

OFFICE OF THE CHAPTER 13 TRUSTEE

DEBTOR ORIENTATION HANDBOOK



"Striving for Financial Stability through Education"

FAYE D. ENGLISH

STANDING CHAPTER 13 TRUSTEE

Revised 12/9/2020

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MISSION STATEMENT:

The Mission of Debtor Orientation is to educate debtors about the Chapter 13 process and the protections afforded them under the Bankruptcy Code.

KEY TO UNDERSTANDING THE CHAPTER 13 WEBSITE

In order to access the website, please go to www.ch13columbus.com.

Click on Chapter 13 Inquiry to access case information.

Enter User Id and Password and click “Submit.”

The User ID is your seven digit case number without dashes.

The Password is the last four digits of either debtor’s social security number.

The first page is the “Profile” page. This page gives you general information about your case, such as attorney of record, date case was filed, hearing dates, the percentage to unsecured creditors, etc.

The second page is the “Parties” page. This page lists all names and addresses associated with the case including debtor, attorney, employers, and creditors.

The third page is the “Pay Schedules” page. This page shows the plan payment schedule during the life of your case and how the payments are being made (employer deduction, direct, etc.)

The fourth page is the “Payees” page. This page lists all the creditors to be paid through your plan including the claim amounts, total paid to date, and balance due to each creditor.

The fifth page is the “Financials” page. Under the Financial Summary you will see six options. If you would like to view the payments the Trustee has received from you, click “Receipts.” To view the disbursements to your creditors, click “Disbursements.” You may choose to view payments to all creditors, or you may click on the drop down arrow next to “Select Payee Name” and choose from a list of specific creditors in order to see only one creditor’s disbursement history. You can click the print option at any time (to the right of the screen.)

If you would like to know the *approximate* payoff calculation of the plan, go to the “Profile” page. On the right of the page you will see, in green, “Case Options: Case Payout.” Click “Go.” Here you will see an approximate payoff calculation, approximate months remaining in the plan, dividend to unsecured creditors, and total amount you have paid to the plan. Keep in mind that applicable commitment period must be met; the web payoff calculation amount is only a projected amount based on claims as filed.

For further assistance with the website, please send an email to:
vikki.smith@ch13columbus.com

MY CHAPTER 13 CASE

MY NAME _____
MY CASE NUMBER _____
MY ATTORNEY _____
MY ATTORNEY'S PHONENUMBER _____

CHAPTER 13 TRUSTEE
(614) 420-2555
One Columbus
10 West Broad Street, Suite 1600
Columbus, OH 43215-3419
www.ch13columbus.com

TRUSTEE CONTACT LIST:

POST-CONFIRMATION AND CASE CLOSING

Shannon Cherry **Supervisor** shannon.cherry@ch13columbus.com
Ext 1605

Michelle Frey **Case Administrator** michelle.frey@ch13columbus.com
Ext 1626
 Case Numbers ending in 00-24

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FINANCIAL/ACCOUNTING

Tim Adams **Comptroller** tim.adams@ch13columbus.com
Ext 1604

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Ext 1639

YOU MAY ACCESS YOUR CASE INFORMATION ON THE TRUSTEE'S WEBSITE AT
www.13network.com

IT DEPARTMENT
Vikki Smith **Computer Systems Analyst** vikki.smith@ch13columbus.com
Ext 1617

Chapter 13 FAQs (Frequently Asked Questions)

Who is my Trustee and how do I contact her office?

Faye D. English is one of the Standing Chapter 13 Trustees in the Southern District of Ohio, Eastern Division. Due to her very hectic schedule, she is unable to personally assist you. However, her professional staff is at your disposal to answer any procedural questions concerning your plan. You can reach our office at (614) 420-2555 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

After your plan is confirmed, you will be assigned to a case administrator according to the last digit in your case number. If your case administrator is unavailable when you call, use the voice mail system to leave a message. When doing so, please speak slowly and clearly state the nature of your call, your case number, your phone number and the best time to reach you. Extensions and email addresses are available at www.ch13columbus.com.

If you have a need to come into the office, please telephone before visiting the office to make an appointment. By making an appointment, you are assured that the appropriate staff member will be present and that you will not have to wait. This also allows the staff member time to review your file.

How will I make my payments into the plan ?

The most common method of payment and the method usually required by this office is payroll deduction. Your employer will be sent a wage order which will begin the process. PLEASE NOTE that this often takes some time to take effect. Until such deductions begin, **YOU** are responsible for mailing payments to the address listed below or you may pay online by visiting our website www.ch13columbus.com.

In rare circumstances, debtors are allowed to make direct plan payments throughout their plan. Whether making short-term or long-term direct payments, the following procedures are required:

- Payments must be in the form of a Cashier's Check or Money Order. *No personal checks can be accepted until after your case is confirmed. Cash is never accepted.*
- Payments must clearly show your name and case number.
- All payments must be mailed to the Trustee's bank lockbox. No payments will be accepted at the Trustee's Office.
- Payments must be made out to: **Faye D. English, Trustee**
Payments are to be mailed to: **Faye D. English, Chapter 13 Trustee**
P.O. Box 1718
Memphis TN 38101-1718

This is a special lockbox address for payments only. Payments sent to any other address will result in serious delays and possible dismissal of your case.

If you are ever in a position where you are unable to make your plan payments, please notify the Trustee's office and your attorney immediately.

What is a wage deduction?

A wage deduction is simply a way to more easily fund the plan you voluntarily filed. A **Wage Deduction Order**, signed by the Bankruptcy Judge, will be issued to your employer. Your employer will then make your plan payments for you by deducting the total monthly payment from your pay and sending that money to the Trustee's lockbox. (This money will be deducted in equal installments determined by the frequency of your pay, not in one lump sum.) Both you and your employer should understand that this order **IS NOT** an attachment or garnishment.

It is essential for **YOU** to make direct payments to the Trustee's lockbox until you actually see the plan payments being deducted from your pay check.

The Court has exclusive jurisdiction over your wages and property during your plan. Should any employer treat such an order as an attachment, you should advise the Trustee's office. The Trustee will assist the employer in understanding that you are making an effort to voluntarily pay your debts rather than not pay them. We usually find that employers, after an explanation, understand and think more highly of an employee for trying to pay their bills.

How do I calculate the amount of money that will be deducted from each pay?

The following table can be used to calculate the amount of monies that will be deducted from your pay. It is important to note that deductions will always be taken in equal installments from EACH PAYCHECK, never in one lump sum.

IF YOU ARE TO PAY BI-WEEKLY:

Multiply the amount of your monthly payment times 12 months per year. Then divide the total by 26 payments per year. This will equal your bi-weekly payment.

FOR EXAMPLE: If your monthly payment is \$800.00, multiply that payment times 12 months ($\$800.00 \times 12 = \9600.00) and then divide the total amount by 26 payments per year ($\$9600.00 \div 26 = \369.23). Your bi-weekly payments are \$369.23.

IF YOU ARE TO PAY SEMI-MONTHLY:

Multiply the amount of your monthly payment times 12 months per year. Then divide the total by 24 payments per year. This will equal your semi-monthly payment

FOR EXAMPLE: If your monthly payments are \$800.00, multiply that payment times 12 months ($\$800.00 \times 12 = \9600.00) and then divide the total amount by 12 payments per year ($\$9600.00 \div 12 = \800.00). Your semi-monthly payments are \$400.00.

IF YOU ARE TO PAY WEEKLY:

Multiply the amount of your monthly payment times 12 months per year. Then divide the total by 52 pay periods. This will equal your weekly payment.

FOR EXAMPLE: If your monthly payment is \$800.00, multiply that payment times 12 months ($\$800.00 \times 12 = \9600.00) and then divide the total amount by 52 payments per year ($\$9600.00 \div 52 = \184.61). Your weekly payment is \$184.61.

When is my first payment due and when are all subsequent payments due?

Your first payment is due 30 days from the filing date of your petition. Your next payment is due 30 days afterwards. For example, if your petition date is Nov. 3rd, your first full payment is DUE on or before Dec, 3rd and subsequent payments are due every 30 days thereafter. Remember that these are the DUE dates. You need to mail your payments 5 or 6 days in advance of this date in order to allow time for your payment to reach the Trustee's lockbox.

The Trustee's Office highly recommends that you begin making your next month's payment on the next day you are paid. It can be difficult to come up with the entire payment a few days before it is due. It is much easier to pay a portion of that payment each time you receive a paycheck.

What if I have a problem with my employer because of filing a chapter 13 plan?

Occasionally, we find situations in which a credit union or company representative exerts some form of pressure on an employee who owes them money to the extent that the employee feels his/her job may be in jeopardy due to the filing of a Chapter 13 Plan. Such tactics are illegal in that they are an attempt to obtain creditor preference. Any such actions need to be immediately reported to your attorney or to the Trustee's Office.

Most employers are very cooperative in assisting with payroll deductions for employees involved in the Chapter 13 Plans. If your employer has any questions or concerns with regard to the wage deduction, advise the Trustee's office, and we will contact your employer.

What happens if I change jobs?

If you change jobs, notify your attorney and the Trustee's office **immediately** especially if your plan payment is being paid through a payroll deduction. This notification must be

made in writing. A new wage deduction order must be prepared for your new employer. Remember that you are responsible for making direct payments to the Trustee's lockbox if there is a delay between the time the payments through your old employer cease and payments through your new employer begin.

Do you need to know if I move?

YES. The Trustee must have your current address at all times in order to mail important documents to you throughout the life of your plan. Any time you change your address, you must notify the Trustee's office and your attorney **in writing**, not by phone. Also, your attorney will need to file a notice with the Court of your new address. (Change of address form can be found on our website at www.ch13columbus.com) All correspondence should be mailed to our physical address at:

Chapter 13 Trustee Office
One Columbus
10 West Broad St., Suite 1600
Columbus, Ohio 43215-3419

This address is for correspondence only. Never send a payment to the physical address.

What if I have legal questions?

The Trustee and her staff **cannot** give legal advice. Any and all legal questions concerning your case, a creditor, your rights, your options, or changes in your situation should be directed to your attorney. Your attorney must continue to represent you as long as your case is active or until the Judge permits him or her to withdraw from your case. In most cases, your attorney's legal fees will be paid through your plan payments.

How long will my plan last?

The Bankruptcy Code requires debtors to remain in the plan for the "applicable commitment period" which is determined by your household size and income. If you are an above median income debtor, your plan must last sixty months. If you are a below median income debtor, your plan must last at least thirty-six months.

No plan is allowed to exceed sixty months. If this situation occurs, the Trustee may file a Motion to Dismiss. Both you and your attorney will receive a copy of that motion. **READ ALL YOUR MAIL.** Any failure to respond to that motion will result in the dismissal of your case.

Questions regarding accelerated payments should be directed to your attorney.

****TIP:** Open any mail you receive from the Trustee's Office on the day that you receive it.

Will my creditors continue to call?

Creditors listed in your Chapter 13 Plan were sent a notice advising them of the filing of your plan. They are subject to an Automatic Stay Order that prohibits them from contacting you. In the event that you are contacted, do not discuss the debt with them, but instead, give them your Chapter 13 case number and the name of your Trustee and attorney. Get the name of the person or company contacting you and report it to your attorney immediately.

It is important to note that an automatic stay does not prohibit contact initiated by you. You might need to contact a creditor to obtain information on interest paid on a particular debt. This would most likely be needed for filing your tax returns. You might also want to contact **MORTGAGE HOLDERS** at the beginning of your case and on a **YEARLY** basis to determine that the monthly payments and escrow balances are correct. This is important to ensure that when you complete your Chapter 13 plan you will be current as to the mortgage payments and escrow account.

What if I forgot to list a creditor?

Creditors not listed when you filed your case may cause problems. There are two kinds of unlisted creditors. The first type is a creditor to whom you owed money when you first filed your plan and whom you forgot to list ("pre-petition creditors"). It may be wise to obtain your credit report to make sure there are no debts that you may have forgotten. If there are, contact your attorney to have those creditors added to your plan right away.

The second type of creditor is one whose debt was incurred **AFTER** you filed the plan ("post-petition creditors"). Post-petition creditors are rare. Your attorney explained to you that credit is generally not allowed while you are in a Chapter 13 plan. However, medical expenses and repair bills cannot always be avoided. You need to pay these bills directly as they cannot normally be added to your plan.

If there are unusual circumstances, you should contact your attorney. Under certain circumstances, taxes and debts necessary for the success of your plan may be added later and paid through the plan. Contact your attorney if you think that you have incurred such a debt. You cannot miss a Chapter 13 payment so that you can pay "new debts."

How will my creditors be paid?

Payments to the Trustee are used to pay your attorney, Trustee fees and your creditors. Creditors fall into three basic categories: secured, priority and unsecured. Generally, the Trustee makes monthly payments to the secured and priority creditors first. After these creditors are paid in full, your payments are then divided among unsecured creditors. Unsecured creditors may not receive payments for many months or even years.

As noted, your creditors cannot deal directly with you. Likewise, you cannot deal directly with them. You cannot favor one creditor over another or make payments "on the side." All

creditors scheduled in your plan must be paid through the plan, under the terms of the law and not because of personal preference.

Why do creditors have to file a Proof of Claim with the Court?

In order to be paid, each creditor must file a proof of claim after receiving notice of your Chapter 13 filing. Most creditors are allowed 70 days from the date of the first meeting of creditors (§341 meeting) to file their claims. Governmental agencies have 180 days from the filing date of your petition to file a claim. If they fail to do so, they most likely will not receive payments in the plan.

Six to eight months after confirmation, you will receive a document called the Notice of Intention to Pay Claims. This document lists all of the creditors in your plan and discloses whether or not a claim has been filed. Carefully check the listing for accuracy. ***CONTACT YOUR ATTORNEY IF ANY OF THE CREDITORS OR AMOUNTS APPEAR INACCURATE.***

The Notice of Intention to Pay Claims has a 21 day period from the date of service by the Trustee, during which objections can be filed by you or by creditors. With exception, if there are no objections, the case becomes final and binding, paying only those creditors who have filed claims.

If there is a creditor you want paid through your plan and that creditor has not filed a claim, contact your attorney promptly about filing a claim for the creditor. Remember that this includes all relatives and friends to whom you owe money.

How will my house payment be handled?

If you were behind in your mortgage payments at the time you filed your bankruptcy, your mortgage payments must be made **via conduit** through the Trustee's Office. This means that you will include your mortgage payment amount in the monthly plan payment you send to our office and that our office will then make the payment to your mortgage holder. All arrearages, up to the date of filing, are included as a secured debt also to be paid through the plan.

If **no** mortgage delinquency existed at the time you filed your petition, you have the option of making your payments directly to your mortgage holder. If you choose to exercise this option, **you** are responsible for making your regular monthly payments to the mortgage company. It is **vital** that you do so in a timely manner. If something unforeseen happens and you are unable to make a payment, contact your attorney immediately.

Whether your mortgage payment is paid via conduit (through the Trustee's office) or by you directly, **you must maintain insurance on your home** if it is not included in your mortgage payment. If you are making your mortgage payments directly, please note that failure to make those payments on time could result in losing your home to foreclosure.

Please be advised that if your mortgage payments are being made via conduit, you will resume making direct monthly mortgage payments after your plan is completed.

*****TIP:** Many insurance companies give a lower rate if you have both your homeowners insurance and your car insurance with the same company.

Is my car payment included in my plan?

Almost without exception, your vehicle(s) will be included in your plan. Depending on the purchase date, your vehicle will be valued in one of two ways:

- 1) You will be required to pay the full amount you owe on your vehicle.
- 2) A fair “value” will be assigned to the vehicle and that amount will be considered a secured debt. Interest will be paid only on the secured portion of the debt as per the plan.

Regardless of valuation, it is extremely important for you to maintain insurance on your vehicle.

Please note that the Trustee’s office does not hold titles to any vehicles. If you have any problem obtaining a car title after your vehicle has been paid through the plan, you need to contact your attorney.

How will the IRS view my Chapter 13 plan?

If you owed the IRS a debt prior to the filing date of your petition, that debt must be paid through the plan and is classified as either secured, priority or unsecured depending upon the circumstances. (Check with your attorney as to the classification that applies to your particular debt.)

While in the plan, you must file your tax returns in a timely manner each year. If you have an IRS debt in the plan and are owed a refund for the current filing period, you **MIGHT NOT** receive a refund. That amount may be retained by the IRS and credited to your IRS debt. If so, the IRS should file an amended proof of claim to adjust the balance due.

If you do not owe the IRS in the plan, you are current in your plan payments to the Trustee’s office and you are due a refund, you might receive at least part of that refund. If so, the refund will be sent to you, not to the Trustee. You may not, however, be eligible for an electronic refund. Because of your Chapter 13 status, the Special Procedures Department handles all your transactions, causing any refunds to be delayed by several weeks.

Any post-petition taxes owed to the IRS **must be paid** directly by you. Failure to do so could lead to the dismissal of your case. The number for the IRS Insolvency Department is (513) 263-3216.

TIP: Talk to your attorney about the number of exemptions you claim on your tax returns. You might want to consider claiming the maximum number allowed in order to more amply fund your budget.

Will my co-signers be protected by my Chapter 13 plan?

A co-signer, co-maker or guarantor (co-debtor) on any of your personal debts is generally protected by a “co-debtor stay” which protects them from your creditors. If that person has given collateral for the loan, the creditor must request the court for relief from the automatic stay in order to proceed against the property. The co-debtor stay will only provide protection for the amount of the debt your plan proposes to pay. If your plan is not scheduled to pay the co-signed debt in full, a creditor may obtain permission to collect the unpaid portion of the debt from your co-signer, co-maker or guarantor. Your discharge on a debt is personal to you and does not necessarily affect a co-signer’s obligations.

If you have any questions about whether or not any co-signer on a debt is protected under the terms of your plan, make sure you talk to your attorney about their treatment in the plan.

What about credit use while I’m in the plan?

Any use of credit or charge cards or entering into a loan agreement of any kind is prohibited by the Court.

In emergency circumstances or if a unique need for credit use arises, contact your attorney to submit an Application to Incur Debt which the Trustee will take into consideration. This includes refinancing and student loans. The Trustee will decide if the request has merit and is affordable. Pursuing credit without the Trustee’s permission may jeopardize your Chapter 13 case and could lead to dismissal.

May I buy any property while I’m in the plan?

All of your disposable income is considered part of your bankruptcy estate and must be committed to the plan for the applicable commitment period. You cannot buy any major purchase (anything over \$1,000.00) without first obtaining the Trustee’s permission. Your attorney must submit the appropriate paperwork asking the Trustee to consider your request.

May I sell any of my property while I’m in the plan?

All of your property is considered part of your bankruptcy estate. You cannot sell any major part of that estate (anything over \$1,000.00), including, but not limited to, your home, car, land, fine art or jewelry without the permission of the Court. Your attorney must submit the appropriate paper work asking the Court to consider your request to sell property.

May I continue making contributions to my 401(k)?

Yes, contributions to most mandatory and voluntary retirement programs are allowed. It is also permissible to repay loans from your retirement account.

If you have any questions, please talk to your attorney.

What does it mean to have my case dismissed?

A case may be dismissed either voluntarily, meaning that you decide to stop your participation in the plan, or involuntarily, meaning the Court has terminated your plan usually because of failure to maintain timely payments. You usually have the right to exercise a voluntary dismissal at any time by filing paperwork with the Court.

Fixed and timely Chapter 13 plan payments are a requirement of the Court and it is your responsibility to maintain those payments. A deficiency in plan payments could result in the involuntary dismissal of your case. Either the Trustee or a creditor may file a Motion to Dismiss with the Court and you and your attorney will be notified of the action.

If your income is reduced, hindering your ability to continue in the plan, ***contact your attorney immediately***. He or she may be able to modify your plan. The Trustee's office has no authority to let you miss a payment or to allow you to pay less than the required amount. Only the Court can do so in response to a motion filed by your attorney. If your attorney files such a motion, do not stop making your payments until you receive a signed order from the court allowing you to do so. Be aware that this could take up to 30 days.

In the event of a dismissal, either voluntary or involuntary, **all creditor stays will be lifted and creditors can resume recovery procedures** on accounts and may add any interest and penalties that were waived under your Chapter 13 plan.

IT IS IMPORTANT FOR YOU TO IMMEDIATELY OPEN ANY MAIL YOU RECEIVE FROM YOUR ATTORNEY, THE COURT, OR THE TRUSTEE'S OFFICE.

What happens when I complete my plan?

When the Trustee and the Court have verified that all your creditors have been paid as confirmed in the plan, the Trustee will notify your employer to stop the payroll deduction. The Trustee compiles a list of completed cases once a month. Every effort is made to stop the deductions promptly. If, however, an unnecessary deduction is taken, it will be refunded to you as soon as possible. Any overpayment on your case will be released after your case is discharged. Any final refunds will be issued approximately thirty-five (35) days after you receive your **CERTIFICATION OF FINAL PAYMENT AND CASE HISTORY**.

A CERTIFICATION OF FINAL PAYMENT AND CASE HISTORY must be submitted to the Court for auditing before your case can be closed. Auditing usually takes four to six weeks. You will receive a copy itemizing all money transactions, receipts, claims filed, and amounts of disbursements. You will receive an order of discharge from the Bankruptcy Clerk and a copy of your final report. Your creditors will receive a notice that the final report was filed. These are very important documents that you should keep in a safe place indefinitely.

What happens to any debts that are not paid in full?

If your unsecured creditors did not receive the entire amount originally owed to them, most of the remaining balances will be “discharged” or legally forgiven upon the completion of your plan. Creditors cannot resume collection activity on these debts. However, there may be unique debts contained in your plan that cannot be discharged including student loans, child support obligations and fines created as a result of your causing injury while under the influence of drugs or alcohol. You will be responsible for any balances due on debts of these types after the completion of your plan. Consult with your attorney if you have a specific question about a particular debt.

What about debts paid in full after completion of the plan?

When a creditor has been paid in full through the plan, the creditor may, upon your request, send the “paid in full” papers to you. Court records will officially show your plan was paid in full according to its terms and will overrule any claim the creditor might make for additional money from you. Should you receive a request for additional money after your plan completes, review the matter with your attorney.

How long will my bankruptcy filing be reflected in my credit report?

If you successfully complete your Chapter 13 bankruptcy and receive a discharge, the fact that you filed will be reflected on your credit report for 7 years from the filing date of the petition. If your case is dismissed or converted to another chapter of bankruptcy, it will usually remain on your credit report for ten years.

NOTES:

Glossary

341 Meeting- Also called a Meeting of Creditors. This is a tape- recorded meeting between the debtor, the trustee, the debtor's attorney, and creditors at which the debtor is questioned under oath about the debtor's assets, liabilities, income, expenses, and the debtor's proposed repayment plan. Debtors are required by law to attend. They must provide a picture I.D. and social security number, usually a driver's license, before the hearing can take place. They may also be required to bring certain other information or documents. If so, they will be advised by their attorney.

Adversary Proceeding- A separate lawsuit filed in the bankruptcy court concerning a dispute which arises in or is related to the bankruptcy case and involves opposing parties. A debtor who is served with an adversary complaint should immediately contact his or her attorney. A written answer (a legal document) must be filed promptly and served on the parties to the adversary proceeding to avoid a default judgment.

Appeal- A request to a higher court to review a decision of the bankruptcy court. A notice of appeal (a legal document) must be filed shortly after entry of a final order or judgment.

Assets- Real or personal property such as land, houses, vehicles, furniture, clothes, bank accounts, retirement accounts, tax refunds, claims against others, etc.

Automatic Stay- An automatic court order requiring the halt of all collection activity on pre-bankruptcy debts. The automatic stay goes into effect upon the filing of the case.

Bankruptcy Estate- In Chapter 13, all assets belonging to the debtor at the time the bankruptcy petition is filed along with income the debtor earns after filing the petition. (A spouse's income or property may be part of the bankruptcy estate, and some property, such as inheritances, divorce settlements and life insurance due within 180 days of the petition date may also be part of the bankruptcy estate.)

Bar Date- Deadline for an unsecured creditor to timely file a claim for payment from the bankruptcy estate. It is 90 days after the first date set for the meeting of creditors. Governmental units such as the IRS have 180 days from the petition date to file a claim. The debtor has 30 days longer to file a claim for a creditor that has not filed a claim.

Base Plan- A Chapter 13 Plan in which the dividend to unsecured creditors is less than 100%.

Chapter 7- This chapter of the Bankruptcy Code permits debtors to request a discharge for a surrender of or sale of all debtors' non-exempt assets. A trustee is appointed to collect and sell all the debtors' non-exempt assets and distribute the net proceeds to creditors. The Chapter 7 discharge is more limited than the Chapter 13 discharge.

Chapter 11- This chapter permits a business or corporate debtor to reorganize and restructure their debts. This chapter may be used by an individual debtor.

Chapter 12- This chapter may be used by family farmers to reorganize and restructure their debts.

Chapter 13- Chapter 13 allows an individual debtor (and spouse) to propose a plan to pay creditors. Unless it proposes to pay 100%, a plan must last at least 36 months and may be no longer than five years. The percentage of payback may range from 0% to 100%. An individual is not eligible to file a Chapter 13 case if they have unsecured debts of more than \$394,725.00 or secured debts of more than \$1,184,200.00. (These limits adjust every three years.)

the same consumer debt along with the debtor. Joint cardholders or co-signers of a debt are protected by the co-debtor stay, but only to the extent the debtor's plan proposes to repay the debt, including interest at the contracted rate. In order to protect the co-debtor, the co-signed debt must be paid in full at the contract rate of interest. This co-debtor protection is available only in Chapter 13 cases.

Collateral- Property pledged as security for the payment of a debt.

Exemptions- Certain property belonging to a debtor not counted as part of the bankruptcy estate. Under the Bankruptcy Code, the debtor is allowed to keep certain property in order to have a "fresh start." Each state is allowed to create its own exemptions. In some states, the debtor may have the option to choose which exemptions will be followed, either the exemptions designated by the state in which the debtor resides or the federal exemptions set forth in the Bankruptcy Code. An exemption usually does not affect an agreed to lien. So, even though a debtor's house or car may be exempt, unless the lien is legally voided by the court, the debtor still must pay any debt secured by such lien in order to keep the property.

Fair Market Value- The price at which a seller is ready and willing to sell and a buyer is ready and willing to buy on the open market and in a transaction where the parties are not related or not on close terms and have roughly equal bargaining power.

Feasibility- Likelihood that all payments due under a debtor's Chapter 13 plan will be paid. It is a requirement for court approval (confirmation) of a plan.

Foreclosure- Takes away the debtor's ownership rights in pledged or mortgaged property through legal action which produces money to pay on the debt secured by the mortgage.

Fraud- A false statement of an important fact intentionally made by a debtor to a creditor who justifiably relies on the statement and is harmed as a result.

Guarantor- Person who promises to repay a debt made by another.

Insolvency- The inability of the debtor to pay current bills as they become due or when a debtor's liabilities exceed the value of the debtor's assets.

Interrogatories- Written questions that must by law be answered in writing under oath. The answers can be used as evidence later in court. A fine may be charged by a court for willfully refusing to answer timely.

Involuntary Chapter 7- A liquidation bankruptcy case filed by creditors against a debtor.

Joint Bankruptcy- A single bankruptcy case filed by a married couple.

Jurisdiction- Geographical region where a court is located. Also refers to power of the court to issue legally binding orders.

Liability- A debt.

Lien- A creditor's right to property of a debtor. i.e. Mortgage or security interest.

Liquidation- Selling assets for cash to use to pay creditors.

Luxuries- Items of property that provide pleasure or comfort but are not reasonably necessary to support a debtor and a debtor's dependents.

Matrix- List of names and addresses of each creditor arranged in a particular order on a page.

Meeting of Creditors- See 341 Meeting

Modification of a Plan- Changes to a plan filed in a Chapter 13 bankruptcy. Once a plan is confirmed the plan may only be modified with the court's approval after notice to affected parties.

Motion- A formal request to a court for an order to allow or require a specific action.

Necessities- Items of property or services that are required for living a normal life without being excessive. For example, food, clothing, shelter, etc.

Non-dischargeable debt- Certain debts not covered by the debtor's discharge, including IRS debt, alimony, student loans, criminal fines and restitution, and debts for any drunk driving violations. If a debt is non-dischargeable, legal collection activity can resume regarding the debt after the case is over.

Objection to Claim- A pleading (a legal document) filed by the debtor, debtor's attorney or trustee that disagrees that the debt is owed or that the amount claimed is correct.

Offset- Crediting a debt owed by party "A" to party "B" against a debt owed by party "B" to party "A." An example is when the IRS keeps all or part of a debtor's tax refund to pay certain taxes owed by the debtor to the IRS.

Order- A formal ruling by a judge allowing or requiring a specific action or deciding a disputed matter.

Periodic- Occurring at regular times, usually monthly, quarterly, semi-annually or annually.

Perjury- Lying under oath. Perjury can be a false oath orally, such as during the meeting of creditors, or in writing in the schedules.

Petition- The two-page document filed with the bankruptcy court used to begin a bankruptcy case. Other documents (such as schedules of assets, liabilities, income and expenses, statement of financial affairs, statement of intention, etc.) are often attached or must be filed in the bankruptcy court within 15 days, or some other time as permitted by a court order.

Petition Date- The date the bankruptcy petition is filed with the bankruptcy court clerk.

Post-Petition- Any event occurring after the petition date.

Post-Petition Debts- Any debt created after the filing of the petition in the bankruptcy court. Post-petition debts may not be dischargeable or protected by the automatic stay.

Pre-Petition Debts- Any debt which exists at the time of filing your bankruptcy petition.

Preference- A pre-petition payment to a creditor which allows the creditor to receive a greater percentage of their debt than that received by similar creditors. The trustee may require the creditor to give back certain preferential payments, so that the money can be divided equally among all similar creditors.

Presiding Officer- The trustee or a representative of the trustee who conducts the 341 meeting.

Priority Debts- Unsecured debts that must be paid in full under a Chapter 13 plan. Such debts include trustee fees, debtor(s)' attorney fees, certain income taxes, and alimony and child support.

Pro Per or Pro Se- A debtor filing bankruptcy without being represented by an attorney.

Property- See assets.

Pro Rata Basis- Divided proportionally.

Proof of Claim- A form used by creditors to file a claim in order to receive payment from the bankruptcy estate. The debtor or trustee may file a proof of claim for a creditor who does not do so.

Relief from Stay- In certain situations, a creditor may obtain an order for relief from the automatic stay to allow it to enforce its claims, pursue collections against a debtor, or conduct any other activity that would otherwise violate the automatic stay. When an order for relief is granted by the court. (sometimes called “lifting” the stay), the automatic stay protection is canceled as to the particular debt involved.

Restitution- An obligation to pay a debt usually ordered by a criminal court and usually payable to the crime victim, resulting from a criminal conviction or plea bargain.

Sanction- A penalty, usually a money fine, against a party or their attorney for violating a bankruptcy court order.

Schedules- Written information given by the debtor and filed with the bankruptcy court on the day of filing of the bankruptcy petition or within 15 days thereafter. These forms provide financial information about the debtor and must be completed under oath. These schedules include a list of assets and liabilities, a schedule of income and expenses, and a statement of financial affairs.

Secured Creditor- A creditor who has a lien on property.

Sole Proprietorship- A business owned by an individual that is not a corporation or a partnership.

Solvency- The ability to pay all debts and just claims as they come due. Simply stated, debtor’s assets are more than his liabilities. When a debtor’s Chapter 13 case is deemed solvent, debtor is required to pay all his creditors a 100% dividend with interest.

Special Class- An unsecured claim or claims which the law allows to be treated differently than other unsecured claims, for example, some co-signed debts.

Stay- See Automatic Stay

Substantial Abuse- The court may dismiss a Chapter 7 bankruptcy case on the motion of a U.S. Trustee or a U.S. Bankruptcy Administrator if the debts are mostly consumer debts and if the court believes that the Chapter 7 petition represents an improper use of the Bankruptcy Code. (See Section 707(b) of the Bankruptcy Code.) A factor considered is the debtor’s ability to repay a significant portion of their debts in a Chapter 13 case.

Subpoena- A formal document, usually issued by a court, requiring specific action, such as an appearance at a particular time and date. Failure to obey a subpoena may result in a fine or other punishment for contempt of court.

Summons- An order to file a written answer (a legal document) to a lawsuit or adversary proceeding within a specified time.

Trustee (Chapter 7) - A person appointed to take charge of the non-exempt assets of a debtor and sell them to pay creditors.

Trustee (Chapter 13) - A person appointed to collect payments from the debtor or debtor’s employer and pay them to creditors during a 3 to 5 year period pursuant to a court approved (confirmed) plan.

U.S. Bankruptcy Administrator- A governmental entity that monitors the administration of bankruptcy cases in certain states.

U.S. Trustee- A governmental entity that monitors the administration of bankruptcy cases in certain states.

Unsecured Creditor- A creditor whose debt is not secured by property or collateral. This would include credit card debts.

