

JOHN M. HAUBER
Chapter 13 Standing Trustee
Southern District of Indiana
Indianapolis Division

Understanding Your Chapter 13 Bankruptcy

Your Case Number:

When your Chapter 13 Petition was filed, the court assigned a case number. This number is very important. You should always write this number on all payments and correspondence, also have the number handy when you call the Trustee's office.

Plan Payments to the Trustee:

All Chapter 13 filers are required to make monthly payments to the Trustee's office beginning 30 days after the filing date. Failure to make adequate and timely payments may result in your case being dismissed.

Payments may be made by:

Utilizing our TFS bill pay online payment system: TFSbillpay.COM

By mailing your payment to:

John M. Hauber, Trustee
P.O. Box 2405
Memphis, TN 38101-2405

Wage Withholding

Calls to the Trustee:

General inquiries are accepted Monday through Friday between the hours of 1:30 pm to 4:00 pm. Please have your case number ready when you call. Please be aware that you do not need to speak to the Trustee. Our staff is familiar with the policies and guidelines in Chapter 13 cases and are well qualified to discuss your problems or questions. Remember that the Trustee and the Trustee's staff cannot give legal advice. Please direct all legal questions to your attorney.

Correspondence to The Trustee's Office:

When sending correspondence to the Trustee's office, be sure to include your case number, name, address, and phone number. Mail to:

John M. Hauber, Trustee
P.O. BOX 441644
Indianapolis, IN 46244-1644

Change of Address:

It is very important that we know your current address while your Chapter 13 plan is active. We will mail all notices, correspondence, checks, etc. to the address listed on your Bankruptcy Petition. If your address changes, it is very important that you notify your attorney, the Bankruptcy Court, and the Trustee's office in writing immediately. Your signature must be included in your notification.

Change in Employment:

If you have a change in employment, notify your attorney immediately. This includes the name and address of a new employer.

Trustee's Fees:

Your attorney should have explained the Trustee's fees as allowed by the Court. This fee may fluctuate during the life of your plan but will not be more than 10%.

Your Chapter 13 Plan:

The Chapter 13 plan is your proposal for dealing with your creditors within the guidelines of the bankruptcy code. It is your attorney's job to assemble all the required information from you and develop a feasible plan in accordance with your budget and the amount of your debt. It is your job to provide your attorney with complete and accurate information and to make sure the documents filed on your behalf reflect that information. It is the Trustee's job to review your plan as well as all the bankruptcy documents and make a recommendation to the Court.

The trustee will recommend approval of your plan if:

1. All the information provided on the petition, schedules, statement of affairs, and the plan appear to be complete and accurate.
2. The amount of your proposed payment is sufficient to pay all the administrative, priority, and secured claims, including applicable interest, within the number of months designated in your plan.
3. All your disposable income for no less than 36 months is dedicated to the payment of your creditors.
4. Your unsecured creditors receive at least as much as they would have been paid if you had filed a Chapter 7 case.
5. Your plan payments are current.

If the Trustee does not find your plan feasible he will recommend that it NOT BE CONFIRMED. In most cases you will have the opportunity to make changes and file an amended plan.

The best chance for Chapter 13 success occurs when payments to your creditors, both directly and through your plan, fit within your ability to pay. An accurate and realistic budget is the heart of your plan. The Trustee will ask for pay stubs, tax returns, or other documentation to verify your income. You may also be asked to verify certain expenditures and other information in your bankruptcy documents. When inaccuracies occur, you will be required to submit amendments to your schedules, statement of affairs, or plan. Your attorney will advise you when this is necessary.

All your creditors will receive a copy of your plan and will have the right to object to the proposed treatment of their claims. Objections will be resolved by the bankruptcy judge.

Ongoing Mortgage Payments:

If you are behind in your mortgage payments by more than one payment when you file a Chapter 13 bankruptcy and want to keep your home, you are required by local Court rule to pay your ongoing mortgage payments, as well as the arrearage you owe, through the Trustee. You are also required to make your Trustee payments by wage assignment unless otherwise approved by the Trustee. Your payment to the Trustee may need to be adjusted over the life of your plan if your mortgage payment varies due to changing interest rates or property taxes.

Confirmation of your plan:

The Court has approved your proposal of payment and has signed an order which binds you and your creditors to the terms of your plan. You will receive a copy of the Order Confirming Plan. The amount you must pay is set out in the Order. In many cases more than one amount is listed. That means your plan payment will change during the months indicated. You should review this order carefully and consult your attorney if you do not understand it. In the event your circumstances change, it may be necessary to change your plan payments by modifying your plan.

Business Cases:

Chapter 13 filers who are in business for themselves must comply with the same requirements as individuals who are not self-employed. Business case filers will be required to supply additional information to the Trustee before a recommendation regarding confirmation is made. Additional information needed will be requested in writing by the Trustee's office.

Your Bankruptcy Attorney's Responsibilities:

In addition to assembling and preparing the necessary documents for your bankruptcy case, it is your attorney's job to provide whatever legal advice and services that may be necessary for the administration of your case until it is either completed or dismissed, unless the Bankruptcy Judge permits your attorney to withdraw from the case. If that happens you will receive notice and an explanation why the attorney is asking to withdraw. If you initiate a change of attorney, please notify the Trustee's office of the new attorney's name and address. If you ever have a legal question regarding your plan, a creditor, your rights or your options, please call your attorney. The Trustee's office cannot give legal advice. If you call our office with a legal question, we will refer you to your attorney.

Attorney's Fees:

Be sure you have discussed legal fees with your attorney and fully understand how much you will pay, both directly and through your plan, and what services the initial fee covers. The Trustee will pay your attorney from funds that you pay into your Chapter 13 plan. Most Chapter 13 filers will be in bankruptcy for 36 to 60 months. During that time additional attorney fees may be incurred which MAY increase the amount you must pay into your plan. If payment of additional attorney fees is to be made through your plan, the attorney will file a motion with the court stating what additional work was done and requesting approval of these fees. The attorney will send you a copy. You should carefully review all correspondence from your attorney including applications for additional fees.

Attorney Complaints:

It is essential that you keep in touch with your attorney throughout your case and that he or she knows how to reach you. Be sure to talk to your attorney about the best time and way to contact him or her if you have questions about your case. Your attorney cannot always be available to answer the telephone; however, your calls should be returned in a reasonable amount of time. If your attorney routinely does not return your calls, try contacting him or her in writing by mail, fax or email.

If you are dissatisfied with the service you receive or you think your attorney is mishandling your case, you are free to consult with another attorney, either for a second opinion, or to change representation completely. In most cases, the Trustee is unable to help you with complaints about your attorney.

Contact with Creditors:

If you receive harassing phone calls from a creditor, inform the creditor that you have filed Chapter 13 bankruptcy. Give the creditor your case number and the name of your attorney. Do not discuss your debt with the creditor. Threatening letters from creditors should be forwarded to your attorney. Be sure that you do not contact your creditors after you have filed bankruptcy.

Meeting of Creditors / 341 Meeting:

The meeting of the creditors, also referred to as the 341 meeting, is an opportunity for you, your attorney, and the Trustee, to briefly discuss your case. Chapter 13 filers are required to attend. If you filed jointly, both husband and wife must attend unless excused by the Court. Failure to attend could result in dismissal of your case. All Chapter 13 filers will also be asked to provide:

1. Verification of their identity with photo identification,
2. Verification of their social security number with social security card or W-2,
3. Tax returns from the prior tax year. This must be provided to the Trustee no later than 7 days before the 341 hearing. Any tax returns which were unfiled in the last 4 years must be filed before the 341 hearing, and
4. Name and current address of any child support recipient

Your attorney is required to attend the 341 meeting unless he or she has planned for another attorney to appear instead. The Bankruptcy Clerk's office will notify all parties of the date, time, and location of the first scheduled 341 meeting. If the meeting is reset, the Trustee will notify you of the new date.

At the meeting, you will be asked to state under oath that all information contained in your bankruptcy documents is true to the best of your knowledge. You should review your bankruptcy paperwork prior to the meeting to make sure the information is accurate and current. If you do not have a copy of everything you signed, request it from your attorney prior to your meeting. You will also be asked to advise the Trustee of any changes in your circumstances since the filing of your petition and of errors or omissions in your documents. Any creditors who wish to attend will be given the opportunity to ask questions. It is a federal crime to purposely omit or misrepresent any information about your circumstances to the Trustee or the Court.

Modifications:

A Modification is an adjustment to a confirmed case that must be approved by the Bankruptcy Judge. Once your case is confirmed, situations may arise making it necessary to adjust your plan, such as:

1. Interruption of income.
2. Claims from your creditors come in for higher dollar amounts than anticipated.
3. Increasing your monthly payments due to an increase in pay.
4. Increase in your monthly mortgage payments.

Your attorney can advise you regarding these and other matters. The Trustee reviews all Motions to Modify and will recommend approval to the Court if the modified plan meets all the requirements of the Bankruptcy Code. You will need to provide the Trustee with current income information, including tax returns and pay stubs, at the time your Motion to Modify is filed.

Motions to Dismiss:

The most common reason for a Motion to Dismiss is failure to make timely and adequate payments to the Trustee. Keep in mind that we do not send billing statements and do not warn you that your payments are delinquent. It is your responsibility to know when your payments are due and to keep track of your payment status. Other reasons for filing a Motion to Dismiss include the failure to file a Chapter 13 plan, failure to appear at the Meeting of Creditors, failure to submit tax returns / refunds if required and failure to report an increase in income if required.

If you do not fulfill your obligations, the Trustee will file a Motion to Dismiss which states the reason we are requesting dismissal. Both you and your attorney will receive a copy of the Motion to Dismiss. If you receive a Motion to Dismiss, you should contact your attorney immediately. If your attorney does not respond to the motion by the date stated, the case will be dismissed without further notice or hearing.

If your case gets dismissed, you will no longer be protected by the Bankruptcy Court. Dismissal reactivates all unpaid or disputed debts, all interest, finance charges, all late charges not allowed by the Court and all debts of creditors who did not file claims. In addition, you will be forced to deal with those creditors on their terms, not yours or the Court's.

Voluntary Dismissal:

Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. No one can force you to remain under Chapter 13 if you do not wish to continue. If you want to stop your case, contact your attorney. We urge you to give careful consideration to such a decision.

Direct Payments to Creditors:

Direct payments by you to your creditors are expressly prohibited unless otherwise stated in your Chapter 13 plan. As well as possibly being illegal, payments made directly to creditors who are to be paid through your plan would result in those creditors being overpaid with your money.

Credit Cards:

The use of credit cards or charge accounts while in Chapter 13 bankruptcy is prohibited.

Mortgage Refinance, Home Equity Loans or Loan Modification:

Before you apply to refinance your mortgage, obtain a home equity loan or enter a loan modification, contact your attorney for advice and to file a Motion for approval with the Court. These may impact your plan and your Trustee payment. They must be approved by the Bankruptcy Judge.

Vehicle Loans:

If you need to purchase a vehicle, you must contact your attorney. Before the Trustee reviews an auto loan proposal the following standards must be met:

1. Your plan must be confirmed.
2. You must be current in plan payments to the Trustee.
3. Schedule J must reflect the affordability of the anticipated auto loan payment of no more than \$500 per month.
4. It may be necessary to modify your schedules and/or plan.

The Trustee will review the request and assess the impact of the additional debt on your budget and plan. The Trustee will not object if you show that the requested purchase is necessary for your reorganization, the amount and terms are reasonable, you have had no difficulty keeping up with your plan payments thus far and the monthly payment is within your means of pay. After these requests have been met, please direct the dealership to complete the online form for a vehicle loan proposal which will be returned to the Trustee. The Trustee will then approve or deny the request.

Permission Required to Sell Property While in Chapter 13:

If you need to sell or trade in your vehicle(s), sell your real estate or any other property, you must contact your attorney, provide him or her with specific information about the property you would like to sell, the reason you are selling the property, and the anticipated selling price. If necessary, your attorney will file a motion and provide a copy to the Trustee and your creditors.

Requirements to Report Increased Income, Insurance Settlements, Inheritance, Bonuses, Proceeds from Lawsuits, etc.:

You are required to keep the Trustee and your attorney informed of significant increases in your income while in Chapter 13, including but not limited to, payments received from insurance settlements, lawsuits, inheritance, or employment bonuses. You will be required to pay in your plan any amounts not reasonably necessary for your support or the support of your dependents. Either your attorney or the Trustee may file a motion to modify your plan payment due to changes in your disposable income. Failure to report significant increases in earnings may result in the Trustee filing a Motion to Dismiss your case for bad faith.

Income Tax Returns and Refunds:

Chapter 13 filers must file all past-due income tax returns before filing bankruptcy and thereafter must file all tax returns as they become due. You must remain current on all post-petition tax obligations. The Trustee's office cannot advise you on how to file your income tax return or the amount of interest paid during the pendency of your case. You may want to refer to your Annual Activity Report (see below) to see how much was paid to your creditors. Unfortunately, the expenses incurred with your Chapter 13 plan are not deductible for Federal Income Tax purposes.

Currently, the Special Procedures Section of the Internal Revenue Service must process all federal tax returns for Chapter 13 filers. This often results in delays in tax refunds being issued. We urge you to file your annual tax return as soon as possible if you are looking for a refund. Also keep in mind that the IRS may apply a refund to taxes owed for previous tax years.

If a portion of your tax refund is to be submitted to the Trustee, this must be sent to the Trustee by April 30th of the tax year, or your case is subject to Dismissal.

Also, provide your federal tax return along with any refund you are remitting to:

John M. Hauber, Chapter 13 Trustee
P.O. BOX 441644
Indianapolis, IN 46244-1644

Bar Date / Late Filed Claims:

Non-government creditors are allowed 90 days from the first scheduled date of the Meeting of Creditors to file a claim. Government units are allowed 180 days to file claims. The 90th (or 180th) day after the Meeting of Creditors is referred to as the Claims Bar Date.

Annual Activity Reports:

As long as your plan is active, the Trustee's office will send you an annual report showing the last 12 months' activity. You will see a history of your payments to the Trustee, and payments made by the Trustee's office to your creditors. Also shown are the balances owed to each of your creditors. Please review these reports and report any discrepancies to the Trustee's office. We suggest that you keep all these reports so you will have complete history.

Case Information:

Case information on all Chapter 13 cases that we administer is available on the internet through the website www.13network.com. You will use your seven-digit case number (without the dash) as your user id, and your password will be the last 4 digits of the primary debtors' social security number. You may also access your case information through the National Data Center (NDC.org).

Case Payoff:

A request for a payoff of your case must be in writing with an explanation as to how you are able to pay your case off early and when you intend to pay it off. Allow at least two weeks for your case to be audited and the payoff calculated.

NOTE: If you wish to pay off your case in less than 36 months, you must pay all unsecured creditors in full.

Termination of Payroll Deductions:

Once it has been determined that we receive all the payments necessary to pay off your case, your employer will be notified by Order of the Court to stop deducting funds from your paycheck. Quite often, it takes one or two pay periods before the employer stops deductions and a case could end up overpaid. If this happens with your case, the money will be refunded directly to you when we do our monthly disbursements.

Discharge or Completion of Your Case:

When all payments have been made under your plan or all allowable claims on your case have been paid in full, the Trustee's office will do a final audit of your case to be sure all matters are in order. Then, we will issue a Notice of Plan Completion with the Court advising that you have completed all payments under the Chapter 13 Plan.

Your attorney will then file the necessary documents for you to obtain your Discharge from the Bankruptcy Court.

Credit Rating:

The Trustee has no control over your credit rating. Each credit bureau looks at your past and present credit practices and rates you according to their standards. It is common for Chapter 13 Bankruptcy to stay on record for seven to ten years.