

United States Bankruptcy Court For the Southern District of Illinois

RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

It is important for debtors who file a bankruptcy case under Chapter 13 to understand their rights and responsibilities. It is also important that the debtors know what their attorney's responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Debtors should also know that they may expect certain services to be performed by their attorney. In order to assure that debtors and their attorney understand their rights and responsibilities in the bankruptcy process, the following guidelines provided by the Court are hereby agreed to by the debtors and their attorneys, unless the Court orders otherwise.

After the petition is filed, the debtor(s) agree(s) to:

1. Keep the trustee and attorney informed of the debtor's address and telephone number.
2. Make all payments as called for by the plan, either through wage deduction or directly, as established by the plan.
3. Inform the attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the case.
4. Contact the attorney promptly if the debtor loses his/her job or has other financial problems.
5. Let the attorney know if the debtor is sued or contacted by a creditor or an agent for a creditor after the case is filed.
6. Contact the attorney before buying, refinancing, or selling real property or before entering into any long-term loan agreements to find out what approvals are required.
7. Cooperate with attorney in preparation of all documents and hearings.

After the petition is filed, the attorney agrees to provide the following legal services:

1. Upon information received from the debtor, take steps necessary to avoid the termination of, or to allow the reinstatement of, necessary utility services of the debtor by providing faxed proof of filing of the petition to utility service creditors.
2. Take steps necessary to obtain the return of repossessed vehicles, which are necessary to the estate, including, but not limited to, the filing of Complaints to Compel Turnover.
3. In the event of pending state or federal court litigation, notify creditor's attorneys, and appropriate court(s) in which the litigation is pending, that the bankruptcy case has been filed.
4. Send out an information letter to debtor reminding the debtor to attend the 341 hearing, specifying the time and location of that hearing, and providing information advising the debtor as to the procedures of the 341 hearing.
5. Appear at the 341 meeting of Creditors with the debtor, confer with client to prepare him or her to appear at the 341 meeting, and advise the client to cure any arrears on plan payments.
6. Upon information received from the debtor, take steps necessary to terminate pending wage garnishments, including filing a Motion to Terminate Garnishment
7. Attend all court hearings relating to: confirmation of the plan, show cause, claims, and adversarial proceedings.
8. Prepare and conduct all court mandated pre-trial conferences, reports, briefs, etc.
9. Respond to objections to plan confirmation and, where necessary, prepare an amended plan.
10. Prepare, file, and serve necessary modifications to the plan, which may include suspending, lowering, or increasing plan payments.
11. Prepare, file, and serve necessary amended statements and schedules, in accordance with information submitted by the debtor, provided the debtor pays the Court's filing fee.
12. Prepare, file, and serve necessary motions to buy, sell, or refinance real property when appropriate.
13. Object to improper or invalid claims, if necessary and if beneficial to the debtor's completion of the chapter 13 plan, based upon documentation provided by the debtor.
14. File proofs of claims for creditors who fail to file claims, if it is in the debtor's best interest to file such a claim.
15. Represent the debtor in motions for relief from stay, if appropriate.
16. Where appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.

17. Upon information received from the debtor, contact creditors who continue to communicate with the debtor after filing, by phone or in writing, and, if necessary and appropriate, file motions for sanctions, prepare testimony and exhibits, and appear for hearing.
18. If necessary, contact tax authorities or other third parties to gather information necessary for the case. However, such contact shall not include the obtaining of the names, addresses, account numbers and other information necessary for the inclusion and filing of creditors on any schedule of the petition, as it is the duty of the debtor to provide such information to debtor's counsel for the preparation of accurate bankruptcy schedules.
19. Communicate with debtor by phone or by being available for office appointments to discuss pending issues or matters in the present case.
20. Provide such other legal services as are necessary for the administration of the present case before the Bankruptcy Court.

The guidelines for payment of attorneys fees in chapter 13 cases for the Southern District of Illinois provide for attorney fees in the amount of \$3,500.00.

Fees shall be paid through the plan as provided for by the confirmation order. The attorney may receive part of the allowed fees prior to the filing of the case for the actual services performed prior to filing, provided said fees are deducted from the total allowed fees as paid through the confirmed plan. The attorney may move to withdraw or the client may discharge the attorney at any time. Attorney agrees to perform substantially all duties designated above to receive the fee. If attorney does not substantially perform all of the above duties inclusive, then, upon filing of a motion and after a hearing before the Court, the Court may order the attorney to disgorge all or any part of the fees received, as the Court, in its discretion, deems appropriate. Unless the attorney has been found, after a motion and hearing, to have inadequately represented the debtor, the attorney shall be allowed to retain all fees already paid, if the attorney is granted leave to withdraw, is discharged by the debtor, the case is dismissed or the case is converted by another attorney.

Dated: _____ Debtor Debtor

Dated: _____ Attorney for Debtor