

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA

**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.

**BEFORE THE CASE IS FILED**

The debtor agrees to:

1. Provide the attorney with complete, accurate and current financial information.
2. Discuss with the attorney the debtor's objectives in filing the case.
3. Disclose any previous bankruptcies filed in the previous 8 years.
4. 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.
5. Disclose to the attorney any and all domestic support obligations.

The attorney agrees to:

1. Meet with the debtor to review the debtor's debts, 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 Chapter 13 plan, 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, pursuant to the plan,

to the Chapter 13 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 under Chapter 13 must be made to the trustee within 30 days of filing of the bankruptcy petition.
7. Advise the debtor of the requirement to attend the Section 341 Meeting of Creditors and instruct the debtor as to the date, time and place of the meeting and of the necessity to bring both picture identification and proof of the debtor's social security number to the meeting.
8. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on leased vehicles or those securing loans, and of the obligation to bring copies of the declaration page(s) documenting such insurance to the Meeting of Creditors.
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. Timely prepare and file the debtor's petition, plan, statements, schedules, and any other papers or documents required under the Bankruptcy Code.

## **AFTER THE CASE IS FILED**

### The debtor agrees to:

1. Timely make all required payments to the Chapter 13 trustee that first become due 30 days after the case is filed. 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. Cooperate with the attorney in the preparation of all pleadings and attend all hearings as required.
4. Keep the trustee, attorney and Court informed of any changes to the debtor's address and telephone number.
5. Prepare and file any and all federal, state and local tax returns within 30 days of filing the petition.
6. Inform the attorney of any wage garnishments or attachments of assets which occur or continue to occur after the filing of the case.
7. Contact the attorney promptly with any information regarding changes in

- employment, increases or decreases in income or other financial problems or changes.
8. Contact the attorney promptly if the debtor acquires any property after the petition is filed. Such property might include, but is not limited to, personal injury proceeds, inheritances, lottery winnings, etc.
  9. Inform the attorney if the debtor is sued during the case.
  10. Inform the attorney if any tax refunds to which the debtors are entitled are seized or not returned to the debtor by the IRS, the Indiana Department of Revenue or any other taxing authority.
  11. 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
  12. Pay any filing fees and courts costs directly to the attorney.
  13. If the requirements of 11 U.S.C. § 109(h) were waived by the Court when the case was first filed, receive a briefing from an approved nonprofit budget and credit counseling agency within 30 days of the case being filed (unless the Court, for cause, extends such time) and provide counsel with the certificate from the agency stating that the debtor attended such briefing.
  14. 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 signed and completed Certification of Completion of Instruction Course Concerning Personal Financial Management.
  15. Cooperate fully with any audit conducted pursuant to 28 U.S.C. § 586(a).
  16. After all plan payments have been made, and if the debtor is eligible for a discharge, timely provide counsel with the information needed to complete any documents required by the Court before a discharge will be entered.

The attorney agrees to provide the following legal services:

1. Appear at the Section 341 Meeting of Creditors with the debtor.
2. Respond to objections to plan confirmation and, where necessary, prepare an amended plan.
3. Timely submit properly documented profit and loss statements, tax returns and proof of income when requested by the trustee.
4. Prepare, file and serve necessary modifications to the plan.
5. Prepare, file and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
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. Be available to respond to debtor's questions throughout the life of the plan.
11. 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.
12. Represent the debtor with respect to any audit conducted pursuant to 28 U.S.C. § 586(a).
13. 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 **\$4,000**. 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 an attorney has elected to be compensated pursuant to these guidelines, but the case is dismissed or converted prior to confirmation of the plan, absent contrary order, the trustee shall pay to the attorney, to the extent funds are available, an administrative claim equal to 50% of the unpaid fee balance if a properly documented fee claim (for the entire fee balance) has been filed by the attorney and served upon the Trustee. If the debtor disputes the legal services provided or the fees charged by the attorney, an objection must be filed with the Court.

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Debtor

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DATED

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Debtor

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Eric C. Lewis, Attorney for Debtor(s)