

YOUR TO-DO LIST

Fill in the blanks on the Questionnaire. Please complete as much as possible. If there is some part of that form that doesn't apply to you, mark N/A. If possible, return the completed form by mail, fax, or email before your first (or next) appointment. Please don't list every item that you own – I don't need an inventory of your linen closet. I'm primarily concerned with items with resale value over \$200.00. However, if you're unsure, just list your property and leave the values blank.

Gather up all documents that have anything to do with income, living expenses and your credit accounts and other debts. We need 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 a statement or a letter, bring it in. I would rather have too much information than too little.

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 Questionnaire. I need to put together an average monthly budget. Many people underestimate how much they spend on groceries, medical care, car repairs, and home maintenance, to name a few categories. Small expenses sometimes add up!

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. More importantly, 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 want to continue paying it, even if you don't agree that you owe the money, and even if you're just a cosigner. The question isn't whether you believe that you owe money to someone; the question is whether someone may claim that you owe them money.

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 it was a gift, and even if someone else is a co-owner or co-signer. By far, the biggest problems arise when someone fails to tell their attorney about something in advance. 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 bonus or 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 may 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 me an email if you have any questions, or if something unusual happens. This process is confusing and complicated. 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: buy, sell or give away any of your property without specific legal advice.

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. There are reputable, HUD-certified housing counselors in Maine who can help you for free.

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

Don’t: leave out any creditors or debts. You are required to list all creditors. If there are people who deserve special treatment, such as family members who loaned you money, or a car loan that you want to keep paying, please tell me.

Don’t: listen to rumors. Clients often get bad or incorrect advice from people who either don’t know what they are talking about, or worse, who is trying to mislead them. Bankruptcy laws change, so some information may also be outdated.

Don’t: pay off (or pay down) any significant debts; even small ones. This can cause problems. For example, if you pay a family member shortly before filing, the case trustee may take the money back. This could cause bigger problems for the people you are trying to help or protect. In some case, there may also 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. Please talk to us first.

Don’t: borrow from, or cash out, your retirement account without talking to me first. Most retirement accounts are exempt (protected) in bankruptcy, so you might be cashing out a protected asset 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.

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, or debts that you should have known you couldn’t repay.

Don’t: wait until the last minute – especially if you are at risk of repossession, foreclosure, or wage garnishment. It takes time to prepare your paperwork!

TAX RETURNS AND TRANSCRIPTS

We need copies of your state and federal income tax returns for the past two years (or official “tax transcripts” that come from the IRS). *A copy of the W-2 from your employer is **not** sufficient, although it’s 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 don’t have copies of your 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. We can also request tax transcripts using IRS form 4506.

If you prepare your own taxes using a program like TurboTax, you can usually print out copies from their website.

If you haven’t filed some of your tax returns, please contact a tax preparer **right away**. The court can dismiss your case if you aren’t current with your tax filings. The case trustee will usually hold your case open until he has a chance to review your tax returns and determine if you’re entitled to a refund. If you receive a refund after your case is filed, the case trustee will likely seize it for the benefit of your creditors.

If you will owe taxes, **file your returns anyway**. This reduces the interest and penalties charged.

CREDIT COUNSELING

All individual bankruptcy debtors are now required to complete two classes:

(A) credit counseling before filing bankruptcy; and

(B) debtor education in order to receive a discharge. The debtor education course is sometimes called a “financial management” class.

These certificates are sometimes referred to 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.

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) for either online course, if you use my attorney code – JCLARK. If you prefer to do the class by telephone, please contact my office and we'll give you information about a few options.

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.

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 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 aren't able to pay your debts, then 5 years from now you will still be in the same position, or worse, and you'll be 5 years older.

In some cases, a 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. In many cases, people may also choose to "reaffirm" certain secured debts, such as mortgages and car loans. Those creditors can continue reporting your payments, helping you to rebuild your credit.