

CHAPTER 13 INSTRUCTIONS TO DEBTORS

Ladies and Gentlemen:

My name is Ross W. Krumm. I am the Chief Judge of the United States Bankruptcy Court for the Western District of Virginia. There are two other judges in this District: Bankruptcy Judge William E. Anderson and Bankruptcy Judge William F. Stone, Jr. One of us is assigned the responsibility to determine the confirmation of your proposed Chapter 13 plan.

The purpose of these written instructions and the video you have seen is to review your responsibilities as a Chapter 13 debtor so that you will achieve confirmation and then successfully complete your plan.

Overview of Chapter 13

You have decided to use Chapter 13 of the Bankruptcy Code to pay your creditors over a period of time that can range from 36 months to 60 months. To pay your creditors during the plan payment period you will be using that portion of your income that exceeds the amount you need to live on each month. Your repayment plan will permit you to pay your creditors what you can afford.

The Steps to Confirmation

By now you have proposed a plan of repayment of your debts, or, you will file a plan soon. The Chapter 13 Trustee and your creditors will review your plan. The Chapter 13 Trustee must make a recommendation to the Court on your plan. If the Trustee recommends your plan for confirmation, and no creditor objects and you are current on your plan payments on the date set for the confirmation hearing, the Bankruptcy Judge assigned your case will review the plan. If that review shows that the plan is ready for confirmation, the judge signs an order of confirmation. Thereafter, the provisions for payment in your plan will govern both you and all your creditors.

If your financial circumstances change during your plan payment period, the amount you will repay may be adjusted up or down through a plan modification which the judge assigned to your case must approve.

Help During Your Chapter 13

It is your responsibility to make sure that you complete your plan and achieve the discharge. However, you are not alone in this. Both your attorney and the Chapter 13 Trustee are involved in your Chapter 13 case for the entire plan payment period to help you be successful in completing your plan.

Problems or Questions: Call the Trustee and Your Attorney Early

If problems come up during your plan or if you have questions about your Chapter 13 plan, both the Trustee and your attorney need to know. But, only your attorney can give you legal advice.

I cannot emphasize enough that you should call your attorney as soon as you know you have a problem or a question. The earlier you call for help the more effective your attorney can be in helping you. Also, early contact can save you attorney's fees and may help you avoid missing work to come to court to see the judge about a problem with your plan.

Your Chapter 13 Responsibilities

Plan Payments

You are responsible to make the payments you have promised to make under the plan. I am going to review with you a number of things on Plan Payments that I want you to remember as you go through your Chapter 13 Plan so that you are clear on what you need to do to be successful.

Make your plan payments to the Trustee on time

If you are not going to be able to make a payment or if you are going to be late, call the Trustee and your attorney before the payment due date and inform them. If you do not pay the Trustee and do not call, the Trustee will bring you to court to explain to the judge why your case should not be dismissed. This will cause you to lose time from work and to incur attorney's fees that can be avoided by a simple call.

Use Wage Deduct

The best way to make sure your payment is always current is to use a wage deduct through your employer. Your employer deducts a certain amount from each paycheck and sends it to the Trustee to make your plan payment. In this way you are always current.

If you are now on wage deduct or will be going on wage deduct remember the following:

- Each time you get paid, check your pay stub to make sure the deduction for your Chapter 13 payment has been made.
- If there is a pay period when the deduction does not show on your pay stub, set aside the money from your paycheck that usually comes out and do not spend it until you go to payroll and find out why the deduction did not happen. Contact your attorney.

- If at any time you are concerned that the wage deduct is not working call your attorney.
- Hold on to all of your pay stubs and keep them together in a safe place. If there is ever a question about whether you have paid your plan payments the pay stubs will show the Trustee that the wages have been withheld by your employer.
- If you change jobs, the wage deduct will stop. You will need to make direct payments to the Trustee on the next plan payment due date after your job change. Continue to make direct payments until you put a new wage deduct in place.
- If you change jobs, you should call both the Trustee and your attorney and inform them so that they can help you put another wage deduct in place at your new place of employment.
- If you are not now on wage deduct but will be going to wage deduct, make sure you make direct payments to the Trustee until you see that the wage deduct has started. That way you will be current at all times.

Direct Payments

If you are going to pay the Trustee directly you must be sure that you know the due date of your payment and that you get the payment to the Trustee by that date. Mail your payment early enough so that it gets to the Trustee by the due date.

Money Orders

If you pay by money order, save all your money order receipts and keep them together. They are your proof of payment.

Payments to Secured Creditors

In some plans, Chapter 13 debtors pay their secured creditors directly and not through the Trustee. Usually, these are payments to creditors that have a mortgage on a house or a lien on a car. Even though they are paid directly, these direct payments are plan payments. If your plan provides for direct payments to secured creditors, and after confirmation you do not pay your secured creditors each month on time, the creditor can come into court and ask for relief so that the house or car can be sold to pay the debt. You do not want to lose your house or car; so, if you are concerned at any time about making the payments call your attorney before you are late and ask your attorney to help you.

Your Discharge

If you complete all of your plan payments, you are eligible to receive a discharge of those debts that are listed in your schedules and which under the law can be discharged in a Chapter 13 case. A discharge means that, legally, you will no longer be personally obligated to pay the debts. (If the debt is a “secured debt” and is not paid in full by the plan, the creditor may have the right to repossess or foreclose on the collateral but cannot come after you personally.) Be sure to ask your attorney for a list of any debts that are not covered by the discharge order.

You can voluntarily continue to make payments to all or some of your creditors whose debts have been discharged. Should you decide to do this, the fact that you are making voluntary payments does not make you legally obligated to do so and you can stop at any time without legal consequences. Never sign any papers agreeing to repay a debt that has been discharged until you consult your bankruptcy attorney.

Upon completion of your plan payments and all other requirements set by the law, you will receive a discharge order that is proof of your discharge. Thereafter, if a creditor that you listed in your bankruptcy schedules tries to collect the discharged debt from you personally, you should call your attorney immediately and ask for help. You should keep both your discharge order and the schedules that you filed in your case in a safe place for future use if necessary. If you ever need these documents and cannot find your copy, call your bankruptcy attorney to obtain new copies.

Conclusion

On the last page of these instructions you will see the Trustee’s name and telephone number should you need to call. Also, there is a space for your attorney’s name and telephone number. You should fill in that space and keep these instructions in a place where you can find them easily if you ever need them.

If you have any questions about your Chapter 13 instructions, you should talk to your attorney. If you need to amend your plan or do anything else to get ready for confirmation of your plan, you should be clear with your attorney as to what you are to do and when it needs to be done.

If the Trustee recommends that your plan be confirmed, you may not have to come to court for the confirmation hearing. Your attorney will tell you whether you need to be in court on the confirmation hearing date.

If you are a *pro se* debtor, call the Chapter 13 Trustee’s office two (2) days before your confirmation hearing to find out if you need to attend the confirmation hearing.

On behalf of the Court, I wish to commend you for your willingness to use Chapter 13 to pay your debts and I hope that your case comes to a successful conclusion.

Ross W. Krumm
U. S. Bankruptcy Judge

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