

Bankruptcy, You Can't Just Say It, You Have to Declare It!

By Arizona Bankruptcy Attorney John Skiba

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Despite Michael Scott's efforts to "declare" bankruptcy, there will be more required of you if you want to navigate the bankruptcy process successfully. In this post I would like to go over the basics of what to expect and generally how long your bankruptcy case will take.

Chapter 7 Bankruptcy

Chapter 7 bankruptcy is the most common type of bankruptcy and for most the preferred form of bankruptcy. The main reason is because it is a relatively short process. From the day your bankruptcy case is filed until the bankruptcy court grants you a discharge of your debts takes about four to five months.

Prior to filing a chapter 7 bankruptcy, you will work with your attorney to provide him/her with the needed information and documentation necessary to prepare the bankruptcy petition, schedules, and statements that are filed with the bankruptcy court. I often joke that this is the most difficult part of the chapter 7 bankruptcy process. The amount of information and detail of the information needed is quite large. Everything must be disclosed – assets, debts, financial transactions, income, etc. During this time it is vital to the success of your bankruptcy case that you are open and honest with your bankruptcy attorney and provide them with all information requested. The bankruptcy process can be pretty straight forward if your bankruptcy attorney knows all the facts going in to your case. Where things go bad is when your attorney hears things for the first time after the case has already been filed.

Prior to filing your chapter 7 bankruptcy you will be required to take a credit counseling course. Here at my office you will be able to take this course on the Internet and the price of the course is included in the bankruptcy fee. Also, prior to the filing of your case the full filing fee and legal fees will need to be paid. I work with you on a payment plan to get the fees paid, but the case cannot actually be filed until the full fee is paid.

After your case is filed the next step will be your attendance at the Meeting of the Creditors, sometimes called the 341 corresponding to the bankruptcy code section that governs this meeting. The name "Meeting of Creditors" is sort of a misnomer in that it is actually very rare for a creditor to appear at this meeting. I would say in less than 5% of cases do creditors actually appear. Normally it will be you, your attorney, and the trustee assigned to your case. The trustee will ask you a series of questions related to the accuracy of the information you provided the court and that will be it. Most of these meetings literally last less than 5 minutes.

After the Meeting of Creditors your discharge order will be entered by the bankruptcy court approximately 60 -90 days later. Before the bankruptcy court can enter your discharge, however, you will be required to complete a second financial management course. Again at my office this can be completed online and you will have about a month to complete it.

For most the entering of the discharge order by the bankruptcy court signals the end of your bankruptcy case. The discharge order bars your creditors from trying to collect on debts that you had prior to your bankruptcy filing.

Chapter 13 Bankruptcy

Chapter 13 bankruptcy cases start out similar to a chapter 7 bankruptcy, however the biggest difference is the length of the case. Chapter 13 bankruptcy cases are a minimum of three years long and at most five years long. The length of your case depends on your family size and monthly income.

In a chapter 13 case you are required to propose a plan to the bankruptcy court and your creditors that will outline who you are going to pay and how much. Your creditors will be permitted to give input to the bankruptcy court before the bankruptcy court signs off on the plan. In a chapter 13 bankruptcy your case will not be discharged until you make your final payment at the end of the three or five year period.

It would be nice if all that was necessary to file bankruptcy was to simply declare it by shouting it out to your co-workers, however, the process is quite a bit more involved than that. Having a bankruptcy attorney helping you through the process will make the experience much less stressful and help you obtain the discharge, which is why you wanted to file bankruptcy in the first place.

I offer a free bankruptcy consultation where we can discuss your specific situation.

Arizona bankruptcy attorney John Skiba can be reached at (480) 464-1111.