

An illustration of a hand holding a smartphone. The hand is rendered in a flat, orange color, and the smartphone is in shades of blue and red. The background is a light blue color with white, wavy, abstract lines.

Personal Bankruptcy:

How You Can Get a
Fresh Start

Steven E. Wallace, Esq.

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About The Author

Attorney Steven Wallace grew up in Syracuse, New York. Attorney Wallace graduated with a Bachelors of Arts Cum Laude from Brandeis University in Waltham, Massachusetts. Mr. Wallace received his Juris Doctorate from Syracuse University College of Law. While at the Syracuse University College of Law, Attorney Wallace was an Associate Editor of the Syracuse Law Review and a Member of the National Tax Moot Court Team.

Attorney Wallace is licensed to practice law in Florida, New York and Texas. In 2012, Attorney Wallace became Board Certified in Real Estate Law from the Florida Bar.

Attorney Wallace lives in Boynton Beach, Florida with his two children.

Disclaimer

The information in this book is for general information purposes only. Nothing in this book should be taken as legal advice for any individual case or situation. This information is not intended to create, and receipt or viewing does not constitute, an attorney-client relationship.

If you are reading this book then chances are you are experiencing some type of financial difficulty and are looking for a solution. Many people today are finding themselves in this same situation. Perhaps there has been a reduction in the amount of income coming into your household or someone in your family is suffering from an illness and the medical bills have piled up. Each month you are finding yourself further and further behind and now your car is about to be repossessed and you are dangerously behind on your mortgage. You have exhausted all of your emergency funds just trying to stay afloat and now you are at a loss for what to do. The creditors are constantly calling, your utilities are about to be shut off, and your child has just broken his glasses. Sound familiar?

These are all signs that you may want to consider bankruptcy as one of your options. As an attorney with over twenty (20) years of bankruptcy experience, I have helped over 10,000 people in these types of situations regain control over their lives. By filing bankruptcy, they were able to prevent their automobile from being repoed, stop the foreclosure process on their home, and put a stop to all the creditors harassing phone calls. Bankruptcy gave them a fresh start. They now have peace of mind, they are no longer stressed out, and they are able to enjoy living their life again.

Chapter 1-What is Bankruptcy?

Bankruptcy is a federal court process by which a person(s) or business can legally declare an inability or impairment of ability to pay his or her creditors. This process enables the individual or business to eliminate or reduce his or her debts. By declaring bankruptcy the individual is able keep his or her home, automobile, business, bank accounts, and/or other assets as long as they meet certain requirements. It also allows individuals and businesses to reorganize under court supervision in order to keep operating while significantly reducing debt.

To most, this sounds much more complex and forbidding than it really is. With a knowledgeable attorney on your side experienced in the laws of bankruptcy, the bankruptcy process can really be quite painless and provide you with the peace of mind of knowing that the process is being handled correctly.

Here at the The Wallace Law Group, PL, we understand that thoroughly handling the details of the process is the best way to avoid complications in achieving the debt relief our clients are desperately seeking. We are skilled in all aspects of Chapter 7, Chapter 11, Chapter 13 bankruptcy and other non-bankruptcy debt resolution options.

We understand the stress, worry and sleepless nights our clients have been going through and we are here to help.

The truth is Bankruptcy Law exists so that people who are having serious financial problems can continue to survive. It is there to protect people's assets.

Chapter 2-Should I Consider Filing Bankruptcy?

No one knows your situation better than you. However, if you are behind in your bills, creditors are constantly calling, your automobile is about to be repossessed, your home is in danger of being foreclosed, your utilities are about to be shut off, these are all signs that you may want to consider bankruptcy as one of your options.

Often when a person has to file bankruptcy, there has been a continuous or sudden loss of income or assets due to one reason or another. Perhaps you or your spouse lost your job or someone in the family is suffering from a sickness and medical bills have piled up and each month you are falling further and further behind. The next thing you know, you are behind on your mortgage and you have exhausted any emergency funds you had.

You are constantly stressed out. You may be unable to sleep and now your health is suffering.

It does not have to be this way! Bankruptcy can end all of that. Bankruptcy Law exists so that people who are having serious financial problems can obtain a fresh start.

Many people think that if they file bankruptcy they will lose everything. Not True! Continuing down the path you are on right now with no end in sight can potentially cause you to lose everything. By filing bankruptcy a person is able keep his or her home, automobile, business, bank accounts, and/or other assets as long as he or she meets certain requirements.

Many people are afraid to file bankruptcy because they are worried about what people will think? First of all, no one will know you filed bankruptcy unless you tell them. (Except for the creditors, trustees, attorneys, etc. involved in the bankruptcy case.) Secondly, in today's society everyone knows at least one person who has filed bankruptcy at one time or another. Bankruptcy is no longer frowned upon. Gone are the days when people who filed bankruptcy were considered outcasts and looked down upon.

The truth is there is no shame in filing bankruptcy. Bankruptcy Law exists so that people who are having serious financial problems can obtain a fresh start.

Chapter 3-The Bankruptcy Process

Meeting with an Attorney

Bankruptcy exists to help people who find themselves in a situation where they are behind on their bills and each month they are falling farther and farther behind with no hope of catching up.

In today's economy, where people are struggling to make ends meet, more and more people are filing for bankruptcy. The first step to filing bankruptcy is to consult with a knowledgeable attorney who is experienced in bankruptcy law.

At this first consultation, you will be explaining your situation to your bankruptcy attorney and he/she will be asking you questions pertaining to your financial situation. After he/she have an understanding of your financial situation, he/she will then explain the bankruptcy law to you and how it affects your situation. Then, if bankruptcy makes sense for you and your situation, he/she will explain which bankruptcy is best for you and why. If other options make more sense for you, he/she will explain them to you. You can then make an informed decision regarding what is best for you.

It is important to provide information that is accurate and be as detailed as possible. Remember, the better understanding your bankruptcy attorney have of your financial situation, the better your bankruptcy attorney can help you. It is also of vital importance to be upfront and truthful about all of your assets and liabilities. Concealing an asset or income can result in repercussions such as prison time and/or large fines later on down the road. This consultation provides you with the chance to ask me any questions you may have about the bankruptcy process and how it affects you now and in the future so don't be shy about asking any questions you may have.

It is best to prepare a list of the questions you have ahead of time and bring this list with you when you come to your appointment. Remember, we are here to help.

After we have an understanding of your situation and we have decided which option is best for you, we will be able to provide you with a quote for the work that we will need to do on your case.

If you decide to retain me as your attorney and move forward with the bankruptcy process, we will enter into a signed contract regarding the work we will be doing on your case and the amount of fees we will charge. This contract will be explained to you in detail and you will be required to read and sign a series of required documents. After we have finished this process we will begin working on your case.

The following information will be required from you in order to file your case.

1. Credit Report/Names & Addresses for Creditor's Not on Your Credit Report
2. 6 Months of Paystubs/Other Income Documentation
3. 6 Months of Bank Statement for All Bank Accounts
4. Last 3 Years of Tax Returns
5. Deeds

6. List of Furnishings and Other Personal Property
7. Most Recent Statement from your Retirement Account
8. Declaration Page of Car and Homeowners Insurance Policies
9. Child or Spousal Support Award
10. Company Formation Documents (if you own a business)
11. Business Asset List (if you own a Business)
12. Copy of Judgments Entered Against You or Lawsuits Involved in.
13. Life Insurance Awards/Estate Beneficiary Proceeds

The Automatic Stay

As soon as the bankruptcy petition is filed, the court will enter an *'Automatic Stay'* which will put any and all actions of the creditors on hold while the court determines what type of relief is best for you.

This automatic stay stops the creditors from contacting you and prevents them from taking any actions against you for those debts listed in your bankruptcy petition. This petition also prevents any creditor(s) who already have a judgment against you from garnishing your wages. Garnishments currently in place will be terminated. This will protect your income and assets. If your vehicle has been recently repossessed, we may be able to recover the vehicle if the vehicle has not been sold at auction prior to the bankruptcy filing. Lastly, if your home has been scheduled for a foreclosure sale, then the sale will be cancelled provided the bankruptcy was filed prior to the foreclosure sale.

Once you have filed the bankruptcy petition and the automatic stay is in place, we can then work together to facilitate a plan of action to put you back on the path to being financially debt free.

Determining if You Qualify for Bankruptcy

In most cases, individuals or a married couple qualify for one of two types of bankruptcy, Chapter 7 or Chapter 13. To determine which bankruptcy is the correct one for you, we will need information such as your income and a list of all of your assets, as well as other factors to calculate and determine which type of bankruptcy is the right one for you and your situation. If your income or assets are above a certain amount you may be subject to certain limitations. However, you may also qualify for certain deductions as well. It is important to have an attorney who is experienced and well versed in bankruptcy laws and knows how to apply these laws to maximize the deductions allowable in your case.

The Section 341 Meeting of Creditors

Once the bankruptcy proceedings have started, all of your assets and property become part of the bankruptcy estate and a trustee is appointed to make sure the bankruptcy process is fair to both you and your creditors. The trustee is allowed to make decisions that affect your current and future business dealings and to manage and invalidate certain previous transfers and executory contracts. He or she determines the total value of your bankruptcy estate and inspects your finances. This may include looking at both previous and ongoing dealings. He or she will also determine whether you have any *'intangible assets'* such as a settlement from a lawsuit that has not yet been received.

The trustee will set up a **341 Meeting** approximately forty (40) days after your bankruptcy petition has been filed. This is usually a short meeting in which the trustee will ask you some questions. You will be asked to take an oath to be truthful with the information you are providing. You will then be asked to have a seat at a table next to your attorney. The trustee will be in charge of the meeting. You will be required to provide proof your driver's license and social security card. The trustee will ask you a series of questions similar to the ones listed below:

1. Did your Bankruptcy Petition list all of your assets and all of your debts?
2. Did you review and sign the bankruptcy petition before it was filed?
3. Is the Tax Return provided to the Trustee the same ones as filed with the IRS?
4. Are you Employed?
5. Do you own a home? If so, are you current on your mortgage?
6. Have you sued anyone or are you planning to sue anyone?
7. Are you expecting to inherit anything anytime soon?
8. Have given anyone a gift over \$100 in the last year?
9. Have you sold anything of value within the last 4 years?
10. When was the last time you used a credit card?

After these standard questions, the trustee may then ask additional questions pertaining to your case.

The trustee will then address the room asking if any creditors are present with an interest in your case. At this time if any creditors are present, they may ask you questions. However, rarely do any creditors show up at this meeting.

This meeting will help determine what debts are dischargeable. After the 341(a) meeting, the trustee will start the process of preparing the case for discharge. As you can see, the trustee plays an important part in the bankruptcy process. What happens next is based on what type of bankruptcy you filed.

Chapter 4-Chapter 7 Bankruptcy

If you filed a Chapter 7, your case will go into a hibernation process for a certain length of time after the creditors meeting. During the first thirty (30) days of this time the creditors have the right to make objections. This is why it is extremely important to be honest in all aspects of your financial situation. If no objections have been filed after a set time period, the court grants the discharge. The discharge means the debts are forgiven.

Chapter 7 bankruptcies are the most common type of bankruptcy. In a Chapter 7 bankruptcy, the court will forgive most common debts, such as:

- Credit Card Debt
- Signature Loans
- Repossession Balances
- Broken Leases
- Medical Bills
- Certain Taxes

After the Chapter 7 bankruptcy has been filed, creditors can no longer contact you. Any lawsuits regarding the debt are stopped. Your wages can no longer be garnished. If your home was scheduled for a foreclosure sale, the foreclosure sale will be cancelled. If you have a home with a mortgage you can choose to keep your home by bringing your payments current or get rid of the house along with the mortgage debt. If your car was repossessed and it was not yet sold, you may be able to get your vehicle back. You can also choose to retain your automobile if you are dependent upon the vehicle for necessary living and income purposes. Lastly, if your landlord has tried to evict you, that process will also cease.

Chapter 7 provides you with three (3) options for dealing with secured debt which is debt secured with collateral.

1. You can return the property and owe nothing.
2. You can keep your property and reaffirm your debt.
3. You can redeem your property and pay the creditor the fair market value of said property. In other words, you agree to pay what the property is worth now as opposed to what you had originally agreed to pay for it.

Chapter 7 bankruptcies can be utilized to discharge your debts and exempt property from being distributed to the creditors. It is important to note that some types of debt cannot be discharged such as child support obligations, most student loans, and most taxes.

Chapter 5-Chapter 13 Bankruptcy

If you are earning a steady income but are overwhelmed with debt for one reason or another, Chapter 13 bankruptcy may be the solution to your financial situation.

In today's economy more and more people are facing foreclosure of their homes, repossession of their automobile(s), delinquency on loan payments and the constant harassment of creditors. If you are one of these people, Chapter 13 may be the solution to keeping your home, your automobile and other assets and finally putting an end to all those annoying creditors that are harassing you.

As soon as you file for Chapter 13 bankruptcy, an automatic stay is then entered which will temporarily stop foreclosure proceedings as well as all other collection proceedings that may be in the works. This will allow you and your attorney to create an achievable repayment plan in which you will pay all of the missed mortgage payments, taxes and other debts on a best efforts basis.

In the Chapter 13 Repayment Plan you can include the following:

1. Mortgage Payments
2. Community Association Assessments
3. Vehicle Payments
4. Unsecured Creditors (i.e. credit card debts)
5. Taxes

To qualify for this type of repayment plan, you must have a steady income to pay your creditors back on a best efforts basis over a period of time. Income in excess of this budget is then divided among your unsecured creditors each month.

The trustee meeting with the creditors is just the beginning of a Chapter 13 bankruptcy plan. Thirty (30) days after filing the client begins making regular, on time payments to the Chapter 13 trustee. You must make these payments on time in order to prove to the Trustee and the Judge that you have the ability to make the payments and are willing to do so. After you have filed a Chapter 13 repayment plan with the Court, a hearing will be held to decide whether to approve or disapprove the Chapter 13 plan. If there are no creditor objections and the Chapter 13 trustee agrees, the court will then approve the plan.

The Chapter 13 plan is usually set for a term of five (5) years and at the successful completion of those five (5) years, the Court will then discharge or forgive any remaining debts included in the plan with the exclusion of such things as child support, non-discharged student loans, and non-discharged taxes. There are many benefits to Chapter 13 Bankruptcy, including the ability to pay back past due mortgage or car payments over a 5 year period; opportunity to conduct a mediation with your mortgage lender, and the ability to "cram down" certain secured debt (including car loans, junior mortgages (i.e. 2nd mortgages), and other liens on real or personal property) to the market value of the asset. The remaining balance of the debt over the market value of the asset becomes unsecured and is grouped along with the other unsecured debt.

Chapter 6--Life After Bankruptcy

You have filed bankruptcy and now that dark cloud of hopelessness has been lifted and you can lie down and sleep at night with peace of mind. The collection agents are not calling anymore. Your credit card debts have been forgiven. That enormous hospital bill has disappeared. You can now afford to take care of your family because the garnishment of your paycheck has been lifted. You were able keep your home and car. You have everything under control again and it feels good. Life is good again and you owe it all to a Chapter 7 bankruptcy. Or, maybe it was due to a Chapter 13. Whichever it was, it helped you to regain control of your finances, keep your home, keep your car, regain the benefit of a full paycheck every payday, be able to afford your utilities without the fear of shut off, and you can afford to buy groceries again.

Instead of feeling tired and stressed all the time, you now feel like the weight of the world has been lifted. Your health has improved because you are no longer stressed. Your child asked to play baseball and you can say "Yes" because you can now afford it. Yes, life is good again!

If you are suffering from financial debt and you are tired of struggling with a losing battle, contact me today to get started on your new beginning so you too can have your life back.

It is Not Too Late!!!



Many Famous People have escaped financial ruin from their personal and business debts, including President Lincoln and our current President of the United States Donald Trump.

You will learn from this Book that Bankruptcy can stop those harassing collection calls, stop foreclosure sales and stop vehicle repossessions.



Attorney Steven Wallace has over twenty (20) years experience filing bankruptcy for clients in Florida and New York.