

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

**UNREPRESENTED DEBTOR
PACKET**

Prepared for use by the United States Bankruptcy Court, District of Utah
Special thanks to Kyle Crockett, Lisa Bernson, Cindy Olpin and Francis Lykins
Last Updated: 3/5/07

TABLE OF CONTENTS

	<u>Page #</u>
INTRODUCTION.....	1
WHAT TO EXPECT IN CHAPTER 7.....	2-5
WHAT TO EXPECT IN CHAPTER 13.....	6-9
MOTIONS PRACTICE.....	10-11
DEFINITIONS.....	12-17
FREQUENTLY ASKED QUESTIONS	
Table of Contents.....	18-19
A) Questions Relating to Filing Bankruptcy.....	20-24
B) Questions Relating to Discharge.....	25-28
C) Questions Relating to the Meeting of Creditors (“341 Meeting”).....	29-31
D) Miscellaneous Questions.....	32-38
PRO SE PLEADING FORMS.....	39

INTRODUCTION

Who this Guide is Intended to Assist:

This guide is intended to assist unrepresented Debtors only (otherwise known as *pro se* Debtors). It is intended to give unrepresented Debtors an idea for the chapter 7 and chapter 13 bankruptcy process, as well as answer some questions often raised by unrepresented Debtors. **This guide IS NOT intended to replace the need for an attorney. Bankruptcy is a very confusing and often complex process which can be very difficult for Debtors without counsel.**

For more information regarding the basics of Bankruptcy, please refer to the Federal Judiciary's website at www.uscourts.gov/bankruptcycourts/bankruptcybasics.html.

How this Guide Should Help You:

This guide will not answer your questions about what you need to do to represent yourself effectively as an unrepresented Debtor. Rather, it outlines the basic steps required to prosecute a chapter 7 or chapter 13 bankruptcy case, and required to file motions before the Court. **You are responsible for learning about and following the procedures that govern the court process. Although the staff of the clerk's office can provide unrepresented litigants with general information concerning court rules and procedures, they are forbidden as a matter of law from providing legal advice, from interpreting and applying court rules, or otherwise participating in any action.**

A word of Advice:

Self-representation carries certain responsibilities and risks. The Court encourages all individuals who are contemplating bankruptcy without representation to carefully review the risks associated with self-representation and to inform themselves of the potential consequences. **The Court strongly encourages Debtors to obtain representation.**

IMPORTANT: Before filing for bankruptcy relief, you must complete a credit counseling course which meets the requirements of 11 U.S.C. § 109(g)!! Once you have completed this course, you must complete Exhibit D to the Petition and sign it, or your case may be dismissed.

WHAT TO EXPECT IN CHAPTER 7:

Chapter 7 relief is available to individuals, corporations and partnerships. A chapter 7 trustee is appointed to take possession of, and liquidate the estate. State law determines what portion of a Debtor's property he or she may keep by claiming it exempt. The trustee will sell the rest of the debtor's property and distribute the proceeds to creditors. If all the debtor's property is exempt, the case will be a "no-asset case, " with no distribution to creditors.

Role of the Clerk's Office:

The Clerk's Office is responsible for the general administration of bankruptcy cases. Any documents filed with the Court must be submitted to the Clerk's Office. The Clerk's Office will then file the document on the case docket report. **PLEASE NOTE: EMPLOYEES WORKING AT THE CLERK'S OFFICE ARE NOT ATTORNEYS. AS SUCH, THEY ARE NOT AUTHORIZED TO GIVE LEGAL ADVICE. THIS MEANS THEY WILL NOT TELL YOU HOW TO TAKE SPECIFIC ACTION IN YOUR CASE.**

Role of the Judge:

The Bankruptcy Judge assigned to your case is responsible for making decisions which impact your case. For purposes of chapter 7 cases, this means the Judge will decide any motions to dismiss, any objections filed in your case, and any motions to sell property of the estate. Most orders impacting your case will be signed by the Judge.

Role of the Chapter 7 Trustee:

The Chapter 7 Trustee is charged with the liquidation of all non-exempt assets of a Debtor's estate. The Trustee's duty is to act in the best interests of creditors. The Trustee is charged with taking possession of all non-exempt assets of the estate, finding a buyer who will pay fair market value for the property, and selling the property. The Trustee will then distribute the proceeds to creditors and close the case.

Life of a Chapter 7 Case:

The steps discussed below relate only to a typical chapter 7 case. There are, of course, any number of events which might occur in a case which are not discussed.

A typical Chapter 7 case follows the following steps:

1. Debtor files for Chapter 7 Bankruptcy relief by filing a petition with the Court. **Debtor must file a mailing matrix within two (2) days of filing the petition.**¹
2. If not filed with the petition, the Debtor has fifteen (15) days from the date of filing the

¹For more information on a mailing matrix, please refer to the definition of a "Mailing Matrix" in the Definitions portion of this packet.

petition to file the following:

- a) A Statement of Financial Affairs;
 - b) Bankruptcy Schedules;
 - c) Copies of all payment advices or other evidence of payment received by the debtor during the 60 day period before filing the petition;
 - d) A record of any interest the Debtor has in an educational individual retirement account or under a qualified State tuition program;
 - e) A statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the petition;
 - f) A Statement of Current Monthly Income prepared on Form B22A.
3. Debtor has thirty (30) days from the date of filing the petition to file a Statement of Intention (Form 8) indicating the Debtor's planned treatment of any secured claims or assets listed on the Debtor's schedules. For more information, see 11 U.S.C. § 521(a)(2).
 4. Within forty-five (45) days from the date of filing the petition, the Debtor must take one of the following actions with respect to any property secured by a "purchase money security interest"²: 1) surrender the property to the secured creditor; 2) enter into a reaffirmation agreement with the creditor³; or 3) redeem the property.⁴
 5. The Clerk's Office sends a notice to all creditors listed on the Debtor's mailing matrix, telling creditors that the Debtor filed for Chapter 7 Bankruptcy relief, and informing creditors of important dates upcoming in the case. **This notice will also contain the date of the Meeting of Creditors (341 Meeting). The Debtor must attend this hearing.**
 6. The case will be assigned to a Chapter 7 Trustee and to a Bankruptcy Judge.
 7. Not less than seven (7) days before the date set for the Meeting of Creditors, the Debtor must provide the chapter 7 Trustee a copy of the **Federal Tax Return** for the most recent year ending before filing.
 8. Not later than one (1) day before the date set for the Meeting of Creditors, the Debtor must file and serve on the chapter 7 Trustee a **declaration** regarding tax returns.

² A "purchase money security interest" is a term of art, and has a specific definition. A helpful definition can be found at www.dictionary.com under the definition for the word, "interest."

³ The provisions of the Bankruptcy Code governing Reaffirmation Agreements can be found at 11 U.S.C. § 524(c).

⁴ The provisions of the Bankruptcy Code governing Redemption can be found at 11 U.S.C. § 722.

9. **“341 Meeting”:** The Chapter 7 Trustee will hold a Meeting of Creditors. **The Debtor MUST attend this meeting**, and must bring the following documents:
 - a) Proof of all charitable contributions made within 60 days before the date of filing the petition;
 - b) A copy of the most recent county property tax assessment for all real property listed on Schedule A;
 - c) A profit and loss statement if the Debtor had self-employment income for the 60 day period before filing the petition;
 - d) A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee; and
 - e) Copies of all bank account statements showing the Debtor’s balance as of the date of the petition;
 - f) Proof of the Debtor’s Social Security Number;
 - g) Proof of Identification.⁵
10. If the Debtor fails to file any of the documents listed above, the Chapter 7 Trustee will file a Notice of Failure to Comply (also called a “341 Meeting Minute Entry”), listing the documents not filed. **If the Debtor does not file an Objection or Response to the Notice of Failure to Comply within 20 days, the Court will dismiss the case without further notice or hearing.**⁶
11. Within forty-five (45) days of the 341 meeting, **the Debtor must complete a Financial Management Course, and file with the Court a declaration of completion on Form B23.**
12. **Discharge:** The 341 Notice (See step 5) contained deadlines by which parties in interest must file a complaint objecting to discharge or move to dismiss the Debtor’s case. After the expiration of these time periods, the Court will review the case to determine if any such objections or motions to dismiss have been filed. The Court will issue the Debtor a Chapter 7 Discharge unless an objection or motion to dismiss has been filed, or unless the

⁵For information on the consequences of missing a 341 Meeting, please see the FAQ contained in this packet for the question, “What happens if I miss my 341 Meeting?”

⁶Please note: If the Debtor does file an Objection or Response to the Trustee’s Notice of Failure to Comply, the Debtor must also schedule a hearing on the Objection or Response within 40 days of the Notice of Failure to Comply. Please refer to the form pleading for an Objection to Trustee’s Motion to Dismiss.

Debtor failed to timely file Form B23 (see step 11).⁷ **Note: Receipt of a discharge DOES NOT mean the case is complete. The case is complete only when the Court closes the case.**

13. The Chapter 7 Trustee will review the documents filed with the Court. The Trustee may direct the Debtor to provide more documentation, or to turn over property which he or she believes is property of the estate.
14. Once the Chapter 7 Trustee is satisfied that he or she has liquidated all property of the estate, the Trustee will file a report with the Court indicating the amount of money collected for the estate and the amount of claims filed in the case. If the Trustee determines that the estate does not contain any funds available for distribution, the Trustee will file a 'No Asset Report.'
15. If funds are available for distribution to creditors, the Court will hold a hearing on the Trustee's Final Report to determine whether the Trustee's administration of the estate was reasonable and appropriate. If the Court approves the Trustee's Final Report, the Trustee will distribute funds to creditors and the Court will close the case.

⁷If Form B23 is not timely filed, the Court will close your case *without* a discharge. Please refer to the Frequently Asked Question: "I received a Notice of Case Closed Without Discharge. What does this mean?"

WHAT TO EXPECT IN CHAPTER 13:

Chapter 13 provides a way for individuals with a regular source of income to pay off their debts over a period of time and under the supervision of the Court and a trustee. Corporations and partnerships may not file under Chapter 13. Individuals may file only if their unsecured debts do not exceed \$336,900.00 and their secured debts do not exceed \$1,010,650.00. A plan specifying how each creditor will be paid is filed with the petition or immediately after. Payments are made to the chapter 13 Trustee who makes distribution to creditors according to the provisions of a confirmed plan. Depending on what the debtor is able to do, the debts may be paid back in whole or in part.

Role of the Clerk's Office:

The Clerk's Office is responsible for the general administration of bankruptcy cases. Any documents filed with the Court must be submitted to the Clerk's Office. The Clerk's Office will then file the document on the case docket report. **PLEASE NOTE: EMPLOYEES WORKING AT THE CLERK'S OFFICE ARE NOT ATTORNEYS. AS SUCH, THEY ARE NOT AUTHORIZED TO GIVE LEGAL ADVICE. THIS MEANS THEY WILL NOT TELL YOU HOW TO TAKE SPECIFIC ACTION IN YOUR CASE.**

Role of the Judge:

The Bankruptcy Judge assigned to your case is responsible for making decisions which impact your case. For purposes of chapter 13 cases, this means the Judge will decide on any motions to dismiss, any objections filed in your case, and on confirmation of your proposed chapter 13 plan. Most orders impacting your case will be signed by the Judge.

Role of the Chapter 13 Trustee:

The Chapter 13 Trustee is charged with representing all creditors of a Bankruptcy estate. He is responsible for administering most aspects of a chapter 13 case. The Trustee conducts the meeting of creditors in each case, investigates any discrepancies in each case, and determines whether to object to confirmation of proposed chapter 13 plans. Chapter 13 plan payments will be paid directly to the Chapter 13 Trustee, who will then disburse the funds according to the terms of a confirmed plan.

Life of a Chapter 13 Case:

The steps discussed below relate only to a typical chapter 13 case. There are, of course, any number of events which might occur in a case which are not discussed.

A typical Chapter 13 case follows the following steps:

1. Debtor files for Chapter 13 Bankruptcy relief by filing a petition with the Court. **Debtor**

must file a mailing matrix within two (2) days of filing the petition.¹

2. If not filed with the petition, the Debtor has fifteen (15) days from the date of filing the petition to file the following:
 - a) A Statement of Financial Affairs;
 - b) Bankruptcy Schedules;
 - c) A proposed chapter 13 plan;
 - d) Copies of all payment advices or other evidence of payment received by the Debtor during the 60 day period before filing the petition;
 - e) A record of any interest the Debtor has in an educational individual retirement account or under a qualified State tuition program;
 - f) A statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the petition;
 - g) A Statement of Current Monthly Income prepared on Form B22C;
3. The Clerk's Office sends a notice to all creditors listed on the Debtor's mailing matrix, telling creditors that the Debtor filed for Chapter 13 Bankruptcy relief, and informing creditors of important dates upcoming in the case. **This notice will also contain the location and date of the Meeting of Creditors (341 Meeting) and the location and date set for confirmation of the proposed chapter 13 plan. The Debtor must attend both of these hearings.**
4. The case will be assigned to a Chapter 13 Trustee and to a Bankruptcy Judge.
5. Not less than seven (7) days before the date set for the Meeting of Creditors, the Debtor must provide the chapter 13 Trustee with a copy of the **Federal Tax Return** for the most recent year ending before filing.
6. Not later than one (1) day before the date set for the Meeting of Creditors, the Debtor must file with the Court and serve on the chapter 13 Trustee a **declaration** regarding tax returns.
7. **"341 Meeting"**: The Chapter 13 Trustee will hold a Meeting of Creditors. **The Debtor MUST attend this meeting**, and must bring the following documents:
 - a) Proof of all charitable contributions made within 60 days before the date of filing the petition;
 - b) A copy of the most recent county property tax assessment for all real property listed on Schedule A;
 - c) A profit and loss statement if the Debtor had self-employment income for the 60 day period before filing the petition;

¹For more information of a mailing matrix, please refer to the Definition of "Mailing Matrix" in the Definitions portion of this packet.

- d) A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee; and
 - e) Copies of all bank account statements showing the Debtor's balance as of the date of the petition;
 - f) Proof of the Debtor's Social Security Number;
 - g) Proof of Identification;
 - h) **The first payment owing under the Debtor's proposed chapter 13 plan in the form of certified funds.**²
8. If the Debtor fails to file any of the documents listed above or pay the first plan payment, the chapter 13 Trustee will file a Notice of Failure to Comply (also called a "341 Meeting Minute Entry"), listing the documents not filed. **If the Debtor does not file an Objection or Response to the Notice of Failure to Comply within 20 days, the Court will dismiss the case without further notice or hearing.**³
9. The Chapter 13 Trustee and other parties in interest will review the documents filed with the Court, and may file objections to confirmation of the Debtor's proposed chapter 13 plan. The Court will consider these objections at the confirmation hearing.
10. **Confirmation Hearing:** The Court will hold a hearing on confirmation of the Debtor's chapter 13 plan at the time and place set and indicated on the 341 Notice (See Step 3). The chapter 13 Trustee will address the Court and summarize the plan and any objections the Trustee might have. Other parties in interest will have an opportunity to address the Court and raise objections. The Debtor will have an opportunity to respond to the objections. The Court will consider the plan and any objections raised. If the Court determines that the plan satisfies the requirements of 11 U.S.C. § 1325, it will confirm the plan.
11. The Debtor will continue to operate under the confirmed plan. **Before the last plan payment the Debtor must complete a Financial Management Course, and file with the Court a declaration of completion on Form B23.**⁴

²For information on the consequences of missing a 341 Meeting, please see the FAQ contained in this packet for the question, "What happens if I miss my 341 Meeting?"

³Please note: If the Debtor does file an Objection or Response to the Trustee's Notice of Failure to Comply, the Debtor must also schedule a hearing on the Objection or Response within 40 days of the Notice of Failure to Comply. Please refer to the form pleading for an Objection to Trustee's Motion to Dismiss.

⁴If Form B23 is not timely filed, the Court will close your case *without* a discharge. Please refer to the Frequently Asked Question: "I received a Notice of Case Closed Without Discharge. What does this mean?"

12. **Discharge:** Upon receipt of Form B23, and a declaration from the chapter 13 Trustee that the Debtor has fully performed under the confirmed plan, the Court will issue the Debtor a chapter 13 discharge and close the case. **Note: Receipt of a discharge DOES NOT mean the case is complete. The case is complete only when the Court closes the case.**

MOTION PRACTICE: HOW DOES IT WORK?

Key Terms:

Pleading	A pleading is a document submitted to the Court with four key contents: 1) a caption; 2) a heading; 3) the body; and 4) a signature. Quite simply, a pleading is written correspondence submitted to the Court. Through a pleading, a party can communicate with, or request something from, the Court. For an example of a pleading, refer to some of the Pro Se Form Pleadings attached to this packet or on the Court's website.
Motion	A motion is a type of pleading whereby a party requests specific relief from the Court. Because it is a type of pleading, it must contain a caption, a heading, a body, and a signature. The body of the pleading is what makes this document a motion. The body will state what the moving party wants from the Court, and the specific reasons why the party is seeking relief.
Objection	An objection is a type of pleading whereby a party asks the Court not to grant relief requested by another party's motion. Because it is a type of pleading, it must contain a caption, a heading, a body, and a signature. The body of the objection should state why the objecting party does not want the Court to grant another party's motion.
Order	Official actions of the Court come in the form of an order. Whether a Debtor seeks to reopen a case or to object to a motion to dismiss, the Court's decision will be implemented in the form of an order. For an example of an order, refer to the Form Order attached to the Motion to Extend Time in the Pro Se Form Pleadings attached to this packet or on the Court's website.

Purpose of a Pleading:

A pleading is used to inform the Court of a party's position, and to ask the Court to do something. In a motion, a party asks the Court to take affirmative steps. An example is a motion to convert, wherein a debtor might ask the Court to enter an order converting the case from chapter 7 to chapter 13. In an objection, a party asks the Court **not** to take some action previously requested. An example is an objection to a Trustee's Motion to Dismiss, wherein a debtor might ask the Court not to dismiss his or her case.

Typical Process of Motion Practice:

Here is how a typical motion or objection works.

1. Debtor will file with the Court a pleading (Motion or Objection) by presenting the

- pleading to the Clerk's Office.¹
2. The Clerk's Office will accept the pleading and place it on the docket designated for the Debtor's case.²
 3. **Debtor MUST schedule a hearing on the pleading to bring the matter to the Court's attention.**³
 4. Debtor must give notice of the hearing to creditors and parties in interest. To do this, the Debtor must send a Notice of Hearing to the parties listed on the mailing matrix, and attach a Certificate of Service indicating the date the Debtor sent notice, and all the parties who received the notice. For an example of a Notice and Hearing and a Certificate of Service, please refer to the Pro Se Forms on the Court's website. The typical motion must be sent to parties more than 23 days before the scheduled hearing.⁴
 5. Debtor must file the Notice of Hearing and Certificate of Service with the Court, indicating the parties who received notice, and the date the Debtor sent notice.
 6. The Court will hold a hearing at the location and time scheduled. The Debtor and other parties will have an opportunity to appear and be heard. The Court will make a decision on the pleading.
 7. The Court will enter an order memorializing the Court's decision. It will typically take the Court 2 or 3 weeks to process an order.

¹For help with several common motions or objections, please see the Pro Se Pleading portion of the Court's website.

²For further reference, please see the definition of the word, "Docket" on the definitions page contained in this packet.

³To schedule a hearing before Chief Judge Clark, call 801-524-6549. To schedule a hearing before Judge Boulden or Judge Thurman, call 801-524-6627.

⁴For specific information relating to the notice required for a specific motion, please refer to Bankruptcy Rule 2002.

DEFINITIONS

ADVERSARY PROCEEDING

An adversary proceeding is a lawsuit filed with the Bankruptcy Court. The Bankruptcy Court will preside over the lawsuit as would a district court, so long as the subject of the lawsuit is directly related or impacting the Bankruptcy case. A nonexclusive list of adversary proceedings can be found at Bankruptcy Rule 7001.

Please Note: Adversary Proceedings are commenced only by the filing of a Complaint.

AUTOMATIC STAY

Once a debtor's Petition is filed, an automatic stay goes into effect under 11 U.S.C. § 362. The stay is an injunction that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against a debtor the moment a bankruptcy petition is filed. Therefore, creditors may not initiate or continue to take any action to collect what the debtor owes them including:

- garnishing wages;
- foreclosing on real property;
- eviction from an apartment
- repossessing property.

Certain actions, if taken by a creditor, may be excepted from the automatic stay. If excepted, the automatic stay would not apply. Some examples are the commencement or continuation of an action or proceeding for the establishment of paternity or the establishment or modification of an order for alimony, maintenance or support, or an action or proceeding to collect alimony, maintenance or support from property that is not considered property of the bankruptcy estate. Governmental enforcement of police or regulatory power is another example of action which is exempted from the automatic stay. For a complete list of exceptions to the automatic stay, please refer to 11 U.S.C. § 362(b).

Even where a creditor's actions are barred by the automatic stay, the creditor can obtain permission to exercise its remedies under state law by filing a Motion for Relief from the Automatic Stay. If the Court grants this motion, the automatic stay will no longer protect the debtor against that particular creditor.

Note: If you had a prior Bankruptcy case dismissed within 1 year of filing the present case, the automatic stay may be limited to 30 days, or may not exist at all in the present case. In that situation, the debtor must ask the Court to impose or extend the automatic stay. For further reference, please see 11 U.S.C. § 362(c).

CONFIRMATION

Confirmation hearings are held in chapter 13 cases. Through this hearing, the Court will determine whether the Debtor's proposed chapter 13 plan is appropriate under the requirements of 11 U.S.C. § 1325. By confirming the plan, the Court binds the Debtor and all parties in interest to the contents of that plan. If the Debtor successfully completes the plan, the Court will normally enter a discharge in that case.

In the weeks before the confirmation hearing, the chapter 13 Trustee will review the Debtor's proposed plan and may file an objection to confirmation. Other parties in interest may also file objections to protect their interests. If the Debtor resolves each of the objections filed the case may be eligible for confirmation "without objection" (also known as confirmation "by consent") meaning that the plan will be confirmed without a hearing before the Court.

If the plan is not confirmed "without objection," the Court will hold a hearing. The chapter 13 Trustee and any parties in interest will address the Court as to the contents of the plan and any concerns they may have. The Debtor will have an opportunity to respond to these concerns. After considering these statements, the Court will determine whether the plan meets the requirements of 11 U.S.C. § 1325. The Court may confirm the plan, continue the hearing on confirmation to give the parties more time, or deny confirmation altogether.

CREDIT COUNSELING

Generally refers to two events in individual bankruptcy cases: (1) the "individual or group briefing" from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under any chapter of the Bankruptcy Code; and (2) the "instructional course in personal financial management" in chapters 7 and 13 that an individual debtor must complete before a discharge is entered. There are exceptions to both requirements for certain categories of debtors, exigent circumstances, or if the U.S. trustee or bankruptcy administrator have determined that there are insufficient approved credit counseling agencies available to provide the necessary counseling.

DISCHARGE

A discharge is a release of a debtor from personal liability for certain specified types of debts. A debtor is no longer required by law to pay any debts that are discharged. The discharge operates as a permanent order directed to the creditors of the debtor that requires them to refrain from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts.

In a **chapter 7** (liquidation) case, the provisions discussing discharge are found at 11 U.S.C. § 727. The Court usually grants and mails a copy of the discharge to the debtor, creditors and all interested parties promptly after the expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case for substantial abuse (60

days following the first date set for the 341(a) meeting). Typically, this occurs about four months after the date the debtor files the petition with the clerk of the bankruptcy court.

In a **chapter 13** case (adjustment of debts of an individual with regular income), the provisions discussing discharge are found at 11 U.S.C. § 1328. The Court will normally grant the discharge as soon as practicable after the debtor completes all payments under the plan, which can be made over a three (3) to five (5) year period. Please note that under recent changes to the Bankruptcy Code, receipt of the chapter 13 discharge may not be automatic, and may require the Court to hold a hearing under 11 U.S.C. § 1328(h).

DISMISSAL

A case may be dismissed for two basic reasons. First, the Court has discretion to dismiss a case for ‘cause’ after notice and a hearing. In a chapter 7 case, ‘cause’ is defined by 11 U.S.C. §§ 707(a) and (b). In a chapter 13 case, ‘cause’ is defined by 11 U.S.C. § 1307. Second, even if the Court does not dismiss a case, the Bankruptcy Code provides for automatic dismissal of a chapter 7 or chapter 13 case where the debtor fails to timely file certain documents with the Court. Specifically, 11 U.S.C. § 521(i) will automatically dismiss a Debtor’s case if the Debtor fails to file the documents listed in 11 U.S.C. § 521(a) within 45 days of filing the case. For a discussion of the documents the Debtor must file, please refer to the section in this packet entitled “What to Expect in Chapter 7” and “What to Expect in Chapter 13.”

Once a case is dismissed the automatic stay terminates. This means that creditors are free to pursue their state law remedies as if the Debtor had never filed for bankruptcy relief.

EXEMPT PROPERTY

Property or value in property that a debtor is allowed to keep pursuant to the Bankruptcy Code or applicable state law, free from the claims of creditors who do not have liens. Your exemption in certain property may be limited to a specified dollar amount. Some examples of exempt property are:

- Primary Personal Residences up to \$20,000 per Debtor;
- wages;
- disability benefits;
- alimony or maintenance payments;
- clothes;
- various household goods;
- life insurance proceeds.

In Utah, most property exemption provisions can be found at Utah Code 78-23 *et seq.*

MAILING MATRIX

A Mailing Matrix is a list of all creditors in a case, and their addresses. The Debtor is required to file a mailing matrix with the Court within two (2) days of filing the petition.

Debtors may submit mailing matrices in two ways:

- Emailed matrices - On our website <http://www.utb.uscourts.gov> there is a link “Submit Mailing Matrix to The Court via Email” (on the bottom right of the screen).
- Hard copy matrices - For matrices submitted on paper, refer to the format on our website on the “Official Forms” page. Matrices submitted on paper must be typed in a single, left-justified column down the center of the page.

MEETING OF CREDITORS (“341 MEETING”)

The Bankruptcy Code gives all creditors the opportunity to participate in a bankruptcy case. **The debtor is required to be in attendance at the first meeting of creditors** (“341 meeting”) to give the trustee and/or creditors an opportunity to examine the debtor under oath concerning his property and financial affairs.

A “meeting of creditors” is usually held 20 to 40 days after the petition is filed and the debtor must attend. At this meeting creditors may appear and ask questions regarding the debtor’s financial affairs and property. Please refer to 11 U.S. C. § 341. A husband and wife who have filed a joint petition, must both attend the creditors’ meeting.

The trustee assigned to the case will conduct this meeting and the debtor must provide any financial records or documents that the trustee requests. The trustee is required to examine the debtor orally at the meeting of creditors to ensure that the debtor is aware of the potential consequences of seeking a discharge in bankruptcy, including the effect on credit history, the ability to file a petition under a different chapter, the effect of receiving a discharge, and the effect of reaffirming a debt. A trustee may provide written information on these topics at or in advance of the meeting. To preserve their independent judgment, bankruptcy judges are prohibited from attending the meeting of creditors.

Note: The debtor is required by local and federal Bankruptcy rules to bring certain documents to the Creditors’ Meeting. For a complete list of these documents, please refer to the sections of this packet entitled, “What to Expect in Chapter 7” and “What to Expect in Chapter 13.”

MOTION

A motion is a type of pleading whereby a party requests specific relief from the Court. Because it is a type of pleading, it must contain a caption, a heading, a body, and a signature. The body of the pleading is what makes this document a motion. The body will state what the moving

party wants from the Court, and the specific reasons why the party is seeking relief.

NOTICE

Generally, the Court may only take action in a case (i.e., grant a motion) if the Court finds that all parties in interest and the Trustee have received “notice” of the requested action. A party gives “notice” by sending their motion and a Notice of Hearing to the parties listed on the mailing matrix in the case, via U.S. mail. The typical motion requires the Debtor to give notice at least 23 days before the hearing scheduled on the motion. For guidance as to the notice required for specific motions, please refer to Bankruptcy Rule 2002.

A **Notice of Hearing** is a pleading which indicates that the motion at issue will be heard at a specific time and place. For an example of a Notice of Hearing, refer to the Pro Se Pleading Forms on the Court’s website or attached to this packet.

The Court will know that the party properly gave notice when the party files the Notice of Hearing along with a **Certificate of Service**. A Certificate of Service indicates the parties who received the Notice of Hearing and the Motion, and also indicates the date those documents were sent. For an example of a Certificate of Service, refer to the Pro se Pleading Forms on the Court’s website or attached to this packet.

OBJECTION

An objection is a type of pleading whereby a party asks the Court **not** to grant relief requested by another party’s motion. Because it is a type of pleading, it must contain a caption, a heading, a body, and a signature. The body of the objection should state why the objecting party does not want the Court to grant another party’s motion.

OBJECTION TO DISCHARGE

A trustee’s or creditor’s objection to the debtor’s receipt of a discharge, brought by an adversary proceeding under 11 U.S.C. § 727.

In **chapter 7** cases, the debtor does not have an absolute right to a discharge. An objection to the debtor’s discharge may be filed by a creditor, by the trustee in the case, or by the United States Trustee. Creditors receive a notice shortly after the case is filed that sets important dates, including the deadline for objection to the discharge. To object to the debtor’s discharge a creditor must file an adversary proceeding or lawsuit in the bankruptcy court before the deadline set out in the notice. Filing a complaint starts a lawsuit referred to in bankruptcy as an “**adversary proceeding**.” A chapter 7 discharge may be denied for any of the reasons described in 11 U.S.C. § 727, including the transfer or concealment of property with intent to hinder, delay, or defraud creditors; destruction or concealment of books or records; perjury and other fraudulent acts; failure to account for the loss of assets; violation of a court order; or an earlier discharge in a chapter 7 or 11 case started within eight years before the date the current petition

was filed.

In **chapter 13** cases, the debtor is generally entitled to a discharge upon completion of all payments under the plan. Creditors can object to confirmation of the repayment plan, but have limited grounds to object to the discharge if the debtor has completed making the payments set out in the plan.

OBJECTION TO DISCHARGEABILITY

Whereas a creditor who objects to *discharge* is seeking to bar the debtor from receiving a discharge at all, an objection to *dischargeability* relates to the discharge of a specific debt. A creditor may only object to the dischargeability of a debt by filing an adversary proceeding against the debtor. In chapter 7 cases, the dischargeability of debts is governed by 11 U.S.C. § 523. In chapter 13 cases, the dischargeability of debts is governed by 11 U.S.C. § 1328(a).

ORDER

Official actions of the Court come in the form of an order. Whether a Debtor seeks to reopen a case or to object to a motion to dismiss, the Court's decision will be implemented in the form of an order. For an example of an order, refer to the Form Order attached to the Motion to Extend Time in the Pro Se Form Pleadings attached to this packet or on the Court's website.

PLAN OF REORGANIZATION

Chapter 13 debtors are required to file a **Plan of Reorganization** within fifteen (15) days of the petition. The contents of the plan must comply with 11 U.S.C. § 1322. The Court will review the plan at the Confirmation Hearing.

PLEADING

A pleading is a document submitted to the Court with four key contents: 1) a caption; 2) a heading; 3) the body; and 4) a signature. Quite simply, a pleading is written correspondence submitted to the Court. Through a pleading, a party can communicate with, or request something from, the Court. For an example of a pleading, refer to some of the Pro Se Form Pleadings attached to this packet or on the Court's website.

FREQUENTLY ASKED QUESTIONS:

Questions Relating to Filing a Bankruptcy Case

1. Do I need an attorney to file bankruptcy?
2. How many copies do I need to file with the court?
3. What is the difference between chapters?
4. Where can I obtain petition forms?
5. What do I need to file when filing a bankruptcy case with the court?
6. Is there a fee to file bankruptcy?
7. What is the e-mail address to send matrices?
8. Where can one get information on matrix formatting?
9. What are the qualifications for paying the filing fee in installments?
10. What if I can't pay the filing fee?
11. Payment forms
12. Filing due dates.
13. What if I need help filling out the forms?
14. How often can a debtor receive a discharge?
15. Where do I file my bankruptcy petition?
16. What are the statutes and rules that apply to bankruptcy filings?

Questions Relating to Discharge

1. How often can a debtor obtain a discharge?
2. What is a discharge in Bankruptcy?
3. When is the discharge issued?
4. How does a debtor get a discharge?
5. Are all debts discharged?
6. Can a creditor object to a debtor being granted a discharge?
7. Once a discharge is issued, can it be revoked/vacated?
8. What if a creditor attempts to collect a debt after it has been discharged?

Questions Relating to the Meeting of Creditors

1. What is a section 341(a) meeting of creditors?
2. How do I find out who the trustee is in a case?
3. What if I can not attend my 341 meeting?
4. What if I missed my 341 meeting?
5. Are co-debtors required to be at the 341 meeting?
6. How do I obtain a transcript of my 341 hearings?
7. What if I don't speak English?

Miscellaneous Questions

1. How do I get a hearing date?
2. How do I get certified copies of documents?
3. How do I obtain case information?
4. How long does a bankruptcy remain on my credit report?
5. What are the Federal Holidays?
6. What do we do if someone in bankruptcy owes us money?
7. What if the case I'm interested in is closed or archived?
8. Who do I notify about a possible fraudulent filing?
9. What is the Post Judgement Interest Rate?
10. How do I file an Amended Matrix?
11. Can I file Amended Schedules with an Amended Matrix?
12. How do I obtain copies?
13. Where can a creditor get a Proof of Claim Form?
14. How do creditors amend a claim?
15. Are claim amounts listed on the Claims Register?
16. How should I notify the court if my address changes?
17. How do you apply for unclaimed funds?
18. How can someone else's bankruptcy be taken off of your credit report?
19. How can I get a transcript of hearing?
20. If the attorney is not doing their job, or the debtor is dissatisfied, can the debtor file documents on their own?
21. In an Adversary Proceeding, what happens after the complaint is filed and the Answer is received?
22. What is Pro Hac Vice?
23. What is a Writ of Garnishment?
24. How long after the case has been closed can I add creditors or reopen my case?
25. How do I object to a bankruptcy (objection vs. adversary)?
26. What if my attorney won't return my calls, and I need some help?

Questions Relating to Filing a Bankruptcy Case

1. Do I need an attorney to file bankruptcy?
2. How many copies do I need to file with the court?
3. What is the difference between chapters?
4. Where can I obtain petition forms?
5. What do I need to file when filing a bankruptcy case with the court?
6. Is there a fee to file bankruptcy?
7. What is the e-mail address to send matrices?
8. Where can one get information on matrix formatting?
9. What are the qualifications for paying the filing fee in installments?
10. What if I can't pay the filing fee?
11. Payment forms
12. Filing due dates.
13. What if I need help filling out the forms?
14. How often can a debtor receive a discharge?
15. Where do I file my bankruptcy petition?
16. What are the statutes and rules that apply to bankruptcy filings?
17. What is the difference between a co-debtor and a joint debtor?

1. Do I need an attorney to file bankruptcy?

While it is possible to file a bankruptcy case without representation, it may be difficult to do so successfully. **It is recommended that a person considering bankruptcy consult with an attorney prior to filing a case.** For information on lawyer referral programs, or free legal clinics in your area, contact the local bar association. A Corporation commencing a case under Chapter 11 of the bankruptcy code must be represented by an attorney before the meeting of creditors.

2. How many copies do I need to file with the court?

The Court requires the originals for all new cases. Please provide an additional copy if you want one for your records.

3. What is the difference between chapters?

Chapter 7

Individuals, corporations and partnerships are eligible for a chapter 7. A trustee is appointed to liquidate the estate. State law determines what portion of his property a debtor may keep by claiming exemptions. The trustee will liquidate the rest of the debtor(s)' assets and distribute the proceeds to creditors. If all the debtor(s)' assets are exempt or if minimal assets are found, the case will be a "no-asset case," with no distribution to creditors.

Chapter 11

Although individuals may file a petition under Chapter 11, it is primarily designed for the rehabilitation of distressed businesses. The court's largest and most complex cases are usually Chapter 11 cases. When a Chapter 11 petition is filed, the debtor becomes a "debtor-in-possession" with rights and duties of a trustee.

No trustee will be appointed in the case unless some interested party asks the court to do so and shows sufficient "cause" (e.g., fraud or mismanagement on the part of the debtor). A committee of unsecured creditors is usually appointed in Chapter 11 cases to monitor the debtor's progress. If the debtor qualifies as a small business according to 11 U.S.C. § 101 (51D), there are additional deadlines and requirements. The Chapter 11 debtor's ultimate goal is to file a plan of reorganization that is acceptable to creditors and the court.

Chapter 12

This chapter was enacted into law in 1986 to provide relief for family farmers with a regular income. Chapter 12 is patterned very closely after a Chapter 13, but has attributes of Chapter 11 as well. Individual, corporate or partnership farming operations are eligible to file where aggregate debts (secured and unsecured) do not exceed \$1,500,000.00. A plan must be filed within 90 days of the entry of the order for relief, unless the court extends that time. The trustee, though appointed upon filing, does not remove the family farmer debtor-in-possession. After confirmation, payments are made to the trustee to consummate the plan.

Chapter 13

This chapter provides a way for individuals with a regular source of income to pay off their debts over a period of time and under supervision of the court and a trustee. Corporations and partnerships may not file under Chapter 13. Individuals may file only if their unsecured debts do not exceed \$336,900.00 and their secured debts do not exceed \$1,010,650.00. A plan is filed with the petition or immediately thereafter. Payments are made to a Chapter 13 "Standing trustee," who makes distributions to creditors according to the provisions of a confirmed plan. The debts may be paid back in whole or in part, depending on what the debtor is able to do.

4. Where Can I obtain petition forms

Petition forms are available at most office supply stores, or from other sites on the internet. The bankruptcy court website offers **limited official forms**.

5. What do I need to file when filing a bankruptcy case with the court?

Checklists for each chapter are available at the Bankruptcy Court Clerk's Office or on our website at www.utb.uscourts.gov. In addition, there is more information available for what to expect in a chapter 7 and what to expect in a chapter 13 at the Clerk's Office and on the website.

6. Is there a fee to file bankruptcy?

Chapter 7: \$299

Chapter 13: \$274

Chapter 11: \$1039

Chapter 12: \$239

Chapter 9: \$1039

To see a complete list of other filing fees during a bankruptcy case, please see our fee schedule at the Bankruptcy Court Clerk's Office or on our website

(www.utb.uscourts.gov/fees.htm)

7. What is the email address to send matrices?

bankruptcy_clerk@utb.uscourts.gov

8. Where can one get information on matrix formatting?

Instructions for formatting a mailing matrix **submitted via email** can be found on our website at <http://www.utb.uscourts.gov/matrix.pdf>. Instructions for formatting a mailing matrix **submitted over the counter** can be found on our website at http://www.utb.uscourts.gov/clerks_office/forms/matrixformat.pdf.

9. What are the qualifications for paying the filing fee in installments?

You cannot have paid anyone to prepare your forms. You can make a total of four payments. The first payment must be paid at the time of filing the petition. The remaining payments cannot be scheduled for weekends or holidays. The full amount must be paid within 120 calendar days. Installment application forms are available in the bankruptcy packet or at the Bankruptcy Court in the Clerk's Office.

10. What if I can't pay the filing fee?

The application to waive the filing fee (also known as an "application in forma pauperis") is available at the Bankruptcy Court Clerk's Office or on our website (www.utb.uscourts.gov).

11. Payment forms

We do not accept personal checks or debit cards from debtors. Payments must be made by cashier's check, money order, cash or credit card (Visa, MasterCard, American Express or Discover).

12. Filing due dates

Filing due dates for a chapter 7 are available in the "What to Expect in a Chapter 7 Case" section of this packet. Filing due dates for a chapter 13, are available in the "What to Expect in a Chapter 13 Case" section of this packet.

13. What if I need help filling out the forms?

The bankruptcy court cannot give legal advice. Contact the Utah State Bar at (801) 531-9077.

14. How often can a debtor receive a discharge?

Chapter 7 debtors should refer 11 U.S.C. § 727(a)(8) and 727(a)(9). Chapter 13 debtors should refer to 11 U.S.C. § 1328 (f)(1) and 1328(f)(2).

15. Where do I file my bankruptcy petition?

A petition may be filed at the United States Bankruptcy Court located at 350 South Main Street Room 301 Salt Lake City Utah between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. In addition, you may file a bankruptcy petition via U.S. Mail.

16. What are the statutes and rules that apply to bankruptcy filings?

Title 11 which is the United States Bankruptcy Code (the “Bankruptcy Code”) is the uniform Federal law that governs all bankruptcy cases. The procedural aspects of the bankruptcy process are governed by the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). There is a set of official bankruptcy forms contained in the Bankruptcy Rules for use in bankruptcy cases. Forms are available on the Internet at: <http://www.uscourts.gov/bankform>. The United States Bankruptcy Code is available for viewing at the library on the second floor of the Frank E. Moss Courthouse. (350 S. Main Street). The Court also follows its own Local Rules, which are available at the Court’s website and at the Clerk’s Office.

17. What is the difference between a codebtor and a joint debtor?

A codebtor is actually a non-debtor who is also liable for debts of the debtor. For example, if the debtor owns a home with a non-filing spouse and if both parties are liable for the mortgage on the home, the non-filing spouse is considered a codebtor. A joint-debtor is a spouse who files for bankruptcy relief. If both spouses file the bankruptcy petition, both spouses are considered joint-debtors.

Questions Relating to Discharge

1. How often can a debtor obtain a discharge?
2. What is a discharge in Bankruptcy?
3. When is the discharge issued?
4. How does a debtor get a discharge?
5. Are all debts discharged?
6. Can a creditor object to a debtor being granted a discharge?
7. Once a discharge is issued, can it be revoked/vacated?
8. What if a creditor attempts to collect a debt after it has been discharged?

1. How often can a debtor receive a discharge?

Typically, for a chapter 7, a debtor must wait eight (8) years between filing dates to be eligible for another discharge. Please refer to 11 U.S.C. § 727(a)(8) and 727(a)(9) for chapter 7 and section 1328 (f)(1) and 1328(f)(2) for a chapter 13.

2. What is a discharge in Bankruptcy?

A discharge is a release of a debtor from personal liability for certain specified types of debts. Once a discharge in bankruptcy is granted, a debtor is no longer required by law to pay any debts that were discharged in the bankruptcy. A discharge is a permanent order directing the creditors of the debtor to refrain from taking any collection action on discharged debts. This includes legal action and communications with the debtor, such as telephone calls, letters and personal contacts.

In a **chapter 13** case (adjustment of debts of an individual with regular income), the provisions discussing discharge are found at 11 U.S.C. § 1328. The Court will normally grant the discharge as soon as practicable after the debtor completes all payments under the plan, which can be made over a three (3) to five (5) year period. Please note that under recent changes to the Bankruptcy Code, receipt of the chapter 13 discharge may not be automatic, and may require the Court to hold a hearing under 11 U.S.C. § 1328(h)

3. When is the discharge issued?

In a **chapter 7** (liquidation) case, the provisions discussing discharge are found at 11 U.S.C. § 727. The Court usually grants and mails a copy of the discharge to the debtor, creditors and all interested parties promptly after the expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case for substantial abuse (60 days following the first date set for the 341(a) meeting). Typically, this occurs about four months after the date the debtor files the petition with the clerk of the bankruptcy court.

In a **chapter 13** case (adjustment of debts of an individual with regular income), the provisions discussing discharge are found at 11 U.S.C. § 1328. The Court will normally grant the discharge as soon as practicable after the debtor completes all payments under the plan, which can be made over a three (3) to five (5) year period. Please note that under recent changes to the Bankruptcy Code, receipt of the chapter 13 discharge may not be automatic, and may require the Court to hold a hearing under 11 U.S.C. § 1328(h)

4. How does a debtor get a discharge?

Please refer to the "What to Expect in a Chapter 7" and "What to Expect in a Chapter 13" sections of this packet.

5. Are all debts discharged?

The debts that are discharged vary in each chapter of the Bankruptcy Code. Certain categories of debts are excepted from the discharge granted to individual debtors. See 11 U.S.C. § 523(a). For those debts which are excepted from discharge, the debtor must still pay those debts after the discharge is granted. For example, alimony, maintenance and child support payments cannot be discharged. See 11 U.S.C. § 523(a)(5).

The most common types of debts that are nondischargeable are certain types of tax claims. Nondischargeable debts could include debts for spousal or child support or alimony; debts incurred as a result of willful and malicious injuries to a person or property; debts to governmental units for fines or penalties; debts for most government funded or guaranteed education loans or benefit overpayments; debts for personal injury caused by the debtor's operation of a motor vehicle while intoxicated; and, debts for certain condominium or cooperative housing fees.

In order for a creditor to pursue collection of these types of debts, the creditor must ask the court to determine that these debts be excepted from the discharge by filing an adversary proceeding (a lawsuit within the bankruptcy). The creditor must commence such an action in order for these debts not to be included in the discharge.

6. Can a creditor object to a debtor being granted a discharge?

In a chapter 7 case, a creditor, the case trustee, or the United States Trustee, may object to the issuance of a discharge. Shortly after the filing of a case, creditors receive a notice that sets out important information including the last date to object to the debtor being granted a discharge or dischargeability of a debt. In order to object to the debtor receiving a discharge, the creditor, trustee or United States Trustee must file an adversary proceeding (A lawsuit in the bankruptcy case). Grounds for denying a chapter 7 discharge are laid out in detail in Section 727 of the Bankruptcy Code.

In chapter 13 cases, the debtor is normally entitled to a discharge upon completion of all payments under the plan. Please note that recent changes in the Bankruptcy Code allow for a creditor to object to a discharge being granted in chapter 13 cases. (See 11 U.S.C. § 1328(h)).

7. Once a discharge is issued, can it be revoked/vacated?

A discharge can be revoked by the court in certain circumstances upon request by the case trustee, a creditor or the United States Trustee. The request must be based on allegations such as the debtor obtained the discharge fraudulently, the debtor failed to disclose that he or she acquired property or became entitled to acquire property that would be considered property of the bankruptcy estate; or that the debtor committed one of several acts of impropriety described in 11 U.S.C. § 727(a)(6) of the Bankruptcy Code.

Typically, a request to revoke the debtor's discharge must be filed within one year after the granting of the discharge or, in some instances, before the date the case is closed in the court. The court must determine whether the allegations made about the debtor are true and make the decision whether to revoke the discharge after a hearing on notice to the debtor. In a chapter 13 case, if confirmation of a plan or the discharge is obtained through fraud, the court can revoke the order of confirmation of the plan or the discharge.

8. What if a creditor attempts to collect a debt after it has been Discharged?

If a creditor attempts to collect a discharged debt from a debtor, the debtor may file a motion with the court reporting the action and asking the court to address the matter. The discharge is a permanent statutory injunction prohibiting creditors from taking any action, including the filing of a lawsuit, to collect a discharged debt. If a creditor attempts to collect on a discharged debt, the creditor may be sanctioned by the court. Possible sanctions include a finding of civil contempt or the imposition of a fine against the creditor.

Although a debtor is relieved of personal liability for all debts that are discharged, a valid lien that has not been avoided in the bankruptcy case will remain. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien.

Questions Relating to the Meeting of Creditors

1. What is a section 341(a) meeting of creditors?
2. How do I find out who the trustee is in a case?
3. What if I can not attend my 341 meeting?
4. What if I missed my 341 meeting?
5. Are co-debtors required to be at the 341 meeting?
6. How do I obtain a transcript of my 341 hearings?
7. What if I don't speak English?

1. What is a section 341(a) meeting of creditors?

11 U.S.C. § 341(a) of the Bankruptcy Code requires every debtor to personally attend a meeting of creditors and to submit to an examination under oath. The trustee assigned to the case presides at the meeting. Creditors may question the debtor under oath, and conduct such other business as may be appropriate. Creditors are not required to attend the meeting. Debtors are required to bring specific documents to the 341 meeting; see the "What to Expect in a Chapter 7 and Chapter 13" sections in this packet. In addition, the Trustee may direct the debtors to produce documents or turnover property. **The debtor must promptly reply to the trustee's requests.**

2. How Do I find out who the trustee is in a case?

The trustee's name and address is printed on the notice of the Section 341(a) meeting of creditors. You can also obtain the trustee's name from the court's online case information system PACER, as well as by calling the automated public information systems, VCIS (801-524-3107) and or by calling the court and speaking to the operator (801-524-6576).

3. What if I can not attend my scheduled 341 Meeting?

A debtor may request permission from the court to reschedule their 341 meeting. **However, the debtor must be able to show that exigent circumstances exist to reschedule the meeting.** Typically this type of motion does not require the court to hold a hearing, although, the motion must be filed with the Bankruptcy Court Clerk's Office and with the trustee assigned to your case. In addition, a proposed order must accompany your motion.

4. What if I missed my 341 Meeting?

The trustee assigned to your case will file a 341 minute entry, also known as a notice of failure to comply, which constitutes a motion to dismiss. In order to avoid having your case dismissed, you must file an objection. Typically this type of motion requires the court to hold a hearing. Please refer to the form pleading Objection to Trustee's Motion to Dismiss which is attached to this packet, also available at the Clerk's Office or our website (www.utb.uscourts.gov).

5. Are co-debtors required to be at the 341 Meeting?

If they are listed on the petition, they must attend as they are a Debtor. If they only co-signed on a debt and are not listed on the petition, they do not have to attend.

6. How do I obtain a transcript of my 341 Meeting?

Transcripts of 341 Meetings can be obtained from the United States Trustee's Office (801-524-5735).

7. What if I don't speak English?

If you need a translator for any language, call Rachelle Armstrong at the US Trustee's Office at 801-524-5169.

Miscellaneous Questions

1. How do I get a hearing date?
2. How do I get certified copies of documents?
3. How do I obtain case information?
4. How long does a bankruptcy remain on my credit report?
5. What are the Federal Holidays?
6. What do we do if someone in bankruptcy owes us money?
7. What if the case I'm interested in is closed or archived?
8. Who do I notify about a possible fraudulent filing?
9. What is the Post Judgement Interest Rate?
10. How do I file an Amended Matrix?
11. Can I file Amended Schedules with an Amended Matrix
12. How do I obtain copies?
13. Where can a creditor get a Proof of Claim Form?
14. How do creditors amend a claim?
15. Are claim amounts listed on the Claims Register?
16. How should I notify the court if my address changes?
17. How do you apply for unclaimed funds?
18. How can someone else's bankruptcy be taken off of your credit report?
19. How can I get a transcript of hearing?
20. If the attorney is not doing their job, or the debtor is dissatisfied, can the debtor file documents on their own?
21. In an Adversary Proceeding, what happens after the complaint is filed and the Answer is received?
22. What is Pro Hac Vice?
23. What is a Writ of Garnishment?
24. How long after the case has been closed can I add creditors or reopen my case?
25. How do I object to a bankruptcy (objection vs. adversary)
26. What if my attorney won't return my calls, and I need some help?

1. How do I get a hearing date?

To schedule a hearing before Judge Thurman or Judge Boulden, please contact the scheduling clerk at 801-524-6627. To schedule a hearing before Judge Clark, please contact the Judicial Assistant at 801-524-6549.

You can view anticipated court calendars on the court's website (www.utb.uscourts.gov)

2. How do I get certified copies of documents?

Certified copies of documents are available at the Clerk's Office. The cost is \$9.00 per certification plus the copy fee. To obtain copies by mail write to U.S. Bankruptcy Court c/o mail requests. Please specify the case name, case number, the name of the document to be certified and the document number if available. There is an additional file search fee of \$26.00 for mail requests that require research. Please make the check or money order payable to Clerk, U.S. Bankruptcy Court. The Clerk's Office does not accept personal checks from debtors.

3. How do I obtain case information?

Bankruptcy cases are public records and are available for viewing at the Bankruptcy Court Clerk's Office. In addition, you can obtain case information by calling the Clerk's office at 801-524-6576 or you can use the Voice Case Information System (VCIS) at 801-524-3107 or 1-800-733-6740.

4. How long does a bankruptcy remain on my credit report?

The fact that an individual filed a bankruptcy can remain on the credit report no longer than 10 years under the provisions of the Fair Credit Reporting Act.

5. What are the Federal Holidays?

The Clerk's Office is open to the public from 8:30 a.m. to 4:30 p.m. Monday through Friday, except for the following federal holidays:

New Year's Day
Martin Luther King, JR's Birthday
Presidents Day
Memorial Day
Independence Day
Pioneer Day (State Holiday)
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

6. What do we do if someone in bankruptcy owes us money?

In a chapter 7 no-asset case do not file a claim unless requested to do so by the court. In a chapter 7 asset case you will receive a claim form and a notice setting a date to file the claim. In a chapter 13 case, a proof of claim must be filed within 90 days of the 341 meeting date. In a chapter 11 case, unless otherwise ordered by the court, the bar date for filing proofs of claim shall be 180 days after the date of the order for relief. The original claim and any supporting documents are filed with the Clerk's Office. If you wish to have a conformed copy returned to you, please enclose an extra copy and a self-addressed stamped envelope.

7. What if the case I'm interested in is closed or archived?

Closed cases are kept at the Clerk's Offices for a limited amount of time due to a lack of storage space. Closed cases are shipped to the Denver Federal Records Center (archives). To view a case at the Federal Records Center you need the accession, location and box number. This information is available by calling the Clerk's Office at (801) 524-6576. If you prefer to have the case shipped from Denver to the Clerk's Office to review, there is a \$45.00 archive retrieval fee. The Denver Federal Records Center accepts copy requests from bankruptcy case files by mail or fax. The copy request form is available at the Clerk's Office or on the Court's website.

8. Who do I notify about a possible fraudulent filing?

The Office of the United States Trustee reviews complaints for possible fraudulent filings and, if appropriate, notifies the U.S. Attorney for further investigation. For more information contact: The U.S. Trustee's Office at (801) 524-5734 or (801) 524-5735.

9. What is the Post Judgment Interest Rate?

For post judgement interest rate information, visit the [Post Judgement Interest Rate](#) page.

10. How do I file an Amended Matrix?

If you are adding eight (8) or less creditors, use an amended matrix form. Please use the cover sheet and place the creditor address on the cover sheet (thus only one page is filed). Gummed labels can be used. If you are adding more than eight (8) creditors, complete only the heading on the cover sheet and submit the list of creditors in a scannable format (i.e. one column down the center of an otherwise blank page). Attach the list to the cover sheet and file it to be a scanned into system. Do not submit any creditors that have been previously submitted.

11. Can I file Amended Schedules with an Amended Matrix?

Many petitioners are filing separate amended schedules adding creditors and amended matrixes and are paying a \$26.00 fee for each of these. Please review the proper procedure for filing these schedules and matrixes to alleviate paying the filing fee twice.

12. How do I obtain copies?

Copies may be obtained in person at the Clerk's Office. If the document is available on the computer, printouts are \$0.10 per page. If the document is not available on the computer and a copy must be made from the file, copies are \$0.50 per page.

Copies may be obtained via U.S. Mail. Send a letter stating the case name, the case number, and which documents are required along with a self-addressed stamped envelope and a "not to exceed" check. If the document is available on the computer, printouts are \$0.10 per page. If the document is not available on the computer and a copy must be made from the file, copies are \$0.50 per page. If the request letter does not specify which documents is required, a \$26.00 search fee will be charged.

13. Where can a creditor get a Proof of Claim Form?

Proof of Claim forms are available on our website (www.utb.uscourts.gov) or at the Clerk's Office.

14. How do creditors amend a Claim?

Submit a new Proof of claim form and check the "amended" box.

15. Are claim amounts listed on the Claims Register?

Yes, except for Chapter 7 No Asset cases, claim amounts are not listed until the case becomes an asset case.

16. How can I notify the court if my address changes?

If the debtor needs to correct a creditor's address information, the debtor needs to amend their Schedules and the Matrix.

If a debtor needs to change their own address, or an attorney needs to change their address for one case only, they need to file a Change of Address/Request for Notice Form. This form is available on the website (www.utb.uscourts.gov) or at the Clerk's Office.

If an attorney needs to change their address on all of their cases, they need to file a Change of Address/Request for Notice form and indicate that it is for "All Cases".

If a creditor wants to be added to the mailing matrix, they can either file a Change of Address/Request for Notice Form, or a Proof of Claim

17. How do you apply for unclaimed funds?

The Application and Order forms for collecting unclaimed funds are available on our website (www.utb.uscourts.gov) or at the Clerk's Office. The forms must be filled out completely (the only blank space should be for the Judge's signature) and submitted to the court along with a copy of the front and back of the requester's driver's license. Unclaimed funds applications take 4-6 weeks to process.

18. How can someone else's bankruptcy be taken off of your credit report?

Write a request stating the case number, the name on the bankruptcy, your name and social security number, your telephone number and your fax number. Mail or fax your request to Glenn Gregorcy (801-526-1197). Glenn will research the case and mail or fax back a signed letter verifying the correct information.

19. How can I get a transcript of a hearing?

Transcripts of 341 Meetings can be obtained from the Trustee. For information on how to order a transcript of a court hearing and/or audio CD, please contact Kyle Crockett (801-524-6634) or Kathy Maestas (801-524-6578).

20. If the attorney is not doing their job, or the debtor is dissatisfied, can the debtor file documents on their own?

Under local rules, once counsel has been appointed, a debtor may not file documents on their own until counsel has withdrawn. The debtor needs to call the attorney and tell them to file a Motion and Order to Withdraw as counsel. They can also file a complaint with the Utah State Bar Association.

21. In an Adversary Proceeding, what happens after the Answer is filed and the response is received?

The court issue an order specifying important dates and deadlines including the date for the initial pre-trial conference. **You must appear at the initial pre-trial conference.**

22. What is Pro Hac Vice?

This is a motion for an out-of-state attorney to practice in our court. The Motion/Application must be filed with the Bankruptcy Court, but the \$15.00 fee must be made payable to the U.S. District Court.

23. What is a Writ of Garnishment?

The directive served upon the garnishee by a sheriff or constable instructing them of their responsibilities in the case. It advises the garnishee of the amount owing on the judgement and orders them to hold any property they may have belonging to the defendant.

24. How long after the case has been closed can I reopen the case?

You can ask the court to reopen a case any time.

25. How do I object to a bankruptcy (objection vs. adversary)?

Initially, you can object to the filing of a case under 11 U.S.C. §§ 707 and 1307 by filing a motion and scheduling a hearing. In a chapter 13 case, you can also file an objection to the plan; in a chapter 7, unless you are objecting to the filing of the case, your objection needs to be in the form of a complaint and needs to be filed before the last day to object to discharge. The last day to object to discharge in a chapter 7 is listed on the 341 meeting of creditors notice. For further information, please refer Part VII of the Bankruptcy Rules.

26. What if my attorney won't return my calls, and I need some help?

The Clerk's Office will not contact your attorney for you. Under the Court's local rules, your attorney is obligated to represent you until your case is closed or until the Court enters an Order authorizing the attorney to withdraw. Where an attorney has entered an appearance in your case, you are not permitted to appear before the Court on your own behalf. If you have a dispute with your attorney, the Court cannot help you until you obtain an Order terminating your attorney.

