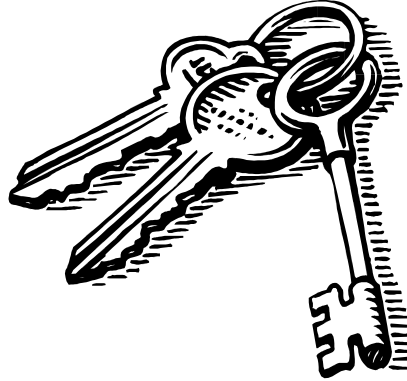


# **THE KEYS TO CHAPTER 13 SUCCESS**



## **A HANDBOOK FOR CHAPTER 13 DEBTORS**

THE OFFICE OF THE CHAPTER 13 TRUSTEE  
WESTERN DISTRICT OF MISSOURI  
RICHARD V. FINK, CHAPTER 13 TRUSTEE  
2345 GRAND BLVD., STE. 1200  
KANSAS CITY, MISSOURI 64108  
816-842-1031 or 1-800-962-0369 (toll free)

### **MAIL PLAN PAYMENTS TO: MAIL CORRESPONDENCE TO:**

**RICHARD V. FINK, TRUSTEE**  
**PO Box 1839**  
**Memphis, TN 38101-1839**

**RICHARD V. FINK, TRUSTEE**  
**2345 Grand Blvd., Ste. 1200**  
**Kansas City, MO 64108**

### **YOUR CHAPTER 13 CASE NUMBER IS:**

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### **YOUR ATTORNEY'S NAME & TELEPHONE # ARE:**

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**GET ACCESS TO YOUR CASE AT:**  
**[www.ndc.org](http://www.ndc.org)**

## **FOREWORD**

This handbook has been developed to answer some of the most common questions asked by debtors participating in Chapter 13.

Because Chapter 13 is a legal proceeding, issues are numerous and complex and will require guidance beyond the scope of this publication. Every Chapter 13 inquiry cannot be addressed here. Chapter 13 debtors should contact their attorneys whenever they have questions. The Chapter 13 Trustee administers your case. **Neither the Chapter 13 Trustee, nor his staff, gives legal advice; nor should any information we communicate to you, or your attorney, be construed as legal advice.**

I encourage you to read this book **cover to cover** the first time through, as soon as you receive it. In this way, you will know some of the rules and regulations of Chapter 13 and the options that are available to you during your case. You will also learn some important and helpful facts. Understanding the information in this book can save you time, stress, additional attorney fees, and court hearings.

After the “General Information” section, the material in this book is set up in alphabetical order for quick reference to a particular subject.

**The material in this book cannot be reproduced or copied in any way without the express written permission of the Chapter 13 Trustee for the Western District of Missouri.**

You can access this handbook electronically at [www.ndc.org](http://www.ndc.org) or at [www.13network.com](http://www.13network.com). The information in this book is subject to change without notice.

**Revised: 12/01/2016**

## **INTRODUCTION**

Chapter 13 is a form of bankruptcy available to individuals, married couples, or families, with regular income, who are experiencing difficulty paying their debts.

Chapter 13 is a legal proceeding under federal bankruptcy law that allows you to obtain relief from your creditors while at the same time providing a fair means for you to pay them back. It allows you the opportunity to keep most or all of your property during the time you are repaying creditors, and it may permit you to modify some contract payments, interest rates, and lengths of obligations. Your Chapter 13 plan may allow the elimination of late charges and penalties. Creditors generally must receive permission from the Bankruptcy Judge to take legal action against you. In exchange for the protection provided by the Federal Bankruptcy Court, you agree to repay creditors over time. Depending on your income, this generally is a three to five year period.

Chapter 13 is a long-term commitment of repayment of your debts. You are to be commended for accepting the responsibility of repaying your creditors. It is very important that you understand the requirements of Chapter 13 in order to successfully complete your case.

The keys to Chapter 13 success are simple.

1. Hire an experienced bankruptcy attorney. Though hiring an attorney well-versed in Chapter 13 law is not required, it is strongly recommended. Your attorney's role is to advise you. If you don't understand something, ask questions. Be sure you have a clear understanding of what is happening in your case. Communicate with your attorney. Respond as soon as possible to your attorney's calls and correspondence.
2. Develop an honest, straightforward, accurate, and complete Chapter 13 plan with your attorney.

3. Read and confirm the accuracy of every document you sign.
4. Speak with your attorney about the technical and specific rules to follow if you are paying any on-going mortgage payment during your Chapter 13 case. This is important whether you are paying the mortgage directly to the creditor or paying it through the Chapter 13 Trustee. Direct any mortgage related question to your attorney.
5. Make your payments to the Chapter 13 Trustee on time and in full. If you are sending a check or money order, send the payment to the lockbox address in Memphis, Tennessee (the address is shown on this book's cover). Payments also can be made electronically (this is explained later in the book).
6. **Write your case number on every personal check, money order, cashier's check, letter, etc.** that you send to the Chapter 13 Trustee.
7. **Pay attention to what is happening in your case. Obtain access to the secure National Data Center website and review the activity in your case regularly at [www.ndc.org](http://www.ndc.org).**
8. Open your mail. Read and react to correspondence that you receive from your attorney, the Bankruptcy Court, the Chapter 13 Trustee's Office, and creditors.
9. Keep your attorney informed as changes and events occur in your life. Those changes include marriage, name change, moves, divorce, death, job loss, salary changes, pending lawsuits, lawsuit proceeds received, inheritances, insurance proceeds received, gifts, etc.
10. Maintaining a current address with the Bankruptcy Court is required. If you move, notify your attorney to file a notice of

address change with the Bankruptcy Court. The Chapter 13 Trustee will not change your records in his database, until the Court's records are updated with your new address.

11. Develop a budget for your household and stick to it as best you can.

12. Read this book. Save this book. Refer to this book. If you lose it or would like an additional copy, contact the Chapter 13 Trustee's Office - one will be provided at no charge. **An electronic version is available at [www.ndc.org](http://www.ndc.org) or at [www.13network.com](http://www.13network.com).**

The Office of the Chapter 13 Trustee is available to provide assistance to you as you move through this legal process. We want to see you successfully complete your case and leave Chapter 13 with a fresh start. **The Chapter 13 Trustee and his staff will provide you with factual information about your case, but the Chapter 13 Trustee and his employees are prohibited by law from giving you legal advice and any information provided by them should not be construed, by you, or your attorney, as legal advice.**

Complying with your Chapter 13 plan will not be easy. You will have to make real sacrifices to meet the obligations which you have outlined in your plan and still live within your budget. Thousands of people have successfully completed Chapter 13 plans, resolved their debt problems, and paid most, if not all, of their obligations to their creditors. Chapter 13 only will work for you if you work hard at meeting your obligations under your plan. Again, I commend you for choosing Chapter 13 and for your commitment to repay your debts. My staff and I sincerely wish you success in the performance of your plan and will help in every way we can. Good luck in your endeavor.

Richard V. Fink, Chapter 13 Trustee

## GENERAL INFORMATION

1. During the life of your Chapter 13 case, you will hear yourself referred to as a “debtor.” This term describes a person who is under the protection of the United States Bankruptcy Court.
2. Your attorney's role is to advise you. Though hiring an attorney well-versed in Chapter 13 law is not required, it is strongly recommended.
3. You have filed Chapter 13 in order to obtain protection from your creditors. You have **voluntarily chosen** the Chapter 13 program to reorganize, restructure, and repay your debts. Generally, you cannot be forced to remain in this program. You cannot remain in this program unless you propose a legal and accurate Chapter 13 plan **and then meet the terms of that plan.**
4. **By law, the Chapter 13 Trustee and his staff cannot give you, or your attorney, legal advice. Information communicated to you by the Chapter 13 Trustee or any Chapter 13 staff member is not intended to constitute legal advice. You must consult with your attorney for all legal opinions and advice.**
5. At the time your Chapter 13 Petition was filed, the Bankruptcy Clerk assigned your case a number. This number is important. You will need it whenever you correspond with the Chapter 13 Trustee's Office or make a payment to the Chapter 13 Trustee. Write your Chapter 13 case number on the front of this book. **Write your case number on everything that you send to the Chapter 13 Trustee, including checks, money orders, cashier's checks, letters, and documents.**
6. Generally, all creditors that you listed on your Chapter 13 Petition are subject to the "stay" which usually prohibits them from contacting you once you filed your bankruptcy case. If you receive notices in

the mail or are contacted by your creditors, immediately advise your attorney.

7. All of your debts and creditors must be disclosed in your bankruptcy schedules and dealt with through your Chapter 13 plan. If your Chapter 13 plan requires that you pay a creditor directly, it is your responsibility to make those payments timely. Other than creditors listed in your plan to be paid directly, you should not communicate with or pay creditors “on the side.”
8. There are helpful websites to visit while in your Chapter 13 bankruptcy. Each will provide you with important information about Chapter 13 and the services provided by the Chapter 13 Trustee.

- **[www.ndc.org](http://www.ndc.org)**

At this secure website, you can view your case information. You can see when the Chapter 13 Trustee receives your Chapter 13 plan payments, which creditors have filed Proofs of Claim, and which creditors have been paid and in what amounts.

The Chapter 13 Trustee recommends that you view the activity in your case at least once per month at **[www.ndc.org](http://www.ndc.org)**. There is no charge to you for this service.

To gain access to this website, you will need: your full name, your bankruptcy case number, the last four digits of your Social Security number, your Chapter 13 Trustee’s name, and the name of a creditor from your list of scheduled creditors.

At your Section 341(a) Meeting of Creditors, you received a brochure outlining the process to obtain access to your case through **[www.ndc.org](http://www.ndc.org)**. If you have difficulty with access, dial 1-866-938-3639, the toll-free telephone number

on the brochure, to connect to the web host for assistance. If you discover information on [www.ndc.org](http://www.ndc.org) that appears incorrect, contact the Chapter 13 Trustee's Office so that any potential problem can be investigated and, if appropriate, corrected. The address is: Office of the Chapter 13 Trustee, Website Issues, 2345 Grand Blvd., Ste. 1200, Kansas City, MO 64108.

- **[www.13network.com](http://www.13network.com)**

At this secure website, you can print many helpful forms.

This handbook for debtors, The Keys To Chapter 13 Success, may be printed from both websites listed above.

9. **Your first plan payment is due within 30 days of the date that your Chapter 13 Petition was filed with the Bankruptcy Court.** If your case converted from Chapter 7 to 13, your first payment is due 30 days from the date of conversion.

10. **Chapter 13 plan payments can be made in the following ways:**

- **Send a personal check, money order, or cashier's check to the Chapter 13 Trustee's lockbox address in Memphis, TN. The address for plan payments is: Richard V. Fink, Trustee, PO Box 1839, Memphis, TN 38101-1839.** If you mail a plan payment to the Chapter 13 Trustee's Office in Kansas City, you will slow down the processing of your payment and risk that the payment may be returned to you. The Chapter 13 Trustee will not accept a plan payment hand-delivered at his office.

It is important that you fill out the payment instrument correctly. Any mistakes you make may result in the payment being returned to you and not being credited to your case. Follow these tips:



- Make your plan payment payable to the "Office of the Chapter 13 Trustee, Richard V. Fink, Trustee."
- Make sure that the name used in the bankruptcy case is shown on the check, cashier's check, or money order.
- Make sure you write your case number on the personal check, cashier's check, or money order.
- The hand-written amount must match the numerical amount shown on the personal check, cashier's check, or money order.
- The check must be signed.
- Do not post-date the check.

**CASH IS NOT ACCEPTED BY THE CHAPTER 13 TRUSTEE.  
Do not send cash through the mail or bring cash to the Chapter 13 Trustee's Office.**

- **Make your payment using the Chapter 13 Trustee's electronic or online ePay System.**
  - You will need your case number, Social Security number, and a checking or savings account to use the online ePay System.
  - There are links to the online ePay System on the Chapter 13 websites: [www.ndc.org](http://www.ndc.org) and [www.13network.com](http://www.13network.com). You can also gain direct access to the online ePay System using this link: [www.tinyurl.com/kcepay](http://www.tinyurl.com/kcepay).
- **Make your payment using the TFS Bill Pay System.**
  - You will need the following information to create an account to enroll in the TFS Bill Pay System: Social Security number, email address, case number, judicial district in which your case is filed, bank account information.
  - There are links to the online TFS Bill Pay System on Chapter 13 websites: [www.ndc.org](http://www.ndc.org) and [www.13network.com](http://www.13network.com). For direct access to the online TFS Bill Pay System, use the link:

[www.TFSBillPay.com](http://www.TFSBillPay.com). Contact TFS Bill Pay 24 hour support at 1-888-729-2413 with any questions.

- **Have your employer make your Chapter 13 plan payments by payroll deduction with an Employer Wage Order.**
  - Making your Chapter 13 plan payments through a Wage Order to your employer is an easy way to ensure that your payments are made to the Chapter 13 Trustee on time.
  - Set up an Employer Wage Order through your attorney or contact the Chapter 13 Trustee's Office for assistance.
  - It is your responsibility to ensure that payments are made. If you get a paycheck and your plan payment has not been deducted, make your payment yourself to the Chapter 13 Trustee's plan payment address in Memphis, TN or through the ePay or TFS Systems. Then check with your payroll department to determine why the plan payment wasn't deducted from your paycheck.

11. General correspondence must be mailed to the Chapter 13 Trustee's Office address in Kansas City at: The Office of the Chapter 13 Trustee, Richard V. Fink Trustee, 2345 Grand Blvd., Ste. 1200, Kansas City, MO 64108.

12. **You must make your full plan payment.** If you do not make a full payment, and you have not received Bankruptcy Court permission to reduce or miss the payment, your case may be dismissed from the Chapter 13 program. It is very important to contact your attorney if you ever expect to miss a plan payment due to being laid off, becoming medically disabled, because you changed jobs, etc. There are serious consequences if your case is dismissed. You may be prevented from seeking future bankruptcy relief or your future bankruptcy relief could be limited. It is important to talk to your attorney if you know of any reason why the Chapter 13 Trustee will not receive a full plan payment from you. The Chapter 13 Trustee

has no authority to let you miss a payment or allow you to pay less than your plan requires. The Chapter 13 Trustee must enforce your Chapter 13 plan as it was approved by the Bankruptcy Judge.

13. The Chapter 13 Trustee is a disbursing trustee, meaning that he receives Chapter 13 plan payments from debtors and then disburses those funds to creditors. The Chapter 13 Trustee usually makes disbursements on or about the 1<sup>st</sup> of each month. Plan payments must be posted to your case 15 days before month end to be available for disbursement to creditors in that cycle. If a payment is not posted to the Chapter 13 Trustee's database more than 15 days before the last working day of the month, those funds will not be available for distribution to creditors until the following month's distribution cycle. For example, if the Chapter 13 Trustee receives your plan payment on January 17<sup>th</sup>, he would not be able to disburse that money in the February 1<sup>st</sup> disbursement cycle.
14. Make your Chapter 13 plan payments until you receive a Wage Order Cancellation from the Bankruptcy Court. When you are nearing the end of your Chapter 13 plan, it does not benefit you to guess that you are finished with your payments and discontinue making them. If you stop making plan payments too early, you could be in jeopardy of having your case dismissed by the Bankruptcy Judge when you are close to completing it. You should continue to make your plan payments until you receive the official Wage Order Cancellation. If the Chapter 13 Trustee receives additional payments that are not required to satisfy the terms of your plan, those excess funds will be refunded to you.
15. Payments made by the Chapter 13 Trustee to your secured creditors, those whose debts have collateral attached, such as your mortgage creditor or car creditor, may begin prior to the confirmation of your Chapter 13 plan. These pre-confirmation payments are called "adequate protection" payments. Once the Bankruptcy Court issues

an order confirming your Chapter 13 plan, payments to other creditors may begin.

16. The Chapter 13 Trustee only distributes funds to creditors who have filed Proofs of Claim. The Chapter 13 Trustee cannot send money to creditors who fail to file claims in your case. Debtors may file a Proof of Claim on behalf of a creditor. However, whether you should file a claim for a creditor, who fails to do so, is a legal issue which you should discuss with your attorney.
17. If, after filing your bankruptcy case, you discover an unlisted creditor, one that you owed, but forgot to list in your bankruptcy documents, you must inform your attorney immediately. If you fail to list all creditors on your bankruptcy schedules, it can negatively affect you after your case's completion.
18. Under the Bankruptcy Rules, creditors have "bar dates" that require them to file their Proofs of Claim within a certain time frame. For non-governmental creditors, the bar date is usually 90 days after the first date set for the Section 341(a) Meeting of Creditors. For governmental creditors (such as the IRS or Missouri Department of Revenue), the bar date is usually 180 days after the bankruptcy Petition is filed. It is your responsibility to file objections to untimely Proofs of Claim that are filed after bar dates. Your failure to object to an untimely Proof of Claim may result in that creditor receiving payment under your Chapter 13 plan.
19. After your Chapter 13 plan is confirmed (approved by the Bankruptcy Judge) and the two bar dates for filing Proofs of Claim have passed, you and your attorney will receive, from the Chapter 13 Trustee, a document titled "Notice Allowing/ Disallowing Claims." **REVIEW THIS DOCUMENT CAREFULLY.** It outlines which creditors have filed Proofs of Claim in your case, the types of claims they filed, and in what amounts. Consult with your attorney immediately regarding those creditors who have not filed claims and those

creditors that you think filed claims incorrectly. The Chapter 13 Trustee must pay claims as filed by the creditors unless a formal written objection is filed with the Bankruptcy Court. If you believe a creditor filed a claim incorrectly/improperly as to the amount of the claim, type of claim, or for some other reason, contact your attorney immediately, so that a formal written objection to the claim can be filed with the Bankruptcy Court. Once the objection is filed, the Bankruptcy Judge may set the matter for a court hearing to resolve the dispute. **If you do not file a proper objection, the Chapter 13 Trustee must pay the claim as filed by the creditor.** The length of time of your plan, and the time you will be in the Chapter 13 program, is controlled by the filed and allowed Proofs of Claim - not the length of time you state in your Chapter 13 plan.

20. You are required to maintain a current address in the Chapter 13 Trustee's database and in the Bankruptcy Court's records. If you move, notify your attorney to file a notice of address change with the Bankruptcy Court. The Chapter 13 Trustee will not change his records until the Court's records are updated with your new address as the address on file with the Bankruptcy Court is your official address for purposes of your Chapter 13 proceedings.
21. Notify your attorney, **in writing**, of any changes to your employment or income status (i.e. second job, overtime, job loss, etc.). You may be required to file amended schedules and an amended Chapter 13 plan, with the Bankruptcy Court.
22. If you acquire any real or personal property while in the Chapter 13 program, you must notify your attorney. This would include: pay increases, inheritances, life or any other insurance proceeds, recoveries from legal actions, bonuses, gifts, etc. You may be required to file amended schedules and an amended Chapter 13 plan, with the Bankruptcy Court.

23. Without written approval from the Bankruptcy Court or the Chapter 13 Trustee, you may not borrow or use credit while you are in the Chapter 13 program. **The only exception for borrowing without prior approval is in the case of an emergency for the protection and preservation of life, health, and property.** This prohibition against borrowing applies to any member of your family that is supported by you, whether that person is under the jurisdiction of the Bankruptcy Court or not, as long as the debtor in the Chapter 13 may be held responsible for the debt. Examples of borrowing that are prohibited without prior Bankruptcy Court approval include (this list is not exclusive):

- using credit cards or business credit cards
- borrowing money from a finance company, payday loan establishment, bank, or credit union
- signing a "rent to own" contract or dealing with a "title loan" company
- receiving an advance on your salary
- buying anything over time, such as a car or an appliance
- signing, co-signing, or guaranteeing an installment note
- leasing a car, appliance, television, furniture, etc.
- financing or refinancing a house
- incurring student loans for yourself or others
- post-dating a check to a payday loan company

If you need a credit card in your name for work purposes, discuss this matter with your attorney so that approval can be sought from the Bankruptcy Judge.

Obtaining credit without permission of the Judge is not only a violation of the Bankruptcy Court's order, but it is subject to reversal by the Court. Any credit purchase you make without Bankruptcy Court approval could be illegal; what was purchased might have to be returned; and you could lose any payment you made. Your case

may be dismissed and your ability to obtain future relief from your creditors severely limited.

24. Requests to borrow \$2,500.00 or less may be made to the Chapter 13 Trustee using a form that you can obtain from the Chapter 13 Trustee's website, [www.13network.com](http://www.13network.com), or from your attorney. All requests must include the following information: the name of the lender, the amount of the loan, the terms of repayment (including monthly payment amount and interest rate), the purpose of the loan, and the impact of the borrowing on your ability to continue to fund your Chapter 13 plan. **THE CHAPTER 13 TRUSTEE IS NOT A FINANCING RESOURCE AND DOES NOT LEND MONEY.**

25. Requests to borrow more than \$2,500.00 must be made to the Bankruptcy Judge with a formal motion. All requests must include the following information: the name of the lender, the amount of the loan, the terms of repayment (including monthly payment amount and interest rate), the purpose of the loan, and the impact of the borrowing on your ability to continue to fund your Chapter 13 plan.

26. Without written approval from the Bankruptcy Court or the Chapter 13 Trustee, you cannot sell, refinance, transfer, give away, or dispose of any of your property during your Chapter 13. This includes your house, car, appliances, furniture, jewelry, etc. This applies to property that you had before the case was filed and property acquired after filing. If you dispose of your property without permission, the transaction may be set aside. If you want to sell any property, you **MUST** contact your attorney to determine the appropriate legal procedure before you take any action. In some cases, unencumbered property, with a fair market value of \$2,500.00 or less, **MAY** be sold, without Bankruptcy Court approval, if appropriate documents are filed with the Court after the sale. But most sales require advance permission of the Bankruptcy Judge and your attorney must file the appropriate motions to receive the Judge's approval before such sales proceed.

27. You must maintain insurance on your property. **Insurance usually is not part of your Chapter 13 plan payment unless your homeowners insurance is part of an on-going mortgage payment being paid from your Chapter 13 plan payment. All assets must be insured against physical loss for at least the values stated in your schedules. If you operate a business or are self-employed, you must have liability insurance and other insurance customary for the industry, such as workers compensation, products liability, professional liability, etc.** Your motor vehicles may not be operated without insurance. If your motor vehicle is collateral for a loan and insurance terminates or you fail to provide proof of insurance to the lienholder, the creditor may notify you of the lapse and you have three business days to provide it with proof of insurance. If you fail to provide it with such proof of insurance, you may not operate the vehicle. Generally, you are required to prepay at least three months of insurance on your motor vehicle and to have collision and comprehensive coverage with a deductible not to exceed \$500.00 and to name the lienholder as a loss payee.

If your homeowner's insurance is part of your mortgage payment, discuss this with your attorney to ensure that this coverage remains in force.

You should keep your insurance policies and declaration pages handy, to protect yourself, should any creditor or the Chapter 13 Trustee question whether your insurance has lapsed. If an interested party, including the Chapter 13 Trustee, requests proof of insurance and you fail to provide it, it will be presumed that no insurance is in effect. Contact your attorney immediately if you encounter problems with any of your insurance policies.

28. You must remain current with all of your financial obligations that are not being paid through your Chapter 13 plan payment. This



includes all tax obligations and utilities that come due after filing Chapter 13.

29. You must prepare and file your tax returns annually. You must pay all of your post-Chapter 13 taxes as they come due. You must submit a copy of your tax returns to the Chapter 13 Trustee upon his request. **If you receive a tax refund, contact your attorney before you spend it.**
30. **You must discuss with your attorney the timely and formal assumption or rejection of unexpired leases and executory contracts.** This is a complicated and important issue. It is necessary for you and your attorney to thoroughly discuss and appropriately deal with these issues.
31. Once a year, you will receive in the mail a "Case Summary Report" from the Chapter 13 Trustee showing the financial activity in your case over the preceding year. **REVIEW IT CAREFULLY.** Examine all plan payments, claims filed and approved, and disbursements to creditors for correctness. Call the Chapter 13 Trustee's Office with problems or questions immediately. You can also view activity in your case on a day to day basis by obtaining access to the National Data Center website at [www.ndc.org](http://www.ndc.org). The Chapter 13 Trustee recommends that you view information in your case at this website at least once a month.
32. The Chapter 13 Trustee's Office is open Monday through Friday from 9:00 AM to 4:00 PM, except on federal holidays or during staff training. Telephones are answered from 9:00 AM to 4:00 PM. Because of the large call volume, you may need to leave a voicemail message. Please leave your name, case number, a telephone number where you can be reached during the day, and a general statement about the nature of your call. Calls are generally returned within 24 hours. If you have an emergency, please contact your attorney, not the Chapter 13 Trustee's Office.

33. Each debtor that files a Chapter 13 case must attend a Section 341(a) Meeting of Creditors. You should have received a notice from the Bankruptcy Court regarding the location of your 341 Meeting. Verify the location of your 341 Meeting with your attorney as they may be subject to change. The current locations for 341 Meetings are as follows:

Carthage: Carthage Memorial Hall  
407 Garrison Street  
Carthage, Missouri 64836

Jefferson City: United States Courthouse  
80 Lafayette Street  
Jefferson City, Missouri 65101

Kansas City: Charles Evans Whittaker Courthouse  
400 East 9th Street  
Kansas City, Missouri 64106

Springfield: United States Courthouse  
222 North John Q. Hammons Parkway  
Springfield, Missouri 65806

St. Joseph: Buchanan County Courthouse  
201 8th Street, Rm 223  
St. Joseph, Missouri 64501

When you appear at the 341 Meeting, you will be required to show proper identification. On the record, you will be required to verify your identity by submitting two forms of identification. The first identification document must be a picture ID, such as a driver's license. The second identification document must have your full Social Security number printed on it (not hand-written) and must be independent of the first identification document. If two debtors are filing jointly, both debtors must provide identification, as outlined

above. **Failure to provide two forms of acceptable identification will cause your 341 Meeting to be continued to a future date.** Examples of acceptable identification include:

- a driver's license
- a Social Security card
- a valid passport
- a work identification card
- a W-2 or 1099
- a pay stub
- a military identification card
- a Veteran's Administration card

34. If you are required to attend a courtroom hearing with a Bankruptcy Judge, current locations of courthouses are as follows:

Carthage: Jasper County Courthouse  
302 South Main Street, Div VI Courtroom  
Carthage, Missouri 64836

Jefferson City: United States Courthouse  
80 Lafayette Street  
Jefferson City, Missouri 65101

Kansas City: Charles Evans Whittaker Courthouse  
400 East 9th Street  
Kansas City, Missouri 64106

Springfield: United States Courthouse  
222 North John Q. Hammons Parkway  
Springfield, Missouri 65806

St. Joseph: Buchanan County Courthouse  
201 8th Street  
St. Joseph, Missouri 64501

You are required to show proper identification as you enter a courthouse. If you have a cell phone, it will be confiscated and you can collect it as you leave the courthouse. Consult with your attorney for the current courthouse location, as these may be subject to change, and protocols for entry.

35. The Chapter 13 Trustee cannot disclose to a debtor the amount of money necessary to pay off a Chapter 13 case or a date that a case will complete without a Court Order from the Bankruptcy Judge. If you require a payoff amount, you will need **to discuss the matter with your attorney so that an appropriate motion can be filed with the Bankruptcy Court.**

36. **DO NOT GAMBLE WHILE YOU ARE IN CHAPTER 13.** If you fail to comply with this prohibition, the Chapter 13 Trustee may request that any gambling winnings or the equivalent dollar amount of gambling losses be paid into your Chapter 13 case or your case may be dismissed.

37. If you have missed a Chapter 13 plan payment or you know that you will miss a plan payment in the future, your attorney may request a suspension of a plan payment. Your attorney must file a motion with the Bankruptcy Court to request such a suspension. Depending on the circumstances of your case, and terms of your plan, there could be serious ramifications for such requests. The Bankruptcy Judges do not automatically grant plan payment suspensions.

38. **Please read the remainder of this book. A great deal more information is shared regarding your options and obligations while your Chapter 13 case is pending.**

## **CHAPTER 13 INFORMATION BY SUBJECT** **(ALPHABETICAL ORDER)**

### **ACCURACY OF SIGNED LEGAL DOCUMENTS**

**You have signed (and your attorney should have provided you with copies) your bankruptcy Petition, schedules, Chapter 13 plan, and all other documents filed on your behalf with the Bankruptcy Court. These documents are your permanent record, kept by the Bankruptcy Court, of your bankruptcy filing. Every document must be accurate in all respects. When you signed those documents, you attested to the accuracy of the information. You must review the paperwork carefully. If your job, income, budget, assets, etc. change after the initial bankruptcy documents are filed, you must contact your attorney and submit updated documents to the Bankruptcy Court and to the Chapter 13 Trustee. Failure to file accurate documents or failure to provide the Bankruptcy Court and the Chapter 13 Trustee with new information during your Chapter 13 may result in your case being dismissed, your loss of Bankruptcy Court protection, and you could face civil and criminal charges and penalties.**

### **ADDRESS CHANGE FOR DEBTOR**

The Chapter 13 Trustee communicates by mail with Chapter 13 debtors. If the Chapter 13 Trustee does not have a debtor's accurate name and address, the debtor may not receive notice of the proceedings in the Chapter 13 case. You are required to maintain an accurate name and address in the Chapter 13 Trustee's database and in the Bankruptcy Court's records. If you move, notify your attorney to file a notice of address change with the Bankruptcy Court. The Chapter 13 Trustee will not change your records in his database until the Court's records are updated with your new address as the address on file with the Court is your official address for purposes of the Chapter 13 proceedings.

## **ADVERSARY PROCEEDING**

During your Chapter 13 case, you may become involved in a bankruptcy lawsuit called an “adversary proceeding”. For example, if one of your creditors claims that your debt to them should not be discharged because it was obtained through fraud or embezzlement, the creditor will file an adversary proceeding. If you receive notice of an adversary proceeding in the mail, contact your attorney immediately.

## **AUTOMATIC STAY**

As a general rule, all the creditors listed on your Chapter 13 Petition and bankruptcy schedules are under a “stay,” sometimes referred to as the “automatic stay.” The stay is a restraining order which prevents creditors from attempting to collect a debt from you directly or from contacting you or your employer during your Chapter 13 case. Immediately when you file your Petition, the stay is in place. However, there may be exceptions. If you get notices in the mail from a creditor, advise your attorney. If you receive other contacts from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person - you should immediately inform the creditor that you have filed a Chapter 13 bankruptcy and contact your attorney.

Creditors can file “Motions to Lift the Automatic Stay” or “Motions for Relief from the Automatic Stay.” In these motions, creditors ask to be allowed by the Bankruptcy Court to bypass the stay and collect on their debts or speak with you, the debtor. Creditors often file these motions when they are not being paid, when the collateral on their loan has been surrendered, or when the debtor does not provide proof of insurance on the collateral. You should speak with your attorney immediately if you see this type of motion filed in your case.

## **BANKRUPTCY COURT**

As a Chapter 13 debtor, you are under the jurisdiction and protection of the Federal Bankruptcy Court. All hearings will be conducted by and all orders and rulings will be issued by Federal Bankruptcy Judges. The Bankruptcy Judges' courtrooms are located on the 6<sup>th</sup> floor of the Charles Evans Whittaker Courthouse at 400 E. 9<sup>th</sup> St., Kansas City, MO 64106. Kansas City motion docket hearings are conducted at this Courthouse. If your case is located in an area outside of Kansas City, such as Jefferson City, Joplin, Carthage, Springfield, Columbia, or St. Joseph, consult with your attorney as to where the courtroom hearings will be held. You may also contact the Clerk of the Bankruptcy Court at 816-512-1800 for the location of a hearing. You should not contact a Bankruptcy Judge directly. If you are attending a hearing in Kansas City, Jefferson City, Carthage, Springfield, or St. Joseph courthouses, you will be required to walk through a metal detection device. Leaving metal objects at home will move you through the line faster. Cell phones and knives or other potentially dangerous articles are confiscated and returned when you leave. There is handicap access to the Kansas City courthouse via a ramp on the east end of the front entrance. Photo identification is required to enter a federal courthouse.

The Bankruptcy Court Clerk's Office is located in Kansas City in the Charles Evans Whittaker Courthouse, at the same address noted above, but on the 1<sup>st</sup> floor. The Clerk's Office is open between 9:00 AM and 4:30 PM. The telephone number is 816-512-1800. Official bankruptcy documents are electronic and copies may be requested at the Bankruptcy Clerk's Office (there is a per page charge for copying).

## **BAR DATES**

Under Federal Bankruptcy Rules, creditors have "bar dates" that require them to file their Proofs of Claim within a certain time frame. For non-governmental creditors, the bar date is usually 90 days after the first date set for the Section 341(a) Meeting of Creditors. Please note, if

for some reason your 341 Meeting is continued, the bar date is still based on the first date set for the 341 Meeting. For governmental creditors (such as the IRS or Missouri Department of Revenue), the bar date is 180 days after the bankruptcy Petition is filed. It is your responsibility to file objections to untimely, or otherwise improper, Proofs of Claim that are filed after bar dates. Your failure to object to an untimely, or otherwise improper, Proof of Claim may result in that creditor receiving payment under your plan.

## **BORROWING**

Borrowing money or using credit during your Chapter 13 is prohibited, unless you have the written permission of the Bankruptcy Judge or the Chapter 13 Trustee. This includes, but is not limited to:

- using credit cards or business credit cards
- borrowing money from a finance company, payday loan establishment, bank, or credit union
- signing a "rent to own" contract or dealing with a "title loan" company
- receiving an advance on your salary
- buying anything over time, such as a car or an appliance
- signing, co-signing, or guaranteeing an installment note
- leasing a car, appliance, television, furniture, etc.
- financing or refinancing a house
- incurring student loans for yourself or others
- post-dating a check to a payday loan company

The exception is in the instance of an emergency for the protection and preservation of life, health, or property. The Chapter 13 Trustee may approve a debtor's request to borrow sums of \$2,500.00 or less, per request, if the appropriate information is provided. A written request must be sent to the Chapter 13 Trustee, prior to borrowing, stating the purpose of the loan, the amount of the loan, the terms of repayment of the loan (payment amount, interest rate, etc.), and information



regarding the impact of the loan on the debtor's ability to continue to fund the Chapter 13 plan. The Chapter 13 Trustee does not lend money; debtors must find their own source of financing. **A request to borrow more than \$2,500.00 must be filed with and approved by the Bankruptcy Judge prior to borrowing.** This requires that a legal pleading be filed with the Bankruptcy Court stating the purpose of the loan, the amount of the loan, the terms of repayment of the loan (payment amount, interest rate, etc.), and information regarding the impact of the loan on the debtor's ability to continue to fund the Chapter 13 plan.

### **BOUNCED PLAN PAYMENTS**

Chapter 13 plan payments received by the Chapter 13 Trustee are held for at least 15 days to ensure that debtors' plan payments have been made with good/ collectable funds. After 15 days, the money is then available for disbursement to creditors. If a Chapter 13 debtor makes a payment to the Chapter 13 Trustee with a personal check or an electronic payment that "bounces" (is returned due to insufficient funds, closed account, or stopped payment), the debtor's creditors will not be paid in that cycle and the Chapter 13 Trustee may file a Motion to Dismiss and request that the debtor send future payments with certified funds (money order, cashier's check, etc.) or ask the Bankruptcy Judge to issue an Employer Wage Order, in order to remain in Chapter 13.

### **BUSINESS CASES**

Chapter 13 debtors who operate a business are subject to the same requirements, restraints, and jurisdiction as debtors filing as individuals. Chapter 13 debtors who own small businesses are required to maintain liability insurance, as well as other customary insurance for the type of business, while in Chapter 13. These business debtors may be required to file periodic reports and summaries of their business operations with

the Chapter 13 Trustee and the Bankruptcy Court to comply with Local Rule 2015-1. Contact your attorney if you have any questions.

### **CAR BUYING OR LEASING**

If you wish to buy or lease a car during your Chapter 13 case, you must follow this procedure:

- Find a source of financing. Find out repayment terms, i.e. vehicle cost, monthly payment, interest rate, length of loan, etc. and;
- contact your attorney. Discuss with him or her whether financing a vehicle purchase or lease will interfere with your Chapter 13 plan payments, or mortgage payments, or child support, or alimony payments etc., and, if not:
- ask your attorney to file a motion with the Bankruptcy Court for permission to borrow to purchase a vehicle or to lease a vehicle.
- The Bankruptcy Judge may set the motion for a hearing. If the Bankruptcy Judge approves the motion, an order will be entered granting you permission to purchase or lease a vehicle.

### **CASE NUMBER**

At the beginning of your case, you were assigned a case number. It begins with a two digit number indicating the year you filed your case and is followed by five unique digits, then the initials of the Judge assigned to your case, and, finally, the type of bankruptcy filed. That number is extremely important to you during your Chapter 13 case. It is the method that the Bankruptcy Court and the Chapter 13 Trustee's Office use to identify you. **Write your case number on every letter or document that you send to the Chapter 13 Trustee, to your attorney, or to the Bankruptcy Court. Write your case number on**

**every plan payment you make.** It is also helpful to have your case number readily available when you call the Chapter 13 Trustee's Office with a question. If you have had more than one case, please be certain to use the case number of your current case.

### **CASE SUMMARY REPORT**

Every twelve months, the Chapter 13 Trustee mails to each debtor a copy of a Case Summary Report showing all financial activity in the debtor's case for the preceding 12 months. The document shows creditor allowed claims, monies paid into the case by the debtor, and disbursements made by the Chapter 13 Trustee to creditors. Please review this document immediately and carefully. If you detect any problems or errors with the report, contact the Chapter 13 Trustee's Office, or your attorney, as soon as possible. If you do not understand something in the report, call the Chapter 13 Trustee's Office. Save this document. Store it with other important papers related to your bankruptcy.

### **CASH PLAN PAYMENTS**

**Under no circumstances will the Chapter 13 Trustee accept plan payments made in cash.** Plan payments must be made in the form of a money order, cashier's check, personal check, or through the Chapter 13 Trustee's online ePay System, or through the TFS Bill Pay System. Plan payments may also be made by check from the debtor's employer with an Employer Wage Order. **Every payment must include the debtor's Chapter 13 case number.**

## **CHAPTER 13 TRUSTEE'S OFFICE**

The Chapter 13 Trustee's Office is located at 2345 Grand Blvd., Ste. 1200, Kansas City, MO 64108. The Office is open between 9:00 AM and 4:00 PM, Monday through Friday, except on federal holidays or during staff training. Correspondence should be sent to the Kansas City address noted above. The Chapter 13 Trustee's telephone number is 816-842-1031 or toll free at 1-800-962-0369. General inquiry telephone calls from debtors, debtors' attorneys, creditors, and creditors' attorneys are answered during business hours listed above.

**If mailing a plan payment, do not send it to the Chapter 13 Trustee's Kansas City Office address shown above.**

**Mail plan payments to the Chapter 13 Trustee's lockbox address:**

**RICHARD V. FINK, TRUSTEE  
PO BOX 1839  
MEMPHIS, TN 38101-1839**

## **CHAPTERS IN BANKRUPTCY**

There are several types of bankruptcy provided for in the Federal Bankruptcy Code. The most common are Chapter 7, Chapter 11, Chapter 12, and Chapter 13. Each will be briefly described here.

In Chapter 7 bankruptcy, often called regular or straight bankruptcy, individual or business assets are liquidated to pay creditors. In it, a debtor's property may be sold by the Chapter 7 Trustee and the money used to repay debts owed to creditors.

Chapter 11 bankruptcy is used to restructure a business. In it, debts are reorganized while operations remain intact in order to allow the business to repay creditors from future cash flow.

Chapter 12 bankruptcy is used to reorganize the operations of family farmers or fishermen. It is very similar to Chapter 13 in that the debtor submits a plan to the Trustee and Bankruptcy Court and repays creditors according to the plan.

Chapter 13 bankruptcy is for individual reorganization. It is a voluntary program available to individuals, married couples, or families with regular income. It involves obtaining Bankruptcy Court approval for a plan of repayment of debt to creditors. A Chapter 13 plan will generally propose to repay creditors over a three to five year period.

### **COMPLETION OF THE CASE**

After you have successfully completed your Chapter 13 plan, that is, when the Chapter 13 Trustee has received enough money from you to pay your creditors according to the terms of your confirmed Chapter 13 plan, the Chapter 13 Trustee will file a Notice of Completion and will request that the Bankruptcy Judge cancel the Wage Order. Do not stop making your plan payments until you have received the cancellation of the Wage Order.

Even if you are eligible for a discharge, you will not receive it unless you have complied with all legal requirements. This process is complicated and you should contact your attorney to discuss the legal requirements.

The Chapter 13 Trustee will file a Final Report in your case that summarizes the financial activity in your case over the life of the Chapter 13 plan. Final Reports in completed and dismissed cases are generated by the Chapter 13 Trustee during month-end processing after all checks associated with the cases have cleared the Chapter 13 Trustee's bank. The Final Reports then are filed with the Bankruptcy Court. If the debtor has complied with terms of the plan and all other legal requirements, including filing a Motion for Discharge, the

Bankruptcy Judge will enter an Order of Discharge which is served on the debtor and debtor's attorney.

When your plan is completed and you have received the Notice of Completion discussed above, you will receive a refund check from the Chapter 13 Trustee in the amount of any payment(s) not needed to pay your creditors and administrative expenses. The refund check will not be released until your last payment has been posted to your case for at least 15 days, and in the case of electronic payments made via ePay, 60 days. Any funds available for return to you are usually released on or about the 15<sup>th</sup> day of the month in which the refund check is produced. However, because of banking regulations, any refund of payments made electronically through the Chapter 13 Trustee's online ePay System will be held a minimum of 60 days from the date the bank received the funds before being refunded to you. Also, refunds may be delayed if the trustee was making on-going, long-term payments on your behalf.

If the Chapter 13 Trustee was making ongoing, long-term payments on your behalf, such as support payments, mortgage payments, or student loan payments - you must restart your payments directly to these creditors. For ongoing mortgage payments, the Chapter 13 Trustee will file a "Notice of Final Cure", indicating that any arrearage has been cured and listing the date through which the mortgage has been made current. If you have questions, contact your attorney.

When a creditor has had its claim satisfied through the completion of your Chapter 13 plan, it should send paid-in-full papers, including lien releases, to you. If the creditor fails to do this, contact your attorney. If you receive a request for additional money from creditors, contact your attorney immediately.

## **CONFIRMATION OF THE PLAN**

It is the responsibility of the debtor and his or her attorney to develop a confirmable Chapter 13 plan. The Bankruptcy Court will usually confirm a Chapter 13 plan if:

- the plan complies with the requirements of Chapter 13;
- all required fees, charges, and deposits have been made;
- the Petition has been filed and the plan proposed in good faith;
- each secured creditor has either accepted the plan, or is given back its collateral, or is allowed to retain its lien on collateral and is paid its secured claim under the plan;
- each priority unsecured creditor has been paid in full or agreed to other treatment;
- each non-priority unsecured creditor will receive under the plan at least as much as the creditor would have received if the debtor had filed a Chapter 7 and the plan complies with the applicable disposable income requirements;
- it appears that the debtor's plan is feasible and that the debtor will be able to make the required payments and comply with the plan.

The Chapter 13 Trustee will review each plan filed and will file a "Motion to Deny Confirmation" with the Bankruptcy Court if, in his opinion, the plan is not confirmable. In the Motion to Deny Confirmation, the Chapter 13 Trustee will give specific reasons why he believes the plan is not confirmable. If the Bankruptcy Court will not confirm the Chapter 13 plan that you have proposed, you may amend the plan, convert the case to a Chapter 7 or 11, or dismiss the case voluntarily.

## **CO-SIGNERS**

A co-signer, co-maker, or guarantor (generally “co-debtor”) on any of your consumer debts is generally protected by the “co-debtor stay” from being contacted by the creditor or being made to pay the debt during the life of your Chapter 13 plan. This protection applies only in Chapter 13 cases and only on consumer debts. If the co-debtor has given collateral for the loan, the creditor must request a hearing before the Bankruptcy Judge in order to proceed against the property. The co-debtor stay will only protect co-debtors for the amount of debt your Chapter 13 plan proposes to repay. If your plan does not pay the creditor in full, a creditor may obtain permission from the Bankruptcy Court to collect, from the co-debtor, that portion of the debt that your plan is not going to repay.

## **COSTS OF FILING A CHAPTER 13 CASE**

Each Chapter 13 case filed has four costs:

- First...the Bankruptcy Court filing fee – a filing fee must be paid to the Court to initiate a bankruptcy case. It is sometimes possible to pay this fee in installments. You will need to speak with your attorney about this option.
- Second...the Chapter 13 Trustee’s fees – the Chapter 13 Trustee is required to charge a fee as a percentage of payments made to the Trustee. These fees, established by law, are set by the Executive Office of the United States Trustee (a division of the Justice Department). The fee will vary during the life of your case, but cannot exceed 10% of plan payments.
- Third...your attorney fees – your attorney’s fees should be discussed by you and your attorney and set out clearly in your Chapter 13 plan. You should agree, in writing, on the fees and the services to be provided for those fees. Additional fees may be



approved by the Bankruptcy Judge for services rendered beyond your initial agreement with your attorney.

- Fourth...Chapter 13 plan payments – your first plan payment is due within 30 days of the date that you filed your Chapter 13 Petition. Even if your plan is not confirmed, you are required to pay the amount that you have proposed in your plan. Your plan payment is then due each month thereafter (or as otherwise provided in your Chapter 13 plan) on or before the due date.

### **CREDIT CARDS**

The use of credit cards, or any type of credit or borrowing, during the Chapter 13 case is prohibited, unless you have requested and received written approval from the Bankruptcy Judge or the Chapter 13 Trustee. Chapter 13 debtors should ignore credit card applications and solicitations and checks sent through the mail by credit card companies. Remain on a cash basis throughout the Chapter 13. The only exception to the above policy is that use of credit is allowed in an emergency for the protection and preservation of life, health, or property. If you need a credit card for work purposes, contact your attorney to apply for approval from the Bankruptcy Judge.

### **CREDIT RATING**

A credit rating is a compilation of all past credit performances. Your credit rating during and after completion of Chapter 13 will be based on the opinion of any credit grantor who looks at your record. This record is obtainable by the creditor, who reviews it and makes up his own mind, by his own standards, as to whether or not he wants to grant you credit. Suits, collections, attachments, insufficient checks, Chapter 7 and 13 bankruptcies – are all indications of credit problems. After many years and thousands of paid-in-full Chapter 13 cases in this area, many knowledgeable lenders look with respect upon those who have paid

their debts in full under a Chapter 13 plan. Any credit record that has been blemished must be gradually rebuilt. Chapter 13 can be a good place to start. The Chapter 13 Trustee's Office does not report any case information to any credit reporting agency. Contact your attorney if you have questions regarding your credit rating.

## **CREDIT REPORTING AGENCIES**

Reviewing your credit report during and after the completion of your Chapter 13 case is a good idea. Here are the major, national agencies that you can contact to receive a copy of your credit report. After reviewing the report, contact the company if you feel errors exist or contact your attorney. Do not contact the Chapter 13 Trustee's Office regarding your credit report.

### **Experian**

**1-888-397-3742**

**[www.experian.com](http://www.experian.com)**

### **TransUnion**

**1-800-888-4213**

**[www.transunion.com](http://www.transunion.com)**

### **Equifax**

**1-800-685-1111**

**[www.equifax.com](http://www.equifax.com)**

Under the Fair Credit Reporting Act, anyone denied credit based on information contained in a credit file must be notified. The company that denied you credit should tell you from what agency they obtained your credit report and how you can get a copy, free of charge, if you request one within a reasonable time after receiving a denial letter. Contact your attorney with questions.

There are companies that advertise, both locally and nationally, that your credit report can be “cleaned up” and that bankruptcies, slow pays, insufficient checks, and other items on your record can be removed from your credit report for “a small fee” (potentially hundreds of dollars). These companies’ claims are often overstated. Be cautious in your dealings with companies that make these claims. Speak with your attorney prior to entering into an agreement with such companies.

## **CREDITORS**

In Chapter 13, your creditors are the people or institutions to whom you owe money. Once you have filed your Chapter 13 Petition, creditors generally are forbidden by law from making direct contact with you. Contact your attorney if a creditor communicates with you during your Chapter 13.

Creditors are classified for the purpose of repayment of debt in your Chapter 13 plan. There are three general categories of creditors, with one special sub-class.

The first classification is called “secured creditors.” You have pledged property, or collateral, to this type of creditor to secure its debt. Most house and car loans have the house or car pledged as collateral and are secured debts.

The second classification of creditors is called “priority unsecured creditors.” Debts to these creditors include recent income taxes, payroll taxes, sales taxes, past due child support, court costs, legal fees, and Chapter 13 administrative costs. In most instances, your Chapter 13 plan must provide for 100% payment of all priority creditors.

The third classification of creditors is called “non-priority unsecured creditors” (also, sometimes called “general unsecured creditors”). Debts to these creditors have no property pledged as collateral and loans were made solely on the basis of your promise to repay them.

They include most credit card debts, signature loans, medical debts, store charges, etc. Generally, the Chapter 13 Trustee makes payments to the secured and priority unsecured creditors first. Then, funds left over are paid to the non-priority unsecured creditors usually on a pro rata basis. Therefore, it is often many months before non-priority unsecured creditors receive any payment.

Usually, all non-priority unsecured creditors must be treated the same in your Chapter 13 plan, but, in some instances, debtors can pay a specific non-priority unsecured creditor differently than other non-priority unsecured creditors. Some examples may include; student loans and co-signed loans. Speak with your attorney if there is a specific creditor or type of non-priority unsecured creditor that you wish to pay differently than the rest of the non-priority unsecured creditors.

Generally, creditors have 90 days from the date first set for your Section 341(a) Meeting of Creditors to file Proofs of Claim with the Bankruptcy Court. Governmental creditors, such as the IRS and Missouri Department of Revenue, have 180 days from the date you filed your Petition to file their claims. These dates are called “bar dates” because creditors are barred from filing claims and having them considered “timely filed” by the Bankruptcy Judge after those dates. However, it is your responsibility to file objections to Proofs of Claim that are filed after bar dates. Your failure to object to an untimely Proof of Claim may result in that creditor receiving payment under your plan.

The Chapter 13 Trustee will pay claims provided for in your confirmed plan based on the amount shown on the creditor’s Proof of Claim. If you disagree, either as to type, amount timeliness, or any other reason, with how a creditor has filed its claim, you must file a formal written objection with the Bankruptcy Court. The Judge will generally conduct a hearing to decide the amount of the claim or type of claim, or allowance of claim, etc. Contact your attorney to discuss issues regarding the claims in your case.

## **CREDITORS NOT LISTED**

Creditors not listed when you filed your bankruptcy schedules can cause a number of problems. There are two kinds of unlisted creditors: those to whom you owed money when you filed your case and forgot to list (unlisted creditors) and those creditors who have a bill that was incurred by you after you filed the bankruptcy ("post-Petition" creditors). If you discover an "unlisted creditor," you must let your attorney know immediately in order to help you make the appropriate changes. Your attorney may include the creditor in amended schedules and in an amended plan. If you do not include pre-Petition creditors in your schedules and Chapter 13 plan, the automatic stay may not be in effect with regard to those creditors and the debt may not be discharged when you complete your plan. Time is very important, so do not delay.

Post-Petition creditors are rare because you should not incur debt while in a Chapter 13, without the express written approval of the Chapter 13 Trustee or the Bankruptcy Judge. But, unusual situations can arise. Post-Petition debts should be brought to the attention of your attorney immediately, so that a review of your plan can be made. If post-Petition debts are allowed to be added to your plan, the Chapter 13 Trustee may request an adjustment to your plan payment to handle the situation.

## **DEBTOR'S ATTORNEY**

When your attorney agreed to represent you and signed your Petition with you, your attorney became obligated to appear and represent your interests subject to the terms of your agreement. Generally, 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.** It is also important to respond to your attorney's telephone calls, or other communications, as soon as possible.

You and your attorney should have entered into a written contract that explained to you how much the legal fee would be and how it would 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 expenses. Your attorney's fee may increase if you are involved in a bankruptcy lawsuit called an "adversary proceeding" or other services that are not customary or routine. Your attorney should notify you if he or she seeks additional fees for representing you in the bankruptcy case, an adversary proceeding is filed, 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 disclosed to the Bankruptcy Judge and are subject to the Judge's approval.

It is strongly recommended that a Chapter 13 debtor be represented by an attorney well-versed and experienced in Chapter 13 matters.

If you decide that you must change attorneys during your Chapter 13, your new attorney must enter an appearance on your behalf with the Bankruptcy Court and your old attorney must withdraw as your legal representative with a motion filed with the Bankruptcy Court.

**If you ever have a question concerning your case, a creditor, a claim, your rights, or your options – you should call your attorney first. Neither the Chapter 13 Trustee, nor his staff, may give legal advice; nor should any information relayed by the Chapter 13 Trustee, or his staff, be construed as legal advice.**

## **DEBTOR DUTIES**

The debtor must be cooperative and truthful.

The debtor must review bankruptcy documents carefully to ensure accuracy.

The debtor should read and understand everything that is signed or filed with the Bankruptcy Court on the debtor's behalf.

The debtor should read and respond to correspondence from his or her attorney, the Chapter 13 Trustee, and the Bankruptcy Court.

The debtor should ask questions of his or her attorney when he or she does not fully understand any aspect of the administration of his or her case.

The debtor must make plan payments timely and in full.

The debtor should monitor Chapter 13 case activity at [\*\*www.ndc.org\*\*](http://www.ndc.org).

The debtor must remain current on regular bills and tax obligations while in the Chapter 13.

The debtor must notify his or her attorney and the Chapter 13 Trustee promptly whenever a name, address, telephone number, employment status, or income status changes.

The debtor must not sell property without Bankruptcy Court or Chapter 13 Trustee approval.

The debtor must not use credit cards, borrow, or enter into leases while in the Chapter 13 without Bankruptcy Court or Chapter 13 Trustee approval, except in the case of an emergency for the protection and preservation of life, health, or property.

The debtor should save copies of all documents pertaining to the bankruptcy.

The debtor must fully cooperate with the Chapter 13 Trustee.

### **DEBTOR NAME AND ADDRESS**

During the entire period that your Chapter 13 case is pending, the Chapter 13 Trustee must have your current name and mailing address on file. All correspondence including notices, letters, checks, and reports will be mailed to the address that you put on your Petition, unless your address is updated with the Bankruptcy Court. The Chapter 13 Trustee cannot change your address in his database without you formally changing your address with the Bankruptcy Court first. The address on file with the Bankruptcy Court is your official, legal address.

### **DISCHARGE**

When you have successfully completed your Chapter 13 plan by making all plan payments and have met all other legal requirements for a discharge, you may receive a “Discharge Order” from the Bankruptcy Court. This discharge acts as an injunction against certain creditors, prohibiting them from taking unauthorized action against you after your case has ended and may extinguish your personal liability on a debt. However, if you have failed to pay a secured claim during your plan, then the lien on the collateral still may exist despite the discharge being entered. Furthermore, some claims are not discharged by completion of your plan. Your attorney can help identify these debts and develop strategies for dealing with them, if they were not paid in full during the life of your plan. Discuss eligibility for discharge with your attorney. Some debtors are ineligible for a discharge or may fail to file an appropriate motion for a Discharge Order to be entered. If you received a Discharge Order, save it. Keep it in a safe place. Future creditors may



require proof of your successful completion of your Chapter 13 plan in order for you to obtain credit.

## **DISMISSAL**

If you fail to make your plan payments, fail to appear at the Section 341(a) Meeting of Creditors, fail to cooperate with the Chapter 13 Trustee, or fail to comply with other requirements of the Bankruptcy Code, or other terms of your Chapter 13 plan, the Chapter 13 Trustee or creditors may file a “Motion to Dismiss” your case with the Bankruptcy Court. A hearing may be set and if the Judge dismisses your case, you will lose the protection of the Court and be subject to creditor collection practices.

Federal bankruptcy law allows you to request that your Chapter 13 case be voluntarily dismissed at any time, unless some fraud has been committed; or you have already converted your case from another chapter of the Bankruptcy Code; or the Bankruptcy Court orders otherwise. Generally, no one can force you to remain under a Chapter 13 plan. If you desire to dismiss your case, contact your attorney. Understand that a dismissal will reactivate all unpaid or disputed debts, interest, finance charges, etc. which the Court did not recognize, and debts to creditors who did not file claims. The request to dismiss your case must be filed with a motion/notice to the Bankruptcy Court. You should give careful consideration to this decision and discuss it with your attorney. If you voluntarily dismiss your case after a Motion for Relief from the Automatic Stay has been filed, you may be ineligible to file another bankruptcy case for 180 days after the entry of the dismissal order.

## **DISPOSABLE INCOME**

If you are unable to repay all of your debts in full, you may be required to pay all of your disposable income to the Chapter 13 Trustee for three

or five years, depending on your income level. Disposable income is a complex legal concept which you should thoroughly discuss with your attorney.

## **DIVIDEND TO NON-PRIORITY UNSECURED CREDITORS**

When you proposed your Chapter 13 plan, you and your attorney calculated what payment would be paid to your non-priority creditors. This amount is the dividend that you will pay over the life of your plan to non-priority unsecured creditors. The amount and size of the dividend may affect you and your ability to obtain credit in the future. Paying all debts in full may help you re-establish your credit after your Chapter 13 plan is completed. There are certain statutory minimums which you must pay, dependent upon your financial circumstances, which include your income and assets.

If your financial situation improves while you are in your Chapter 13, you may be required to increase the dividend to your non-priority unsecured creditors. You must contact your attorney if your financial circumstances change after your Chapter 13 plan was confirmed.

## **ELIGIBILITY**

Most individuals who reside in, own property in, or do business in the United States, who have regular income, and who have secured, priority, or non-priority unsecured debts within parameters established by bankruptcy law are eligible to file a Chapter 13 case.

A person who owns or operates a business may also file under Chapter 13. A self-employed person is eligible if the person has regular income and meets the requirements outlined above. A debtor who owns or operates his or her own business is normally permitted to continue operating the business during a Chapter 13 case. If you are operating

a business, additional reporting and documentation will be required. Corporations and partnerships are not eligible to file Chapter 13.

### **EMPLOYER WAGE ORDER**

One method to increase the odds of your success in Chapter 13 is to request an Employer Wage Order at the outset of the Chapter 13 plan. An Employer Wage order requires your employer to deduct your Chapter 13 plan payment from your wages and submit it directly to the Chapter 13 Trustee's lockbox/ plan payment address in Memphis, Tennessee. An Employer Wage Order is a voluntary wage assignment, not a garnishment. An Employer Wage Order frees the debtor from the burden of budgeting for the Chapter 13 plan payment. The debtor may request an Employer Wage Order through the Chapter 13 plan or request an Employer Wage Order from the Chapter 13 Trustee at any time during the case.

If you set up an Employer Wage Order, you should regularly check your paystub to ensure that your Chapter 13 plan payment has been deducted timely and in the correct amount. You should then check the website, [www.ndc.org](http://www.ndc.org), at least once a month, to confirm that the Chapter 13 Trustee actually received your plan payments. If an Employer Wage Order is in place and the employer does not deduct the plan payment, the debtor remains obligated to make the plan payment timely and in full. It is the debtor's responsibility to check with the employer's payroll department to determine why the employer is not honoring the Employer Wage Order.

### **FINANCIAL MANAGEMENT COURSE**

The Trustees' Education Network (TEN) – an affiliate of the National Association of Chapter 13 Trustees – has created an online financial management course for the benefit and education of Chapter 13 debtors. This financial management course entitled, "Finally Financial

Freedom”, is approved by the United States Trustee Program – a component of the Department of Justice.

“Finally Financial Freedom” is a FREE online, four to five hour, 10 lesson course covering such topics as budgeting, how to spend and save, smart shopping, use of credit, identity theft, insurance, money management, etc. Again, this course is FREE. You can audit the course at any time, for your own education, by simply logging on to [www.13class.com](http://www.13class.com) and using your Chapter 13 Trustee’s Identifier Number (Richard V. Fink’s Trustee Identifier Number is **TEN13004** - found on the back of the “Finally Financial Freedom” brochure that you received at your 341Meeting).

If you filed your bankruptcy case on or after October 1, 2014, you can also take the “Finally Financial Freedom” course to satisfy the legal requirement to complete a financial management course, during the pendency of your case, if your goal in bankruptcy is to receive a discharge of your Chapter 13 case, but there are a few requirements, including:

- Your Chapter 13 bankruptcy case must have been filed on or after Oct. 1, 2014.
- You must finish the entire “Finally Financial Freedom” course (all 10 lessons, start to finish) within one year of the filing of your Chapter 13 Petition. All lessons do not have to be completed in one sitting, but once you start a lesson, you must complete it or start the lesson over.

If you meet the parameters above and complete all coursework within a year of the filing of your Petition, the Trustees’ Education Network will file a Certificate of Completion with the Bankruptcy Court and send you a copy.

## **GAMBLING**

Do not gamble while you are in your Chapter 13 case. If you feel that gambling is a problem for you, here are some helpful resources:

Hot Line for Problem Gamblers – 1-855-222-5542

Gamblers Anonymous – [www.gamblersanonymous.org](http://www.gamblersanonymous.org)

If you fail to comply with the prohibition against gambling, the Chapter 13 Trustee may request that money spent on gambling or any gambling winnings be paid into your Chapter 13 case. In the alternative, the Chapter 13 Trustee may request that your case be dismissed. The Chapter 13 Trustee routinely checks tax returns for evidence of gambling and often receives information from interested parties regarding debtors' gambling activities.

## **GIFTS RECEIVED BY DEBTORS**

If during the pendency of your Chapter 13 case you receive gifts with a value of \$2,500.00 or more, you must report this, in writing, to your attorney immediately, so that the appropriate pleadings and/ or amendments can be filed with the Bankruptcy Court.

## **GIFTS TO CHAPTER 13 TRUSTEE OR STAFF**

The Chapter 13 Trustee and his staff are prohibited from receiving gifts or remuneration of any kind from any Chapter 13 debtor, debtor's attorney, creditor, or other parties. If you would like to express thanks for assistance provided, send a note to the Chapter 13 Trustee's Office. We are glad to hear from you.

## **HOLIDAYS**

The Office of the Chapter 13 Trustee is generally closed on federal holidays. There are additional days that the office may also be closed for staff training, meetings, or bad weather. The Office's telephone number is 816-842-1031 or 1-800-962-0369.

## **INCOME CHANGES**

If you experience any change in income due to change in employment, loss of employment, a raise, a promotion, overtime work, bonus, lump sum payments, tax refunds, law suit proceeds, inheritances, gifts, life or any insurance proceeds, etc., you must report that information, in writing, to your attorney immediately, so that you and your attorney can amend your Chapter 13 schedules and plan as required.

## **INCOME TAX REFUNDS**

If you receive tax refunds in any year that you are in Chapter 13, do not spend the refund before speaking with your attorney.

## **INCOME TAX RETURNS**

It is your responsibility to timely file all federal, state, and local tax returns both prior to and after the filing of your Chapter 13 Petition. If your tax returns have not been filed, or become delinquent during the course of your Chapter 13 plan, you may lose the protection of the Bankruptcy Court, as your case may be dismissed. During the life of your plan, the Chapter 13 Trustee may periodically request copies of your federal, state, and local tax returns. It is your responsibility to provide those documents when the Chapter 13 Trustee requests them. If you experience issues with filing your tax returns, contact your attorney.

## **INHERITANCE**

If you receive an inheritance while you are in a Chapter 13, you must report it to your attorney, in writing, immediately, so that you and your attorney can amend your Chapter 13 schedules and plan as required. The inheritance can be in the form of cash, life insurance proceeds, annuities, property, or other type of asset.

## **INSURANCE**

You must maintain insurance on your property. **Insurance usually is not part of your Chapter 13 plan payment unless your homeowners insurance is part of an on-going mortgage payment being paid from your Chapter 13 plan payment. All assets must be insured against physical loss for at least the values stated in your schedules. If you operate a business or are self-employed, you must have liability insurance and other insurance customary for the industry, such as workers compensation, products liability, professional liability, etc.**

Your motor vehicles may not be operated without insurance. If your motor vehicle is collateral for a loan and insurance terminates or you fail to provide proof of insurance to the lienholder, the creditor may notify you of the lapse and you have three business days to provide the creditor with proof of insurance. If you fail to provide the creditor with such proof of insurance, you are prohibited from operating the vehicle. The lienholder may then get the Judge's permission to take possession of the vehicle and to dispose of it. Generally, you are required to: prepay at least three months of insurance on your motor vehicle; have collision and comprehensive coverage with a deductible not to exceed \$500; and name the lienholder as a loss payee.

**If your homeowner's insurance is part of your mortgage payment, discuss this with your attorney to ensure that this coverage remains in force.**

You should keep your insurance policies and declaration pages handy to protect yourself should a creditor or the Chapter 13 Trustee have a question, such as whether your insurance has lapsed. If an interested party, including the Chapter 13 Trustee, requests proof of insurance and you fail to provide it, it will be presumed that no insurance is in effect. Contact your attorney immediately if you encounter problems with any of your insurance policies.

### **INSURANCE PROCEEDS**

If you suffer a casualty loss and that loss is covered by insurance, you do not need the approval of the Bankruptcy Court for the insurer to pay the loss payee according to the terms of the insurance contract. If a creditor being paid through the Chapter 13 Trustee's Office is the loss payee on the insurance policy and funds are distributed to that creditor from the insurer, the Chapter 13 Trustee must continue to disburse payments to that creditor according to the terms of the confirmed plan unless –

- you file a formal written objection to the Proof of Claim with the Bankruptcy Court and the Court enters an order directing the Chapter 13 Trustee to stop making payments to the creditor or the order reduces the allowed amount of the claim to the amount previously paid by the Chapter 13 Trustee;
- or the creditor withdraws its claim, or amends its claim, or returns payment and indicates that its claim has been paid in full.

If, after payment of the loss payee, you receive any insurance proceeds in excess of \$2,500.00, you cannot spend this excess money without an order from the Bankruptcy Court. Contact your attorney immediately.



## **LEASES AND OTHER EXECUTORY CONTRACTS**

Filing a Chapter 13 Petition does not automatically accomplish an assumption, assignment, or rejection of any unexpired lease or executory contract. These include rental agreements for your house or apartment, car leases, contracts for deed, etc. **The Chapter 13 debtor must affirmatively assume, assign, or reject executory contracts and unexpired leases either by a motion to the Bankruptcy Court or as a specific, written part of the Chapter 13 plan.** The Chapter 13 Trustee does not assume, assign, or reject an executory contract or unexpired lease. It is the responsibility of the debtor to do so. It is imperative that executory contracts and unexpired leases be handled timely (as there may be specific time limitations) and appropriately by the debtor. Contact your attorney if you have any questions regarding executory contracts or unexpired leases.

## **LEGAL ADVICE**

**The Chapter 13 Trustee and the employees of the Office of the Chapter 13 Trustee are prohibited by federal statute from giving legal advice. We are happy to help you with factual matters. Written or verbal communications to debtors, creditors, or attorneys by the Chapter 13 Trustee or his staff are not intended to constitute legal advice and should not be construed as legal advice. If you require legal advice or have questions that might lead to legal advice, please contact your attorney.**

## **MORTGAGE PAYMENTS**

Pursuant to Local Rule 3094-1, a debtor may only make mortgage payments directly to the creditor if there are no past due payments or charges due, other than the regular payment due that month, at the time of bankruptcy filing. Otherwise, the debtor must make his or her mortgage payments as part of the Chapter 13 plan payment to the

Chapter 13 Trustee. The Chapter 13 Trustee will then serve as the conduit to pay the mortgage creditor.

If the mortgage payment is part of your Chapter 13 plan payment, the Chapter 13 Trustee will pay your on-going mortgage payment if a Proof of Claim has been filed on behalf of your mortgage creditor and the Chapter 13 Trustee has a sufficient balance on hand because you have made your full monthly plan payments.

If your Chapter 13 plan provides for you to make mortgage payments directly to the creditor, you are obligated to make those payments on time and in full. If you fail to do so, your mortgage company may obtain an order from the Bankruptcy Court to take legal action against you, including foreclosure.

If the mortgage servicer changes during the life of your plan, the creditor is responsible for filing a notice of that change with the Bankruptcy Court. **If the notice is not filed, those mortgage payments being paid through your Chapter 13 plan may be interrupted. Be sure this matter is handled quickly.**

If you have questions regarding this issue or get behind in payments due a mortgage creditor, contact your attorney immediately.

### **NOTICE ALLOWING/ DISALLOWING CLAIMS**

The bar date for a non-governmental creditor to file a Proof of Claim in a Chapter 13 case is 90 days from the date first set for the Section 341(a) Meeting of Creditors. Governmental entities have 180 days from the date the Petition is filed to file their Proofs of Claim.

After the bar dates have passed and your plan has been confirmed, the Chapter 13 Trustee files and sends to you in the mail a “Notice Allowing/ Disallowing Claims” which sets out how the Chapter 13 Trustee has loaded your creditors’ Proofs of Claim to his database.

The Notice is served on you and your attorney. You and your attorney should carefully review the Notice as the Chapter 13 Trustee will pay creditors according to this document. If you dispute any claim or treatment of a claim, or the amount of a claim, you should contact your attorney immediately to file the appropriate formal, written objection to the claim(s) with the Bankruptcy Court. Each scheduled creditor is sent an “Acknowledgment of Claim and Notice of Proposed Treatment of Claim” from the Chapter 13 Trustee. The creditor gets notice that its claim will be allowed as set out in the Acknowledgment absent a timely objection being filed with the Bankruptcy Court.

### **NOTICE OF INFORMATION**

Pursuant to 11 U.S.C. Section 1302(b)(1) and Section 704(a)(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 the websites [www.ndc.org](http://www.ndc.org) and [www.13network.com](http://www.13network.com):

- your name, address, bankruptcy case number, state and district in which your case is pending, and the trustee assigned to your case. Neither your employer’s 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.
- information regarding claims filed against your bankruptcy case including the identity of the claimant, the type of claim, and the amount of the claim.
- a history of all payments you make to the Chapter 13 Trustee including the date and amount of each payment.

- a history of all payments made by the Chapter 13 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 which is posted at the website [www.ndc.org](http://www.ndc.org). You can obtain access to the Internet at a public library, if you don't have it at home. If something does not look right, you should contact the Chapter 13 Trustee's Office at: Office of the Chapter 13 Trustee, Attn: Website Issues, 2345 Grand Blvd., Ste. 1200, Kansas City, MO 64108, so that any issue can be investigated and corrected, as appropriate.

You may log on to [www.ndc.org](http://www.ndc.org) 24 hours a day to review the status and accuracy of your case. You are only given access to data related to your own case. The Chapter 13 Trustee recommends reviewing your case at [www.ndc.org](http://www.ndc.org) at least once monthly.

### **ONLINE ePAY SYSTEM**

The Chapter 13 Trustee's online ePay System is a secure, convenient alternative for making plan payments (instead of personal checks, money orders, or cashier's checks). It is not an alternative to an Employer Wage Order. There is a convenience fee collected by the Chapter 13 Trustee's bank for making payments on the online ePay System. Payments made by 4:00 P.M. (Central Time), generally are posted on the next business day. There is a link for debtors to register for the online ePay System at the Chapter 13 Trustee's websites [www.ndc.org](http://www.ndc.org) or [www.13network.com](http://www.13network.com). A direct link to the online ePay System can be found at [www.tinyurl.com/kcepay](http://www.tinyurl.com/kcepay).

To use the online ePay System, you must have the following:

- use of a PC or a MAC computer capable of accessing the Internet
- use of a browser which supports SSL V3 or TSL 1.0

- use of a PDF reader
- your bankruptcy case number
- the last four digits of your Social Security number
- a checking or savings account
- your bank account number and your bank's routing number
- a valid email address

## **PAYOFF REQUEST**

Due to the necessity for a full case audit, a request for an amount of money to pay off a Chapter 13 case or for a date that the case will be completed must be directed to your attorney. Your attorney must file a formal motion with the Bankruptcy Court requesting that the Chapter 13 Trustee provide this information. The information will not be provided without a Court order. You should be aware that payoff information is time sensitive and the amount or date provided will only be accurate for a limited time.

## **PLAN LENGTH**

Most Chapter 13 plans run between 3 and 5 years dependent upon the debtor's income. A plan must run a minimum of 3 years or repay 100% of what is owed to all creditors. By law, a plan may not run longer than 5 years.

Many circumstances occur during the life of a Chapter 13 plan that cause a case to run longer than was originally estimated. A debtor needs to keep these circumstances in mind when calculating time remaining in Chapter 13.

Claims are filed by creditors and are often allowed differently than scheduled by the debtors. Creditor claim amounts are used by the Chapter 13 Trustee. It is imperative that you review the "Notice Allowing/ Disallowing Claims" and that you file formal objections to

claims with the Bankruptcy Court when there is any disagreement regarding a claim as to the amount of the claim, type of claim, etc. Filed and allowed claims may cause your Chapter 13 plan to run longer than you think.

During the Chapter 13 plan, you may have requested and been granted suspensions of plan payments. This will cause the plan to run longer and not necessarily just by the number of months suspended.

During the Chapter 13 plan, you may have missed plan payments. This will cause the plan to run longer and not necessarily just by the number of months of missed.

During the Chapter 13 plan, your monthly payments to creditors, including your mortgage creditor, may have increased. This will cause the plan to run longer.

During the Chapter 13 plan, your attorney may have requested and been granted additional attorney fees by the Bankruptcy Judge. This will cause the plan to run longer.

At the time you proposed your Chapter 13 plan, you may not have taken into account interest on secured debts. This will cause the plan to run longer.

At the time you proposed your Chapter 13 plan, you may not have taken into account Chapter 13 Trustee fees. This will cause the plan to run longer.

Continue to make your plan payments to the Chapter 13 Trustee until you receive a Wage Order Cancellation from the Bankruptcy Court.

## **PLAN PAYMENTS**

Your first Chapter 13 plan payment must be received at the Chapter 13 Trustee's plan payment address, in Memphis, Tennessee, or made electronically within 30 days of the date you filed your Chapter 13 Petition. If your case converted from Chapter 7 to 13, your first payment is due 30 days from the date of conversion. The Chapter 13 Trustee is required to report to the Bankruptcy Court if you fail to commence making your payment on time. The Court may then enter an order dismissing your case and withdraw the protection of the Bankruptcy Court and you could be subject to creditor collection efforts and other actions. Your plan payments must be made each month on time and in full.

If you request a Wage Order to your employer and the employer does not make the payment, your case may be dismissed. You must check with your employer to be sure that payments are being deducted and forwarded to the Chapter 13 Trustee. (A Wage Order to your employer is a voluntary wage assignment and is not a garnishment.) **You should regularly check your paystub to ensure that your plan payment has been deducted. You should then check the Chapter 13 Trustee's website, [www.ndc.org](http://www.ndc.org), at least once a month to confirm that the Chapter 13 Trustee actually received your plan payments.**

**Chapter 13 plan payments can be made in the following ways:**

- **Send a personal check, money order, or cashier's check to the Chapter 13 Trustee's lockbox address in Memphis, TN. The address for plan payments is: Richard V. Fink, Trustee, PO Box 1839, Memphis, TN 38101-1839.** If you mail a plan payment to the Chapter 13 Trustee's Office in Kansas City, you will slow down the processing of your payment and risk that the payment may be returned to you. The Chapter 13 Trustee will not accept a plan payment hand-delivered at his office.

Mailing labels with the lockbox address for plan payments in Memphis, TN were provided to you in the handouts at your Section 341(a) Meeting of Creditors. If you run out of labels, call the Chapter 13 Trustee's Office and more labels will be mailed to you.

It is important that you fill out the payment instrument correctly. Any mistakes you make may result in the payment being returned to you and not being credited to your case. Follow these tips:

- Make your plan payment payable to the "Office of the Chapter 13 Trustee, Richard V. Fink, Trustee."
- Make sure that the name used in the bankruptcy case is shown on the check, cashier's check, or money order.
- Make sure you write your case number on the personal check, cashier's check, or money order.
- The hand-written amount must match the numerical amount shown on the personal check, cashier's check, or money order.
- The check must be signed.
- Do not post-date the check.

**CASH IS NOT ACCEPTED BY THE CHAPTER 13 TRUSTEE.  
Do not send cash through the mail or bring cash to the Chapter 13 Trustee's Office.**

- **Make your payment using the Chapter 13 Trustee's electronic or online ePay System.**
  - You will need your case number, Social Security number, and a checking or savings account to use the online ePay System.
  - There are links to the online ePay System on the Chapter 13 websites: [www.ndc.org](http://www.ndc.org) and [www.13network.com](http://www.13network.com). You can also gain direct access to the online ePay System using this link: [www.tinyurl.com/kcepay](http://www.tinyurl.com/kcepay).



- **Make your payment using the TFS Bill Pay System.**
  - You will need the following information to create an account to enroll in Trustee Pay: Social Security number, email address, case number, judicial district in which your case is filed, bank account information.
  - There are links to the online TFS Bill Pay System on Chapter 13 websites: [www.ndc.org](http://www.ndc.org) and [www.13network.com](http://www.13network.com). For direct access to the online TFS Bill Pay System, use the link: [www.TFSBillPay.com](http://www.TFSBillPay.com). Contact TFS Bill Pay 24 hour support at 1-888-729-2413 with any questions.
  
- **Have your employer make your Chapter 13 plan payments by payroll deduction with an Employer Wage Order.**
  - Making your Chapter 13 plan payments through a Wage Order to your employer is an easy way to ensure that your payments are made to the Chapter 13 Trustee on time. An Employer Wage Order is a voluntary wage assignment and is not a garnishment.
  - Set up an Employer Wage Order through your attorney or contact the Chapter 13 Trustee's Office for assistance.
  - It is your responsibility to ensure that payments are made even if an Employer Wage Order is in place. If you get a paycheck and your plan payment has not been deducted, make your payment yourself to the Chapter 13 Trustee's plan payment address in Memphis, TN or through the ePay System. Then check with the payroll department to determine why the plan payment wasn't deducted from your paycheck according to the Employer Wage Order. You should check [www.ndc.org](http://www.ndc.org) at least once a month to confirm that the Chapter 13 Trustee actually received your plan payments.

You must make your full plan payment. If you do not make a full payment, and you have not received Bankruptcy Court permission to reduce or miss the payment, your case may be dismissed from the

Chapter 13 program. It is very important to contact your attorney if you ever expect to miss a plan payment due to being laid off, becoming medically disabled, because you changed jobs, etc. There are serious consequences if your case is dismissed. You may be prevented from seeking future bankruptcy relief or your future bankruptcy relief could be limited. It is important to talk to your attorney if you know of any reason why the Chapter 13 Trustee will not receive a full plan payment from you. The Chapter 13 Trustee has no authority to let you miss a payment or allow you to pay less than your plan requires. The Chapter 13 Trustee must enforce your Chapter 13 plan as it was approved by the Bankruptcy Judge.

Generally, payments must be posted to your case by the 15<sup>th</sup> of the month in order to be available for disbursement to creditors in that month's cycle.

Make your plan payments until you receive a Wage Order Cancellation from the Bankruptcy Court. When you are nearing the end of your plan, it does not benefit you to guess that you are done with your payments and to discontinue making them. If you stop making payments too early, you could be in jeopardy of having your case dismissed when you are close to completing it and may be eligible to receive a discharge. You should continue to make your plan payments until you receive the official Wage Order Cancellation. If the Chapter 13 Trustee receives additional payments that are not required under the plan, those funds will be refunded to you.

### **PRO SE DEBTOR**

You are entitled to handle your own Chapter 13 case without an attorney. A debtor, who files a case, without an attorney is called "*Pro Se*". The Chapter 13 Trustee strongly recommends to all debtors in Chapter 13 to hire an attorney. The law presumes that a *Pro Se* debtor knows the bankruptcy laws, rules, and procedures. **The Chapter 13 Trustee is not your attorney and neither the Chapter 13 Trustee,**

**nor his staff, can give you legal advice, nor should any information provided to you be construed as legal advice.**

### **PROOF OF CLAIM**

A Proof of Claim is a legal document that a creditor must file with the Bankruptcy Court in order to receive payment under a Chapter 13 plan from the Chapter 13 Trustee. Even if the Chapter 13 plan specifically calls for payments to a creditor, that creditor will not receive any distributions from the Chapter 13 Trustee, if a Proof of Claim is not filed.

When you filed your bankruptcy Petition, you included a Creditor Matrix which listed all creditors to whom you owed money. The Bankruptcy Court sends a notice of your bankruptcy filing to all of those creditors on the Creditor Matrix at the addresses you provided. Once creditors have notice of your bankruptcy case, they can obtain a Proof of Claim form from the Bankruptcy Clerk's Office. Original Proofs of Claim must be filed with the Bankruptcy Clerk, not the Chapter 13 Trustee. Generally, creditors file Proofs of Claim, although a debtor may file a claim on behalf of a pre-Petition creditor that has failed to file its own claim. Please discuss with your attorney whether or not you should file a Proof of Claim on behalf of a creditor.

Under Federal Bankruptcy Rules, creditors have "bar dates" that require them to file their Proofs of Claim within a certain time frame. For non-governmental creditors, the bar date is usually 90 days after the first date set for the Section 341(a) Meeting of Creditors. Please note, if for some reason your 341 Meeting is continued, the bar date is still based on the first date set for the meeting. For governmental creditors (such as the IRS or Missouri Department of Revenue), the bar date is usually 180 days after the bankruptcy Petition is filed. It is your responsibility to file objections to untimely Proofs of Claim that are filed after bar dates. Your failure to object to untimely Proofs of Claim may result in that creditor receiving payment under your plan.

A Proof of Claim filed with the Bankruptcy Court is allowed as filed unless an objection is filed. The Chapter 13 Trustee pays Proofs of Claim based on how they are filed and allowed, not on how they are scheduled or provided for in the Chapter 13 plan by the debtor. If you disagree with the value of an asset or the amount of a debt listed on a Proof of Claim, you should speak with your attorney about objecting to that claim. If a formal written objection to a Proof of Claim is filed with the Bankruptcy Court, the Chapter 13 Trustee generally will not make a distribution to that creditor until the Bankruptcy Judge resolves the issue. The Chapter 13 Trustee will review the objection and reserve any funds available for that creditor until the objection is resolved. If a Proof of Claim is filed by the creditor significantly differently than scheduled by the debtor, the funds available for that claim may be reserved temporarily to give the debtor an opportunity to review the claim and file an objection to it.

The Chapter 13 Trustee files objections to Proofs of Claim. However, it remains the debtor's responsibility to file objections to claims as the debtor is in the best position to know the terms, amounts, and other defenses related to his obligations. A creditor may also file an objection if it believes that its claim has not been properly loaded in the Chapter 13 Trustee's database.

After the bar dates have passed, the Chapter 13 Trustee files a "Notice Allowing/ Disallowing Claims" which sets out how the Chapter 13 Trustee has loaded the Proofs of Claim to his database. The Notice Allowing/ Disallowing Claims is served on the debtor and debtor's counsel. **The debtor and his or her attorney should carefully review the Notice Allowing/ Disallowing Claims, as the Chapter 13 Trustee pays creditors according to allowed claims as shown on this document.** Each scheduled creditor receives an "Acknowledgment of Claim and Notice of Proposed Treatment of Claim" from the Chapter 13 Trustee. The creditor gets notice that its claim will be allowed as set out in the Acknowledgement absent a timely objection being filed.

Payments to secured and administrative creditors may commence prior to confirmation of the Chapter 13 plan. Such payments are called “adequate protection” payments. Payments on claims for secured debts, priority debts, and administrative expenses may start in the first monthly disbursement, after the Chapter 13 Trustee receives the Confirmation Order. Payments to non-priority unsecured creditors will not usually begin until after the Notice Allowing/ Disallowing Claims is sent to the debtor and funds become available for that class of creditor.

The Chapter 13 Trustee makes disbursements monthly to creditors with filed and allowed Proofs of Claim. The order in which disbursements are made depends upon the class of the claim, the terms of the Chapter 13 plan, and funds available in the case.

The Chapter 13 Trustee’s fees are mandated by federal statute and are collected at the time they are posted to your case.

Generally, secured creditors and attorneys’ fees are paid a specific amount each month. These are called “equal monthly amounts” or “EMAs.” An EMA is a set sum, paid monthly, as provided by the Chapter 13 plan. If no EMA is specified in the plan, the Chapter 13 Trustee will pay a claim pro rata with other similarly classed claims. Priority unsecured creditors and non-priority unsecured creditors are usually paid pro rata as funds are available.

Once per year, the Chapter 13 Trustee sends each debtor and the debtor’s attorney a report detailing the financial activity in the preceding year of the debtor’s case. This “Case Summary Report” documents receipts and disbursements. **THE DEBTOR AND THE DEBTOR’S ATTORNEY SHOULD CAREFULLY REVIEW THE REPORT.** The Chapter 13 Trustee’s treatment of creditors’ claims in each debtor’s case and receipts and disbursements can also be reviewed at [www.ndc.org](http://www.ndc.org). Any discrepancy noted in a debtor’s case, via the website or in the Case Summary Report, should be reported immediately to the Chapter 13 Trustee’s Office. Again, the Chapter 13

Trustee recommends that throughout the life of a Chapter 13 plan, the debtor review the information about his or her case at [www.ndc.org](http://www.ndc.org) at least once a month.

## **PROPERTY – SELLING, TRANSFERRING, OR GIVING AWAY**

Generally, a debtor must receive permission from the Bankruptcy Court to dispose of any asset while in Chapter 13. Debtors should speak to their attorney before agreeing to sell, transfer, give away, or otherwise dispose of any piece of property acquired before, during, or after the filing of the Chapter 13 case.

A request to sell, transfer, or give away encumbered property (where a lien exists), or property that is valued at or above \$2,500.00, must be submitted in the form of a motion to the Bankruptcy Judge and be approved by the Judge prior to any action being taken, including the closing of a sale.

The motion must set out a description of the property to be sold, transferred, or given away; the lienholder's name; the balance of an existing note; the amount of the expected sale; how the sale proceeds will be distributed (to whom and by whom); and the effect of the sale on the length of the Chapter 13 plan.

No unencumbered property worth less than \$2,500.00 should be transferred or given away without an order from the Bankruptcy Court.

A debtor may sell unencumbered property valued at less than \$2,500.00, without the permission of the Chapter 13 Trustee or the Bankruptcy Judge if all of the following conditions are met:

- the items sold are worth less than a total of \$2,500.00, and;
- there are no liens against any item to be sold and;
- there were no liens avoided as part of the bankruptcy, and;
- there is no ownership dispute for any item to be sold and;

- within 10 days after the sale has been completed, the debtor must file a report with the Bankruptcy Court listing the property sold, the sale price, and any other relevant terms of the sale, including date of sale and the purchaser's name and address.

Call your attorney to discuss the correct procedures for applying to the Bankruptcy Court to dispose of property. This process could take some time. If you dispose of your property without following the correct procedure, the sale, transfer, or gift may be set aside by the Bankruptcy Judge, your case could be dismissed, or other legal action may be taken against you and/ or the purchaser, transferee, or recipient of the gift.

You may also not incur debt, borrow or use credit during your Chapter 13 without permission from the Bankruptcy Court or the Chapter 13 Trustee except in an emergency for the protection and preservation of life, health and property.

### **REFUND TO A DEBTOR IN A CLOSED CASE**

Funds held by the Chapter 13 Trustee when the case is closed as completed, that are not necessary for the satisfaction of debts or administrative expenses, will be returned to the debtor(s) as soon as practicable. In addition, funds received by the Chapter 13 Trustee after a case closes due to completion, dismissal or conversion will be returned to the debtor(s). The funds must have been posted to the case at least 15 days prior to the last working day of the month before a refund check is produced. Any funds available for return to the debtor(s) are usually released on or about the 15<sup>th</sup> day of the month in which the refund check is produced. **HOWEVER, BECAUSE OF BANKING REGULATIONS, ANY REFUND OF PAYMENTS MADE THROUGH THE TRUSTEE'S ePAY SYSTEM WILL BE HELD A MINIMUM OF 60 DAYS. ALSO, REFUNDS CAN BE DELAYED IF THE TRUSTEE WAS MAKING AN ON-GOING MONTHLY PAYMENT TO A CREDITOR.**

Funds that were received prior to an Order of Dismissal in a confirmed case will be disbursed pursuant to the terms of the debtor's confirmed plan.

**Refunds are not available until the Chapter 13 Trustee is assured that all payments received in the case have cleared the bank AND ARE NOT SUBJECT TO REVERSAL.**

### **SECTION 341(a) MEETING OF CREDITORS**

You are required to attend a Section 341(a) Meeting of Creditors. The Chapter 13 Trustee, or his Presiding Officer, will conduct this meeting. The purpose of the meeting is to allow the Chapter 13 Trustee and creditors the opportunity to ask you questions about your financial situation and about your case.

When you attend your Section 341(a) Meeting of Creditors, you will be required to verify your identity by showing two forms of identification. You must provide a picture ID, such as identification issued by a government unit, such as a driver's license, valid passport, or military ID; and you must provide a second official ID which shows your **full Social Security number**, such as a Social Security card, paystub, 1099, or W2. If spouses are filing jointly, both debtors must provide two forms of identification. Failure to provide two forms of acceptable identification will cause your meeting to be continued to a future date. You should have received a notice from the Bankruptcy Court regarding the location of your 341 Meeting. Verify your meeting location with your attorney as they are subject to change. The current locations for 341 Meetings are as follows:

- Carthage: Carthage Memorial Hall  
407 Garrison Street  
Carthage, Missouri 64836



- Jefferson City: United States Courthouse  
80 Lafayette Street  
Jefferson City, Missouri 65101
  
- Kansas City: Charles Evans Whittaker Courthouse  
400 East 9th Street  
Kansas City, Missouri 64106
  
- Springfield: United States Courthouse  
222 North John Q. Hammons Parkway  
Springfield, Missouri 65806
  
- St. Joseph: Buchanan County Courthouse  
201 8th Street, Rm 223  
St. Joseph, Missouri 64501

## **STAY**

As a general rule, all the creditors listed on your Chapter 13 Petition and bankruptcy schedules are under a “stay,” sometimes referred to as the “automatic stay.” The stay is a restraining order which prevents creditors from attempting to collect debt from you directly or from contacting you or your employer during your Chapter 13 case. Immediately when you file your Chapter 13 Petition, the stay is in place. However, there may be exceptions. If you get notices in the mail from a creditor, advise your attorney. If you receive other contacts from a creditor, such as a telephone call, a personal letter, a summons, or a visit in person - you should immediately inform the creditor that you have filed a Chapter 13 bankruptcy and inform your attorney.

Creditors can file “Motions to Lift the Automatic Stay” or “Motions for Relief from the Automatic Stay.” In these motions, the creditors are asking to be allowed to bypass the stay and collect on their debt or speak with you, the debtor. Creditors often file these motions when they are not being paid, when the collateral on their loan has been

surrendered and when the debtor does not provide proof of insurance on the collateral. You should speak with your attorney immediately if you see this type of motion filed in your case.

## **SUSPENSION OF A PLAN PAYMENT**

Chapter 13 debtors must remain current on their plan payments and make all payments in full. Sometimes, though, a debtor misses a plan payment or knows that he or she will need to miss a plan payment in the future. A suspension of a plan payment may be requested by a debtor for cause. The debtor's attorney must file a motion with the Bankruptcy Judge explaining why the suspension is needed and specifying the amount of payment to be suspended.

If the Bankruptcy Judge orders a suspension and the debtor is on an Employer Wage Order, it will be the responsibility of the debtor to cause the employer to stop the deduction of the plan payment for the amount of time the suspension is ordered. It also will be the debtor's responsibility to ensure that the Chapter 13 plan payment deductions recommence on time.

An order granting a suspension does not eliminate the plan payments; rather it allows the debtor to make up those payments later on in the case. Often, "Motions to Suspend" cause the Chapter 13 plan to run longer than it otherwise would.

## **TFS BILL PAY**

The automated and online TFS Bill Pay System is a secure, convenient, and hassle-free alternative for making plan payments (instead of mailing personal checks, money orders, or cashier's checks). It is not an alternative to an Employer Wage Order.

There is a convenience fee based on the amount of the payment which is charged when the payment is processed. Once a payment is initiated, it takes 5 business days for the payments to clear the TFS system and arrive at the Trustee's office.

The Debtor Experience created through TFS allows debtors to quickly create an account, submit automatic payments comfortably and securely, receive notifications when payments are due, keep accurate payment records, and ability to contact a 24-hour customer support group 1-888-729-2413.

To use the online TFS Bill Pay System, you must have the following:

- Use of a PC or a MAC computer capable of accessing the Internet
- Bankruptcy case number
- Social Security number
- A checking or savings account
- Your bank account number and bank routing number
- A valid email address

There are links for debtors to register for the online TFS Bill Pay System at the Chapter 13 Trustee's websites: [www.ndc.org](http://www.ndc.org), or [www.13network.com](http://www.13network.com). For direct access to the online TFS Bill Pay System, use the link: [www.TFSBillPay.com](http://www.TFSBillPay.com).

TFS also now allows debtors to make plan payments using MoneyGram at over 39,000 locations. MoneyGram, through TFS, is fast, secure and convenient. Each TFS transaction made at a MoneyGram location will include a flat fee of \$8.99. Contact your attorney or call TFS at 1-888-739-2749 to generate a card quickly and easily. You will need your case number and Trustee's name. Visit [www.TFSBillPay.com](http://www.TFSBillPay.com) for more information.

## **WEBSITES**

There are three helpful websites to visit while in your Chapter 13 bankruptcy.

### **www.ndc.org**

This secure website allows you to view financial information about your case. You can see when the Chapter 13 Trustee receives your payments, which creditors filed Proofs of Claim, and which creditors have been paid. The Chapter 13 Trustee recommends that you review the activity in your case at least once per month on **www.ndc.org**. There is no charge to you for this service.

You may log on to the **www.ndc.org** website 24 hours a day to review the status and accuracy of your case. You are only given access to data related to your own case. Your creditors also have the right to review information about your case at the Chapter 13 Trustee's websites.

To obtain access to **www.ndc.org**, you will need; your full name, your bankruptcy case number, the last four digits of your Social Security number, your Chapter 13 Trustee's name, and the name of a creditor from your Creditor Matrix (list of creditors).

At your Section 341(a) Meeting of Creditors, you received a brochure outlining the process for obtaining access to your case through this website. If you have any difficulty with access, dial 1-866-938-3639, the toll-free telephone number on the brochure, to connect with the web host who can assist you.

If you discover information on **www.ndc.org** that appears incorrect, contact the Chapter 13 Trustee's Office so that any potential problem can be investigated and corrected.

You can read or download the latest version of this book, [The Keys to Chapter 13 Success](#), from this website.

You can also link to the Chapter 13 Trustee's online ePay System, or TFS Bill Pay System from this website in order to make electronic plan payments.

### **[www.13network.com](http://www.13network.com)**

This secure website provides access to helpful, printable Chapter 13 forms, as well as the latest online version of this book, [The Keys to Chapter 13 Success](#).

You can also link to the Chapter 13 Trustee's online ePay System, or TFS Bill Pay System from this website in order to make electronic plan payments.

When you go to this website, you will need to pick your Chapter 13 Trustee from a list of Chapter 13 Trustees organized by state. Find, Richard V. Fink next to Missouri and click on the link.

### **[www.13class.com](http://www.13class.com)**

This website is sponsored by The Trustees' Education Network (TEN) – an affiliate of the National Association of Chapter 13 Trustees. At this website, debtors can take an online financial management course entitled, “Finally Financial Freedom”. This class has been approved by the United States Trustee Program – a component of the Department of Justice.

“Finally Financial Freedom” is a **FREE** online, four to five hour, 10 lesson course covering such topics as budgeting, how to spend and save, smart shopping, use of credit, identity theft, insurance, money management, etc. You can audit the course at any time, for your own education, by simply logging on to [www.13class.com](http://www.13class.com) and using

your Chapter 13 Trustee's Identifier Number ((Richard V. Fink's Trustee Identifier Number is **TEN13004** - found on the back of the "Finally Financial Freedom" brochure that you received at your 341 Meeting.

If you filed your bankruptcy case on or after October 1, 2014, you can also take the "Finally Financial Freedom" course to satisfy the legal requirement to complete a financial management course, during the pendency of your case, if your goal in bankruptcy is to receive a discharge of your Chapter 13 case, but there are a few requirements, including:

- Your Chapter 13 bankruptcy case must have been filed on or after Oct. 1, 2014.
- You must finish the entire "Finally Financial Freedom" course (all 10 lessons start to finish) within one year of the filing of your Chapter 13 Petition. This does not have to be done in one sitting, but once you start a lesson, you must complete it or start the lesson over.

If you meet the parameters above and complete all coursework within a year of the filing of your Petition, the Trustees' Education Network will file a Certificate of Completion with the Bankruptcy Court and send you a copy.