

WHAT YOU SHOULD KNOW ABOUT YOUR CHAPTER 13 CASE

This handbook answers questions that may come up during your Chapter 13 plan. Read this completely to understand your rights and obligations and refer to it later when you have questions.

Please put your case number on all payments and letters sent to the Trustee.

The Trustee's address is:

PAYMENTS

Kenneth E. West
PO Box 1799
Memphis, TN 38101-1799

LETTERS & INQUIRIES & TAX RETURNS

Kenneth E. West
190 N. Independence Mall, Suite 701
Philadelphia, PA 19107
(215) 627-1377
info@ph13trustee.com

DEBTOR HANDBOOK

KEEP FOR FUTURE REFERENCE!

OFFICE OF CHAPTER 13 STANDING TRUSTEE
administering bankruptcy cases in the
EASTERN DISTRICT OF PENNSYLVANIA –
Philadelphia

Dear Debtor(s),

You have taken a brave step in filing Chapter 13. In order to complete your plan successfully, it is going to take a great deal of hard work. I recommend you read the Debtor Handbook carefully. Acquainting yourself with your rights and obligations will help you in understanding the Chapter 13 process and will increase your chances of success.

The law is giving you a chance to gain control of your finances. Please stay involved in the Chapter 13 process. Remember to work with your attorney and keep him/her posted of events in your life.

Best Wishes,

Kenneth E. West

Kenneth W. West
Chapter 13 Standing Trustee

TABLE OF CONTENTS

GENERAL INFORMATION ABOUT YOUR CHAPTER 13 CASE.....	5
YOUR CASE NUMBER.....	5
YOUR ATTORNEY	5
YOUR NAME & ADDRESS	6
CALLS TO THE TRUSTEE’S OFFICE	6
REPORT OF PLAN ACTIVITY	7
PLAN LENGTH	7
PAYMENT INFORMATION	8
PAYMENTS	8
PAYROLL DEDUCTION ORDERS	9
AUTOMATIC ELECTRONIC PAYMENTS	10
OBLIGATION TO PAY	10
ADJUSTMENTS OF PAYMENTS	11
FAILURE TO PAY.....	11
PAYING MORE THAN REQUIRED.....	12
CREDITORS.....	12
CONTACT BY CREDITORS.....	12
“BOUNCED” CHECKS.....	12
CLAIMS OF CREDITORS.....	13
LATE CLAIMS.....	13
CREDITORS NOT LISTED.....	14
CREDIT CARDS AND POST-PETITION DEBTS	14
OBTAINING CREDIT WITHOUT PERMISSION	15
HOW CREDITORS ARE PAID.....	15
COSIGNERS AND CO-MAKERS.....	16
SELLING PROPERTY.....	17
SUING SOMEONE.....	17
INCOME TAX INFORMATION	17
INCOME TAX RETURNS AND REFUNDS.....	17
STOPPING PAYROLL DEDUCTIONS.....	18
DISCHARGE	19
REQUEST FOR DISMISSAL BY YOU	19
ONE FINAL WORD.....	20

IMPORTANT

Start Making Plan Payments Immediately!

Payments should commence within 30 days after your case was filed.
(see page 4)

Send NO Money to the Trustee's Office!

- We do not accept payments in the Trustee's Office. Do not bring or mail payments to our office.
- Payments are preferred through TFSbillpay.com
- If mailing a payment, be sure to write your **case number** on your money order, as well as your name.(see pages 1 and 4)

Keep in Touch with Your Attorney!

The Trustee's office **by law cannot give legal advice**. You must call your attorney if you feel any changes are needed to your plan. This and other types of legal advice can only be provided by your attorney.
(see page 2)

Keep Track of Your Case!

Your case information is available on the Internet. You can monitor your case activity at: <https://www.ndc.org>

Select "get started" and follow the directions on the screen to set up your account.



GENERAL INFORMATION ABOUT YOUR CHAPTER 13 CASE

INTRODUCTION: Chapter 13 is one method under the Bankruptcy Code to have protection from your creditors, providing that you pay them back as much as you can. It allows you to keep most or all of your property during the time you are paying creditors back. It also lets you modify some contract payments, interest rates and lengths of obligation. Creditors can take action against you *only after* you have had a Court hearing and the judge has allowed it. Chapter 13 has gained widespread acceptance across the country as an attractive alternative to a “straight bankruptcy” (under Chapter 7 of the Bankruptcy Code).

YOUR CASE NUMBER

When your Chapter 13 petition was filed, the Bankruptcy Court gave the case a number. *This number is very important.*

You will need this number whenever you call or write the Trustee’s office and whenever you make a payment to the Trustee.

YOUR ATTORNEY

Under the rules of the Bankruptcy Court, your attorney must continue to represent you for as long as your case is active or until the Judge permits your attorney to withdraw from your case. You also have the right to fire your attorney. If you ever have a legal question (concerning your case, a creditor, your rights or your options) ask your attorney first. You should reach a clear agreement with your attorney about fees. The attorney will be paid their legal fee through your Chapter 13 plan.

Be sure that you and your attorney have fully discussed whether additional legal services during your plan will cost you more money or whether the initial fee will cover all legal services.

Remember that all legal fees must be reviewed and approved by the Bankruptcy Judge. You may change attorneys during the life of your plan, but please let the Trustee know the name and address of your new attorney.

YOUR NAME & ADDRESS

The Trustee must have your current name and mailing address for as long as you are in Chapter 13. All notices, letters, checks, etc. will be mailed to the address which you put on your petition unless your attorney tell us to send them somewhere else. A change of address requires a Notice to be filed with the court.

If you ever move or change your mailing address, you ***must*** inform your attorney and the Trustee of your new address **with the court**

CONTACTING THE TRUSTEE'S OFFICE

The Chapter 13 Trustee's phone number is

(215) 627-1377

Chapter 13 staff are well qualified to discuss any problems or questions that may arise. The Trustee's staff cannot give legal advice, however.

www.ph13trustee.com

The office is open Monday through Friday from 8:00a.m. to 4:00p.m. You do not need to talk to the Trustee personally. The staff understands the policies and guidelines.

You should direct all legal questions to your attorney.

REPORT OF PLAN ACTIVITY

Periodically you will receive a **Report of Receipts and Disbursements** from the Trustee. This report includes the financial activity on your case. It will itemize all the payments which the Trustee has received from you, as well as all the payments which the Trustee has made to creditors on your behalf. The information that appears on this report has not been audited by the trustee's staff. If you have any questions regarding the information on the report, please contact your attorney.

You may also visit www.NDC.org (National Data Center) for more detailed and up to date information. Please see the inside front cover of this book for further information.

PLAN LENGTH

It is important to remember that the length is only a close approximation at the beginning of your plan. Counting the months remaining in the length of your plan begins with the month in which your plan was confirmed by the court. The length is dependent on many factors which may change during the course of your plan. It is very rare for a plan to last the exact number of months it was originally scheduled to run. There are several reasons for this:

- Interest, which may or may not be paid to your creditors depending on your particular plan, adds length and dollars to your plan.
- Interest rates may change.
- Creditor files for a larger amount than you thought you owed.
- You may have forgotten a creditor which must be added to your plan.
- If unsecured creditors are being paid back less than 100% of their debt, and that payable percentage is reached before your time has ended, the percent to unsecureds will be increased.
- More attorney fees; missed payments.

No plan is allowed to exceed 60 months in length (except for COVID-19 related cases pursuant to Court Order).

This is the time limit for completion allowed by the Court (except for COVID-19 related cases). If your plan should exceed 60 months in length, your attorney can help you in resolving this problem.

PAYMENT INFORMATION

PAYMENTS ARE PREFERRED THROUGH TFSBILLPAY.COM

Please make all payments
payable to
Chapter 13 Trustee
Kenneth E. West
PO Box 1799
Memphis, TN. 38101-1799

Money order or cashier's checks
must include:

- your **NAME**
- your **ADDRESS**
- your Chapter 13 **CASE NUMBER**

*Do not mail cash or bring payments
directly to the Trustee's office.*

Please do not send payments via overnight mail or certified mail. Payments are to be made through TFSBillPay.com or by first class U.S. Postal Service. Sending payments by overnight or certified mail actually delays the processing of your payment!

All payments are to be made in the form of a cashier's check or money order or via TFSBillPay.com. Please contact your attorney if you would like a wage order. You can also set up automatic payments on TFSBillPay.com. This makes it easier and ensures that you pay the Trustee on time because the payments are automatically made on a regular basis.

PAYROLL DEDUCTION ORDERS

At the time you filed your Chapter 13 case, your attorney may have submitted a payroll deduction order to be served on your employer. This order tells your employer to deduct your plan payment from your paycheck and send it to the Chapter 13 Trustee. This order prohibits your employer from honoring any garnishments while you are under Chapter 13, including back taxes. The only exceptions are ongoing child support and other special circumstances provided in the order. *It is important that both you and your employer understand that a payroll deduction order is NOT a garnishment.* A garnishment or attachment can only come from someone to whom you owe money. You do not owe the Court or the Trustee any money. You voluntarily filed and gave the Court exclusive jurisdiction over your future pay while you are under Chapter 13. The Trustee is carrying out his duty to administer the plan.

It may be helpful if you speak to someone in your payroll department to make sure they understand that:

- this court order stops garnishments
- this deduction should not be listed as a garnishment or Friend of the Court payment

Most employers understand that you are making a serious effort to repay your debts, and think more highly of an employee who seeks to repay debts than of one who avoids repaying debts. **If your employer does not honor a payroll deduction, tell your attorney so that appropriate action can be taken.** If your employer has any questions, he or she may call our office for an explanation.

Note: It may take several weeks for your payroll deduction to become effective. In the meantime, be sure to make your regular plan payments directly to the Trustee. The Judge's willingness to approve your plan will depend on the good faith effort you demonstrate by your payment record prior to the confirmation hearing. If your employer fails to make a payroll deduction, you must tell your attorney that the deduction was not made and you must send the needed plan payment to the Trustee by money order, or cashier's check.

AUTOMATIC ELECTRONIC PAYMENTS

Automatic payments are available through TFSbillpay.com. This is the preferred method of payment, as electronic records are automatically preserved. Furthermore, a screenshot of an electronic payment will suffice as "Proof of Payment."

OBLIGATION TO PAY

You must remember that you have the obligation to make sure payments are made. The law requires that your payments start *no later than* 30 days after your case is filed. The sooner you start making payments, the greater chance you have of successfully completing your plan. The Trustee does not have the capability to use payment coupon books or to send monthly statements. Therefore, you must keep your own record of payments.

It is a good idea for you to keep records to prove that the payroll deductions have taken place.

This way, if there is ever any discrepancy in your payment history, you will have complete records showing the deductions that were made. Bring all pay stubs and copies of canceled checks or money order receipts to court hearings. Please remember, *if you have agreed to a wage deduction and receive a regular paycheck in which the Trustee's payment was not withheld, you should immediately mail the payment yourself.* It is your responsibility to pay the plan payments, even

When you are not working, or if you become unemployed, you can amend your plan or take other necessary action. Talk to your attorney about your options.

ADJUSTMENTS OF PAYMENTS

It is extremely important for you to let your attorney know if something interrupts your pay and makes it impossible for you to make payments to the Trustee. In some cases, adjustments may be made on payments to prevent undue hardship. Whether or not you will be able to adjust your plan payments will depend on how long your plan has been running and on the kinds of creditors you have.

If you require a permanent payment adjustment, please contact your attorney to review and revise your plan.

FAILURE TO PAY

If the Trustee's office fails to receive payments on your Chapter 13 plan, either the Trustee or a creditor may seek to have your case dismissed. Consult your attorney at once.

Your plan requires you to send your Chapter 13 payments to the Trustee no matter what happens to your job, unless the Judge allows you to stop or reduce payments.

If you are temporarily without work, be sure that as soon as you return to work the payroll deduction starts again. The Trustee's role as administrator of Chapter 13 cases requires him to protect the interests of both debtors and creditors alike. Thus,

Whenever a debtor is substantially behind in payments under the plan, the Trustee will review the case for dismissal.

When the Trustee seeks to have your case dismissed, you will be advised in writing. You should then contact your attorney immediately to discuss your options.

PAYING MORE THAN REQUIRED

If your plan requires you to repay creditors 100%, paying the Trustee more than what your plan requires you to pay may decrease the amount of time it will take your plan to complete.

If you wish to complete your plan payments before the confirmed length of your plan has run, you must contact your attorney.

If you ever wish to increase your plan payments, contact your attorney.

CREDITORS

CONTACT BY CREDITORS

All the creditors that you listed in your Chapter 13 case are under an automatic restraining order, also called the “Automatic Stay.” The Automatic Stay prohibits your creditors from trying to collect payments.

If you get notices in the mail from your creditors, send them to your attorney.

“Late Notices” from creditors need not cause you any great concern. If you receive a more personal, direct contact from a creditor, however, (such as a telephone call, a personal letter, a summons or a visit in person) you should immediately tell them that you are under Chapter 13 and give them your case number. Then, give them the addresses and names of both the Trustee and your attorney.

You should not discuss any debts with creditors in any manner. Be sure to tell your attorney the name of the person who contacted you, so that he or she can follow up on the contact.

By the same token, *you should not contact your creditors.*

CLAIMS OF CREDITORS

The creditors which you list on your Chapter 13 case are given an opportunity to file a claim for payment. Creditors other than governmental agencies (such as the IRS) are allowed 70 days and Governmental agencies are allowed 180 days from the case filing date to file their claims.

If a creditor does not file a claim within the time allowed, but you want that creditor paid in your Chapter 13 case, please have your attorney file a claim for that creditor.

LATE CLAIMS

As noted above, most creditors generally have 70 days to file a claim. Creditors might not be entitled to payment if they file their claim after that date. **Tax claims are an exception to this rule.** If you do not want to pay a late claim, contact your attorney who must object to its payment. If a late claim is not objected to, it will be paid.

Unless you object to paying a late-filed claim, the Trustee may pay the claim, even though it was filed late.

Any claim which is not allowed by the Court will not be paid. If you complete your plan, many claims (except some taxes) that are not allowed or not filed will be discharged upon the completion of your plan. However, speak with your attorney if you have questions regarding certain unfiled or unpaid claims.

CREDITORS NOT LISTED

Not listing all Creditors when you file for Chapter 13 can cause a lot of problems. There are two kinds of creditors who are absent from the original list: 1) those creditors whom you owed money before filing but forgot to list in your petition (*unlisted creditors*), and 2) those creditors who lent you money after you filed (*post-petition creditors*).

If you discover an *unlisted creditor* after filing, you must let your attorney know the details of the debt **immediately**.

Your attorney can include this *unlisted creditor* in your plan to protect you from collection procedures. Time is very important in terms of protecting you, so **do not delay** if you discover one.

CREDIT CARDS, AUTO LOANS, LEASES AND POST-PETITION DEBTS

Once your plan is confirmed, the plan will prohibit you from acquiring any debt for as long as you are under Chapter 13, unless the judge approves it.

This means that you cannot take out a loan to purchase a vehicle without Trustee approval

If you ever feel that it is important for you to buy something in installments than you must obtain the Judge's permission to do so.

If you intend to purchase a vehicle you must first acquire the Trustee's approval. To get approval please email Car@ph13trustee.com with a copy of the Buyer's Order. Please note, you must be current on plan payments before any authorization can be provided.

OBTAINING CREDIT WITHOUT PERMISSION

Obtaining credit without permission of the Court is a violation of the Court's rules and is, therefore, subject to reversal by the Court.

Any credit purchase you make without the approval of the Court might be illegal. The goods may have to be returned to the original owner and you probably would lose any payment you made on the purchase.

You also place your plan in serious jeopardy if you obtained credit without approval. Your case may even be dismissed.

HOW CREDITORS ARE PAID

The money which you pay to the Trustee is used to pay all the expenses of administering your case, including any attorney fees to be paid through the plan, and creditors. After you have filed a Chapter 13 case, you cannot choose some particular creditor and pay it "on the side" because all of your debts must be dealt with through the Court.

Any payment you make independently to a creditor may be illegal. By law, all creditors must be paid under the authority of the Court.

Payments from the Trustee are disbursed to creditors around the 10th of each month.

There are four basic types of claims: 1) administrative, 2) secured, 3) priority and 4) unsecured.

Remember: secured claims may accumulate interest under Chapter 13, but unsecured creditors are not allowed interest after the date when you filed your petition (except for unusual circumstances).

COSIGNERS AND CO-MAKERS

A cosigner, comaker or guarantor on any of your consumer debts is generally protected from contact by the creditor as long as you remain under Chapter 13. This automatic protection applies only in Chapter 13 cases. If the cosigner, comaker or guarantor has given collateral for the loan, the creditor must request a hearing before the Judge in order to reclaim the property. However, *this co-debtor protection will only protect cosigners, comakers, and guarantors for the amount of debt which your plan proposes to pay.*

If your plan is not scheduled to pay the creditor in full, the creditor may obtain permission to collect the percentage of the debt that your plan is not going to pay from the codebtor.

SELLING PROPERTY

You cannot dispose of any of your property, including land, without Court approval while you are in Chapter 13. **If the Court allows you to sell any of your property for a profit, the Court will decide where the profit will go.** Some or all of it may have to be applied to your Chapter 13 debts.

If you sell your property without permission from the Judge, the transaction may be revoked and your case could be dismissed. This includes re-financing your home or other property.

See your attorney for exact details.

SUING SOMEONE

You need prior approval from the Bankruptcy Court to hire a lawyer for any nonbankruptcy matter or settle a lawsuit. Please ask your bankruptcy lawyer if you have any questions.

INCOME TAX INFORMATION

The Trustee's office is not in a position to advise you on how to file your income tax return, or the amount of interest paid to creditors. We will, upon written request, provide you with a copy of a report which will include the names of creditors that received money. We will automatically send you reports periodically, but you may wish to know if any additional creditors were paid during the latter part of the year. Normally creditors to whom we paid interest will send you a statement of how much interest was paid to them on your behalf. **Please consult a tax professional to learn if the expenses of your Chapter 13 plan are deductible for tax purposes.**

INCOME TAX RETURNS AND REFUNDS

A different office of the Internal Revenue Service, called *Special Procedures Section*, processes Federal tax returns filed by Chapter 13 debtors. The IRS does this to avoid accidentally issuing notices in violation of the Automatic Stay order. However, it

often results in tax refunds being delayed. To be certain that you receive any refund in a timely manner, you should file your tax returns each year as *early* as you possibly can. If you owe any taxes for prior years, the refund may be kept by the IRS. If this happens, discuss it with your attorney immediately.

Also, your plan might include paying tax refunds into your plan. Ask your attorney for which tax years you are to pay your refunds into your plan. If the IRS keeps your refund to apply to other taxes you owe, or another creditor (for example, Friend of the Court) takes your refund, you may still be responsible for paying the refund amount to the Trustee – contact your attorney!

If your plan includes all or a portion of your tax refunds to be paid to creditors, when you receive your refund directly from the IRS, you are responsible for making the refund payments to the Trustee yourself. You should do so as soon as possible after you receive the refund. Failure to do so could result in the Trustee filing a motion to dismiss your case with the court.

Send the amount you are obligated to pay into your plan in a cashier's check or money order to the payment address for the Trustee. Include your name and case number, and clearly mark the tax year the amount covers ("for 20__ income tax refund"). If, for any year, you owe money to the IRS instead of getting a refund, send a copy of your tax return to the Trustee's office showing this. If you are not sure regarding your tax refund obligation, contact your attorney.

DISCHARGE

The Trustee compiles a monthly list of cases that appear ready for discharge (i.e., all plan terms have been successfully completed). A review of the Court's records is performed to ensure that the Trustee has paid all claims filed by creditors. Occasionally the Court may have received a claim which the Trustee did not. Consequently, the Trustee did not pay that creditor. If this happens, these claims will be scheduled for payment according to the terms of the Order Confirming Plan. When it appears that your case is completed, the Trustee's office will file and send a Notice of Completion to the Court, you, your attorney and all creditors. After a review and audit of the case, the Trustee will file and send a "Final Report and Account" to you, your attorney and the Court, as well as a debtor refund check to you if there is money left over. The discharge means that your case has been closed because it has been completed and all creditors have been paid. The Court, *not the Trustee's office*, will issue a Discharge Order after the court receives the Trustee's Notice of Completion. **This discharge also acts as an injunction against your creditors, prohibiting them from taking unauthorized action against you after your case is ended.**

REQUEST FOR DISMISSAL BY YOU

Federal Bankruptcy law allows you to request that your Chapter 13 case be dismissed at any time. No one can force you to remain in a Chapter 13 plan.

If you desire to dismiss your case, contact your attorney. Understand, however, that a dismissal will reactivate all: unpaid or disputed debts, interest, finance charges, and late filed charges which the Court did not recognize and debts to creditors who did not file their claims.

You will be forced to deal with these creditors on their own terms, not yours or the Court's. **The request for dismissal of your plan must be in writing.** We urge you to give careful consideration to such a decision and discuss it with your attorney.

ONE FINAL WORD

Complying with a Chapter 13 plan is not easy. You may have to make a substantial sacrifice to meet the obligations of your plan and to live within your Chapter 13 budget. They have the satisfaction of knowing that they have resolved their debt problems without filing straight bankruptcy and that they have paid most, if not all, of their obligations to their creditors.

Good luck!