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General Bankruptcy

What is the difference between bankruptcy cases filed under chapters 7, 11, 12 and 13?
Answer:
Chapter 7: Often called the liquidation chapter, chapter 7 is used by individuals, partnerships, or corporations who are unable to repair their financial situation. In chapter 7 asset cases, the debtor's estate is liquidated under the rules of the bankruptcy code. Liquidation is the process through which the debtor's non-exempt property is sold for cash by a trustee and the proceeds are distributed to creditors.

Chapter 11: Often called the reorganization chapter, chapter 11 allows corporations, partnerships, and some individuals to reorganize, without having to liquidate all assets. In filing a chapter 11, the debtor presents a plan to creditors which, if accepted by the creditors and approved by the court, will allow the debtor to reorganize personal, financial or business affairs and again become a financially productive individual or business.

Chapter 12: Chapter 12 is designed for "family farmers" or "family fishermen" with "regular annual income." It enables financially distressed family farmers and fishermen to propose and carry out a plan to repay all or part of their debts. Under chapter 12, debtors propose a repayment plan to make installments to creditors over three to five years. Generally, the plan must provide for payments over three years unless the court approves a longer period "for cause."

Chapter 13: An individual with a regular income who is overcome by debts, but believes such debt can be repaid within a reasonable period of time, may file under chapter 13 of the bankruptcy code. Chapter 13 permits the debtor to file a plan in which the debtor agrees to pay a certain percentage of future income to the bankruptcy court trustee for payment to creditors. If the court approves the plan, the debtor will be under the court's protection while repaying such debts.

More information regarding the difference between chapters can be found in the Bankruptcy Basics Manual.

How do I find out who the trustee is in a case?

Answer:
The name of the trustee assigned to a chapter 7, 12, or 13 bankruptcy case is printed on the *Notice of Bankruptcy, Meeting of Creditors and Deadlines*. Additionally, the trustee's name may be obtained by accessing the Multi-Court Voice Case Information System (McVCIS) or through Public Access to Court Electronic Records (PACER). The name of the trustee is also accessible via the public terminals in all divisional offices or you may call the divisional office where the case is pending or was closed.

Where do I get procedural information?
Answer:
Procedures posted on the Court website are divided into three sections: district, division and national. Please refer to Rules and Procedures section for further information.

What is a Creditor's Matrix?
Answer:
The creditor's matrix is a list of the creditors in your case. It must be filed in the proper format so that it can be used by the court's automated noticing system. Please see Amended General Order 13 for creditor matrix formatting instructions.

What is Credit Counseling and Personal Financial Management?
Answer:
Credit Counseling is conducted by a United States Trustee authorized credit counselor. ALL individual debtors must complete credit counseling ***before*** filing for bankruptcy. After completing credit counseling, the credit counselor will issue a certificate that must be filed with the bankruptcy court. When spouses file a bankruptcy case together (referred to as a jointly filed case) each spouse must complete credit counseling. Failure to timely file a properly issued credit counseling certificate will result in the dismissal of your bankruptcy case. If applicable, the credit counselor may issue a proposed budget and repayment plan (if one is prepared, it is to be filed along with the certificate).

Personal Financial Management is a course a debtor takes from an agency authorized by the United States Trustee ***after*** filing a bankruptcy case. Only chapter 7 and 13 individual debtors are required to take a personal financial management course. After completion of the course a debtor must file Official Form B 423. If a personal financial management course certificate is provided it must be submitted at the time of filing the B 423 form. In chapter 7 cases, the certificate regarding completion of a financial management course must be filed within 60 days of the first scheduled 11 U.S.C. §341 Meeting of Creditors. In chapter 13 cases, the certificate of course completion is due prior to the completion of all plan payments so that a discharge may be obtained. The failure to timely file the certificate of course completion in either a chapter 7 or 13 case could result in a case being closed without the issuance of a discharge. If this occurs a fee must be paid to reopen the case.

Please visit the United States Trustee website for the most recent information on approved credit counseling agencies and personal financial management instructional course providers.

How do I obtain a hearing date?

Answer:
The process for setting a hearing varies depending on each judge. Please refer to the calendaring procedure of the judge assigned to your case for information regarding setting a hearing on the judge's calendar. Also, please refer to the Local Rules for more information regarding hearings on matters before the Court.

How do I get copies of documents or certified copies?
Answer:
There are two ways to get copies.

First, if you don't need certified copies, the easiest way is through the internet at PACER (Public Access to Court Electronic Records), an online service that lets you access, download, and print copies of case and docket information from all federal courts. You have to first register for a PACER account free of charge at www.pacer.gov. PACER then charges ten cents ($0.10) per page for copies, the same that the court charges but without the trip to the courthouse or parking costs. For larger documents, the maximum charge per document is capped at $3.00 (the equivalent of 30 pages). PACER also charges for name searches, reports, such as lists of cases, and transcripts of court proceedings (when available online). If your charges do not exceed $15 in a quarter, your fees are completely waived, so copies printed that quarter are free.

Please Note: Restricted Access to Certain Documents in PACER

Judicial Conference privacy policy restricts PACER access to bankruptcy cases filed before December 1, 2003, and closed for more than one year. In these older closed cases, the docket sheet and docket information are available online through PACER, but access to other case documents is limited. For information on accessing documents in a closed, pre-December 1, 2003 case, please see "Restricted Access to Certain Documents in PACER."

Obtaining copies through PACER is simple and is strongly encouraged. However, if you need a certified copy, the court can provide both certified and non-certified copies of court documents. These documents may be obtained in person or by mail from a court divisional office. Information about the costs and types of payment the court accepts is available from the divisional office where a case is filed in San Francisco, Oakland, Santa Rosa, or San Jose.

How do I obtain case information?
Answer:
Bankruptcy cases are public records and are available for viewing in the Clerk's Office where the case was filed. Additionally, the court's Electronic Case Filing (ECF) system provides access to court files via the Internet. Basic information about a case is also available through the Multi-Court Voice Case Information System (McVCIS) or through Public Access to Court Electronic Records (PACER). Closed cases that pre-date 2005 may also be viewed at the National Archives Records Administration in San Bruno. Please contact the Clerk's Office for more information.

How do I find out if someone has filed for bankruptcy?

Answer:
PACER has a national index search tool called the U.S. Party/Case Index. With a valid PACER account, you may search the entire country for a specific debtor. The results will give you the party name, case number and jurisdiction in which the case was filed. The report will allow access to a case's docket.

Is bankruptcy information available to the public? Can anyone look at it?
Answer:
Unless sealed, all documents filed in a bankruptcy case are available for public viewing. Information contained in bankruptcy case documents is a matter of public record. Documents may be accessed in the Clerk's Office during regular business hours, or 24 hours a day via internet access to PACER. Debtors should note that filing a bankruptcy may adversely affect their credit rating. Credit reporting agencies regularly collect and disclose bankruptcy data to the public.

A business or individual has filed for bankruptcy and owes us money. What do we do?
Answer:
It is strongly recommended that you consult with a qualified bankruptcy attorney, and carefully read all information provided on case notices. If you wish to file a proof of claim in a case for money you assert is owed, please complete and file a proof of claim form with the Clerk's Office. Please note, Clerk's Office staff cannot provide any legal advice concerning your proof of claim or in regards to any case pending before the Court or other matter.

What is a Proof of Claim?
Answer:
A claim is any right to payment held by a person or entity against a person or entity that filed bankruptcy. A written statement filed in a bankruptcy case setting forth a creditor's claim is called a proof of claim. A proof of claim should include a copy of any documentation giving rise to the claim as well as any evidence in support of the claim, such as evidence of secured status if the claim is secured. Click here to obtain a blank proof of claim form.

Attorneys and most others with an ECF login may file a proof of claim using ECF. Anyone however, with a computer connected to the Internet may electronically file a proof of claim by using the Electronic Proof of Claim (ePOC) system. ePOC is paperless and does not require a login, password or access to ECF. Click here to File an Electronic Proof of Claim using ePOC.

Is there a deadline for filing a Proof of Claim?
Answer:
In a chapter 7 "asset" case, the deadline (commonly referred to as the “bar date”) to file a claim is stated in the *Notice of Chapter 7 Bankruptcy, Meeting of Creditors and Deadlines*. In a chapter 7 “no asset” case, if the trustee files a *Notice of Possible Dividends* a notice is sent stating the deadline by which a claim is due.

In chapter 9 and chapter 11 cases, creditors receive a specific notice of the deadline by

which a claim is due.

In a chapter 13 case, the deadline for creditors who have claims against the debtor is detailed in the *Notice of Chapter 13 Bankruptcy, Meeting of Creditors and Deadlines*.

In a chapter 12 case, the deadline for creditors who have claims against the debtor is noted on the *Notice of Meeting of Creditors*.

I am a creditor. What should I do if my address changes from the address on my Proof of Claim?
Answer:
You should file a *Notice of Change of Address* with the Court.

I am a creditor in a chapter 7 asset case and received notice that I am to receive a payment from the Trustee. When will I receive payment?
Answer:
Generally, trustees distribute funds to creditors six to eight weeks after they send out the notice of the Final Report and Accounting, however, sometimes the distribution of funds may take more time. If you have questions, please contact the chapter 7 trustee appointed in the case.

I am a creditor in a chapter 11 case and the plan of reorganization has been approved. When will payments be distributed?
Answer:
Each specific plan has different provisions pertaining to the time and amounts of creditor payments. Please consult the plan to find out the payment distribution schedule. If you have questions, please consult with your attorney or contact the debtor's attorney and ask when your class of creditors will be paid.

How does an attorney get admitted to practice in the bankruptcy court?
Answer:
To practice in the United States Bankruptcy Court for the Northern District of California, attorneys must be admitted to practice before the United States District Court for the Northern District of California. Please contact the District Court for further information.

What is the function of the United States Trustee and where is it located?
Answer:
The Office of the United States Trustee is an executive branch agency that is part of the Department of Justice. Its responsibilities include monitoring the administration of bankruptcy cases and detecting bankruptcy fraud. It is also responsible for appointing interim trustees to administer chapter 7 cases from a previously appointed panel of private individuals, lending support to and overseeing the debtor-in-possession in chapter 11 cases, and appointing and supervising standing trustees in chapter 13 cases.

The individuals appointed by the United States Trustee to serve as interim or standing trustees in individual bankruptcy cases changes over time. If you would like additional

information regarding either the trustee program in general or individual trustees, you should contact the Office of the United States Trustee or the Region 17 Office of the United States Trustee.

What is a 341(a) Meeting of Creditors?

Answer:
The meeting of creditors is a hearing all debtors must attend in any bankruptcy proceeding. The meeting of creditors is held outside of the presence of the judge and, depending upon the case chapter, usually occurs between 21 and 50 days after the filing of the petition. In chapter 7, 12, and 13 cases, the trustee assigned to the case conducts the meeting. In a chapter 11 case, a representative of the United States Trustee conducts the meeting.

The meeting permits the trustee or the representative of the United States Trustee to review the debtor's petition and schedules with the debtor. The debtor is required to answer questions under penalty of perjury (swearing or affirming to tell the truth) about the debtor's conduct, property, liabilities, financial condition, and any other matter that may affect the administration of the case or the debtor's right to discharge. In addition, the trustee or United States Trustee representative will ask questions to ensure that the debtor understands the bankruptcy process.

The meeting is referred to as a meeting of creditors because creditors are notified that they may attend and ask the debtor questions pertaining to assets or any other matter pertinent to the administration of the case. It is also referred to as a 341 meeting because it is mandated by Section 341 of the Bankruptcy Code. Creditors are not required to attend these meetings, and do not waive any rights if they do not attend. The meeting usually lasts only about ten to fifteen minutes and may be continued if the trustee or United States Trustee representative is not satisfied with the information presented.

If the debtor fails to appear and provide the information requested, the trustee or United States Trustee representative may request that the case be dismissed, or may seek other relief against the debtor for failure to cooperate. If the case involves spouses filing jointly, both spouses must appear at the meeting of creditors.

Who do I notify about possible fraudulent activity in a bankruptcy case?

Answer:
Complaints of criminal violations in the bankruptcy system are submitted to the United States Trustee. Upon review, if the information furnished establishes a reasonable belief that a criminal violation has occurred the United States Trustee may refer the matter to the United States Attorney for possible investigation and prosecution. When submitting a complaint to the United States Trustee a clearly written statement along with copies of any available documentation will expedite this process.

The following information should be submitted with your complaint:

1. Name and address of the person or business you are reporting.

2. The name of the bankruptcy case, case number, and the location of where the case was filed.

3. Any identifying information you may have regarding the individual or the business.

4. A brief description of the alleged fraud, including how you became aware of the fraud and when the fraud took place. Please include all supporting documentation.

5. Identify the type of asset that was concealed and its estimated dollar value, or the amount of any unreported income, undervalued asset, or other omitted asset or claim.

6. Your name, address, telephone number, and email address. You are not required to identify yourself, though it is often helpful to do so if questions arise.

Submit a complaint by e-mail to USTP.Bankruptcy.Fraud@usdoj.gov, or to one of the following addresses:

Office of the United States Trustee
235 Pine Street, Suite 700
San Francisco, CA 94104-3401
Tel: (415) 705-3333
Fax: (415) 705-3379

Office of the United States Trustee
280 S. First Street, Room 268
San Jose, CA 95113
Tel: (408) 535-5525
Fax: (408) 535-5532

Office of the United States Trustee
1301 Clay Street, Room 690N
Oakland, CA 94612
Tel: (510) 637-3200
Fax: (510) 637-3220

Executive Office for United States Trustees
Office of Criminal Enforcement
441 G Street, NW
Suite 6150
Washington, DC 20530

For more information regarding reporting suspected bankruptcy fraud, please see the United States Trustee website.

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