

What happens if I do not provide my bankruptcy attorney with the documents he requested?

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Your case will likely be dismissed. As an aside, if your attorney filed the case for you without requiring that you provide the basic required documents then you probably hired the wrong attorney.

Section 521 of the bankruptcy code addresses “debtor’s duties,” which includes the requirement to provide documents. All jurisdictions known to the author have issued a standing order that requires the documents required by 11 U.S.C. § 521 to be provided directly to the trustee assigned to your case instead of to the court. Under § 521, there are documents that are required in every case, such as your last filed federal tax return and your pay stubs (or other evidence of payment) from any employer that covers the 60 days prior to your filing date. These documents are required to be provided to the trustee 7 days prior to your meeting of creditors, usually referred to as the “341 meeting.” As stated, if you do not provide the documents, the case will likely be dismissed.

For example, in *In re Soto*, a creditor of the debtors moved to dismiss the case based on the debtors’ failure to provide documents required under § 521 (tax returns and pay stubs) and the judge allowed the motion and dismissed the case. The bankruptcy appellate panel affirmed the bankruptcy judge’s decision to dismiss the case on a summary basis due to the debtors’ failure to provide their documents. *Soto v. Doral Bank (In re Soto)*. B.A.P. Docket No. 12-075 (decided May 8, 2013). The court noted that the standing order at issue required “automatic dismissal” and observed that unless the judge decided the documents were unnecessary in his discretion, dismissal would occur if the facts were established that the documents were not provided. Id.

Before you get excited that there is some hope that you do not need to provide the documents and you will get bailed out by the judge, understand that the reason behind allowing the judge discretion to decide whether the documents were unnecessary is really to make sure debtors are not allowed to sabotage their bankruptcy case when debtors decide they do not want the case to continue. So, this possibility is geared to be used against you, not for you.

Another consideration is that the documents described above are not the full extent to what a debtor may need to provide. The trustee has very broad powers to require documents from a debtor. Upon specific request, the trustee can ask for other documents that must be provided in addition to those documents that are required in every case. Keep in mind that there are still many other documents that your attorney

should ask for, not just to provide to the trustee to comply with § 521, but to verify your assets and help with making the financial calculations necessary.

The moral of the story is to be prepared and to understand that you will be required to provide many documents if you plan to file bankruptcy.

In the event that you seek to be prepared to take a legal action, including bankruptcy, feel free to give this office a call.

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