

# CHAPTER 13 DEBTOR'S HANDBOOK

## **Marsha L. Combs-Skinner**

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This Handbook was prepared to help you understand how your Chapter 13 case works and answer some of the questions that may arise during your Chapter 13 case. For up to date case information, please visit [www.NDC.org](http://www.NDC.org).

### **YOUR ATTORNEY**

Your Attorney is your Guide through your Chapter 13 Plan. When your Attorney agreed to represent you and signed your petition with you, your Attorney became obligated to appear and represent your interests throughout your Chapter 13 bankruptcy. 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. If you ever have any questions about your case, your creditors, your rights under the Bankruptcy Code, or your options under Chapter 13, you should contact your Attorney first. If you decide that you must change attorneys during your Chapter 13 bankruptcy, be sure that you let the Court and the Trustee know that you have changed attorneys and who your new attorney is. When you need advice or assistance, you should be able to get help from your Attorney. Although the Trustee's Office is able to answer any questions, the Trustee and the Trustee's staff are prohibited from giving you any legal advice. If you have a problem, a question, or need advice, please call your Attorney's office first.

### **CHANGE OF ADDRESS**

Your Attorney, the Trustee and the Bankruptcy Court must have your exact mailing address as long as you are in your case. All notices or papers filed in your case will be sent to you at the address listed in your bankruptcy petition. If you move or change your mailing address, you must inform your Attorney who will in turn notify the Trustee and the Bankruptcy Court of your new address. You will be bound by any papers or notices sent to the address listed with the Court, even if your Attorney has not given notice of your new address to both the Trustee and the Bankruptcy Court.

## **CHAPTER 13 PAYMENTS**

Your first payment is due 30 days after the day your Bankruptcy petition was filed. It is your obligation to ensure that all payments are made by you, or your employer, and properly credited by the Trustee. A list of all the payments you have submitted to the Trustee can be found at [www.NDC.org](http://www.NDC.org). If you notice any errors, contact the Trustee's Office as soon as possible. The Trustee offers four different payment options: Wage Order, Automatic Debit, ePay, or direct payment. All payments made to the Trustee will be held for at least 15 days before being disbursed to your Creditors. If you fail to make the payments as indicated in your Plan, your payments are not received by the Trustee, or your payments are not properly credited to your account, the Trustee, or any creditor in your case, may file a Motion to Dismiss. Additionally, if you miss a payment or a payment is returned for insufficient funds, the Trustee may file a Wage Order or a Motion to Impose a Wage Order with the Court.

### **WAGE ORDER**

The Trustee strongly encourages you to choose a Wage Order because the Trustee has observed that a greater percentage of cases, where the Debtor volunteers for a Wage Order at the outset of the Plan, complete successfully. A Wage Order is a Court Order sent to your employer that requires your employer to deduct your Chapter 13 payments from your paycheck and send the payment directly to the Chapter 13 Trustee. If you change jobs at any time during your case, please notify the Trustee's Office immediately so that a new Wage Order can be presented to your new employer.

It is important that both you and your employer understand that the Wage Order is not a garnishment. The Bankruptcy Code permits a Bankruptcy Court to issue a Wage Order as an aid in the efficient administration of Chapter 13 cases. When you voluntarily filed your Chapter 13 case, your future income became subject to the Court's jurisdiction. If your employer has any questions, he or she may call the Chapter 13 Trustee's Office for an explanation.

### **AUTOMATIC DEBIT**

Automatic Debit is an agreement between you and the Trustee, where you authorize the Trustee to automatically take your regular monthly payment directly from your checking account. You may choose either the 5<sup>th</sup> and/or the 17<sup>th</sup> of the month. Should you wish to participate in this program, please return a completed authorization form to the Trustee's Office and attach a voided check. In the event the amount of your Plan payment changes during the life of your Plan, you will receive notice from the Trustee together with an authorization for payment changes which you will need to complete and return to our office.

If at any time an automatic payment is returned, you will be notified in writing. You will then be required to make the missed payment using a money order or cashier's check. You will also be required to reimburse the Trustee's Office for any fees that the Trustee's bank may charge. If an automatic payment is returned a second time, the agreement will automatically be terminated, and the Automatic Debit service will no longer be available to you.

### EPAY

EPay is a flexible payment system, where you go online and schedule your own payments to be sent directly from your bank account. It is a quick and convenient payment method, with a minimal non-refundable fee. For more information about ePay, or to sign up, please visit <http://www.CH13CDIL.com/epay.html>.

In the event that a payment is returned (i.e. for insufficient funds, your case is dismissed or converted, or incorrect attempts to log in to your EPay account have occurred), the Trustee may lock your EPay account and require you to make payments using one of the other above methods. Funds submitted to the Trustee using EPay must be held at least 15 days before being disbursed by the Trustee. Additionally, the Trustee is unable to issue a refund of any EPay payment for at least 60 days.

For questions or help, please, call our office at, (217) 837-9730, ext. 209, e-mail us at [epayquestions@CH13CDIL.com](mailto:epayquestions@CH13CDIL.com), or visit <http://www.CH13CDIL.com/epay.html> to view our Frequently Asked Questions page to further help you.

### DIRECT PAYMENT

In the event that you are unable to participate in the Automatic Debit Program or that you are not a wage earner, for example, if you are self employed, unemployed, retired, or under special circumstances, then you may make payments directly to the Trustee. All payments should be made payable to Marsha L. Combs-Skinner, Chapter 13 Trustee. In order to ensure proper processing, please make sure your name and case number appear on your payment. **Payments must be made through Money Order or Cashier's Check, the Trustee does not accept personal checks or cash.** All Payments should be mailed to:

**Marsha L. Combs-Skinner  
Chapter 13 Standing Trustee  
P.O. Box 1133  
Memphis, TN 38101-1133**

### PROBLEMS MAKING YOUR PLAN PAYMENTS

If you are not able to make your regular Plan payments because of illness, loss of job, family emergency, or other serious problem, you should inform your Attorney immediately. Under some circumstances, you may be able to stop payments for a short time with permission from the Court or amend your Plan to provide for a modification of its terms. Remember, the Trustee has no authority to let you miss a payment or allow you to pay less than your Plan requires. Only the Judge can make such a decision, and you should contact your Attorney to file a Motion with the Court requesting a modification of your Plan, if you feel that you cannot meet your obligations under the Plan.

### TAX RETURNS

You are required to provide the Trustee with a copy of your income tax returns, each year, when you file them. The Trustee will review the income tax returns to determine if there has been an increase to your income. The typical case will allow a credit of \$1,500.00 per Case and some governmental credits. If required by your Plan, after the Trustee has reviewed your tax return and performed a tax analysis, the

Trustee may ask you to turnover a portion of your tax refunds. If the turnover of tax refunds is required by your Plan **Do not spend your income tax refund** until you have received a tax analysis from the Trustee. **Do not get a rapid refund or any other loan from your tax preparer.**

### **WHAT YOU OWE CREDITORS**

Each creditor you list in your Plan and Schedules may file a claim for payment, but they must do so within the 70 days after you filed your Chapter 13 Petition. Claims filed by governmental units must be filed within the 180 days after you filed your Chapter 13 Petition.

The Trustee's Office will mail you a status report once a year. It is very important for you and your Attorney to review this report, so that your Attorney can promptly file objections to any incorrect claims and/or modify your Chapter 13 Plan, if necessary. Additionally, you can access your case information at anytime by visiting [www.NDC.org](http://www.NDC.org).

### **CLAIMS FOR MONEY DAMAGES OR LAWSUITS**

If you have any type of claim for money damages, personal injury, discrimination, workers' compensation, social security benefits, or any other type of lawsuit, either before or after the filing of your case, you cannot receive money before obtaining the approval of the Bankruptcy Court. Thoroughly discuss any legal matter with your bankruptcy attorney and make sure you have informed your non-bankruptcy attorney that you have filed bankruptcy as their fees for representing you must be approved by the Bankruptcy Court.

### **INHERITANCES, BONUSES, LOTTERY, AND OTHER WINDFALLS**

During the course of your Chapter 13 Plan if you receive an inheritance, bonus, Lottery win or any other type of windfall, you must report the date and amount of money you will receive to the Trustee and your Attorney. Unless previously addressed in your Plan, the Trustee may ask you to turnover all, or a portion of, your windfall for the benefit of your unsecured creditors. **Do not spend your Inheritance, Bonuses, Lottery, or any other type of windfall** until you have received notification from the Trustee.

### **GAMBLING**

During the course of your Chapter 13 Plan, you should refrain from gambling. Any money you spend on gambling, should have been used on your expenses, or paid to your unsecured creditors. If you gamble and experience a win, you must report the date and amount of money you received to the Trustee and your Attorney. The Trustee may ask for you to turnover all, or a portion of, your windfall for the benefit of your unsecured creditors. **Do not spend any portion of your windfall.** If the Trustee believes your gambling is a deterrent to your Chapter 13 Plan, the Trustee may file a Motion to Dismiss. If you fail to timely report any gambling winnings to the Trustee, the Trustee will file a Motion to Dismiss.

### **CREDIT CARDS AND POST-PETITION DEBT**

For as long as you are in Chapter 13, you should refrain from incurring any debt. This may prohibit you from borrowing any money from your bank, credit union or other finance companies. You should not receive an advance of your salary. You should not buy anything over time, like a car or an appliance, and you should not run up a bill to anyone. You should not sign, co-sign, or guarantee an installment note,

and you should not use a credit card. This applies to any of your dependants or family members, whether or not they themselves are under the jurisdiction of the Court, as long as the person who has filed Chapter 13 may be responsible for the debts.

There is an exception to this for medical emergencies; the Court will permit you to visit and be billed by a doctor, a pharmacist, a dentist, a hospital, or a clinic during your Plan. If you feel that it is important for you to be able to buy something in installments or be able to borrow money, your Attorney may wish to obtain the Judge's permission. If you are paying regularly into your Chapter 13 Plan, there is good reason to incur the debt, and your ability to pay your Plan payment is not threatened, the Judge will generally grant you permission.

### **SELLING PROPERTY**

You may not sell any of your property, including land, without prior Court approval. If you sell your property without permission, the sale may be set aside. If you want to sell any of your property, trade in a car, or sell your home, be sure to discuss it with your Attorney in order to obtain prior Court approval.

### **MOTIONS TO BORROW**

The Trustee does not and will not approve any loans. In the event that you need to get a loan for a vehicle, first contact your Attorney. Upon review of the details of the transaction, prior to a Motion being filed with the Court, if the Trustee has no objection to the purchase, the Trustee can provide your attorney a Letter of No Objection. However, approval of a loan must come from the U.S. Bankruptcy Court after a Motion to Borrow has been filed. The dealership should communicate with your attorney in order to prepare and file a Motion to Borrow. The Motion to Borrow must state the year, make, model and mileage of the vehicle and the purchase price, interest rate, monthly payment amount and the duration for the loan and that the vehicle loan will not interfere with your ability to make your future Plan payments. Even if the Trustee does not object to your Motion to Borrow, the Judge may deny your Motion to Borrow.

### **OBTAINING CREDIT WITHOUT PERMISSION**

Obtaining credit without permission of the Court could be considered a violation of the Court's Order and could result in reversal by the Court. Any credit purchase you make without approval of the Court could be considered illegal; the goods might have to be returned and you very likely would be out any payment you had made. You would also place your Plan in serious jeopardy if you were to obtain credit without approval.

### **REQUESTING A PAY-OFF**

Under median Debtors are required to have a Plan pay for 36 months or pay 100% of their unsecured creditors. If you are an above median Debtor, you are required to pay for 60 months or pay 100% of your unsecured creditors. If you feel that you are close to the end of your Plan and you would like the precise amount you need to pay-off your Plan, then you may request a Pay-Off letter. In order to receive a Pay-Off letter, you must mail or email your request for a Pay-Off letter. Additionally, a copy of your income tax returns for each year that you have been in bankruptcy, including the current tax year, must be received by the Trustee.

A Pay-Off request requires a review of your entire file, including all Plans, Motions and Orders filed with the Court. Since this is a lengthy and time consuming process, please allow five to ten business days for a Pay-Off letter to be returned to you. A Payoff Request Form is available on the Trustee's website.

### **WHEN YOU'RE THROUGH**

In order to successfully complete your Plan, you must:

1. make all of the required payments,
2. all of your creditors must be paid pursuant to your confirmed Plan,
3. complete your **Debtor Education**, an instructional course concerning your personal financial management, (**complete this course within 45 days of your 341 Meeting of Creditors**), and
4. certify that you are current with all post-petition domestic support obligations (child support, alimony, etc.).

After you have completed all of the above items, you will then receive an Order of Discharge from the Court. You should discuss with your Attorney the effect of the discharge. After you receive your Order of Discharge, you will no longer be responsible for any debts, other than long-term debts not paid in full through your Plan, (such as mortgage payments) and certain non-dischargeable debts (such as child support, alimony, or student loans). If you are not sure which of your debts will be discharged, you should discuss them with your Attorney.

After you have received your discharge, you may receive a small refund check from the Trustee. This refund is paid to you if you have paid more to the Trustee than is required to pay your debts pursuant to your confirmed Chapter 13 Plan. Depending on how you made your payments to the Trustee, it may take 60 days or more to issue a refund of any overpayment to the Trustee.

### **DO YOU STILL HAVE QUESTIONS?**

If any of your questions or concerns that have not been answered by this booklet, please contact your Attorney or review my website at [www.CH13CDIL.com](http://www.CH13CDIL.com). This booklet is intended to be an overview of the Chapter 13 program in the Central District of Illinois, and does not deal with all issues that could arise.