

## **COMMON BANKRUPTCY TERMS**

**AUTOMATIC STAY:** When you file your case your creditors are prohibited from picking up their collateral or attempting to collect a debt from you. The Automatic Stay is what stops these actions. If you don't comply with your Chapter 13 Plan and Motion then a creditor can ask the court to lift that automatic stay. Any creditor garnishing you must stop. Your creditors that are set up to take their payments out of your bank account will have to stop that deduction. Your mortgage company may stop sending you monthly statements for that reason. If they do, let us know so we can write and request that they start back sending monthly statements. The automatic stay also requires that your creditors stop calling you to collect their debts. If a creditor is violating the stay, please let us know. We will send them another notice of bankruptcy.

**BANKRUPTCY PETITION:** That is the paperwork you sign in the office outlining your assets, debts, income, expenses etc.

**CONFIRMATION:** Confirmation is when the judge signs off on (confirms) our Chapter 13 Plan and Motion that we proposed. After that point your creditors can't object to what we proposed in the plan such as the amount they will be paid, interest rate etc. Your confirmation hearing is usually about sixty days after your date of filing.

**DATE OF FILING (DOF):** This is the date that your bankruptcy petition is filed with the court.

**DISCHARGE:** When you complete all your bankruptcy payments then you will receive a discharge. That is a good thing. At that point you are done with your case! After you finish making your bankruptcy payments the trustee still must close out your case. It takes about two months for them to audit the case and make sure all the checks issued to your creditors have cleared.

**DISMISSAL:** If you don't make your bankruptcy payments then your case is subject to dismissal. Your case can also be dismissed for failure to file tax returns or pay child support. When your case is dismissed your creditors are at liberty to pursue collection of their debts. If you want to discuss refiling your case, please make an appointment.

**FILING FEE:** This is the amount of money that we must pay to the clerk of court to file your bankruptcy petition.

**INTAKE APPOINTMENT:** That is the first meeting you will have with the attorney. At that time, we will go over your bankruptcy options and let you know how bankruptcy will help you.

**MEETING OF CREDITORS (341 MEETING):** This hearing is about thirty days after your case is filed. Bring with you your social security card and drivers license. If you have not provided us with your most recent federal and state tax return, then bring it to that hearing. Either John, Angie or Kelly will be at that hearing with you. You will watch a short video (Augusta and Dublin) then the attorney for the trustee will call cases up one at a time. They will verify your identity then swear you in. After that they will go through your petition and ask any questions they might have. If there are any changes (i.e. to income or expenses) after the date of filing but before that hearing, make sure you call and let us know! Your hearing should take less than ten minutes. In Statesboro it will only take about three minutes.

**MOTION TO ALLOW LATE CLAIM (MTALC):** If a secured creditor does not file a claim to be paid by the trustee then I will file one for them. If your unsecured creditors don't file a claim it typically doesn't matter. But, if the lien holder on your car or your mortgage company doesn't file a claim then we want to file one for them so that they get paid.

**MOTION TO DISMISS (MTD):** If you get behind with your bankruptcy payment this delinquency will trigger a MTD. This usually happens if you are two or more payments behind. If you cannot make your payments to the trustee, then you need to schedule an appointment to see what your options are. Those may include, but are not limited to, surrender of collateral. Remember, your chapter 13 payment is based upon income and debt. If you have been in your case an extended period we might want to consider letting the case, get dismissed then refiling to get more time to pay your debts. Please call the office if you get this motion and let us know if you would like for us to request a hearing before the court.

**MOTION TO INCREASE PAYMENTS (MIP):** This motion, also filed by the trustee, is filed if claims (debts) come in higher than expected when your plan payment was calculated. This often happens with tax claims, delinquent child support claims and mortgage arrears. If the requested increase is large we need to meet to determine the cause of the motion.

**MOTION TO INCUR DEBT:** If you need to borrow money while you are in your case we will have to get the court's permission. If you want to borrow money to go on a cruise that probably won't get approved. If your car dies and you must borrow money to get a new car then we can usually get that approved as long as you are current with your bankruptcy payments.

**MOTION FOR RELIEF FROM STAY (MRS):** This motion is usually filed by a creditor that you are paying direct (like your mortgage). They are asking the court for permission to proceed with foreclosure or to pick up their collateral. It may be filed by a creditor that we proposed to surrender collateral to. In that case we will not need you in court. If the motion is filed by a creditor that you have been paying directly, and you disagree with the alleged delinquent amount, then you will need to schedule an appointment. We will need proof of payment from the beginning of your bankruptcy case and not just the months the motion alleges were missed. Creditors typically do not want their collateral back they just want to know how the payments will be caught up. We may be able to put the missed payments into your bankruptcy case or agree to bring them current over a six-month period. **If you get behind with your mortgage, please make an appointment and come in to meet with one of the attorneys. Don't wait until you get a motion from your creditor. You must maintain full coverage insurance on any assets that you owe money on (i.e. your car) or the court could allow the creditor to take back their collateral.**

**MOTION TO EXTEND AUTOMATIC STAY:** If you were in a bankruptcy case that was dismissed within a year of refiling then we must file a motion so that the automatic stay does not expire after thirty days. The court will send all your creditors a copy of the motion we file on your behalf explaining why we think your new case will succeed. The court will set a hearing to consider our motion. If no creditor objects to your refiling by a certain date, then odds are you will not have to attend this hearing. Typically, we know ahead of time if there will be a problem with refiling your case.

**NOTICE OF BANKRUPTCY:** About ten days after your case is filed you will receive a notice of bankruptcy. When you get your notice, your creditors are getting one too. So, it may take a couple of weeks for your creditors to update your account. The notice of bankruptcy will have your case number on it and the date and time of your two hearings.

**OBJECTION TO CONFIRMATION:** If you get an objection by one of your creditors or the trustee do not be concerned. If there is a problem we will let you know. Typically, we anticipate most objections that we get. If the objection was triggered by missing documents (i.e. tax return, social security card, etc.) then make sure you get us the missing documents. Most creditor objections are filed by the lien holder on your car wanting a different interest rate. We anticipate those objections.

**SIGNING APPOINTMENT:** That is the appointment where you come in to review your bankruptcy petition and sign saying it is true and correct. If you have done your credit counseling and paid your filing fee, then your petition should be filed within a day or two.