

## **RETAINER AGREEMENT**

**FOR Filing a Chapter 7 Bankruptcy**

**BETWEEN**

**FIRM NAME: Paul E. Kauffmann, Attorney at Law**

**ADDRESS: 233 12<sup>th</sup> Street, Suite 725**

**CITY/STATE Columbus, GA 31901**

**TEL. NO.: 706 221 7507**

**AND**

This law firm will represent you with respect to legal problems concerning your bankruptcy. We have discussed this firm's representation of you. We have fully explained to you all services of our firm and your duties to our firm.

### **LAWYER'S DUTIES**

1. The primary duty of this firm will be to represent you in your Chapter 7 Bankruptcy. This firm will make all necessary arrangements for filing and pursuing a Chapter 7 Bankruptcy Discharge.
2. This firm's duties end upon entry of a final court order. This agreement will apply only to work to be performed by this firm at the trial level. If you wish to appeal the result after completion of the trial, we have to come to a new agreement.

### **NO GUARANTEE**

3. Judges have the final say in all court matters, so this firm cannot guarantee the results.

### **WITHDRAWAL BY LAWYER**

4. (a) If you do not pay our bills on time, we shall be free to ask the court for permission to withdraw as your lawyer.  
(b) We may also ask permission to withdraw as your lawyer:
  - 1) if you insist that we do something illegal, frivolous, or unethical;
  - 2) if you do not answer our phone calls or letters;
  - 3) if you are not cooperative with us;
  - 4) if you tell a lie under oath or tell us that you will do so; or
  - 5) for other good and valid reasons.

### **CLIENT RESPONSIBILITY**

5. You must cooperate fully with this law firm. You must communicate with us on a regular basis. You must tell us your information that is relevant to the issues.
6. The completing of your case may require your going to court. If so, you will be required to answer both verbal and written questions within the time set by the court rules. Your failure to cooperate in litigation could result in an adverse decision.

### **LEGAL FEES**

7. We have agreed to file and prosecute a Chapter 7 bankruptcy for a flat fee of \$665 which is due before work begins on your case.
  - (a) That fee will be considered earned once the bankruptcy petition is filed. If our relationship is terminated before any work begins, you will receive a full refund of the fee. If the relationship is terminated after work begins but before a petition is filed, a pro rata refund of the fee will be negotiated in good faith based on the time that we have spent on your case.
  - (b) That fee includes the preparation and filing of the bankruptcy, attendance at the First Meeting of Creditors, and up to 3 Motions to Avoid liens. Any additional actions necessary to adequately prosecute a Chapter 7 Bankruptcy will require additional fees. We will advise you of the necessity of additional fees and will receive payment for those additional services before they are performed.

FINAL BILL

8. You should owe no additional fees other than the fees laid out in paragraphs 7, 9 and 10.

ADDITIONAL FEES

9. This agreement does not include services which may be related to the bankruptcy case but are not specifically before the bankruptcy court. If you need any of this type of service, our firm will supply any or all for an additional fee, which fee you and I must agree upon in writing prior to the commencement of work on this matter. Any fees we agree to will be payable in advance.

ADDITIONAL COSTS

10. In addition to legal fees you may have to pay the following costs if necessary:

- (a) Filing fee of \$335.00.
- (b) Service fees
- (c) Investigator charges
- (d) Subpoena witness fees
- (e) Transcripts
- (f) Messenger services
- (g) Photocopying
- (h) Telephone toll calls
- (i) Expert fees
- (j) Postage

ACKNOWLEDGMENT AND COPY

11. I have requested that you read this contract and ask me any questions you have about it. Do not sign this agreement unless you understand it and wish to hire me under all the terms of this agreement.

12. I have given you a copy of this contract.

Paul E. Kauffmann, Attorney at Law

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And

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## **Important Information about Bankruptcy Assistance Services from an Attorney**

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney.

**THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OF BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST.** Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

If you choose to file a Chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts. If you choose to file a Chapter 13 case, in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be held before a bankruptcy judge. If you select another type of relief under the Bankruptcy Code other than Chapter 7 or Chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

## **More Important Information about Bankruptcy Assistance Services from an Attorney**

1. All information provided in a bankruptcy case is required to be complete, accurate and truthful.
2. All assets and liabilities must be completely and accurately disclosed in documents filed to commence a case.
3. Current monthly income, amounts for means test calculations, and, in chapter 13 cases, disposable income must be stated after reasonable inquiry.
4. Information in a case may be audited and failure to provide such information may lead to the case being dismissed.

## **Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)**

This notice is for you if You are an individual filing for bankruptcy, and Your debts are primarily consumer debts. Consumer debts are defined in 11 U.S.C. § 101(8) as “incurred by an individual primarily for a personal, family, or household purpose.”

### **The types of bankruptcy that are available to individuals**

Individuals who meet the qualifications may file under one of four different chapters of Bankruptcy Code:

Chapter 7 - Liquidation

Chapter 11 - Reorganization

Chapter 12 - Voluntary repayment plan for family farmers or fishermen

Chapter 13 - Voluntary repayment plan for individuals with regular income

You should have an attorney review your decision to file for bankruptcy and the choice of chapter.

**Chapter 7: Liquidation** - \$335 total fee (\$245 filing fee + \$75 administrative fee + \$15 trustee surcharge)

Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their nonexempt property to be used to pay their creditors. The primary purpose of filing under chapter 7 is to have your debts discharged. The bankruptcy discharge relieves you after bankruptcy from having to pay many of your pre-bankruptcy debts. Exceptions exist for particular debts, and liens on property may still be enforced after discharge. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile. However, if the court finds that you have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge.

You should know that even if you file chapter 7 and you receive a discharge, some debts are not discharged under the law. Therefore, you may still be responsible to pay:

most taxes;

most student loans;

domestic support and property settlement obligations;

most fines, penalties, forfeitures, and criminal restitution obligations; and

certain debts that are not listed in your bankruptcy papers.

You may also be required to pay debts arising from:

fraud or theft;

fraud or defalcation while acting in breach of fiduciary capacity;

intentional injuries that you inflicted; and

death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs.

If your debts are primarily consumer debts, the court can dismiss your chapter 7 case if it finds that you have enough income to repay creditors a certain amount. You must file Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to complete the other chapter 7 form, the Chapter 7 Means Test Calculation (Official Form 122A-2).

If your income is above the median for your state, you must file a second form—the Chapter 7 Means Test Calculation (Official Form 122A-2). The calculations on the form—sometimes called the Means Test—deduct from your income living expenses and payments on certain debts to determine any amount available to pay unsecured creditors. If your income is more than the median income for your state of residence and family size, depending on the results of the Means Test, the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b) of the Bankruptcy Code. If a motion is filed, the court will decide if your case should be dismissed. To avoid dismissal, you may choose to proceed under another chapter of the Bankruptcy Code.

If you are an individual filing for chapter 7 bankruptcy, the trustee may sell your property to pay your debts, subject to your right to exempt the property or a portion of the proceeds from the sale of the property. The property, and the proceeds from property that your bankruptcy trustee sells or liquidates that you are entitled to, is called exempt property. Exemptions may enable you to keep your home, a car, clothing, and household items or to receive some of the proceeds if the property is sold.

Exemptions are not automatic. To exempt property, you must list it on Schedule C: The Property You Claim as Exempt (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

**Chapter 11: Reorganization:** \$1,717 total fee (\$1,167 filing fee + \$550 administrative fee)

Chapter 11 is often used for reorganizing a business, but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

### ***Read These Important Warnings***

Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.

Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.

You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.

Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**Chapter 12:** Repayment plan for family farmers or fishermen: \$310 total fee (\$235 filing fee + \$75 administrative fee)

Similar to chapter 13, chapter 12 permits family farmers and fishermen to repay their debts over a period of time using future earnings and to discharge some debts that are not paid.

**Chapter 13:** Repayment plan for individuals with regular income - \$310 total fee (\$235 filing fee + \$75 administrative fee)

Chapter 13 is for individuals who have regular income and would like to pay all or part of their debts in installments over a period of time and to discharge some debts that are not paid. You are eligible for chapter 13 only if your debts are not more than certain dollar amounts set forth in 11 U.S.C. § 109.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, usually using your future earnings. If the court approves your plan, the court will allow you to repay your debts, as adjusted by the plan, within 3 years or 5 years, depending on your income and other factors.

After you make all the payments under your plan, many of your debts are discharged. The debts that are not discharged and that you may still be responsible to pay include:

domestic support obligations,  
most student loans,  
certain taxes,  
debts for fraud or theft,  
debts for fraud or defalcation while acting in a fiduciary capacity,  
most criminal fines and restitution obligations,  
certain debts that are not listed in your bankruptcy papers,  
certain debts for acts that caused death or personal injury, and  
certain long-term secured debts.

### **Warning: File Your Forms on Time**

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to:

[http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

### **Bankruptcy crimes have serious consequences**

If you knowingly and fraudulently conceal assets or make a false oath or statement under penalty of perjury—either orally or in writing—in connection with a bankruptcy case, you may be fined, imprisoned, or both.

All information you supply in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the U.S. Trustee, the Office of the U.S. Attorney, and other offices and employees of the U.S. Department of Justice.

### **Make sure the court has your mailing address**

The bankruptcy court sends notices to the mailing address you list on Voluntary Petition for Individuals Filing for Bankruptcy (Official Form 101). To ensure that you receive information about your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address.

A married couple may file a bankruptcy case together—called a joint case. If you file a joint case and each spouse lists the same mailing address on the bankruptcy petition, the bankruptcy court generally will mail you and your spouse one copy of each notice, unless you file a statement with the court asking that each spouse receive separate copies.

### **Understand which services you could receive from credit counseling agencies**

The law generally requires that you receive a credit counseling briefing from an approved credit counseling agency. 11 U.S.C. § 109(h). If you are filing a joint case, both spouses must receive the briefing. With limited exceptions, you must receive it within the 180 days before you file your bankruptcy petition. This briefing is usually conducted by telephone or on the Internet.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional course before you can receive a discharge. If you are filing a joint case, both spouses must complete the course.

You can obtain the list of agencies approved to provide both the briefing and the instructional course from: [http://justice.gov/ust/eo/hapcpa/ccde/cc\\_approved.html](http://justice.gov/ust/eo/hapcpa/ccde/cc_approved.html).

In Alabama and North Carolina, go to:

<http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/ApprovedCreditAndDebtCounselors.aspx>.

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.