



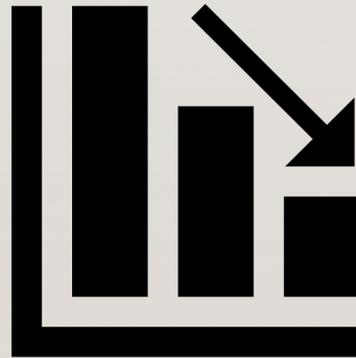
This Photo by Unknown Author is licensed under [CC BY-ND](#)

BANKRUPTCY 101

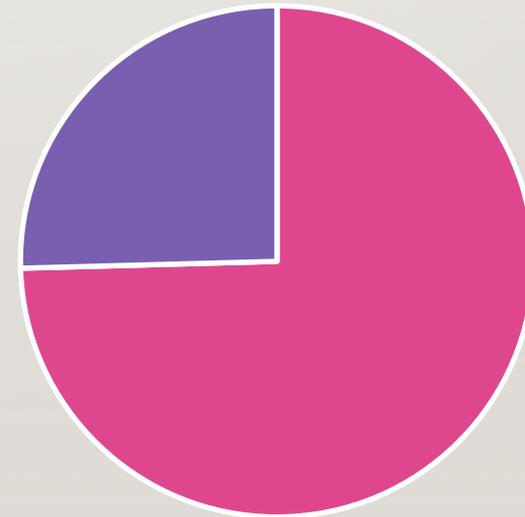
CTAO FALL CONFERENCE 2019

BANKRUPTCY FILINGS IN SOUTHERN DISTRICT OF OHIO FOR 2018—TOTAL 36,757 CASES (FROM AMERICAN BANKRUPTCY INSTITUTE)

- Bankruptcy filings have declined in the past several years.



Filings 2018



■ Chapter 7 ■ Chapter 13 ■ Chapter 11

HOW TO FIND INFORMATION ABOUT A BANKRUPTCY CASE

- PACER: Public Access to Court Electronic Records: <http://pacer.pcs.uscourts.gov>-- Main site
- or <http://pacer.ohsb.uscourts> for the Bankruptcy Court for the Southern District of Ohio & <https://ecf.ohnb.uscourts.gov> for the Northern District of Ohio
- www.ohsb.uscourts.gov is the Bankruptcy Court address for the Southern District of Ohio & www.ohnb.uscourts.gov for the Northern District of Ohio
- www.13network.com for links to the various Chapter 13 Trustees
- Generally Chapter 7 Trustees do not have individual web sites (stay tuned though)



LIQUIDATION VS. REORGANIZATION

CHAPTER 7 VS. CHAPTER 13

- Chapter 7:
 - Often referred to as a liquidation proceeding. Debtors relinquish non-exempt property and receive a discharge of indebtedness.
 - Chapter 7 Trustee will examine the Debtor, liquidate assets, review claims, and pay creditors.
 - Quick process, generally less than 6 months unless there are significant assets to liquidate.
- Chapter 13
 - Often referred to as a reorganization proceeding.
 - Debtor keeps property, but must contribute monthly “Disposable Income” to a reorganization plan, generally over a 3-5 year period.
 - Chapter 13 Trustee collects the funds on a monthly basis and pays creditors.

DIFFERENT ROLES OF CHAPTER 7 & 13 TRUSTEES

CHAPTER 7 TRUSTEE

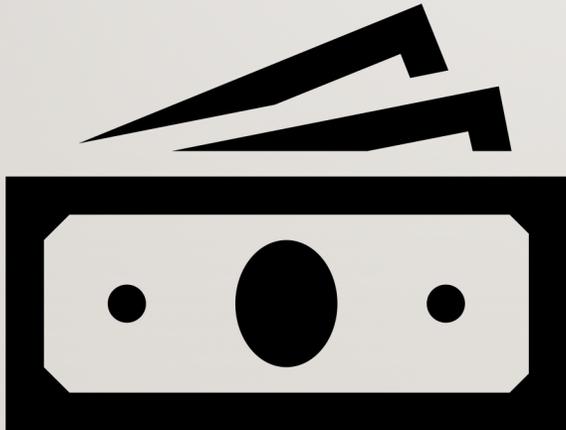
- Examine the Debtor and determine if assets are available to liquidate and pay creditors
- Liquidate/reduce assets to cash
- Examine claims & object if warranted
- File Final Report with notice of claims to be paid
- Move quickly and efficiently in the administration of the case



CHAPTER 13 TRUSTEE

- Examine the Debtor and determine the monthly income of the Debtor and verify all disposable income being contributed to the plan
- Through wage withholding collect monthly payments from the Debtor
- Distribute the payments to creditors on a monthly basis in accordance with a plan
- 3-5 years before plan complete and Trustee can submit Final Report

BANKRUPTCY BASICS



- Automatic Stay—means STOP collection efforts and enforcements of liens. Applies no matter whether the Debtor is liquidating or reorganizing.
- Meeting of Creditors—Opportunity for creditors to question the Debtor about his/her financial condition and other matters. Primarily used by the Trustee to obtain necessary information to administer the case.
- Notices—Sent at the onset of a case, containing vital information and dates.

IDENTIFICATION INFORMATION ON THE BANKRUPTCY NOTICE

Information to identify the case:

Debtor 1

First Name

Middle Name

Last Name

Last 4 digits of Social Security number or ITIN _____

EIN _____ - _____

Debtor 2

(Spouse, if filing)

First Name

Middle Name

Last Name

Last 4 digits of Social Security number or ITIN _____

EIN _____ - _____

United States Bankruptcy Court for the: _____ District of _____
(State)

[Date case filed for chapter 13

_____/_____/_____] OR

Case number:

[Date case filed in chapter _____

_____/_____/_____] OR

Date case converted to chapter 13

_____/_____/_____]]

MORE IDENTIFICATION INFORMATION

About Debtor 1:		About Debtor 2:	
1. Debtor's full name			
2. All other names used in the last 8 years			
3. Address		If Debtor 2 lives at a different address:	
4. Debtor's attorney Name and address		Contact phone	_____
		Email	_____
5. Bankruptcy trustee Name and address		Contact phone	_____
		Email	_____
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.gov .		Hours open	_____
		Contact phone	_____

MEETINGS AND DEADLINES

7. Meeting of creditors

Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.

Creditors may attend, but are not required to do so.

_____ at _____
Date Time

Location: _____

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

8. Deadlines

The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.

Deadline to file a complaint to challenge dischargeability of certain debts:

You must file:

a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f), or
a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).

Filing deadline: _____

Deadline for all creditors to file a proof of claim (except governmental units):

Filing deadline: _____

Deadline for governmental units to file a proof of claim:

Filing deadline: _____

PLAN INFORMATION ON THE NOTICE

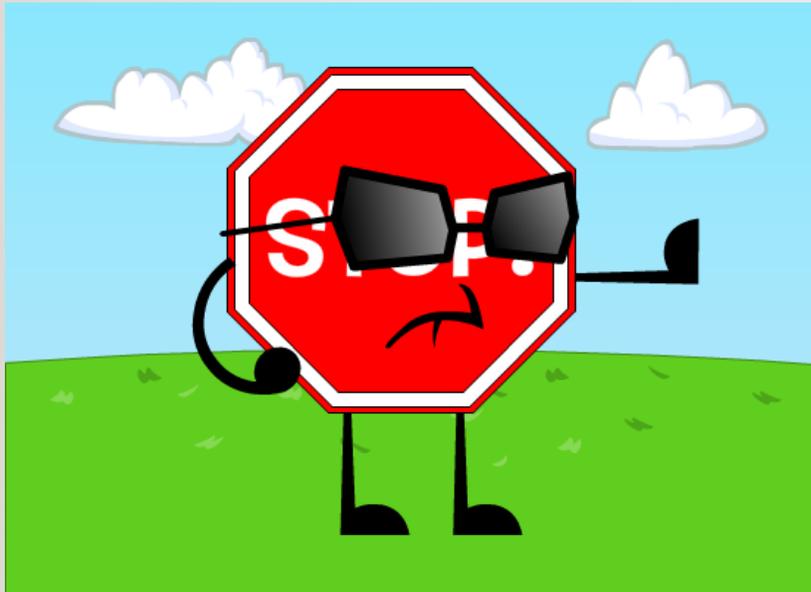
9. Filing of plan

[The debtor has filed a plan, which is attached. The hearing on confirmation will be held on: _____ at
_____ Location: _____
Date Time]

Or [The debtor has filed a plan. The plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan and a notice of the hearing on confirmation will be sent separately.]

STOP: IN THE NAME OF THE AUTOMATIC STAY!



This Photo by Unknown Author is licensed under [CC BY-NC](#)

[This Photo](#) by Unknown
Author is licensed under [CC](#)
[BY-NC](#)

- Automatic means automatic—happens with the filing of bankruptcy petition
- Everything stops: foreclosures, collection efforts, lawsuits, garnishments
- Goal: preserve the status quo and stop the grab for assets; allow the Debtor some breathing room

MORE CONCEPTS OF THE AUTOMATIC STAY

- Applies in each Chapter of the Bankruptcy Code
- Protects not only actions against the Debtor, but also actions against property of the estate
- Only if relief from the stay is sought and obtained may a party proceed



This Photo by Unknown Author is licensed under [CC BY-NC](#)

RELIEF FROM THE STAY

- Most often obtained by a secured a secured party with a vehicle or real estate as collateral
- Obtained to allow an action to go forward to execute on collateral (repossess vehicle or foreclose on real estate)
- Will be granted for cause—non payment being the most frequent grounds
- May be granted where no equity in property and “not necessary for an effective reorganization”

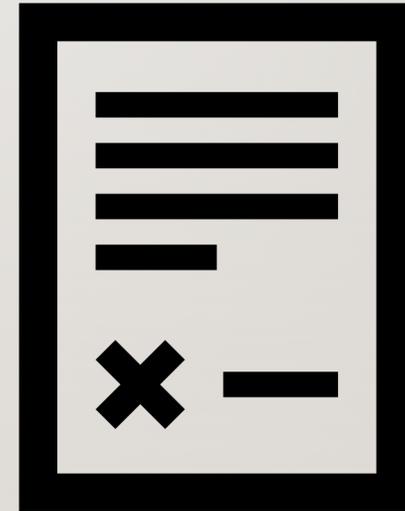
CLAIMS---HOW TO GET PAID

- Claims bar date—how set and when
- Official form for filing Claims
- Absolutely critical in Chapter 13 cases
- Not necessary for Chapter 7 cases, but also not impermissible



OFFICIAL CLAIM FORM

- In your materials
- Same for every bankruptcy case filed
- Attorney not necessary for filing



SECURED CLAIMS—HOW TO PROTECT YOUR LIEN

- Monitor the bankruptcy case
- In Chapter 13 cases make sure to pay attention to plan and how any arrearages in taxes will be handled
- File your claim





MANDATORY CHAPTER 13 PLAN

- Must use this form
- Idea being to make it easier for parties to find the provisions affecting them
- Writable form

MANDATORY FORM PLAN (Revised 01/22/2018) Print to PDF

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
DIVISION at

In re) Case No.
)
) Chapter 13
) Judge

Debtor(s)

CHAPTER 13 PLAN

I. NOTICES

The Debtor has filed a case under chapter 13 of the Bankruptcy Code. A notice of the case (Official Form 309I) will be sent separately.

This is the Mandatory Form Chapter 13 Plan adopted in this District. Local Bankruptcy Rule ("LBR") 3015-1. "Debtor" means either a single debtor or joint debtors as applicable. "Trustee" means Chapter 13 Trustee. Section "§" numbers refer to sections of Title 11 of the United States Bankruptcy Code. "Rule" refers to the Federal Rules of Bankruptcy Procedure.

Unless otherwise checked below, the Debtor is eligible for a discharge under § 1328(f).

Debtor is **not eligible** for a discharge.

Joint Debtor is **not eligible** for a discharge.

PRELIMINARY PROVISIONS

- Initial Plan** C
- Amended Plan** The filing of this Amended Plan shall supersede any previously filed Plan or Amended Plan and must be served on the Trustee, the United States trustee and all adversely affected parties. If the Amended Plan adversely affects any party, the Amended Plan shall be accompanied by the twenty-one (21) day notice. Rule 2002(a)(9). Any changes (additions or deletions) from the previously filed Plan or Amended Plan must be clearly reflected in bold, italics, strike-through or otherwise in the Amended Plan filed with the Court. LBR 3015-2(a)(1).
- If an item is not checked, the provision will be ineffective if set out later in the Plan. C
- This Plan contains nonstandard provisions in Paragraph 13.**
- The Debtor proposes to limit the amount of a secured claim based on the value of the collateral securing the claim. See Paragraph(s) 5.1.2 and/or 5.1.4.**
- The Debtor proposes to eliminate or avoid a security interest or lien. See Paragraph(s) 5.4.1 and/or, 5.4.2 and 5.4.3.**

NOTICES TO CREDITORS: You should read this Plan carefully, including Paragraph 13 (Nonstandard Provisions), and discuss it with your attorney if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one. Except as otherwise specifically provided, upon confirmation, you will be bound by the terms of this Plan. Your claim may be reduced, modified, or eliminated. The Court may confirm this Plan if no timely objection to confirmation is filed.

2. PLAN PAYMENT AND LENGTH C

2.1 Plan Payment. The Debtor shall pay to the Trustee the amount of \$ per month. [Enter step payments below, if any.] The Debtor shall commence payments within thirty (30) days of the petition date.

2.1.1 Step Payments, if any:

Page 1 of 13

MANDATORY FORM PLAN (Revised 01/22/2018)

Print to PDF

2.2 Unsecured Percentage C

- Percentage Plan.** Subject to Paragraph 2.3, this Plan will not complete earlier than the payment of \$ % on each allowed nonpriority unsecured claim. S
- Pot Plan.** Subject to Paragraph 2.3, the total amount to be paid by the Debtor to the Trustee is \$. Assuming all claims are filed as scheduled or estimated by the Debtor, payment on each allowed nonpriority unsecured claim is estimated to be no less than %. LBR 3015-1(c)(2). S

PROVISIONS RELATING TO SECURED CLAIMS— SUCH AS REAL ESTATE TAXES



4. SECURED CLAIMS: TREATMENT, TIMING AND SERVICE REQUIREMENTS

- 4.1 **Non-Governmental Unit Secured Claims.** The Debtor may propose to limit the amount of a secured claim based on the value of the collateral securing the claim by the procedure proposed in Paragraphs 5.1.2 and 5.1.4. Further, the Debtor may propose to eliminate or avoid a security interest or lien by the procedure proposed in Paragraphs 5.4.1, 5.4.2 and 5.4.3. If the Debtor proposes to seek any of the above-stated relief by way of motion or claim objection, the motion or claim objection must be filed on or before the § 341 meeting of creditors or the confirmation hearing may be delayed. If a judicial lien or nonpossessory, nonpurchase-money security interest is discovered after confirmation of the Plan, a motion to avoid the judicial lien or security interest may be promptly filed after it is discovered.
- 4.2 **Governmental Unit Secured Claims.** A request to determine the amount of the secured claim of a governmental unit or to modify and eliminate the secured claim of a governmental unit may be made **only** by motion or claim objection. Rule 3012(c). Any motion or claim objection that includes a request to determine the amount of the secured claim of a governmental unit (including any such motion or claim objection that also includes a request to determine the amount of the secured claim of a non-governmental entity) may be filed **only** after the governmental unit files a proof of claim or after the time for filing one has expired. Rule 3012, advisory committee note (2017 Amendments).
- 4.3 **Service Requirements.** If the Debtor proposes to seek relief under Paragraphs 5.1.2, 5.1.4, 5.4.1, 5.4.2, or 5.4.3, the motion, Plan or claim objection, as applicable, must be served in the manner provided by Rule 7004 for service of a summons and complaint. Rule 3007(a)(2), Rule 3012(b), Rule 4003(d) and General Order 22-2.
- 4.4 **Retention of Lien.** The holder of any claim listed in Paragraphs 5.1.2, 5.1.4 and 5.4.1 will retain its lien on the property interest of the Debtor or the Debtor's estate until the earlier of --(a) payment of the underlying debt determined under nonbankruptcy law, (b) discharge of the underlying debt under 11 U.S.C. § 1328, or (c) completion of the Plan --at which time the lien will terminate and be released by the creditor

SUMMARY OF CLASSES OF CLAIMS



[This Photo](#) by Unknown Author is licensed under [CC BY-ND](#)

5. PAYMENTS TO CREDITORS

SUMMARY OF PAYMENTS BY CLASS

Class	Definition	Payment/Distribution by Trustee
Class 1	Claims with Designated Specific Monthly Payments	Paid first in the monthly payment amount designated in the Plan
Class 2	Secured Claims with No Designated Specific Monthly Payments and Domestic Support Obligations (Arrearages)	Paid second and pro rata with other Class 2 claims
Class 3	Priority Claims	Paid third and pro rata with other Class 3 claims
Class 4	Nonpriority Unsecured Claims	Paid fourth and pro rata with other Class 4 claims
Class 5	Claims Paid by a Non-Filing Co-Debtor or Third Party	Not applicable
Class 6	Claims Paid by the Debtor	Not applicable

Except as provided in Paragraph 3, the Trustee shall begin making distributions upon confirmation. To the extent funds are available, the maximum number of Classes may receive distributions concurrently. Notwithstanding the above, the Trustee is authorized within the Trustee's discretion to calculate the amount and timing of distributions as is administratively efficient.

SPECIFIC PROVISIONS THAT MAY RELATE TO REAL ESTATE TAXES

TREATMENT OF CERTAIN CLAIMS

5.1 CLASS 1 - CLAIMS WITH DESIGNATED SPECIFIC MONTHLY PAYMENTS

The following Class 1 claims shall be paid first in the monthly payment amount designated below. The plan payment is calculated in an amount that is sufficient for the Trustee to make a full monthly distribution on all Class 1 claims plus the statutory Trustee fee. If the Debtor makes a payment that is less than the full plan payment amount, the Trustee will make distributions on Class 1 claims in the order of priority set forth in the Bankruptcy Code.

5.1.1 Maintenance of Regular Mortgage Payments

Regular mortgage payments shall be calculated for payment starting the month after the filing of the petition. Arrearages shall be paid as Class 2 claims.

Trustee disburse.

	+	Name of Creditor	Property Address	Residence (Y/N)	Monthly Payment Amount	
	X				\$	\$ C

Debtor direct pay. Unless otherwise ordered by the Court, regular monthly mortgage payments may only be paid directly by the Debtor if the mortgage is current as of the petition date. LBR 3015-1(e)(1).

	+	Name of Creditor	Property Address	Residence (Y/N)	Monthly Payment Amount	
	X				\$	\$ C

ADDITIONAL PROVISIONS

11. EFFECTIVE DATE OF THE PLAN

The effective date of the Plan is the date on which the order confirming the Plan is entered.

12. VESTING OF PROPERTY OF THE ESTATE

Unless checked below, property of the estate does not vest in the Debtor until the discharge is entered. The Debtor shall remain responsible for the preservation and protection of all property of the estate.

Confirmation of the Plan vests all property of the estate in the Debtor in accordance with §§ 1327(b) and (c).

Other

13. NONSTANDARD PROVISIONS

The nonstandard provisions listed below are restricted to those items applicable to the particular circumstances of the Debtor. Nonstandard provisions shall not contain a restatement of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules or the Mandatory Chapter 13 Form Plan. Any nonstandard provision placed elsewhere in this Plan is void and shall have no binding effect.

	+	Nonstandard Provisions	
	X		\$ C



FINAL COMMENTS AND QUESTIONS??



This Photo by Unknown Author is licensed under [CC BY-NC-ND](#)



This Photo by Unknown Author is licensed under [CC BY](#)

