

WHAT YOU NEED TO KNOW ABOUT YOUR CHAPTER 13 CASE

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WHAT YOU NEED TO KNOW ABOUT YOUR CHAPTER 13 CASE

This booklet contains important information concerning your debtor's court case. Most of the questions that you have during your case can be answered by reading this booklet. After reading this booklet, if you have any further questions, feel free to call us or email us with your questions.

If you have any questions after reading this booklet, please feel free to contact us at (205) 833-2589.

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DURING YOUR CHAPTER 13 CASE.

Where do I make my plan payments?

Your first 2 plan payments are paid directly to our office. You must make the payment in the form of a cashier’s check, money order or cash. NO PERSONAL CHECKS.

After you have made the first 2 payments, you must then make the remainder of your payments directly to the Trustee at the address listed in the front of this booklet. The Trustee accepts money orders, certified checks and personal checks. He does not accept cash.

If you do not want to mail your payment to the Trustee, or if you would like to pay cash, you may make a deposit to your bankruptcy account at Servis1st Bank located at 324 Richard Arrington, Jr. Blvd. North in downtown Birmingham. This is the only location of this bank that can accept these types of payments. You will need to ask a teller for a special deposit slip for bankruptcy payments.

Please make sure that you put your case number on all checks, money orders, or cashier’s checks to ensure proper credit for the payment.

When are my payments due?

Your payments are due every 30 days from the date your bankruptcy case was filed.

What if my payments are payroll deducted?

You are required to bring to our office each bankruptcy payment that becomes due until your employer starts deducting the payment from your paycheck. This will ensure that you do not fall behind in your payments.

Can I have my plan payments payroll deducted?

Yes. If you want your plan payments payroll deducted, please contact us with the name, address, telephone number and contact person/department to where you want the plan payments to be deducted.

What about my mortgage payments?

Generally speaking, if you were current with your mortgage payments when you filed your case, then you will continue to make the mortgage payments as usual without interruption. However, if you were behind in your mortgage payments, then you must make you mortgage payments to your mortgage company beginning the month following the filing of your case. Any past due amount is included in your bankruptcy case.

The due date for your mortgage payments will not change because of the bankruptcy. Therefore, if your mortgage payments are due on the 1st of each month, this date will not change. **You need to make sure that your mortgage payments are made timely and in full each and every month while you are in this bankruptcy case.**

If you have a question about when you must make your mortgage payments, please contact us immediately.

What about my utility bills?

You must pay your current utility bills (power, water, sewer, cable, telephone, etc.). If those bills are included in your bankruptcy case, the utility company can require you to pay a deposit to keep or re-establish service. These deposits can be rather expensive.

What about a Financial Management Video?

You must watch a financial management video as well. The video is approximately 2 hours long. There is an evaluation form that must be filled out by you (and your spouse if you have filed a joint case). Once you have filled out the evaluation form, you must return it and the video to your attorney's office. You then must sign a form that states you have completed the financial management course.

This form is filed with the Court and is a requirement to obtain your discharge later on. We require this video to be viewed and the evaluation form be returned to us within 30 days of filing your case.

Do I have to attend any hearings?

During the course of your bankruptcy case, you will receive various notices concerning hearings in your case. The first two that you will receive are hearing notices for a Meeting of Creditors and for Confirmation. You will receive a letter from our office regarding the Meeting of Creditors and the Confirmation Hearing. Please make sure you read this letter as it contains important information about these hearings. Your attendance at all hearings is required, so when you receive a hearing notice, please make arrangements to ensure that you are able to attend that particular hearing. **You are required to attend all hearings unless your attorney specifically tells you that you do not need to attend.**

How do I check my balance (and time remaining) in my case?

You can check the status of your case, the balance remaining in your case, and many other aspects of your case by registering online. The National Data Center has a website that contains all of your case information. To

register, you will need to go to www.13datacenter.com and follow the instructions to register your case.

How do I check to see the balances for each of my creditors?

You can check the status of your case, the balance remaining in your case, and many other aspects of your case by registering online. The National Data Center has a website that contains all of your case information. To register, you will need to go to www.13datacenter.com and follow the instructions to register your case.

My payment has not cleared my bank account. How can I verify that the Trustee has received a payment.

You can check online at www.13datacenter.com to see if the payment has been received and posted to your account. You may also call the Trustee's office at (205) 323-4631 to obtain that information.

What if I forgot to list a particular creditor?

If you forgot to list a particular creditor, the creditor can be added as long as you incurred the debt **before** you filed your bankruptcy case. In order for the creditor to be added, we will need 1) the creditor's name, 2) creditor's address, 3) account number, 4) date incurred (often the date you opened the account or when the services were rendered), 5) the name of the responsible party of the debt, and 6) the amount owed. Once you provide this information to us, we will prepare an amendment. Once the amendment has been prepared, you will need to sign the amendment. There is a charge for filing an amendment. This charge will be paid through your chapter 13 case.

*****SPECIAL NOTE. Depending on the amount of debt being added by the amendment, your plan payment may need to increase in order to pay the debt. We will notify you if your plan payment needs to increase as a result of the amendment.**

What happens after I make my last payment?

When you make your last payment, you must file with the Court a Certification that you are current with domestic support obligations such as child support, alimony, etc. and provide your current home address and employment information. **You must contact us after making the final payment so that you can sign this form.**

*****SPECIAL NOTE.** You must remain current with any child support, alimony or domestic support obligation during your chapter 13 case. If you are not current, you may be denied a discharge for that reason. Therefore, it is of the utmost importance for you to pay those debts as they come due.

SPECIFIC QUESTIONS THAT MAY ARISE DURING YOUR CASE.

Are my tax refunds safe?

If you are paying each of your creditors in full during your bankruptcy case (*i.e.*, paying them 100% that you owe them), then you do not need to turn over your tax refunds to the Trustee.

On the other hand, if you are not paying each of your creditors in full (*i.e.*, paying them less than 100% that you owe them), then you must turn over your tax refunds to the Trustee each and every year that you are in the active bankruptcy case. **You must provide your attorney with a copy of the tax return you file each year and send to the Trustee the tax refund.** If this circumstance applies to you, then your attorney would have already told you that this applies to your specific situation.

What happens if I do not pay my tax refund to the Trustee?

If you are required to pay the tax refund to the Trustee, but you fail to do so, the Trustee will file a Motion with the Court. If you have spent your tax refund money without prior permission from the Court, then the Judge may dismiss your case.

What happens if I lose my job?

If you or your spouse loses a job during your bankruptcy case, you must notify us immediately. If you or your spouse do not believe that you will obtain another job within a short period of time (usually within 30 days or less), we may be able to request a suspension of your payments (see below). If you would like a suspension, **you must provide the following: 2 months of paystubs for the working spouse (if applicable) and a list of your current living expenses** (utilities, mortgage payment/rent, insurance, gas, food, etc.). After you have gathered that information, **you must contact our office to schedule a time to prepare and sign the paperwork.**

What happens if I change jobs?

You are under a continuing duty to keep us apprised of your employment. As soon as you change jobs, you must notify us immediately. Because of your new job (or a spouse's new job), your bankruptcy paperwork needs to be amended. This amendment requires the signature of each debtor. So, if this occurs, please contact us immediately.

What happens if I move during my case?

If you happen to move during your case, you must notify us **within 7 days** and provide us with your new address and all new telephone numbers.

What happens if my household income goes up?

If you or your spouse receives a raise, gets promoted, or starts a new job which pays more than your previous one, then you must notify us within 7 days of the income change. We must amend your schedules to reflect the increase in your income. You will need to sign this amendment.

If there is an increase in income, your bankruptcy payments may also need to increase, depending on your particular circumstances. Therefore, it is very important to notify us when there is an increase in your household income. When you notify us, we will let you know if your payments need to increase due the higher income.

What if my household income goes down?

Sometimes, during the case, your household income may go down, either as a result of a demotion, loss of a job (or loss of a second job), an injury, or because one or more members of the household takes early retirement or becomes disabled. If your household has suffered a decrease or loss of income, you must contact us immediately so that your bankruptcy paperwork can be updated.

If the decrease in household income is temporary (meaning that the loss is not expected to last longer than a few months), then it may be possible to suspend your plan payments for a short period of time. Examples of this type of decrease in income are often due to sustaining an injury at work, overtime has been cut, or being seasonally laid off. If you would like for us to suspend your plan payments (see below), please contact us immediately.

If the decrease in your household income is more permanent, then a reduction in your plan payments may be possible. Examples of a more permanent reduction of income include, but are not limited to, becoming disabled or retiring from a job. If you would like for us to see about reducing your plan payments (see below), please contact us immediately.

Can I suspend my plan payments for a short period of time?

Yes. There may come a time during your bankruptcy case that you need a short break from your plan payments. The short break may be required because of a loss of a job, a decrease in income, or an increase of a sudden and/or emergency expense(s). By and large, the most commonly requested amount of time for a suspension of the payments is 90 days, although you can request shorter or longer periods of time, depending on your circumstances.

If you would like the payments suspended, the Court requires the following: 1) 2 months' of payments for both you and your spouse (and all other members of your household who receive an income), and 2) a list of current expenses for your household. You must amend your bankruptcy paperwork in order to show the Court the income and expenses that it requires. You must gather this information together and contact me immediately to schedule a time to sign your paperwork. Once you have signed the paperwork, we will then file the request with the Court.

If a suspension is granted, but your payments are payroll deducted, we will send a letter to your employer requesting that it cease the deduction during the suspension period. If, on the other hand, your payments are not payroll deducted, then you do not need to make any plan payments during the suspension period.

*****IMPORTANT NOTE. Even though you are not required to make payments during the suspension period, it does not mean that these payments are excused. These payments must be made up. It is often the case that after the suspension period is over, your plan payments may need to increase for the remainder of your case in order to make up for the payments that were missed during the suspension period. When you meet with us to sign your paperwork, we will notify you if your payments will need to increase.**

Can I lower (reduce) my plan payments?

Yes, but not always, and only under certain circumstances. In order for your plan payments to be lowered, you must have a substantial change in circumstances, such as a loss of a job, unexpectedly higher medical expenses, or a divorce. If something happens during your case where you need the payments lowered, please contact us immediately so that we can advise you on whether the payments can be lowered or not.

If your payments can be lowered, you will need to provide the following: 1) 2 months' of payments for both you and your spouse (and all other members of your household who receive an income), and 2) a list of current expenses for your household. You must amend your bankruptcy paperwork in order to show the Court the income and expenses that it requires. You must gather this information together and contact me immediately to schedule a time to sign your paperwork. Once you have signed the paperwork, we will then file the Motion with the Court.

What happens when I fall behind in my plan payments?

If you fail to make your plan payments as they come due, the Trustee will file a Motion to Dismiss your case. The Bankruptcy Judge will hold a hearing on the Motion and will decide if your case may move forward based on the circumstances/reasons you give the Judge for missing your payments. If the Judge does not dismiss your case, your payments may need to be increased to make up for the payments that were missed. You

will then be required to make the increased monthly payment for the remainder of your case.

*****IMPORTANT NOTE. If the Judge does not dismiss your case, the Judge will oftentimes put you on probation for a period of 12 months. This is called a “Conditional Denial.” All this means is that if you do not make your bankruptcy payments in full and on time each and every month for the next 12 months, your bankruptcy case will be dismissed without a further hearing. If this happens in your case, it is important that you make sure that you make your payments in full and on time each and every month thereafter in order to prevent a dismissal of your case.**

What happens when I fall behind in my mortgage payments during the course of my case?

If you fall behind in your mortgage payments while your bankruptcy case is pending, then you must make them up immediately or make payment arrangements with your mortgage company. If you fail to do so, your mortgage company will file a Motion for Relief in your case. A Motion for Relief informs the Court that you have not made certain mortgage payments to your mortgage company and asks permission from the Court to begin foreclosure proceedings. This Motion is a very serious Motion and needs your utmost attention!

When you receive the Motion in the mail, you must contact our office within 7 days to discuss the reasons the mortgage payments were not made and your options regarding the Motion. More often than not, however, these motions can be resolved before the hearing date, but we will need to speak with you about your circumstances in order to gauge how to resolve the Motion.

Can I incur debt while I am in a chapter 13 case?

Generally, the answer is no. However, there are certain circumstances in which the Court may allow you to incur debt despite being in a chapter 13 case. Such circumstances include, but are not limited to, signing a lease to a new apartment or buying a vehicle. Incurring debt also includes co-signing on any loans, leases, or other agreements. **Before you sign the contract or agreement, you must obtain court permission to do so. Obtaining**

credit without permission of the court may place your case in serious jeopardy. If you need to incur debt, please contact us immediately to discuss this matter.

Can I sell my home while I am in a chapter 13?

Yes. In order to sell your home while you are in a chapter 13 case, you must first place the house on the market and find a buyer. Once there is a contract on your home for its sale and purchase, you must notify us immediately. **You must obtain Court permission to sell the home to a particular buyer before the sale takes place. In order for us to file a Motion with the Court, we will need a copy of the contract between the buyer and yourself.**

Once the Motion is filed, a hearing will take place generally 30 days later. **The sale of the home cannot occur until after the Motion is heard and granted by the Court.** Because the Motion will not be heard by the Judge for about 30 days, you must schedule the closing accordingly.

If the Judge grants the Motion and allows the home to be sold, the money from the sale will be used to pay off the mortgages and liens of record, the closing costs, real estate agents' fees, with the remainder of the proceeds being paid to either you, the Trustee, or both, depending on the circumstances of your case.

Can I purchase a home while I am in a chapter 13?

Yes, but the purchase is subject to Court approval. If you want to purchase a home during your case, you will need to do the following. First, you need to look for a house that you would like to buy. Second, obtain a contract for the purchase and sale of the home. Third, provide us a copy of the Real Estate Sales Contract. Finally, we will then file a Motion to Incur Debt (as outlined above). A hearing on the Motion will be set about 30 days later. The Judge will review the Motion and either grant it or deny it. If the Judge grants the Motion, then you may purchase the house. If the Judge denies the Motion, you cannot purchase the house on the terms and conditions set out in the Sales Contract. If the Motion is denied, it does not mean that you cannot purchase that particular house or any house whatsoever. It simply means that you can either re-negotiate for the purchase of the particular

house, or find another house. For each attempt to purchase a house, a new Motion must be filed and heard by the Judge.

What happens if I want to apply for a mortgage loan modification?

During the course of your case, you may apply for a modification of your mortgage loan if so choose. Before you can proceed with the application, your mortgage company will likely need permission from our office to speak directly with you concerning the modification. We routinely give mortgage companies permission to speak with you directly about the loan modification. Once you apply for the loan modification two things will ultimately happen: 1) the modification is denied or 2) you are placed in a trial payment period. If you are placed in a trial payment period, you will need to complete the trial payments in strict compliance with the terms and conditions your mortgage company gives you. Once successfully completed, your mortgage company will likely send you permanent modification paperwork. **Before your loan can be permanently modified, you and the mortgage company must obtain Court approval of the modification!** Once you receive the permanent modification paperwork, please bring us a copy so that we can file a Motion to obtain the court permission for the modification.

*****SPECIAL NOTE.** If you are currently paying a past due amount owed to your mortgage company through your case (*i.e.*, mortgage arrearage), then it is often the case that this mortgage arrearage will be taken out of your case once a modification is approved by the Court. In other words, a mortgage loan modification likely will take care of the past due amounts because the entire loan balance is being modified, not just a particular portion. However, it is up to you to make sure that this is the case in your particular circumstance by verifying this with your mortgage company.

*****IMPORTANT NOTE.** This Firm represents you only for a chapter 13 bankruptcy case. We do not represent you in your efforts to obtain a mortgage modification. If you would like for us to represent you in this matter, a separate contract and fee arrangement must be signed and approved by the Court. Our office will not mail, fax, email, or otherwise deliver to the mortgage company anything related to your modification application except for our authorization (and only if it is requested by the mortgage company for us to do so). We cannot answer any questions concerning the documents required for a modification, the modification application, or any terms and conditions

of a trial payment plan or a permanent modification. If you are unsure about whether a modification includes certain amounts, charges, costs or other items, you must contact the mortgage company.

What happens to my car loan if it is totaled in a car accident while the loan is being paid in my case?

If your vehicle is totaled by an insurance company, and there is a loan on the vehicle, there are a couple of things you need to know. If the loan **has been paid off** by the Trustee, then you will need to ask the Court for permission to receive the funds from the insurance company. If the loan **has not been paid** off by the Trustee, then any insurance settlement proceeds must be paid to the Trustee to satisfy the loan. If the proceeds are more than enough to pay off the loan, then you can ask the Court to receive the difference. In either event, you must obtain Court permission to settle with the insurance company and Court approval of the settlement (see below).

What happens if I am injured in a car accident during my case?

If you were injured in a car accident during your case and have reached a tentative settlement with the insurance company, you must obtain permission from the Court to settle with the insurance company and Court approval of the settlement (see below).

What do I need to do to get Court approval of the settlement?

In order for the Court to approve the settlement, a Motion needs to be filed. In order for us to file the appropriate Motion, we need the following information: 1) the date of the accident, 2) the vehicle damaged in the accident, 3) whether or not you or another person were injured in the accident, 4) the name, address and phone number of the claims adjuster, 5) the claim number, 6) a short synopsis of what happened in the accident, and 6) the amount of the proposed settlement. This information is then used to prepare and file the appropriate Motion. Once the Motion is filed, it generally takes about 30 days to have a hearing on the Motion.

*****SPECIAL NOTE. You cannot reach a final settlement regarding any property or personal injury claims without first obtaining Court approval.**

What if I incur debt after my bankruptcy case is filed?

As noted above, you cannot incur debt on credit (post-petition debt) after your case is filed without permission from the court. Sometimes, however, you cannot avoid having to go to the doctor or hospital or avoid paying taxes. When this happens, you should realize that you must pay these debts outside of your bankruptcy case as post-petition debt cannot normally be added to your case. Under certain circumstances, however, some post-petition debts can be added to your case, such as taxes, medical expenses and other debts which are necessary for your plan to work. There are certain requirements in order to add post-petition debt. So, if this has happened, please contact us immediately.

*****SPECIAL NOTE. Depending on the amount of debt being added, your plan payment may need to increase in order to pay the debt. We will notify you if your plan payment needs to increase as a result.**

What happens if I win money or receive an inheritance after I file my case?

Let's face it. You are in your case for a period of 3 to 5 years. A LOT can happen during that time. If you are someone who plays the lottery or likes to gamble, then you understand that at any moment, something may change. So it is with your bankruptcy case. If you receive any money from winning the lottery or from gambling, you must report those winnings to the bankruptcy court. Likewise, if someone passes away during your case and you receive an inheritance or life insurance proceeds (or both!), then you must also notify the bankruptcy court. You must notify us within 7 days of receiving any winnings or inheritance so that the proper documents can be filed with the Court.

*****SPECIAL NOTE. Even though the money must be reported to the Bankruptcy court, you still cannot spend or use the money without first obtaining Court approval to spend it.**

What do I do when creditors call me after my case is filed?

If any of your creditors call you after your case is filed, then make sure you answer the telephone. Inform the creditor that you have filed a bankruptcy case and given him/her your case number. In most cases, this should end the call. If not, make sure that you get the person's name, telephone number (and extension), and what company he/she works for. It is also helpful for you to write down the date and time of the call as well as what was said during the conversation. **Write this information down and give it to us.** After you have obtained this information, you can hang up. It is against the bankruptcy law for a creditor to demand payment of a debt once your case has been filed. So, please make sure that you provide this information to us if you have a creditor that continues to demand payment of a debt.

What do I do when creditors write me after my case is filed?

If you continue to receive letters or bills from creditors after your case has been filed, please bring them to our office. The bankruptcy law prohibits creditors from their continued collection of debts while your case is pending. **Make sure you save each of these letters or bills.** If, after a month or so, the creditor continues to write to you, please **let us know immediately.**

What if I move or change telephone numbers?

You must keep our office up to date on all new telephone numbers and addresses that you have. So **if you move or change your telephone number, you must let us know immediately.**

What if I have a question that is not covered here?

If you have a specific question that is not covered, then please contact us immediately. Do not act before you speak with someone at our office.

