

ARONOFF & LINNELL

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BANKRUPTCY GUIDE



AN EASY-TO-READ BANKRUPTCY AND ATTORNEY-CLIENT RELATIONSHIP MANUAL FOR CURRENT AND FUTURE BANKRUPTCY CLIENTS

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The Law Firm of Aronoff & Linnell, PLLC is a debt-relief agency and assists individual debtors in filing for debt relief under the Bankruptcy Code. (This statement was made in accordance with 11 U.S.C. Sec. 528.)

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WELCOME.

Thank you for your interest in the services of Aronoff & Linnell, PLLC.

We pride ourselves on providing the highest quality service to our clients and to providing potential clients with the fullest range of options available for dealing with their financial difficulties.

While dealing with financial duress is never a pleasant process, we strive to make the realization of a fresh start as painless a transition as possible.

Aronoff & Linnell, PLLC offers a variety of solutions to consumers in need: mortgage modification negotiation, debt negotiation, short-sale negotiation, and personal bankruptcy services.

This Guide is oriented toward our current and potential personal bankruptcy clientele. It is an attempt to answer some basic questions about what bankruptcy is, to dispel a few myths about bankruptcy, and to inform potential clients of our Firm's process of assisting clients through their bankruptcy case from beginning to end.

We hope that you find this Guide helpful, and we look forward to helping you move forward and obtain the fresh start that everyone deserves.

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WHAT IS BANKRUPTCY?

Bankruptcy is, simply, a means by which an individual or a corporation may divest itself of debt obligations to creditors. It is a mechanism of Federal law, effectively a Federal injunction, that “preempts,” or is “superior,” to state-law based commercial contracts, collection lawsuits, mortgage and automobile loan notes, and other debt-related arrangements.

One wouldn’t think that a simple legal mechanism so easily summed up would cause such strong feelings as guilt and shame, yet it does—at least when the mechanism is utilized by an individual rather than a corporation. Regardless of the fact that bankruptcy is enshrined in the Bible’s Book of Deuteronomy, the Magna Carta, and the US Constitution, bankruptcy is a legal mechanism that few would admit to having considered—or to having utilized. It is a source of personal embarrassment while, at the same time, being on the rapid rise in our suffering economy.

Bankruptcy is on the rise because, plainly, it is useful. It is useful both for the individual declaring bankruptcy to free him- or herself from the servitude engendered by the burden of debt, and it is, although less discussed, useful for society as a whole, particularly a democratic society, to be composed of economically healthy individuals who are working to put money back into the economy through the purchase of goods and services rather than through the repayment of debt into a handful of large financial institutions.

Bankruptcy’s purpose as a mechanism of American law, specifically, is not, therefore, to give an underserved break to unthrifty, financially irresponsible people. Rather, its purpose is to keep the American economy functioning. However, for the individual who has suffered a financial setback rendering them incapable of meeting their personal debt obligations, a personal bankruptcy can be one of the most effective means making a fresh start of any available.

Aronoff & Linnell, PLLC specializes in providing 2 types of bankruptcy services for individuals: Chapter 7 and Chapter 13 Bankruptcies.

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TYPES OF BANKRUPTCY

CHAPTER 7 – “STRAIGHT” BANKRUPTCY

Chapter 7 bankruptcies, also known as “straight” bankruptcies or “liquidation” bankruptcies, are designed to offer you complete relief from your financial burdens, staying and settling all of your outstanding debts and giving you the opportunity to make a clean start in life. A Chapter 7 bankruptcy is the most affordable bankruptcy you can pursue—but there are some limitations on eligibility.

To be eligible for a Chapter 7, your household must earn less than the median income for a household of its size for the state that you reside in.

A Chapter 7 bankruptcy is about a 4-month process that requires you to take 2 credit counseling courses by phone or internet and make one appearance at an administrative hearing called the 341 meeting of Creditors.

The filing of a Chapter 7 will stop garnishments, foreclosures, collection lawsuits, and harassing phone-calls and mailings.



TYPES OF BANKRUPTCY

CHAPTER 13 – “REORGANIZATION” BANKRUPTCY

Chapter 13 bankruptcies are not liquidations of debt as Chapter 7 bankruptcies are. Instead, they are personal “reorganizations.” In a Chapter 13 bankruptcy, you make payments to your creditors under a court-approved payment plan for a period of 3-5 years. The amount that you pay is based upon your “ability to pay,” which is to say, your net income after certain monthly expenses.

The Chapter 13 Plan does need to be any minimum amount, but it must be sufficient to pay off required priority debts (secured and other debts) within the timeframe of the Plan. Whatever is left afterward is what is paid to unsecured creditors like credit-cards. Whatever remains unpaid to unsecured creditors after the Plan is completed is discharged, just as in a Chapter 7.

Chapter 13 is an excellent way to stop a foreclosure through the curing of a deficiency, to strip a second lien from an under-secured home, or to “cram-down” the amount owed on a car or other secured loan to the fair-market value of the collateral securing the loan. These mechanisms are not available in Chapter 7s.

A Chapter 13 is also a viable alternative for those whose household income is too high for Chapter 7 eligibility. There are debt-ceiling limits in a Chapter 13, however, and those with too much debt may be ineligible for a Chapter 13.

The eligibility for both Chapter 7 and Chapter 13 bankruptcy may be impacted by prior bankruptcies.



MOVING FORWARD

INITIAL CONSULTATION

The initial consultation with our office is the first step toward getting your Chapter 7 or Chapter 13 bankruptcy case filed.

This consultation is the first meeting we have together. In this meeting, we sit down and examine your overall financial circumstances and talk about your goals for your potential bankruptcy case and whether or not bankruptcy is likely to help you reach those goals. We discuss the process of bankruptcy, the Chapter that is appropriate for your circumstances, and what will be required from you to move the case forward.

At the initial consultation, we also discuss the fee structure of your bankruptcy. Our fees vary depending upon the complexity of your case and depending upon whether it is likely to be a Chapter 7 or a Chapter 13 case. Because we cannot know these things until we sit and meet, it is very difficult for us to offer a flat quotation over the phone prior to an initial consultation.

Aronoff & Linnell, PLLC does not charge any fee for the initial consultation. It is simply an opportunity for you to sit down with and talk about your options with us and to decide if we are the attorneys you would like to work with.

We do not require any specific documentation for the initial consultation other than a completed copy of the Initial Consultation Questionnaire that you can download from our website at www.AronoffLinnell.com.

Other than that, just come with a good idea of your personal assets and liabilities, and we will find the right course of action for you.

MOVING FORWARD

PREPARING TO FILE YOUR CASE

To get your petition drafted and your case filed, we will need a significant amount of information and documentation from you.

The most important item we need from you is a fully completed copy of our Bankruptcy Client Questionnaire. This questionnaire is a lengthy document the completion of which will likely be the most arduous part of the bankruptcy case for you. It asks you to list in detail all of your personal assets and liabilities as well as monthly income and expenses.

Other documentation we need varies slightly from case to case, but items that we always need are:

- 6 Months' Pay-Stubs or income records
- Credit Report from all three credit bureaus
- Last 2-4 Tax Returns Filed
- 90 Days' Bank or Credit-Union Statements
- Certificate of Completion of the required pre-filing credit counseling course
- Automobile Titles
- Real Estate Deeds and Mortgages
- Copies of Leases
- And more.

The full list of our required documents is available for download at our website, www.AronoffLinnell.com.

Once you have gathered the required documents and completed the questionnaire, we invite you back for a second meeting in which we go through the documents to ensure that we have everything we need.

Throughout this process, it is extremely important that we maintain a good line of communication with one another! We promise excellent timing of responses to your questions and concerns—and we expect the same in return.

MOVING FORWARD

FILING THE PETITION

Once we have everything we need, it does not take us long to get your petition ready for you to inspect. In most cases, we will have your petition ready for filing within 1-2 days of the receipt of your documentation package.

Once the draft petition is prepared, we invite you back for a third and final pre-filing meeting to look over the petition page-by-page. We carefully explain every section to you, and we ask you to confirm that all of the information is complete, accurate, and honestly disclosing all of your assets, liabilities, income, and expenses.

If this is the case, we have you sign the petition, and we can go ahead and file it for you at that point. Filing the petition is done electronically, and, in the case of Chapter 7 bankruptcies, we will receive your case-number, assigned Trustee, and 341 Meeting date immediately. In the case of Chapter 13 bankruptcies, we will receive your case-number immediately, but the rest of the information will come a little later.

CREDITORS' RESPONSES TO THE FILING

The moment we file your petition, Creditors are forbidden from contacting you for the purposes of debt collection by the “automatic stay” provision of the Bankruptcy Code. In reality, however, it takes a little time for many of them to receive notice from the court that you have filed.

If creditors contact you within 24-48 hours after the filing of your petition, we ask that you provide them your case-number, the date that your petition was filed, and our contact information. Most of the time, they will not call again.

However, if they call more than once after being given your filing information, we will take action aggressively and quickly against them in the U.S. Bankruptcy Court.

MOVING FORWARD

THE BANKRUPTCY TRUSTEE

When you file a bankruptcy petition, a “legal estate” is created out of everything you own, everything you owe, and everything you are owed. Much like a probate estate that is created when someone passes away without leaving a legal will, this estate is administered by an individual called the Trustee.

This Trustee is, on one hand, an “administrator,” but, on the other hand, the Trustee is not an objective participant in the bankruptcy process. Depending on whether you are filing a Chapter 7 or a Chapter 13 bankruptcy, the Trustee’s role is a little different.

In a Chapter 7 case, the Trustee’s job is to liquidate all of the assets in the bankruptcy estate for the benefit of the creditors whose debts are to be discharged. It is our job, through the application of what are called “exemptions,” to protect your property from the Trustee’s liquidation, or sale. In most cases, we can protect all or nearly all of a person’s property, though this is very specific to each individual’s cases and no outcome can be guaranteed.

In a Chapter 13 case, the Trustee’s job is to, in essence, represent the unsecured creditors who are paid funds through the Chapter 13 Plan at the lowest priority. The Trustee will object to any Chapter 13 Plan that does not treat the unsecured creditors in the manner required by the Bankruptcy Code.

In short, the Trustee is our adversary in the bankruptcy process, along with creditors. Dealing with the Trustees requires a great deal of skill and experience, and this is one of the primary reasons that filing a bankruptcy petition without an attorney’s representation is not recommended.

MOVING FORWARD

THE 341 MEETING OF CREDITORS

In either a Chapter 7 or Chapter 13 case, the 341 Meeting of Creditors is scheduled approximately 20-40 days after the filing of the petition.

In the case of a Chapter 7, this is normally the only hearing that you must attend. It is an opportunity for creditors to ask questions of you under oath and on the record. In reality, creditors other than credit unions' attorneys do not usually attend, and it ends up being a quick interrogation under oath by the Trustee. Most of the questions asked are rote, though some will be tailored specifically to your case and personal circumstances.

In the case of a Chapter 13, the 341 is more involved and can last anywhere from 10-30 minutes. Depending on the Trustee assigned, you may be required to attend a 1-hour orientation beforehand. The Trustee at the Chapter 13 341 will tailor their questions toward specific concerns they have regarding the petition or Plan.

In either case, it will be you that is asked questions, and attorneys are not expected to answer in place of their clients, unless something improper is taking place or some clarification is required. In certain cases, we will actually be the ones asking the questions as well.

Many local law firms will hire "appearance" attorneys to represent clients at 341 Hearings to the extent that the attorney sitting beside you at your 341 will be someone you have never seen or spoken with before. Aronoff & Linnell, PLLC does not hire appearance attorneys. The attorney you work with throughout your filing process will be the attorney sitting beside you at your 341.

MOVING FORWARD

AFTER THE 341 MEETING

In a Chapter 7 case, the only remaining step is a 60-day waiting period that is required by the Bankruptcy Code. This period is a sort of “holding-pattern” that gives creditors or the Trustee time to study the issues and decide if they would like to object to the discharge, contest the dischargeability of specific debts, or engage in other such activities.

Although such things do happen from time to time and no legal outcome can ever be guaranteed, for the most part, this is a period in which nothing at all happens, and all involved simply wait for the court to issue the Discharge.

In a Chapter 13 case, there is one further hearing that must be attended prior to confirmation of the Chapter 13 Plan. This Confirmation Hearing is the hearing at which your Plan will presumably be “confirmed” by the Trustee—meaning that the Trustee allows the bankruptcy to proceed.

Most of the time, you will not do anything but wait to approve (or disapprove) deals we make with the Trustee or creditors to resolve any objections to your Chapter 13 Plan left unresolved at this point. If all goes well, your Plan is “confirmed,” and you are on your way and need not do anything further but make your bi-weekly or monthly Plan payments for the next 36 or 60 months.

MOVING FORWARD

DISCHARGE AND BEYOND

In a Chapter 7 case, the Discharge occurs at the end of the 60-day waiting period after the 341 Meeting. In a Chapter 13 case, it occurs at the completion of the Chapter 13 Plan, either in the 37th or 61st month.

In either case, the Discharge is a declaration under Federal law that you do not need to pay any of the discharged debts and that creditors may not collect or attempt to collect those debts from you. If they do attempt to collect discharged debts after your discharge, let us know, and we will aggressively prosecute them in the Bankruptcy Court for violating the Discharge Injunction.

After your Discharge, you will not be able to file another bankruptcy for some number of years, depending on the Chapter of bankruptcy you received your Discharge under. All of your discharged debts will be listed as “discharged in bankruptcy” on your credit-report, and you will thus have a lot of work to do to repair your credit and return to a place where you may again borrow on credit.

There are a number of basic steps, however, that you can take after a bankruptcy Discharge to start to repair your credit. Discussion of these steps is something that we will do throughout your bankruptcy process, beginning with our Initial Consultation.

After your Discharge, we will remain available to you to answer questions and provide basic guidance, although, no longer representing you at that point, we will be unable to provide actual legal services without further retainer.

In most cases, discharged creditors do respect the Discharge Injunction, and you will find the post-Discharge landscape to be free of the stress of collections calls, unpaid bills, and threats of lawsuits and foreclosures and repossessions.

THANK YOU!



At Aronoff & Linnell, PLLC, we pride ourselves on our quality customer-service and our friendly relationships with our clients.

We appreciate the fact that a significant portion of our new clients have come by way of referrals from other satisfied customers, and we work hard to ensure that this will remain the case going forward.

Thank you for taking the time to read this Guide, and we look forward to working with you and to welcoming you to our family.

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