

UNITED STATES BANKRUPTCY COURT  
FOR THE  
MIDDLE DISTRICT OF LOUISIANA



DOUGLAS D. DODD, BANKRUPTCY JUDGE  
MONICA M. MENIER, CLERK OF COURT

**PRO SE MANUAL**

*INFORMATION FOR DEBTORS WHO DO NOT HAVE ATTORNEYS*

*This booklet answers common questions from debtors who do not have attorneys (sometimes referred to as pro se debtors). It should not be cited or relied upon as legal authority. The information in this booklet does not substitute for the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or to the local rules of practice adopted by the bankruptcy court, which may be reviewed at local law libraries. This booklet will not substitute for the advice of competent legal counsel. Finally, although the information presented here is accurate as of the date of publication, all information in this document may be changed without notice.*

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## **INTRODUCTION**

The Clerk of the United States Bankruptcy Court for the Middle District of Louisiana has prepared this manual to answer questions frequently asked of the clerk's office staff by persons filing for bankruptcy without the assistance of an attorney. Because this manual is designed to help individuals filing a bankruptcy case without an attorney's assistance, it primarily deals with chapters 7 and 13 of the Bankruptcy Code.

Federal law prohibits the staff of the clerk's office from giving legal advice or assisting with the preparation of forms or other documents, although the clerk's staff can answer questions about court procedures and help you file documents.

Anyone filing for bankruptcy without the assistance of an attorney must be familiar with the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the Middle District of Louisiana.

## **I. GENERAL INFORMATION**

### **PARISH INFORMATION**

The Middle District of Louisiana encompasses Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Feliciana and West Baton Rouge parishes.

### **IDENTIFICATION**

All persons must present photo identification to enter the courthouse before filing any documents. All documents to be filed must include the debtor's current daytime phone number and address.

Photo identification and verification of your social security number are required at the 341(a) Meeting of Creditors.

### **DOES A PERSON NEED AN ATTORNEY TO FILE BANKRUPTCY?**

A person need not hire an attorney to file a personal bankruptcy, although the court strongly recommends that you consult an attorney before filing any bankruptcy case. An individual filing a bankruptcy without an attorney's help still must follow the United States Bankruptcy Code and other applicable federal laws, the Federal Rules of Bankruptcy Procedure and rules of this court.

### **LEGAL INFORMATION AND RESOURCES**

The Local Rules for the Middle District of Louisiana, Bankruptcy Basics Manual, local and national forms and information on the various chapters in bankruptcy are available in the clerk's office and are also available on this court's web site at: <http://www.lamb.uscourts.gov>.

In addition, your local library may have materials to help you file and prosecute your bankruptcy case.

## **II. REQUIREMENTS FOR FILING CHAPTER 7 AND CHAPTER 13**

### **CHAPTER 7 – “LIQUIDATION”**

A chapter 7 case leads to the liquidation (or sale) of your nonexempt property, from which creditors' claims are paid.

Forms may be obtained from this website: <http://www.lamb.uscourts.gov/nationalforms.htm>

#### Chapter 7 Filing Requirements

- ◆ Voluntary Petition - (National Form 1)
- ◆ Statement of Social Security Number(s) - complete social security number(s) required ( National Form 21)
- ◆ Declaration Upon Electronic Filing of Bankruptcy Case - (Local Form 1)
- ◆ Filing Fee - must be paid at the time of filing, unless the debtor has filed an Application to Pay Filing Fees in Installments - (National Form B3(a))
- ◆ List of Creditors and Verification of Mailing List - must include creditor's name and complete address including zip code (Local Form 2)
- ◆ Payment Advices - (pay stubs from employer)
- ◆ Statement of Current Monthly Income and Means Test - (National Form B22(a))

Within 15 days after the filing of the bankruptcy case, the following must be filed:

- ◆ Schedules A-J and Summary of Schedules - (National Form 6)
- ◆ Statement of Financial Affairs - (National Form 7)
- ◆ Notice to Individual Consumer Debtor (National Form B 201)

Within 30 days of filing the petition, the following must be filed:

- ◆ Chapter 7 Individual Debtor's Statement of Intention - (National Form B8)

Failure to file any of the documents listed above may result in the automatic dismissal of the bankruptcy case.

### **CHAPTER 13 – “WAGE EARNER PLAN”**

In chapter 13, debtors with a regular source of income have the opportunity to restructure their debts through a plan providing for payment over thirty-six to sixty months.

Forms may be obtained from this website: <http://www.lamb.uscourts.gov/nationalforms.htm>

#### Chapter 13 Filing Requirements

- ◆ Voluntary Petition - (National Form 1)
- ◆ Statement of Social Security Number(s) - complete social security number(s) required - ( National Form 21)
- ◆ Declaration Upon Electronic Filing of Bankruptcy Case - (Local Form 1)
- ◆ Filing Fee - must be paid at the time of filing, unless the debtor has filed an Application to Pay Filing Fees in Installments - (National Form B3(a))
- ◆ List of Creditors and Verification of Mailing List – must include creditor's name and complete address including zip code (Local Form 2)

Within 15 days after the filing of the bankruptcy case, the following must be filed:

- ◆ Schedules A-J and Summary of Schedules - (National Form 6)
- ◆ Statement of Financial Affairs - (National Form 7)
- ◆ Chapter 13 Plan - (Local Rules Form10)
- ◆ Statement of Current Monthly and Disposable Income Calculation - (National Form B22(c))
- ◆ Domestic Support Information - required by the Chapter 13 trustee - the form may be obtained from the Chapter 13 trustee's website:  
<http://www.annettecrawford.com>
- ◆ Notice to Individual Consumer Debtor (National Form B 201)

Failure to file any of the documents listed above may result in the automatic dismissal of the bankruptcy case.

### **CHAPTER 13 PLAN PAYMENTS**

Unless your chapter 13 plan payments are being deducted from your paycheck, they must be mailed to the Chapter 13 trustee's office:

Annette C. Crawford  
P.O. Box 64868  
Baton Rouge, LA 70806  
Telephone: (225) 928-2531  
Website: <http://www.annettecrawford.com>

### **III. FILING FEES**

#### **FILING FEES FOR NEW CASES:**

**Chapter 7     \$299.00**  
**Chapter 13    \$274.00**  
**Chapter 11    \$1039.00**

#### **FILING FEE AND PAYMENT INFORMATION**

All filing fees must be paid at the time of filing the bankruptcy case, amendments and any other documents requiring a filing fee. A debtor may pay chapter 7 and 13 filing fees in installments with the court's permission. Filing fees are incurred at the time of filing and refunds are not made for any reason. The clerk's office is not responsible for cash sent through the mail.

Until the filing fee is paid in full, the debtor will not pay any money for services in connection with this case, and the debtor will not relinquish any property as payment for services in connection with their case.

Your case will be dismissed without further notice if you do not pay the filing fees either at the time of filing, or by the dates set forth in the court's order approving an application to pay in installments.

The bankruptcy court accepts fee payments in cash, money orders, and cashiers' checks. Personal checks from debtors, two-party checks, and post-dated checks are not accepted. Money orders and cashiers' checks must be made payable to the Clerk, U.S. Bankruptcy Court.

#### **IV. AMENDMENTS**

##### **AMENDMENTS TO SCHEDULES**

A motion is not required to amend schedules. Each amendment must be verified by the debtor's signature under oath, or an unsworn declaration under a penalty of perjury. If the petition was filed by husband and wife jointly, both must sign any amendment.

An amendment to schedules to add creditors must be filed at the clerk's office. There is a fee of \$26.00, to amend Schedules, D, E or F. There is no fee to make amendments to any other schedule. You must send the amended schedules to the added creditors, the U.S. Trustee and the trustee assigned to your case. You must also send a copy of the notice of the Section 341(a) meeting of creditors to the added creditors and must file with the clerk of court a certificate of service. This certificate or affidavit of service notifies the court that you have served (by mail, certified mail or personally) the amendments to the interested parties.

## **V. LIST OF CREDITORS**

### **LIST OF CREDITORS - MAILING List**

The list of creditors filed with the bankruptcy petition must include the names and addresses of all creditors and other parties in interest. It also must include the name and address of the following:

Office of the U.S. Trustee  
Region V  
Texaco Center, Suite 2110  
400 Poydras Street  
New Orleans, LA 70130

Internal Revenue Service  
Centralized Insolvency Operations  
P.O. Box 21126  
Philadelphia, PA 19114

Office of the U.S. Attorney  
Middle District of Louisiana  
777 Florida Street, Suite 208  
Baton Rouge, LA 70801

District Counsel  
Internal Revenue Service  
P.O. Box 30509  
New Orleans, LA 70190

**The list must not include the names and address of the debtor. Refer to Local Rule 1007 -2.**

### **LIST OF CREDITORS - VERIFICATION**

Every original or amended mailing list shall be accompanied by a Mailing List Verification/Declaration (Local Rule Form 2), signed by the debtor, and joint debtor (in joint cases).

**Refer to Local Rule 1007 – 2 (m).**

### **AMENDED LIST OF CREDITORS**

An amendment adding or deleting creditors to or from the schedules **must be accompanied by an amended mailing list reflecting the additions or deletions. Only those creditors being added or deleted are to appear on the amended list.** The list must be titled AMENDED MAILING LIST and must specify whether the amendment adds, corrects or deletes creditors. **Refer to Local Rule 1007-2 (k).** There is a \$26.00 fee for amending the mailing list.

## **CHANGE OF CREDITOR'S ADDRESS**

A change of address of a creditor by the debtor shall be accomplished by the filing of an amended mailing list **ONLY**, with no amendment to the schedules required.

*Refer to Local Rule 1007 – 2 (l).*

## **VI. 341 (a) MEETING OF CREDITORS**

### **CHAPTER 7 MEETING OF CREDITORS**

All debtors must attend the meeting of creditors held pursuant to the Bankruptcy Code §341(a). If a husband and wife file a joint petition, both must attend the meeting. The purpose of the meeting is to enable the appointed trustee and creditors to question the debtor under oath regarding the debtor's assets and debts. *Refer to Local Rule 2003-1.*

The court will set the date for the meeting of creditors and a deadline for filing complaints after the bankruptcy petition is filed. The clerk of court will send notice to the debtor and creditors by mail of the location, date and time of the meeting. *Please read your notice carefully to determine the location, date and time of your 341 (a) Meeting of Creditors, and for all applicable deadlines and required documents. You must have picture identification and proof of your social security number at the 341(a) Meeting of Creditors. Failure to appear at the 341 (a) Meeting of Creditors will result in either immediate dismissal of the bankruptcy case, a court order commanding the debtor to appear in court and explain why the debtor should not be sanctioned for failing to attend, or both. Refer to Local Rule 2003 -1.*

The trustee does not represent the debtor or any individual creditor and cannot give legal advice.

### **CHAPTER 13 MEETING OF CREDITORS**

All debtors must attend the meeting of creditors held pursuant to the Bankruptcy Code §341(a). If a husband and wife file a joint petition, both must attend the meeting. The purpose of the meeting is to enable the appointed trustee and creditors to question the debtor under oath regarding the debtor's assets and debts. *Refer to Local Rule 2003-1.*

The chapter 13 trustee will set the date for the meeting of creditors and the confirmation hearing date after the bankruptcy petition is filed. The chapter 13 trustee will send notice to the debtor and creditors by mail of the location, date and time of the meeting. *Please read your notice carefully to determine the location, date and time of your 341 (a) Meeting of Creditors, confirmation hearing, and for all applicable deadlines and required documents. You must have picture identification and proof of your social security number at the 341(a) Meeting of Creditors. Failure to appear at the 341 (a) Meeting of Creditors will result in either immediate dismissal of the bankruptcy case, a court order commanding the debtor to appear in court and explain why the debtor should not be sanctioned for failing to attend, or both. Refer to Local Rule 2003 -1.*

## **LOCATION OF 341(a) MEETINGS (ALL CHAPTERS)**

341(a) Meeting of Creditors will be held in:  
United States Bankruptcy Court  
707 Florida Street, Room 324  
Baton Rouge, LA 70801

### **PROCEDURES FOR REQUESTING RESCHEDULED MEETING OF CREDITORS IN CHAPTER 7 CASES**

#### **Requests to Reschedule Prior to Meeting.**

Requests to reschedule a meeting of creditors before the assigned meeting must be made with the U.S. Trustee's office, not with the bankruptcy court. The original request must be mailed to the Office of the United States Trustee at 400 Poydras Street, Suite 2110, New Orleans, LA 70130. A copy may be faxed or e-mailed to the U.S. Trustee, also. The fax number is 504-589-4096. The E-mail address is donna.mcfatter@usdoj.gov. If sending by e-mail please type "Request to Reschedule" in the subject line of the e-mail or it may not be opened. The request must set forth specific reasons supporting the need to reschedule the meeting and should have attached any support documentation, including notes from the debtor's physician; notices of any previously scheduled court hearing, etc. The U.S. Trustee will file its decision into the record of the bankruptcy case.

### **PROCEDURES FOR REQUESTING RESCHEDULED MEETING OF CREDITORS IN CHAPTER 13 CASES**

#### **Requests to Reschedule Prior to Meeting.**

Requests to reschedule a meeting of creditors before the assigned meeting must be made with the chapter 13 trustee's office, not with the bankruptcy court. The form requesting the rescheduling of the creditors' meeting may be found at: [www.lamb.uscourts.gov/pdf/files/341reschedule13.pdf](http://www.lamb.uscourts.gov/pdf/files/341reschedule13.pdf). Once the form is completed, it may be faxed to the chapter 13 trustee's office at 225 928-3237.

### **REQUESTS TO RESCHEDULE AFTER MEETING OF CREDITORS (BOTH CHAPTERS)**

If the debtor or counsel fails to attend the meeting of creditors as scheduled, the meeting may be re-fixed only upon motion filed with the court, and served upon the trustee and the U.S. Trustee, which shall recite and contain (a) the reasons for the failure to attend the meeting; (b) that the debtor consents to the extension of all deadlines; and c) if applicable, the debtor's verification of the reasons for failure to attend the meeting.

## **VII. HEARINGS**

### **HEARING INFORMATION (ALL CHAPTERS)**

Prior to giving notice of a hearing on a motion, an objection, or a response, the debtor shall obtain a hearing date through this court's website at: <http://www.lamb.uscourts.gov/hearingdates.htm>, or the automated telephone system at (225) 389-0211 extension 2. All dates are subject to change. All hearings except 341(a) Meetings will be held in the:

United States Bankruptcy Court  
707 Florida Street, Room 222  
Baton Rouge, Louisiana 70801

### **HEARING DAYS AND TIMES**

Chapter 7 motions should be scheduled for 9:00 a.m. on an available Friday hearing date. Chapter 13 matters should be set for 8:30 a.m. on an available Wednesday hearing date.

### **DEADLINES FOR OBJECTIONS AND RESPONSES**

Objections and responses to chapter 13 plans must be filed fifteen days prior to the scheduled confirmation hearing. Objections and responses to contested motions and adversary proceedings must be filed eight days prior to the scheduled hearing.

### **TRANSCRIPT OF HEARING**

To obtain a transcript of a hearing, complete a transcript order form. This form is available on the court's website: <http://www.lamb.uscourts.gov/localforms.htm>. Submit the request to the courtroom deputy via fax at 225 389-0258.

## **VIII. DISCHARGES**

### **DISCHARGE AND REAFFIRMATION HEARINGS**

A discharge and reaffirmation hearing will be set by this court on Fridays at 9:45 a.m. after the debtor has attended the 341 (a) Meeting of Creditors. The court can approve the reaffirmation agreement only if it finds that the agreement does not impose an undue hardship on the debtor or dependent of the debtor, and that it is in the best interest of the debtor.

The debtor will be notified by the U.S. bankruptcy court clerk's office of the location, date and time of the scheduled discharge and reaffirmation hearing by mail. Failure to appear at the discharge and reaffirmation hearing may result in dismissal of the case.

## **REAFFIRMATION AGREEMENTS**

A pro se reaffirmation agreement cannot be enforced by a creditor unless the court enters an order approving the agreement. In order to obtain that approval, the Bankruptcy Code requires that the pro se debtor appear at a hearing to answer questions regarding the reaffirmation agreement. An approved reaffirmation agreement means that the debtor will have to make the payments on the reaffirmed debt; no matter what hardship this may cause the debtor. If the debtor wishes to reaffirm a debt, the form to be used for each debt to be reaffirmed can be found at: <http://www.lamb.uscourts.gov/nationalforms.htm>.

## **IX. CONVERSION AND DISMISSAL OF CASES**

### **CASE CONVERSION CHAPTER 7 TO CHAPTER 13**

The Bankruptcy Code allows a one-time, absolute right to convert a case under chapter 7 case to either a chapter 11 reorganization case or a case under chapter 13, as long as the debtor meets the eligibility standards under the chapter to which the debtor seeks to convert, and the case has not previously been converted to chapter 7 from chapter 13. The procedure for conversion by the debtor is to file a motion and certificate of service with the court and to notice (serve) the interested parties. Within 15 days after entry of an order granting conversion, the debtor must file the statements and schedules required by the new chapter.

If converting to a Chapter 13, the debtor shall file a chapter 13 plan within 15 days after entry of this order.

### **CASE CONVERSION CHAPTER 13 TO CHAPTER 7**

Many chapter 13 cases are converted or dismissed prior to confirmation due to inability to put forth a confirmable plan. If the case has not been previously converted, the chapter 13 debtor has an absolute right to convert a chapter 13 case to a case under chapter 7 at any time without the need of prior notice or a hearing. Conversion of the case to chapter 7 by a debtor is affected without court order by the filing of a notice of conversion, and the date of the filing of the notice is deemed the date of the conversion order.

When a chapter 13 case has been converted or reconverted to a chapter 7 case, the lists, schedules, and statements of financial affairs originally filed will be deemed to be filed in the chapter 7 case, unless the court directs otherwise. The statement of intention shall be filed within 30 days following entry of the order of conversion or before the first date set for the meeting of creditors, whichever is earlier.

A motion to by debtor to convert to Chapter 7 has a filing fee of \$15.00.

## **DISMISSAL OF CHAPTER 13 CASES**

The debtor may have the chapter 13 case dismissed upon request. Dismissal is initiated by the filing and service of a motion and certificate of service with the court. The debtor must notice (serve) the motion to the interested parties. The motion to dismiss the case must be set for hearing using the guidelines set forth in section VII of this booklet.

## **DISMISSAL OF CASE FOR FAILURE TO PAY PETITION FILING FEE**

Failure to pay the petition filing fee will result in a dismissal of the bankruptcy case. A motion for reconsideration of the order of dismissal will not be entertained by the court unless all unpaid fees accompany the motion. The filing fee due must be paid in full prior to the filing of a subsequent bankruptcy case by the debtor. Additionally, the filing fee due on the subsequent case must also be paid in full at the time of filing. An application to pay fees in installments will not be granted.

## **X. ADDITIONAL INFORMATION**

### **BANKRUPTCY PROTECTION**

Once the debtor's bankruptcy petition is filed and a case number is assigned, there exists an "automatic stay" or suspension of virtually all litigation and other action by creditors against the debtor or the debtor's property. Once the bankruptcy petition is filed, the debtor should notify any garnishing creditor and the sheriff's office (for foreclosures on property). Refer to Bankruptcy Basics Manual at: <http://www.lamb.uscourts.gov/bkbasics.htm>. For proof of filing, the debtor may obtain a copy of the Notice of Bankruptcy Case Filing to take to any garnishing creditor and the sheriff's office (for foreclosures on property).

## **LEGAL AID AND ATTORNEY REFERRAL SERVICES**

**The staff of the bankruptcy court cannot give legal advice. However, there are organizations that can provide assistance for debtors in the locating of an attorney:**

**Baton Rouge Bar Association** – (225) 344-4803

Pro Bono Project

P.O. Box 2241

Baton Rouge, LA 70821

Physical Address: 544 Main Street, Baton Rouge, LA 70802

Eligibility – Must be at or below 125% of the federal poverty guidelines.

Area Served – East Baton Rouge Parish and surrounding parishes.

**Capital Area Legal Services** - (225) 338-5260  
200 3<sup>rd</sup> Street  
Baton Rouge, LA 70801

**Lawyer Referral Service of Louisiana State Bar Association** - (225) 344-4303

## **TREATMENT OF SENSITIVE INFORMATION UNDER THE E-GOVERNMENT ACT OF 2002**

Filers should not include sensitive information in any document filed with the court unless such inclusion is required by statute, Federal Rules of Bankruptcy Procedure or official forms or the inclusion is otherwise necessary and relevant to the case. Any personal information not otherwise protected will be made available on the court's CM/ECF System via PACER.

Social Security Numbers: If an individual's social security number must be included in a pleading, only the last four digits should be used [Exception: Statement of Social Security Number (National Form 21)]. This Statement of Social Security Number(s) is not part of the public record and will not be available to the public.

Form 21: <http://www.lamb.uscourts.gov/nationalforms.htm>

Names of Minor Children: When referring to minor children, only the initials of the children should be used. Only the relationship and age of the debtor's dependents (i.e., son, age 6) should be listed on Schedule I, National Form 6.

Date of Birth: Only the year should be used where an individual's date of birth must be included in a pleading. List the age (and not date of birth) of each of the debtor's dependents on Schedule I, National Form 6.

Financial Account Numbers: If financial account numbers are relevant, only the last four digits of these numbers should be used. To assist the trustee and creditors, debtors may choose to include their full account numbers on Schedules D, E and F, National Form 6.

### Additional Sensitive Information:

Filers should exercise caution when filing documents containing the following:

Any personal identifying number, such as a driver's license number; medical records; treatment and diagnosis; employment history; individual financial information; and proprietary or trade secret information.

It is the sole responsibility of the filer to be sure that all documents and pleadings comply with the court's Local Rules and Administrative Orders requiring editing of personal data identifiers, in addition to compliance with federal statute, rules of procedure and mandatory forms.

## **CREDIT REPORT/RECORDS**

The bankruptcy court clerk's office is in no way affiliated with any credit bureaus (local or national). The court does not report any bankruptcy information to the credit bureaus. It is the responsibility of the debtor to report any information they find relevant to their credit record to the credit bureaus (for example: discharge date, closing date, case number, etc.). *Any disputes the debtor may have with a credit agency must be resolved by the debtor and that agency.*

### **CREDIT BUREAUS:**

Equifax - 1- 800 525-6285

Experian - 1- 800 397-3742

Trans Union - 1- 800 680-7289

Baton Rouge Credit Bureau - 225- 926-6161

## **BANKRUPTCY JUDGE**

A debtor's involvement with the bankruptcy judge is usually very limited. The debtor is prohibited from contacting a judge. Federal Bankruptcy Rule 9003 prohibits parties from "ex parte" meetings or communications with the court concerning matters affecting any particular case or proceeding. "Ex parte" means from one party, without notice to or argument by any person adversely interested. For example, a telephone call directly to the judge would be prohibited ex-parte contact. Similarly, a letter to the judge, without copies to opposing parties, would be prohibited ex-parte contact.

## **OBTAINING BANKRUPTCY CASE INFORMATION, COPY REQUESTS AND SEARCHES**

To obtain case information by mail, send a written request containing the case number, the case name, and the information the debtor requests, name and a telephone number where the debtor can be reached during business hours. Written requests for information requiring a physical search of the court's records should be accompanied by a cashier's check, certified check or money order sufficient to cover the applicable search fee of \$26.00.

Effective February 5, 2001, all new cases and all documents filed in cases and proceedings pending are electronic documents and can be viewed in the court's Electronic Case Filing (ECF) system. There is a \$0.10 per page for copies printed from ECF and a search fee of \$26.00 plus \$0.50 per page for cases filed prior to ECF and all other copies that require the clerk's office assistance.

The clerk's office will not certify copies made by the debtor. Certified copy fee is \$9.00.

Please visit this court's website for further applicable fees at:

<http://www.lamb.uscourts.gov/fees.htm>

## **NOTICE OF EXACT CHANGE**

The clerk's office does not provide change. Exact change is required upon requesting copies. Refer to this court's website: <http://www.lamb.uscourts.gov/pdffiles/notice-change.pdf>

## **FAXED FILINGS**

This court does not accept faxed pleadings.

## **VOICE CASE INFORMATION SYSTEM (VCIS)**

The Voice Case Information System (VCIS) may be dialed directly at (225) 382-2175. VCIS enables the public to directly access the court's case management system from a touch-tone telephone. This service is provided free of charge and is available 24 hours a day, 7 days a week. Case information is available approximately 24 hours after the case has been filed. A computer-synthesized voice relays the information to the caller. VCIS provides the following bankruptcy information:

Case number	Asset information
Name of debtor	Name of trustee
Case filing date	Name of assigned judge
Case chapter	Case status
Discharge and Case Closed dates	

## **XI. QUESTIONS AND ANSWERS**

### **HOW DO I OBTAIN BANKRUPTCY FORMS?**

The bankruptcy court clerk's office will supply the official forms required for filing bankruptcy: Voluntary Petition; Exhibit "A"; Schedules; Declaration Concerning Debtor's Schedules; Statement of Financial Affairs; Individual Debtor's Statement of Intention; Bankruptcy Form 21, Statement of Social Security Number; Application to Pay Filing Fee in Installments; and the Declaration upon Electronic Filing of Bankruptcy Case. These bankruptcy forms also may be purchased from office supply stores and printing stores

Applicable forms may be downloaded from this court's website at:

<http://www.lamb.uscourts.gov/nationalforms.htm>, or by clicking on the *Bankruptcy National Forms icon*.

If someone other than an attorney assists with the preparation of the bankruptcy forms, the debtor must disclose the name of the preparer on the petition and the preparer must sign the petition. The preparer is also required to file a disclosure of compensation.

**WHO SHOULD RECEIVE COPIES OF FILINGS?**

All documents filed by pro se debtors must be served upon the assigned trustee, the United States Trustee, and other parties as required by the Bankruptcy Rules and this court's Local Rules.

**WHEN WILL I GET MY DISCHARGE?**

Individual debtors are eligible to receive their chapter 7 discharge approximately 60 days from the date set for the 341 (a) meeting, unless a creditor objects in a timely manner or the court orders otherwise.

**WILL ALL OF MY CREDITORS BE NOTIFIED OF MY DISCHARGE?**

All creditors who were listed on the debtor's mailing list of creditors or who entered an appearance in the debtor's case will receive a copy of the debtor's discharge by mail.

**HOW DO I GET COPIES OF DOCUMENTS IN MY CASE?**

Case information may be obtained by using the court's automated case information systems, or by telephoning, writing, or visiting the clerk's office.

**HOW DO I GET A COPY OF MY DISCHARGE?**

A copy of the debtor's discharge will be mailed to the debtor by the clerk's office after it is entered. If another copy is needed, please call the clerk's office (225 389-0211).

\*\*After filing, it is very important that the debtor retain his/her bankruptcy papers for future reference. Sometimes the information may be needed for some future purchases or other business transactions that will require proof of filing, list of creditors and discharge.

**WHAT IS A TRUSTEE?**

A trustee is a person who administers bankruptcy cases. The trustee does not represent the debtor or any individual creditor and cannot give legal advice. Rather, the trustee has independent rights and duties that are set forth in the Bankruptcy Code. In a chapter 7 case, the trustee may take possession of the debtor's assets, sell them, and distribute the proceeds to creditors. In a chapter 13 case, the trustee administers the debtor's plan of payment, collects the funds, and pays the creditors. The trustee will also oversee the first meeting of creditors.

**WHAT CAN BE EXPECTED IF I FILE FOR BANKRUPTCY?**

A fundamental goal of the federal bankruptcy laws is to give debtors a financial "fresh start" from burdensome debts. This is accomplished through the discharge in bankruptcy, which releases debtors from personal liability for specific debts and prohibits creditors from ever taking action against the debtor to collect those debts.

## **GLOSSARY OF BANKRUPTCY TERMS**

Bankruptcy law and procedure use both specialized legal terms. The following are definitions that are specific to bankruptcy as well as language employed in other federal civil legal proceedings. Following are definitions of some terms.

**ADVERSARY PROCEEDING** - A lawsuit arising in or related to a bankruptcy case and filed in the bankruptcy court. It is started by filing a complaint and the court's issuance of a summons for service on the defendant(s).

**ANSWER** - A defendant's response to a plaintiff's demand setting out the facts, denying or affirming (admitting) allegations of plaintiff's complaint. The defendant's response in an adversary proceeding is called an answer. An involuntary petition against an alleged debtor filed by petitioning creditors requires the alleged debtor to file an answer. This answer could be the filing of a voluntary petition by the debtor or a motion by the debtor contesting the involuntary petition.

**APPEAL** - An appeal is a review of a bankruptcy judge's judgment, decision, order or decree, in whole or part, by a district court.

**APPELLANT** - The party who files an appeal to begin the appeal process is the appellant.

**APPELLEE** - The defendant against whom an appeal has been taken is the appellee. The appellee is the party who has no interest in objecting to the judge's judgment, decision or order.

**ASSET and NO ASSET CASES** - An asset case is one in which money is recovered to make a distribution to a class of unsecured creditors over and above the costs of administration and the debtor's exemptions. A no asset case is one in which there is no money to distribute to unsecured creditors.

**AUTOMATIC STAY** - An order ("injunction") that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed. [See also: MOTION TO LIFT THE AUTOMATIC STAY]

**BANKRUPTCY PETITION** - A formal request for the protection of the federal bankruptcy laws. (Official form no. B1)

**BAR DATE** - Traditionally the last date set for creditors to file claims in a bankruptcy estate is called a "Bar Date." This is now called the last date to file claims or deadline to file claims.

**CHAPTER 7 CASE** - A voluntary or involuntary case in which the estate is being liquidated under the provisions of chapter 7. A trustee is appointed by the United States Trustee.

**CHAPTER 11 CASE or REORGANIZATION CASE** - A voluntary or involuntary case in which the debtor is seeking to reorganize and continue in business rather than liquidate business assets as would occur under a chapter 7 case.

**CHAPTER 12 CASE or FAMILY FARMER CASE** - This chapter is similar to a chapter 13 case; however, eligibility to file under this chapter is limited to family farmers.

**CHAPTER 13 CASE or PLAN FOR ADJUSTMENTS OF DEBTS** - Also known as a wage earner plan, a chapter 13 is available to persons with regular income from sources such as wages, Social Security or pension benefits, welfare and income from a business carried on as a sole proprietor. The only restriction concerns the amount of indebtedness owed by the debtor, *i.e.*, secured indebtedness cannot exceed \$871,550 and unsecured indebtedness cannot exceed \$290,525. Partnerships and corporations are not eligible to file a chapter 13; they must file either a chapter 7 or a chapter 11. A designated trustee ("standing trustee") is automatically appointed in every chapter 13 case.

**CHAPTER 7 TRUSTEE** - A person appointed in a chapter 7 case by the United States Trustee to represent the interests of the bankruptcy estate and the unsecured creditors. The trustee's responsibilities include: presiding at the first meeting of creditors (§341(a) meeting), reviewing the debtor's petition and schedules, liquidating the nonexempt property of the estate, and if applicable, making distributions to creditors. The trustee may also bring actions against creditors or the debtor to recover property of the bankruptcy estate.

**CHAPTER 13 TRUSTEE** - A person appointed by the United States Trustee to administer a chapter 13 case. A chapter 13 trustee's responsibilities are similar to those of a chapter 7 trustee; however, a chapter 13 trustee has the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing payments to creditors.

**CLAIM** - A creditor's assertion of a right to payment from a debtor or the debtor's property.

**COMPLAINT** - The first document filed in a lawsuit that notifies the court and the defendant of the relief sought by the plaintiff against the defendant and the grounds for that claim.

**CONFIRMATION** - Approval of a plan by a bankruptcy judge for a debtor to pay creditors, provided that specific criteria are met (for a chapter 13 plan, the confirmation criteria are listed in 11 U.S.C. § 1325(a)). The chance of a plan being accepted is determined based on the debtor's budget provided to the court, weighing income and expenses. Regular monthly income from all sources must be disclosed including salary, commissions, investment income, tax refunds, public benefits, and unemployment compensation. Any change in the debtor's income or expenses must be disclosed to the court. Modification to the plan after the confirmation hearing may be at the request of the trustee or an unsecured creditor. 11 U.S.C. § 1329(a).

**CREDITOR** - A person (or business) to whom the debtor owes money or that claims to be owed money by the debtor.

**CREDITOR LIST** - A separate list of all creditors and their representatives with their full addresses. The court uses this list to mail notices to all the debtor's creditors. Ask the court for specifications on how to file this list on a computer disk.

**CREDITORS' MEETING** - The Bankruptcy Code gives all creditors of a debtor's estate the opportunity to participate in the administration of the case. The debtor is required to be in attendance at the first meeting of creditors (known as a § 341(a) meeting) to give the trustee and/or creditors an opportunity to examine the debtor under oath concerning his property and financial affairs.

**DEBTOR** - A person who has filed a petition for relief under the bankruptcy laws.

**DEFENDANT** - An individual (or business) against whom an adversary proceeding or lawsuit is filed.

**DISCHARGE** - A release of a debtor from personal liability for certain dischargeable debts. It prevents the creditors owed those debts from taking any action against the debtor to collect the debts. The reference to a discharge is to a universal order that focuses on the debtor.

**DISCHARGEABILITY** - Refers to a process or finding on whether each individual debt is eligible for discharge.

**DISMISSAL** - A dismissal is an order or judgment terminating a motion, adversary proceeding or bankruptcy case.

**DISMISSAL WITH PREJUDICE** - A dismissal of a case with prejudice prohibits the party from bringing the same case, claim or cause of action again.

**JOINT PETITION** - One bankruptcy petition filed by a husband and wife together. Each debtor in a joint case (both husband and wife) can claim exemptions under the federal bankruptcy laws. 11 U.S.C. § 522(m).

**JURISDICTION** - Jurisdiction is the legal authority to hear and decide a case. The United States District Court has original and exclusive jurisdiction over all cases under the Bankruptcy Code. Jurisdiction of bankruptcy cases in the Southern District of New York is automatically referred to the Bankruptcy Court by an order of the District Court which refers all bankruptcy cases to the Bankruptcy Court.

**LIEN** - A charge upon specific property designed to secure payment of a debt or performance of an obligation.

**MOTION** - A motion is an application for relief or request for an order of the court presented to the court. Motions should have "returnable dates" (dates for the motion to be heard by the judge) and the person making the motion should provide a memorandum of law in support of the motion.

**MOTION TO LIFT THE AUTOMATIC STAY** - A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay, for example, start or continue a lawsuit in state court.

**NO-ASSET CASE** - A chapter 7 case where there are no non-exempt assets available to pay any portion of the creditors' unsecured claims.

**NON-DISCHARGEABLE DEBT** - A debt that cannot be eliminated ("discharged") in bankruptcy.

**OBJECTION TO DISCHARGE** - A trustee's or creditor's objection to the debtor's being released from personal liability for certain dischargeable debts brought by an adversary proceeding under 11 U.S.C. § 727.

**OBJECTION TO EXEMPTIONS** - A trustee's or creditor's objection to a debtor's attempt to claim certain property as exempt.

**ORDER** - An order is a judicial decree resolving an issue or question raised before the court granting relief, directing a party to perform an act or to refrain from taking action.

**PARTY IN INTEREST** - A party who is actually and substantially interested in the subject matter, as distinguished from one who has only a nominal or technical interest in it.

**PETITION** - The petition is the paper filed with the Clerk of the Bankruptcy Court to start a case. The petition may be filed by the debtor (voluntary case) or by creditors against the debtor (involuntary case).

**PLAN** - A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time. When confirmed the plan is a contract between the debtor's and the creditors.

**PLAINTIFF** - A person or business that files an adversary proceeding or lawsuit with the court.

**PROOF OF CLAIM** - A written statement setting out the amount and reason a debtor owes a creditor money. (Official Form 10 is used for this purpose.)

**PRO SE** - A person appearing without representation by an attorney for himself; in his own behalf; in person.

**REAFFIRMATION AGREEMENT** - An agreement between a debtor and a creditor in which the debtor agrees to pay all or a portion of a debt even though the debt would have been discharged. 11 U.S.C. § 524©).

**SECURED CREDITOR** - An individual or business holding a claim against the debtor that is secured by a lien on property of the estate (*e.g.* a bank holding a mortgage on a house).

**SECURED DEBT** - A debt secured by a lien on property of the estate (*e.g.* a bank holding a mortgage on a house.)

**SCHEDULES** - Lists submitted by the debtor with the petition (or within 15 days of filing the petition) showing the debtor's assets, liabilities, and other financial information.

**STATEMENT OF FINANCIAL AFFAIRS** - A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, *etc.* The kinds of information which must be provided are:

Employment, occupation and income for the last two years. Partnerships or businesses in which the debtor have been involved within the past six years. Payments made to creditors within ninety (90) days before filing a bankruptcy petition. Repossessions, transfers or foreclosures occurring within one year before filing a bankruptcy petition including transfers or gifts to relatives. Property the debtor is holding for someone or someone is holding for the debtor. Books and records of financial affairs and their location. Bank, credit union, and brokerages accounts in the debtor's name closed within one year before filing a bankruptcy petition. Payments to, or payment agreements with, attorneys or any budget or credit counseling service. Casualty losses or gambling losses within the last year. Safe deposit boxes. Prior addresses within the last two years.

**STATEMENT OF INTENTION** - A declaration made by a chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate, such as a home (if securing a mortgage) or car. The debtor must disclose whether the debtor intend to surrender the asset or keep it. To keep possession of an asset, the debtor must continue to pay for it. The debtor may choose to "redeem" the property, which means that the debtor can arrange to pay the creditor the full current or "market" value of the property in one lump sum, even if the debt is considerably higher.

The debtor may "reaffirm" the debt, which means the debtor agrees to continue to make payments until the debt has been paid in full. Either option must be in writing, and under certain circumstances may require approval by the bankruptcy judge.

**SUMMONS** - An official court document informing the party served that an action has been filed against them in the court where the summons originated, and that the party is required to appear, on the date indicated on the summons, and answer the complaint in such action.

**341(a) MEETING** - A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, examiner, or the United States trustee about his/her financial affairs.

**TRUSTEE** - A person elected by creditors or appointed by the United States trustee to administer the estate of the debtor.

**UNITED STATES TRUSTEE** - An officer of the Department of Justice who supervises trustees and the administration of bankruptcy estates. The U.S. Trustee appoints trustees, monitors plans and disclosure statements, creditors' committees, applications for compensation, and the progress of bankruptcy cases, and performs other statutory duties. 28 U.S.C. § 586.

**UNSECURED CLAIM** - A claim with respect to a debt, the payment of which is not backed by the debtor's collateral or a lien on property of the debtor.

**VACATE** - To cancel, annul, or render of no effect. If a judgment or other is vacated, it is as if the order or judgment were never signed.

**VERIFICATION** - Confirmation of the correctness, truth, or authenticity of a complaint, statement, or document. Federal Rule of Bankruptcy Procedure 1008 requires that bankruptcy petitions, lists, schedules, statements, and amendments have to be certified as provided in 28 U.S.C. § 1746.