

## **REAFFIRMATION OF DEBTS**

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Occasionally, a Chapter 13 debtor wishes to or is asked to reaffirm a debt which has been discharged following the successful completion of a case. You do not have to reaffirm any discharged debts. Since reaffirmation violates the spirit of the bankruptcy laws, the court is required to approve any reaffirmation and can do so only after closely examining your reasons for wanting to reaffirm the debt. If a creditor has gotten you to reaffirm a debt without the court's approval, you cannot be forced to repay it.

## **CHANGE OF ADDRESS OR EMPLOYMENT**

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You are to notify the trustee's office within 7 DAYS if any of the following occur:

1. You move your residence. Provide the trustee with your new address and phone number in writing.
2. Your employer changes their address. Provide the trustee with the new address and phone number in writing.
3. You change jobs. Provide the trustee with the new company name, address and phone number in writing.
4. You lose your job. Notify the trustee's office in writing.

Failure to accomplish any of the above may result in you having to return to court on a proposed dismissal hearing.

## **WHAT YOUR PAYMENTS INCLUDE**

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Make regular payments to the trustee until you are told to stop. You will have to pay all claims, your attorney's fee, administrative expenses and court costs. The trustee's office keeps accurate records and will know when you have completed your plan. After paying all you owe, you will be given a complete accounting of your case. If you have overpaid, you will receive a refund.

**CASH AND PERSONAL CHECKS NOT ACCEPTED.**  
**Payment must be made by money order, cashier's check, or through our online payment center.**

## **ATTORNEY FEE**

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You are paying your attorney through your plan to assist and advise you for the entire time you are in bankruptcy. In almost all cases, his fee is paid through the plan pursuant to the court's standing order on fees.

## **Notice Is Hereby Given That Information Relating To Your Chapter 13 Bankruptcy Case Will Be Made Available On The Internet To Your Creditors And Other Parties In Interest.**

Pursuant to 11 U.S.C. §§ 1302(b)(1) and 704(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, the Chapter 13 Trustee will make the following information available to parties in interest who request such information:

- 1) 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 will not be visible to parties in interest, but they will be able to search for your bankruptcy case using your social security number. Furthermore, your employer's name will not be displayed.
- 2) 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.
- 3) A history of all payments you make to the Chapter 13 Trustee in your bankruptcy case including the date and the amount of each payment.
- 4) A history of all disbursements made by the Chapter 13 Trustee in your bankruptcy case including the date of the disbursement, the payee, and the amount.

You may review, without charge, the information about your Chapter 13 bankruptcy case that is posted on the Internet. If you believe the information about your bankruptcy case is inaccurate, you can contact the NDC to report the error and you should receive a written response from the NDC within thirty (30) days following receipt of such report.

The URL address where your information is posted is <https://www.NDC.org> which is operated by the National Data Center, Inc., ("NDC"). You can contact the NDC at 866-938-3639, ext. 11.

## **YOUR PAYMENTS TO THE TRUSTEE**

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You, through your attorney, have proposed a Chapter 13 plan for the repayment of your creditors. As part of that plan you are required to make periodic payments to the Trustee (weekly, bi-weekly, monthly). It is your responsibility to make all plan payments to the Trustee. Your plan payments may be from an income withholding order or directly from you. If the Trustee and/or Court allow you to make your payments directly, you must make your payments by Cashier's Check, Money Order, or online payments. Online payments are an approved alternative to Cashier's Checks and Money Orders. Online payments use a Checking or Savings Account to make direct payments to the Trustee. If you are allowed to pay direct and are interested in online payments, please see our website [www.ch13mdal.com](http://www.ch13mdal.com) for information on ePay. No Cash or personal checks. If your plan provides that your payments are to be deducted from your wages, it is your responsibility to make all payments to the Trustee until the wage order begins. If at any point during your plan, the payments stop coming out of your check, it is your responsibility to make all plan payments that come due.

## **COURT'S JURISDICTION OF WAGE ORDER**

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If an order is issued to your employer, you and your employer should understand that such an order is not a garnishment. A garnishment can come only from someone to whom you owe money, and you do not owe the court any money. The court is simply carrying out its duty to administer the plan you voluntarily filed and in which you gave the court exclusive jurisdiction over your future pay during the course of the plan. Should any employer be inclined to treat such an order as a garnishment, let your attorney know and he will try to get your employer to understand that you are making an effort to pay your just debts rather than not paying them. We usually find that employers, after an explanation, understand and think more highly of an employee for trying to pay his or her bills.

\*Keep copies of all pay stubs that evidence your payments being deducted from your check.

## **CONTACT BY CREDITORS**

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All the creditors you listed on your Chapter 13 case are under a restraining order which prohibits them from bothering you in any way. If you get notices in the mail from creditors, send them to your attorney. He will take care of them. If you get a more personal, direct contact from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13. Give them the name and address of your attorney, get the name of the party contacting you, and report it to your attorney. Under no circumstances are you to discuss the debt with them in any manner. Please be certain to get the name of the party if you are contacted personally. Your attorney will follow up on such a call and the name of the party making the contact is very important.

## **INCOME TAX REFUNDS**

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If you receive an income tax refund while you are in Chapter 13, you should contact your attorney. Your plan may require that your refund be paid to the Trustee. If your plan provides for tax refund payments, and they are not paid, your case could be dismissed by the court.

## **LAWSUITS SETTLEMENT OR OTHER LUMP SUM PAYMENTS**

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While you are in Chapter 13, you should contact the Trustee's office any time you are due to receive a lump sum payment of money from any source such as a lawsuit settlement or other payment.

If you are a party to a lawsuit, class action or any other claim, the proceeds from that claim are property of your bankruptcy estate and subject to the jurisdiction of the bankruptcy court. In addition to advising the Trustee about any pending claims, you must contact your bankruptcy attorney so that your attorney can verify that your claim has been properly disclosed to the bankruptcy court through your schedules and statements and that your claim is properly committed to your plan for the benefit of your creditors. If you have an attorney who is representing you in a lawsuit or other claim, you must advise that you are in chapter 13 and that your claim is property of your bankruptcy estate. The attorney who is representing you in that claim / lawsuit must file documents with the bankruptcy court to have his/her employment approved to represent you in this claim / lawsuit.

## **CONTACT BY CREDITORS AFTER COMPLETION OF CHAPTER 13**

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When a creditor has had his debt paid by Chapter 13, whether partially or in full, he should, and usually does, send the paid-in-full papers to you. Even if he fails to do this, it is not significant since the official records of the court showing that your plan is completely paid would overrule any claim he might make for additional money. Should you receive any request for additional money after your plan is completed, contact your attorney.

## **PROBLEMS WITH EMPLOYER BECAUSE OF CHAPTER 13**

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Occasionally we find situations where an officer of a credit union exerts “pressure” on a borrower to the extent that the employee feels his job may be in jeopardy due to the filing of a Chapter 13. Such tactics are illegal in that they constitute an attempt to obtain creditor preference. Any such actions must be reported to your attorney immediately.

### **DISCHARGE OF DEBTS**

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A discharge order will only be entered after your case has been paid in full and the Court makes a determination that a discharge is due to be granted in your case. Before the Court may make the determination that you are due to receive a discharge in your case, you must file certain required certification documents with the Court. Shortly before your case is due to pay out, you will receive notice from the Trustee that you are close to completing your confirmed plan payments. When you receive this notice from the Trustee’s office, you must contact your attorney immediately to arrange with them to file the final documents required before your discharge may be entered by the Court. When you have successfully completed your plan payments and paid your case in full, the Trustee’s office will conduct an audit in your case. As a result of the audit process, it may take several weeks for the Trustee to file his final report for the court to consider your case for discharge.

### **REQUEST FOR DISMISSAL BY DEBTOR**

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Federal Bankruptcy Law allows you to request that your Chapter 13 case be dismissed at any time. If you should desire to stop your case, get in touch with your attorney. However, you should understand that a dismissal will reactivate all unpaid or disputed debts , all interest, finance charges and late charges In addition, you would be forced to deal with those creditors on their terms, not yours or the court’s. The request for dismissal of your plan must be in writing and filed with the Court.

### **CREDIT RATING**

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Your credit rating during and after completion of Chapter 13 will be, as it is now and was in the past, the personal opinion of any credit grantor who looks at your record. A credit rating is not “A, B, or C” or “1, 2, or 3”, it is a record of all your past credit performance. This record is made available to a credit grantor and he makes up his own mind, by his own standards, as to whether or not he wants to grant credit to you. Suits, collections, attachments, straight bankruptcy, credit counseling and Chapter 13 are indications, in one degree or another, of credit problems. How such records are evaluated by any given credit grantor is impossible to say. After many years and hundreds of paid-in-full Chapter 13 cases in this area, we find a good many knowledgeable credit grantors look with respect upon those who have paid in full under Chapter 13. Any credit record that has been blemished by a problem must be gradually rebuilt. Please be aware that the Trustee does not report to any credit bureau . If you have a question about your credit rating, you should contact your attorney.

## **BALANCE DUE CREDITORS**

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You may not deal with a creditor just as they may not deal with you. You cannot pick and choose some particular creditor and pay him “on the side” as all debts must be dealt with through the court only. Any payment made by you would be illegal and would have to be reversed by the court. All creditors included in your plan must be paid by the trustee through your plan and under the terms of the law, not anyone’s personal desires. If you want to know how much you still owe a creditor, or all creditors, you may take a look at our record of your case. A case status report will be sent to you each year on or around the anniversary date of your case which will also provide the balance due to creditors. If you wish to obtain a payout of your case, you should contact your attorney to have an audit on your case to receive an accurate payment figure.

### **CLAIMS OF CREDITORS**

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Non-governmental creditors have 90 days from the the first setting of your meeting of creditors in which to file their claims. Any claim not filed within the time limit is a late claim and as such may be subject to an objection. We can pay only those claims which have been filed and are prohibited from paying anyone who did not file a claim. Further, we are required to pay all claims filed under the terms of your plan. If you disagree with a claim filed in your case, you should contact your attorney. If you complete your plan, any claim that was not filed will be discharged unless the bankruptcy code indicates that it is non-dischargeable. If a creditor has not filed a claim, you may file a claim on his behalf.

### **CREDITORS NOT LISTED**

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Creditors not listed by you when you filed can cause quite a few problems. There are two kinds of unlisted creditors: those you owed money to when you filed and forgot to list - here referred to as “unlisted creditors”, and those creditors who have a bill that was incurred after you filed here referred to as “post-petition creditors”. If you find an unlisted creditor, one you owed but forgot to list, you must let your attorney know the details immediately. Your attorney will file an amendment to your petition and possibly amend your plan. Time is important, so do not delay if one shows up. “Post -petition creditors,” are rare. As you know, you are not to use credit while under Chapter 13, but doctors and various medical expenses can’t always be avoided. When this happens, you should recognize you owe the bill and you should pay it, as it cannot normally be added to your Chapter 13 case. You should contact your attorney if you think such a debt has come up. Remember: Your trustee cannot and will not allow you to miss a Chapter 13 payment so that you can pay “new debts”. Your old debts being paid through your case come first.

## **HOW CREDITORS ARE PAID**

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The money you pay to the trustee is used to pay all expenses, including your attorney and your creditors. So that you will understand how the creditors are paid, you should know that there are three basic types of claims: Secured, Priority and Unsecured. Generally, we pay secured claims first, then priority claims and then the unsecured. We do not pay anything on the unsecured claims until all secured claims and priority claims are paid in full. Due to this, it could be several months or years before the first payment is made to unsecured claims.

## **COSIGNERS AND COMAKERS**

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A cosigner, comaker or guarantor on any of your consumer debts is protected from contact by the creditor by Section 1301 "Codebtor Stay". This stay protects them only if they did not receive any of the consideration for the loan. It also protects them only for the amount of the debt your plan proposes to pay. The order confirming your plan will state what percent will be paid on your unsecured debt. If the cosigner, comaker or guarantor has given collateral for the loan, the creditor must request a hearing before the court in order to proceed against the cosigner's, comaker's or guarantor's property.

## **CREDIT CARDS AND CHARGE ACCOUNTS**

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The use of credit cards or charge cards accounts of any kind while under Chapter 13 is considered the use of credit and is strictly prohibited. This applies to any member of the family that is supported by the debtor under Chapter 13, whether they, themselves, are under the jurisdiction of the court or not, as long as the party under Chapter 13 may be responsible for the debts. All charge cards must be turned in to the creditor or turned in to your attorney.

## **PERMISSION FOR CREDIT**

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The use of credit while under Chapter 13 is prohibited without the permission of the trustee. The only exception to this is a medical emergency. If you find you must replace some necessary article by using credit , you should contact your attorney who will send a request to the Chapter 13 office. Permission is considered for necessary articles only and the amount of credit must be reasonable and within your means of payment.

## **OBTAINING CREDIT WITHOUT PERMISSION**

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You place your plan in serious jeopardy if you obtain credit without approval. The Chapter 13 office may file a motion to dismiss your case. You also cannot cosign notes.

## **SELLING PROPERTY**

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You cannot dispose of any of your property, including but not limited to land, and vehicles without giving your creditors notice and an opportunity to object. You should contact your attorney and advise him of the circumstances. If you sell any of your property for a profit, some of the profit may have to be applied to your Chapter 13 debts. If you dispose of your property without court authorization, the transaction may be set aside.

## **REAL ESTATE DEBTS**

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Any debts you owe that are secured by a mortgage on real property, or a contract for a mobile home, must usually be paid directly by you and cannot be paid through Chapter 13 unless the court specifically authorizes it. Payments like this are included in your budget when your plan is set up for you, and they are something you must take care of yourself. If, for any reason you are not making your real estate or mobile home payments regularly, you should inform your attorney's office immediately. These problems can usually be worked out more easily if they are reported before the account becomes delinquent. Problems concerning real property foreclosure and liens of creditors on real property are matters that should be discussed with your attorney. The court cannot allow you to continue to live in the property if you cannot or will not pay for it. Foreclosure will take place if you do not keep payments current.

## **CHECKS HELD BY OTHERS**

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A creditor may hold a check you wrote for cash or purchase of goods, etc. that was not honored by your bank. The holder of the check may join the plan as a creditor or prosecute the transaction as a crime. Giving a bad check is a criminal matter, and you may have to take care of this matter outside of the plan. The restraining order in your case does not stop a criminal prosecution.