

## Do I Need an Attorney For My Reaffirmation Agreement?

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According to Skribit, there is a bankruptcy debtor in Arizona wondering whether they need an attorney to complete their reaffirmation agreement. The quick and dirty answer to this is no.

### **What is a reaffirmation agreement?**

First things first. A reaffirmation agreement is a contract between a debtor and their lender which reaffirms a pre-petition debt so that liability survives the bankruptcy discharge. The document is compiled by the lender and outlines the terms of the new contract. There are several blanks left for the debtor to fill in their income and expenses – these numbers help clarify whether a debtor can afford to reaffirm the vehicle debt. There is room for both debtor and attorney to sign.

Thanks to BAPCPA, most experienced bankruptcy lawyers won't touch reaffirmation agreements with a 10 foot pole. Why? The 2005 amendment to the Bankruptcy code allows bankruptcy attorneys to certify to the court that the reaffirmation is in your best interest. This means your attorney is telling the Court that you can afford the payment and that it is in your best interest to keep the vehicle.

That may sound like a straightforward question to you, but many courts have interpreted this as allowing the judge to sanction the attorney if the judge disagrees with the certification. Thus, asking your attorney to sign certify your reaffirmation is like asking them to put the fees they got in your case on the line, as they can be forced them to give up the fees they earned in the case.

So what happens if I do not certify that you can make payments according to the reaffirmation agreement? Well, you are going to have to attend a hearing in which a judge will decide whether your proven ratio of income to expenses is compatible with the details of your reaffirmation.

I can see the next questions coming. Do I need an attorney for my reaffirmation agreement hearing? No. While it may seem a daunting task, a debtor can represent themselves at the reaffirmation hearing. To prepare, you should be familiar with your current income and expenses, and whether there is sufficient funds remaining at the end of each month to successfully meet the requirements specified in the reaffirmation agreement. The judge will then decide whether to certify the agreement.

For a discussion from Judge Hollowell on handling your own reaffirmation agreement, please click [here](#).

### **I already paid a bankruptcy lawyer...Shouldn't he handle my reaffirmation?**

Not necessarily. If you hired a discount bankruptcy lawyer, there is a good chance that you are paying for services *a la carte*. This means that, while your fees include the preparation and filing of a standard bankruptcy case, additional services are offered at a charge. Because reaffirmation agreements are not standard in every bankruptcy case, this is likely considered an additional service.

### **Should I sign my reaffirmation agreement?**

Eek. This is a loaded question and one that cannot possibly be answered in a single post. For a thorough discussion of this question, please stop by tomorrow.