

**FAYE D. ENGLISH
CHAPTER 13 TRUSTEE**

INFORMATION PACKET

Welcome Plan Participant:

The Trustee has created an information packet for you to answer some general questions you may have regarding your Chapter 13 Bankruptcy case and to provide relevant information that you may use during the course of your case.

We hope you find this information helpful and a useful tool in achieving success in your bankruptcy case.

For case specific questions or legal advice, you will need to contact your attorney.

How do I make my plan payment?

We do not accept plan payments at the Trustee's physical office. All payments must be made electronically using TFS or can be mailed to our post office box at the address shown below. There is a link to TFS on the Trustee's website, on the NDC website and provided below. Any payment mailed to our post office box needs to be made payable to: **Faye D. English, Chapter 13 Trustee**. Be sure to include your name and case number on your check or money order. Please allow 5 business days for mailed payment to be received by the Trustee's bank lock box and credited to your case. Electronic payments will be credited the next business day.

Electronic payments:

<https://www.tfsbillpay.com>

Payment mailing address:

Faye D. English
Chapter 13 Trustee
P. O. Box 1718
Memphis, TN 38101-1718

What is the Trustee's address for sending letters and inquiries?

Mail any correspondence other than payments to:

Faye D. English
Chapter 13 Trustee
10 W. Broad St. Suite 1600
Columbus, Ohio 43215

When do I start making plan payments to the Trustee?

Plan payments must begin no later than 30 days after your case is filed with the Bankruptcy Court. Plan payments are due every month thereafter.

Why file Chapter 13 bankruptcy instead of Chapter 7 bankruptcy?

You and your attorney should have already discussed your various bankruptcy options before you chose to file a Chapter 13 case. You may have chosen to file a Chapter 13, rather than Chapter 7 liquidation, for several reasons:

You may have fallen behind on your payments on a secured debt, such as a house or car loan, and you want to keep the asset that is the collateral on the debt;

You may have assets that you own "free and clear" and you want to keep these assets rather than have them sold to pay creditors;

You may have debts, such as certain kinds of taxes and child support/alimony obligations, which cannot be discharged in a Chapter 7 case but may be paid over time in a Chapter 13 case;

Your income is such that you are not eligible to file a Chapter 7 bankruptcy;

You want to repay at least a portion of your debts over time; or

You may have already completed a Chapter 7 case and received a discharge, and as a result you may be ineligible to file another Chapter 7 case for a specific period of time.

What is Chapter 13?

Chapter 13 is a type of bankruptcy in which Debtors (individuals or a married couple) choose rather than having their non-exempt assets sold with the proceeds going to their creditors. As a Chapter 13 Debtor, you are required to make regular payments to the individual who serves as the Chapter 13 Trustee. The Chapter 13 Trustee is appointed by the United States Trustee and authorized by the Bankruptcy Code to administer your Chapter 13 plan. Your plan is the legal document that you filed with the Court setting forth how much you will repay each of your creditors.

When will creditors stop calling me?

In most instances, as soon as you filed your bankruptcy, a stay was imposed on all of your creditors. The stay prevents creditors from taking certain actions against you to collect the money you owe them. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although you may request the court to extend or impose a stay. Because of the stay, creditors may not call you, garnish wages (except for child support and alimony), continue foreclosure proceedings, or attempt to repossess property. If your creditors do not stop these actions, contact your attorney immediately. For debts that are disclosed as joint debts, the stay applies to the disclosed co-signers as well.

What is a discharge?

The ultimate goal in any bankruptcy should be to complete your payment obligations and receive a discharge. A discharge is an order issued by the Bankruptcy Court stating you have completed your obligations as a Chapter 13 Debtor and that certain debts you incurred before you filed your bankruptcy are forgiven. Once you receive a discharge, the individuals or companies to whom you owed money may not attempt to collect those debts from you again (except in certain circumstances, such as student loans, domestic support obligations, and certain kinds of taxes, which will be discussed later). In some instances, even if you complete your obligations as a Chapter 13 Debtor you will not be eligible to receive a discharge. Your attorney will be able to advise if you will or will not be eligible to receive a discharge upon completion of your bankruptcy.

What does the Chapter 13 Trustee do?

The Chapter 13 Trustee is the person who administers your Chapter 13 plan. The Chapter 13 Trustee has several responsibilities including reviewing your bankruptcy petition and schedules for completeness and accuracy, reviewing your proposed plan to make sure it complies with the bankruptcy laws, examining you at the Meeting of Creditors, essentially making sure your case is in order so she can recommend to the Bankruptcy Court that your Chapter 13 plan be confirmed. The Trustee also collects plan payments and makes distributions to creditors according to the terms of your bankruptcy plan as confirmed by the court. During the three-to-five-year term of your bankruptcy, the Trustee will provide you with periodic reports of your plan payments to the Trustee, the distributions the Trustee has made to creditors and the amount of funds, if any, in the possession of the Trustee. This type of information can be found on the NDC website as well.

The Trustee is also responsible for making sure that you comply with your plan after the Court confirms it. If you fall behind on your payments, the Trustee will likely be the person asking the Court to dismiss your case. The Trustee's responsibilities do not include reminding you of your payment obligations to the Trustee, making sure you are up to date on your house payments, or negotiating with creditors on your behalf. If a creditor contacts you, if one of your assets is repossessed or foreclosed upon, or if your mortgage company reports that you have fallen behind on payments, **contact your attorney**, not the Trustee.

The Trustee's office does not provide information to credit bureaus and will not become involved in any disputes you may have with credit bureaus. **The Trustee's office does not provide legal advice. If you have legal questions, you should contact your attorney.**

What is the Chapter 13 Plan?

When you filed your Chapter 13 petition, you were required to file a Chapter 13 plan. Simply put, this plan states how much you are to pay to the Chapter 13 Trustee and to certain secured creditors, and to whom the Chapter 13 Trustee is to make disbursements. Creditors that have claims based upon certain kinds of debts must be specifically named in your plan. These debts include mortgages, taxes, child support and/or alimony debts, and debts that are secured by personal property, such as a car, furniture or jewelry. If you are behind on your mortgage payments, your plan may provide for you to make up the delinquent payments. Your plan may also provide for you to make your on-going monthly mortgage payments to the Trustee who in turn will make your monthly payment to your mortgage creditor.

What kind of debts do I have?

Debts on which there is no collateral are sometimes called unsecured debts. These would include but are not limited to debts such as utilities, credit cards and medical bills. Each unsecured creditor is individually listed in the bankruptcy documents filed with the Court. In your plan, however, these creditors are not individually listed by name but instead are grouped together as unsecured creditors. These creditors are paid a percentage of the amount of their claim. If you are unsure if a debt is secured or unsecured, ask yourself this question: "If I don't pay this debt, is there something the creditor can take away or

repossess?" If the answer is "yes," the debt is probably a secured debt, and the creditor and the amount of the debt will have to be specifically provided for in your Chapter 13 plan.

In most circumstances, all unsecured creditors must be treated equally. There is no provision in the Bankruptcy Code allowing you to favor one creditor of the same type over another, nor is there any provision in the Bankruptcy Code allowing you to omit a creditor from your bankruptcy schedules, no matter how much or how little you owe that creditor. In order to ensure complete compliance with the Bankruptcy Code, you must tell your attorney about all of your debts. The decision as to which debts are to be paid through your Chapter 13 plan is not yours to make; in most cases, it is determined by the laws governing Chapter 13 bankruptcy.

I owe someone in my family money, what do I do?

If you owe money to a family member, you must treat this debt exactly as you treat your other debts. It is unfair for you to pay a family member back in full while other creditors only get a portion of the money you owe them. If you owe someone in your family money, you must inform your attorney. If it is later discovered that you owe money to a family member or if you repaid money to a family member within a certain period of time prior to the filing of your bankruptcy, and failed to disclose this information in the documents filed with the Court, you risk having your bankruptcy case dismissed. If your case is dismissed, then you will not receive a discharge, your debts will not be forgiven, and your creditors will be permitted to resume collecting the money you owe them.

What are my payment obligations to the Trustee?

Your Chapter 13 plan requires you to make regular monthly payments to the Chapter 13 Trustee. If you are employed, the Bankruptcy Court requires a wage order to be submitted to the court which orders your employer to withhold funds from your pay and to send these funds to the Chapter 13 Trustee. If you are worried that a wage order may cause you to lose your job or create other negative issues at your employment, the Trustee may permit you to make the monthly plan payment electronically through TFS. Speak to your attorney about obtaining such approval.

If you are self-employed, or if your income is from a source such as a pension or Social Security, you are required to send the money yourself to the Trustee on at least a monthly basis. You may be eligible to participate in the Trustee's automatic payment program which allows you to elect to have your plan payment deducted each month from your checking or savings account by TFS. Your attorney can help you set up this process.

How are my payments determined?

Under the bankruptcy law and local Administrative Order, the amount you are required to pay is based upon various factors including your monthly income, reasonable and allowed living expenses, the amount of equity you have in your property, and whether your ongoing monthly mortgage payments are being made through the Trustee.

What if my employer is not withholding or sending in my payments?

The Bankruptcy Code requires that plan payments to the Trustee start no later than 30 days after the filing of your case. If your employer is supposed to withhold money from your paycheck and send it to the Trustee but does not do so, it is your responsibility to make the plan payment to the Trustee and to contact your employer and/or attorney about your employer's handling of your wages. You cannot sit back and wait for your employer to start making payments. It is your responsibility to make certain that plan payments are made and that you are current in your monthly payment obligations to the Trustee. If your employer is withholding money from your paycheck but not sending the withheld funds to the Trustee, you will need to work with your attorney to resolve the issue with your employer. The Trustee does not send monthly statements, coupon books, or reminders. Failure to make payments to the Trustee is grounds for the dismissal of your Chapter 13 case. Plan payments can be monitored through the NDC's website.

What if I change jobs?

You should tell your attorney and the Trustee's office immediately if you change jobs. Your attorney should file the appropriate paperwork with the Court so your new employer will begin withholding your plan payments from your paychecks. Immediately letting your attorney know about your new job will help ensure that no interruption in payments occurs. By making sure payments are not interrupted, you may prevent your case from being dismissed due to a deficiency in funding your plan.

What if I get bonuses, a raise or earn other additional income during the case?

You will need to inform your attorney of any additional income you may receive during the course of your bankruptcy case. This includes bonuses at work, any raises at work or income from additional employment. You may be required to pay some or all of the additional money into the plan. Speak to your attorney before spending any bonus or other additional income.

Will the Trustee cost me anything?

Included in your payment to the Trustee is a fee for administering your case. This fee is a percentage of the money received by the Trustee during the term of your bankruptcy case. By law, this fee can be no more than 10%. During the life of your bankruptcy plan, the Trustee fee can change. The current Trustee fee is always posted on this website.

What is the Meeting of Creditors?

Approximately four (4) weeks after your Chapter 13 plan and schedules are filed with the Court; you are required to attend the Meeting of Creditors. If the case is a joint filing by a wife and a husband, both must

attend. Your attorney is required to appear with you. The Meeting of Creditors gives your creditors and the Trustee an opportunity to talk to you about your finances and plan for repaying creditors. The Trustee will also ask about assets you own, debts you owe, income you earn, and expenses you incur. If you own a business, Trustee will inquire about the operation of your business.

You will receive from the Bankruptcy Court, a notice in the mail detailing the time and location of your Meeting of Creditors. **This examination is recorded and conducted under oath and penalty of perjury.** You are required to answer each question accurately, truthfully and to the best of your ability. Your failure to appear at this meeting may result in the dismissal of your case. If circumstances will prevent you from attending this meeting, contact your attorney immediately. Work or family commitments are not satisfactory excuses for missing your scheduled hearing time.

What should I bring to this meeting?

You are required to bring the following items of identification to the Meeting of Creditors. If you do not bring these items of identification, the Trustee will not conduct the Meeting of Creditors:

A valid, unexpired photo ID (driver's license, state ID, employee ID, passport, etc.) If you are using employment identification, that employer must still employ you; and

Proof of your social security number.

Prior to the Meeting of Creditors, your attorney should have already filed with the Court or provided to the Trustee's office the following documents:

Recent pay stubs from the 60 days prior to the filing of your case. (Even if your spouse is not filing bankruptcy, recent pay stubs of the non-filing spouse also will be required.)

Your federal tax return for the most recent calendar year. (Even if your spouse is not filing bankruptcy, the recent federal tax return of the non-filing spouse also will be required)

Affidavit of Support if you are receiving regular financial assistance from a friend or family member, other than your spouse.

In addition, the Trustee may require additional documents be provided, such as savings, checking or brokerage account statements, verification of income and expenses, vehicle title or lease agreement, evidence of vehicle insurance, or business information. Failure to timely provide these items may prevent the Trustee from conducting a proper analysis of your current financial situation and proposed bankruptcy plan; and may result in the Trustee asking the Bankruptcy Court to dismiss your Chapter 13 case.

What about my house payments?

If you have a home mortgage and have any mortgage arrears, the on-going monthly mortgage payments will be included in the plan payment you make to the Trustee.

If the court allows you to exclude mortgage payments from the bankruptcy plan because you are current, you are responsible for making the regular on-going monthly mortgage payments directly to the mortgage company during your bankruptcy case. Your mortgage payment due date will almost certainly be the

same as it was before you filed bankruptcy. If the mortgage lender has stopped accepting your payments, you or your attorney may have to call your mortgage lender to arrange for the lender to start accepting payments. You cannot sit back and wait for your lender to contact you about starting your payments. Keep track of all of your cancelled checks, money order receipts, etc. so that, if necessary, you can prove that you have properly tendered your mortgage payments.

What about my car payments?

If you have a car loan or lease, your plan will provide for the Trustee to make payments to the creditor. Your plan may also provide for the Trustee to make pre-confirmation adequate protection payments which may be required to be paid to the creditor. These adequate protection payments are monthly payments to the creditor occurring after the filing of your case but before the Court confirms your bankruptcy plan.

May I borrow money while in Chapter 13?

The Bankruptcy Code, your bankruptcy plan and the Court order confirming your Chapter 13 plan all prohibit you from borrowing any non-emergency consumer debt in excess of \$1,000 without the permission of the Bankruptcy Court or Trustee. To obtain permission to borrow money from the Court, your attorney must provide the necessary documents to the Trustee and possibly request a hearing before the judge.

If you must borrow money, contact your attorney before signing any loan papers. Be warned! Some lenders attempt to take advantage of bankruptcy debtors by charging very high interest rates and/or closing costs and other fees.

May I sell any assets while in a Chapter 13?

You may not sell any asset during your bankruptcy case without the permission of the Court. There are many necessary steps in the process to be able to sell an asset. If you want to attempt to sell an asset during your bankruptcy case, contact your attorney before going forward with any transaction.

What are some common actions that require the permission or approval of the Court or the Trustee include?

Selling your house

Refinancing your mortgage, even if you get no money from the transaction

Borrowing money and using your house as collateral

Financing home improvements

Financing the purchase or lease of a car

Borrowing money from your employer or from a credit union

Borrowing money against a 401(k) plan

Borrowing money from family or friends

Co-signing a loan for anyone

Taking out a student loan – this includes parent plus loans or other loans for your children’s schooling

Using a credit card

Using a payroll advance service such as CheckSmart or Check Into Cash

Lease and rent-to-own agreements.

You should always contact your attorney before completing any of the above transactions.

What if I have a student loan?

Student loans are generally unsecured debts, and they are not treated any differently from other unsecured creditors during the term of your plan. However, unlike other unsecured debt that is unpaid in a plan with less than 100% repayment, the remainder of the student loan debt is usually not forgiven when the discharge is granted upon completion of your plan. This means that you will be responsible for any part of your student loan that is not paid through the Chapter 13 plan. For example, if your plan calls for a payment of 75% of the amount owed to your unsecured creditors, your student loan will also be paid 75% through the Chapter 13 plan. When your Chapter 13 plan is over, you will still be responsible for the 25% of your student loan that was not paid through your Chapter 13 plan, plus accrued interest.

If you are or wish to be in an income-driven repayment plan or deferral program, speak to your attorney about your options.

What if I owe alimony or child support?

As a precondition to receiving a bankruptcy discharge you must certify to the court at the time you complete your plan that you have paid in full all domestic support obligations that were due since the time you filed your case.

May I keep making contributions to my retirement plan? May I keep making payments on my retirement loan?

You will probably be allowed to keep making contributions to your retirement plan whether the contributions are voluntary or mandatory (PERS, STRS, etc.) but the amount of the contribution will be reviewed and will need to be supported by documentation such as pay stubs disclosing the contribution.

Repayments on retirement plan loans will likely be allowed to continue. Not repaying a retirement plan loan may have tax implications for you. You should talk to your attorney about the tax implications of not repaying a loan from your retirement account.

Once the retirement plan loan is repaid, your bankruptcy plan payment to the Trustee will need to be increased by the amount you were using to repay your retirement plan loan.

What about my income taxes?

Before the Trustee will recommend approval of your plan you must have filed all applicable federal, state and local tax returns for all taxable periods in the four years prior to your filing your bankruptcy case. If you have not filed a tax return for several years, or if you have a tax return for a particular year that has not been filed, you should inform your lawyer. You will have to file with the taxing authorities all delinquent tax returns before the Court will approve your Chapter 13 plan. The IRS is authorized to estimate how much you owe if you have not filed a tax return for a particular year. In almost all cases, the IRS estimate is considerably higher than the amount you would owe if you had filed the return, so you may save money over the long run by filing your delinquent tax returns. In addition, you may stop certain penalties from accruing when you file delinquent tax returns.

Even if all your returns have been filed, you should be prepared to turn over your federal tax return for the most recent tax year to your lawyer so that the return can be delivered to the Trustee. During the term of your Chapter 13 case, you are responsible for continuing to file your federal, state and local tax returns and to pay taxes in a timely manner and provide a copy of your federal tax return to the Trustee each year you are in your bankruptcy. If you fail to file returns and/or pay your taxes, the IRS and other governmental agencies may file claims in your Chapter 13 case, which would disrupt the payments to your other creditors, make your plan run longer than you planned, and may prompt the Trustee or one of your creditors to seek dismissal of your case.

What do I do if I am to receive a tax refund?

If you are to receive a tax refund, you will need to speak with your attorney before you use any of your tax refund. You may be required to contribute a portion of the tax refund to the plan. Whether you are required to contribute any portion of the tax refund to the plan will be determined by the Trustee's office after a review of a provided tax return.

To access a list of frequently asked questions, go to www.ch13columbus.com and click on the Tax Return Information Tab.

How do I fulfill the requirement to attend a personal financial management course?

All Chapter 13 Debtors must complete a personal financial management course. This course is in addition to the required credit counselling briefing you were required to complete prior to filing your bankruptcy. Your attorney should be able to provide you with the information you will need to attend and complete

this course requirement. If you do not complete the personal financial management course you will not receive a discharge from the Bankruptcy Court even though you may have made all required plan payments to the Trustee. The Trustee offers a free course on-line through the Trustees' Education Network (TEN).

To access TEN:

www.13class.com

How can I keep track of my Chapter 13 case?

You may access your case information by using the NDC website.

Approximately 120 days after the Meeting of Creditors, the Trustee will send you a Notice of Intention to Pay Claims. This notice lists each creditor that is either listed on your bankruptcy schedules or has filed a proof of claim; and also shows the amount of the claim and whether the claim is either priority, secured or unsecured. You should review this notice carefully and contact your attorney if you have any questions or concerns.

What do I do if I move?

If you have moved, it is your responsibility to notify your attorney of any change in address. Failure to do so may result in a delay in your receiving important notices, documents and other information concerning your case.

What happens when my case is over?

When you make your last payment to the Trustee, the Trustee will start the process of closing your case. Upon receipt of your last payment, the Trustee will make sure all claims have been paid as provided for in the plan. Once the Trustee is satisfied that your plan has been completed and that relevant provisions of the Bankruptcy Code have been complied with, your case will be closed and the final report will be issued. The Trustee will then notify your employer to stop making payments. Once the Trustee informs the court that your case has been completed, it is the Bankruptcy Court, not the Trustee, who will determine if a discharge may be issued. It may take up to 90 days or longer from the time your final payment is received by the Trustee until the court determines if a discharge may be issued. If you have paid money to the Trustee in excess of the amount needed to complete your plan, the excess funds will be returned to you after your case is closed to the address on record at the Trustee's office. If you have moved and the refund check is returned to the Trustee's office due to no forwarding address, the funds will be deposited with the Bankruptcy Court.

Once your case is completed, you are responsible for making the on-going mortgage payments that were being paid by the Trustee. The Trustee will notify you in advance of the completion of your case so that you may make arrangements for your resumption of your monthly mortgage payments.

If you have any other questions or concerns regarding your case, please contact your attorney.