



CHAPTER 13 HANDBOOK

WESTERN DISTRICT OF NEW YORK
BUFFALO DIVISION

JULIE PHILIPPI, CHAPTER 13 TRUSTEE
170 Franklin St., Ste. 600 | Buffalo, NY 14202
716-854-5636 | www.buffalo13.com

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Introduction

This handbook was prepared to help you understand how your Chapter 13 case works and answer most questions that may arise during your Chapter 13 case. This handbook is not a substitute for the advice of your attorney. For additional resources including links, forms, and FAQ, visit our website: www.buffalo13.com.

The Chapter 13 Standing Trustee

Julie Philippi is the Trustee assigned to your case. The Trustee represents the bankruptcy estate. *The Trustee is not your legal representative nor is the Trustee the legal representative for any creditor.* The primary function of the Trustee is to administer the bankruptcy estate; that is, to oversee timely receipt of your plan payments and make prompt and accurate payments to your creditors. The Trustee also provides information about Chapter 13 cases to debtors, creditors, and the court. Neither the Trustee nor any member of her staff may give you legal advice.

Contacting the Trustee's Office

If you have a question that your attorney cannot answer, you can contact the Trustee's office from 9:00 a.m. - 4:00 p.m. Monday - Friday, excluding holidays. In most cases, you do not need to ask to speak directly to the Trustee as her staff is familiar with the policies and guidelines that may arise during your case. **Please remember that the Trustee does not represent you or your legal interests, and she and her staff are prohibited by law from giving you any legal advice.** You will be referred back to your attorney if your question involves legal advice.

Online: www.buffalo13.com

Email: office@buffalo13.com

Phone: 716-854-5636

Correspondence Only:

Julie Philippi, Chapter 13 Trustee
170 Franklin Street, Suite 600
Buffalo, NY 14202

Payments Only:

Julie Philippi, Chapter 13 Trustee
PO Box 613439
Memphis, TN 38101-3439

Status of Case

Information about receipts, disbursements, and claims is available for free to debtors online at: www.NDC.org. In addition, you will receive a **Trustee's Report of Receipts and Disbursements** twice a year, which you should review carefully and contact your attorney if you have any questions.

What is Chapter 13?

Chapter 13 is one method under the Bankruptcy Code to obtain relief from your creditors while at the same time keeping your assets and providing a fair means to pay them back as much as you can over a period of up to 5 years. Chapter 13 has gained widespread acceptance across the country as an attractive alternative to a Chapter 7 liquidation bankruptcy. Individuals who file for Chapter 13 bankruptcy protection are commonly referred to as "debtors."

Protection From Creditors

Chapter 13 protects individuals from the collection efforts of creditors, permits individuals to keep their real estate and personal property, and provides individuals an opportunity to construct a plan to repay their debts through reduced monthly payments. The amount of the plan payment and the term of the plan are determined by a number of factors, including the amount the debtor can afford after paying reasonable living expenses and whether unsecured creditors would receive at least as much in the Chapter 13 plan as they would if the debtor filed for bankruptcy under Chapter 7.

Contact By Creditors

Generally, all creditors that you listed in your Chapter 13 schedules are subject to the automatic stay which prohibits them from bothering you in any way. If you are directly contacted by a creditor, you should contact your attorney.

Your Case Number

When you filed your Chapter 13 petition, the Clerk of the Bankruptcy Court assigned your case a number. **This number is very important. You will need it whenever you contact the Trustee. Also, your case number must be on all payments sent to the Trustee.**

Your Address

The Trustee and the Bankruptcy Court must know your current and exact mailing address for as long as you are in Chapter 13. The Trustee has the address that you put on your petition and will send all notices there unless you file a change of address with the Court. The Trustee has a change-of-address form available online at: <https://www.buffalo13.com/forms>.

Your Attorney

When your attorney agreed to represent you and signed your petition with you, they became obligated to appear and represent your interests throughout your Chapter 13 case. Your attorney remains your “attorney of record” for as long as your case is active or until the judge permits your attorney to withdraw from your case. **If you have any questions concerning your case, your creditors, your rights under the Bankruptcy Code or your options under Chapter 13, make it a rule to ask your attorney first.**

Your attorney must explain to you how much you will pay in legal fees and how they expect the fees to be paid. Be sure you have discussed whether additional legal services during the life of your plan will cost you more money or whether the initial fee will cover all legal services. In some cases, your attorney may agree to be paid some or all of their fees through the Chapter 13 plan. However, all fees charged by your attorney must be reviewed and approved by the Bankruptcy Court, even if you agree to pay more or pay them outside the plan.

When you need advice or assistance, you should be able to get help from your attorney. Although the Trustee is able to answer many questions, the law prohibits the Trustee and her staff from giving you any legal advice. **If you have a problem, question, or need advice, always call your attorney first.**

Pro Se Debtors

While the use of an attorney is strongly encouraged, it is not required. If you choose to represent yourself, you will be fully responsible for properly completing and filing all documents and motions. No special allowances are made for pro se debtors.

Chapter 13 Costs

1. **Court Costs:** The court filing fee must be paid to the Bankruptcy Court to open the case.
2. **Trustee Fees:** The costs of administering Chapter 13 cases are paid by each debtor and are included in your monthly plan payment. The maximum charge is 10% of the amounts received by the Trustee in each case. The percentage fee may vary during the life of your case.
3. **Attorney Fees:** Your attorney’s fees should be set forth in your Chapter 13 plan, schedules, and your attorney fee agreement.

§341(a) Meeting of Creditors and Confirmation Hearings

You and your attorney are required to attend the §341(a) Meeting of Creditors. If a petition was filed jointly by spouses, both must appear. At the meeting, the Trustee or her attorney will ask you questions under oath about your assets, liabilities, and the feasibility of your plan. You will be asked about your income, expenses, prior bankruptcy filings, and any other matters the Trustee believes are relevant. Any creditors who appear will also be given an opportunity to ask questions. If you fail to appear for the meeting, a motion to dismiss your case may be filed.

The Trustee will recommend that the court confirm (approve) your plan if she believes that the plan complies with the legal requirements for Chapter 13 cases and if all creditor objections have been resolved.

If the Trustee determines that the plan is deficient, you will be informed of the deficiencies and, depending on the nature of the deficiency, the meeting may be continued for further questions or document provisions. At the confirmation hearing, the Court will determine if your plan should be approved. **Your attorney will tell you if you need to appear at the confirmation hearing.**

Plan Payments

Your first plan payment must be made to the Trustee within 30 days of filing your petition and every month thereafter. Failure to make payments will result in a motion to dismiss your case. Personal checks, including bill pay checks sent from a bank, are not accepted. Payments are not accepted at the Trustee's office either in person or by mail. You have several options on how to make payments:

1. **Pay by Mail:**

Mail a cashier's check or money order with your name and the case number written legibly on the check to:

**Julie Philippi, Chapter 13 Trustee
PO Box 613439
Memphis, TN 38101-3439**

2. **Pay Online:**

Pay online with Nationwide TFS, a private company that is not affiliated with the court or the Trustee. If you have any difficulty with the website, you must contact TFS directly: 888-729-2413. www.tfsbillpay.com

3. **Payroll Deduction**

Pay via a payroll deduction order. If you request a payroll order in your plan, the Trustee will request an order from the Court requiring your employer to withhold funds from your paycheck. It is your responsibility to make sure payments are being made by your employer and that they are in the correct amount. If you didn't request it in the plan, but want to pay this way, please complete the form that is located on the Trustee's website: <https://www.buffalo13.com/forms>

4. **ACH**

After confirmation, you can submit an ACH request authorizing the Trustee to take the plan payment directly from your bank account. There is no cost. The form must be received by the Trustee before the 10th of the month to start that month. The payment is deducted on or after the 20th of each month. If an ACH payment is returned, you will no longer be able to use this method of payment. <https://www.buffalo13.com/forms>

Length of Plan

Chapter 13 plans last a minimum of 3 years and a maximum of 5 years, as determined by the Bankruptcy Code. The length of time your plan is projected to last is an approximation. The actual duration of your plan may vary depending on the **regularity of your payments** and the **number of claims filed**.

Creditor Claims

In order to be paid, your creditors must file proofs of claim with the Court no later than 70 days after the date the petition was filed. Government agencies must file proofs of claim within 180 days after the date you filed your petition. If a creditor does not file a proof of claim, they will not get paid. You or your attorney may file a proof of claim on behalf of a creditor. However, if the creditor subsequently files a claim, make sure that you withdraw the claim you filed, otherwise the Trustee may pay both claims.

Be aware that some debts are “non-dischargeable.” This means that may not be discharged in bankruptcy. Examples include child support, certain taxes, and student loans. One advantage of a Chapter 13 case is that you can propose a plan to repay these debts over time.

Creditors Not Listed

Creditors not listed by you when you first filed your petition can cause quite a few problems. There are two kinds of unlisted creditors: Those you owed money to when you filed your petition but forgot to list on your schedules (“unlisted creditors”), and those creditors who have a bill that was incurred after you filed your petition (“post-petition creditors”). If you find an unlisted creditor, let your lawyer know the details immediately. If any creditors did not receive proper notice of your bankruptcy, the debts owed to these creditors may not be discharged; that means that you may still owe the full amount of the debt after your case is completed.

Post-petition creditors should be rare, because you must obtain permission from the Trustee or the court to borrow money during your Chapter 13 case. Post-petition debts should be brought to the attention of your attorney so that a review of your plan can be made. In some cases, these debts may be included in your plan.

How Creditors Are Paid

The plan payments you send to the Trustee are used to pay your creditors and administrative claims, such as your attorney and the Trustee.

Except for the Trustee fee and unless otherwise ordered by the court, the Trustee cannot make any payments to creditors until after your plan has been confirmed. One exception is pre-confirmation adequate protection payments that are ordered by the court or requested by you. Your attorney must file the proper forms with the Court in order for payments to be made.

Generally, creditors are paid in the following order: secured and administrative claims, then priority claims, and finally general unsecured claims. Unless otherwise ordered, claims are paid on a pro rata basis so that creditors of the same class are treated equally. The exception to this is your attorney, who will receive 50% of the funds on hand until paid in full. Disbursement checks are issued at the end of the last business day of the month, but are not mailed until the 10th of the month.

Notice of Intent to Pay Claims (NIPC)

After the deadline to file claims, the Trustee will send you a Notice of Intent to Pay Claims. The NIPC lists all creditors who have filed claims and the amount of each claim. You should review this document promptly and carefully. The Trustee is required to pay all filed claims. All claims listed, including duplicate claims, late-filed claims, or claims which were discharged in a prior Chapter 7 case will be paid by the Trustee unless the claim is withdrawn or amended by the creditor or disallowed by the Court. **If you feel you do not owe certain debts listed, call your attorney, do not call the Trustee.**

Notice of Additional Claim

If the Trustee receives a proof of claim after the initial NIPC, the Trustee will send a “Notice of Additional Claim.” If you do not object promptly, the Trustee will pay the additional claim.

Trouble Making Payments

If you are having trouble making timely and complete payments to the Trustee because of illness, loss of job, family emergency, or other serious problem, contact your attorney immediately. Do not call the Trustee; she does not make payment arrangements and does not have the authority to change the provisions of your plan. The Trustee cannot give you permission to make late payments, partial payments, give you an extension, or temporarily suspend payments. Failure to make plan payments may result in a motion to dismiss your case, so contact your attorney right away if you need

assistance. Under some circumstances, you may be able to stop payments for a short time with permission from the Court or modify your plan to provide for a change in its terms.

Trustee's Motion to Dismiss

As a Chapter 13 debtor, you have many legal obligations. The Trustee has an obligation to monitor your compliance with your legal duties. Failure to perform your obligations may result in dismissal of your case. The Trustee may ask the Court to dismiss your case if you violate a court order or if you fail to perform a legal duty as set forth in the Bankruptcy Code or Rules.

If you fail to make plan payments to the Trustee each month, a motion to dismiss will be filed for delinquency. **There is no grace period, and the Trustee does not give extensions or make payment arrangements.** Only the Court can change your payment requirements, and that can happen only if the proper documents are filed. If you need to modify your plan, it is vital that you contact your attorney immediately, even before you miss a payment. If you pay extra one month, your regular payment is still due the following month. Calling the Trustee to state you have sent the delinquent amount or are looking for a way to “make the motion to dismiss go away” will not stop the hearing from taking place or your case from being dismissed. If you receive a motion to dismiss, you should contact your attorney immediately to discuss your options. If your financial circumstances change and you can no longer afford your plan payment, you may be able to modify your plan.

Paying More Than Required

If you are ever in a position where you wish to increase plan payments or make a large lump-sum payment on your plan, contact your attorney. Such payments often indicate excess disposable income which could have a direct impact on your plan and require a higher percentage of repayment to unsecured creditors and/or higher payments to the Trustee.

If you receive an unexpected lump sum of money during your Chapter 13 case (lottery, inheritance, etc.), you have a legal obligation to notify the Court and the Trustee. Contact your attorney for instruction before spending any of the funds.

Payoff Amount

To request a payoff amount, call 716-854-5636 and choose the option for “payoff.” Any payoff figure given by the Trustee is an **estimate** and subject to a final audit.

Post-Petition Tax Returns

If required, you will need to send the Trustee complete copies of your federal and state returns each year during your plan. If your tax returns show a significant increase in income, the Trustee may file a motion to increase your plan payment.

Sale of Property and Incurring New Debt

During the life of your Chapter 13 case, you cannot dispose of or refinance any of your property, including your home or other real estate without a court order. If you want to sell property, trade-in a car, or sell your home, be sure to discuss it with your attorney and secure a court order approving the transaction.

If you need to purchase or lease an automobile or you have an emergency and need to incur new debt, you must get permission from the Trustee by filling out the form located on our website: <https://www.buffalo13.com/forms>. Approval is not automatic. You should contact your attorney before submitting any requests.

Conversion

If your financial circumstances have changed significantly, you may want to consider converting your case from Chapter 13 to another chapter. Before doing so, you should discuss it with your attorney first.

Voluntary Dismissal

No one can force you to remain in a Chapter 13 plan. If you want to discontinue your case, contact your attorney to file the appropriate documents with the court.

You should understand, however, that a dismissal will reactivate all unpaid or disputed debts, as if you had not filed your case in the first place.

Reinstatement of Your Case

If your case is dismissed or closed without discharge, it may be possible to reopen and/or reinstate your case. You should discuss all options with your attorney.

Completion of Plan, Final Report, and Discharge

After you have completed all payments to the Trustee and all disbursements have been made, you will be sent a **Trustee's Summary and Closing Report and Account** that will account for all money received by the Trustee. You should review the report carefully and notify your attorney if you feel there are any discrepancies. If there are no objections to the Summary, and after all disbursement checks have cleared the Trustee's account, the Trustee will submit her Notice of Completion of Payments and Final Report to the court. You will also have to work with your attorney to provide certain additional documentation to the Bankruptcy Court before you qualify for a discharge. Specifically, you must file a certificate that you completed an approved course in personal financial management and Form 2830. If you overpaid into your plan, you will receive a refund check from the Trustee. **It is very important that you cash or deposit the refund immediately to avoid a delay in the closing of your case.** It can take four to six months from the date of your last payment to the Trustee to receive a discharge from the court. It is your responsibility to provide the various credit reporting agencies with a copy of your Order of Discharge or whatever is needed to update your credit records.

Contact by Creditors After Completion of Chapter 13

If you receive any request for additional money from creditors after your plan is completed, contact your attorney immediately.