



Debt Relief
Just Ahead

Getting Through Bankruptcy

-10 Things You NEED to Know!



Compliments of Chris A. Davis -

At Davis & Davis, PLLC we specialize in Bankruptcy Filing and guiding families through all stages of the filing process and beyond.

A trusted source on the Mississippi Gulf Coast for decades, Davis & Davis is personal, attentive, swift in resolving your issues and offers free consultations.

Contact us today at 228-275-9922 to schedule a no obligation consultation to learn what we can do for you!



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Bankruptcy Defined:

Bankruptcy is a legal status of an individual or organization that is in a position where they cannot repay the debts they owe to creditors. Bankruptcy is a legal proceeding that allows you to eliminate all, or a portion, of your debts. The filing of bankruptcy gives you immediate protection under federal bankruptcy laws which prohibit creditors from taking additional collection activities against you. After the bankruptcy process is completed and you have received your bankruptcy discharge, you are no longer financially obligated to pay any of the debts which were discharged in your bankruptcy filing.

You Are Not Alone:

According to data from the American Bankruptcy Institute and the National Bankruptcy Research Center, American consumers have filed more than 1.53 million bankruptcy cases in 2010. That is about 1 in every 150 people in the US.

The information contained in this report is NOT INTENDED TO BE LEGAL ADVICE. The intent of this information is to provide you with a better understanding of bankruptcy and the bankruptcy process and give you a better understanding of what to expect as well as assist you in getting through the bankruptcy process quicker and easier.

I am a licensed bankruptcy attorney in the state of Mississippi. I have assisted many families here along the Mississippi coast get through the bankruptcy process as quickly and as easily as possible and I can assist you as well. Contact me at my office 228-275-9922 to get started today.



Getting Through Bankruptcy

-10 Things You NEED to Know!

1. Can I Keep My House and Car?

This is probably the most commonly asked question and for good reason. Most people don't want to have to move and they need transportation. In most cases the answer is yes. The ability to keep your house and car will be discussed further when we discuss the differences between Chapter 7 and Chapter 13 Bankruptcies.

2. What is Chapter 7 Bankruptcy?

Chapter 7, depending on your situation may help you eliminate all of your debt without having to repay any of it back to your debtors. Chapter 7 is generally best if you don't have a large amount of assets, items like investments or equity in your home.

In Chapter 7 you can file jointly as a husband and wife or a husband or wife can file individually without the other.

There are Chapter 7 Exemptions and both federal and state laws provide exemptions for property that you are allowed to claim as exempt and are allowed to keep in a Chapter 7 bankruptcy. The different types vary from state to state.



Chapter 7 Bankruptcy continued...

In Mississippi you are permitted to have up to \$75,000 in equity in your home this is known as the Homestead exemption. You are also allowed to maintain and keep some tangible personal property such as, household items, clothing, books, cash and any tangible personal property as long as the cumulative value does not exceed \$10,000 and \$20,000 if a husband and wife both file. You are able to keep your house and car if you are under the limited above and you are current on payments and have the financial means to continue to make the monthly payments.

The other common exemption which most people are concerned about is retirement plans. The monies and assets held in 401K and other retirement plans are also exempt as long as it is held in a qualified plan under Section 401(a), 403(a), or 403(b) of the Internal Revenue Code. I will be able to quickly inform you whether your retirement is qualified or not.

These are the most common exemptions here in Mississippi however there are others and I will be able to assist you in keeping as much as legally possible.

There are also some debts which cannot be discharged if you file a Chapter 7 bankruptcy which means you will still be obligated to repay them. The most common types are student loan debts, some IRS and State Income Taxes, Child Support or Alimony Obligations, Government Fines and Debts ordered to be paid by a Divorce Decree.

There are exceptions to these and I will be able to discuss them with all my clients to see if any of the exceptions are met. If you have a significant amount of any of the non- dischargeable debts a Chapter 13 may be better. Once I have looked at all your assets as well as your liability I will be able to advise you which is better for you.



Chapter 7 Bankruptcy continued...

There is also a means and basically it is designed to catch people who have sufficient income to repay the debts and truly don't need the relief of a Chapter 7 bankruptcy. If you don't meet or pass this means test you will still be eligible to file a Chapter 13 bankruptcy.

3. What is Chapter 13 Bankruptcy?

Chapter 13, is where your debts are consolidated, usually reduced and repaid to your creditors over a 3-5 year period. Chapter 13 bankruptcy forces your creditors to accept the repayment plan set forth by the bankruptcy court. The repayment plan is supervised by the Bankruptcy Court and is also interest-free.

The main requirement is that you have a steady source of monthly income and also have the ability to repay a portion of the debt.

4. Should I File for Bankruptcy?

Filing a bankruptcy is a very personal decision and everyone's circumstances are different. There are a lot of factors which should be considered when making your decision. Here are a few of the bigger things to consider. How much debt do you currently have? What is your ability to repay the debt? How long is it going to take you? Do you make enough money to cover your monthly bills plus repay the debt?



Should I File continued...

Here is a short list of reasons you might want to consider bankruptcy:

- If your mortgage company has filed foreclosure proceedings against you
- If your car is close to or has already been reposed
- If you have large amounts of unsecured debts like credit cards or medical bills
- If collection agencies and creditors call are calling you
- If your wages are being garnished or bank accounts have been frozen
- If you don't believe you will be able to repay all your debt over the next several years If your debt totals are not going down even though you are making payments
- If you are behind on payments more than 30 days
- If your creditors have filed collection lawsuits against you

This is just a partial list of reasons you might want to consider bankruptcy. Bankruptcy can help you in many different circumstances however bankruptcy is not right for everyone. I will be able to assist you by providing you information based on your circumstances which will enable you to make an informed decision.

5. How Often Can I File Bankruptcy?

You can only file a Chapter 7 bankruptcy once every 8 years. If you are in need of financial relief you may be eligible to file a Chapter 13 bankruptcy.



6. Do I Have To Go To Court & What is a 341 Meeting of the Creditors?

Yes, you will have to attend a 341 Meeting of the Creditors. Here in southern Mississippi this meeting takes place downtown Gulfport on Tuesday. The meeting is not really in court however it is in meeting room with the trustee and other people who have filed bankruptcy. This meeting is normally held about 30-45 days after we file your bankruptcy petition and you must attend this meeting or your case will not be discharged.

Your creditors may object to your bankruptcy. This 341 Meeting of the Creditors is where they would do so. As the name states, it is a meeting of the creditors however in most cases the creditors rarely appear due to the fact it would be a waste of time. Your creditors may still object to the bankruptcy even if they do not appear.

Your 341 hearing normally takes between 5-15 minutes depending on your bankruptcy. You asked to identify yourself by stating your name, social security number and current address. You must also provide the court with proper identification and your social security card. You then take an oath to tell the truth under penalty of perjury.

The trustee whose job it is to represent your creditors will ask you a series of questions to determine your eligibility for bankruptcy and see you have any other assets not protected by exemptions. The trustee will also ask you to verify some of your information.

I will inform you of the most common asked questions that may be asked. I also go to the 341 hearing with all my clients!



7. When Will The Collections Calls Stop?

Legally the collection calls must and will stop once your creditors are notified that you have filed bankruptcy. I can however help reduce and sometimes even eliminate the collection calls. Once you have retained me which means we have formed an attorney-client relationship by hiring me and giving me some form of acceptable payment you can now inform your creditors that you are filing bankruptcy and have hired an attorney. You can now direct all your collection calls to my office! This might not stop all collection calls however it should dramatically reduce them.

8. How Quickly Can We File?

We can typically file your bankruptcy within a few days of my office receiving all the necessary paperwork and your final payment.

9. Do I Have To Take Any Classes?

In Mississippi you are required to take two courses. The easiest way to take them is online however you may do a phone course.

The first is “Pre-Filing” Credit Counseling. This course is normally about \$30 and takes a couple hours to complete. You will need an estimate of your monthly income and expenses as well as your attorney’s email. Once you successfully complete this course you will receive a certificate of completion which must be provided to the bankruptcy court.



Do I Have To Take Any Classes continued...

The second is a “Pre-Discharge” Debtor Education. This course is normally about \$25 and also takes a couple hours to complete. You will need your bankruptcy case number which was assigned by the bankruptcy court as well as your attorney’s email. Again, once you have successfully completed this course you will receive a certificate of completion which will be provided to the bankruptcy court.

Your bankruptcy will not be discharged until both of these courses have been successfully completed! There are several online courses which you can choose from and I can assist you with those options.

10. What Is The Bankruptcy Process & How Long Does It Take?

The first step you have already started to take which is educate yourself about bankruptcy. You want to then weigh the pros and cons of filing bankruptcy. I also recommend that you don’t ask questions to individuals who are not qualified to provide you with correct legal advice. There is a lot of inaccurate information both on the internet as well as asking friends and family especially since bankruptcy laws have changed and everyone’s circumstance is different.

The next step in the process is to hire a qualified attorney to assist you through the bankruptcy process. I have successfully assisted many families through the bankruptcy process and know I can do the same for you! We will form an attorney-client relationship discussed earlier then start the formal process.



10. Bankruptcy Process & Length continued...

We will review all your information and make a determination of which Chapter to file. I will provide you with all the necessary paperwork required to file bankruptcy. Once you have completed the paperwork we will then have another meeting to review the information and file your petition.

The time to get us to this point will depend on you. It will depend on how quickly you decide if bankruptcy is right for you and how quickly you can fill out the paperwork and get the necessary documents. You must also take the first required course, Pre-Filing Credit Counseling and provide me a certificate of completion.

Once I have all the required paperwork and payment in full has been received I will prepare the bankruptcy petition for your review this takes a few days. Once you have reviewed the petition we file the petition with Southern Mississippi Bankruptcy Court.

The next step is for you to take the second course, Pre-Discharge Debtor Education. Your 341 Meeting of the Creditors will then be scheduled about 30-45 days after we file the petition. We will then attend that meeting. You will need to bring a few documents such as your last 60 days of pay-stubs.

The last part of the process is to wait for your discharge papers. You should receive your discharge papers within 2-4 months after your 341 hearing. Once you receive your discharge papers all your creditors are prohibited from ever collecting on the debt or contacting you regarding any of your debts which have been discharged through your bankruptcy filing.

This report should have given you a better understanding of bankruptcy and the bankruptcy process in Mississippi. Should you have any questions on the content of this report or need a qualified bankruptcy attorney to assist you on getting through the bankruptcy process contact my office to schedule a meeting!

