

YOUR TO-DO LIST

Fill in the blanks on the “Client Information Worksheet” form. Complete as much of that as possible. If there is some part of that form that doesn’t apply to you, or that you don’t understand, just skip it. This is not an official court document; it’s just something that I use to gather information. If possible, get the completed form back to us by mail, fax or email before your first (or next) appointment. Of course, you can simply bring it with you on your next visit with us, but getting it in ahead of time will save time for both of us.

Gather up any documents that have anything to do with income, living expenses and your credit accounts and other debts. Remember; we have to know about every debt and every significant asset. Use the “Document Checklist” as a guide, but don’t stop there. If there is anything else that might help me understand your situation better, bring it in. If there is any doubt as to whether we need this statement or that letter, bring it in.

Think about how much you spend (or how much you should be spending) on certain budget items. If you have time before coming in to see me, fill in the blanks in the budget section of the “Client Information Worksheet” form. The most important calculation that we make is based on a comparison between your income and your living expenses. It’s usually easy enough to estimate your income, but many people badly underestimate how much they spend on everything from groceries to medicine. Pay attention to every little thing that you pay for, whether it’s a co-payment on prescription medicine or a soft drink that you buy while you’re filling up the gas tank. It all counts, and little things like that can make all the difference.

Get the required credit counseling from an approved agency. If you are reasonably certain that you will be filing some sort of bankruptcy within the next 6 months, there’s no sense waiting (There is more information on credit counseling later in this list).

File all required tax returns, both state and federal. Some tax debts may be dischargeable in bankruptcy, depending on when they were filed and what they are for. Also, the bankruptcy judge can dismiss your case if you aren’t current with your tax filings!

Tell me about every debt, no matter how old, even if you plan to pay it, even if you don’t agree that you owe the money, and even if someone else is making the payments. The question is not whether you believe that you owe money to someone; the question is whether someone may claim that you owe them money, or that you did some sort of harm to them or to their property.

Get a credit report if you’re unsure about your debts. You can get one online for free (one per year from each of the three major credit reporting agencies) at www.annualcreditreport.com.

Tell me about everything that you own, even if there is no debt involved, and even if somebody else’s name is attached to that property and/or to a loan that is secured by that

property. By far, the problems that arise the most often are caused by failure to tell your attorney about something in advance. I can usually deal with potential problems if I know about them ahead of time, but it is much more difficult, and sometimes impossible, to deal with something that I learn about too late in the game. Surprises which come to light too late in the process can lead to situations that are impossible to resolve. For instance, if you have a big tax refund coming, we can usually time the filing of your case to make sure you get to keep that money and use it for expenses such as utility bills, past due mortgage or rent payments, or attorney fees, instead of giving all or part of it to the bankruptcy trustee.

Another common problem involves lawsuits or personal injury settlements. If you file bankruptcy without disclosing the potential settlement or judgment, you can actually lose your right to pursue that claim. I can only advise you about how that might be affected if I know about it in advance.

Call me or send an email if you have any questions, or if something unusual happens. This process is confusing, and the most recent changes to the bankruptcy code have only added to the confusion. There are ways that we do things in “bankruptcy world” that are completely different than how those same things are done in the “real world.” We don’t expect you to understand everything. That’s what we are here for.

YOUR “DON’T-DO” LIST

Don’t: use a Quit-Claim Deed (a.k.a. “Quick Deed”) for any reason, without specific advice from an attorney.

Don’t: fall for a “foreclosure reinstatement” or “foreclosure loss mitigation” scam. There are a lot of scam artists who try to take advantage of people in desperate situations. Be very careful about who you deal with.

Don’t: buy, sell or give away any of your property.

Don’t: withhold any information from your attorney. In the rare cases when something goes wrong, it is usually the result of incomplete information.

Don’t: leave out any creditor or debt. You are required to list all creditors. You can’t choose who is and isn’t going to be included. If there are people that deserve special treatment, such as family members who loaned you money, please tell me. There is usually a way to deal with it, as long as I know about it in advance.

Don’t: listen to rumors. One of the biggest problems I have is overcoming bad advice that my clients get from someone who doesn’t know what they are talking about, or worse, someone who is trying to mislead them.

Don’t: pay off (or pay down) any significant debts; even very small ones. This can cause problems. For example, if you pay down a loan to a family member, the case trustee may take the money back. This could cause bigger problems for the people you are trying to help or protect. Also, in some cases there can be a benefit to having certain kinds of debt. Finally, you might be surprised at what we can do with different kinds of debts in bankruptcy. So talk to us before making any rash decisions.

Don’t: borrow from, or cash out, your retirement account without talking to me first. There are times when this might be the right thing to do, but most retirement accounts are completely protected in bankruptcy, so you might be taking something that is safe and turning it into something that cannot be protected in bankruptcy. Also, if you use that money to pay down certain debts, you could lower your chances of qualifying for chapter 7. It might also create one of the problems mentioned in the preceding paragraph.

Don’t: take out any new loans, create any new debts, or make large charges on existing credit accounts shortly before filing bankruptcy. Creditors can object to discharge of debts taken out shortly before filing, debts that you didn’t intend to repay, and debts that you should have known you couldn’t repay.

Don’t: wait until the last minute. This should go without saying, but every bankruptcy lawyer in the country can recite horror stories about clients whose situations would have been easier to deal with if they had just come in a few days earlier.

MORE INFORMATION ABOUT IRS TAXES, RETURNS AND TRANSCRIPTS:

We need copies of your actual income tax returns for the past three years (or official “tax transcripts” that come from the IRS). A copy of the W-2 from your employer is not sufficient, although it is helpful to prove your Social Security number. The only exception to this is for people who do not have to file tax returns because their income is too low.

If you do not have copies of your own returns, visit the IRS office in South Portland (near Dick’s Sporting Goods), or **call the IRS at (800) 829-1040** and ask them to send “tax transcripts” for those tax returns to you. The IRS can mail or fax them to you for free. I can also request tax transcripts for you using the official form.

If you prepared your own taxes using TurboTax or some other program, you can usually print out a copy from their website.

If you have failed to file any tax returns, please contact a tax preparer **right away**.

If you are going to owe money instead of getting a refund, **go ahead and file the return** anyway. You can file a tax return without paying the taxes owed, and you will minimize the interest and penalties charged.

Don’t set up your payroll withholdings with the hope of getting a large refund. (1) Getting a large tax refund can actually create problems in some bankruptcy cases. (2) Why let the IRS or Maine Revenue Services hold your money at 0% interest?

Do not sign up for Rapid Refunds and other types of “refund anticipation loans.”

MORE INFORMATION ABOUT CREDIT COUNSELING

The Basics: All individual bankruptcy debtors are now required to get: (A) credit counseling before filing bankruptcy; and (B) debtor education before the bankruptcy case closes. The debtor education course is sometimes called "financial management."

We jokingly refer to these certificates as your "ticket in" and "ticket out" of bankruptcy.

If you are reasonably sure that you will be filing bankruptcy soon, you should go ahead and get the credit counseling done. The certificate is good for 180 days (almost 6 months).

The counseling has to be done by an agency that has been approved for your district by the United States Trustee. There are almost 100 different districts, not all of which are approved for the District of Maine. There are many agencies that advertise themselves as having been approved by the U.S. Trustee, but that doesn't necessarily mean that they have been approved for this district, so double-check on that before paying them anything.

We can provide you with information about credit counseling agencies. I usually recommend www.moneysharp.org. They charge \$10.00 per household (individual or couple filing jointly), if you use my attorney code – JCLARK.

CREDIT REPORTS

You can obtain free copies of your credit reports from the three major credit reporting agencies once a year through www.annualcreditreport.com. This is truly a free service – they don't require you to sign up for anything, and they don't ask for a debit or credit card or bank account information.

People often ask how bankruptcy will affect their credit. My response is to ask how their credit looks right now, and what they think it will look like in 5 years or so. If you believe that you can pay off all of your debts within 5 years, then maybe you don't need to file for bankruptcy protection. By itself, bankruptcy will not prevent you from getting credit in the future. As time passes, so does the negative effect of the bankruptcy on your credit. If you have a bad credit rating now, and if you are not able to pull out of it on your own, then 5 years from now you will still be in the same position, or worse. And you will be 5 years older.

In some cases bankruptcy can actually improve your credit score. For instance, two factors that affect your credit score are how much debt you have, and how far behind you are on your payments. After you get your bankruptcy discharge, your reports should show that the balance of every discharged debt is zero, and that none of the payments are delinquent. Of course, the bankruptcy itself is a big negative, but in many cases that negative will be outweighed by the positive benefit of deleting those debts and delinquency notices from your report.