

Chapter 13 Success Guide

Keep this for reference throughout your case.

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INTRODUCTION. Chapter 13 is a way under the Bankruptcy Code to obtain relief from your creditors while at the same time providing a fair means to pay them back as much as you can. It allows you to keep some or all of your property during the time you are paying creditors back and possibly permit you to restructure your contracts with your creditors. Your plan can eliminate late charges and penalties and extend payments on some of your debts. Chapter 13 has gained widespread acceptance across the country as an attractive alternative to a straight Chapter 7 bankruptcy.

YOUR CASE NUMBER. At the time your Chapter 13 petition was filed, the Bankruptcy Clerk assigned the case a number. This number is very important. You will need it whenever you write to the Trustee's office or when you make a payment to the Trustee. **ALWAYS PUT YOUR CASE NUMBER ON ANY PAYMENTS OR LETTERS TO THE TRUSTEE'S OFFICE OR THE COURT.**

CHAPTER 13 COSTS. The Chapter 13 program is not paid by taxpayer funds. The costs of Chapter 13 are paid by those who participate in it. Costs to you will generally include the filing fees, your attorney's fee and the Trustee's fee. The filing fees are fixed by law. The fee for your attorney must be approved by the Court and the order confirming your plan states how it is to be paid. The Bankruptcy Code states that the Chapter 13 Trustee is to charge a fee to be paid from all Chapter 13 cases and sets the maximum charge to be 10 percent of the amounts paid into the case. The percentage fee may vary during the life of your case and never exceeds 10 percent.

YOUR ATTORNEY. When your attorney agreed to represent you and signed your petition with you, your attorney became obligated to appear and represent your interests throughout your Chapter 13. Your attorney must continue to appear on your behalf as long as your case is active or until the judge permits your attorney to withdraw from your case. Your attorney can only help you and represent you if you keep in contact with your attorney's office. If you ever have any questions concerning your case, your creditors, your rights under the Bankruptcy Code, or your options under Chapter 13, make it a rule to ask your attorney first.

Your attorney should have given you a written contract that clearly explained to you how much the attorney's fee would be and how it will be paid. Be sure that you have discussed fully whether additional legal services during your plan will cost you more money or whether the initial fee will cover all legal services. Your attorney's fee may also increase if you are involved in a bankruptcy lawsuit called an "adversary proceeding" (**SEE BELOW** – page 5) or for other services that are not customary or routine. You will be notified if your attorney seeks additional fees for representing you in the bankruptcy case, an adversary proceeding, or for performing non-routine services. In most cases, your attorney will be paid the allowed fee through the Chapter 13 plan. All fees charged by your attorney must be reviewed and approved by the Bankruptcy Judge, even if you agree to pay more.

If you decide that you must change attorneys during your Chapter 13, be sure that you let the Court and the Trustee know who will be representing you. The court may require an Order allowing the attorney to withdraw or be retained.

When you need advice or assistance, you should be able to get help from the people in your attorney's office.

The Trustee offers an educational program that can help you understand the Chapter 13 process. Attending this program can answer many questions. Please call the Trustee's office or visit the Trustee's website at www.ch13-12westtexas.org to make arrangements to attend this program. Although the Trustee's office is able to answer many questions, the law prohibits the Trustee or the Trustee's staff from giving you any legal advice. If you have a problem, a question or need advice, please call your attorney's office.

YOUR ADDRESS. We need to know your exact mailing and email address as long as you are under Chapter 13. We have the address which you put on your petition and we will send all notices to that address. Each time you move or change your mailing address, you must inform in writing your attorney, the Court, and the Trustee, of your new address. In all efforts to reduce paper and postage expense (and to stay abreast of the digital era), the Trustee has begun communication via email for certain information. Please provide the Trustee with your email address when you return your contact information.

CALLS TO THE TRUSTEE'S OFFICE. The Chapter 13 Trustee's phone number is (806)748-1980. The Trustee's website is www.ch13-12westtexas.org. The office is open five days a week from 8:00 a.m. to 5:00 p.m. If you have a question which is not a legal question, you may speak with a representative of the Trustee during office hours. You do not need to talk personally with the Trustee. The Trustee's staff is familiar with the policies and guidelines under Chapter 13 and is well qualified to discuss with you any problems or questions that may arise. The Trustee and the Trustee's staff may not give any legal advice and will encourage you to direct all legal questions to your attorney. Communication between you and the Trustee personally should be through your attorney.

PAYMENTS. Most Chapter 13 payments are made through a payroll deduction by your employer. Only in unusual circumstances will the Court allow plan payments to be made by you directly to the Trustee instead of by payroll deduction order. You may also use an approved vendor, TFS, to make automatic withdrawals from your bank account to pay the Trustee. TFS does charge a small fee which must be paid when you use TFS; you can learn more at:

www.tfsbillpay.com

Should you make a plan payment personally, do so by money order, postal money order, cashier's check, or personal check. Please note: personal checks are deposited but funds are held for 15 days before they are eligible to be disbursed. Be sure to include your name, address and your Chapter 13 case number. **NEVER SEND CASH.**

YOUR OBLIGATION TO PAY. Even though you may elect wage deduction or have already established with your employer to deduct plan payments and send them to the Trustee; remember it is your responsibility to make sure payments are made. If your employer fails to make a plan payment deduction, you must send the needed plan payment to the Trustee by money order, postal order, cashier's check, or through *www.tfsbillpay.com*. You should keep your pay stubs to verify the deductions are taking place. If a payment is not received by the Trustee as required by your plan, any creditor in your case may ask the Court to dismiss the case. The Trustee may ask the Court to dismiss your case if you fail to make the required payments. **Please ensure the amount being withheld from paycheck or bank account is for the correct amount.**

DISMISSAL. If you fail to make the payments to the Trustee as required by your plan, the Trustee will ask the Court to dismiss your case. The first payment is vital, as it is due on or before the due date. If your first payment is not received timely, a notice of intent to dismiss your case will be filed for failure to make your first payment. It is very important to contact your attorney if you ever expect to miss a payment due to being laid off, becoming disabled, or changing jobs. Under the law, there are serious consequences if your case is dismissed, and you may be prevented from seeking bankruptcy relief after a dismissal or future bankruptcy relief may be severely limited. It is important to talk to your attorney if you know of any reason why the Trustee would not receive a payment. Remember, the Trustee's office has no authority to let you miss a payment or allow you to pay less than your plan requires. The Trustee must enforce your plan as it was approved by the Judge. If you need to change your plan, or request a brief suspension of payments, your attorney must present the proposed change to the judge. Suspensions are not automatically allowed, and to obtain a suspension of payments you should also have a plan on how you will make up any missed payments. You cannot retroactively change the payment amount.

CONTACTS BY CREDITORS. Generally, all creditors that you listed in your Chapter 13 schedules are subject to the automatic stay which prohibits them from bothering you in any way. If you get notices in the mail from your creditors, send them to your attorney. Many people receive a few notices at the start of a case, these should not cause concern. If you get a direct contact from a creditor, such as a telephone call, personal letter, a summons, or a visit in person, you should immediately inform them that you are under Chapter 13 and give them your case number, and your attorney's name, phone number and address. Be sure you tell your attorney the name of the person who contacted you. Your attorney will want to follow up on such a call and the name of the person contacting you is very important.

DEALING WITH CREDITORS. During the time you are in Chapter 13, you should not deal with a creditor just as a creditor should not deal with you. You may not pick and choose a particular creditor and pay it "on the side." All of your debts must be dealt with through your plan, even debts to your family. If you want to pay creditors, you must do so through your Chapter 13 plan. Please make certain that you have listed all of your debts in your bankruptcy schedules. **It is very important that you include and maintain the correct address for all your creditors in order to properly receive a discharge when your plan is complete.**

INSURANCE. In order for you to retain your property, you must make certain that your property is insured. This is especially true of motor vehicles since you are required to keep all motor vehicles insured at all times. If you ever let insurance lapse on your home, car, truck, van, or motorcycle, a creditor with a lien on it may request permission from the Court to proceed with repossession or foreclosure. Make sure your insurance policies are sent to any creditors that have liens on your real or personal property.

BALANCE DUE CREDITORS. At various times, you may be interested in knowing how much you owe and how much you have left to pay on your Chapter 13 plan. If you want to find out how much each creditor has been paid and how much is owing, you may review the details of your case at www.NDC.org (National Data Center or NDC). Twice a year the Trustee's office will send a report listing all of your debts and the balance due. The fastest and most convenient way to review your case is for you to register and log onto the website of www.NDC.org. Any balances you are given, either in a written "Status Report" or on the National Data Center website, will list an estimate of payoff balances at that time. It will not include any unmatured interest which your plan requires you to pay or any future mortgage payments that the trustee is required to pay. It is, therefore, only an approximation. The report and the NDC website give you an idea of how your plan is going. Please review them carefully. If for some reason you need an exact payoff figure, you must request this in writing from the Trustee's office and please allow several days for the trustee to review your case and calculate the payoff amount. If you are trying to pay your case off early, please consult with your attorney.

TRUSTEE STATUS REPORTS. While your case is pending, the Trustee will send a status report twice per year regarding your case. This report will show the amount that you have paid to the Trustee in the six months prior to the date the report is dated. These reports will be sent to you via email if we have a valid email address for you. A copy will also be sent to your attorney. The report can also be viewed by logging into www.ndc.org. The report should be reviewed by you and your attorney to verify that all payments you have sent to the Trustee in that period have been credited to your case. The report should also be reviewed to see that disbursements are being made correctly.

BASE PLANS. Your plan will include an amount known as a "base." It is listed on your proposed plan and will be on your confirmation order. This "base" amount

is the total amount of money that you will pay into your Chapter 13 plan - the sum of all your payments to the Trustee. Your plan may also include an "unsecured creditors pool." This is the total sum which must be paid to your unsecured creditors. Your plan will not be completed until your plan pays the full base amount to the trustee and you pay the "unsecured pool" or 100% to unsecured creditors. In no event will you have to pay more to the Trustee than is necessary to pay all your debts in full. This is particularly important if your plan includes a mortgage or domestic support creditor.

THE CONDUIT PROGRAM AND WHO IS REQUIRED TO BE A CONDUIT DEBTOR: A mortgage being paid through your Chapter 13 plan is considered to be in the conduit program. A conduit debtor is required to participate in the conduit program in certain situations including significant mortgage arrears, default on a mortgage during a plan, such as two payments behind, or by plan modification. Once your plan is designated as conduit, you will remain in the conduit program unless otherwise ordered by the Court. When you send your monthly plan payment to the Trustee, a portion of that payment includes your mortgage payment and a check will be issued to your mortgage company each month. For example, if your mortgage payment is due on February 1st, a check would be written and mailed on January 31st (or the last business day of the prior month) so that your post-petition contractual mortgage payments are always current. When you have completed your bankruptcy and your mortgage arrears have been paid in full, you will begin making your mortgage payments directly to the mortgage company again until the debt is paid in full or you sell your home.

MORTGAGE PAYMENTS PAID DIRECT BY THE DEBTOR. If you are less than the equivalent of two monthly mortgage payments in arrears with your mortgage when you file your case, you may continue to pay your mortgage direct to your mortgage holder. If you fall behind in your mortgage payments during the Chapter 13, the mortgage payments may be added to and paid through your plan. If you make your mortgage payments direct, you must remain current with those payments throughout the Chapter 13 to receive a discharge.

CLAIMS OF CREDITORS. While every creditor listed in your Chapter 13 schedules is given the opportunity to file a claim for payment, creditors are allowed 70 days from the Petition Date to file a claim (governmental creditors are allowed six months after the Petition Date to file claims). If a creditor has not filed a claim and you want that creditor to be receive payments, you have 30 days from the creditor's deadline to file a claim for them. After about seven months, we will send you a complete list of every creditor who has filed a claim in your case and the amount which they claim you owe them. You should read and examine this list, called a "Notice of Claims Filed/Not Filed," very carefully. You can also examine the list of creditors by logging into the NDC's website at www.ndc.org. Only creditors filing timely claims will receive payments under your plan. If a creditor is listed incorrectly or any amount claimed does not appear correct, you should contact your attorney at once. Unless your attorney objects to a claim on your

behalf, payments will be made on the amount the creditor claims, not the amount listed on your plan. If a creditor files a proof of claim on time, we will make payments towards the claim even if you did not list the creditor on your plan.

ADVERSARY PROCEEDINGS. During your Chapter 13 case, you may become involved in a bankruptcy lawsuit called an "adversary proceeding." For example, if one of your creditors asserts that you should not be able to discharge your debt to them, they will file an adversary proceeding. If you receive notice of one of these, contact your attorney at once.

LATE CLAIMS. Non-governmental creditors have 70 days after the Petition Date to file their claims for payment (governmental creditors are allowed one hundred and eighty days (180) after your case was filed to file claims). Generally, they are not entitled to payment if they file after that date. If there is a particular creditor that you want to be paid, please make sure you tell your attorney. The law permits you to file a claim for a creditor, but you must do so within 30 days from the creditor's deadline to file a claim. Generally, any claim which is not filed will not be paid. If you complete your plan, most claims that were listed on your plan, but for which no claim was filed, will be discharged. Secured creditors may still have rights against the collateral. Student loans, not paid in full, will generally not be discharged. You will most likely be required to continue to pay those off after the completion of your plan. There are other types of claims that are non-dischargeable. Ask your attorney about any creditor that does not file a claim.

CREDITORS NOT LISTED. Creditors not listed by you when you filed can cause quite a few problems. If you discover that you have failed to list a creditor, please tell your attorney immediately. Time is very important here, so do not delay if one shows up. Post-petition creditors are rare because you may not borrow money or incur debt while under Chapter 13, although, medical expenses may arise. Post-petition debts should be brought to the attention of your attorney so that a review of your plan can be made. In some cases, these may be included in your plan.

HOW CREDITORS ARE PAID. The money which you pay to the Trustee is used to pay expenses of administration, including payments to your attorney, the Trustee, and to your creditors. So that you will have some idea as to how the creditors are paid, you should know that there are four basic types of claims: administrative, priority, secured, and unsecured. While all claims are paid only in accordance with your approved plan, as a general rule we pay administrative costs and your attorney's fees first, then creditors with liens on your property (secured claims), then creditors holding tax or support claims (priority), and then everyone else (unsecured claims). How much and when each type of creditor is paid depends on your plan. We generally will not pay anything to unsecured creditors until the priority claims and the secured claims are current under your plan. Due to this, it could be some time before the first payment is made on unsecured claims.

TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS. Thirty days after the governmental creditors' deadline for filing claims has passed, the Trustee will prepare and file with the court a document called, "Trustee's Recommendation Concerning Claims" (TRCC). It outlines which creditors will be paid, including the specific terms of their payment, which creditors will not be paid because no claim was filed by them or on their behalf, and any proposed modification necessary to make the plan feasible. At this point, your plan is confirmed, all deadlines have passed for filing claims, and any remaining objection to a claim's treatment resolved. All claims filed with the court are audited to ensure accurate payment to your creditors. Your plan is re-calculated to verify the monthly payment and base are sufficient to pay the allowed claims and administrative expense as required by the Order Confirming Chapter 13 Plan. Once the TRCC has been filed, a thirty-day response period follows in which you or any of your creditors may object to their proposed treatment. Any response/objection to the TRCC must be in writing and filed with the court so that a hearing resolving the objection will be held. If no response/objection is filed within the allotted thirty days, Trustee will file an Order Approving TRCC with the court. Your claims will be paid in keeping with the Order Approving TRCC until the plan is either complete or otherwise modified with the court.

THE DIVIDEND TO CREDITORS. When your plan was proposed, you and your attorney calculated what minimum payment would be paid to your unsecured creditors. For example: a 50% plan = 50% of the total non-priority unsecured debt will be paid, while the remaining 50% may be discharged.

If your financial situation improves while you are in your plan, you can increase the dividend to your creditors.

FINANCIAL WORKSHOP. In order for you to complete your plan and receive a discharge, you are required to attend an instructional course in personal financial management. While you may attend any course that has been approved by the United States Department of Justice, the Trustee's office provides a free course that will satisfy this requirement www.13class.com. The password (Trustee Identifier) for this free course is **TEN13036**. Early attendance will help you make your Chapter 13 plan work. You will receive information on setting and achieving financial goals by developing a family spending plan.

CO-SIGNERS AND GUARANTORS. A co-signer or guarantor on any of your consumer debts is generally protected from contact by the creditor by the "co-debtor stay." This automatic protection applies in Chapter 13 cases. If the cosigner or guarantor has given collateral for the loan, the creditor must request a hearing before the Judge in order to proceed against the property. The co-debtor stay will only protect co-signers or guarantors for the amount of debt your plan proposes to pay. If your plan is not scheduled to pay all of the cosigned debt in full, a creditor may obtain permission to collect from the co-signer or guarantor, that portion of the debt that your plan is not going to pay.

CREDIT CARDS AND POST-PETITION DEBT.

When your petition is filed, the Bankruptcy law prohibits you from incurring any debt for as long as you are under Chapter 13. This prohibits you from borrowing any money, even a student loan. You are prohibited from signing a "rent to own contract," using a "title pawn", or payday loan company. You may not make purchases, like a car or furniture, and you may not run up a bill to anyone. You may not sign, co-sign or guarantee an installment note and you may not use a credit card. This applies to any member of your family that is supported by you, whether they themselves are under the jurisdiction of the Court or not. The only exception to this is for medical emergencies. The Court will permit you to incur a bill to a doctor, a pharmacist, a dentist, a hospital or clinic during your plan. If, for some reason you feel that it is important for you to be able to buy something in installments, or borrow money, your attorney must obtain the Judge's permission. There are separate rules for business cases which allow 30 day accounts.

OBTAINING CREDIT WITHOUT PERMISSION. Obtaining credit without permission of the Court may be a violation of the Court's orders and/or Bankruptcy Code.

SELLING OR REFINANCING PROPERTY. You may not dispose of any of your property, including land, and you may not refinance any mortgage without Court approval. If you dispose of your property without permission, the transaction may be set aside. If you want to sell your property, trade in a car, or sell your home, be sure to discuss it with your attorney.

WHEN YOU'RE FINISHED. After you have successfully completed your plan, that is, when the Trustee has received enough money from you to pay your creditors what you promised to pay them, you and your employer will receive a notice from the Trustee that your payments may stop. **DO NOT STOP MAKING PAYMENTS TO THE TRUSTEE UNTIL YOU RECEIVE THIS NOTICE.**

Even though you may be finished paying, you will not receive a discharge unless you have attended an approved course on personal financial management and you have filed a certification that you have paid all support payments that may have come due during your case. You will also be required to file a motion with the Court that makes clear you have not committed fraud while in your bankruptcy.

When your plan is completed and you receive a written notice of completion, you may receive a small refund check from the Trustee which is the amount of your last few payments not needed to pay your creditors.

If the Trustee was making your mortgage payments, you must begin making your payments. The Trustee will send you a letter telling you when to begin making payments to your mortgage company. **DO NOT WAIT** for a payment book or reminder from the creditor to start these payments. If you have a

question, please ask your attorney.

REQUEST FOR DISMISSAL BY YOU. Unless your case was converted from a Chapter 7 case, the Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed. No one can force you to remain under a Chapter 13 plan if you do not wish to remain. If you desire to stop your case, contact your attorney. However, understand that a dismissal will reactivate all unpaid or disputed debts, all interest, finance charges, all late charges not allowed by the Bankruptcy Court, and all debts of creditors who did not file their claims. In addition, you will be forced to deal with those creditors on their terms, not yours or the Courts. Your ability to obtain relief in another bankruptcy case may be severely limited. The request for dismissal of your plan must be in writing and filed with the Bankruptcy Court.

When your case is dismissed, any funds held by the trustee will be disbursed to your creditors as per your plan or your Authorization for Adequate Protection Payments. This takes at least a month.

CREDIT RATING. Your credit rating during and after completion of Chapter 13 will be, as it is now and was in the past, the opinion of any credit grantor who looks at your credit history. Your credit history is made available to a creditor and it is up to that creditor, using its own standards, as to whether to grant credit to you. Suits, collections, attachments, straight bankruptcies and Chapter 13 are indications, in one degree or another, of credit problems. After many years and thousands of paid-in-full Chapter 13 cases in this area, we find a good amount of creditors looking with respect upon those who have paid debts under a Chapter 13 plan. Any credit record that has been blemished by a payment problem must be gradually rebuilt. Remember, though, that paying your Chapter 13 and receiving a discharge is a good place to start.

CONTACT BY CREDITOR AFTER COMPLETION OF CHAPTER 13. When a creditor has had its claim paid by Chapter 13, whether partially or in full, it should, send the paid-in-full papers to you. Even if the creditor fails to do this, it is not too significant since the official records of the Court showing your plan is completely paid and you received a discharge would overrule any claim he might make for additional money. Should you receive any requests for additional money after your plan is complete, do not pay without first talking to your attorney.

TAX RETURNS. While in Chapter 13 Bankruptcy, you must provide the Trustee with a copy of your annual income tax return every year by April 15th. If you file for an extension, you must send the Trustee a copy of the extension and then a copy of the tax return when it is filed (no later than October 15th). If you are not required to file a return, you must send the Trustee a signed statement every year that you are not required to file. Failure to timely comply with these requirements may subject your case to dismissal if your income was determined to be over the median income at the time of your filing your bankruptcy. If your refund is over \$2,000.00 you may be required to send the amount over \$2,000.00

to the Trustee if you are classified as an above the median income debtor. Once your tax return is reviewed, you will be sent a letter notifying you if you owe any funds from your tax refund to the Trustee. Please do not send any funds to the Trustee prior to receiving a letter from his office stating the correct amount to be sent.

**NOTICE THAT INFORMATION RELATING TO YOUR CHAPTER 13
BANKRUPTCY CASE WILL BE MADE AVAILABLE ON THE
INTERNET TO YOUR CREDITORS AND OTHER PARTIES IN
INTEREST**

Pursuant to 11 U.S.C. §1302(6)(1) and §704(7), your Chapter 13 Trustee has a duty, unless otherwise ordered by the Bankruptcy Court, to furnish information concerning the administration of your bankruptcy case as is requested by your creditors. Consistent with this duty, the Chapter 13 Trustee will make the following information available to your creditors on a secure web site approved by the United States Trustee:

- 1) Your name, address, bankruptcy case number, state and district in which your case is pending, and the trustee assigned to your case. Neither your employers name nor your social security number will be displayed on the site; however, parties in interest will be able to search for your bankruptcy case using your social security number.
- 2) Information regarding claims filed against your bankruptcy case including the identity of the claimant, the type of claim (i.e., priority taxes, secured, unsecured, etc.), and the amount of the claim, history of all payments made to the Trustee including the date and amount of each payment.
- 3) A history of all payments made by the Trustee to creditors in your bankruptcy case including the amount of the check, the person to whom the check was sent and the date the check was issued.

You may review, without charge, your Chapter 13 case information that is posted on the Internet. If you believe the information about your bankruptcy case is inaccurate, you can contact the web site host to report the error, and you should receive a written response from the web site host within thirty (30) days following receipt of such report.

The internet address where your information is posted is:

www.ndc.org

Follow these steps to begin:

Click "Get Started" button

Register as instructed on the website. You will receive your own login and password.

Read instructions and log in to your case, using the login and password that you created

Keep your login and password handy and you can use it at any time

ONE FINAL WORD. Complying with a Chapter 13 plan is not easy. You may have to make sacrifices to meet the obligations which you have made and still live within your Chapter 13 budget. Thousands of families have successfully completed their Chapter 13 plans and know that they have resolved their debt problems without filing straight bankruptcy and have paid most, if not all, of their obligations to their creditors. Chapter 13 will only work for you if you work very hard at meeting your obligations under your plan.

**WE WISH YOU MOST SUCCESS IN COMPLETING YOUR
FINANCIAL RECOVERY THROUGH CHAPTER 13**