

CHAPTER 13 BANKRUPTCY
IN THE
EASTERN DISTRICT OF KENTUCKY

[PHOTO]

THE DEBTOR'S CHAPTER 13
HANDBOOK

A Publication of the
Chapter 13 Trustee
for the Eastern District of Kentucky

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Beverly M. Burden, Trustee

THE DEBTOR'S CHAPTER 13 HANDBOOK

IMPORTANT INFORMATION ABOUT YOUR CHAPTER 13 BANKRUPTCY CASE

For Cases Filed In The Eastern District of Kentucky

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This Handbook Is Available In Large Print Upon Request.

Chapter 13 Trustee, Eastern District of Kentucky

Beverly M. Burden, Trustee

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To access your case information online go to www.ndc.org
To make payments online, go to www.TFSbillpay.com (there is a fee to use this service)

Correspondence Address: Chapter 13 Trustee, EDKY PO Box 2204 Lexington KY 40588-2204	Payment Address: Chapter 13 Trustee, EDKY PO Box 1766 Memphis TN 38101-1766
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The Chapter 13 Trustee's Office cannot give you legal advice. Contact your attorney if you have questions or problems.

WRITE YOUR ATTORNEY'S NAME AND PHONE NUMBER HERE FOR QUICK REFERENCE:

WRITE YOUR CASE NUMBER HERE: _____

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Introduction

This Handbook may help answer some of the most common questions or problems related to a Chapter 13 bankruptcy case in the Eastern District of Kentucky. It is not a substitute for legal advice.

Your attorney should be the first person you call if you have questions or problems at any time while you are in bankruptcy.

You may call the Trustee's office:

- ✓ if you made a payment more than ten (10) business days ago that has not posted;
- ✓ to verify your due date;
- ✓ to request a printout showing payments you have made;
- ✓ to start a payroll deduction order;
- ✓ to request another copy of this Handbook;
- ✓ if you need more labels;
- ✓ to request a written payoff estimate.

Don't call the Trustee's office:

- × to inform us of a late payment;
- × to request permission to skip a payment;
- × to stop a payroll deduction or bank draft;
- × to request that a bank draft not be taken out "this time";
- × to ask for a street address where you can overnight a late payment;
- × to ask that your case not be dismissed;
- × to ask us to lower your payment, suspend a payment, give you a

hardship discharge, or convert your case;

- × to ask us what your rights are;
- × to get a copy of your bankruptcy papers;
- × to get a lien released;
- × to ask about your credit report.

If you must call the Trustee's office, contact the Case Manager for your division. **You must have your case number when you call.** The phone number is (859) 233-1527. Follow the instructions of the automated attendant to reach your Case Manager. Office hours are from 9:00 AM to 4:00 PM Monday through Friday.

For security reasons, the Trustee's staff might ask you to verify certain information such as the last four digits of your social security number when you call. Your phone calls may be recorded.

Notify the Trustee's office in writing:

- ✓ if your name changes;
- ✓ if you have a new mailing address;
- ✓ if you want to change your due date (subject to Trustee approval).

Your Rights and Duties

Filing a chapter 13 bankruptcy case can protect you from collection efforts by your creditors for a period of time and can help you keep your house and other necessary property. In order to receive the benefit of chapter 13, you have some duties which are listed in a form called *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys in the Eastern District of Kentucky*. A copy is

included in the back of this Handbook. For example, you must:

- ✓ List all of your property and all of your debts in your bankruptcy paperwork.
- ✓ Be honest with your attorney, the Trustee, your creditors, and the Court.
- ✓ Comply with all Bankruptcy Court orders.
- ✓ Provide all documents requested by your attorney, the Trustee, and the Court in a timely manner.
- ✓ Make the payments your plan requires you to make, and make them on time.
- ✓ Attend all hearings (unless your attorney tells you otherwise).
- ✓ File all required tax returns, and pay all taxes that come due after bankruptcy, on time.
- ✓ Contact your attorney if your circumstances change while you are in bankruptcy.

Make sure you understand what you are supposed to do and when you are supposed to do it. Ask your attorney for guidance.

If you change your name or address while you are in chapter 13, make sure you give the new information to your attorney and the Trustee's office.

For security reasons, you must notify the Trustee's office in writing when you change your name or address.

Bankruptcy Fraud

The great majority of people who file bankruptcy are honest people who have

experienced a financial setback and are trying to get back on their feet.

Very few people want to defraud their creditors. However, sometimes a person may try to protect property that has sentimental value or property they think is not worth much, and they decide not to include it in their bankruptcy papers, or they give it away to a family member or close friend before they file bankruptcy. This type of conduct could be considered bankruptcy fraud, which is a federal crime.

You must provide accurate, truthful, and complete information to your attorney, the Trustee, your creditors, and the Bankruptcy Court.

When you sign your bankruptcy papers, your signature is your declaration under penalty of perjury that all of the information contained in your Petition, Schedules, and Statement of Financial Affairs is true and correct.

When you attend your Meeting of Creditors (the "341 hearing"), the representative from the Trustee's office will record your testimony, again under penalty of perjury.

If you believe there is an error in your paperwork, or if you forgot to include property that you own, or if you overlooked a creditor you owe, inform your attorney immediately so that amended papers can be filed.

Your Attorney

Your attorney is the person who represents you in most matters arising in your chapter 13 case and should be the first person you contact if you have questions or problems.

Your attorney must be licensed to practice in the Federal Court in the Eastern District of Kentucky and must be certified by the Bankruptcy Court to file bankruptcy papers electronically by “ECF.”

Most attorneys will agree to have some or all of their fees paid through the chapter 13 plan, including fees for some services they provide after the Bankruptcy Court has approved or “confirmed” your plan.

Other attorneys require their clients to pay their fees in full before they take any action, so they may charge you an additional fee for services you need after confirmation.

The arrangement for fees must be in writing between you and your attorney.

In the Eastern District of Kentucky, the duties of you and your attorney are set forth in a document called *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys in the Eastern District of Kentucky*. This form is included towards the end of this handbook.

In the Trustee’s opinion, your attorney should:

- Be knowledgeable about bankruptcy, especially about chapter 13.
- Represent you competently and attend all hearings on your behalf.
- Spend a reasonable amount of time with you to discuss your case.
- Be reasonably available to handle relevant issues that arise the entire time you are in bankruptcy.
- Advise you of your options and assist you in making decisions about your case.

Make sure you keep your lawyer informed of any changes or new information that might affect your case. And remember that your attorney may have dozens of clients like you, all of whom have important issues that the attorney must address. Many attorneys have qualified paralegals or assistants who can answer your questions (although only the attorney can give you legal advice).

Sometimes the personalities of the attorney and the client are so different that it is hard for the parties to communicate well with each other. Don’t be shy about asking your attorney to explain something again, or to speak more slowly, or to rephrase something.

If a misunderstanding or disagreement develops between you and your attorney, or if you are ever dissatisfied with your attorney, try to discuss it with your attorney first. If that does not resolve the matter, you have the right to find another lawyer. You can shop around, but be sure and tell your potential new

attorney that you are looking to replace your existing attorney.

Another option is to contact the Kentucky Bar Association (KBA), which regulates the conduct of attorneys. You can call the KBA at 502-564-3795, or go to www.kybar.org.

Filing Bankruptcy Without An Attorney

You are not required to have an attorney, but the Trustee strongly encourages you to get an attorney to represent and advise you.

If you use the services of someone who is not an attorney, be aware that legally they may not be allowed to do more than type a document for you.

A person who is not an attorney can prepare a document for you, but cannot represent you or give you legal advice. This “Bankruptcy Petition Preparer” cannot advise you: whether to file a petition, which chapter to file under, whether you can keep your property, whether you will receive a discharge, what your rights are, what the bankruptcy procedures are, or give you other legal advice.

If you choose to file a bankruptcy case without the assistance of an attorney, you will be expected to:

- **comply with all federal and local rules and Court orders;**
- **provide information and documents requested by the Trustee or any creditor;**

- **meet all deadlines;**
- **file the correct forms;**
- **attend all hearings.**

In short, you will have to do all the things that an attorney would do for you.

The Chapter 13 Trustee’s office cannot tell you what your rights are, explain bankruptcy procedures, or give other legal advice.

Do not call the Trustee’s office to request bankruptcy forms or to ask how to file something.

Chapter 13 Plan

Chapter 13 involves repayment of debt to your creditors and generally allows your property to be protected from creditors. Your proposal for repaying your creditors is called a “Plan.” The payments you make to the Trustee’s office are your “Plan Payments.”

The plan must meet certain legal requirements in order to be approved or “confirmed” by the Bankruptcy Court. One of the duties of the Trustee’s office is to make sure your plan is confirmable. Creditors also have a right to object to your plan.

Your plan will require you to make payments to the Chapter 13 Trustee, who will distribute the funds according to the plan. You may also have to make payments directly to some of your

creditors. See the section in this Handbook on “Outside or Direct Payments.”

Once you file a chapter 13 bankruptcy case, your payments are governed by law. You cannot pick and choose which particular creditor you would like to pay ahead of others or which creditor you might like to keep out of your bankruptcy. You must abide by your plan and federal law.

Living Within a Budget

When you and your attorney worked on your bankruptcy papers, you prepared a budget (known as “Schedules I and J”). Your income and all payroll deductions on Schedule I must be accurate. Your expenses on Schedule J must be reasonable and necessary. The trustee uses Schedules I and J to make sure you pay into your plan all you are able to pay, and to make sure you can afford the plan payment you have proposed.

Often when people file chapter 13, they find it difficult initially to change their lifestyles and live on a budget. A certain amount of belt-tightening is expected of debtors who have filed chapter 13 bankruptcy. They have to learn to give up some of the “wants” and focus on their real needs.

Other people try to keep a house or other property they just can’t afford. They might have a strong sentimental attachment that prevents them from making rational financial decisions. These debtors have unreasonably low expenses in their budgets and are unlikely to make ends meet while they are in chapter 13.

Budget issues are frequently raised by the trustee before confirmation of the plan and become important if your circumstances change after confirmation.

Debtors who are successful in their chapter 13 cases (and beyond) are those who develop money management skills and set realistic and reasonable spending priorities. In the long run, learning to budget your money is a tremendous benefit to being in chapter 13.

Amount of Plan Payments; Length of Plan

A plan usually lasts 3-5 years but cannot last longer than 5 years. The amount you must pay and the length of time you are in chapter 13 depend on several factors, such as: what your “applicable commitment period” is; how long it takes to pay secured claims (like a car loan); how much of your “disposable income” must be paid to your unsecured creditors; how much you owe on mortgage arrearages or priority tax claims; how much equity you have in your property; and other factors.

Generally, you will need to make regular (usually monthly) payments during the plan. However, the amount of your payments may change. If you are repaying a loan from your 401k or other retirement account when you file your bankruptcy case, your chapter 13 payment will need to increase by the amount of that loan payment when that loan is paid off. There may be other reasons you must have a “step plan,” where your payments step up during the plan. Ask your attorney if your payments will change and when.

Due Date for Plan Payments

Your first full monthly payment to the Trustee is due 30 days after you file your bankruptcy case.

If your bankruptcy case was filed without a plan (which can be filed up to 14 days later), your first payment is still due 30 days after your bankruptcy case is filed.

Within a few days after your chapter 13 case is filed, the Trustee sends you a Payment Information sheet to tell you the date the first payment is due. If your plan was filed with your petition, the amount of your plan payment will also be on the Payment Information sheet. If it isn't, contact your attorney immediately to find out how much your plan payment will be.

If your payments are to be made by payroll deduction, you must make at least partial payments until the money starts coming out of your paycheck. One full monthly payment is due 30 days after your bankruptcy petition is filed.

The Trustee's office can change your due date at your written request (subject to certain restrictions). However, we cannot change it so that you skip a month's payment. For example, if your first payment is due on November 25th and you want to change your due date to the 10th, you must still make a payment in November, and your December payment will be due by the 10th of December. We will change your due date only once while you are in chapter 13. The Trustee's office will advise you whether your due date will be changed.

Method of Payment

If you have a job, you will be expected to make your regular plan payments by payroll deduction.

If your income is not from employment, or if you have a valid reason not to make payments by payroll deduction, you may make your regular plan payments by personal check, cashier's check, money order, bank draft through the trustee's office, or online (for a fee) through a service called TFS.

The Trustee's office and our bank cannot accept: cash; credit cards; check-by-phone; or payments by Pay-Pal.

Payroll Deductions:

If you are employed, you will need to make your regular plan payments by payroll deduction so that the payments come directly out of your paycheck.

When you file your chapter 13 case, your attorney should submit a Payroll Deduction Order showing your employer's exact name and address (where your payroll comes from) or request a payroll deduction in the chapter 13 plan. You can also request a payroll deduction at any time by calling the Trustee's office or submitting a Payroll Deduction Request form, which is included in this Handbook.

A Payroll Deduction Order is entered by the Bankruptcy Court. Your attorney or the Trustee will send the Court order to your employer, who will deduct your plan payments from your paycheck and send the payments to the Trustee at least once per month.

If you are paid every week, every two weeks, or twice a month, your payment to the Trustee will be divided up and taken out of each paycheck. See the next page for an example of how to calculate weekly, bi-weekly, or semi-monthly payment amounts.

It usually takes 2-4 weeks to get the deduction started from your paycheck.

You must make plan payments directly to the Trustee's payment address until you see that the payment has been taken out of your paycheck.

Mail payments to:
CHAPTER 13 TRUSTEE EDKY
PO BOX 1766
MEMPHIS TN 38101-1766
Or make online payments (for a fee) via www.TFSBillPay.com.

Do not get behind in your plan payments while you wait for the payroll deduction to begin.

If you do not see the deduction from your paystub after four (4) weeks, ask your employer if they received the Order. If not, call your attorney or the Trustee's office.

Please remind your employer to put your case number on the check they send to the Trustee's office. Also make sure your employer sends your payment to the correct trustee's name and address. There are many chapter 13 trustees in the country, all with different addresses. Large employers and some national payroll processing companies sometimes think one Chapter 13 Trustee is the same as any other. If your employer is using the wrong chapter 13 trustee's name or

address, it will cause you to get behind in your plan payments and could cause your case to be dismissed.

Even though your payment is being made by payroll deduction, it is your responsibility to make sure the correct amount is being deducted from your pay and is being sent to the correct trustee.

If you change jobs, contact the Trustee's office so that a new Payroll Deduction Order can be issued to your new employer.

If you are required to make additional payments such as bonuses, tax refunds, payments to catch-up a delinquency, or other lump sum payments, you will need to make those additional payments directly by check, money order, or online (for a fee) via www.TFSBillPay.com. Those will NOT be made by payroll deduction.

Because the payroll deduction is started by Court order, it can only be stopped by Court order. Contact your attorney if you need to stop your payroll deduction.

If you change jobs often or work only part-time, a payroll deduction may not be an option for you. But generally, if you have a steady job with regular income, your chance of successfully completing a chapter 13 case is greater if you make your plan payments by payroll deduction.

Converting Monthly Payments to Weekly, Bi-Weekly, and Semi-Monthly Amounts

If your plan payments are supposed to be made by payroll deduction, **you must make partial payments to the Trustee until you see that the payments are being deducted from your paycheck.** Here is how to convert your monthly plan payment amount to weekly, bi-weekly, and semi-monthly amounts so you know how much you should pay each pay period.

EXAMPLE

IF YOUR MONTHLY PAYMENTS ARE \$500.00 PER MONTH:

EXAMPLE #1: If your plan payments are \$500/month and you are paid weekly, the WEEKLY amount of your plan payment would be:

$$\begin{array}{r} \text{Multiply} \quad \$500 \quad (\text{monthly payment}) \\ \quad \times \quad \quad 12 \quad (\text{months per year}) \\ \text{Divide by} \quad \underline{\quad 52 \quad} \quad (\text{weeks per year}) \\ \quad = \quad \$115.38 \quad \text{Weekly} \end{array}$$

EXAMPLE #2: If your plan payments are \$500/month and you are paid every 2 weeks, the BI-WEEKLY amount of your plan payment would be:

$$\begin{array}{r} \text{Multiply} \quad \$500 \quad (\text{monthly payment}) \\ \quad \times \quad \quad 12 \quad (\text{months per year}) \\ \text{Divide by} \quad \underline{\quad 26 \quad} \quad (\text{pay periods per year}) \\ \quad = \quad \$230.77 \quad \text{Bi-weekly} \end{array}$$

EXAMPLE #3: If your plan payments are \$500/month and you are paid twice a month every month, the SEMI-MONTHLY amount of your plan payment would be:

$$\begin{array}{r} \quad \quad \quad \$500 \quad (\text{monthly payment}) \\ \text{Divide by} \quad \underline{\quad 2 \quad} \quad (\text{pay periods per month}) \\ \quad = \quad \$250 \quad \text{Semi-monthly} \end{array}$$

Checks and Money Orders:

At your meeting of creditors, if you are not required to make payments by payroll deduction, you will be given labels with your last name and case number printed on them. Please put a label on each and every plan payment you make. Place the label in the “For” or “Memo” section of your check or money order. Do not let the label touch the numbers at the bottom of your check (the bank routing number and your account number).

You will also be given mailing labels to put on your envelope. If you lose your labels or need more, call the Trustee’s office.

(If you are making plan payments by payroll deduction, your employer does not need to use the labels).

**All payments must be sent to our bank’s lockbox at the following address:
CHAPTER 13 TRUSTEE EDKY
PO BOX 1766
MEMPHIS TN 38101-1766**

The Trustee’s office cannot accept payments at our office or at any hearing.

If you pay by personal check, money order, or cashier’s check, there are steps you can take to help the Trustee’s office post your payment to your account accurately and quickly.

- ✓ Use the labels the Trustee’s office gives you to put on your check or money order (See the next page for examples of how to use the labels).
- ✓ Make your check or money order payable to: CHAPTER 13 TRUSTEE, EDKY

- ✓ Make sure the amount of your check is correct and that the number amount (for example, \$100.⁰⁰) matches the written amount (One Hundred and 00/100 Dollars).
- ✓ Remember to sign the check.
- ✓ Mail your payment at least five (5) days before your due date.
- × Do not try to send payments to a street address in Memphis. The Memphis address is a post office address for our bank. The Chapter 13 Trustee that is located in Memphis is NOT the same as the Chapter 13 Trustee for the Eastern District of Kentucky. Do not send payments by FedEx or overnight mail to the street address of the Memphis Chapter 13 Trustee. It will only delay your payment.
- × Do not send payments to the Trustee’s Lexington PO Box or street address. We forward the payment to our bank in Memphis, so it takes longer to post your payment if you send it to Lexington.
- × Do not send post-dated checks. These will not be deposited and will be sent back to you. Sending a post-dated check is the same as not making a payment at all.
- × Do not expect the Trustee or her representatives to take payments at any meeting or hearing.

If you pay by money order, make sure you keep your money order receipt so it can be traced if the payment is lost.

Write: "Chapter 13 Trustee, EDKY"

Apply Label Here

John Doe
Jane Doe
111 Main
Somewhere, KY 40000

(EXAMPLE) (NOT NEGOTIABLE) 1111

Pay to the order of _____ \$ _____ Dollars

ABC Bank & Trust
00-12345 YOUR NAME
Ch 13 Trustee, EDKY

Remember to Sign Your Check

i: 001234567i: 1111 987654321ii

DO NOT COVER THESE NUMBERS

Apply Label Here

Write: "Chapter 13 Trustee, EDKY"

(EXAMPLE) **MONEY ORDER** (NOT NEGOTIABLE)

SERIAL NUMBER 1234567890 YEAR - MONTH - DAY 2006-01-01 US DOLLARS AND CENTS \$\$\$0000.00

ZERO DOLLARS & 00 CENTS *****

PAY TO ADDRESS FROM ADDRESS

00-12345 YOUR NAME
Ch 13 Trustee, EDKY

C.O.D. NO. OR USED FOR

i: O 9 8 7 6 5 4 3 2 1 O 1 2 3 4 5 6 7 8 9 ii

DO NOT COVER THESE NUMBERS

Write Your Name & Address Here

Write: "Chapter 13 Trustee, EDKY"

Write Your Name & Address Here

123456789012

MONEY ORDER (EXAMPLE) (NOT NEGOTIABLE)

PAY TO THE ORDER OF _____

PURCHASER SIGN HERE FOR DRAWEE

**\$000.00
ZERO HUNDRED **
ZERO DOLLARS **
00 CENTS *****

00-12345 YOUR NAME
Ch 13 Trustee, EDKY

ISSUER / DRAWER
ABC CORPORATION

5678912345645
0597845612348584

i: 0 1 2 3 4 5 6 7 8 9 i: 2 2 2 1 2 3 4 5 6 7 8 ii 00

DO NOT COVER THESE NUMBERS

Apply Label Here

ACH/Bank Draft:

You may request that your regular monthly plan payment be made by automatic bank draft. To start bank drafts, simply fill out and sign the form included at the end of this Handbook, attach a voided check, and return it to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204. *The Trustee reserves the right to reject your request for automatic bank draft if the Trustee has received an NSF check from you.*

You may choose to have the payment withdrawn from your account on either the 10th or the 25th of each month. These are the only dates you may choose. The full monthly payment will be deducted from your account at one time. We cannot deduct a half payment on the 10th and the other half on the 25th.

If the 10th or the 25th falls on a weekend day or holiday, the withdrawal will be made on the next business day.

If you make payments by bank draft, you may have to change how you manage your money and pay your bills to **make sure enough money is in your account to cover the payment every month on the withdrawal date.**

The Trustee’s office cannot:

- × **stop or change any bank draft for any reason at any time based on a phone call;**
- × **stop or change a withdrawal within 7 business days of the scheduled withdrawal;**
- × **stop a withdrawal “this time” because it will cause your account to be overdrawn;**

- × **reverse a withdrawal (to put the funds back in your account).**

If any two (2) drafts are returned by your bank as unpaid for any reason (NSF, closed account, etc.), the Trustee’s office will discontinue the bank drafts, and you will be required to make plan payments thereafter by cashier’s check or money order.

If your plan payment changes, the Trustee will automatically change the amount deducted from your checking account.

If you are required to make additional payments such as bonuses, tax refunds, payments to catch-up a delinquency, or other lump sum payments, you will need to make those additional payments directly by check, money order, or online (for a fee) via www.TFSBillPay.com. Those will NOT be made by bank draft.

If you change banks, it is your responsibility to notify the Trustee’s office and to fill out another authorization form if you want your payments deducted from your checking account at your new bank.

The Trustee will stop automatic bank drafts: when you complete all payments under your plan; if your case is dismissed; or if your case is converted to another chapter. Funds withdrawn after the date of completion, dismissal, or conversion will be refunded by check issued within 45 days.

You may stop the bank drafts permanently by sending written notice to: Chapter 13 Trustee EDKY, PO Box

2204, Lexington KY 40588-2204. The Trustee's office must RECEIVE the written notice seven (7) business days before the next withdrawal date, so make sure you mail your notice at least ten (10) days ahead.

Bank drafts cannot be changed or stopped by phone call, even if you do not have the funds in your account on the scheduled withdrawal date.

Online Payments via TFS

You may make your chapter 13 plan payments online, for a fee, at www.TFSBillPay.com. This is a good option if you want the convenience of automated online payments with more flexibility to change the dates, frequency, or amounts of payments. TFS also allows you to make payments via MoneyGram. You may also use TFS to make single payments such as for bonuses, tax refunds, or to catch up a delinquency. There is a fee for using TFS (generally from \$1 to \$9, depending on the amount of your payment), but they offer customer service, payment reminders, security, and record keeping.

www.TFSBillPay.com is not hosted by your Trustee's office. If you have problems with accessing your information, contact TFS.

Extra Payments; Tax Refunds; Other Lump-Sum Payments

Money from certain sources such as a lawsuit, inheritance, sale of certain property, and other sources must be paid to the Trustee in addition to regular plan payments.

Contact your attorney if you receive or expect to receive money from a lawsuit (or settlement before a lawsuit is filed), sale of property, inheritance, or lottery winnings.

Your plan or the order confirming your plan will dictate whether you must pay some or all of your **tax refunds** into the plan. The same applies for certain **bonuses or performance awards**. You might be required to submit copies of your tax returns or paystubs with those payments. Ask your attorney what payments you must make in addition to regular plan payments.

If you are required to send tax refunds (or copies of tax returns) to the trustee, the due date is May 1 each year.

If you send a lump sum payment from any source to the Trustee, please include a letter with your payment to explain where the money came from.

NSF and Other Returned Payments

If any two personal checks or bank drafts are returned as unpaid by your bank for any reason (non-sufficient funds; closed account; etc.), you will be ordered to make payments only by money order or cashier's check.

An NSF or returned payment may cause your case to be dismissed if you are on "probation." See the sections of this Handbook on "Dismissals" and on "Probation."

Trustee's Motion to Dismiss

If you want the benefits of a chapter 13, make sure your chapter 13 case is not dismissed. Falling behind on plan payments is a major reason most cases are dismissed.

It is crucial that you stay current with your plan payments at all times.

The Trustee's office cannot give you permission to be late with a payment or to miss a payment, no matter how valid the reason is.

If you cannot make your plan payments, call your attorney.

If you fall behind in payments, the Trustee's office will file a motion to dismiss your case. The motion is filed if the Trustee's computer system shows a total past due amount of more than 2 times your monthly payment.

You do not need to miss two payments in a row for a motion to dismiss to be filed. For example, you could miss your first plan payment, go three years without missing a payment, then miss one more payment, and the Trustee's office will need to file a motion to dismiss because the past due amount is 2 times your monthly payment amount.

The motion to dismiss will be set for a hearing before the Bankruptcy Judge. When you receive a motion to dismiss, contact your attorney immediately so that s/he can appear at the hearing for you (and advise you of your options if you cannot catch up the payments).

If you believe you are current in all of your payments, get a printout showing your payment schedule and all payments the Trustee has posted. You can get a printout by calling the Trustee's office, your attorney, or by going to your account online at www.ndc.org.

Compare the check numbers or money order numbers of the payments the trustee has posted with your copies of cancelled checks or money order receipts. If you find a payment that the Trustee's office did not post, please call the Trustee's office and ask for the Controller. Also make sure the payments you have made are in the right amount compared to the Trustee's payment schedule.

Once the motion to dismiss is filed, the Trustee is not permitted to withdraw the motion unless you become completely current on your payments before the hearing. The Trustee's office must receive and post your payments to withdraw the motion to dismiss. Then the Trustee can file a written Withdrawal of the motion, and there will not be a hearing.

Do not call the Trustee's office to ask that we withdraw a motion to dismiss.

If you cannot get caught up in payments before the hearing date, your attorney can submit to the Trustee's office an agreed order that gives you 30, 60, or 90 days to become current. Otherwise, the Court will hold a hearing on the motion to dismiss, and you or your attorney will need to be present.

If you have to make extra payments to catch up, the extra payments will not be deducted from your paycheck (if you pay by payroll deduction) or from your checking account (if you pay by bank draft). You must make any “catch-up” payments by check, money order mailed to the Trustee’s payment address, or online via www.TFSBillPay.com.

If you need more than 90 days to become current, your attorney will need to file a motion to modify the plan.

Whether the motion to dismiss is withdrawn, or you are given time to get caught up, or your plan is modified after the Trustee has filed a motion to dismiss, you will be on “probation” for a year or more.

Probation

After the trustee files a motion to dismiss for getting behind in plan payments, the Court will enter a probation order.

For the next year after the probation order is entered, if you are more than 21 days late in ANY plan payment, or if you do not become current by the deadline set by the Court, your case will automatically be dismissed.

If the Court gives you 90 days to catch up, you must be completely current by the deadline, AND you must still make your regular plan payments on time during that 90-day period.

For example, if a probation order is entered on January 1 giving you 90 days

(3 months) to be current, you must pay the delinquent amount in full on or before March 30, AND you must make your January, February, and March payments on time.

A check that is returned unpaid by your bank for any reason (NSF, closed account, etc.) while you are on probation is a late payment that will cause your case to be dismissed automatically.

While you are on probation, the Trustee’s office cannot:

- × **change your due date**
- × **give you permission to be late with a payment**
- × **stop a probation dismissal to give you another chance to catch up.**

While you are on probation, mail your payment AT LEAST a week before the due date to make sure it is not late.

If your case is dismissed while you are on probation, it is highly unlikely you will be able to convince the Court to reinstate your case. Probation is your last chance to avoid dismissal.

Dismissal

If your case is dismissed, it is almost as if you never filed bankruptcy, but it will still be on your credit report, and it will still count as one of your bankruptcy cases. After a case is dismissed, creditors can start collection efforts, garnish your wages, repossess your property, or foreclose on your house.

Your case can be dismissed for a variety of reasons, including: falling behind on

plan payments, not following Court orders or federal and local bankruptcy rules, not providing complete and truthful information, among others.

Your protection from creditors may be limited if you file a new case after dismissal of another case.

Consult with your attorney, and make sure you understand the consequences of a dismissal.

If you want the benefits of a chapter 13, stay current on all of your plan payments. Abide by every order of the Bankruptcy Court. Produce all documents that your attorney, the Trustee, or the Court asks for. Stay in touch with your attorney.

Suspensions and Plan Modifications

While you are in chapter 13, if you have an emergency that makes it impossible to make your plan payment for a month or two, your attorney can file a motion to ask the Court to “suspend” your payment. You will have to catch it up, but you may be able to avoid probation if you request the suspension before you get behind in plan payments.

Contact your attorney to suspend a payment. The Trustee’s office cannot give you permission to skip a payment, no matter how good the reason is.

If your circumstances change and you are no longer able to afford your payment, contact your attorney. Depending on your circumstances, it might be possible to lower your plan

payments by modifying your plan. However, that is not always an option, especially if you are trying to save equity in your house for example.

Contact your attorney to discuss your options if you can no longer afford your plan payments.

The Trustee’s office cannot lower your plan payment for you.

Conversion to Chapter 7

Another option if you are unable to make your plan payments may be to change or “convert” your chapter 13 case to a chapter 7. However, you might not qualify for chapter 7, or it might not be the best option for you. Your attorney can advise you of your options.

The Trustee’s office cannot convert your case for you.

Your Creditors

You must list all of your creditors in your bankruptcy papers. Listing all of your creditors and making sure they have notice of your bankruptcy case is very important if you want to get a discharge of your debts. If you have forgotten to list any creditors, contact your attorney immediately.

Generally, creditors have 3 types of debts or claims:

Secured Claims:

These are claims against property you have pledged as collateral, such as your house, a car, furniture, etc. You may

have pledged collateral for a “purchase money” loan, for example, a loan to enable you to buy your car. Or you may have pledged household goods or a car you already own as collateral for a new loan. Secured claims may also be secured by a lien on your property arising from a court proceeding (such as a judgment lien) or by law (such as a tax lien).

Priority Claims:

The Bankruptcy Code gives certain creditors “priority” status. Although they are not secured by collateral, these claims must be paid in full in your chapter 13 case. Priority claims include certain taxes, child support or “domestic support obligations,” and administrative expenses such as your attorney’s fee and the Trustee’s fee.

General Unsecured Claims:

These are claims that are not secured by collateral and include most credit cards, medical expenses, signature loans, etc.

Claims

To be paid, creditors must file a “proof of claim.” Unsecured creditors generally have 90 days from the first date set for your Meeting of Creditors (also called the 341 hearing) to file a claim with the Bankruptcy Court. Governmental units (like the IRS) have 180 days after you filed bankruptcy to file a claim.

Unsecured claims that are not filed by the deadline or “bar date” are usually “disallowed.”

If you listed an unsecured creditor in your bankruptcy papers so that the creditor would have received notice of your bankruptcy, and the creditor did not

file a proof of claim in time, the debt is usually “discharged” or cancelled. (See the sections in this Handbook on “Discharge” and “Particular Debts Not Discharged.”)

The Trustee’s office cannot pay a creditor who did not file a claim with the Court. Sometimes you need to make sure a creditor files a claim so the creditor can get paid (for example, for back child support, or claims for property taxes). You may be able to file a claim for that creditor, but there are deadlines for doing that. Contact your attorney to file a claim on behalf of a creditor.

Payments to Creditors

Your chapter 13 plan tells the Trustee and your creditors how the creditors are to be paid.

Payments you make to the Trustee’s office go toward the Trustee’s fees, your attorney’s fees (if any), and creditors who have filed claims in your case. The Trustee generally makes payments to creditors once a month.

Your plan may require you to pay some of your creditors directly.

Outside or Direct Payments

Your plan might provide for you to make some payments directly to your creditors. This is sometimes referred to as paying creditors “outside” the plan.

It is common in the Eastern District of Kentucky for debtors to make their mortgage payments directly to the

creditor. If you were behind on your mortgage payment when you filed your chapter 13 case, the past due amount (the “prepetition arrearage”) will usually be paid through the Trustee while you make all payments that come due after bankruptcy (“postpetition”) directly to the mortgage company.

Otherwise, you should not make payments to creditors who are being paid through the plan.

It is important that you know which creditors you must pay directly and which will be paid through the Trustee’s office. Contact your attorney if you have questions.

If you pay any creditor by money order, keep the receipts so the money order can be traced in the event the creditor did not receive it or post it to your account.

If a creditor refuses to accept your payment or returns it to you, contact your attorney immediately.

If you fall behind on the payments you make directly to the creditor (such as your postpetition mortgage payments), the creditor may ask the Bankruptcy Court for “relief from stay.”

Automatic Stay and “Relief From Stay”

In most cases, filing a bankruptcy petition stops creditors from attempting to collect the debts you owe them. This is known as the “automatic stay.”

However, there are numerous exceptions to the automatic stay. Also, under certain circumstances, the stay may

automatically terminate after 30 days, or it may not protect you at all.

You (through your attorney) may be able to file a motion to ask the Bankruptcy Court to extend your protection, but there are strict deadlines and requirements that must be met.

Even if the automatic stay protects you, a creditor can get “relief from stay” to continue collection actions against you. Failure to make payments or to maintain insurance on collateral are just two reasons a creditor can ask for relief from stay.

If the Court grants relief from stay, the creditor can proceed with a foreclosure sale of your house or repossess its collateral (like your car). The trustee stops making payments to that creditor on its claim until the creditor files an amended claim for any deficiency balance remaining after it sells the property.

If you receive a motion for relief from stay at any time while you are in your chapter 13 case, contact your attorney.

Surrendering Collateral to Creditors

Sometimes your plan may call for you to “surrender” property to a creditor that has a lien on that property. If the property is not really necessary (like boats or motorcycles used for fun) or is too expensive to pay for compared to what it’s worth, the trustee will recommend that the property be surrendered.

Surrendering collateral through the plan is the same as giving a creditor relief from stay. The trustee's office will not make any payments on that claim until the creditor files an amended proof of claim for the deficiency balance remaining after it sells the property. If you surrender collateral as part of your confirmed plan, that deficiency claim is generally treated as a general unsecured claim.

Co-Debtor Stay and Co-Signed Debts

If someone co-signed or guaranteed a loan for you, you may not want the creditor to go after your co-signer ("co-debtor") to collect the debt. Chapter 13 usually protects a co-debtor from collection activity by a creditor, but this "co-debtor stay" may not apply to all debts.

Generally, unless a creditor gets "relief from the co-debtor stay" from the Bankruptcy Court, creditors should not try to collect from your co-signers while you are in chapter 13. Contact your attorney if this happens.

You may also be able to protect a co-signer by paying a co-signed consumer debt in full through your chapter 13 case, even if your other unsecured creditors are not paid in full. This protection is not absolute. For example, you will probably not be able to pay the interest on the debt that accrues while you are in your bankruptcy case. Your co-signer may still owe the unpaid portion of the debt after you receive your discharge.

Child Support and Other Domestic Support Obligations

If you are presently paying child support, alimony, maintenance, or other domestic support obligation, it is important that you let your attorney know, even if you are current in your payments and the payments are being made by wage deduction. The Trustee's office is required by law to give special notices to any person to whom you owe a domestic support obligation, and to the child support enforcement agency of the state in which the person you are paying resides.

If you did not owe child support or any other domestic support obligation at the time you filed your bankruptcy case but you have since been required to pay support, contact your attorney.

Student Loans

Student loans cannot be discharged in a bankruptcy case except under very limited circumstances. Also, while you are in chapter 13, interest may continue to accrue on the loan, even though the loan is placed in administrative forbearance.

Talk to your attorney to find out whether you should continue to make payments on your student loans directly ("outside" the plan). If the student loan servicer sends your payment back or tells you that the loan is in forbearance, contact your attorney. The creditor might tell you that no payments are due while you are in chapter 13, but in the meantime interest is being added to the amount you owe.

Taxes

Prepetition Tax Returns:

If you have not filed tax returns with the Government for any of the 4 years before you filed bankruptcy, you have very strict deadlines under bankruptcy law on when to file those tax returns. If you do not file your tax returns within the time limits set by the Bankruptcy Code, your bankruptcy case will be dismissed.

Make sure your attorney knows if you are behind on your taxes or if you have not filed tax returns.

Some of your tax debts will have to be paid in full in your chapter 13 case; other tax debts may be discharged. Your attorney can advise you.

Postpetition Taxes:

You are required to file your tax returns with the Government on time and timely pay all taxes that come due after you file your chapter 13 case.

If you do not pay your postpetition taxes and the IRS files a proof of claim for that postpetition debt, the trustee will ask the Court to modify your plan and increase plan payments to cover the debt.

You may be required to send a copy of your tax return every year to the Trustee and perhaps certain creditors. If so, the Trustee's office must receive the returns by May 1 each year. Your attorney will advise you.

Tax Refunds:

If you receive tax refunds, you might need to pay some or all of your refund into the plan. Ask your attorney if your plan or the order confirming your plan requires you to pay tax refunds to the trustee.

Insurance on Your Property

You are responsible for keeping insurance on your property while you are in your chapter 13 case. If your car or other personal property stands as collateral for a debt, you are required to keep full-coverage (including collision or other casualty) insurance on the property, and to give proof of the insurance to the secured creditor.

If your insured car is damaged or destroyed while you are in chapter 13, contact your attorney. Your attorney, the Trustee's office, and the creditor will need to determine who is to receive the insurance proceeds. If you need a car so you can get to work, your attorney may be able to get the creditor's and the Trustee's agreement or a court order to allow you to use the insurance proceeds to buy a replacement car.

If your house or your belongings are damaged or destroyed, again you need to contact your attorney so that the proper procedure is followed.

<p>Do not accept or spend insurance proceeds until you have first consulted with your attorney.</p>
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Selling Your Property

If you wish to sell your house or other property while you are in chapter 13, you must first get the Court's

permission. This requires filing a motion and getting a Court order.

Contact your attorney before you make any arrangements to sell or give away your property.

Permission to Borrow or “Incur Debt”

If you need to borrow money or finance an unexpected expense -- for example, to repair a furnace or to replace a broken-down car -- or if you need to go into debt for any reason while you are in your chapter 13 case, your attorney will need to file a motion and get an order from the Bankruptcy Court approving the debt.

Contact your attorney before you borrow money from any source or go into debt for any reason.

Mortgage Modifications and Refinancing

If you own your home, mortgage companies might offer to refinance your mortgage, or modify your mortgage by adding the arrearage to the principal, changing the interest rate, reducing the principal owed to the value of the property, or offering other loan modifications.

Before you decide to refinance or modify your home mortgage, make sure you understand the terms.

Make sure you understand whether the interest rate is an adjustable rate and if it

is, how often and how much can it increase.

Find out if there is a “balloon” payment at the end of the term of the mortgage. Sometimes monthly payments are low because very little is being applied to the principal amount of the mortgage, and at the end of the term (15 years to 30 years) you still owe most of what you originally borrowed.

If you have a second mortgage being “stripped off” in your chapter 13 case, ask your attorney if a modification that reduces the principal owed on the first mortgage might keep you from stripping off the second mortgage.

Find out if there are any tax consequences to the modification and how it might impact your credit rating.

You can find helpful information about mortgage modifications from www.makinghomeaffordable.gov.

Monitoring Your Case

It is important that you be involved in monitoring your case while you are in chapter 13. You have several tools available.

Accessing Your Case via the Internet:

If you want to access your account via the internet, you can do so through the National Data Center (NDC) at www.ndc.org. The NDC was developed by the National Association of Chapter Thirteen Trustees to furnish chapter 13 case information to creditors while protecting the legitimate privacy interest of debtors. The NDC also gives debtors online access to their case information.

By reviewing your case information on the NDC's website, you can:

- see if the Trustee has received and posted your payments; and
- review how your creditors are being paid.

Go to www.ndc.org and click on "Get Started." Follow the instructions to obtain a user ID and password. To get started, you will need:

- your full name as it appears on your bankruptcy petition;
- your bankruptcy case number;
- the last four digits of your social security number;
- your Trustee's name;
- a creditor name from the list of creditors on your bankruptcy case;
- your email address.

This website is not hosted by your Trustee's office. If you have problems with accessing your information, contact the National Data Center.

There is a two- to three-day delay between when your Trustee receives a payment and when the payment shows up on the website.

If you believe the account information is incorrect or if you have questions concerning your bankruptcy case, contact your attorney.

Additional information is included near the back of this Handbook and in a brochure attached to the front of this Handbook.

Notice of Allowance of Claims:

Within a few months after your chapter 13 plan is confirmed, the Trustee will file with the Bankruptcy Court a Notice of Allowance of Claims. This shows all creditors the Trustee's office is paying. It also shows claims that were "disallowed" by the Court and will not be paid, claims that will be paid "outside" the plan by the debtor, and claims that will not be paid because the creditor has gotten "relief" from the automatic stay and will collect its debt by repossession or foreclosure of its collateral.

The information in the Notice of Allowance of Claims is based on the Trustee's interpretation of the plan and all Court orders. If there is an error, contact your attorney immediately.

If you dispute a creditor's claim that was filed in your case because, for example, the amount is wrong or you do not owe that creditor at all, you need to call your attorney so that s/he can file an "objection to claim" with the Court.

Case Summaries:

The Trustee's office will mail a printout of your case to you every year in January. The printout shows creditors who are being paid by the Trustee's office.

The printout will also show payments you have made to the Trustee's office during the previous year. If you made a payment that is not on the printout, call the Trustee's office and ask to speak to the Controller. Please have the check number or money order number of the missing payment when you call.

Notices Relating to Your Mortgage:

If you have a mortgage on your house, there are forms and notices the lender must file that you and your attorney should review.

- If you were behind in your mortgage when you filed your chapter 13 case, the mortgage creditor must file a form with its proof of claim showing how it calculates the “arrearage” (the amount you are behind in your mortgage payment). Review this form for accuracy and reasonableness. For example, if your home was not in foreclosure when you filed your bankruptcy case, there should not be any charges for foreclosure costs in the arrearage.
- If your mortgage payment changes while you are in chapter 13, the creditor must give written notice of the new payment amount, when it starts, and why the payment is changing (for example, the escrow portion of the mortgage payment changes, or the interest rate is a variable rate). Find out how often your mortgage payment might change (usually every 6 to 12 months depending on the mortgage terms) and watch for the notices so you don't get behind by making the wrong mortgage payment.
- Throughout your case, the mortgage creditor must give notice if there are any postpetition fees or expenses you will be liable for, such as late fees or costs of force-placed

insurance. Let your attorney know if you think any charge was assessed in error.

- At the end of the case, the trustee or you (through your attorney) may file a “Notice of Final Cure” to assert whether all arrearages have been paid. The mortgage creditor must file a response. It is important that you review this response to find out if the creditor's records show that you are current in your mortgage. If you disagree with the creditor, contact your attorney.

Requesting a “Payoff” Estimate

You or your attorney may call the Trustee's office to request a “payoff.” We will send you a payoff estimate in writing. However, the amount will be an ESTIMATE only, subject to a final audit of your case. Also, the Trustee will not give you a payoff estimate more often than one time in 60 days.

To protect your privacy, we do not give out case information to third parties, and we do not give payoff estimates over the phone. It does not matter if you have given that party permission to request the payoff from our office. We will only give the payoff estimate to you or your attorney.

Money from certain sources such as a lawsuit, inheritance, sale of certain property, and other sources must be paid to the Trustee in addition to regular plan payments and cannot be used to pay off your case early unless you are paying your creditors through the plan in full.

If you are required to turn over any tax refunds, bonus income, and/or other payments that are in addition to your regular monthly plan payment, you may not be able to pay off your case early. Ask your attorney.

Completion of Your Plan

Near the end of your case, the Trustee's office will do a final audit to make sure everything was set up and paid correctly. When you have made all of your plan payments, the Trustee's office will send you a letter to tell you of your successful completion of the plan, and will file a Plan Completion Report with the Bankruptcy Court.

If your payments are made by payroll deduction, the Trustee will send an order stopping the payroll deduction to your employer. The Trustee will also stop bank drafts for plan payments.

If you have overpaid, the Trustee's office will send you a refund, usually within 45 days.

After you have completed your plan, you may or may not receive a discharge of your debts.

Discharge

Your goal in chapter 13 is to complete your plan and receive a discharge of your debts. A discharge means your debts are cancelled or wiped out.

It takes more than completion of the plan to get a chapter 13 discharge.

To receive a discharge, you must complete a course in personal financial management from an agency approved by the Executive Office of the United States Trustee. This is different from the credit counseling you received before you filed bankruptcy. **You should take the financial management course before you make your last plan payment**, and you must file the required form with the Bankruptcy Court to certify that you completed the course.

You must also file a form called "Certification of Plan Completion and Request for Discharge." **You must file this form after you make your last plan payment.** Contact your attorney as soon as you receive notice from the trustee's office that you completed your plan so that you can fill out the required Form.

Once the Bankruptcy Court enters the Discharge, creditors whose debts have been discharged can no longer try to collect the debts from you. If a creditor tries to collect a debt that you listed on your bankruptcy papers, contact your attorney. **The Trustee's office cannot stop creditors from contacting you.**

Completion Without Discharge

If you received a discharge in a prior bankruptcy case filed within 4 years of this chapter 13 case, you may not be entitled to receive a discharge in this case, even if you complete your plan.

Ask your attorney if you will be entitled to receive a discharge.

If you are not entitled to receive a discharge, or if you do not file the

necessary paperwork at the end of the case, your case will be closed without a discharge.

Make sure you understand what can happen if you do not receive a discharge. You will continue to owe all unpaid debts. You will owe interest that accrued at the contract rate on your secured and unsecured debts while you were in your chapter 13 case, as well as late fees and possibly other charges. Creditors can resume all collection efforts.

There may be valid reasons to file a chapter 13 case even if you are not entitled to receive a discharge. For example, if you have discharged all of your unsecured debt in a chapter 7 case but are still behind on your mortgage, you may be able to “cure the arrearage” (catch up your mortgage) in a chapter 13 case while you resume making your regular mortgage payments. A discharge may not be important in such a case. These are issues to discuss with your attorney.

Particular Debts Not Discharged

Even if you receive a discharge, there are some debts that are not discharged in your chapter 13 case. These are referred to as “nondischargeable debts.” The most common ones are student loans, child support, and long-term secured debts like your mortgage, but there are other debts that are not discharged in a chapter 13 case.

Sometimes a debtor doesn’t want to file bankruptcy on a particular creditor, such as a credit union or a friendly bank. If you do not schedule a creditor in your

bankruptcy papers, the debt you owe to that creditor will not be discharged. Even if you amend your schedules to add the creditor, if the amendment is after the “bar date,” it will be too late to discharge that debt.

You can always voluntarily repay a debt that has been discharged, but you cannot go back to try and discharge a debt you did not list. Make sure you list all of your creditors in your bankruptcy so you can get full advantage of your discharge.

Make sure you understand what debts you will owe after you receive a discharge, and what it means for those debts to be nondischargeable. Talk with your attorney. **The Trustee’s office cannot tell you if you will receive a discharge or whether you have nondischargeable debts.**

Hardship Discharge

Under certain circumstances, you may be able to get a “hardship discharge” even if you have not completed all of the payments your plan requires. Your attorney can tell you if you qualify for a hardship discharge. The hardship discharge can only be granted by the Bankruptcy Court after a motion is filed and notice is given to all of your creditors.

The Trustee’s office cannot give you a hardship discharge and cannot ask the Court to enter a hardship discharge for you.

Lien Releases

After you receive your discharge, some liens may be “avoided” by law, but other liens have to be cleared from the title by filing a Release. For example, there may be liens listed on the Certificate of Title for your car that need to be released. Certain liens or mortgages on your house or other real property may also be satisfied by entry of the discharge and should be released.

Ask your attorney which liens should be released when you receive your discharge. Then you can contact each creditor and ask that a release be filed with the appropriate agency (usually the County Clerk or the Kentucky Secretary of State). You may need to send the creditor a copy of your bankruptcy schedules and a copy of the Discharge Order.

If the creditor refuses or fails to file the release on your request, contact your attorney for assistance.

The Trustee’s office cannot request or require a creditor to release its lien.

Important Documents to Keep

Your attorney will give you a copy of your bankruptcy papers at the beginning of your case (your Petition, Schedules, and Statement of Financial Affairs). Keep these papers and any amendments that are filed during the case.

If you get a discharge, keep a copy of the Order of Discharge that you receive from the Bankruptcy Court.

Keep a copy of the Trustee’s Final Report and Accounting that is filed at the very end of the case; it shows how much the Trustee paid each creditor in your chapter 13 case.

Keep these papers for 10 years. You will need them should you apply for credit in the future, and you may need them to clean up your credit report.

If you lose these papers, you can obtain copies for a fee from the Bankruptcy Court, or you can contact your attorney. **The Trustee’s office cannot provide you with copies of your bankruptcy paperwork.**

Getting a Copy of Your Credit Report

Each of the nationwide consumer credit reporting agencies – Equifax, Experian, and TransUnion – is required to give you

a free copy of your credit report, at your request, once every 12 months. This applies to everyone, not just people who filed bankruptcy.

You may choose to request a copy from all three agencies at once, or you might space them out during the year, for example, getting a copy from Experian in January, Equifax in May, and TransUnion in September.

Make your request through www.annualcreditreport.com, or link to it through the Federal Trade Commission's website at www.ftc.gov.

You can also call 877-322-8228 to get your free annual credit report, or write to:

Annual Credit Report Request Service
PO Box 105281
Atlanta GA 30348-5281.

Wait about 6 months after you get your Discharge Order from the Bankruptcy Court before you make your first request for a credit report.

Each credit reporting agency may show different creditors, so make sure you review a credit report from each agency after you get your Discharge.

Review the report and make sure that all of the creditors whose debts were discharged show a zero balance for the account.

If there are discharged debts that still show a negative payment history (such as "delinquent"), or a present or past due balance other than "0", send the credit reporting agency a dispute letter with copies of your Discharge, the Schedules

showing that you listed the debt in your bankruptcy, and the Trustee's Final Report. Ask the credit reporting agency to correct the information.

If the information is not corrected, contact your attorney for additional assistance.

The Trustee's office cannot correct your credit report.

You can contact the agencies as follows:

Equifax
www.equifax.com
1-800-685-1111

Experian
www.experian.com
1-888-397-3742

TransUnion
www.transunion.com
1-800-916-8800

Your Credit Rating

Your bankruptcy will show up on your credit report for up to 10 years, whether you successfully completed your chapter 13 plan and received a discharge, or whether your case was dismissed. However, some credit reporting agencies will consider removing a discharged chapter 13 case from your credit record after 7 years (although they are not required to).

If you apply for credit in the future, each potential lending institution will review your credit record to decide whether to extend credit and on what terms.

Some lenders may contact you and offer to extend you credit. They know that you will not be able to discharge your debts in another bankruptcy case for several years.

Be wary of any lender who will guarantee you a loan or credit – for a fee.

Also watch out for offers from companies that promise to clean up your credit report or improve your credit score for you (for a fee, of course). At best, they are charging you for services you can easily do yourself for free. At worst, they are advising you to do something illegal to get a better credit rating. For more information, contact the Federal Trade Commission at www.ftc.gov, or the Consumer Financial Protection Bureau, at www.consumerfinance.gov.

Be careful about going into debt after you have completed your chapter 13 case. Use credit wisely now that you are getting a fresh start. Consider putting what was your plan payment into a savings account and continue applying the money management skills you learned by being in chapter 13.

Calling the Chapter 13 Trustee's Office

Your attorney should be the first person you call if you have questions or problems at any time while you are in bankruptcy.

If you must call the trustee's office, contact the Case Manager for your division. **You must have your case number when you call.** The phone number is (859) 233-1527. Follow the instructions of the automated attendant to reach your Case Manager. Office hours are from 9:00 AM to 4:00 PM Monday through Friday.

For security reasons, the trustee's staff might ask you to verify certain information such as your social security number when you call. Your phone calls may be recorded.

The Trustee's office cannot give you legal advice.

The Trustee's office cannot give you permission to make a late payment or to skip a payment.

You may call the Trustee's office:

- ✓ if you made a payment more than 10 business days ago that was not posted
- ✓ if you need more labels
- ✓ to request a written payoff estimate
- ✓ to verify your due date
- ✓ to request a printout showing payments you have made
- ✓ to start a payroll deduction order
- ✓ to request another copy of this Handbook

Don't call the Trustee's office:

- × to inform us of a late payment
- × to request permission to skip a payment
- × to stop a payroll deduction or bank draft
- × to request that a bank draft not be taken out "this time"
- × to get help with the www.tfsbillpay.com website
- × to ask for a street address where you can overnight a late payment
- × to ask that your case not be dismissed
- × to ask us to lower your payment, give you a discharge, or convert your case
- × to ask us what your rights are
- × to get a copy of your bankruptcy papers
- × to ask about getting a lien released
- × to ask about your credit report

Notify the Trustee's office in writing:

- ✓ if your name changes;
- ✓ if you have a new mailing address;
- ✓ if you want to change your due date (subject to Trustee approval);

Definitions of General Bankruptcy Terms As Used in the Eastern District of Kentucky

341 Hearing (or 341 Meeting) – see “Meeting of Creditors.”

“910-claim” (or “910 car claim”) – a term sometimes used to describe certain claims secured by motor vehicles which were bought within 910 days prior to filing bankruptcy; these claims must be paid in full.

Applicable Commitment Period – three years if the debtor’s average household income during the six months prior to filing bankruptcy is below the national median level; five years if the income is above median.

Application to Incur Debt – form that must be approved by the Bankruptcy Court before the debtor can borrow money, buy property (like a car) on credit, or refinance an existing loan.

Arrearage – the dollar amount the debtor is behind in payments to a creditor; can be “pre-petition” (the amount behind at the time of filing bankruptcy) or “post-petition” (if the debtor gets behind while in bankruptcy). See also “Delinquency.”

Automatic Stay – federal bankruptcy law that stops most creditors from trying to collect debts when a debtor files bankruptcy; may be automatically terminated after 30 days, or may not come into effect at all, if the debtor had a prior case that was dismissed within the previous year. See also “Relief from Stay.”

Bankruptcy Petition Preparer – a person other than an attorney who prepares for a fee a petition or other document for filing in a bankruptcy case; conduct is regulated under federal bankruptcy law.

Bar Date – deadline for a creditor to timely file a proof of claim.

Chapter 13 – wage earner’s plan – allows debtor to pay back debts under Bankruptcy Court supervision.

Chapter 7 – straight bankruptcy – allows certain assets or property to be sold to pay back creditors.

Claim – a right to payment; see also “Proof of Claim.”

Co-Debtor Stay – an automatic stay that protects people who did not file bankruptcy, but co-signed or guaranteed a debt owed by the debtor who filed bankruptcy.

Confirmation - Court approval of a chapter 13 plan.

Conversion – changing a bankruptcy case from one chapter to another.

Creditors – the people or entities that are owed money.

Debt – what a person owes.

Debtor – a person who files bankruptcy.

Delinquency – same as arrearage; usually used by the Trustee’s office to refer to plan payments that are past due.

Disallowed Claim – a creditor’s claim that will not be paid because it was not allowed or approved by the Court when a party (the Trustee or the debtor) objected to the claim.

Discharge – the goal of bankruptcy; a discharge cancels or “wipes out” debts that can be discharged.

Dismissal – ending a bankruptcy case before completion of the plan and without a discharge; allows creditors to resume collection efforts.

Disposable Income – the amount of money available to pay your creditors.

Domestic Support Obligation (DSO) – a debt for child support, alimony, or maintenance owed to a child, spouse, former spouse, guardian, etc., or governmental unit.

Hardship Discharge – a discharge granted to qualified debtors even though they have not completed all plan payments.

Liquidation Amount – the dollar amount of equity the debtor has in property that cannot be exempted from claims of creditors in a bankruptcy case;

Meeting of Creditors – also known as the 341 Hearing; debtors are questioned under oath by the Trustee and attending creditors.

Modification of Plan – a change in the plan after it has been confirmed; requires Court approval.

Nondischargeable Debt – a specific debt that is still owed to a creditor even if the debtor gets a discharge.

Notice of Allowance of Claims – a report filed by the Trustee several months after a plan is confirmed; shows how claims are to be paid according to the Trustee’s records.

Objection to Claim – a request filed with the Court asking that a claim be disallowed entirely or that the allowed amount be reduced.

“*Outside the Plan*” – a commonly used term to describe payments a debtor makes directly to a creditor.

Petition – the document filed with the Bankruptcy Court that starts a bankruptcy case; although the bankruptcy papers consist of several different documents (including Schedules and a Statement of Financial Affairs), reference to a “petition” often means all bankruptcy documents filed with the petition.

Prepetition – before bankruptcy.

Priority Creditor – a party whose claim is entitled by law to be paid ahead of certain other claims; examples include certain taxes, or back child support.

Probation – an order of the Bankruptcy Court that says a case will automatically be dismissed if the debtor is more than 21 days late for any single plan payment, or if the debtor does not become current in plan payments by the Court’s deadline; usually lasts for one year, but could last longer.

Pro Se Debtor – a person who files bankruptcy without being represented by an attorney.

Proof of Claim – the form that creditors file with the Bankruptcy Court in order to get paid; can also be filed by the debtor on behalf of a creditor to make sure the creditor gets paid.

Postpetition – after bankruptcy.

Relief from Stay – an order of the Bankruptcy Court that allows a creditor to proceed with collection activity such as a foreclosure, repossession, or other method of collecting payments; could be relief from the automatic stay to collect from the debtor, or relief from the co-debtor stay to collect from a co-debtor who is not in bankruptcy (see “Co-Debtor Stay”).

Secured Creditor – a party holding a lien on property or who took some form of collateral as security for a loan.

Trustee – the person appointed to administer bankruptcy cases.

Unsecured Creditor – a party whose debt is not secured by collateral.

CHAPTER 13 TRUSTEE EASTERN DISTRICT OF KENTUCKY

Important Notice: Information On The Internet

INFORMATION RELATING TO YOUR CHAPTER 13 BANKRUPTCY CASE IS AVAILABLE ON THE INTERNET TO YOUR CREDITORS AND OTHER PARTIES IN INTEREST.

Pursuant to 11 U.S.C. §§ 1302(b)(1) and 704(a)(7), your Chapter 13 Trustee has a duty, unless otherwise ordered by the Bankruptcy Court, to furnish information concerning the administration of your bankruptcy case as is requested by “parties in interest.”

In furtherance of this duty, your Chapter 13 Trustee makes the following information available to parties in interest who request such information, and this information is available to those parties on the Internet:

- Your name, address, bankruptcy case number, state, and district in which your case is pending, and the trustee assigned to your case. Your social security number is not visible to parties in interest, but they might be able to search for your bankruptcy case using your social security number.
- Information regarding claims filed against your bankruptcy case, including the identity of the claimant, the type of claim (e.g., priority taxes, secured, unsecured, etc.), and the amount of the claim.
- A history of all payments (receipts) the Chapter 13 Trustee has received in your case, including the date and amount of each receipt.
- A history of all payments (disbursements) the Chapter 13 Trustee has made to your creditors, including the date and amount of each disbursement and the payee.

“Parties in interest” who have access to this information include your creditors, creditors’ attorneys, your bankruptcy attorney, and the United States Trustee, but do **not** include persons who are merely curious about your case or potential lenders who are offering to loan you money while you are in your chapter 13 case.

You may review, without charge, the information about your chapter 13 bankruptcy case that is posted on the internet with the National Data Center (NDC), www.ndc.org. If you believe the information is inaccurate, you should contact your attorney.

CHAPTER 13 TRUSTEE EASTERN DISTRICT OF KENTUCKY

If You Want To Access Your Account Via The Internet

If you want to access your account via the internet, you can do so through the National Data Center (NDC) at www.ndc.org. The NDC was developed by the National Association of Chapter Thirteen Trustees to furnish chapter 13 case information to creditors while protecting the legitimate privacy interest of debtors. The NDC also gives debtors online access to their case information.

By reviewing your case information on the NDC's website, you can:

- see if the Trustee has received and posted your payments; and
- review how your creditors are being paid.

Go to www.ndc.org and click on "Get Started Now." Follow the instructions to obtain a user ID and password. To get started, you will need:

- your full name as it appears on your bankruptcy petition;
- your bankruptcy case number;
- the last four digits of your social security number;
- your Trustee's name;
- a creditor name from the list of creditors on your bankruptcy case;
- your email address.

This website is not hosted by your Trustee's office. If you have problems with accessing your information, contact the National Data Center.

There is a two- to three-day delay between when your Trustee receives a payment and when the payment shows up on the website.

If you believe the account information is incorrect or if you have questions concerning your bankruptcy case, contact your attorney.

CHAPTER 13 TRUSTEE
EASTERN DISTRICT OF KENTUCKY

FORM: Payroll Deduction Request

PLEASE PRINT CLEARLY

I would like my Chapter 13 Bankruptcy payments to be deducted from my paycheck by my employer.

My Chapter 13 Case Number: _____

My Name: _____

Name and Address of My Employer:
(Where my payroll actually comes from)

Payroll Contact Person and Phone Number: _____

I Am Paid: (Circle one Below)

Weekly Bi-Weekly Semi-Monthly Monthly
(every 2 weeks) (15th & 30th)

The Trustee's Office will send a Court Order to your Employer. It should take a week or two for payments to begin. (CONTINUE MAKING YOUR REGULAR PAYMENTS TO THE TRUSTEE UNTIL YOU SEE IT HAS STARTED COMING OUT OF YOUR PAYCHECK!)

MAIL THIS FORM TO: PDO CLERK
 CHAPTER 13 TRUSTEE'S OFFICE
 PO BOX 2204
 LEXINGTON KY 40588-2204

OR SCAN AND EMAIL TO: DOCUMENTS@CH13EDKY.COM

SAMPLE Payroll Deduction Order

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
_____ DIVISION**

IN RE: _____

CASE NO. _____

DEBTOR(S)

CHAPTER 13

**ORDER DIRECTING EMPLOYER TO MAKE WAGE DEDUCTIONS
FOR REMITTANCE TO CHAPTER 13 TRUSTEE**

To Employer of: _____

ATTN: Payroll Department

Future earnings of the above-named employee are subject to the continuing supervision and control of the court for the purpose of enforcing the terms of the chapter 13 plan herein.

THEREFORE, the employer is hereby ordered to deduct the sum of \$_____ monthly from earnings of the employee, beginning with the next pay period following receipt of this ORDER.

The employer shall continue said deduction until further order and shall remit any monies withheld at least monthly, or more frequently if convenient, to the Chapter 13 Trustee whose address appears below. If the earnings are less than the amount ordered, the entire earnings shall be remitted. THE EMPLOYEE'S FULL NAME AND CASE NUMBER MUST APPEAR ON THE PAYMENT.

During this proceeding, the earnings of the employee shall be exempt from garnishments or attachments issued from any other court for the collection of debts contracted before or after commencement of the proceeding. The employer shall not honor any levies for the collection of state or federal taxes or make deductions for any credit unions. This order does not prohibit the employer from honoring state court orders for wage assignments for current child or spousal support.

This ORDER shall not constitute grounds for the dismissal of the employee, refusal to employ, or any disciplinary action against the employee. The employer shall not charge a processing fee, administrative fee, or other service fee, or otherwise collect a fee from earnings of the employee, without approval of the Bankruptcy Court.

It is directed that the Chapter 13 Trustee serve copies upon the employer, debtor and the attorney for the debtor.

Remit withholdings payable to:

Chapter 13 Trustee – EDKY
PO Box 1766
Memphis, TN 38101-1766
859-233-1527

[THIS ORDER IS NOT VALID UNLESS ELECTRONICALLY SIGNED
BY THE U.S. BANKRUPTCY COURT]

CHAPTER 13 TRUSTEE
EASTERN DISTRICT OF KENTUCKY

Payments by ACH Bank Drafts

You can have your plan payment deducted from your checking account automatically each month.*

**Subject to approval by the Trustee.*

Simply fill out and sign the enclosed form, attach a voided check, and return it to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204.

You may choose to have the payment deducted on either the 10th or the 25th of each month. The full amount of the payment will be deducted at one time. We cannot deduct a half payment on the 10th and the other half on the 25th.

If the 10th or the 25th falls on a weekend day or holiday, the withdrawal will be made on the next business day.

If your plan payment changes, the Trustee will automatically change the amount deducted from your checking account. However, if your plan or other court order obligates you to make a lump sum payment by a certain date, for example, your tax refund or proceeds from a lawsuit, you will need to make that payment directly as the Trustee's office will not know how much to deduct from your account.

If you change banks, it is your responsibility to notify the Trustee's office and to fill out another authorization form if you want your payments deducted from your checking account at your new bank.

If any two (2) drafts are returned by your bank as unpaid for any reason (NSF, closed account, etc.), the Trustee's office will discontinue the bank drafts, and you will be required to make plan payments thereafter by cashier's check or money order. *The Trustee reserves the right to reject your request for automatic bank draft if the Trustee has received an NSF check from you.*

The Trustee will stop automatic bank drafts: when you complete all payments under your plan; if your case is dismissed; or if your case is converted to another chapter. However, bank drafts cannot be stopped within five (5) business days before the scheduled withdrawal date. Funds deducted after the date of completion, dismissal, or conversion will be refunded to the debtor by check issued at the end of the month.

You may stop the bank drafts permanently by sending written notice at least ten (10) days before the next withdrawal date to: Chapter 13 Trustee EDKY, PO Box 2204, Lexington KY 40588-2204. You cannot stop a withdrawal "this time" because the withdrawal will cause your bank account to become overdrawn. You cannot reverse a withdrawal (have the funds put back into your account).

To avoid missing a month's payment while your request for an automatic bank draft is processed, you must continue making your payment until it is actually deducted the first time from your checking account.

Make Your Chapter 13 Payments Online
(for a fee)

If you are unable to make payments by payroll deduction, consider using:

www.TFSbillpay.com.

TFS keeps accurate records of your chapter 13 plan payments so you don't have to worry about keeping money order receipts or searching for cancelled checks to show you made your payments.

The fee for using TFS is comparable to or cheaper than sending bank checks or money orders by mail. The fee is based on the amount of your plan payment and generally ranges from \$1 to \$9.

TFS gives you more flexibility in scheduling your payments so you don't have to choose either the 10th or the 25th as the date on which your payment will be deducted from your bank account via ACH.

You can also use TFS to make payments through any MoneyGram location.

Even if you make regular payments by payroll deduction, you can use TFS for making extra payments such as tax refunds, bonuses, or catch-up payments if you've fallen behind.

The Chapter 13 Trustee's office has contracted with TFS to provide an online payment option but otherwise is not affiliated with TFS and does not receive any compensation from TFS for the use of its services.

The website www.TFSBillPay.com is not hosted by the Trustee's office. If you have problems with accessing your information, contact TFS.

Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys

Local Form 2016-2a

United States Bankruptcy Court for the Eastern District of Kentucky

Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys

It is important for debtors who file a bankruptcy case under chapter 13 to understand their rights and responsibilities. It is also important that the debtors know what their attorneys' responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Debtors should know that they may expect certain services to be performed by their attorney, and they should understand that the attorney may charge for those services.

It is also important that attorneys understand what is expected of them if they represent debtors in chapter 13 cases in the Eastern District of Kentucky. An attorney representing a debtor in a chapter 13 case is expected to provide competent representation, which requires the knowledge of chapter 13 law and practice, skill, thoroughness and preparation reasonably necessary for the representation.

In order to assure that debtors and their attorneys understand their rights and responsibilities in the bankruptcy process, the following guidelines provided by the Court are hereby agreed to by the debtors and their attorneys. Unless the Court orders otherwise:

THE DEBTOR AGREES TO –

- 1) Discuss with the attorney the debtor's objectives in filing the case, and inform the attorney of any imminent deadlines.
- 2) Provide complete, truthful, and accurate information at all times.
- 3) Timely provide the attorney with all documents requested by the attorney.
- 4) Promptly respond to all communications from the attorney.
- 5) Cooperate with the attorney in preparing all required bankruptcy papers and documents, thoroughly reviewing drafts of documents, and promptly advising the attorney of corrections or additions needed.
- 6) Understand that the trustee might disagree with the attorney, or that the Court might make a ruling adverse to the debtor, and that the attorney cannot guarantee the outcome of the bankruptcy proceedings.
- 7) Comply with all orders of the Bankruptcy Court.
- 8) Make plan payments as required; turn over tax refunds, bonuses, or other lump sum payments if required by the plan or Court order.
- 9) If the plan calls for payments to be made by the debtor directly to any creditor, make all payments in a timely manner.
- 10) Keep records of all plan payments made and all mortgage payments made while in chapter 13.
- 11) Attend the 341 meeting of creditors with proof of social security number and a photo ID.
- 12) File all tax returns; pay postpetition taxes that come due.
- 13) Keep the attorney and the trustee informed of the debtor's address and telephone number.
- 14) Inform the attorney of any wage garnishments, repossessions, or collection efforts which occur or continue after the filing of the case.
- 15) Contact the attorney promptly if at any time during the case the debtor:

- a. receives lottery winnings, an inheritance, lawsuit settlements or awards, or other unanticipated money;
 - b. files a lawsuit or consults with another attorney about filing a lawsuit, or is considering a settlement in lieu of filing a lawsuit;
 - c. loses his/her job or has other significant financial problems;
 - d. has questions about or does not understand a matter related to the case;
 - e. wants to sell any property; or
 - f. wants to borrow money, incur debt, or refinance a loan.
- 16) Complete the required instructional course in personal financial management.
- 17) If the debtor has a domestic support obligation, contact the attorney when plan payments have been completed and inform the attorney whether all DSO payments have been made.

THE ATTORNEY AGREES TO –

- 1) Meet with the debtor to review the debtor's debts, assets, income and expenses.
- 2) Counsel the debtor regarding the option of filing either a chapter 7 or chapter 13 case, discuss both procedures with the debtor, and answer the debtor's questions.
- 3) Ascertain that the debtor is eligible to file a bankruptcy petition under chapter 13.
- 4) Advise the debtor of the requirements to obtain prepetition credit counseling and a postpetition financial management course from approved providers.
- 5) Obtain from the debtor and review the debtor's deeds, mortgages, tax returns, paystubs, car titles, and other appropriate documentation. If the petition is filed before the documents are received and reviewed, advise the debtor of the potential risks of doing so.
- 6) Timely prepare the debtor's petition, statements, schedules, plan, and related documents. Verify that the information contained therein is consistent with the documentation provided by the debtors.
- 7) Take reasonable steps to verify that all creditors are scheduled and are given appropriate notice.
- 8) Review the completed bankruptcy petition, statements, schedules, and all related documents with the debtor; make necessary changes and additions; obtain the debtor's signature; promptly file the petition/statements/schedules.
- 9) Explain what payments will be made directly by the debtor and what payments will be made through the debtor's chapter 13 plan, with particular attention to mortgages, vehicle loan payments, and student loans.
- 10) Explain to the debtor how, when and where to make chapter 13 plan payments; inform the debtor when the plan payment amount changes.
- 11) Advise the debtor of the necessity of maintaining insurance on collateral.
- 12) Advise the debtor not to sell any property without prior Court approval, or give away any money or property. Advise the debtor not to borrow money, incur debt, or refinance any loans without prior Court approval.
- 13) Advise the debtor of the necessity of filing all tax returns and of paying all postpetition taxes.
- 14) Explain to the debtor which debts will not be dischargeable upon completion of the plan, with particular attention to student loans. If the debtor is not entitled to a discharge, explain the consequences.
- 15) Advise the debtor of the requirement to attend the 341 meeting of creditors, and instruct the debtor as to the date, time and place of the meeting and the necessity of bringing a photo ID and acceptable proof of SSN to the meeting.
- 16) Attend the 341 meeting and any court hearings, either personally or through another attorney.
- 17) If an attorney not employed by debtor's attorney's law firm will be attending the 341 meeting or any court hearing, provide to that attorney sufficient information to allow for proper representation.
- 18) Serve the chapter 13 plan and any amended plan on all creditors and other parties on a timely basis.

- 19) Timely address objections to plan confirmation including the Trustee's Report and Recommendation as to Confirmation, and where necessary, prepare, file, and serve responses or amended plans.
- 20) Where appropriate, prepare, file and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
- 21) Timely review secured and priority claims; timely file amended plans to address claims if necessary; where appropriate, timely file and serve objections to improper or invalid claims. With respect to claims secured by a debtor's residence, timely review Notices of Payment Changes, Notices of Postpetition Fees, Notices of Final Cure Payment, and Responses to Notices of Final Cure Payment; if necessary, take appropriate action.
- 22) Timely file proofs of claims on behalf of creditors if necessary for the protection or benefit of the debtor.
- 23) Upon information received from the debtor, contact creditors who continue to communicate with the debtor after filing, and if necessary, file appropriate pleadings.
- 24) Prepare, file and serve appropriate pleadings necessary to accomplish the goals of the chapter 13 case, including but not limited to:
 - a. motions to extend the automatic stay;
 - b. motions for turnover of repossessed property necessary to an effective reorganization;
 - c. motions to avoid liens on real or personal property;
 - d. motions to deem mortgage current or notices of final cure payment;
 - e. affidavit that debtor is current on post-confirmation DSO payments; and
 - f. financial management certificate.
- 25) Take appropriate action to address a trustee's motion to dismiss for lack of feasibility of the plan.
- 26) Monitor all pleadings filed in the case.
- 27) Communicate with the debtor to discuss pending issues or matters in the case.
- 28) Comply with local and federal rules, and all Court orders.

THE ATTORNEY'S COMPENSATION:

The attorney may accept, in lieu of filing a fee application, a presumptively reasonable fee in an amount up to and including \$3,500, provided the plan is confirmed. This fee includes:

- all services rendered up to and including confirmation of a plan;
- services rendered in post-confirmation matters referenced above; and
- representation in two (2) post-confirmation matters from the following list:
 - Responding to a motion to dismiss the case for failure to make plan payments;
 - Responding to a motion for relief from stay;
 - Filing a motion to modify the plan to address a delinquency (including a motion to suspend plan payments);
 - Addressing a trustee's motion to modify the plan;
 - Filing an application to incur debt; or
 - Filing a motion to sell property.
- all expenses incurred in connection with the above, excluding filing fees and reimbursement of actual costs for required prepetition credit counseling.

The presumptively reasonable fee does not include:

- Defense of any adversary proceeding;
- Representation in any unanticipated litigation or contested proceedings arising from the debtor's failure to provide complete and accurate information to the attorney;
- Representation in any matter not otherwise addressed herein.

The attorney's representation of the debtor continues through the time the debtor receives a discharge, the case is dismissed, the case is converted, or the court approves the attorney's withdrawal from representation (whether based on a request of the attorney or of the debtor). Therefore, the debtor's attorney is expected to provide, in addition to the services described herein, such other legal services as are necessary for the administration of the chapter 13 case. However, the attorney may seek additional compensation for such services.

Any compensation sought in excess of the presumptively reasonable fee of \$3,500 must be requested by filing an application for compensation pursuant to the applicable Federal Rules of Bankruptcy Procedure and applicable Local Rules.

DEBTOR

DEBTOR

ATTORNEY FOR DEBTOR

DATED: _____