

The Bankruptcy Process – Chapter 7 Bankruptcy (Part 1)

By John Skiba

www.jacksonwhitelaw.com

Over the next several days I will be providing a multi-part look at the bankruptcy process for a chapter 7 bankruptcy. In this first post, I will focus on what happens before your bankruptcy case is even filed with the bankruptcy court. Specifically, I will go over the bankruptcy process, what must be disclosed, what to expect from the bankruptcy process, and what bankruptcy can and cannot do for you.

The Initial Consultation

Most of those that file bankruptcy file with the help of a bankruptcy attorney. There are a small amount that file on their own (about 1 in 9 nationally), but I highly recommend that if you are going to file bankruptcy that you consult with an attorney. While, as a bankruptcy attorney, I am clearly biased, the bankruptcy code is a complex set of laws (especially in light of the new amendments of 2005), and there are seemingly infinite areas where not knowing bankruptcy law can cause you serious problems, including the loss of property. An experienced bankruptcy attorney can help you to protect your assets, obtain a discharge (the goal of bankruptcy), and help you get the fresh start you are seeking.

At the initial consultation be prepared to discuss your debts, your assets, any recent sales of property or assets, and what your goals are in filing for bankruptcy. Sometimes what you are trying to accomplish by filing bankruptcy simply cannot be done. It is important to discuss with your attorney what your expectations are so that your bankruptcy attorney can properly advise you. One final word on the initial consultation, tell your attorney everything! There can be no secrets about assets, debts, or any financial transactions. Concealing assets is a federal crime. Do not expect that your attorney will aide you in concealing assets. Disclose, disclose, disclose.

Attorney's Fees

Most bankruptcy attorneys work on a flat fee basis. This means that you will pay one price for the entire process. Most Chapter 7 bankruptcy cases last approximately 4 to 5 months. In most cases there are no additional fees. A basic Chapter 7 case in Arizona will likely cost you anywhere from \$1,600 up to \$2,500. These fees will be dependent upon the law firm you go to and the complexity of your case. In a Chapter 7 bankruptcy case, you should plan on paying the entire fee up front before the case is filed. In my office we permit a low down payment and then payments until the full fee is paid.

Hiring a bankruptcy attorney is not cheap, but in the end you will have the peace of mind of knowing that you have an advocate and someone experienced and knowledgeable in the bankruptcy process. Also, relative to the amount of debt you will be discharging through the

bankruptcy process, the attorney's fees can appear cheap. Let's say you have \$50,000 in credit card debt. In a chapter 7 bankruptcy this \$50,000 in debt will be eliminated. If I told you that you could get rid of the full \$50,000 of credit card debt for a payment of \$1,600 would you do it? Of course you would.

The Paperwork

I often joke with clients that the paperwork you must fill out in the beginning is the most difficult part of the Chapter 7 bankruptcy process. At my office, you will be provided with a lengthy questionnaire that you will be required to complete. This questionnaire will ask you for details on income, assets, debts, monthly expenses, recent transactions, and debt collection activity against you or your property. It is vital for your case to go smoothly that you provide your attorney with as much detailed information as possible. The better information you provide your attorney the better he can complete the bankruptcy Petition and Schedules that are filed with the court. This will result in your case going much more smooth down the road.

You will also be required to provide tax returns for the last two years, six months worth of bank statements, six months worth of pay stubs, and any other financial documentation your attorney requests. Again, there is no room for holding back information. Disclose, disclose, disclose. If there are problems prior to the filing of your case, now is the time to bring them up. Often your attorney can help you in overcoming those problems or at least minimizing them. However, if you wait to disclose until after you case is filed, or worse, if the trustee assigned to your case exposes an asset you did not disclose, it may be too late to shield you from the damage of what would otherwise have been a minimal issue.

Credit Counseling

Everyone who files for bankruptcy protection must complete an approved credit counseling course prior to filing. This MUST be done prior to filing. In my office this course can be completed through a vendor we work with and the price of the course is included in the flat fee for your bankruptcy case. The vendor we use permits you to take the course over the telephone or online in your home.

Review and Sign the Documents

After you have provided your attorney with all of the necessary information and documentation, you will need to sit down with your attorney to review the documents that will be filed with the court and to sign them. This is an important meeting where your attorney will go through each page in detail and where you will have an opportunity to correct any problems or provide any information that you omitted in any prior documentation. Once the documents are complete and accurate to your satisfaction, you will be required to sign them. This signature is important. By signing your bankruptcy documents you are stating that the information you are providing to the court is true, accurate, and complete to the best of your knowledge. If you knowingly conceal assets or fail to disclose, you could not only lose your bankruptcy discharge, but may be charged with a felony. It is important that the documents you submit to the court be accurate.

Filing Day

Most attorneys will have a designated day when your case is filed. This can be changed if you have an action of a creditor that needs to be stopped like a foreclosure or garnishment of wages. Your attorney should plan with you for the day that your case will be filed. This date is the day that your bankruptcy case officially begins and you can expect it to conclude approximately 4 to 5 months later.

Every attorney has different procedures, however, the above steps represent some pretty basic steps on what you can expect in going through the bankruptcy process. In the next part I will discuss what you can expect in the month or so after your bankruptcy case is filed.