

# Bankruptcy Success Guide

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## Chapter 13 Reorganization

**2022-2023**

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**LEWIS LEGAL SERVICES, P.C.**  
**[www.debtfreeindy.com](http://www.debtfreeindy.com)**





# BANKRUPTCY LAW OFFICE OF ERIC C. LEWIS

*A Law Firm and Debt Relief Agency Helping Honest People File for Bankruptcy Relief*

## **BANKRUPTCY SUCCESS GUIDE – YOUR FREST START BEGINS HERE**

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The purpose of this “Bankruptcy Success Guide” is to illustrate what should be expected to complete your bankruptcy filing. For most people, having to filing bankruptcy can be a very stressful situation, but the process of filing doesn’t and shouldn’t have to be stressful and we are here to guide you every step of the way.

1. **Read Everything.** We wouldn’t give you documentation if it wasn’t very important to you and the success of your case. We realize that it can be difficult to read through many pages of “legalese” but do your best and ask questions.
2. **Time is Key.** Don’t drag this out. Timing of your filing is critical under the law because the longer you drag out the process, the more time it will allow creditors to sue you, garnish wages, and in some cases, based on your present source(s) of income, it may disqualify you from filing under a particular chapter of bankruptcy code or result in you losing certain assets.
3. **Updates.** If anything in your financial situation changes (you get a new job, increased or decreased pay, etc) or you change your address, phone number or email, plan to get married, tell your attorney immediately. I cannot help you if I cannot get ahold of you or know about significant life changes. Communication is essential!
4. **Mailings/Emails.** If you get something in the mail from our office, the trustee or from the court, open it and read it as soon as possible, it’s probably important and time sensitive.

### **Cancellation and Termination Policy**

Should you choose, for whatever reason, to close out your file before the case is filed with the bankruptcy court, you will need to provide written notice to Lewis Legal Services, P.C. Upon receipt of notice, the firm will do an accounting of work done to date and you will be charged only for work done up to the date of cancellation. Per our agreement, attorney work is billed at \$250/hour (clerk work \$75/hour) and you will receive an itemized billing and a return of any paid but unearned fees, if any. There is no such thing as cancelling your Chapter 7 bankruptcy after the case is filed with the court. With some exception, **Chapter 13 bankruptcy may be cancelled voluntarily at any time.** There are instances in which inaction on your part may result in a case being “dismissed” but you generally cannot choose to “cancel” your Chapter 7 bankruptcy once it is filed with the bankruptcy court and if you have non-exempt assets, they would still be taken by the trustee whether you want to move forward with your bankruptcy or not. Also, we understand that this may be a very stressful situation, and we’re here to help you through it, but if you are uncooperative, disagreeable or fail to act in a timely manner or fail to abide by terms of the contract, this firm may terminate the agreement upon notice sent to you, the client, and you will be billed accordingly.

### **CONTACT INFORMATION**

**Phone:** (317) 623-3030 Ext. 2  
**Mail:** P.O. Box 40603, Indianapolis, IN 46240  
**Fax:** 1-317-623-3062  
**Email:** [debtfreeindy@gmail.com](mailto:debtfreeindy@gmail.com)  
**Payments:** Checks payable to “Lewis Legal Services” (cash and checks preferred)  
You may also make a secure payment by “echeck” or debit card

**SCAN WITH YOUR PHONE TO MAKE A SECURE PAYMENT**



**How is my payment obligation calculated?** There are a number of factors that are considered to determine not only the length of repayment (minimum 36 months, maximum 60 months), but also how much you would be obligated, or expected, to pay to creditors in Chapter 13. The length of your payment is dictated by your income at the time of filing in relation to median income for your household size. Below median income and your “commitment period” is typically 36 months. If you’re above the median income, your plan payment period must be set at 60 months.

The payment calculation is based on two things: your “best efforts” and your creditor’s “best interests” under the law. Your best effort, as you would expect, is a determination of your “disposable income.” In other words, after you have paid for living expenses and everything needed for the support of your family, what’s left? A “determination of disposable income” developed by Congress is applied to determine what the minimum amount available to unsecured creditors should reasonably be. In some cases, the “best interest of the creditors” test applies where you have non-exempt equity in property. If you have what is called “exposed equity,” the minimum amount you would have to pay must equal that exposed equity – the amount that creditors would get if your property was sold. Remember, Chapter 13 is not a liquidation – you don’t lose any property, but there are minimum expectations as to your ability to pay creditors.

### **Mandatory Credit Counseling**

Bankruptcy law requires that all persons filing Chapter 7 or Chapter 13 bankruptcy must complete two credit counseling courses by court-approved counseling agencies. These courses may be completed online or over the phone and generally take about an hour of your time. One course, the **Pre-Filing Credit Counseling** (your ticket in) must be completed before your bankruptcy case is filed. The second course (your ticket out), called the **Financial Management Education** course, must be completed after your case is filed with the bankruptcy court in order for you to receive a discharge of liability on your debts when the case is closed by the bankruptcy court.

**Clients with judgments/lawsuits and real estate:** In Indiana, a judgment entered by a court automatically becomes a lien against real property that you own in the county in which the judgment is entered. Also, a party may record the judgment in another county to “perfect” a lien against your real property situated in that county. A motion to void a “judgment lien” is available in bankruptcy only if the lien impairs your entitled exemption (i.e. you have very little or no equity); therefore, it is essential that if you have a lawsuit against you that you get your bankruptcy case filed before a judgment is rendered. You are encouraged to take all action within legal means to prevent the entry of a judgment against you before your bankruptcy petition is filed with the court. In the event that you already have a judgment against you or will have one before your case is filed, depending on your equity in the real property, the lien may either 1) not be discharged in bankruptcy and will impair the future transfer or sale of the home unless satisfied or 2) will necessitate the preparation and filing of a motion to void the judgment lien, which will cost you more than a typical bankruptcy proceeding.

**Do Not Delay, Get Everything in Order to File ASAP:** The filing of a bankruptcy petition is a plea to the court to provide protection against your creditors by means of an “automatic stay” against collection. Merely hiring a law firm or providing some paperwork does not mean that your case is filed. Your bankruptcy will not be filed with the court until you have completed all the requirements, including payment of all fees in full (if Chapter 7) or as specified in contract (Chapter 13 only), provided all necessary documents and information, reviewed and signed your bankruptcy petition. The longer you delay in getting your case filed may result in changes in circumstances that may alter the advice of your attorney at an initial consultation. For example, it is possible to qualify for Chapter 7 one month and not qualify the next because of increased income. It is also not uncommon for property to change in value, which may put it at risk of liquidation. Commit yourself to getting everything done as soon as possible and if there are any changes in your situation, advise your attorney immediately.

**Taxes, Tax Refunds and Overwithholding:** Tax refunds are the most common asset that people may have to give up as part of doing bankruptcy. Some repayment plans call for a debtor paying half of every federal tax refund to the trustee for your creditors every year of the plan (most common). Sometimes, you are able to keep all or part of the refund. If the amount is small enough, the trustee may just let you keep it. Again, there are a number of factors to consider and discuss in more detail.



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## **WHAT YOU NEED TO KNOW –**

### **TAX REFUNDS, BANK ACCOUNTS AND WAGES OWING**

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Most people filing for bankruptcy relief do not lose any assets as most of things that you own are likely “exempt” under applicable exemption laws. However, there are some things that you need to be mindful of as you prepare your bankruptcy for filing.

### **The date that you file your bankruptcy case is pretty important.**

After your paperwork has been finished, fully reviewed and signed, it will be ready to file with the bankruptcy court. The date that it is filed will be coordinated to make sure that you are aware of all the implications of filing on that particular date because just about everything revolves around that date. And once filed, the court takes control. There is no such thing as cancelling Chapter 7 bankruptcy.

### **Tax refunds**

The one “asset” that people in bankruptcy tend to lose more than anything is part, or all, of their income tax refunds. Non-exempt portion of tax refunds are taken by the bankruptcy trustee for the year in which your case is filed. Some things to consider:

- The timing of your bankruptcy filing
- The projected amount of your tax refund(s)
- Whether there is exempt money, such as Earned Income Credit

Timing is key. Let’s say for example that you file a bankruptcy case on April 26<sup>th</sup>. That is day 116 out of the year, meaning that about 31.8% of the year is done. That means that the trustee could take 31.8% of the non-exempt portion of your tax refund when you do your taxes next year. The later in the year, the higher the percentage: July 12<sup>th</sup> is day 193 (52.9%) October 22 is day 295 (80.8%). So what happens if you file early in the year? Well, the question is have you received your tax refund yet? If not, then 100% of the tax refund for the last calendar year is owing to you and if you file bankruptcy before you get your tax refund, you could lose the entire “non-exempt” portion. If you get your tax refund and spend it on legitimate necessities, and then file your bankruptcy, the money is gone and the only tax refund owing to you is that percentage of the current year (example, February 25<sup>th</sup> is day 56 or 15.3%).

So what’s exempt? When it comes to tax refunds, the exemption in Indiana is “earned income credit” or EIC.” If you want to check your tax returns to see if you have EIC, check:

- Federal Form 1040, line 17a
- State Form IT-40, Schedule 5: Credits, line 5

### **YOUR OWN EXAMPLE:**

*Presuming that a  
bankruptcy case  
is filed on this date*

TODAY’S DATE IS \_\_\_\_\_ WHICH IS DAY \_\_\_\_\_ OR \_\_\_\_\_ %

YOUR EXPECTED TAX REFUND IS: \_\_\_\_\_

MINUS EARNED INCOME CREDIT: - \_\_\_\_\_

NON-EXEMPT REFUND AMOUNT: \_\_\_\_\_

\_\_\_\_\_ % OF NON-EXEMPT AMT: \_\_\_\_\_



### **Bank accounts: VERY IMPORTANT**

And when we say bank accounts, we actually mean any money held in hand or on deposit anywhere. So that's checking, savings, stocks, bonds, Certificates of Deposit, gift cards, debit cards, check cashing cards, payroll cards, PayPal, Greendot, Cryptocurrency. ANY of these types of accounts when you file bankruptcy ALL TOTALLED together cannot exceed (in Indiana, using Indiana exemptions) more than **\$450.00 per person**. So, when you file bankruptcy, going into the day that it is filed, make sure that you do not have more than \$450.00 in the accounts total. And that means that all checks or debits have actually cleared and posted. Any amount above the amounts exempt by law could be taken for the benefit of your creditors in the bankruptcy.

### **Wages owing and bonuses**

On the date that your bankruptcy is filed, are you owed wages or bonuses or commission pay? For wages, the bankruptcy trustee could potentially take up to 25% of your net wages that were owing to you as of that date. For most people, this is a small amount, especially with a little planning on the timing. But be aware of this because if the amount is large enough, the trustee will demand that you turn it over for the benefit of your creditors. The same is true for portions of earned yet unpaid bonuses.

### **Does anyone owe you money?**

On the date that your bankruptcy is filed, are you owed money from anyone for anything? Do you have the right to sue anyone for money? If the answer is yes, then the bankruptcy trustee could possibly take all of this money from you to pay your debts in bankruptcy. Other "assets" owing to you at the time of your bankruptcy being filed could include insurance proceeds, lawsuits, claims, unpaid wages, benefits, etc. Make sure your attorney is aware of any of these possible assets BEFORE your bankruptcy case is filed with the court.

### **Will you inherit money?**

Most things in bankruptcy are concerned with the date your bankruptcy is filed and look backwards from there. When it comes to inheritance, it is forward looking as well. **If you inherit money before or within 180 days after** your bankruptcy is filed, it is property of the bankruptcy estate and the trustee can take it to pay your debts in bankruptcy. What matters here is within that 180 day period, have you gained the right to property or money – not that you have actually received it. If someone dies within that 180 days and you inherit, you will most likely lose that money. On the other than, if someone dies 181+ days after you file bankruptcy, and you inherit money or property, no matter how much, you get to keep it all! If any of this is a concern, let us know ASAP!

### **Payments to friends, family/relatives**

In the last year, have you made any payments to friends, family members, or business partners? The bankruptcy code calls these people "insiders" and it is possible for the bankruptcy trustee to go after these people in certain situations for the money that you paid them. If you have made a payment to an "insider," you may wish to consider the timing of your bankruptcy filing. Tell your lawyer if you think this applies to you! Bankruptcy trustees have sued people's family members for insider payments and other things deemed as "fraudulent transfers" of money, even if and when no fraud is involved. When in doubt, ask your lawyer!



# LEWIS LEGAL SERVICES

PROFESSIONAL CORPORATION

## STEPS TO A SUCCESSFUL CHAPTER 13 BANKRUPTCY CASE

### Step 1 Before Filing

- **Read everything** given to you by your attorney and don't hesitate to ask questions
- Gather all your "Documentation Needed to File" from the checklist provided by our office
- If on a payment plan for upfront fees to file, continue to timely make **attorney fee payments**

### Step 2 Before Filing

- email or drop off documentation to your attorney as soon as possible
- Once documentation is received, your attorney will begin to draft your bankruptcy petition
- Once your upfront fees have been paid (including court costs), you will **set an appointment** to come into the office and review your petition and plan to ensure it is ready to file in court

### Step 3 Before Filing

- Appointment with attorney to **sign and review** petition and make sure all documentation has been provided; attorney will advise you of any pending issues and will answer any questions
- At this appointment, your attorney will discuss your "**plan to file**" including the timetable

### Case Filed!

- Your attorney will prepare your case for electronic filing with the bankruptcy court
- Once your case is filed, notice is sent out to the creditors listed that the "**automatic stay**" against collection effort is in immediate effect (including against paycheck garnishments)
- Creditors are given a 90 day deadline in which to file a "**Proof of Claim**" with the Court to be paid and part of the proceeding

### Step 1 After Filing

- The court will set a meeting in which you have to attend with your lawyer called the "**Meeting of Creditors**" or "**341 Meeting**" (named 341 because it is required by bankruptcy code section 341)
- Take the second required course in "personal financial management" at your earliest convenience
- If not on wage withholding from payroll, make your first payment to the Trustee within 30 days

### Step 2 After Filing

- Attend your scheduled "Meeting of Creditors" (actual meeting time typically 5 to 10 minutes)
- If the bankruptcy Trustee requires more information or documentation, comply with that request. It is very common for the Trustee to request a modification of your proposed plan before confirmation will be recommended to the judge so don't panic if you are told you need an amendment. Also, it is very common to receive an **objection and a court hearing**. Remember, you do not need to attend any court hearing **UNLESS** your attorney specifically tells you that you need to attend.

### Bankruptcy Discharge

- After Confirmation of your plan, continue to make timely payments for the length of your plan. At the end of the repayment period, and upon completion of your second course, if you are eligible, you will receive a **discharge of the balance on your debts** that are remaining unpaid and subject to discharge



## 1st Course Credit Counseling



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Call: 1-855-980-6690

Judicial District

**Southern District of Indiana**

Attorney E-mail or Code

**14312TE** or [debtfreeindy@gmail.com](mailto:debtfreeindy@gmail.com)

### Client Testimonials

I just wanted to thank Cathy and your company. she stayed 30 minutes past midnight to get my needs taken care of. I appreciate that. You guys were great. I wasn't expecting much in the way of service for \$10. you guys were half the cost of everyone else on the list that my attorney gave me. Thanks again. – **WJC**

I cannot tell you how much I appreciate the way you do business. I have serious anxiety issues, but having the ability to go to chat or call for help was so helpful. – **JC**

THANK YOU CC Advising. I greatly appreciated the outstanding support!!! Your company provides a VERY high quality service at a very reasonable low cost. From start to finish your company is among one of BEST organizations that I've ever worked with. – **GS**

While filing bankruptcy is never the path of choice for anyone, I appreciate the kindness and suggestions for improving our family budget Al Layacan provided. He was thoughtful and didn't make me feel worse than I already do about the decision of filing. Thank you Al - I appreciate you. – **DWC and CHC**

Awesome. I really like the ideas that were suggested. It is something that I have already been trying to implement. I will just have to be more aggressive with it! Thank You. – **TH**

Wonderfully pleasant credit counselor. Also, knowledgeable and gave great ideas for balancing my household budget. – **CMT**

**ccadvising.com**





PACER-Verified Case Information



120 minute time requirement  
(same for all providers).



Couples take the course together.



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Call: 1-855-976-1700

Case Number

 – 

Judicial District

Southern District of Indiana

Attorney E-mail or Code

**14312TE** or debtfreeindy@gmail.com

### Client Testimonials

I actually learned quite a bit from this course. It was very informative and helpful for me! – **DLH**

Good course. Made me more knowledgeable and answered some questions and defined things I was unsure of. I appreciate the helpful hints and suggestions. – **AMS**

I went into this course thinking it was another thing that wouldn't be helpful and it was stuff I didn't know. But I was pleasantly surprised. This course was very informative and helpful. Thank you. – **GMM**

The information received was very helpful. I'm going to apply these lessons and get better at budgeting, saving, and planning. – **NDG**

I feel that the course that I took today was very helpful and very informational, I will use all the stuff I learned today, thank you so much for helping me – **TLA**

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