

## **Bankruptcy: Not Painful, But Not Painless**

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Often, around the time my clients receive their discharge from the bankruptcy court, I get the comment that “bankruptcy is not as painful as I thought it would be!” This is particularly true of Chapter 7 bankruptcy clients. However, while the bankruptcy process can be pretty straightforward and many times does not result in you losing any property like your home or your cars, obtaining a bankruptcy discharge of your debts is not a completely pain-free process.

### **Chapter 7 Bankruptcy**

The overwhelming majority of Chapter 7 cases are what are deemed “no asset” cases — meaning that there are no assets to distribute to your creditors. However, if you have non-exempt property, such as vacant land that you own free and clear of any liens, or if your vehicles are paid for and are worth more than the \$5,000 exemption you get under Arizona law, you will be required to pay the trustee the difference or lose the vehicle.

Additionally, the trustee assigned to your case has the right to request and review any and all financial documents. When friends come to me to file their bankruptcy I always tell them that I would be happy to help them, but warn them that bankruptcy is the legal equivalent of getting a colonoscopy. There are no financial secrets between attorney and client nor kept from the trustee — full disclosure is required. The good news is that when fully disclosed, your attorney can usually avoid any problems. The problems in a case arise when clients fail to disclose requested information.

### **Chapter 13 Bankruptcy**

In a Chapter 13 bankruptcy you will be required to repay a portion (usually very small portion) of your debts over a 3 to 5 year period. This requires that you make a monthly payment to the trustee. This payment is made up of your disposable income each month. Because you will be dedicating all of your disposable income to your monthly plan payment, Chapter 13 does not leave room for things like savings. At the end of your case you will not have any unsecured debt, but you will not be permitted to set aside money as you move through your case.

Again, most people are surprised at the unexpected ease of the bankruptcy process, but it is important to keep in mind that in exchange for all of your debts being eliminated, there may be some uncomfortable or difficult choices that have to be made.