

Should I file a chapter 13 plan by myself?

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No. The first reason is because a chapter 13 is a complex legal and financial arrangement. Generally, it is more complicated than a chapter 7. In fact, most lawyers would consider themselves unqualified to assist a client in filing a chapter 7, and even more a chapter 13, and they would be right. The second reason is that the bankruptcy practice is a specialty. This means there are few people out there who are able to give you accurate advice if you are attempting to glean information from those who are knowledgeable. The rest of the information is garbled, off-point, or just flat out wrong. A third reason, related to the second, is that chapter 13 practice, and thus what you need to do, varies substantially from region to region. This means if you are gathering information from the internet or books or pamphlets, if it isn't geared for your specific locality, its value is decreased. Another reason is that the fail rate for attorney assisted chapter 13 plans ranges roughly between 2/3 and 3/4. The failure rate for pro se filed chapter 13's approaches 100%. In fact, it is a rarity for the pro se proposed plan to even be confirmed. (Do you know what that means?) Finally, in all likelihood, because of the failure rate, you will waste money, which is probably exactly the opposite of what you are trying to accomplish by filing without the assistance of a qualified attorney.

Let me give you an illustration of the complexity, and thus the danger of filing a chapter 13. A debtor filed a chapter 13, had their plan confirmed, and (after a few bumps in the road) completed the plan all the way to its completion. A success, right? So far I would say yes, and statistically it would be better than about 99% of pro se filers, and even better than the large majority of filers that have the assistance of counsel. But here is what happened.

After the initial filing, but while the chapter 13 plan was underway, the debtor attained a legal claim. After the plan was completed, the debtor sought to pursue the legal claim she obtained while she was completing their plan. The defendant argued successfully that the debtor was barred to pursue the legal claim under the doctrine of judicial estoppel. What happened is that the debtor lost her legal claim because she did not amend her bankruptcy papers while the plan was underway. Robinson v Tyson Foods, Inc., No. 08-14991, 2010 WL 396130 (11th Cir. Feb. 5, 2010).

If after reading this blog you don't have an idea why the debtor lost her legal claim or what judicial estoppel means, then you shouldn't file alone. But if you do, when you realize you need help, feel free to give this office a call. However, it would be best to call before trying to do it yourself.

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