

## **Dismissing Your Bankruptcy Case: Can You Really Get Out If You Want To?**

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As strange as it sounds, there are times when I have clients who have gone through all the work, stress, and time of getting all the required documents to my office, paid the legal fees, and actually filed their case with the bankruptcy court, and now want to dismiss their case entirely. So this begs the question, can you dismiss your bankruptcy case? Surely the law doesn't require a person to stay in bankruptcy if they don't want to be there, right? The answer is sometimes surprising.

### **Chapter 7 Bankruptcy**

Once you file a Chapter 7 bankruptcy case you will not be permitted to voluntarily dismiss the case unless there is a hearing in front of your judge and the judge okays it. In most instances if there are no assets to be distributed to your creditors there likely won't be an objection from the trustee or anyone else and the judge will grant the motion to dismiss. However, if there are assets, the trustee will more than likely object to the dismissal and ask the court to allow him/her to distribute proceeds from your assets to your creditors. Recently I had a client who received a substantial inheritance after we filed their case (any inheritance received within 6 months of filing is property of your bankruptcy estate). The inheritance my clients received was more than enough to pay all of their debts, however, the trustee objected to a dismissal and took possession of a portion of the inheritance and paid the creditors.

### **Chapter 13 Bankruptcy**

Chapter 13 cases are different (in more ways than one). In a Chapter 13 bankruptcy you will have an absolute right to dismiss your case, or at least that is what the bankruptcy code says. So long as it is being done in good faith, and you have not previously converted your case from a Chapter 7 bankruptcy case, you will be permitted to dismiss your case. However, if the court finds that you are seeking to dismiss your case in bad faith, the court can instead convert it to a Chapter 7 bankruptcy case. One of the attractive features of the Chapter 13 bankruptcy is the ability to get out if you need to.