

Chapter 13 Bankruptcy - Don't Drag Your Feet!

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When you file for Chapter 13 bankruptcy you've got a lot of information to provide to the trustee - papers fly back and forth in a mad flurry, and it's all got to be done in a specific timeframe. A recent [New York bankruptcy court decision](#) confirms that if you delay in cooperating with the court or trustee, you could end up having your case converted or dismissed.



Eric Gordon Jensen filed a Chapter 13 bankruptcy case in Manhattan on August 3, 2009. On February 12, 2010, the Chapter 13 Trustee asked the court to dismiss the case because Jensen had been dragging his feet. In fact, Jensen had not filed documents on time, had not shown up for court when he was supposed to, and did nothing to advance a lawsuit that he claimed would net him enough money to pay his creditors.

Under [Section 1307\(c\) of the U.S. Bankruptcy Code](#), a court may dismiss or convert a chapter 13 case to case under chapter 7 in 11 circumstances. Subsection (c)(1) provides that a court may dismiss or convert a chapter 13 case to a case under chapter 7 where there has been "unreasonable delay by the debtor that is prejudicial to creditors."

Subsection (c)(5) provides that a court may dismiss or convert a chapter 13 case in the event of "denial of confirmation of a plan under [11 U.S.C. § 1325] and denial of a request made for additional time for filing another plan or a modification of a plan."

The Court may convert the case rather than dismiss it if conversion "is in the best interests of creditors and the estate." 11 U.S.C. § 1307(c).

In this case, Jensen appeared to be using [Chapter 13](#) as a way to buy time until certain lawsuits freed up enough money to pay his debts. In doing so, it sounded to the bankruptcy judge as if he was using the Chapter 13 process as a sword rather than a shield - never a good

idea. So the judge ordered that the case be converted to a [Chapter 7](#). What does this mean? Well, under [Chapter 13](#) you keep control over your assets rather than having to surrender them under Chapter 7. In addition, you can always dismiss a [Chapter 13](#) case - not so with Chapter 7. If you're in Chapter 7, you're there until the court tells you it's done. Period.

So Jensen started out using Chapter 13 as a way to hold off his creditors and ended up in a Chapter 7, potentially losing control over his assets and being prevented from converting back to Chapter 13 or dismissing his case. [Here's a link to the decision in the case if you're so inclined to read it.](#)

Just goes to show - when you file for bankruptcy, you need to keep in mind the power that the trustee and the court have.

Photo by [DJotaku](#).

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