

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

Case Name:

Case No.

**RIGHTS AND RESPONSIBILITIES OF CHAPTER 13
DEBTORS AND THEIR ATTORNEYS**

It is important for debtors who file a bankruptcy case under Chapter 13 to understand their rights and responsibilities. It is also important that debtors know what their attorney's responsibilities are and understand the importance of communicating with their attorney to make the case successful. Debtors should also know that they may expect certain services to be performed by their attorney. In order to assure that debtors and attorneys understand their rights and responsibilities in the bankruptcy process, the following guidelines provided by the Court are hereby agreed to by the debtors and their attorney.

Part 1: Before the Case is Filed

The debtor shall:

1. Discuss with the attorney the debtor's objectives in filing the case.
2. Provide the attorney with complete, accurate and current financial information and cooperate with the attorney in the preparation of all documents filed in the case.
3. Disclose any previous bankruptcies filed in the previous 8 years.
4. Disclose to the attorney any and all domestic support obligations.
5. Unless excused under 11 U.S.C. § 109(h), receive a briefing from an approved nonprofit budget and credit counseling agency and provide the attorney with a copy of the certificate from the agency showing such attendance, as well as a copy of the debt repayment plan, if any, developed through the agency.
6. Provide the attorney with proof of debtor's identity, such as a driver's license, passport, or government issued identification, along with proof of debtor's Social Security number, such as a Social Security card or W-2.
7. Provide all documents or information requested by the attorney, including tax returns and insurance declarations.
8. Review the petition, schedules and related documents for accuracy prior to their filing.
9. Pay any filing fees and court costs.

The attorney shall:

1. Meet with the debtor to review the debtor's assets, liabilities, income and expenses.
2. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, provide debtor with the notice required under 11 U.S.C. § 342(b) if applicable, discuss both procedures with the debtor and answer the debtor's questions.
3. Explain what payments will be made to creditors directly by the debtor and what payments will be made through the trustee, with particular attention to mortgage and vehicle loan payments, any other debts that accrue interest, domestic support obligations and leases.
4. Explain to the debtor how, when and where to make payments to the trustee and of the necessity to include the debtor's case number, name and current address on each payment item.
5. Explain to the debtor how the attorney and trustee's fees are paid and provide an executed copy of this document to the debtor.
6. Explain to the debtor that the first payment due must be made to the trustee within 30 days from the filing of the bankruptcy petition.
7. Advise the debtor of the requirement to appear at the Section 341 Meeting of Creditors and instruct the debtor as to the date and time of the meeting and how to participate via Zoom.gov. (including verification that Debtor has access to Zoom).
8. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on leased vehicles or those securing loans.
9. Advise debtors engaged in business of the necessity to maintain liability insurance, workers compensation insurance, if required, and any other insurance coverage required by law.
10. Review all necessary tax returns for the preparation of the bankruptcy schedules and statement of financial affairs.
11. Prepare and file the debtor's petition, plan, statements, schedules, and any other papers or documents required under the Bankruptcy Code or Rules.

Part 2: After the Case is Filed

The debtor shall:

1. Make all required payments to the trustee that first become due 30 days after the case is filed and monthly thereafter. Also, if required, turn over any tax refunds, personal injury settlement proceeds or any other property as requested by the trustee.
2. Timely make all post-petition payments due to mortgage lenders, holders of domestic support obligations, lessors, and any other creditor that debtor agreed or is obligated to pay directly.
3. Contact the attorney if the debtor acquires any property after the petition is filed. Such property might include, but is not limited to, personal injury awards, inheritances, lottery winnings, tax refunds, etc.
4. Cooperate with the attorney in the preparation of any amended documents and attend all hearings as instructed by the attorney.
5. Inform the trustee, attorney and Court of any changes to the debtor's address, e-mail address, and telephone number.
6. Inform the attorney if the debtor is sued during the case, or if debtor's wages are garnished or assets are attached or seized after the filing of the petition.
7. Inform the attorney if any tax refunds to which the debtors are entitled are seized or not returned to the debtor by the Internal Revenue Service, the Indiana Department of Revenue or any other taxing authority.
8. Inform the attorney of any changes in employment, increases or decreases in income, or other financial problems or changes.
9. Contact the attorney to determine whether court approval is required before buying, refinancing or selling real property or before entering into any long-term loan agreement.
10. Pay any filing fees and courts costs.
11. Unless such attendance is excused under 11 U.S.C. § 1328(f), complete an instructional course concerning personal financial management and shall promptly submit to the debtor's attorney a Certificate of Debtor Education.
12. Cooperate with any audit conducted pursuant to 28 U.S.C. § 586(a).
13. Respond to any inquiry made by the attorney.
14. After all plan payments have been made, and if the debtor is eligible for a discharge, provide the attorney with the information needed to complete any documents required by the Court before a discharge will be entered.

The attorney shall:

1. Appear at the Section 341 Meeting of Creditors.
2. Submit appropriate profit and loss statements, tax returns and proof of income when requested by the trustee or creditors.
3. Respond to objections to plan confirmation and, where necessary, prepare, file and serve modifications to the plan.
4. Immediately inform the trustee of any changes to debtor's income or employment.
5. Prepare, file, and serve necessary amended statements and schedules.
6. Prepare, file and serve necessary motions to buy, sell or refinance property when appropriate.
7. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor or trustee.
8. Represent the debtor in motions for relief from stay and motions to dismiss and/or convert.
9. Where appropriate, prepare, file, serve and notice motions to avoid liens on real or personal property.
10. Where appropriate, prepare, file and serve a summons and complaint to avoid a wholly unsecured mortgage.
11. Be available to respond to debtor's questions throughout the life of the plan.
12. Negotiate with any creditor holding a claim against the debtor that is potentially nondischargeable to determine if the matter can be resolved prior to litigation. Discuss with debtor the cost and advisability of litigating the dischargeability of the claim. The attorney is not required, however, to represent the debtor in any adversary proceeding to determine the nondischargeability of any debt pursuant to these Rights and Responsibilities.
13. Represent the debtor with respect to any audit conducted pursuant to 28 U.S.C. § 586(a).
14. After all plan payments have been made, and if the debtor is eligible for a discharge, prepare, file and serve any documents required by the Court before a discharge will be entered.

The total fee charged in this case is \$_____. If this fee later proves to be insufficient to compensate the attorney for the legal service rendered in the case, the attorney has the right to apply to the court for any additional attorney fees. Fees shall be paid through the plan unless otherwise ordered. The attorney may not receive additional fees directly from the debtor other than the initial retainer.

If the debtor disputes the legal services provided or the fees charged by the attorney, the debtor must either contact the trustee or file an objection with the Court.

Dated: _____
_____ Debtor

Dated: _____
_____ Debtor

Dated: _____
_____ Attorney for Debtor(s)