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Mission Statement

The Mission of Debtor Orientation is to educate debtors about the Chapter 13 Bankruptcy process and the protections afforded to them under the Bankruptcy Code. The Chapter 13 Trustee in Canton, Ohio, Toby L. Rosen firmly believes that education is a key factor in successfully completing your plan. This belief has been the driving factor in the Trustee's development and initiation of this program.

Welcome

Please allow me to share with you that this trusteeship understands the trying and difficult circumstances that led to your filing of your Chapter 13 bankruptcy case. Unfortunately, bad things can sometimes happen to good people. My entire staff and I empathize with your situation and we pledge to work with you toward the successful completion of your plan. Tomorrow **can** be better for you if we work together.

Communication, understanding, and attentiveness are important factors in all relationships. The financial relationship that now exists between my staff and you is no exception. I cannot stress more forcefully that maintaining good lines of communication is the key to reaching the goal of successfully completing your plan.

This booklet is designed, written, and created to help you understand your responsibilities in the Chapter 13 bankruptcy process. Some of the information contained in this booklet is unique to this district of the Bankruptcy Court and to our Chapter 13 office. As you will discover, the Canton jurisdiction provides a number of opportunities for your financial benefit, growth, and awareness. Not only do we want you to realize the protections afforded to you during the term of your plan, but we also want to help you avoid the pitfalls that made you seek that protection in the first place. Make sure you keep this booklet in a convenient place as a handy reference when questions arise over the life of your plan. Please note, however, that this booklet is not meant to replace the advice of your attorney.

I want to commend you for the responsible choice you have made in dealing with your financial crisis. You have selected the chapter of the Bankruptcy Code that is about the business of "paying back" as well as providing you with a financial fresh start. Once your plan is confirmed, you will have reached a very positive turning point in your financial life, and by completing your plan, you may look forward to a bright financial future. Once again, my staff and I remain committed to helping you reach your goal of successfully completing your plan.

Yours very truly,

Toby L. Rosen

MY CHAPTER 13 CASE

NAME _____

CASE NUMBER _____

ATTORNEY _____

ATTORNEY'S PHONE NUMBER _____

**SEND PLAN PAYMENTS TO: Chapter 13 Trustee
P.O. Box 616
Memphis, TN 38101-0616**

CASE COMMUNICATIONS

1. Open and keep all mail about your case.
2. Contact your attorney if you receive any communications that you do not understand.
3. *Before* going to court, contact your attorney and find out if you should go.

TOBY L. ROSEN
CHAPTER 13 TRUSTEE
400 W. Tuscarawas Street, 4th Floor
Canton, OH 44702

Phone No: (330) 455-2222
Fax No: (330) 455-1240

TRUSTEE STAFF/EXTENSION LIST:

Pay Orders	Heidi Ext. 29
Accounting Payoff balances, questions regarding 6 months reports	Donna Ext. 27
Dismissals, Delinquencies, debtor inquiries, and Debtor Education	Vanessa Ext. 25
Office Manager, Creditor inquiries, and Bankruptcy Link information	Jody Ext. 22
Staff Attorney, Robert P. Harbert, Esq.	Extension 28

YOU CAN ACCESS YOUR CASE INFORMATION ON THE TRUSTEE'S

WEBSITE AT

www.chapter13canton.com

In order to access your case information you will need to fill out the form on the

Trustee's website (i.e. register for Bankruptcy Link) See Appendix A

Frequently Asked Questions

Who is my Trustee? How do I contact her?

- Your Chapter 13 Bankruptcy Trustee in Canton, Ohio, is Toby L. Rosen.
- Call our office at **(330)-455-2222** between 8:00am and 4:00pm, Monday-Friday.
- Please leave a message if the person you are trying to reach is unavailable.
 - Make sure to leave your name, phone number, case number and the best time to reach you.
- We gladly accept appointments should you wish to meet face-to-face to discuss your plan. To arrange this, please call the office to make an appointment first, using the number above. This way, we will be prepared for your visit to best assist you! We cannot guarantee that we will be able to assist you if you arrive at our office without an appointment.

How will I make my payments into the plan?

- Through a wage deduction
- This is a requirement of our Court.
- Until these deductions begin, ***you are responsible for making direct payments to the Trustee.***
- Occasionally, the Court may permit debtors to make payments directly into their plans. If this is the case, we require the following procedures:
 - Payments are allowed only ***as cashier's checks or money order.***
 - No personal checks OR cash are accepted!
 - Payments must show your *name* and *case number*.
 - Please mail payments to our bank lockbox.
 - We cannot accept any payments in our office!
 - Make cashier's check or money order *payable* to:
Toby L. Rosen
 - Please mail cashier's check or money order to:
P. O. Box 616
Memphis, TN 88101-0616
- The above address is for payments only! If you use it for any purpose other than submitting a payment, we will *not* receive your correspondence.
- If you are unable to make a payment to your plan, *notify your attorney immediately.*

What is a Wage Deduction?

A Wage Deduction is a way to make payments into your bankruptcy plan. Here is how to make it happen:

- The Bankruptcy Judge will sign a *Wage Deduction Order*, (see Appendix B) which your employer will then receive.
- The payments are deducted in equal amounts *from your regular pay* and sent to the Trustee's lockbox.
- **YOU must make these deductions *directly to the lockbox* yourself, until your employer begins making the deductions from your paycheck.**
- If the amount deducted is incorrect, you should contact our office. Failure to make the correct payments may result in the court dismissing your case.

How do I calculate the amount of money that will be deducted from each pay?

The deduction will be from your pay, according to the calculations on the table below. Remember that deductions *will be taken in equal payments from each paycheck!*

Use the table below to calculate the amount of money that will be deducted under the Wage Deduction Order.

HOW OFTEN ARE YOU PAID	NUMBER OF PAYS IN A YEAR
Weekly - Every week	52
Bi-weekly - Every other week	26
Semi-monthly - Twice a month	24
Monthly	12

Take the monthly payment you are to make and multiply by 12 and divide by the number of pays you receive a year.

Let's say you are paid biweekly and the payments into your plan are to be \$800. If you multiply \$800 times 12 and divide by 26, you will know that your deduction will be \$369.23.

Can I make *extra payments* or send extra money to the Trustee's Office?

- Yes! You can make extra payments as long as you speak with your attorney first.
- Whenever it is possible, we encourage that you send extra payments to the Trustee's lockbox.

When is my first payment due? When are *all* of my payments due?

- *Ten days* after you file your Chapter 13 Plan, your *first payment is due*.
 - After the first payment, monthly payments are due by the *20th of each month*.
 - Additionally, they must be mailed to the lockbox at least *ten days* before the *last business day of the month*.
 - This is the due date!!!
 - Your best course of action is to make your monthly payment on the same day that you are paid by your employer. This is easier.

What happens if I have a problem with my employer due to my filing a Chapter 13 Plan?

Occasionally, a problem with the employer will arise.

- If this is the case, please report any problems to your attorney!
- If your employer has any questions regarding a Wage Deduction Order, they can contact the Trustee's office, and ask for Heidi at **extension 29**.

What happens if I change jobs?

- First, notify your attorney, and send a written notification to the Trustee's office.
- We will prepare a Wage Deduction Order for your new employer.
 - Remember, just as before, if there is a delay in your payments, *you are responsible for making these payments yourself*.

Do I need to tell my attorney if I move?

Yes. You must.

- Your attorney will notify the Trustee and the Court. They need to know your current residential address *and* mailing address, if it changes.
- We will be in contact with you throughout your plan and we need know where to send communications.

I have a question about my case. Who do I ask?

Your attorney!

- The Trustee's office *cannot give legal advice*.
- Any legal questions you have must be directed to your attorney.
- In most cases, the attorney will represent you as long as your case is active.

What if my attorney is not responding to my questions or calls?

Make an appointment with your attorney - this is the best way to communicate with your attorney.

- However, if this becomes a problem, send a letter to the Trustee's office. Please *write and sign* a letter and address it to:

**400 W. Tuscarawas St.
4th Floor
Canton, OH 44702**

How long will my plan take to complete?

- The length of time varies according to the claim creditors file.
- They may file for larger or smaller amounts than expected, or interest rates may change, or a forgotten creditor may be added to a plan.
- No matter what, bankruptcy law says that the plan must be *sixty months or less*.
- If the plan will take longer than sixty months, the Trustee will file a *Modification of Plan* that will increase your monthly payment.

Will my creditors continue to call or harass me?

- The Court will send a written notice to all creditors listed in your *Bankruptcy* to notify them of your filing bankruptcy with your plan.
 - Bankruptcy law does not allow your creditors to contact or harass you after being notified of your filing bankruptcy
- If a creditor does contact you, do not discuss your case with them.
 - Give them your Chapter 13 case number and your attorney's name.
 - Also get the name and address of the person contacting you, and report this to your attorney immediately!
- If you want, *you* can start communication with them.
 - You can do this to obtain information such as interest paid on a particular debt, to help you file your tax return.
 - You can also contact *Mortgage Holders* at the beginning of your case. Contacting the Mortgage Holders *yearly* is very important! This way, you will make sure that when you complete your payment plan, all mortgages will be current. Don't forget to tell your attorney!

What if I forget to list a creditor?

- All creditors must be listed.
- There are two types creditors in a Chapter 13 bankruptcy
 - One is a "*pre-petition creditor*." This means you owed money to this creditor *before* you filed bankruptcy.
 - The other type is a "*post petition creditor*", which means you became indebted to them *after* you filed bankruptcy. If you do not list these creditors, they will not be included in your case and will not receive payments.
- Be careful! You could complete your Bankruptcy Case and then have unpaid creditors due to unlisted sources.
 - Obtain a *credit report*.
 - This will tell you if there are any debts you have forgotten in your Bankruptcy Petition. If you have unlisted debts, *notify your attorney immediately*.
- You are *not* allowed to incur debt after you file your plan.
 - However, sometimes there are unavoidable debts, like medical expenses and repair bills that come up throughout the plan.
 - In these cases, you need to pay these bills as they are incurred since they are not included in your payment plan
 - If this is a problem, contact your attorney immediately.
 - In *most* cases, the Trustee *will not* allow you to miss a Chapter 13 payment so that you can pay a post-petition debt.

How will my creditors be paid?

- You pay the Trustee, and the Trustee makes your payments to your creditors, your attorney, and applicable Trustee fees.
- There are three categories of creditors: *secured*, *priority*, and *unsecured*. Each of these is paid according to your plan.
 - These creditors are paid with the payments you sent to the Trustee.
 - Your attorney will be paid a maximum of **\$150.00** each month with the payments you send to the Trustee until the attorney fees are paid in full.
 - You should never pay fees directly to the attorney! Attorney fees must be approved by the court. Your attorney is not permitted to request additional fees in order to continue to represent you in this case without a Court order.
- You cannot favor one creditor over another, and *you cannot make payments to creditors outside your plan*.

Why do creditors have to file a Proof of Claim with the Court?

- Creditors cannot receive payments unless they file a proof of claim.
- The creditors will receive proof of claim form in the mail. They are allowed *ninety days from the 341 meeting (first meeting of the creditors)* to fill out this form and file their claim.
 - If the creditor is a governmental agency, (For example the IRS, state and local governments.) they have *180 days* to file a claim.
- Between six and eight months from when you file your case, the Trustee will send you a *Notice of Intention to Pay Claims* (see Appendix C)
 - This lists all of the creditors in your bankruptcy, and indicates whether a Proof of Claim has been filed.
 - Make sure you check the *Notice of Intention to Pay Claims* to make sure all of the information is accurate.
 - **Be sure to contact your attorney if any of the information is not correct!**
- If there is a creditor in your plan *that has not filed a claim*, contact your attorney so that the creditor can file the Proof of Claim necessary to be added to your plan.
 - Don't forget that this includes *all relatives and friends to whom you owe money!*

How will my house payment be handled?

- This depends on how late you were on your mortgage/house payments when you filed.
- If you were late by *more than two months* at the time that you filed your bankruptcy, your mortgage will be paid by the Trustee.
- If there was **no mortgage delinquency** when you filed your bankruptcy case, you will make any recently incurred mortgage payments *directly to your mortgage holder*.
 - *You are completely responsible* for making these payments on time. Contact your attorney with any problems.
 - If you do not pay on time, your home could be foreclosed!
- No matter how you make your mortgage payments, *you must always maintain adequate insurance on your home*.
- If you make your mortgage payments through the Trustee, remember that you will resume making mortgage payments yourself once your bankruptcy plan has ended.

Here's a tip: many insurance companies offer a lower rate if you buy both homeowners insurance and car insurance from the same company.

Is my car payment included in my plan?

- Ask your attorney
- In most cases, car payments will be included, but *you must maintain adequate insurance* on your vehicle.
 - If anything happens to your vehicle, you must contact your attorney- you will not be allowed to get the title of your vehicle until any claim owed to your automobile lender has been paid in full.
- The Trustee's office does not receive or hold titles to motor vehicles.
 - If you have trouble obtaining a title after it has been paid through your plan, *contact your attorney*.

What about my taxes while I am in bankruptcy?

- You must file all of your tax returns on time each year.
- If part of your plan involves a tax debt, and you are owed a tax refund, you may not receive a refund.
- Instead, the government may retain your refund and apply it to your tax debt. If this occurs, the Trustee will adjust the government's claim.
- Alert your attorney of any correspondence you receive from the government.
- Since you filed bankruptcy, the IRS' Special Procedures department will oversee your federal tax matters.

- Since you cannot borrow money while in bankruptcy, you cannot obtain a “rapid refund” or a tax anticipation loan, from a tax preparer.
- Any post-petition taxes that you owe *must be paid*.
- If you fail to pay your taxes when due, your case could be dismissed!

Here’s a tip: Talk to your attorney about the number exemptions you are allowed in terms of payroll withholding. If you do not usually owe government taxes, you could possibly claim the maximum number of exemptions in order to help meet your budget.

Will my co-signers be protected by my Chapter 13 plan?

- Yes.
- A co-signer, co-maker, or guarantor (co-debtor) on your debts will generally be protected by a *Co-debtor Stay*, which protects them from creditors.
 - If the co-debtor has provided the collateral for the loan, the creditor needs to ask the Court for relief from automatic stay, or court permission, to proceed against the property.
 - If your plan does not pay the co-signed debt completely, a creditor may obtain permission to collect the unpaid portion of your debt from the co-debtor.
 - The discharge on a debt does not necessarily affect a co-debtor’s obligations.
 - If you have any questions about the co-debtor’s role, *talk to your attorney*.

Can I use credit while in the plan?

- No.
- You cannot use credit or charge cards or enter into any sort of loan agreement.
 - This includes co-signing loans for anyone, this includes student loans
- If there is an emergency and you need to use credit, *contact your attorney*, and the Court will decide if you can use credit.
 - Be careful! If you use credit without permission, your case could be dismissed.

Can I sell property while in the plan?

- No
- All assets you own worth \$1000 or more at the time of filing must remain in your possession unless you receive a court order

Will I get payment statements from the Trustee?

- You and your attorney will receive a *Semi-Annual Report* from the Trustee, with information about your bankruptcy plan. (see Appendix D)
- This includes money you have paid, and money that has been paid to your creditors.
 - You will only receive this plan when it has been confirmed.

Here's a tip: *keep all of the statements you receive* during your plans. You will need them for at least ten years after your plan to re-establish credit.

Can I pay off my plan early?

- Yes if you are paying 100% to your creditors.
- If you are paying less than 100%, you need to get the court's permission to pay your plan off early.

What does it mean if my case is dismissed?

- If you choose to end the plan, you can do this at any time by notifying your attorney.
- The case could also be dismissed because the Trustee or a creditor files a motion to dismiss your case. There are many reasons but the most common one is that you failed to follow the terms of your plan. For example failing to make payments to the Trustee.
- Remember if there is an unexpected emergency, contact your attorney so they can modify your plan, if possible.
 - The Trustee's office cannot do this for you. Only the Court and your attorney can make a change to your plan.
- If your case is dismissed, creditors can resume collection procedures.
 - This means they can now contact you.
 - They can even add interest and penalties that were waived during the plan.

What happens when I complete my plan?

- The Trustee will verify that your plan has ended and then notify you or your employer to stop making payments.
- If the trustee receives more money that is needed to complete your case, she will refund the money as soon as possible.
- Once you have paid all the creditors, the Trustee will file an order of completion of plan payments. Then, once all checks paid to your creditors have cleared the bank, the Trustee will submit a *Final Report and Account* to the Court. (See Appendix E)
- After the clerk's office reviews your case, you may receive an *Order of Discharge* from the Bankruptcy Clerk. (See Appendix F)
- Add these to your collection of *important documents* that you must keep.

What happens to any of my debts that are not paid in full?

- Most often, they will be *legally forgiven (discharged)* upon completion of your plan.
- Creditors whose debts are discharged *cannot* resume collection activity.
 - If these creditors try to collect debts, *contact your attorney*.
- Some debts will not be discharged.
 - These include student loans, child and spousal support obligations, court fines, and tax debts incurred for the tax returns filed after your case was filed.
 - After you complete your plan, you are responsible for paying all of the above debts.
 - *Contact your attorney* with questions about this.

How long will my bankruptcy be on my credit report?

- It will be on your credit report for 7-10 years, assuming you have *successfully completed* your Chapter 13 bankruptcy plan.

Glossary of Terms

341 Meeting- Also called a Meeting of Creditors. This is a tape-recorded meeting between the debtor, the trustee, the debtor's attorney, and creditors. The debtor is questioned under oath about assets, liabilities, income, expenses, and the debtor's proposed repayment plan. Debtors are required by bankruptcy law to attend. You must bring a photo ID and proof of Social Security number (driver's license).

Adversary Proceeding- A separate lawsuit filed in the bankruptcy court concerning a dispute that involves the bankruptcy case. A debtor who is served with an adversary complaint should immediately contact his or her attorney.

Amendment- The filing of a new document in place of an old document – the new document replaces the old.

Appeal- A request to a higher court to review a decision of the bankruptcy court; A notice of appeal must be filed shortly after entry of a final order or judgment.

Assets- Property such as land, houses, vehicles, furniture, clothes, bank accounts, retirement accounts, tax refunds, claims against others, etc.

Automatic Stay- An automatic court order requiring creditors to stop all collection activity against a debtor on pre-bankruptcy debts. It goes into effect upon filing a bankruptcy case.

Bankruptcy Estate- All assets belonging to the debtor at the time the bankruptcy petition is filed, plus income the debtor earns after filing the petition. It could also include a spouse's income and property, as well as inheritances, divorce settlements and life insurance due within 180 days of filing.

Bar Date- Deadline for a creditor to file a claim for payment from the bankruptcy estate. The bar date is 90 days after the first date set for the meeting of creditors. Governmental agencies such as the IRS have 180 days from the petition date to file a claim. The debtor has 30 days *after* the bar date to file a claim for a creditor that has not filed a claim.

Chapter 7- A type of bankruptcy where a debtor can request a discharge of debts after the surrender or sale of the debtors' non-exempt assets. A trustee collects and sells all of the debtors' non-exempt assets, and to distribute the net sales proceeds to creditors. A Chapter 7 discharge is more limited than a Chapter 13 discharge.

Chapter 11- This chapter allows the debtor to reorganize and restructure their debts. It is more complex than a Chapter 13 Bankruptcy. Individuals do not usually file this type of bankruptcy.

Chapter 12- This chapter can be used by family farmers and fishermen to reorganize and restructure their debts.

Chapter 13- Chapter 13 allows an individual debtor (and spouse) to propose a plan to pay creditors. Unless it proposes to pay 100%, a plan lasts at least 36 months and in some cases must last 60 months. It can never be longer than five years. An individual is not eligible to file a Chapter 13 case if they have debts exceeding a certain total amount.

Co-Debtor- An individual who takes on a debt with another debtor, or guarantees repayment of a debtor's debt

Co-Debtor Stay- This is an automatic stay that protects a person who did not file bankruptcy but who is a co-debtor along with the debtor. Joint credit cardholders and co-signers of a debt are protected by the co-debtor stay.

Collateral- Property pledged as security for the payment of a debt.

Confirmation- The act of the bankruptcy court approving a Chapter 13 payment plan.

Co-Signed Debt- Debt for which more than one person is legally responsible.

Conversion- Changing a bankruptcy case from one chapter to another.

Court- the United States Bankruptcy Court that will decide your case. Sometimes the bankruptcy judge is called "the Court."

Cram Down- Also known as "*lien stripping*." A cram down involves a creditor's claim that is split into secured and an unsecured portion. The secured portion is equal to the value of the collateral, and the unsecured portion is the balance of the claim that exceeds the value of the collateral. The creditor ends up with two separate claims that may be treated differently under the plan.

Credit Grantor- One who gives a loan or line of credit; also referred to as the creditor.

Cure Defaults- Bring bills that were past due current and up to date during the term of the plan. For example, catching up past due mortgage payments.

Debt- Money that is owed to another

Debtor- A person or entity who owes a debt; also a person or entity who files a bankruptcy case

Default- Not doing all that is required within a given time, such as not making a plan or house payment.

Delinquent- Overdue, not paid on the agreed due date.

Deposition- The recorded testimony of a witness taken under oath at some place *other* than the courtroom

Discharge- Discharge of debts is one of a debtor's goals in a bankruptcy filing. If the bankruptcy court grants this, creditors cannot collect debts afterwards.

Note: This does **not** happen with a non-dischargeable debt. The court decides if a debt is non-dischargeable.

Discovery- The process by which one party gives needed information or documents to another party before a trial or hearing. This could include interrogatories, requests for documents, requests for admissions, and depositions.

Dismissal- An order terminating the bankruptcy case *before* successful completion and discharge; this order allows creditors to restart collection activities regarding debts that were involved in the bankruptcy. A case may be dismissed *voluntarily* by a debtor, or *involuntarily* by the Court, Trustee, or creditor, for various reasons. These reasons include not making payments on time, not attending the 341 meeting, or not filing complete information with the Court.

Disposable Income- Money the debtor has available that is not used for living expenses or on legal dependents.

Escrow- A sum held in trust or as security by a third party

Estate- All that a person owns, including real estate, inheritable and movable property

Exemptions- Certain property belonging to a debtor that is *not* counted as part of the bankruptcy estate:

*The debtor can keep certain property in order to have a "fresh start" after completion of a bankruptcy. An exemption usually does not affect a lien on property of a debtor. Even though a debtor's asset may be exempt, the debtor still must pay any debt secured by such lien in order to keep the asset, unless the Court says otherwise.

Fair Market Value- The price at which an unrelated seller is ready and willing to sell, and an unrelated buyer is ready and willing to buy, an asset on the open market. The two parties have roughly equal bargaining power in determining this price.

Feasibility- Likelihood that all payments under a debtor's Chapter 13 plan will be paid. It is a requirement for court approval of a bankruptcy plan.

Foreclosure- Process that takes away the debtor's ownership rights in property subject to a lien or mortgage. This property is sold and the money from the sale is used to pay a debt secured by the lien or mortgage.

Fraud- A false statement of an important fact intentionally made by a debtor to a party who is harmed as a result

Guarantor- Person who promises to repay a debt made by another

Insolvency- The inability of the debtor to pay current bills as they become due, or if the debtor's total liabilities are greater than the value of his or her assets

Interrogatories- Written questions that *must* be answered, *on time*, in writing under oath. The answers can be used as evidence later in court.

**Note:* The court may levy a fine against a person who refuses to answer on time.

Involuntary Chapter 7- A liquidation bankruptcy case filed by creditors against a debtor

Joint Bankruptcy- A single bankruptcy case filed by a married couple

Jurisdiction- Region in which a court is located; also refers to power of the Court to issue legally binding orders regarding certain matters

Liability- A debt or obligation

Lien- A creditor's right to property of a debtor i.e. mortgage or security interest

Liquidation- Selling assets for funds to pay creditors.

Liquidation value- The value of an asset if it were sold for funds to pay creditors

Luxuries- Property that provides pleasure or comfort but is not reasonably necessary to living

Matrix- List of names and addresses of each creditor arranged in a particular order on a page

Meeting of Creditors- See 341 Meeting

Modification of Plan- Changes to a plan filed in a Chapter 13 Bankruptcy case that has already been confirmed by the Court. The court must approve any changes.

Motion- A formal request to a Court to request or allow an action

Necessities- Items of property or services that are required for living a normal life without being excessive.

**For example, food, clothing, shelter, etc.*

Non-exempt assets – assets which are not entitled to an exemption (see Exemption defined above.)

Non-dischargeable debt- Certain debts that are not covered by the debtor's discharge, including some tax debts, spousal and child support, student loans, criminal fines and restitution, and debts related to drunken driving violations. If a debt is non-dischargeable, creditors can continue collection activities after the case.

Objection to Claim- A pleading that challenges whether a debt is owed, or the amount claimed to be owed. It may be filed by the debtor, debtor's attorney or trustee.

Offset- Allowing a debt to be reduced by crediting funds from another source against the debt.

**For example:* When the I.R.S. keeps all or part of a debtor's tax refund to pay certain taxes owed by the debtor to the government.

Order- A formal ruling, issued by a judge that allows or requires specific action

Periodic- Occurring at regular times, usually monthly, quarterly, semi-annually or annually

Perjury- Lying under oath. Perjury can be a false oath orally or in writing.

Petition- The document filed with the bankruptcy court used to begin a bankruptcy case. The petition may also be known as an *Order for Relief*. The filing of the petition starts the automatic stay. Other documents are often attached to the petition, or must be filed with the bankruptcy court within a certain time after filing of the petition.

Petition Date- The date the bankruptcy petition is filed with the bankruptcy court clerk.

Pleading – a written document

Post-Petition- Any event occurring after the petition date.

Post-Petition Debts- Any debt incurred after the filing of the petition in the bankruptcy court. They may not be dischargeable or protected by the automatic stay.

Pre-Petition Debts- Any debt which exists at the time of filing your bankruptcy petition

Preference- A pre-petition payment to a creditor that allows a creditor to receive more of their debt than what other creditors will receive in the bankruptcy. The trustee may require the creditor to give back certain payments so that the money can be divided equally among similar creditors.

Presiding Officer- The trustee or a representative of the trustee who conducts the 341 meeting

Priority Debts- Unsecured debts that must be paid in full under a Chapter 13 Bankruptcy plan. These include certain taxes, alimony, and child support.

Pro Se- A debtor filing bankruptcy without an attorney

Property- assets

Pro Rata Basis- Divided proportionally.

Proof of Claim- A form used by creditors to prove they are owed money and should receive payments from the bankruptcy estate.

Relief from Stay- The court could enter this to allow a creditor to enforce its claims, pursue collection against a debtor, or conduct any other activity that would otherwise violate the automatic stay. When the court grants an *order for relief* ("*lifting*" the stay) the automatic stay protection is canceled.

Restitution- A debt resulting from when a criminal court orders a person to repay money or property to a crime victim. This results from a criminal conviction or plea bargain.

Sanction- A penalty against a party or their attorney for violating a bankruptcy court order or purposely delaying the bankruptcy process

Schedules- Written information that a debtor files with the bankruptcy court along with filing a bankruptcy petition; these forms provide financial information about the debtor, and are completed under oath that the information contained is accurate. These include a list of assets and liabilities, a schedule of income and expenses, and a list of financial affairs.

Secured Creditor- A creditor who has a lien on property that secures their right to repayment

Sole Proprietorship- A business owned by a sole individual

Solvency- The ability to pay all debts and claims as they come due, or where a debtor's total assets exceed the value of the debtor's total liabilities. When a debtor's Chapter 13 case is solvent, the debtor must pay all unsecured creditors a 100% dividend with interest.

Special Class- A claim or group of claims which are allowed to be treated differently than other claims

Stay- See Automatic Stay

Substantial Abuse- The court may dismiss a Chapter 7 Bankruptcy case if the debts are *mostly consumer* debts and if the court believes that the Chapter 7 petition represents an *improper use* of the Bankruptcy Code. (See Section 707(b) of the Bankruptcy Code) One factor considered is the debtor's financial ability to repay a large portion of their debts in a Chapter 13 case.

Subpoena- A document, usually issued by a court, requiring specific action, such as an appearance at a particular time and date; Failure to obey a subpoena may result in a fine or other punishment for contempt of court.

Summons- A written notice issued by a court, or an officer of a court, (a legal document) advising a party that a lawsuit or adversary proceeding has been commenced against them, and of any time limit on a response to such lawsuit or proceeding.

Trustee (Chapter 7)- A person who collects the non-exempt assets of a debtor and sells them to pay creditors.

Trustee (Chapter 13)- A person appointed to collect payments from the debtor or debtor's employer and to pay them to creditors according to a court approved bankruptcy plan.

U.S. Trustee- A governmental entity that monitors the administration of bankruptcy cases in certain states and oversees the Trustee appointed in Bankruptcy cases.

Unsecured Creditor- A creditor whose debt is not secured by property or collateral; most often, this includes credit card debts.