

Bankruptcy in Colorado

Secrets “THEY” don’t want you to know



Bankruptcy in Colorado: Secrets “THEY” Don’t Want You to Know

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Learn from others how Bob Doig has helped free them from the heavy burden of debt:

Mr. Doig left no stone unturned in working with us. We had no surprises, we were well informed, his timing of the process was extremely accurate, and his office processes were very pleasant. I highly recommend Mr. Doig to anyone needing legal services.

Sincerely,

CJ Ferguson, CO

Working with Robert Doig was a very positive experience. The thought of filing for bankruptcy was scary and intimidating. After meeting with Mr. Doig, I felt more at ease and with his help was able to get everything together that I needed to. There were times I would be anxious about a situation and Mr. Doig always was able to calm my fears and reassure me. He never made me feel as if any of my questions were not valued. He has a calm and friendly demeanor that was priceless when going through this type of ordeal. I would definitely recommend Robert Doig to anyone I knew that was thinking about filing for bankruptcy. Thank you, Mr. Doig!

Sincerely,

Sharon D., CO

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My experience with this firm was very positive. Thanks to Mr. Doig's professionalism in his area of expertise, I was able to go from being reluctant to even take this action, to being completely at ease and even comfortable throughout the entire process. Mr. Doig was able to reassure me that entering into a bankruptcy while being a homeowner was not the risk I feared so much before speaking with him. And even though for me, bankruptcy was a last option, he put me at ease and my discomfort and embarrassment soon dissipated. Mr. Doig's firm really works with helping their clients reestablish their credit. And with the required financial training I feel I am on more secure footing than ever before. I would definitely recommend this firm for those who find themselves with this need.

Sincerely,

Karen E., CO

Thanks Bob. As far as the way you handled our case, you get an A+. Especially impressive was your keeping us informed throughout the process.

Thanks again.

Susan B., Colorado Springs, CO

Introduction

By Bob Doig

I know what it feels like to face a financial crisis...

I’ve been a lawyer for more than 40 years. Legal work back in the mid-1980s was a bit different than it is today—it was a huge pain. Instead of computerized, digital petition preparation systems, bankruptcy attorneys would have to buy sets of paperwork with SEVEN copies and carbons to fill out with a typewriter. I didn’t love it, to say the least.

Before heading to Colorado, I practiced in Illinois and handled personal injury cases, construction litigation, real estate, and well, all sorts of things. I grew up in Chicago and my wife was from the NW suburbs.

We had three young boys, and I had my own small firm while my wife practiced as a partner in a large downtown Chicago firm. Life was moving along just fine.

Then in 1996, we loaded up on a train and set off to Colorado for a Spring Break ski trip to Breckenridge. I fell in love. With Colorado.

After that glorious trip, I went back to work. In the months that followed, I really began thinking about Colorado and how it just looked like a better place for my boys to grow up. It wasn’t long before my wife could sense there was something bugging me.

When I finally shared my thoughts about a move to Colorado, (where I knew NO one), surprisingly, my wife said YES. In October 1996, I headed to Colorado, leaving my wife with our boys back in Illinois until I could get myself established.

In order to get a law license in Colorado, I had to become a resident of the state. So, while waiting for my admission to the Colorado bar, I went to work selling real estate in Cripple Creek. Six months later,

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I finally received my Colorado law license and began sending resumes to local law firms. Soon, I landed a job and my wife packed up the kids and joined me here.

I was living the dream, working as an employee in a small law firm housed in an old mission-style church building. It lasted for ONE whole month.

My short-lived dream ended because the law firm owner decided he’d rather have me work as a contractor than as an employee. What’s more, this guy went to a legal conference and returned to the office with two new kids right out of law school.

I was paying him rent and had moved, at his request, into a very expensive office in his building and could read the writing on the wall: he could bill his clients for the kids the same as he was billing for me and yet pay them FAR less.

I did develop some clients of my own, but the situation just wasn’t working out so well.

My wife had left her job as a partner in a big law firm back in Chicago and our new life was *not working*. I had a mortgage, along with kids who insisted on eating every day. Life was NOT cool.

The real estate market was beginning to take off in the Springs and I had to feed my family, so I transitioned back to selling real estate...soon things were chugging along again.

And then 2008 arrived and the real estate market took a nosedive. I knew I had to do something.

My wife had returned to practicing law and heard about an attorney preparing to retire who was looking for someone to assume his practice. She suggested that I look into it—I would be doing probate work and family law, divorce and real estate litigation.

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He gave me some of his files to work on and then September 2008 swooped in, killing the rocking stock market. He lost so much of his nest egg that he couldn’t retire. So much for me taking over his practice.

While working in real estate for several years, I learned about websites and internet marketing and discovered that most lawyers were pretty much clueless about those things.

I put together a Go Daddy website for bankruptcy law. In this dark spot, I could see the economy was sinking and soon people were going to need some help getting rid of their debts so they could get a fresh start.

The thing I like most about the practice of bankruptcy law is that I can really help people. I’d been practicing law for almost 30 years, and it took me all of those years to finally find my niche!

It is satisfying and rewarding being able to help people with their complicated financial troubles so they can get some relief and a fresh start. In many cases, when potential clients came to see me, I could see by their faces that they felt like the lowest of the low. It wasn’t unusual for them to break down and cry, right there in my office.

But usually by the end of our consultation, they looked better, and they FELT FAR better. A huge weight had been lifted from their shoulders.

My office neighbor stopped me one day to say: “I don’t know what you do but when people leave your office, there’s a huge difference in the way they look. They’re all tense while waiting to see you, and then I see them float out of your door afterwards.”

It’s true. I love being able to help people so they can sleep at night again. I help them learn that their lives are not over, and that they have a shiny future ahead. They’re relieved to learn that their children will be able to thrive in the future and they’ll be able to have their good credit back again soon.

Probably the main reason I find this so satisfying is because I know how my clients feel. I’ve been where they are.

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Back in 2002 my car was repossessed from the parking lot of my office. Talk about embarrassing. My boys wanted to know where the car was. I didn’t have the words to tell them.

During my “bad” times, I’ve received foreclosure notices and those collection calls at 8:02 a.m. on Sunday mornings. I’ve been there. I understand.

I was fortunate in being able to work out my issues with my creditors. But I remember the pain of being unable to pay my bills. I think that’s why I love being able to help people get past their debt problems and begin rebuilding their lives again.

Will I qualify to file for bankruptcy?

In order to qualify to file a Chapter 7 bankruptcy, you must not have filed a Chapter 7 bankruptcy case that resulted in a discharge within the previous eight years. In addition, your annual household income must either be less than the median for a household of the same size here in Colorado, or you must pass the MEANS TEST.

- There is no requirement that you must have a certain amount of debt.
- There is no requirement that you must be behind in your bills.

I’ve worked with many people who, upon learning that they were about to be laid off, came to see me. They knew that they would soon be unable to keep up with all of their bills once their regular paychecks stopped.

Recently, I’ve worked with a number of people in the military. The Department of Defense is requiring the services to reduce their personnel numbers. That means soldiers are being forced out.

Here in Colorado Springs, *the Gazette* actually won a Pulitzer Prize for a story about it. This practice has led to a series of cutting soldiers by finding tiny, trite reasons for forcing them out of the army. Before you know it, the soldier and his or her spouse, with a couple of kids in tow, learn they are out in three months.

Still others find out they’re getting a pink slip and in six weeks, it’s all going to go down. They want to pay their debts, they aren’t far behind, but all of a sudden, they have no income and few marketable skills.

Fortunately, the bankruptcy laws exist to allow them some breathing room so that they can get back on their feet.

If I file bankruptcy, can I keep my car?

There seems to be a lot of misinformation out there regarding whether people can keep their cars if they file bankruptcy. In some states, but not in Colorado, the person filing for bankruptcy will be able to keep one motor vehicle, up to a certain value.

Under the Colorado exemptions, an individual bankruptcy filer can keep one or two vehicles up to a combined \$15,000 in value. Please note that the value is applied to the “equity” in the vehicle that the person owns.

So, if the vehicle is worth \$20,000 and there’s a car loan on it for \$5,000 or more, the equity in the vehicle will be at most \$15,000 ($20,000 - 5,000 = 15,000$) so that person will be able to keep his or her vehicle.

When a married couple files for bankruptcy together (a “joint” case), their exemption doubles to \$30,000.

If the debtor is at least 60 years old, or a member of his or her household is disabled, then their exemption goes up from \$15,000 to \$25,000. So, if the married couple is over 60 years old and/or with a disabled household member, then their motor vehicle exemptions will increase to \$50,000!

In the vast majority of cases that I’ve filed over the last few years, just about all of my clients have been able to keep their vehicles after they filed for bankruptcy. Keep in mind however, that if there is a loan on the vehicle and you want to keep the vehicle, you’re going to have to keep up with your payments!

If I file for bankruptcy, can I keep my house?

Whether a person filing for bankruptcy can keep his or her house is one of the most common questions I hear, just about every day. In the vast majority of cases, the answer is “Yes. You will be able to keep your house if you file for bankruptcy.”

Here’s why: Let’s assume that you live in Colorado. As long as you are living in the house that you want to keep, you will be entitled to the **homestead exemption**. What this means is that the equity in your house, up to \$250,000.00, is exempt from being taken by your creditors or the bankruptcy trustee.

As an example, if your house has a current market value of \$450,000.00 and all of the mortgages on the house, when added together, total more than \$200,000.00, then your house is safe. No one can take it from you.

This assumes, of course, that you continue to keep your mortgage payments up to date.

If you are 60 years old or older, like me, or if you or a family member are disabled, then your **homestead exemption** is increased to \$350,000.00. In that case, as long as your equity in the house is less than \$350,000.00, then it cannot be taken from you in order to pay your debts.

Between 2008 and 2012, it was pretty common for people to be “underwater” on their houses. In other words, they owed more on the house than they could sell it for.

In that case, again, as long as they kept up with their mortgage payments, then no one was able to take the house. To do so wouldn’t make sense since there was no equity in the house.

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If a creditor or the bankruptcy trustee were to take the house and try to sell it, there would be no money left over once the sale was complete because the mortgage-holder(s) would be entitled to be paid first. Since they were owed more than the value of the house, no one else (the creditor or bankruptcy trustee) would receive any of the proceeds from the sale.

To determine the current market value of your house, you may want to check several sources:

<https://www.zillow.com/>

(their “zestimates” seem to be getting more accurate as time goes by)

Your county assessor’s website:

El Paso County: <https://property.spatalest.com/co/elpaso/#/>

Pueblo County: <https://property.spatalest.com/co/pueblo/#/>

Teller County: <https://tcweb.co.teller.co.us/proprecis/SearchAddress.aspx>

Google this: “County Assessor *your county name*” for others.

Your local real estate broker.

He or she can provide you with a “Comparative Market Analysis” (CMA) to tell you what your house would sell for in the current market. Most times you can get this service completed for free. They hope that if you decide to sell your house, you’ll keep them in mind as the broker to list it for you.

Won’t my credit be ruined for the rest of my life if I file for bankruptcy?

No, your credit will not be ruined forever.

It may seem contrary to what you would think, but filing for bankruptcy could be the first step in restoring your good credit.

Here’s why:

If you’re unable to keep up with payments owed on credit cards, car or house payments, or on medical bills, those late and missed payments will be reported to the credit reporting agencies (“CRAs” - Equifax, Experian and TransUnion). These late and missed payments will hurt (lower) your credit score.

One of the components the CRAs use to determine your credit score is the amount of your outstanding unpaid debt. When you file for bankruptcy, that outstanding debt will be discharged. When that occurs, the CRAs are required to report the amount owed as “0.00 – discharged in bankruptcy.”

This reduction in the amount of your unpaid debt will, in time, result in an increase in your credit score. But there are steps you can take to help your credit score increase very quickly.

As soon as my clients receive their discharge in their Chapter 7 case, I enroll them in a class called “7 Steps to a 720 Credit Score.” By following the weekly lessons presented in the class, they typically find that, within one to two years, their credit score is in the “excellent” range: 720 or higher.

This excellent credit score allows them to qualify for the lowest interest rates for a mortgage or car loan, lower insurance rates and other benefits of having a high credit score.

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For more information on this excellent credit restoration program, go to: <https://www.720creditscore.com/>, look the program over and read the success stories.

But don’t worry about the price tag. I’ve been able to purchase the classes at a discount and give them to my clients, at no charge, as my gift to them for hiring me, and to help them truly get a fresh start.

Something else you should know if you file a Chapter 7 Bankruptcy: within two weeks after the case is filed, you will begin getting offers from car dealerships wanting to sell you a car AND finance it.

Sure, the car may not be a brand luxury vehicle, but at least these dealerships are ready to take a gamble on you. I don’t generally recommend these dealers who do the mailings, but there are some that I can refer you to who will treat you with dignity and respect, and find you something suitable to get around in.

Won’t my security clearance be ruined if I file for bankruptcy?

While you might think bankruptcy would have a negative impact on your security clearance, it generally does not. This is another one of those counterintuitive things related to filing for bankruptcy.

You would think that it would hurt your security clearance, but oftentimes the exact opposite is true.

Many times, members of the military, or employees of military contractors, have called to meet with me because their commanding officers or bosses are concerned that their bad financial situation has made them a security risk. Often, in order to retain a high security clearance, they have actually been required to file for bankruptcy to get rid of their debts.

I have written numerous letters to employers and “higher ups” confirming that I have met with the person whose security clearance is in jeopardy and that we have a plan to file bankruptcy in order for that person to keep his or her job.

When you think it through, it makes sense: Who would be more at risk of violating their security clearance? Somebody with a lot of financial pressure or somebody with no financial pressure?

The answer should be obvious. The person who is under extreme financial pressure would be much more likely to be at risk of violating their clearance. That’s why, though it may not seem right at first, bankruptcy can actually help you keep your security clearance.

Everyone will know if I file for bankruptcy, right?

It’s not likely ANYONE will know, that is, unless you tell them. It’s true that bankruptcy is a matter of public record, but in Colorado Springs it’s no longer published in the local papers. Back in the late nineties, *the Gazette* used to publish the bankruptcy filings once a week, but they have long since ended this practice.

It’s extremely unlikely that any of your neighbors or friends will learn that you’ve filed for bankruptcy because no one is hanging out at the courthouse up in Denver sifting through names. The same goes for employers: they are generally not notified as part of the bankruptcy process.

Once a bankruptcy case is filed, the only people who are required to be notified are those to whom you owe money and with whom you have an ongoing contract, like a cell phone provider, car lease or other lease.

My experience has been that this hasn’t caused any issues for the vast majority of my clients. As long as the rent is paid on time, most landlords don’t care if the rest of your debts are being discharged. In fact, by reducing your other debts, it makes it easier for you to pay the important ones, like rent!

If somebody wants to know if you’ve filed for bankruptcy, and they know how to access the bankruptcy court records, they will be able to find it out. But they would have to make a concerted effort to do so since it’s not published in the local paper here in Colorado Springs anymore.

Filing for bankruptcy just seems dishonest.

Shouldn’t I just pay my debts?

If you’re financially able to pay your debts, then yes, of course, you should pay them. Bankruptcy laws are there to help people who would like to pay their debts but, because of their circumstances, are unable to do so. The three biggest reasons that people come to see me are:

- They became sick or injured and have many large medical bills;
- They’ve lost their job; or
- They’ve become divorced, and now there are two households to support with the income that used to support one.

It’s not unusual for people to come and see me and insist that they’ll file a Chapter 13 case rather than a Chapter 7 case. It’s because they want to make sure that at least a portion of their debts gets paid.

That’s fine and I understand their thinking. However, I usually make sure that they understand that even if they file a Chapter 7 case, they can still pay ANYTHING back that they want to pay back.

When you file a Chapter 7 case, your debts are discharged, but there’s no reason that you can’t pay any of the debts that have been discharged.

I tell my clients that when you receive your Order of Discharge from the Bankruptcy Court, it means that your creditors (the people who you owe) can no longer seek payment from you. But that doesn’t mean that you’re prevented from paying them if you want.

There is no rule that says you can’t repay a debt after it has been discharged. You don’t have to pay it back, but you can if you want to. So, if it makes you feel better about filing for bankruptcy, please remember that you can still pay those debts back if you want to.

Will all of my debts be discharged if I file for bankruptcy?

Or will some of them still remain?

Most of your debts will be discharged, but some won’t. As set forth on the Order of Discharge that you’ll ultimately receive, the following debts will not be discharged:

1. Debts for most taxes
2. Debts incurred to pay non-dischargeable taxes
3. Debts that are domestic support obligations (e.g., child support, alimony or spousal maintenance)
4. Debts for most student loans
5. Debts for most fines, penalties, forfeitures, or criminal restitution obligations
6. Debts for personal injuries or death caused by the debtor’s operation of a motor vehicle, vessel, or aircraft while intoxicated
7. Some debts which were not properly listed by the debtor
8. Debts that the bankruptcy court specifically has decided or will decide in your bankruptcy case are not discharged
9. Debts for which the debtor has signed a reaffirmation agreement
10. Debts owed to certain pension, profit sharing, stock bonus, other retirement plans, or to the Thrift Savings Plan for federal employees for certain types of loans from these plans.

One other category of debt, not specifically set forth in the Order of Discharge, but nevertheless non-dischargeable, is any debt incurred by fraud.

Debts that will generally be discharged:

1. Medical bills
2. Credit card debts
3. Pay day loans
4. Personal loans

Will I have to go to court?

No. However, you will have to appear for your Meeting of Creditors by a Zoom videoconference. But you will most likely never have to officially “go to court.”

There will be other people on the Zoom video-conference: the Trustee, maybe the Trustee’s assistant, other people who have filed for bankruptcy, their lawyers, and, occasionally, a creditor who wants to ask questions of a debtor.

It’s a non-confrontational proceeding that seems almost informal, and certainly nothing to be worried about. I’ll make sure that you’re prepared for it so that it goes smoothly for you.

What about those debt settlement companies?

Wouldn’t that be a better way to deal with my debts?

It seems logical that, rather than filing for bankruptcy, settling your debts would be a better way of dealing with them. That way you would avoid having a bankruptcy on your credit report.

Many people have tried this. They looked upon it as a more honorable way to handle their debts. Unfortunately, many of them have ultimately regretted choosing that option.

Here’s the plan the debt settlement companies sell:

1. You agree to send them a certain amount of money each month. Part of it goes toward their fee and part of it is put in a “special account” they will use to settle your outstanding debts.
2. You must stop making payments to your creditors, so that they’ll be more likely to accept less than they’re owed if they think you can’t afford to pay the full amount due.
3. Then, when you’ve paid enough money into the “special account”, the debt settlement company will start negotiating with your creditors, and will try to get them to accept less than what they are owed.

You think you’re on your path to being debt free without a bankruptcy, and instead, here’s what often happens:

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1. You sign up with the debt settlement company and start making payments to them.
2. The company keeps at least half of every payment you make as their fee.
3. You stop paying your creditors and soon they start calling you about the missed payments.
4. You explain that you are working with the debt settlement company, but the creditor doesn’t care—they want their money.
5. They sue you and you lose.
6. The creditors garnish your wages or bank accounts, and you still don't have enough in the “special account” to settle all of your debts.
7. The continued lawsuits take an emotional and financial toll on you.

Here’s one of the worst parts to this method and it’s one OTHER thing that the debt settlement companies won’t tell you up front (though it’s hidden in the fine print): Say you are successful, and you settle a \$10,000.00 credit card account for \$6,000.00. The following January you can expect to receive a 1099 for the \$4,000.00 that you saved.

The “forgiveness” of the \$4,000.00 is considered income to you. You will now be required to pay taxes on it.

I recently had a telephone appointment with a disabled woman who lived far from the office. She had spent \$2,000 a month for 10 months paying a debt settlement company. She checked in with them to learn her balance and found they had done NOTHING with any of the \$20,000 she had sent them.

It’s quite common for me to receive a couple of calls each month from people who’ve tried this method and lost thousands to unscrupulous companies. The Colorado Attorney General spends a significant amount of time and energy chasing these companies. Check it out [here](#).

I never recommend this option to anyone. Even those companies that are not as shady as the others will still leave you with that 1099 tax debt for the “savings” you experienced from their renegotiation.

How can I stop my wages from being garnished?

The only sure way to stop a wage garnishment is to file a bankruptcy case. Many people seem to be under the impression that hiring an attorney to file a bankruptcy will also stop the garnishment, but, unfortunately, that just isn’t true. The only way to truly stop it is to file your bankruptcy case.

At the moment your bankruptcy case is filed, the Automatic Stay goes into effect. This is an *automatic* injunction stopping anyone from so much as even asking for payment of money that you owe them.

The automatic stay stops wage garnishments, most lawsuits, stops a pending foreclosure and will stop a threatened repossession.

Will bankruptcy stop the foreclosure on my house?

Many people seek to file bankruptcy because it DOES stop the foreclosure on their home. Filing under chapter 7 will stop the foreclosure, but, if you want to ultimately keep your house, Chapter 13 is the logical choice.

When filing a Chapter 13 case, you can “catch up” on your missed payments through the Chapter 13 plan and end up keeping your house!

If you’ve decided that you either don’t want to keep the house, or can’t afford to catch up with the payments, but would like to stay in the house for a little while longer, a Chapter 7 case will allow you to do that by stopping the foreclosure sale.

But the mortgage holder may file a Motion to lift the automatic stay, in which case the foreclosure will eventually be reinstated.

Even if the mortgage holder doesn’t file a Motion to lift the automatic stay, they’ll probably just wait until your bankruptcy case is closed, about six months after filing, and then reinstate the foreclosure. In that case, eventually they will succeed and your house will be sold.

What’s a Chapter 7 Bankruptcy?

A Chapter 7 bankruptcy is sometimes called a “liquidation.” Basically, if you file a Chapter 7, in exchange for having all of your dischargeable debts discharged, you agree to give up any non-exempt assets that you may have.

As an example, let’s assume that you’ve lived in Colorado continuously for the last two years. That means that the Colorado exemptions would apply in your case. Examples of non-exempt property that you may have would include:

- Most income tax refunds if not received and spent before filing your case.
- Equity in firearms over \$1,000.
- Equity in vehicles in excess of \$15,000 for an individual under 60 years old who is not disabled.
- Equity in a homestead in excess of \$250,000 for an individual under 60 years old who is not disabled.
- 20% of wages that have been earned but not yet paid, or
- Equity in real estate which is not your homestead.

As a practical matter, for the vast majority of cases filed under Chapter 7, there are no non-exempt assets. These are called “no asset” cases and the debtors receive their discharges without giving up anything of value.

Chapter 7 cases generally take about 3½ to 4½ months from filing until discharge and are the most common type of bankruptcy case filed.

What is a Chapter 13 bankruptcy?

With a Chapter 13, a “plan” is prepared whereby you agree to make monthly payments to the Chapter 13 Trustee for at least 36 months, but no more than 60 months. Under Chapter 13, you do not have to give up your non-exempt assets, as long as the payments to your creditors equal or exceed the amount those creditors would have received if a Chapter 7 had been filed.

Chapter 13 cases have some additional benefits over Chapter 7:

- If you are behind on your mortgage and the lender has filed a foreclosure, you can stop the foreclosure and catch up with your late payments;
- If the market value of your house is less than the amount owed on your first mortgage, you can “strip off” any junior mortgages, converting them into general unsecured debts that will be discharged upon completion of your plan;
- If the amount of your car loan is more than the market value of your car, you can “cram down” the loan so that you only pay the lender the market value of the vehicle. However, in order to do a cram down, you must have bought the vehicle at least 910 days (about 2½ years) before the case is filed.
- You can pay off outstanding tax debts through the plan.

The length of a Chapter 13 case will depend on the length of the plan. If your income exceeds the median for a household of your size, your plan will be for 60 months. Otherwise, your plan can go for any amount of time between 36 and 60 months.

At the conclusion of your plan, assuming that all of the plan payments have been made, you will receive your discharge and any outstanding dischargeable debts which have not been fully paid through the plan will be discharged.

What happens at the Meeting of Creditors?

The purpose of the Meeting of Creditors (also known as the “341” meeting) is to give your creditors and the Trustee assigned to your case the opportunity to ask you questions concerning your bankruptcy paperwork and related matters.

When your case is called, you will be sworn to tell the truth. We will have already provided the Trustee with a copy of your government-issued photo id and your social security card. If you do not have your original or duplicate social security card, the Trustee may accept a recent original W-2 from your employer.

Once your identity has been determined, and that the social security number on your bankruptcy paperwork matches the number on your card, the Trustee will swear you in and ask you questions. In most cases, the questions are pretty routine:

- Do you still live where you lived when your case was filed?
- Did you sign the paperwork that was filed with the Court?
- Did you read the paperwork before you signed it?
- Are the tax returns that your attorney provided true and correct copies of the tax returns that were actually filed?
- Have you transferred any property to any close friends or family members within the last four years?
- Have you read the bankruptcy information sheet?
- Are you aware that you could have filed for bankruptcy under a different chapter?
- Are you aware that filing for bankruptcy can have a negative impact upon your credit score?

The Trustee will also ask questions to find out if there are any non-exempt assets which can be taken to provide payments to your creditors. So, if you own any non-exempt assets, like firearms valued at more than \$1,000, tax refunds not yet received and spent, or time shares, you should expect to be asked about them.

Bankruptcy in Colorado: Secrets “THEY” Don’t Want You to Know

For a list of the questions the Trustee is required to ask, as well as optional questions that may be asked, please see my [blog post](#) on the subject. That blog post was written a while ago, when we still had to go to the courthouse for our creditor’s meetings. Even though the creditors meetings are now held via Zoom videoconference, the basic facts remain the same.

Overall the creditors’ meeting is usually pretty non-confrontational, almost informal, and usually only takes about ten minutes. Many of my clients have commented on how they expected it to be much more intimidating than it ultimately turned out to be.

Won’t I lose my retirement accounts if I file for bankruptcy?

Retirement accounts like 401(k) plans, IRAs and Roth IRAs are all totally exempt from being taken when you file for bankruptcy. You will not lose a single penny from them!

Unfortunately, many people are not aware of this.

I recently met with a man who had been a software engineer for over thirty years. He made a good living and had built up a decent retirement account. On the day before his 60th birthday, he was laid off. He spent the next year applying for over 500 jobs but was unsuccessful. His age undoubtedly played a role in his inability to find work.

During that year he paid his mortgage and living expenses and even kept up with his \$40,000.00 in credit card bills by drawing from his retirement account.

His credit score was fine. He was paying all his bills on time. When he came to see me, he had been working at a call center for the previous five months, making less than half of his previous income. His retirement accounts were now fully depleted and he needed to get out from under his credit card debt, which he could no longer afford to pay if he was going to keep up with his house payments.

If only he had come in a year earlier!

I could have helped him file a Chapter 7 bankruptcy and eliminated his credit card debt. He would have been able to keep his house. And, most importantly, he would still have a nice retirement account to rely on as he gets older.

It breaks my heart to see people burn through their retirement accounts, which are supposed to be there for when we get old and are unable to work, just to keep up with credit card payments.

How long does it take for a bankruptcy case?

The length of a bankruptcy case depends on a couple of factors.

First, different types of bankruptcy take longer than others depending on whether the case is a Chapter 7 case or a Chapter 13 case.

Second, it can depend on how long it takes you to complete your homework so we can prepare the paperwork to be filed.

Typically for a Chapter 7 case, it will take three and a half to four and a half months from the time the case is filed until you receive your discharge. Of course, it may take you a month or more to get the documents needed to prepare your case. This should be taken into consideration.

Here is the timeline for a typical Chapter 7 case, beginning after I have received all of the documents that I need from you:

Day one: I receive all of the documents and the completed questionnaire from you.

Day eight: I forward the completed paperwork to you by email for your review.

Day 10: You sign and initial the paperwork. It’s ready to be filed.

4 to 6 weeks later: We attend your meeting of creditors, also known as a “341” meeting, via Zoom videoconference.

From the day of this meeting, your creditors have 60 days to file objections to your discharge. During the 60-day period, you will take the required financial management class. When you’ve completed the class, the course provider will file your certificate of completion with the clerk of the court.

When the 60-day objection deadline has expired, and no objections have been filed (which is typical), your file goes to the judge.

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The judge will enter your order of discharge usually within a week or two.

I will then enroll you in the credit education course, which will help you to restore your credit rating to the “excellent” 720+ range!

The timeline for a Chapter 13 case is extended because you will be making payments to the Chapter 13 trustee for at least 36 months and up to 60 months. You’ll need to figure that it’s going to take much longer to receive your discharge than a Chapter 7.

Do I really need a lawyer to file for bankruptcy?

Can’t I just do it on my own?

Sure, you can file bankruptcy on your own. You can also do your own dentistry, but I wouldn’t recommend it.

There is an old saying that the person who represents himself has a fool for a client. That really applies in the world of bankruptcy. It is an extremely complicated area of law, with many traps for the unskilled person.

I was at a creditors meeting one morning and a “pro se” (unrepresented) couple were being examined by the Trustee. When he asked them about their bank accounts, they had questions for him. “What about the \$6,000.00 in our checking account. Can you get that back from Wells Fargo?” they asked. He replied “Yes, I can get it back. And when I do I will distribute it to your creditors.”

If these debtors had hired a competent bankruptcy attorney to represent them, they would have known that Wells Fargo is notorious for taking any money on deposit as soon as they learn that their customers have filed for bankruptcy.

That’s just one example of many that I’ve seen over the years. People tried to save a little money by not hiring an attorney and ended up losing significantly more than they would have saved.

Many times, they ended up paying an attorney in order to do it right the second time, but the fees involved in fixing the goofed-up case are much higher than they would have been if they had just hired a competent bankruptcy attorney in the first place. It’s a great example of “penny wise and pound foolish.”

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If you’re considering filing bankruptcy on your own, I recommend that before you do so, at least consult with a competent attorney who practices bankruptcy law before you do. You may find that your “simple” case is much more complicated than you think.

I owe for back taxes.

Those won’t be discharged in bankruptcy, will they?

Like most legal questions, the correct answer about taxes being eligible for discharge is “That depends.” It depends on when the taxes were first due. It depends upon when the tax returns were filed. And it depends on when the Internal Revenue Service assessed the amount owed, among other things.

In some cases, old tax debts may be discharged in bankruptcy. But usually income taxes owed for recent years will not be discharged.

The issue of income taxes is one where you really need to speak to a competent attorney in order to determine where you stand. Sometimes waiting just a short while before you file your case will result in the old income taxes becoming dischargeable. It is also possible, using Chapter 13, for you to pay back the recent, priority taxes while having your older, dischargeable, taxes discharged.

If you have outstanding taxes owing, you should make it a point to consult with an experienced bankruptcy attorney before filing a case on your own. It could save you a lot of money in the long run.

Does my spouse have to file bankruptcy with me?

Married couples can file a case together, called a joint case, in which case they are called “joint debtors”. But there is no requirement for both to file. Either of them may file an individual case, without their spouse joining in.

Even though your spouse need not join you in filing for bankruptcy, if you live together, then your non-filing spouse’s income will have to be considered to determine whether or not you qualify to file a Chapter 7 case. The determination is made by considering household income—that means both spouse’s income—to see if you qualify for a chapter 7.

If the combined income of both spouses is less than the median income for a household of that size, then the filing spouse is allowed to file a Chapter 7. If the combined income is greater than the median income, then, in order to qualify to file a Chapter 7, the debtor will have to pass the Means Test.

Same Sex Couples and Bankruptcy in Colorado

The United States Trustee’s Office has taken the position that same-sex married couples should be treated in the same manner as opposite-sex married couples for all bankruptcy purposes. So, they are allowed to file as joint debtors just the same as opposite-sex spouses.

What records will I need in order to prepare my case?

In order to prepare your case for filing, you will need to provide the following items:

- Government-issued photo id
- Social Security card
- Your paystubs or other proof of your income for the preceding seven months
- Your state and federal tax returns for the preceding two years, including all supporting documents like W-2s, 1099s, etc.
- Your bank statements for the last seven months
- Current statements from any retirement accounts
- Papers related to lawsuits, divorces, garnishments, judgments, foreclosures or other legal matters in which you have been involved within the last several years
- Copies of bills, statements and collection letters relating to your debts.

What can I do if one of my creditors tries to collect from me after I file bankruptcy?

At the moment your bankruptcy case is filed, the “Automatic Stay” goes into effect. This is a legal injunction that enters *automatically* which makes any attempt to collect a debt from you a violation.

This means if one of your creditors does any of the following things after they’ve been given notice of the filing, they are in violation of the automatic stay:

1. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title
2. the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of this case under this title
3. any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate
4. any act to create, perfect, or enforce any lien against property of the estate
5. any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of this case under this title
6. any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title
7. the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor
8. the commencement or continuation of a proceeding before the United States Tax Court concerning the debtor.

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If any of your creditors violates the Automatic Stay, the Bankruptcy Court can issue sanctions, including any damages you sustain as the result of the violation and the payment of your attorney’s fees incurred in enforcing the automatic stay.

In order to receive your damages, an Adversary Proceeding (a separate lawsuit) would have to be filed in the Bankruptcy Court.

How long will my bankruptcy be on my credit report?

The credit reporting agencies will report your bankruptcy filing for 10 years. However, that doesn’t mean that your credit score will suffer for that long.

In fact, because the filing of a bankruptcy case results in the elimination of your debts, in many cases one year after you receive your discharge, your credit score will be higher than it was on the day your case was filed.

In the case of my clients, one to two years after their bankruptcy discharge, their credit scores should be significantly higher, in the 720+ “excellent” range. They do this by following the instructions they receive in the “7 Steps to a 720 Credit Score” class they will be enrolled in upon receiving their bankruptcy discharge.

Information on the class can be found at: <https://www.720creditscore.com/>.

I give this class to my clients as a gift to thank them for hiring me as their bankruptcy attorney and to truly help them get a fresh start on their financial lives.

The results of faithfully following the instructions given in the class are amazing. See the success stories of those who have completed the class and truly received a [fresh start after bankruptcy](#).

Why the Doig Law Group?

What does MY firm offer that will make you choose me?

Schedule a video consultation with my office to get sound, legal advice about your debt situation. It won’t cost you a thing—the consultation is valued at \$300!

You’ll learn more about the process, your rights and the best options for your particular situation.

I care about what happens to you and your family and if bankruptcy isn’t the best thing for you, I won’t recommend it.

Too often, I find people have been given poor information and are basing their decisions on incorrect facts. In this situation, ignorance is NOT bliss and can cost you pain, money and, well, more sleep.

I hear from people whose families are willing to loan or give them money to pay off their debts. The problem with this scenario is that it’s unlikely they’re taking care of the root problem and will be back under the heavy weight of debt again in 3-6 months.

Don’t throw good money after bad. It’s MUCH wiser to file a Chapter 7 or a Chapter 13 and save that reserve to help get re-established afterwards.

When you hire me, you are gaining more than 40 years of legal experience and a golden reputation. I have empathy for my clients and compassion throughout the process.

Plus, my goal is the same as yours—to help you get clear of debt and get back to the business of living your life by restoring your credit.

Bankruptcy in Colorado: Secrets “THEY” Don’t Want You to Know

- I've got 40+ years of legal experience to put to work for you.
- I've represented more than 1,000 individuals in bankruptcy.
- I pride myself in providing excellent client communication and I ALWAYS do my best to respond completely and in a timely fashion with all calls.

Visit my website:

DoigLawGroup.com

Call my office today:

(719) 227-8787

One last word...

Whether you found the specific topic you were looking for in this book or whether you read it from cover to cover, I hope you were able to understand that I truly care about helping people.

Like many of my clients, I know first-hand the pain and difficulty of dealing with financial difficulties and how demoralizing and stressful it is.

It may have taken me almost 30 years to find my calling as a bankruptcy attorney, but the remarkable thing is, I found it and I like being able to help people take care of their financial problems and begin rebuilding their lives.

Hopefully, I was able to help you sort out some questions about filing for bankruptcy. If you’re still unsure, the very best way to gain an understanding is to schedule a consultation with me. Together, we can dissect your situation and explore all of the possible solutions.

This visit is absolutely free of pressure and it won’t cost you a thing but your time.

Just send an email to me, Bob Doig, at Bob@SpringsBankruptcy.com or call or text me at **(719) 227-8787**.

I’m truly hopeful that I helped bring some promise of hope during a challenging time.

Warmest Regards,

Bob Doig