

How Bankruptcy Can Help You Achieve Financial Freedom



Stop Harassing Phone Calls
Stop Mortgage Foreclosure
Stop Repossessions
Get a FRESH START!

Ellis B. Klein, Esquire

Written By: Ellis B. Klein, Esquire

Ellis B. Klein & Associates, LLC

(800) 536-0501

www.elliskleinlaw.com

bankruptcy@elliskleinlaw.com

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I. INTRODUCTION



My name is Ellis B. Klein and I have been a practicing Attorney in Pennsylvania since 1994. After graduating law school, I was hired as an Assistant District Attorney in the county Prosecutor's Office where I rose to the level of Senior Deputy District Attorney. In the five years that I was a prosecutor, I prosecuted over 4,000 criminal cases ranging from minor traffic offenses to homicide.

When I left the District Attorney's Office in 1999, I joined a small defense firm as a junior associate where I practiced Criminal Defense and Bankruptcy. In 2015 I formed my own firm focusing primarily on Criminal Defense and Bankruptcy. As a defense attorney for over 20 years, I have helped over 10,000 clients navigate the legal system. Most clients who seek my assistance for Bankruptcy are regular, everyday people who, for whatever reason, found themselves in debt from which they could not escape. Many fell into the "credit card trap" and found themselves with a mountain of debt that they could never repay. Other clients were faced with a job loss and fell behind on their mortgage or car loan

and were facing foreclosure or repossession. Yet other clients suffered illnesses and fell behind on their bills. What all of my bankruptcy clients have in common is that they were concerned with how filing for bankruptcy could help them and also how it would affect their lives in the future.

If you are reading this book, it is likely that you are facing substantial debt, endless harassing phone calls from bill collectors or attorneys, being sued to collect a debt, or facing repossession of your vehicle or foreclosure of your home. I have written this book to provide basic, but accurate, information to guide people through the bankruptcy process. This book is by no means all-inclusive, but rather it provides a basic outline regarding what to expect when someone filed for bankruptcy protection. Bankruptcy law is extremely complex and cannot be covered completely in this publication. Therefore, it is best to speak with an experienced, local bankruptcy attorney to properly advise you.

DISCLAIMER:

This publication is intended to be for informational purposes only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, you should seek immediate professional legal advice.

II. CHOOSING THE RIGHT ATTORNEY

Choosing the right attorney to represent you may be one of the most important decisions you may ever make. The most important quality in an attorney, by far, is **experience**. Bankruptcy law is extremely complex and retaining a lawyer whose primary practice is Bankruptcy ensures that your lawyer is not a “jack of all trades, master of none.” Like a doctor, there is simply no substitute for experience. While the Bankruptcy laws are similar throughout the country, every bankruptcy court and every bankruptcy trustee administers the law differently. It is also very important that your lawyer have a good reputation with the court and with the Bankruptcy trustee to get the best results in your case.



When I was a young prosecutor, I dealt with hundreds of defense attorneys, some good and some not so good. A good defense attorney, in my opinion, was somebody that was honest with me and whom I felt was a “straight-shooter.” That is the way that I conduct myself as an attorney and I pride myself on being a straight-shooter. My philosophy

about the way that I practice is that I treat my clients the way that I would want to be treated if I were experiencing legal issues – with honesty, kindness and respect. Whomever you choose to represent you, do your homework. Ask questions and then ask more questions. Read reviews from former clients online on websites like [Avvo.com](https://www.avvo.com). Get second opinions but be wary of attorneys who scare you into immediately retaining then, or who just tell you what you want to hear. You must be comfortable with your attorney and be certain that he has the experience and the knowledge to properly represent you in court.

III. WHAT IS BANKRUPTCY AND HOW CAN IT HELP ME?

A. WHAT IS BANKRUPTCY?

Bankruptcy is a federal law designed to protect consumers from their creditors' collection activity. Approximately 750,000 people file for Bankruptcy annually resulting in billions of dollars of debt being discharged by the Bankruptcy Court. Bankruptcy legislation was enacted by the Federal Government in 1800 in response

to poor economic conditions. Prior to Bankruptcy laws protecting consumers, people who owed money to their creditors could be put in “Debtor’s Prison” where they would be given jobs to work off their debts. Many famous people have used Bankruptcy to protect themselves from their creditors including Abraham Lincoln, Walt Disney, P.T. Barnum, Mike Tyson and MC Hammer, just to name a few. Filing for Bankruptcy will immediately put an end to harassing phone calls, threatening letters and other methods, both legal and illegal, that creditors attempt to collect debts. If you are constantly being bothered by harassing phone calls at home or at work, or if you are worried about losing your home or your property to your creditors, then filing for Bankruptcy will help you get a fresh start.

There are 2 types of Consumer Bankruptcy available to individuals in Pennsylvania, **Chapter 7 and Chapter 13 Bankruptcy**. The most common type of bankruptcy is **Chapter 7 bankruptcy** and is sometimes known as a “liquidation bankruptcy”. Chapter 7 **totally wipes out all unsecured debt**, such as credit cards, medical bills, repossession debts and unsecured loans. You will not have to pay any of your debt back, you



STOP Harassing Phone Calls

STOP Threatening Letters

STOP Lawsuits

STOP Foreclosure/Repossession

will not lose property and in approximately 6 months, your debt is wiped out so you can start fresh.

Chapter 13 bankruptcy is a repayment bankruptcy in which consumers are required to repay some or all of their debt, depending on their situation. It is most commonly used to stop mortgage foreclosures and become current on mortgage arrears so that the home does not get sold at a Sheriff Sale. Chapter 13 is also used to stop vehicle repossessions or to repay unsecured debt.

Both types of Bankruptcy protect you from collection activity from creditors, such as harassing phone calls, lawsuits, sheriff sales and other collection activity. As soon as your Bankruptcy petition is filed with the court, you are under the **protection of the Automatic Stay of Proceedings**. The Automatic Stay is a law that states that your creditors **must suspend all types of collection activity against you**. This includes calling you at home or work to try to collect a debt, calling your relatives, filing a lawsuit against you, sending you threatening letters, selling your home or personal property in a sheriff sale, utility shutoffs, and other types of collection activity. Once a creditor receives notice from the bankruptcy court that you filed for bankruptcy, if they contact you about your debt, they can be sued in Bankruptcy

Court for willfully violating the Automatic Stay of Proceedings. Creditors are aware of the Automatic Stay and as soon as you file the bankruptcy and they get notice from the Bankruptcy Court, the phone calls and collection activity will stop. Once you complete the bankruptcy and the debt is discharged, you no longer owe that money to your creditors. The debt is simply wiped out by court order and you can start fresh. Many times, once you retain a lawyer to file bankruptcy for you and you tell your creditors, many creditors will stop calling you knowing that they will not be able to collect on the debt.

B. WARNING SIGNS TO KNOW IF BANKRUPTCY MAY BE AN OPTION

Bankruptcy is not right for everyone and whether you should file depends on your individual situation. I do not tell everyone who calls me that they should file for bankruptcy, but below are a few “warning signs” that Bankruptcy may be right for you:

- Your debt never seems to go down.
- You can only afford to pay the minimum monthly payments on your credit cards.
- You cannot afford to make any payments to your creditors

- You live paycheck to paycheck.
- You borrow from one account in order to pay other bills (“Robbing Peter to pay Paul”).
- Constantly receiving threatening phone calls from your creditors.
- Your credit cards are “maxed out.”
- You need to use retirement money or your children’s college fund to pay your bills.
- You are facing foreclosure and/or a sheriff sale of your home.
- You are afraid your vehicle will be repossessed.
- Your creditors are suing you to collect a debt.
- It will take you more than 3 years to pay off all the deb that you owe.

If several things on this list apply to your financial situation, you should start to consider bankruptcy as an option to get you back on your feet.

In order to determine which type of bankruptcy you are able to file, you should call the experienced attorneys at Ellis B. Klein & Associates for a free detailed consultation. Over the last 20+ years in practice, we have helped thousands of clients get a fresh start and wipe out or reorganize their debt.

Once we ask you a few straightforward questions about your particular situation, we can advise you over the phone which type of bankruptcy you should be eligible to file. We will even quote you a fee and a flexible payment plan right over the phone because we believe an informed client is the best client. Filing for bankruptcy will **STOP** all of the harassment from your creditors and allow you to regain financial stability. Put our 20+ years of experience in your corner and call us for a [free consultation](#) to see how we can help you to get a fresh start.

C. I AM EMBARRASSED TO FILE FOR BANKRUPTCY PROTECTION

Many of my former clients tell me that they were embarrassed to file for Bankruptcy or that they feel like a failure. My answer is always and will always be “DON’T BE.” Bankruptcy is not a moral decision. It is not a decision of right versus wrong, good versus bad. It is purely a **business** decision. While (most) everyone wants to pay their debts, there are situations that arise in people’s lives - unemployment, sickness, unforeseen expenses, etc., that make paying one’s debt difficult, if not impossible. Bankruptcy is a law designed to protect an individual from their creditors. It is a law designed to get people back on their feet and to give

them a fresh start. So don't feel bad or embarrassed that your situation has brought you to consider filing for bankruptcy.

Hundreds of my former clients have thanked me when their case was over and told me that they wished they filed for bankruptcy years before. Many have told me that they didn't get a good night's sleep until they filed for bankruptcy due to the stress of financial difficulties. A lot have told me that they now don't dread when their phone rings because they know that it won't be a creditor calling to threaten them about collecting a debt. The decision to file for Bankruptcy is purely a business decision. Don't feel bad about availing yourself of a law that is designed to protect *you*.

IV. CHAPTER 7 BANKRUPTCY

A. WHAT IS CHAPTER 7 BANKRUPTCY?

Chapter 7 Bankruptcy is the most common type of bankruptcy, with approximately 750,000 Chapter 7 cases being filed annually. Chapter 7 is also known as a "Liquidation" or "Fresh Start" bankruptcy and will discharge (wipe out) all of your unsecured debt. Unsecured debt consists of credit card bills, medical bills, unsecured loans, delinquent utility bills and other unsecured debt.

If your debt is out of control and you are unable to pay your creditors back, filing for Chapter 7 Bankruptcy will wipe out your debt, give you a fresh financial start, and will eventually allow you to reestablish and eventually repair your credit.

As soon as your Bankruptcy petition is filed with the court, you are under the **protection of the Automatic Stay of Proceedings** which means that your creditors **must suspend all types of collection activity against you**. It is illegal for your creditors to call you to try to collect a debt, send you threatening letters, sue you to collect a debt or try to sell your home or personal property in a sheriff sale. Creditors are aware of the Automatic Stay and as soon as you file the bankruptcy and they get notice from the Bankruptcy Court, the phone calls and collection activity will stop. Many times, once you retain a lawyer to file bankruptcy for you, many creditors will stop calling you knowing that they will not be able to collect on the debt.

B. WHAT TYPES OF DEBT CAN BE DISCHARGED IN A CHAPTER 7 BANKRUPTCY?

Chapter 7 Bankruptcy “discharges” all of your unsecured debt, which means that your debt will be wiped out by court order. Once your debt is wiped out, you no longer owe it and your creditors are not permitted to attempt to collect the debt.

The following list contains the most common debts that can be discharged in a Chapter 7 Bankruptcy:

- Credit card bills – Visa, Mastercard, etc.
- Medical/hospital bills
- Delinquent utility bills
- Unsecured loans (signature loans)
- Payday loans
- Deficiencies from past repossessions
- Deficiencies from past foreclosures
- Some Taxes



C. WILL I LOSE MY HOUSE OR MY CAR IN A CHAPTER 7 BANKRUPTCY?

If you file for Chapter 7 bankruptcy and you are current on your home mortgage and/or current on your car loan you can choose to reaffirm the debt and retain the property. A reaffirmation agreement means that you agree that you still owe the debt and will continue to make the monthly payments on your mortgage and/or car loan. Once you reaffirm this debt, you agree that you are personally liable for the debt and cannot at a later time decide not to pay it without risk of losing the property. So long as you make your mortgage and/or car

payments, you will be allowed to keep the property. A Reaffirmation agreement will be reviewed by a bankruptcy judge to determine if the agreement is in your best interest.

You can also choose to surrender the property and not be responsible for the debt associated with it. Giving back your home or automobile to the creditor is known as a “voluntary surrender”. The property will eventually be sold at Sheriff Sale or auction and if the sale price is less than what it owed on the property, you cannot be forced to repay the deficiency if your bankruptcy is discharged.

For example, If you owe \$100,000 on your mortgage and your house sells at sheriff sale for \$50,000, unless you file for Bankruptcy then you still owe the mortgage company the \$50,000 deficiency, even though you no longer have the home. Chapter 7 Bankruptcy will wipe out your obligation to pay any potential deficiency on your home or your car loan.

The experienced attorneys at Ellis B. Klein & Associates have been assisting clients to get financially back on their feet for over 20 years. We have represented thousands of clients in bankruptcy court and have helped to wipe out millions of dollars of consumer debt. If you are being harassed

by your creditors, please give us a call for a **free consultation** and we will be happy to discuss how we can help you to stop the harassment, get a fresh start and reestablish your credit.

D. WHAT IS THE PROCESS FOR A CHAPTER 7 BANKRUPTCY?

Chapter 7 bankruptcy takes approximately 6 months to complete from start to finish. In order to be eligible for Chapter 7, you must demonstrate to the court that you have no monthly income left after paying back your normal cost of living expenses (not including the bills that will be discharged in the Bankruptcy) and that you do not own property with a value greater than what is permitted by the Bankruptcy rules. You must also pass what is called a “**Means Test**” showing that you make less than the maximum amount of money allowed for this type of bankruptcy. In almost every case you will be allowed to keep all of your property. I have represented thousands of clients over the last 20+ years in practice who were NOT required to surrender any property to the court for sale. Once the Chapter 7 bankruptcy is filed with the Court, all of your creditors will be mailed notice of the Chapter 7 Bankruptcy filing by the Bankruptcy



Court. Once your creditors receive this notice, you are now under the protection of the **Automatic Stay of Proceedings** and it is against the law for your creditors to contact you. At this point, your phone will stop ringing and you will stop receiving bills and threatening letters in the mail.

A short time later, you and your creditors will be mailed notice of the Section 341 Creditor's Meeting, also called the Trustee Meeting. This is a formal court hearing where the Bankruptcy trustee, who is a lawyer appointed by the bankruptcy court to oversee the case, will swear you in and ask you questions under oath. In most cases these questions are routine and the trustee will ask you questions about your monthly income and monthly expenses to determine that you are insolvent (no money left over to pay your creditors). We will be sitting right next to you at this meeting and you will be well-prepared and will know exactly what the trustee will ask you. Your creditors are permitted to attend this hearing and ask you questions, but generally speaking, creditors do not appear because they know your debt will be wiped out by the court. If the creditor does appear at this hearing, it is usually to determine whether or not there has been fraud involved such as running up your credit cards right before filing for Chapter 7 bankruptcy, for example.

Once the trustee concludes his examination, the trustee will typically tell you that they are recommending discharge and will forward a report to the court. You will then receive the discharge in the mail which is the official court document that wipes out your debt.



Stop Harassing Phone Calls
Stop Mortgage Foreclosure
Stop Repossessions
Stop Utility Shutoffs
Stop Lawsuits
Get a FRESH START

V. CHAPTER 13 BANKRUPTCY

Chapter 13 bankruptcy is also known as a repayment bankruptcy or a reorganization bankruptcy in which some or all of your debt is repaid through the Chapter 13 Bankruptcy repayment plan. The most common situation for a Chapter 13 is when an individual is behind on their mortgage, facing foreclosure, and they wish to keep the house and become current on their mortgage payment. A Chapter 13 bankruptcy can also help to keep an automobile from being repossessed and it is also used for individuals who make more money than allowed to file for a

Chapter 7 and who therefore must repay a portion of their debts through a Chapter 13 repayment plan.

A. CHAPTER 13 AND MORTGAGE FORECLOSURE

Nothing can be more stressful than the possibility of losing one home in a foreclosure. Chapter 13 bankruptcy will stop foreclosure proceedings and allow you to keep your home. It will also stop a sheriff sale so long as the bankruptcy is filed before



the actual date of the sale. Chapter 13 bankruptcy will allow you to file a three-year or a five-year reorganization payment plan to catch up on your mortgage arrears. You are required to resume regular monthly mortgage payments directly to your mortgage company once the case is filed and also make an additional “catch-up payment” to the Bankruptcy court Trustee to become current on your mortgage arrears. If you make all of your required payments, at the end of the three or a five-year repayment plan, you are current on your mortgage. The mortgage company is required to accept the payments and cannot continue with the foreclosure while you are going through this process, so long as you make all of

your payments on time. In many cases, if you have any unsecured debt such as credit cards, medical bills or unsecured loans, or other unsecured debt, that debt will be entirely discharged (wiped out) at the end of the case.

As soon as the bankruptcy is filed with the Court, you are under the protection of the **Automatic Stay of Proceedings** which protects you from all collection activity including foreclosure. Filing for bankruptcy will stop the harassing phone calls, all foreclosure proceedings and any lawsuits filed against you by your creditors. It will also stop a Sheriff Sale from proceeding, so long as the case is filed before the date of the sale.

If you are facing foreclosure of your home, call the experienced attorneys at Ellis B. Klein & Associates and we will gladly give you a free consultation and let you know how we can help you to save your home. We have helped thousands of people save their homes and wipe out their debt over the past 20+ years in practice. Call or email us for a free consultation.

B. CHAPTER 13 AND VEHICLE REPOSSESSIONS

Chapter 13 bankruptcy will also help individuals keep their vehicles from being repossessed and sold at auction. If you are behind on your car payment and facing repossession, filing for Chapter 13 bankruptcy immediately stops any repossession proceedings and



will enable you to catch up on your car payment over a three or five-year payment plan with the Court. Additionally, if your vehicle was recently repossessed, filing for Bankruptcy before the car is sold at auction will allow you to regain possession of the car. You will be required to maintain regular monthly car payments directly to your lender and you will also make a catch-up payment to the bankruptcy court to catch up on your arrears to the car company. Another alternative is to put the entire loan into the Chapter 13 repayment plan in which you would be making one payment to the bankruptcy court to pay for the vehicle. Many times, filing for Chapter 13 Bankruptcy may actually *lower* your monthly payment on your car loan by stretching out the loan over 5 years. Also, if you owe more on the vehicle than its fair market value, you may also be able to do what is known as a “Cramdown” in which you only have to pay the value of the

car plus interest through the bankruptcy repayment plan. Any money owed over the market value would then be discharged by the Bankruptcy Court.

In addition to keeping your vehicle, any unsecured debt that you may have such as credit cards, medical bills and other debt can be wiped out by the court at the end of the repayment plan in most cases.

As soon as you file for Chapter 13 bankruptcy you are protected under the Automatic Stay of Proceedings which prohibits a lender from repossessing your vehicle. Filing for Chapter 13 bankruptcy will also immediately stop harassing phone calls from your creditors, any pending lawsuits and wage garnishments. If you are facing repossession, call the experienced attorneys at Ellis B. Klein and associates for a free consultation. Over the past 20 years in practice we have helped thousands of people keep their vehicles and reorganize their debt to get fresh start.

C. CHAPTER 13 AND REPAYMENT OF UNSECURED DEBT

Chapter 13 bankruptcy can also be used to repay all or a portion of your unsecured debt over a three or five year period. This situation usually arises when a client “fails” the means

test which shows that they have some disposable income left over each month to repay at least a portion of their debt to the court. Depending on how much money is left over at the end of the month according to the means test, an individual is required to pay that amount over three or five years and once all the payments are completed, any remaining debt is discharged (wiped out) by the Bankruptcy court.

Filing for Chapter 13 bankruptcy will immediately stop all types of harassment from your creditors including phone calls, lawsuits, and garnishments. Call the experienced attorneys at Ellis B. Klein & Associates for a [free consultation](#) and we can advise how we can help you stop the harassment and give you a fresh financial start.

VI. LIFE AFTER BANKRUPTCY

(aka How Will This Affect Me In The Future)

All of my clients are concerned about how Bankruptcy will affect them in the future and how it will affect their credit score. While a Bankruptcy case will appear on your credit report for 10 years, almost all of my clients are surprised to hear that



Bankruptcy will actually **help your credit!** Chances are, due to missed payments, your credit score likely is poor, hovering around 500 or less. A credit score that is below 600 is considered to be a poor credit rating. As soon as your Bankruptcy is filed with the court your credit score should immediately **increase by roughly 50 points**. Why? The short answer is that in bankruptcy, you no longer owe that debt, so your income to debt ratio has improved thus improving your credit score. Once all of your debt is discharged by the Court and your bankruptcy case is closed, you can start taking the steps to repair and rebuild your credit.

The absolute best thing you can do after your case is closed is to make all of your payments on time to your creditors. Try not to be late on any payments, especially mortgage payments, car loans and utility payments.

Try not to fall into the credit card trap. Try to only buy what you need and do not have too many credit cards.

Learn how to budget and stick with it! When my children ask me to buy them something, many times I will ask “is that a WANT or is that a NEED?” A lot of times, that answers the question of whether it should be purchased.

You will be eligible after the case is over to obtain credit cards with small lines of credit. In fact, within days of your case closing, you will likely receive applications in the mail for credit cards. Store credit cards, like Home Depot or Macys are usually the easiest credit cards to get and I always tell my clients a good way to reestablish credit is to make small purchases monthly and pay them back in full at the end of the month. Usually, most clients are able to obtain some type of credit within 1 year of the case being discharged. Mortgages and car loans will certainly be more difficult to obtain, but if you take the steps to reestablish your credit you should eventually be eligible. The bottom line: If your credit is bad now, bankruptcy will help you reestablish it and get a fresh start.

VII. FREQUENTLY ASKED QUESTIONS

What is Bankruptcy?

Bankruptcy is a federal law which enables people who owe money (debtors) to be protected from their creditors' collection activities. It is a law that helps debtors eliminate their obligation to pay back some or all of their debt, stops collection activity such as phone calls

and threatening letters, stops foreclosure and repossession proceedings and gives people a fresh financial start.

What is Chapter 7 Bankruptcy?

Chapter 7 bankruptcy is known as a liquidation bankruptcy in which the Bankruptcy court discharges (wipes out) unsecured debt, as credit card bills, medical bills, unsecured personal loans and utility bills just to name a few. The Chapter 7 process takes about six months, involves one court hearing in which a trustee reviews the paperwork, and ends in a discharge in which the court enters an order legally wiping out your debt.

What is a Chapter 13 Bankruptcy?

Chapter 13 bankruptcy is known as a repayment, or reorganization bankruptcy and involves a three or five year repayment plan of your debt. A Chapter 13 bankruptcy is typically used to stop foreclosure proceedings or repossessions and allows the individual to keep the house and/or vehicle and catch up on the payments.

Will Filing for Bankruptcy Get My Creditors to Stop Calling and Harassing Me?

Many people in debt are facing harassing phone calls from their creditors calling them at home, at work, or calling family members to try to collect debts. This is an extremely stressful situation which will be stopped by filing for bankruptcy. As soon as a bankruptcy is filed, you are under the protection of the Automatic Stay of Proceedings and once your creditors are served notice of the bankruptcy they are prohibited, by law, from contacting you. Should they contact you, they can be sued in bankruptcy court which is why the phone calls will immediately stop.

Will Bankruptcy Stop Me From Receiving Harassing the Letters in the Mail?

Yes, as soon as the Bankruptcy is filed you are under protection of the Automatic Stay of Proceedings which means it is against the law for your creditors to contact you while you are going through bankruptcy.

Can Creditors Try to Collect the Debt After the Bankruptcy is Over?

If you file for a Chapter 7 liquidation bankruptcy, once the court approves the discharge then the debt no longer exists

and the creditor is no longer allowed to try to collect the debt after the fact. However, if you file a Chapter 13 bankruptcy to save your house or vehicle, you are required to maintain regular monthly payments on the mortgage and/or car loan and if you fail to do so after the bankruptcy is discharged in the creditor can resume collection activity again.

Will I Lose My House?

If you file for Chapter 7 liquidation bankruptcy to wipe out your credit card and other debt, so long as you pay your mortgage is current your house cannot be foreclosed upon. If you are filing for Chapter 13 bankruptcy to save your home from foreclosure, so long as you make your regular monthly mortgage payments plus the catch-up payment to the bankruptcy court than the mortgage company cannot go to foreclosure.

I Have a Sheriff Sale Scheduled for My Home. Is It too Late to Save It?

Nothing can be more stressful than the thought of losing your home in a Sheriff Sale. Filing for Chapter 13 bankruptcy will allow you to keep your home and catch up on your mortgage arrears. As soon as the bankruptcy is filed you are under pro-

tection of the automatic stay of proceedings which automatically stops the sheriff sale. So long as you make your regular payments to the mortgage company and the catch-up payment to the bankruptcy court the house cannot go to sheriff sale.

Will I Have to Go to Court?

There is a minimum of one hearing which you will be required to attend which is known as the Meeting of Creditors. The Bankruptcy Trustee, who is a lawyer employed by the bankruptcy court, will review the bankruptcy petition and ask you to verify some information such as income and expenses. In most cases this is the only hearing that you will have to attend but there can be other hearings scheduled in certain circumstances.

I am Behind on My Taxes, can Bankruptcy Help?

Generally speaking, taxes are not dischargeable through a Chapter 7 bankruptcy. However, if you file a Chapter 13 bankruptcy, any tax debt owed to the government can be repaid over three or five years. In many situations the amount of debt repaid will be less than what is owed as some late fees and other fees do not get repaid in the bankruptcy and are wiped out. Additionally, once you are finished repaying

the tax debt, any remaining unsecured debt such as credit cards medical bills and other debts are discharged (wiped out) by the Bankruptcy Court.

Will a Bankruptcy Stop a Wage Garnishment by the IRS?

If you are facing a wage garnishment by the IRS, filing for bankruptcy places you under protection of the automatic stay of proceedings which will stop any wage garnishment.

I am Being Sued in Court for My Debt

Filing for Bankruptcy will stop the lawsuit if you file the bankruptcy before the creditor get a judgment against you in court. Any debt associated with the lawsuit will be discharged and wiped out by court order.

I was Sued in Court and the Creditor Has a Judgment Against Me

If the creditor has sued you in court and obtained a judgment they now are permitted to collect on the judgment which is usually by way of a sheriff sale of your personal property. A judgment also could lead to freezing any bank accounts that you have in your name. Filing for Bankruptcy will stop all collection activity and at the end of the Chapter 7 bankruptcy

the court enters an order discharging all of your debt and voids the court judgment against you.

I Have a Good Income. Can I Still File for Chapter 7 Bankruptcy to Wipe Out My Debt?

Even if you have a nice income, you still can be eligible to wipe out all of your debt through a Chapter 7 bankruptcy as long as you pass the means test. The means test looks at your monthly income and monthly expenses so even if you have a high income it will take into account any mortgage payments, car loan payments and other cost of living expenses. If you pass the means test then you are eligible for Chapter 7 to wipe out all of your debt. If you “fail” the means test, you would be required to file for Chapter 13 bankruptcy to pay back some or all of your debt over three or five years.

In this situation, many clients are only paying a portion of their debt with any remainder getting discharged at the end of the repayment plan.

A Family Member Cosigned a Debt for Me. Can They be in Trouble?

If a family member cosigned a loan for you, such as a car loan or credit card, the creditor can still try to collect the debt

from the cosigner. You would be protected from collection activity through bankruptcy but your cosigner would not.

I Cannot Afford My Car Payments

You can choose to surrender your vehicle and not be required to pay for it in a “voluntary surrender.” The property will eventually be sold at sheriff

sale or auction and if the sale price is less than what it owed on the property, you cannot be forced to repay the deficiency if your bankruptcy is discharged.

I Cannot Afford My Mortgage Payments

If you simply cannot afford your regular mortgage payments, you can choose to surrender your home and not be responsible for any debt associated with it by filing for Chapter 7. For instance, if you surrender your home and you owe \$100,000 on it and it sells at auction for \$50,000, unless you file for Chapter 7 Bankruptcy, you will be responsible for the \$50,000 deficiency. You will not be responsible for any deficiency if you receive a Chapter 7 discharge.

I Have Filed for Bankruptcy Before, can I File Again?

Chapter 7 bankruptcy can be filed again if more than eight years has elapsed from the date the discharge was received

on the previous case. For Chapter 13 bankruptcy, if a repayment plan was not completed and was dismissed there is no time limit to file again. This situation typically arises in a mortgage foreclosure situation where the homeowner cannot remain current on his payments. The court will eventually dismiss the case and foreclosure beings again. An individual in this situation may file another chapter 13 bankruptcy to try again to become current on his mortgage.

Can I Leave a Credit Card Out of the Bankruptcy?

No, all debt must be put into the bankruptcy and you cannot show a preference as to who gets paid and who does not. However, once the bankruptcy is discharged, you should be eligible for small lines of credit which is a good way to reestablish your credit rating.

Will a Bankruptcy Affect My Credit Rating?

The short answer is yes, it will affect your credit rating because it will appear on your credit report. Filing for bankruptcy can certainly affect future loan eligibility and it may be difficult to get some loans such as car loans or mortgages. However, if your current credit rating is poor, bankruptcy may actually help you to re-establish good credit. Most clients within a year of the discharge are able to get some sort

of credit, typically with credit cards with small lines of credit. Over time, if you make all payments on time, your credit rating may actually be better than it was before you filed for Bankruptcy.

How Long Does a Bankruptcy Stay on My Credit Report?

Bankruptcy will remain on your credit report for up to 10 years.

Will I be able to Get Credit Ever Again?

Yes, in fact bankruptcy may actually help you to get credit if you cannot get credit now due to a poor credit rating. Once the bankruptcy is discharged the best way to reestablish credit is to make your regular monthly mortgage payments or car payments on time. You will also be able to get small credit cards and I always suggest to my clients charging a small amount every month and making sure to pay it back on time. Most of my clients get some sort of credit back within a year of the bankruptcy discharge.

DISCLAIMER:

This publication is intended to be for informational purposes only. No legal advice is being given, and no attorney-client

relationship is intended to be created by reading this material. If you are facing legal issues, you should seek immediate professional legal advice.

VIII. CONCLUSION

Deciding to file for Bankruptcy is a big decision. While filing bankruptcy is not for everyone, it has been my experience that those who do choose to file are surprised how quick and painless the process it is. Literally hundreds of former clients have told me that they wished they filed for Bankruptcy sooner than they did. My goal is to make filing for Bankruptcy as painless a process as possible for my clients and I promise to work my hardest in order to achieve the best results for you, the client.

I hope this book has given you some insight into the process. If you have any questions, please feel free to call me for a free consultation. I will evaluate your financial situation and let you know if Bankruptcy is appropriate for you. I gladly talk to clients over the phone and I would be happy to answer all of your questions about filing for Bankruptcy. I wish you the best of luck!



Ellis B. Klein, Esquire

Attorney-At-Law

Ellis B. Klein & Associates, LLC

(800) 536-0501

Email: bankruptcy@elliskleinlaw.com

Website address: www.elliskleinlaw.com

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IX. CLIENT TESTIMONIALS

(as seen on Avvo.com)

“Ellis literally gave me a new lease on life. Mr. Klein was very thorough, leaving no stone unturned. His demeanor in court was confident and knowledgeable. He saved my reputation and my family from facing serious economic hardship. Thank You”–Phil

“Ellis Klein served as my lawyer in a very difficult case that I was facing and with his help, the outcome of my case turned out wonderful. Mr. Klein helped me very much with his knowledge of my case. Thanks Ellis!” – Lauren

“Ellis Klein is a terrific attorney. Ellis was understanding and sympathetic yet very forthright regarding the seriousness of the issue. He was extremely knowledgeable of the process and kept us informed at every step. He had a very professional presence, was confident (but not arrogant) and kept us calm throughout a very traumatic situation.”–Mark

“Mr. Ellis Klein is a professional who truly cares about his clients. Ellis combines kindness and professionalism. I very highly recommend you contact his office about your legal needs.” – John

“Ellis B. Klein was very personable, understanding, efficient, and attained the results he set out to do in representing me. I highly recommend his services to anyone. – John

“It is great and rare today...that somebody manages expectations very well and delivered more than promised. Ellis was excellent, Very attentive and responsive, easy to deal with. And delivered great results for a very fair price.” –

Robert

“Mr. Klein provided excellent advice and kept us informed of each phase of the legal process from beginning to end. There were no surprises. Everything pretty much happened as he described it would. Even more impressive was his timeliness and attentiveness to responding to our questions. If he wasn't available, his extremely competent assistant always replied promptly. I would definitely recommend Ellis to represent you.” - Leonard