**Frequently Asked Questions (FAQ)**

## A business or individual has filed for bankruptcy and owes us money. What do we do?

A party who has been listed as a creditor in a bankruptcy case is strongly advised to carefully read all information provided on court notices. If and when assets are found, the creditor will receive a notice to file a proof of claim. A proof of claim is not needed in cases that do not have assets. A proof of claim form and information as to how to file a claim may be obtained by accessing the ‘Claims Information’ link located on the Court’s website. For claim payout information, creditors may contact the assigned trustee. The trustee's contact information is located in the Notice of Chapter [7 or 13] Bankruptcy Case, Meeting of Creditors & Deadline. Additionally, the debtor's attorney, whose name and telephone number is listed on the Notice of Chapter [7, 11 or 13] Bankruptcy Case, Meeting of Creditors & Deadlines, may also be contacted. The court strongly recommends creditors to consult with a qualified bankruptcy attorney, as the court cannot provide legal advice.

## Can I view records through the Internet?

Yes. Access to electronic court records using the Internet or direct dial-up modem is available by registering with PACER. To obtain a password, contact the PACER Service Center at 1-800-676-6856 or access the PACER website.

## Do I need an attorney to represent me in my bankruptcy case?

A debtor filing an individual bankruptcy case has a right to represent himself or herself (pro se debtor); however, the use of an attorney is strongly recommended. Bankruptcy can be a daunting process, and can have serious long term consequences on the debtor and his or her possessions that a lawyer will be able to explain. Ignorance of the law may cost an individual far more than an attorney's fee. By law, a corporation is required to have an attorney. The clerk’s office does not provide legal advice, therefore, individuals who choose to represent themselves will not be provided legal advice by court personnel.

## How do I find out if someone has filed Bankruptcy?

The Public Access to Court Electronic Records (PACER) has a national index search tool called the U.S. Party/Case Index. With a valid PACER account, a search of the entire country for a specific debtor may be conducted. The search results will provide the party name, case number, the jurisdiction in which the case was filed, and a link the case docket.

## How do I find out who the trustee is in a case?

The court prints the name of the trustee in chapters 7, 12, and 13 bankruptcy cases on the Notice of Bankruptcy, Meeting of Creditors and Deadlines. You may obtain the trustee's name through the Public Access to Court Electronic Records (PACER). The name of the trustee may also be accessed on the public terminals in the Court’s lobby from 8:00 a.m. until 4:00 p.m. Monday through Friday.

## How do I get a bankruptcy filing removed from my credit report?

The Bankruptcy Court has no jurisdiction over credit reporting agencies. The Fair Credit Reporting Act is the law that controls credit-reporting agencies. The law states that credit reporting agencies may not report a bankruptcy case on a person's credit report beyond ten years of the bankruptcy case filing date. The Federal Trade Commission, Bureau of Consumer Protection can provide information on how to reestablish credit and address credit problems. Contacting credit bureaus, such as Equifax, Experian, and Transunion directly may also provide the necessary information to reestablish credit. Federal Trade Commission contact information is: Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580; telephone (202) 326-2222.

## How do I get admitted to practice before the Bankruptcy Court?

Every member in good standing of the Bar of the United States District Court for the District of Delaware is entitled to practice before the Bankruptcy Court. Any member in good standing of the Bar of any court of the United States, or of the highest court of any state may, upon written or oral motion, be permitted to appear and participate in a case or proceeding at the discretion of the court. Refer to the Local Bankruptcy Rules for Bankruptcy Court requirements. For admission requirements and forms for admission to the District Court Bar, contact the United States District Court.

## How do I get photo copies of documents or certified copies?

Photo copies and certified copies may be obtained in the Clerk’s Office. A copy request specifying the document(s) requested and the number of copies requested must be submitted to the clerk’s office with the exact amount due. Please see the Court Info section of the court’s website for a list of fees.

## How do I get transcripts of court hearings?

Official transcripts of court hearings are produced by certified court reporters. Ordering instructions for transcripts and audio recordings may be obtained by visiting the ‘Transcript Information’ section of the court’s website.

## How do I obtain a hearing date?

Filers may independently select hearing dates for cases assigned to some judges, and for other judges, the hearing date must be provided by the court. To obtain hearing date guidelines, reference the Judges' Info section of the court’s website.

## How do I obtain case information?

Bankruptcy cases are public records, and are available for viewing at the office in which the case was filed. Basic case information is available through Public Access to Court Electronic Records (PACER). Closed cases filed before December 30, 2002, may also be viewed at the National Archives Records Administration in Philadelphia. For more information on archived cases, see the section of the court’s website titled ‘Retrieving Copies of Closed Case Files’.

## How long does a bankruptcy filing remain on my credit report?

A bankruptcy case filing may remain on a debtor’s credit report for a maximum of ten years under the provisions of the Fair Credit Reporting Act.

## I am a creditor in a chapter 11 case. When will I receive payment?

If the court confirms the chapter 11 plan of reorganization or liquidation, the debtor in possession or trustee (if appointed) will generally distribute funds in accordance with the plan.

## I am a creditor in a chapter 13 case. When will I receive payment?

If the court confirms a repayment plan, the chapter 13 trustee will distribute any such payments in accordance with the plan as soon as practicable.

## I am a creditor in a chapter 7 case. When will I receive payment?

Generally, trustees distribute funds to creditors six to eight weeks after the Notice of the Final Report and Account, however, the distribution of funds may take longer.

## I am a creditor. What should I do if my address changes from the address on my Proof of Claim?

A Notice of Change of Address must be submitted to the court to change the address on a Proof of Claim.

## Is bankruptcy information public information? Can anyone look at it?

With the exception of documents filed under seal, all documents filed in bankruptcy cases are public record. Documents may be accessed using public terminals in the Clerk's Office during regular business hours, or for individuals who have PACER access, case information is viewable on the Internet 24-hours a day.

## Is there a deadline for filing a Proof of Claim?

If the trustee files a Trustee's Notice of Assets & Request for Notice to Creditors in a chapter 7 no asset case, creditors will be sent a notice of the deadline (bar date) by which a claim is due. In a Chapter 7 "asset" case, the deadline (bar date) for creditors who have claims against the debtor is stated in the Notice of Chapter 7 Bankruptcy, Meeting of Creditors and Deadlines.

In Chapter 9 and 11 cases, creditors will receive a specific notice of the deadline (bar date) by which a claim is due.

In a Chapter 13 case, the deadline (bar date) for creditors who have claims against the debtor is detailed in the Notice of Chapter 13 Bankruptcy, Meeting of Creditors and Deadlines.

In a Chapter 12 case, the deadline (bar date) for creditors who have claims against the debtor is noted on the Notice of Meeting of Creditors.

## There are unclaimed funds being held for me. How do I claim the money?

Individuals who have money held by the court may search the court's unclaimed funds database and refer to the Local Rules on the court’s website for recovery guidelines. The unclaimed funds database consists of bankruptcy-related funds that have been (1) marked for distribution, where the case trustee has been unable to locate the creditor or other party entitled to the funds; or (2) distributed by the trustee, but not negotiated by the ECF and Case Info section of the court’s website.

## To whom should I make my cashier’s check or money order payable?

Remittances for fees should be made payable to, “Clerk, U.S. Bankruptcy Court.”

## What debts are dischargeable?

Generally, all debts listed on the petition are dischargeable. However, certain types of debt listed in 11 U.S.C. §523 are not dischargeable. The non-dischargeable debts listed in §523 include, but are not limited to:

Certain taxes and fines;

Debts arising from certain fraudulent conduct;

Debts not listed in your bankruptcy petition;

Alimony, child maintenance or support, and certain other related debts arising out of a divorce decree or separation agreement;

Debts caused by the Debtor's willful and malicious injury to another;

Government guaranteed student loans;

Debts caused by a death or personal injury related to your operation of a motor vehicle while intoxicated; and

Post-bankruptcy condominium or cooperative owner's association fees.

## What is a 341(a) Meeting of Creditors?

The Meeting of Creditors, also known as the 341 Meeting, is usually conducted 20 to 40 days after case filing. Debtors must attend. If the case involves spouses filing jointly, both spouses must appear. In chapter 7, 12, and 13 cases, the trustee assigned to the case conducts the meeting. In chapter 11 cases, a representative of the United States Trustee's Office conducts the meeting.

The 341 Meeting permits the trustee or the representative of the U.S. Trustee to review the debtor's petition and schedules with the debtor. The debtor is required to answer questions under penalty of perjury (swearing or affirming to tell the truth) about the debtor's conduct, property, liabilities, financial condition, and any other matter that may affect the administration of the case, or the debtor's right to discharge. In addition, the trustee or U.S. Trustee's representative will ask questions to ensure that the debtor understands the bankruptcy process.

The 341 Meeting is referred to as a meeting of creditors because creditors are notified that they may attend, and ask the debtor questions pertaining to assets or any other matter pertinent to the administration of the case. It is sometimes referred to as a 341 Meeting because it is mandated by Section 341 of the Bankruptcy Code. Creditors are not required to attend these meetings, and do not waive any rights if they do not attend. The meeting usually lasts ten to fifteen minutes, and may be continued if the trustee or U.S. Trustee's representative is not satisfied with the information presented.

If the debtor fails to appear and provide the information requested, the trustee or U.S. Trustee's representative may request that the case be dismissed, or may seek other relief against the debtor for failure to cooperate.

## What is a Creditor Matrix?

The creditor matrix is a list of the creditors in the case. It must be filed in the proper format so that creditors’ addresses can be read and notices generated by the Court's automated noticing system. Please see the Local Rules; on the court’s website for creditor matrix formatting instructions.

## What is a Pro Se Debtor?

A pro se debtor is one who files bankruptcy without an attorney. A pro se debtor is responsible for all proceedings in his or her case. Failure to comply with the Bankruptcy Code and Rules or with court orders may result in dismissal of the case. It is recommended that debtors seek legal advice from a licensed attorney before filing bankruptcy.

## What is a Proof of Claim?

A proof of claim is a written statement that notifies the bankruptcy court, the debtor, the trustee and other interested parties that a creditor wishes to assert its rights to receive a distribution from a bankruptcy case that has assets. The proof of claim should include a copy of the documentation giving rise to the claim, as well as evidence of secured status if the claim is secured. A proof of claim form may be obtained by visiting the Forms section of the court’s website.

## What is Credit Counseling and Personal Financial Management?

Credit Counseling

Credit counseling is a course that is taken by chapter 7 and chapter 13 debtors before the bankruptcy case is filed. The course must be provided by an agency that is approved by the U.S. Trustee’s Office. The purpose of the course is to determine if there is an alternate way to handle debt outside of bankruptcy. Upon course completion, debtors will receive a certificate that should be presented with the bankruptcy petition.

Personal Financial Management

A personal financial management course is a course required for chapter 7 and 13 individual debtors that is taken after bankruptcy filing. The course must be taken through an agency authorized by the United States Trustee. An individual in a chapter 11 case may be required to complete the personal financial management course if applicable by law. After course completion, the course provider may file the Personal Financial Management Course Certificate on behalf of the debtor. If the course provider does not file the certificate for the debtor, the debtor must file Official Form B423 Debtor’s Certification of Completion of Post-petition Instructional Course Concerning Personal Financial Management. Failure to timely file proof of course completion may result in the case being closed without the issuance of a discharge.

Please visit the Office of the U.S. Trustee section of the court’s website and access the U.S. Trustee Program link for the most recent information on approved credit counseling agencies and personal financial management instructional course providers. For additional information regarding credit counseling and personal financial management requirements, reference Code and Rules located on the Rules and Procedures section of the court’s website.

## What is the difference between chapters?

Chapter 7: Often called the liquidation chapter, a chapter 7 case filing is used by individuals, partnerships, or corporations who have no hope for repairing their financial situation. In chapter 7 asset cases, the debtor's estate is liquidated under the rules of the bankruptcy code. Liquidation is the process through which the debtor's non-exempt property is sold for cash by a trustee and the proceeds are distributed to creditors.

Chapter 11: Often called the reorganization chapter, a chapter 11 case filing allows corporations, partnerships, and some individuals to reorganize without having to liquidate all assets. When filing a chapter 11, the debtor presents a plan to creditors, which if accepted by the creditors and approved by the court, will allow the debtor to reorganize personal, financial or business affairs, and again become a financially productive individual or business.

Chapter 13: An individual with a regular income who is overcome by debts, but believes such debt can be repaid within a reasonable period of time, may file under chapter 13 of the bankruptcy code. Chapter 13 permits the debtor to file a plan in which the debtor agrees to pay a certain percentage of future income to the bankruptcy court trustee for payment to creditors. If the court approves the plan, the debtor will be under the court's protection while repaying such debts.

## What is the function of the U. S. Trustee?

The Office of the U. S. Trustee is an agency of the Department of Justice, with responsibilities that include monitoring the administration of bankruptcy cases and detecting bankruptcy fraud. It is also responsible for appointing and supervising interim trustees to administer chapter 7 cases, overseeing the Debtor-in-Possession in chapter 11 cases, and appointing a standing trustee in chapter 13 cases.

## What is the role of a Trustee assigned in a chapter 7 or 13 case?

Under Chapter 7, an impartial trustee is appointed to administer the case by collecting and liquidating the debtor's non-exempt assets in a manner that maximizes return to the debtor's unsecured creditors.

Under Chapter 13, an impartial trustee is also appointed to administer the case. The primary role of the chapter 13 trustee is to determine the feasibility of a debtor's repayment plan for the court and to serve as a disbursing agent, collecting payments from debtors and making distributions to creditors.

## What services can a bankruptcy petition preparer provide?

Services of petition preparers are limited to the typing of forms. Petition Preparers are not authorized to practice law, therefore, they cannot provide debtors with legal advice. Petition preparers are also not authorized to file documents on behalf of debtors, or collect fees greater than what is allowable by law. For additional information regarding authorized petition preparer services and fees, visit the Filing without an Attorney section of the court’s website.

## What will happen to my case if I filed bankruptcy in the past and failed to pay the entire filing fee?

It is the judge’s discretion on how to handle situations in which the entire filing fee was not paid in a previously dismissed case, and another case is filed by the debtor within 180 days of the entry of the dismissal order. The judge may decide to: (1) dismiss the case being filed, (2) refuse to allow the debtor to pay the filing fee in installments for the new case, (3) make the debtor pay the filing fee from the previous case(s), or (4) take any other action that is appropriate.

## When do I receive a discharge of my debts?

The Notice of the Section §341 Meeting of Creditors includes a date by which all complaints objecting to the debtor’s discharge or dischargeability of debts must be filed. If the debtor has complied with all filing requirements, paid the full filing fee, completed an instructional course concerning personal financial management, and filed the proper certification of course completion, his or her discharge should be entered in due course after the expiration of the objection to discharge deadline.

## Where can I obtain the necessary forms for filing bankruptcy?

Forms are available at office supply stores, legal stationery stores, or on-line. Court staff can provide forms to filers for a fee of $8.00 (or .10 cents per page). To access on-line forms, visit the Forms section of the court’s website.

## Who do I notify about a possible fraudulent filing?

To expedite the handling of complaints of criminal violations in the bankruptcy system, the United States Trustee requires the submission of complaints in the form of a signed letter, bearing the return address and telephone number of the person filing the complaint.

The complaint will be reviewed promptly upon receipt. If the information furnished establishes a reasonable belief that a criminal violation has occurred, the matter will be referred to the United States Attorney. If the United States Attorney deems the matter to hold prosecutorial merit, it will be referred to the appropriate law enforcement agency for investigation. A clearly written statement containing copies of any available documentation will expedite the process. For additional guidelines on suspected bankruptcy fraud reporting, see the U.S. Trustee section of the court’s website.

The following information should be submitted with the complaint:

1. The name and address of the person or business against whom the complaint is filed.

2. The name on the bankruptcy case, the case number, and the filing location.

3. Any identifying information regarding the individual or the business.

4. A brief description of the alleged fraud, including how the party filing the complaint became aware of the fraud, and when the fraud occurred. Include all supporting documentation.

5. A description of the type of asset that was concealed and its estimated dollar value, or the amount of any unreported income, undervalued asset, or other omitted asset or claim.

6. The name, address, telephone number, and email address of the person filing the complaint. The party submitting the complaint is not required to identify himself/herself, though it is often helpful to do so if questions should arise.

Letters may be submitted via e-mail to USTP.Bankruptcy.Fraud@usdoj.gov. Letters may also be submitted via U.S. Mail to one of the following addresses:

Executive Office for U.S. Trustees

Office of Criminal Enforcement

441 G Street, NW

Suite 6150

Washington, DC 20530

Tel: (510) 637-3200

Fax: (510) 637-3220

Office of the United States Trustee

844 King Street, Suite 2207

Wilmington, DE 19801

Tel: (302) 573-6491

Fax: (302) 573-6497

Executive Office for U.S. Trustees

Criminal Enforcement Unit

20 Massachusetts Avenue, NW

Suite 8000

Washington, DC 20530

## Why can't I view documents in PACER in older cases?

On September 14, 2010 the Judicial Conference amended the policy on privacy and public access to electronic case files by restricting public access on the Public Access to Court Electronic Records (PACER) Service to documents filed before December 1, 2003, and closed for more than one year.

## Why do I need exact change?

The policies of the Administrative Office of the U.S. Courts do not allow the Clerk's Office to provide change. Bankruptcy filers may submit payments in the form of cash, money order, or cashier’s check for the exact amount due. Cash should not be sent to the court via U.S. Mail.

## Will my U.S. District Court ECF account enable me to file documents in the U.S. Bankruptcy Court ECF system?

No; they are two different ECF systems. Users must have a separate ECF account with the U.S. Bankruptcy Court to file on bankruptcy cases. To register for a U.S. Bankruptcy Court account, please see the ECF and Case Info section of the court’s website.