

Frequently Asked Questions

1. Q: *What is a 341 Meeting of Creditors?*

A: It is a hearing, where you as the debtor are placed under oath. The Trustee will then question you about your financial situation inquiring into your property and debts. It is also an opportunity for any of your creditors to ask you questions as well.

2. Q: *Do I need anything at the 341 meeting?*

A: Yes. You should have your photo identification (you cannot get into the Courthouse without it) and your social security card (or some other official document featuring your full social security number– not your tax return). You should also have your most recent tax return with you. **DO NOT BRING YOUR CELL PHONE** as you cannot bring it into the Courthouse.

3. Q: *What about my first payment?*

A: Your first payment should be mailed to the Trustee's Lock Box in good funds (Cashier's/Bank check or Money Order – no personal checks) at least ten (10) days before your hearing. It is recommended this payment be made through your attorney's office. Once your plan is confirmed, the Trustee's Office will accept personal checks.

4. Q: *Where do I mail the first and subsequent payments?*

A: Mail to: Jeffrey M. Kellner, Chapter 13 Trustee, 1722 Solutions Center, Chicago, IL 60677-1007. Include your case number on the payment (example: 12-39857). Do not send any payments by certified mail or overnight delivery as they may not be accepted by the lock box.

5. Q: *What if I cannot make my first payment?*

A: Your 341 Meeting of Creditors will not be held in that case. A Motion to Dismiss will be filed and you must attend a Court hearing and be current in all payments before your Meeting of Creditors will be reset.

6. Q: *What if I have the money less than ten days before the Meeting of Creditors?*

A: **DO NOT** mail it to the Trustee's Lock Box at this point. Either give it to your attorney before or at the Meeting of Creditors and the Meeting will then be held.

7. Q: *Where is the Meeting of Creditors located?*

A: In the United States Bankruptcy Court Building (Old Post Office), 120 West Third Street, Dayton, OH 45402, on the third floor, room 309.

8. Q: *What if I do not speak or understand English that well?*

A: If you have limited English skills or are hearing impaired, please have your attorney contact us immediately so that we know what type of interpreter to obtain.

9. Q: *Are there any other meeting or hearings that I need to attend?*

A: Yes. All debtors are required to attend a post-petition (after filing) Debtor Education course. Several are offered, but the Chapter 13 Trustee holds classes most Tuesdays in the conference room of the Chapter 13 Office between 11:15 a.m. and 1:15 p.m. There are also classes on the second Saturday of each month (sometimes the third depending on holidays) between 10:00 a.m. and noon. The Chapter 13 Office is located at: 131 N. Ludlow Street, 9th Floor, Dayton, OH 45402. The cost of the class is free (other companies offer these classes, but they cost around \$20.00 - \$40.00). You will also get information on what you can expect from this office.

10. Q: *What happens if I have a question on my plan or have a problem with a creditor?*

A: **CALL** your attorney. If he or she cannot answer your question, then the attorney will call us. **DO NOT CALL OUR OFFICE** about any legal questions as we cannot give you legal advice.

11. Q: *What if my attorney won't take or answer my calls?*

A: If your attorney will not talk to you on the telephone, you may need to set an appointment in his/her office. Most attorneys will respond to your telephone calls. If you are not satisfied with the attorney's representation of you, you can fire the attorney, hire a new one and/or file a bar complaint with the local bar association's Grievance Committee.

12. Q: *But my attorney charges me fees for everything?*

A: The attorney generally is paid a no-look fee (currently \$3,500.00) that covers most services. Otherwise, the attorney must petition the Court for additional fees and you do have a right to object to said fees.

13. Q: *What if I need to send information to the Trustee's Office, like tax returns and correspondence.*

A: Any correspondence must be sent to the Trustee at: 131 N. Ludlow St., Suite 900, Dayton, OH 45402, and must have your case number on it. Do not send anything but payments to the lock box and include your case number on your payment. You will be given a sheet of labels at your Meeting of Creditors to stick on anything you send to us. This ensures the payment is properly credited to your account and that your correspondence makes it to your file. Tax returns should be submitted to your attorney for review and the attorney will submit the returns to the Trustee if required. Any payment of the tax refund should be sent to the lock box with "tax refund" and the case number noted on the check.

14. Q: *Where can I find more detailed information on my case and how it is handled?*

A: You were (or will be) issued a red booklet when you receive your Meeting of Creditor Notice. This is your source for chapter 13 information and further expands on these frequently asked questions. If you have lost your booklet, you can get a copy at this website: www.dayton13.com.

15. Q: *On what occasion is it necessary to contact my attorney?*

A: You should contact your attorney when: you change jobs; something interferes with your ability to make your plan payments (should be done **BEFORE** a payment is missed, if possible); you move; you receive or are offered a lump sum buyout or early retirement; and, if you receive a lump sum of any kind (inheritance, win the lottery, receive a large bonus for examples) and before you spend any of it; or if you receive any court pleading involving a relief from stay on retained property or motion to dismiss.

16. Q: *What about my future Chapter 13 plan payments?*

A: Local Rules require future plan payments to be made by payroll deduction at your place of employment. This is not a garnishment, but is an assignment of your wages by Court order to the Trustee to fund your plan.

17. Q: *But I don't want to pay by payroll deduction. Are there other methods to make plan payments?*

A: Only in limited and unusual circumstances will you be allowed to pay your plan payments other than by payroll deduction (the Bankruptcy Rules allow the Trustee to submit a payroll deduction order to Court even if you do not agree). Payments may be made by direct payments or by transfer funds service ("TFS"), but only upon request at the 341 Meeting of Creditors and consent of the Trustee.

18. Q: *What happens if my employer fails to make or makes the wrong plan payment?*

A: It is your obligation to make sure the plan payment is made. You must send in the payment to the lock box or make your payment by TFS until such time as the payroll deduction begins (or in the case of a shortage, then you must mail in the difference). You should also contact your attorney or someone in your employer's payroll department to ensure that the Court ordered deductions are correctly and timely made. To check whether the Trustee is receiving your payments, please see question 36 for vital information.

19. Q: *What is TFS?*

A: TFS is the process whereby you set up a payment schedule that is convenient to you. It is the electronic transfer of funds from your bank to the Trustee. If you are employed, the Trustee must consent to you paying by TFS.

20. Q: *How do I set up TFS?*

A: Go to: www.TFSbillpay.com. You can chose how often to make your plan payment: weekly, every other week, twice a month or monthly. There is a fee associated with this transfer.

21. Q: *Can I miss a payment?*

A: No. The Trustee's office cannot authorize you to miss a payment. You need to call your attorney and file a motion with Court if appropriate.

22. Q: *Can I make my payment at the Trustee's office?*

A: No, the Trustee is not authorized to accept payment at the office. All payments must be made through the Trustee's Chicago lock box.

23. Q: *What happens if I miss payments?*

A: You will receive a motion to dismiss your case by the Trustee. Therefore, it is imperative that any reason that will cause you to miss payments be discussed with your attorney. The attorney may be able to file something with the court asking for short term relief or possibly modify your plan if the situation is long-term.

24. Q: *I am still being contacted by creditors, what should I do?*

A: Creditors should no longer be contacting you once they are noticed of the chapter 13. The automatic stay prevents them from continuing collection activities. Immediately contact your attorney if a creditor continues to contact you concerning your account with them. The only exception is when your mortgage company sends you the statutory notices required to be sent to you concerning changes in payments and/or escrow.

25. Q: *Can I deal with my creditors directly?*

A: No, you should have no contact with your creditors at all, with the possible exception of your mortgage company if you are contemplating a loan modification.

26. Q: *I received a letter from my mortgage company concerning my monthly payment/escrow. What do I do?*

A: Send the payment/escrow changes to your attorney. This is to ensure that the proper claim is being paid through the Court. If you are paying directly, the change may affect your ability to make the plan payment.

27. Q: *My car just died, how do I buy a new one?*

A: You cannot dispose of property or obtain credit of any kind without obtaining Trustee and Court permission. There are limited exceptions, but you must call your attorney. Credit may be obtained, but only after your attorney has submitted a request to the Trustee with accompanying documentation. If you have an emergency, such as your furnace going out, contact your attorney first before entering into any type of financing agreement.

28. Q: *What if I obtained credit without permission?*

A: This is a violation of the Court's orders and is subject to reversal by the Court. Any credit purchase without Court approval may not be legal and the goods returned. You may be out any funds you paid. You could also have your case dismissed with certain penalties to re-filing.

29. Q: *What if I sell something without permission?*

A: As in obtaining credit, selling an asset of the estate is subject to having the sale set aside and the transaction undone. Talk to your attorney before disposing of or transferring any of your property.

30. Q: *What if I wreck my car or my house gets damaged and I get an insurance check? Can I spend the money?*

A: No. All insurance proceeds are property of your bankruptcy estate and should not be spent until you discuss the matter with your attorney so your options may be explored. Especially with motor vehicles, the liens will have to be paid on the vehicle and this should be done by the Trustee. In regards to insurance proceeds on real estate, you will need to get your attorney involved as the mortgage company may claim an interest in said funds and a motion may need to be filed with court. **DO NOT SPEND ANY OF THE MONEY BEFORE TALKING TO YOUR ATTORNEY.**

31. Q: *I have moved, do I send you my new address?*

A: Send it to your attorney so the appropriate changes can be made with the Court. We cannot change your address until it is changed at court.

32. Q: *How are my creditors paid?*

A: Creditors must file a Proof of Claim to get paid. Most creditors must file their claim before the end of 90 days from the date of your Meeting of Creditors. Government claims must be filed within 180 days of filing of your case. Before the end of your first year of the plan, you will receive a complete list of all creditors who have filed claims and the amount of the claim. You should examine this list, which is entitled “Notice of Allowance of Claims and Notice of Opportunity to Object”, very carefully. Look for two things: is this creditor someone you owe money to and is the amount substantially correct? If the answer to either question is no, you need to contact your attorney immediately so an objection can be made. Otherwise, the claim will be deemed allowed and paid per the plan. A creditor that does not file a claim will be listed as “Not Filed” or “Claim Not Filed”.

Once a claim is determined to be valid, it will be paid out of the payments you make and in a specific order depending on the nature of the claim: priority, secured and unsecured. Generally, administration costs are paid first; then secured claims; priority claims (taxes) and finally unsecured claims. Each class of claims must first be paid current before the next level is paid.

33. Q: *How long will I have to pay my plan payments?*

A: Anywhere from 36 to 60 months. However, if your plan states 36 months, you do not stop making payments until advised to do so by the Chapter 13 Trustee. This is because the claims and dividend to be paid control the length of the plan if you are under median income for your household size (if you are over median income, you must make 60 months of payments no matter what unless you pay 100% of your debts). Also, if additional monies are paid into the plan from tax refunds, personal injury or other awards, inheritance, bonuses, etc., this will cause the dividend to increase and could possibly lengthen your plan.

34. Q: *What if I do get a personal injury, worker’s compensation or social security award?*

A: Any monies received by you by reason of injury or disability or through an inheritance, employment bonus or buyout, lottery winnings, etc. are property of the bankruptcy estate and cannot be used or spent by you without Court permission. You should contact your attorney immediately to discuss your options and to ensure the proper paperwork is filed with the Court. Spending the money without permission could seriously jeopardize your plan and could result in dismissal of your case with severe penalties, such as a ban on re-filing another bankruptcy.

35. Q: *What about tax refunds?*

A: You should know after the Meeting of Creditors whether you must turn over a portion of your future tax refunds and for how long. If tax refunds are required to be paid to the plan, you will sign and receive a form at the 341 that will describe what is required.

36. Q: *How do I monitor my case to ensure my employer is sending in my payments and who is getting paid?*

A: You can set up an account with the National Data Center at www.ndc.org. This will allow you to view your account and monitor your progress. You only need your social security number; case number and email address. You will be asked to verify a creditor from your case, the Chapter 13 Trustee and your address. You will then be issued a User ID and password for future use. Any issues with the website you need to direct to them and not the Trustee's office. The phone number for NDC is (866) 938-3639.

37. Q: *Can you send me an unofficial payoff for my case?*

A: The Trustee's office no longer sends out unofficial payoffs. This must be obtained from your attorney.

38. Q: *I need to attend the Debtor Education Program, but I have not heard back from your office. Do I need to attend?*

A: We do not return phone calls to confirm the attendance of debtor education. As long as you left your name, case number and date of the class you wish to attend, you will automatically be signed up.

39. Q: *My case has completed and I have overpaid. How long before my payroll deduction is stopped and when will I get my refund?*

A: Normal refunds take about thirty days from the completion date. We need to ensure that the funds we have on hand are good funds. In regards to stopping the payroll deduction, we send a notice to your employer generally within two weeks of plan completion. It may take some time for your employer to shut down the deduction process from their end. Any monies received by us after plan completion from payroll order usually take about two weeks to issue a refund. Again, we must ensure we have good funds before we issue the refund.

40. Q: *Can anyone other than me receive information about my bankruptcy?*

A: We will only provide case information to the parties listed on the case. This means you, any co-debtor, your attorney or any listed creditor. If the person making the request is not on or in the case, no information is provided.

41. Q: *A modification of my plan has been filed to decrease my plan payment. When will my payment be decreased?*

A: Your plan payment will not be decreased until after the 21 day notice has run and the Order Confirming the Modification has been filed at Court. Your attorney will submit the Order Confirming to the Court.

FINAL NOTE: If you have a question on your plan or a problem with a creditor, your first phone call should be your attorney. The Office of the Chapter 13 Trustee cannot give legal advice. Consult your Red Book for other information.

Chapter 13 Trustee: Jeffrey M. Kellner

Address: 131 N. Ludlow Street, Suite 900, Dayton, OH 45402 (correspondence only)

Telephone: 937-222-7600

Fax: 937-222-7383

Website: www.dayton13.com

Lock Box Address: 1722 Solutions Center, Chicago, IL 60677-1007