcy does not eliminate the lenders’ rights to take your property to cover your debt. But, if you are **not behind** on

your mortgage or car loan, you will be able to continue paying them during and after the bankruptcy in order to keep your house and car.

Chapter 13 (Repayment Plan)

In a Chapter 13 we prepare and file a “plan” showing how you will pay off some of your past-due and current debts over the next 36 to 60 months. The most important thing about a chapter 13 case is that it allows you to keep valuable property--especially your home and car--which you might otherwise lose, as long as you make the payments. In most cases, those payments will be as much as the regular monthly payments on your mortgage or car loan, plus some extra amount to get caught up on the payments you missed.

You should consider filing a chapter 13 if you:

- Own your own home and are in danger of a foreclosure because of money problems;
- Are behind on your payments, but can catch up if you are given some time;
- Have valuable non-exempt property, and can afford to pay your creditors from your monthly income.
- You will need to have enough monthly income to pay for your normal household necessities and keep up with the required plan payments each month.

What Will Happen To My Home And Car If I File Bankruptcy?

Usually you will NOT lose your house or car in your bankruptcy case so long as your equity is exempt. Even if your property is not completely

exempt, you should still be able to keep it, as long as you pay its non-exempt value to your creditors in chapter 13.

Some of your creditors might have a “security interest” in your home or car. That means that you gave that lender a mortgage on the home or otherwise put your property up as collateral for the loan. Bankruptcy does not eliminate those liens. If you fail to make your payments on those loans, the lender can take and sell the home or car, even during your bankruptcy case.

There are a few different ways that you can keep your house or car after you file your case. You can make an agreement to keep making your payments on the loan (called a “reaffirmation”). Or you can pay the lender the value of the property (called a “redemption”). In some cases if the lender has committed fraud, you may be able to challenge the debt.

Can I Own Anything After Bankruptcy?

Yes! Many people have been led to believe that they can't own anything for a certain period of time after filing for bankruptcy. This is just not true.

You can keep all of your wages and anything you receive after the case is filed. You can even open a new bank account without worrying that one of your creditors will garnish your money for an old debt.

Keep in mind, however, that if you receive an inheritance, a settlement, or life insurance proceeds within 180 days after your case is filed, that money may have to be paid over to your creditors.

Will Bankruptcy Wipe Out All My Debts?

Pretty much. Bankruptcy will wipe out just about all of your debts, except for:

- Money you owe for child support or alimony, court fines, and some taxes;
- Debts you didn't list in your bankruptcy paperwork;
- Loans you received after giving false information to the lender;
- Money owed as the result of "willful and malicious" conduct that caused harm to someone;
- Just about all student loans, unless you can prove to the Bankruptcy Court that being required to pay them would cause you an "undue hardship".

Will I Have To Go To Court?

Probably not. However, you will have to go to "Meeting of Creditors" (also known as a Section 341 meeting) to meet with the trustee assigned to your case and any of your creditors who decide to appear. In the vast majority of cases, the Creditors Meeting will be a short and simple procedure. You will be asked a few questions about your bankruptcy paperwork and your finances. I will attend the Creditors Meeting with you.

Rarely you might have to appear before a bankruptcy judge. The vast majority of bankruptcy judges' time is spent on business cases. If you do have to go to court, you'll get a notice of the court date and time from the clerk of the court.

Will Bankruptcy Affect My Credit?

It's hard to tell. If you are currently behind on your bills, your credit is probably already bad. Bankruptcy probably won't make it any worse.

The fact that you've filed a bankruptcy case can appear on your credit record for ten years. But most credit reporting agencies will only report it for seven years. Because bankruptcy discharges your old debts, you will probably be in a better position to pay your current bills, and your credit will improve over time.

What Else Should I Know?

Utility services--Public utilities, such as the electric company, can't cut off your service because you have filed for bankruptcy. But they can require you to pay a deposit in the future.

Discrimination--No employer or government agency can discriminate against you due to your filing bankruptcy.

Driver's license--If you lost your driver's license for failure to pay court-ordered damages caused in an accident, filing bankruptcy will let you get it back.

Co-signers--If somebody has co-signed a loan with you and you file for bankruptcy, they might have to pay the debt. If you file a chapter 13, you might be able to protect them depending upon your chapter 13 plan.

Discharge--You should receive your Order of Discharge about four months after your meeting of creditors.

Spouse--Your spouse's assets are not included in your case unless you file a joint petition together. Likewise, if you file your case individually,

your discharge will not discharge or cancel your spouse's debts. A married couple is allowed to file a joint petition, but is not required to.

What Is The Bankruptcy Code?

The Bankruptcy Code is a federal law. It is found at Title 11 of the United States Code. It helps people and businesses who are having financial troubles while making sure that the people they owe money to are treated fairly.

The Bankruptcy Code is divided into chapters. Chapters 7, 11, and 13 are the most commonly used chapters. Each of these chapters offers different options for dealing with debt. The Bankruptcy Code can be reviewed in law libraries, or on the internet at <http://www4.law.cornell.edu/uscode/11/>.

Is The Bankruptcy Court A State Or Federal Court?

The Bankruptcy Court is a federal court. It is part of the U.S. District Court. Some states are divided into different district courts; e.g. "Federal District Court for the Northern (or Central or Southern) District of Illinois". The State of Colorado has one federal district court: the District of Colorado.

Who Can File Bankruptcy?

People, partnerships, corporations, or business trusts are allowed to file bankruptcy cases. Corporations, partnerships and business trusts are required to be represented by attorneys in bankruptcy cases. However,

people are allowed to file their own cases, without an attorney. But the bankruptcy process is extremely complicated and you are strongly encouraged to seek an experienced bankruptcy lawyer.

If you start your own bankruptcy case, it's called a voluntary bankruptcy. If your creditors start your bankruptcy, it is called an involuntary bankruptcy. If an involuntary bankruptcy gets started against you, you will have the right to file a response to the petition and show why you shouldn't be in bankruptcy.

Do I Need An Attorney To File For Bankruptcy?

People can file their own bankruptcies, but companies can't. If you operate a business as a sole proprietorship, you can file your case on your own. However, if you want to file a bankruptcy for your business that is set up as a corporation, LLC or partnership, you are required to have a lawyer represent the company in the bankruptcy case.

You should keep in mind that the obligations you are required to meet and the possible repercussions if you don't meet those obligations can be very serious. Bankruptcy law is very complicated. Hiring an experienced, competent bankruptcy lawyer is highly recommended.

What Are The Different "Chapters" In Bankruptcy?

Chapter 7 is the Straight bankruptcy, or "liquidation" chapter of the Bankruptcy Code. Chapter 7's may be filed by people or companies. Under Chapter 7, an "Interim Trustee" is appointed. His or her job is to collect and sell all non-exempt property and use the proceeds to pay your creditors.

You are allowed to claim certain property as “exempt” under federal bankruptcy law or Colorado law. You will receive a discharge, which means you won’t have to pay certain debts. Companies don’t receive discharges. They just go out of business.

Chapter 13 is the “Debt Repayment” chapter for people who have regular income and who do not owe more than \$1,442,145 (\$360,745 in unsecured debts and \$1,081,400 in secured debts). This includes people who operate their own businesses. Companies cannot file under Chapter 13.

Chapter 13 usually allows you to keep property by repaying your creditors out of your future income. Under Chapter 13 you propose a repayment plan. Your plan must be approved by the Bankruptcy Court. Your payments must be paid to the Chapter 13 Trustee, who then pays your creditors for a small fee. After you are done with all of your payments, you will receive a discharge of most of your debts.

It is really hard for people without lawyers to come up with, and complete, their Chapter 13 plans. This is particularly true for cases filed on and after October 17, 2005.

What Is A Joint Bankruptcy Petition?

A joint bankruptcy petition is one filed by a husband and wife. Only married couples (including common law marriage) can file joint petitions. Unmarried people, corporations, and partnerships must file separate petitions.

If you are an individual and you have a business that is a corporation, LLC or partnership, you can’t file a joint petition for yourself and your business. You would have to file a separate case for yourself and a separate case for the business.

Does My Spouse Have To File If I File?

No. Married individuals are allowed to file their cases either individually or with their spouse. If they file with their spouse, it is called a “joint” petition.

Even if you file your case individually, you must still list your spouse’s property and income in your bankruptcy paperwork, so that a complete picture of your financial situation will be presented.

What Is A Bankruptcy Trustee?

In every Chapter 7 and 13 case a trustee is assigned. In Chapter 7 cases it will be an “interim trustee” chosen from a group of about six trustees assigned randomly. In Chapter 13, there are two trustees in Colorado: Sally Zeman and Douglas Kiel, who are called the “standing trustees.” For cases filed in El Paso County, the Chapter 13 Trustee will be Douglas Kiel.

The trustee’s job is to administer the bankruptcy case to make sure all of your creditors are treated correctly according to the Bankruptcy Code. They also preside over the Creditors’ Meeting. The trustee collects and sells non-exempt property in a Chapter 7, or collects and pays out money from your repayment plan in Chapter 13 cases.

The trustee can make you provide information and documents before, during, or after the Creditors Meeting. If you fail to cooperate with the trustee, your discharge could be denied.

Trustees are not your attorney. They do not represent you. In fact, they work on behalf of your bankruptcy estate and all of your creditors.

What Documents Are Needed To File Bankruptcy?

The following documents are required to be filed in all bankruptcy cases. Additional documents might be necessary depending upon the particulars of your case.

Voluntary petition - Form 1 and any exhibits required by the Form.

Cover Sheet - T.L.B.F. 1002-1

Statement of Financial Affairs - Form 7

Summary of Schedules A-J - Form 6

Schedules A, B, C, D, E, F, G, H, I, and J - Forms 6A through 6J

Declaration Concerning Debtor's Schedules - Form B6

Everyone who files is also required to provide copies of all paycheck stubs received within 60 days before the case was filed.

Attorney Fee Disclosure Statement - L.B.F. 102.1

Verification of Creditors' Matrix - L.B. Misc. Form List

Creditors' Matrix

Additional Items due from Individual Debtors:

Social Security Number Statement - Form 21

Statistical Summary of Certain Liabilities - Form 6 - page 2 (12/07)

Individual Debtor's Statement of Compliance with Credit Counseling Requirement (Official Form 1 Exhibit D)

Certificate of Credit Counseling showing that you completed credit counseling from an approved counselor sometime within the 180 days BEFORE you filed your case.

Chapter 7 Individual Debtors:

Statement of Current Monthly Income and Means Test Calculation
Form 22A

Statement of Intention - Form B8

Chapter 13 Individual Debtors:

Statement of Current Monthly Income and Disposable Income
Calculation - Form 22C

Chapter 13 Repayment Plan - T.L.B.F. 3015-1

The debtor's name and last four digits of the debtor's Social Security number must appear on the petition.

How Much Is The Court Filing Fee?

It costs \$306 to file a Chapter 7 case. It costs \$281 to file a Chapter 13 case.

Those charges do not include fees for the required credit counseling course or attorneys' fees.

What About Credit Counseling And Personal Financial Management Instruction-What Is The Difference Between The Two?

The Credit Counseling class must be taken **before** you file your bankruptcy case. The course provider must be approved by the U.S. Trustee. When you complete this class, the course provider will issue a

certificate that has to be filed with your Bankruptcy paperwork. If you are filing a joint petition with your spouse, you both have to complete the class. If you don't file the class certificate, your case will be dismissed and you will not get your filing fee back.

The Financial Management Instruction class is taken **after** you file your bankruptcy case. Again, the course provider must be approved by the U.S. Trustee. If you filed a Chapter 7 case, your financial management course certificate must be filed within 45 days of the first scheduled Creditors Meeting. If you filed a Chapter 13 case, the certificate must be filed before you have completed all of your plan payments.

If you don't file the financial management course certificate in either a Chapter 7 or Chapter 13 case, your case could be closed without you receiving a discharge. If that happens, you will need to pay another filing fee in order to reopen your case to file the certificate and get your discharge.

What Is The "Means Test"?

The means test is basically a formula required by the 2005 changes to the Bankruptcy Code to figure out if your current monthly income is more than Colorado's median family income for a household of the same size as yours. The analysis involves applying certain guidelines developed by the Internal Revenue Service to determine your ability to repay your debts. It also involves reviewing your income for the previous six month period to determine whether your income exceeds the state median.

How Can I Change Or Correct Information In The Petition, Statements, And Schedules I Have Filed?

The information contained in your petition, statements, and schedules is signed “under penalty of perjury”. Therefore, if you intentionally submit information that is inaccurate or misleading, you may have committed a serious crime. So please be very careful and make sure that all of your information is correct when you sign your bankruptcy documents. If you later discover that something is inaccurate, you must correct the documents. This is done by filing an amendment with the Clerk’s Office. If it is a schedule that is amended, an appropriate amended schedule must be filed showing the correction. You must also submit an Amended Summary of Schedules. There is a filing fee of \$30.00 to file amended schedules of creditors or lists of creditors for the purpose of adding a creditor. You must include your full social security number (or taxpayer identification number) in the notice mailed to the added creditor. You must also give notice to the creditor(s) impacted, changed or added by mailing them a copy of the Notice of Meeting of Creditors.

What Is A Meeting Of Creditors? What Happens There?

The meeting of creditors is a hearing all debtors are required to attend in their bankruptcy case. It usually occurs between four and six weeks days after your petition was filed. The trustee assigned to the case will conduct the meeting.

The meeting permits the trustee to review your petition and schedules face-to-face with you. You are required to answer the Trustee’s questions under penalty of perjury (after being sworn in) about your property, liabilities, financial condition, and any other matter that could affect the administration of your case or your right to receive a

discharge. The trustee will also ask questions to ensure that you understand the bankruptcy process.

The meeting is called a “meeting of creditors” because creditors are notified that they are allowed to attend and ask you questions about your assets or any other thing involving the administration of the case. It is also called a “341 meeting” because it is required to be held under Section 341 of the Bankruptcy Code. Creditors are not required to attend the Creditors Meeting and usually do not appear at them. The meeting usually only takes about 10 - 15 minutes and can be continued if the trustee is not satisfied with the information presented.

If you fail to appear and provide the information requested by the Trustee, he may request that your case be dismissed, or may seek other relief against you for failure to cooperate. If your case involves you and your spouse filing jointly, both of you must be present at the meeting of creditors.

I Don't Live In The Denver Metropolitan Area. Where Will My Creditors Meeting Be Held?

Your Creditors Meeting will be scheduled based upon where you live. If you live in El Paso or Teller County, your meeting will be held in Colorado Springs.

Creditors Meetings are also held in Pueblo for people who live there and in nearby counties.

Call my office at 719 227-8787 if you are not sure where your meeting will be held, or click here for a link showing which meetings are held where: <http://www.cob.uscourts.gov/misc/341meetingsbycounty.pdf>

How Do I Know If A Debt Is Secured, Unsecured, Priority, Or Administrative?

Secured Debt: A secured debt is backed by a deed of trust, mortgage, or other lien, including a properly recorded judgment lien. It is a debt where the creditor has the right to take specific property if you fail to make your payments. The most common examples are car loans and home loans.

Unsecured Debt: If you agree to pay someone and haven't pledged any of your property, it is an unsecured debt. Typically, things like medical bills, credit card bills and utility bills are unsecured debts.

Priority Debt: The Bankruptcy Code lists certain debts as "priority debts" that must be paid ahead of most other debts. Examples of priority debts are some taxes, wage claims, and alimony and child support.

Administrative Debt: An administrative debt is a priority debt that results from someone providing goods or services to the bankruptcy estate during the case. Unpaid attorney's fees and trustee's fees are examples of administrative debt.

If you have questions about the nature of a debt, send me an email and we can discuss it: Info@SpringsBankruptcy.com.

What Are Exemptions?

The Bankruptcy Code allows you to keep certain property, called "exempt property" out of your bankruptcy estate. Exempt property is protected by Colorado law from being sold to provide money to your creditors. Examples of exempt property include your cars or other motor vehicles up to a certain value, equity in your house up to a

certain value, and the tools of your trade. Exemptions must be claimed on your Schedule C or else you lose them. If there are no timely objections filed regarding your claimed exemptions, your exempt property will be excluded from your bankruptcy estate. Colorado law provides what exemptions you are entitled to claim.

Most of the Colorado exemptions can be found at Colo. Rev. Stat. §§ 13-54-102 and 38-41-201 et. seq.

Determining which of your assets are exempt can be one of the more important and complicated parts of your bankruptcy case. It is extremely important for you to consult a lawyer if you have any questions about which exemptions apply to your situation. If you fail to list all of your property to which you can claim an exemption could result in your loss of the right to claim the exemption.

Don't hesitate to consult a bankruptcy lawyer if you have any questions concerning what exemptions you may claim.

What Happens After I File My Bankruptcy Case?

When you file your petition, the "automatic stay" usually takes effect immediately. This will depend upon whether you have had more than one bankruptcy case dismissed in the year before you filed the current case. The automatic stay stops your creditors from taking actions against you or your property. The Court will issue a notice to all of your creditors telling them about the filing, its case number, the automatic stay, and the name of the trustee assigned to the case. The notice also tells your creditors the date of the Creditors Meeting, the deadline for filing objections to your discharge and whether and where to file their claims. You must appear at your Creditors Meeting or your case may be dismissed.

In a Chapter 7 case, creditors generally have 60 days from the first date set for your Creditors Meeting to object to your discharge. If the deadline passes without any objections being filed, the Bankruptcy Court may issue the discharge order.

Some things that could prevent or delay your discharge are: reaffirmation agreements; if a hearing is required and hasn't been held; or failing to file your certificate showing that you have completed the Financial Management Course. If any objections to the dischargeability of your debts are filed, they will be heard by the Court, but they shouldn't stop the entry of the discharge as to your other debts. Only people can receive a discharge. Companies do not receive discharges.

If you don't have any assets with equity above the liens against them, the Trustee will prepare a "Report of No Distribution", and your case will be closed. If you have non-exempt assets, the Court will set a deadline for your Creditors to file claims and notify them of it. The Trustee will take your assets, sell them, and pay the proceeds to your creditors. When all of the assets have been sold and payments made to the Creditors, the Trustee will file a Final Distribution Report and the Court will close your case.

In a Chapter 13 case, you file a plan. The Trustee or your creditors may file an objection to it. If no objections are filed, the Court may confirm it. You then make monthly payments to the Trustee for three to five years. The Trustee will pay the proceeds of your plan payments to your creditors until you complete the plan or the Court dismisses your case or converts it to another Chapter.

Upon completion of your plan, the Court will issue a discharge order, the Trustee will prepare a final report, and your case will be closed. A discharge will not issue if you fail to verify that you have made all of your Domestic Support Obligation payments and filed your certificate of completion of the Financial Management course.

The Chapter 13 process is very complicated and plans of reorganization are hardly ever successful without the assistance of a bankruptcy lawyer.

What Is A Discharge?

A discharge is an Order entered by the Bankruptcy Judge that stops your creditors from doing anything against you to collect debts you had before you filed your bankruptcy case. The discharge doesn't stop your secured creditors from taking your car or house or other collateral if you fail to make your payments. It also doesn't stop your creditors from collecting for debts you incurred after you filed your case. Also, some debts are just not dischargeable.

Some of the debts that might not be discharged are: taxes and fines, alimony, child support, debts caused by fraud or by giving false information to your creditor.

What Is The Difference Between A Denial Of Discharge And A Debt Being Nondischargeable?

Denial of your discharge means that none of your debts will be discharged. It would affect your whole case. See 11 U.S.C. § 727.

One or more of your debts, however, could be declared nondischargeable for different reasons under the Bankruptcy Code, but the discharge would still apply to your remaining debts. See 11 U.S.C. § 523.

If a debt is nondischargeable, you are still obligated to pay it. Issues about discharge and dischargeability can be pretty complicated. You should probably contact a lawyer if they arise in your case.

I Attended A Meeting Of Creditors Before My Case Converted To Another Chapter. Do I Have To Attend Another Meeting?

Yes. A new trustee will be assigned to the converted case, and he or she is entitled to conduct an examination of you under oath. In addition, your creditors will again be allowed to question you at the second Creditors' Meeting. However, keep in mind that it is very rare for creditors to appear at a Creditors Meeting.

What If My Case Is Dismissed?

An Order of Dismissal ends your case. The automatic stay that was previously entered is no longer in effect, and, if no discharge has yet been entered, your creditors can again attempt to collect from you.

Dismissal of your case also has other important consequences: The automatic stay protection in a case filed within one year of your dismissal is limited or you may lose it altogether if two or more cases have been dismissed.

My Case Was Dismissed Because I Failed To Pay All Of The Installments Of The Filing Fee. Can I File A New Bankruptcy Case? If So, Can I Pay The New Filing Fee In Installments?

It depends. If your case was dismissed for failure to pay all of the installments of the filing fee, you are barred from payment of filing fees in installments in any later case that you file. In addition, the order dismissing your previous case may place other restrictions such as a 180 day bar to prevent you from filing a new case within that time. Please refer to the order of dismissal to determine whether there are additional restrictions against filing a new case. Consult an attorney if you have questions.

What Is A Reaffirmation Agreement?

A “Reaffirmation Agreement” is an agreement between you and one of your creditors where you agree to pay a debt that would otherwise be discharged. Reaffirmation agreements have to be filed within 45 days after the first date set for your Creditors Meeting.

After you sign a reaffirmation agreement, you have 60 days after its filing, or until you get your Order of Discharge, whichever occurs later, to change your mind and rescind it.

Since agreeing to a reaffirmation agreement will remove some of the effectiveness of your discharge, you should consult an experienced bankruptcy lawyer before signing one.

What Is A Motion For Relief From Stay?

Sometimes a creditor who wants to continue a lawsuit or foreclosure outside of the bankruptcy will file a “Motion for Relief from Stay”. Usually it’s a mortgage lender who is looking to foreclose on your real estate, then sell it. These motions are very common in cases where, after considering secured loans and your exemption, there is no value in the property for the bankruptcy trustee to collect.

You may object to the motion, in writing, before the objection deadline set forth in the notice you receive. You may also have to appear at the hearing scheduled in that notice.

Don’t just show up at the hearing date to state your objection without first filing your written objection. The lender will have advised the Court that no objection had been filed and the hearing will therefore be unnecessary.

If you receive a Motion for Relief from Stay, you should immediately contact a bankruptcy lawyer.

What Can I Do If A Creditor Keeps Trying To Collect Money After I Have Filed A Bankruptcy?

You should immediately contact your attorney, and ask him or her to deal with it. If you don’t have a lawyer, you should write to the creditor and give them your case number or your discharge order. If they continue to try to collect from you, you could be entitled to sue them.

Please feel free to call me at 719 227-8787 or send me an e-mail to: Info@SpringsBankruptcy.com if you would like to discuss this further.

What Services Can A “Bankruptcy Petition Preparer” Provide?

A “bankruptcy petition preparer” is a person or firm which is not authorized to act as an attorney, but who fills out your bankruptcy petition and related forms for a fee. Bankruptcy petition preparers can only provide and type the forms. **It is against the law for them to give you legal advice.** Their services are subject to restrictions and limitations under the Bankruptcy Code. Bankruptcy petition preparers sign all documents they prepare for you, but they are not authorized to sign any document on your behalf. Therefore, you must also sign all documents yourself if they require your signature. Bankruptcy petition preparers are prohibited by law from collecting or receiving any Court fees connected with your case. Consequently, if you use a petition preparer you are required to pay all Court fees directly to the Court, including the filing fee and any other fees. You should immediately notify the United States Trustee and any trustee appointed in your case if you think a bankruptcy petition preparer fails to comply with the law.

Will The Judge Advise Me Of My Options During The Bankruptcy Case?

In a word: No. The Court will not act as your lawyer.

May I Speak Directly With A Bankruptcy Judge?

No. You are not allowed to speak with the Judge outside of his or her Courtroom in order to prevent the appearance of any impropriety or preferential treatment.

What Is An Adversary Proceeding?

An adversary proceeding is a lawsuit filed within a bankruptcy case.

An adversary proceeding is started by filing a Complaint with the Bankruptcy Court. It is given a separate case number. The Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules tell you what type of cases can be brought as adversary proceedings, and the rules pertaining to them.

Adversary proceedings are extremely complex, so you are strongly urged to consult with a bankruptcy lawyer concerning them.

If My Case Gets Dismissed, Or I Change My Mind About Filing, Can I Get My Filing Fee Refunded?

No. Under the provisions of the Bankruptcy Code, your filing fees cannot be refunded to you.

When Am I Under Bankruptcy Protection?

You are under bankruptcy protection as soon as your petition is filed. At that moment, the automatic stay goes into effect and your creditors are no longer able to take any steps to collect money from you.

All garnishments are stopped. All law suits are stopped. All of the collections calls are required to stop.

Who Has Access To My Bankruptcy File?

Bankruptcy Court files are public records. Therefore they may be accessed by anyone who knows the procedures for doing so. This may be a concern to you because of the presence of your social security number on your paperwork.

Nowadays all bankruptcy petitions only contain the last four digits of your Social Security number. You have to submit a Statement of Social Security Number (Official Form 21) which contains your entire social security entire number, for the Court's reference. However, that form is **not** part of the public record.

Will All My Creditors Be Notified Of My Discharge?

All of the creditors who you listed on your schedules and on your creditors' matrix or who you later added by amendment will receive notice of your discharge. The notice is sent by mail to them directly from the office of the Clerk of the Bankruptcy Court

When Is My Case Complete?

Your case is complete when it has been closed. Your attorney will receive a notice from the Court when this happens.

Usually cases are closed within a short time after you receive your discharge if your case is a "no asset" case. If your case is an asset case, it will be after the report of final distribution is filed by your Trustee.

How Soon After I Get My Discharge Can I File For Bankruptcy Again?

If your previous case was a Chapter 7 case and you received a discharge in it, you have to wait at least eight years from the date it was filed in order to file another Chapter 7 case, or four years to file a Chapter 13 case.

If your previous case was a Chapter 13 case and you received a discharge, you have to wait at least four years from the date it was filed to file a Chapter 7 case or two years to file another Chapter 13 case.

This is a pretty complicated part of the Bankruptcy law, so you really should contact a bankruptcy lawyer to advise you about the particulars of your specific case. An experienced bankruptcy lawyer can look up your old case on the Court's web site and tell you exactly when you will be able to file another case. It's something that I do all the time for my potential clients. Give me a call at 719 227-8787 and I'll be happy to do that for you.

Will The U.S. Bankruptcy Court Provide And Pay For An Interpreter For Me?

The Bankruptcy Court has procedures for providing help to people who have hearing or other physical or communication disabilities as defined by the Americans with Disabilities Act. You may contact the Bankruptcy Clerk's Office at 720-904-7302 for assistance in this regard. If you need assistance for the Creditors Meeting you may contact the U.S. Trustee's Office at 303-312-7230.

If you need a language interpreter in Court, the Court may pay for this service, especially if the United States is a party in the case.

In all other circumstances, the Court doesn't have to pay for or provide an interpreter for you.

What If A Creditor Tries To Collect Money After I Get A Discharge?

Like most things in a complicated legal area like bankruptcy, what to do will depend upon the specific facts of your case. If you have questions, please feel free to give me a call at 719 227-8787, or send me an e-mail at Info@SpringsBankruptcy.com. You should first make sure that the creditor is aware that you have received a discharge by mailing a copy of the discharge order to them.

In general, if a creditor keeps trying to collect from you after you have given them notice of your discharge, you will probably need the assistance of an attorney to enforce your legal protections.

How Can I Get Another Copy Of My Discharge?

Contact your attorney. He or she should have a copy in your file. If you weren't represented by an attorney, you may mail a written request to the Clerk of the Bankruptcy Court including your name, case number and a stamped self-addressed envelope. You may also go to the Court's website to complete a form requesting that the Discharge Order be faxed or e-mailed to you. If you don't have a fax machine or e-mail, you may go to the Clerk's office with your name and case number.

How Many Years Will A Bankruptcy Show On My Credit Report?

The Fair Credit Reporting Act, 15 U.S.C. §1681, allows a bankruptcy to stay on your credit report for 10 years.

You might be able to get a free credit report at:

<http://www.annualcreditreport.com>

How Do I Get Errors Removed From My Credit Report?

The Fair Credit Reporting Act, 15 U.S.C. Section 1681, is a federal law that the credit reporting agencies are required to follow. If you think there might be an error on your credit report that you want to correct, you should contact the credit reporting agencies.

Also see “How to Dispute Credit Report Errors” at:

<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre21.htm>.

Also, see the Federal Trade Commission web pages on credit issues at:

<http://www.ftc.gov/bcp/menus/consumer/credit.shtm>.

Important Disclosure - READ THIS

Remember: Laws change relatively often. The facts of every case are different. The information in this book is meant to give you general information. You should not consider it to be legal advice. Feel free to contact me at 719 227-8787 for answers to your specific questions.

About the Author

I realize that "STUFF HAPPENS" - good, hardworking people get laid off, or divorced, or their company closes, or they get seriously hurt in an accident, or become sick and are no longer able to work, or they just get behind in their credit card bills, or their adjustable rate mortgage goes up and they are unable to make the higher monthly payments. These things are pretty common nowadays and people who would never have thought about filing for bankruptcy now find themselves in a position where their only viable alternative is to seek the protection of the Bankruptcy Court.

I believe that every client should be treated with courtesy and respect and I make no judgments as to how they got into their present situation. I guarantee each and every client that I will do my utmost to help them through this difficult time. I use cutting edge technologies that allow me to respond quickly, and provide the most efficient and effective representation under the bankruptcy law.

I am dedicated to achieving the best outcome for every client.

My office is a debt relief agency. I help people file for relief under the Bankruptcy Code.

Education:

University of Illinois – Chicago, B.A.
DePaul University College of Law, J.D.
National College of Advocacy, Advocate

Bar Admissions:

Supreme Court of Illinois, 1981
US District Court, ND Illinois, 1981
7th Cir. US Court of Appeals, 1983
US District Court, CD Illinois, 1991
Supreme Court of Colorado, 1997
US District Court, Colorado, 1998
United States Supreme Court, 2011

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