

## COMMON BANKRUPTCY MISCONCEPTIONS

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*Many of the people reading this have conducted research on the Internet about filing bankruptcy and they probably realize the bankruptcy laws significantly changed in 2005. Many of them have likely heard or read the new bankruptcy laws have taken away their right or ability to file for bankruptcy. Others are under the misconception that they don't qualify or they have to repay all their debts prior to filing for bankruptcy.*

Those are all common misconceptions. Every day we have people come in and say: “I want to file bankruptcy, but I've heard I can't discharge my credit card debts,” or “I've heard I can't file a Chapter 7 anymore because I have to repay all my credit cards debts first.” That is simply not true! Right before the laws changed in 2005 hundreds of law firms spread the false message of “File bankruptcy now because you might not be able to file a Chapter 7 in the future.” That was not true then and it definitely is not true today! We help our clients file Chapter 7 every day of the week.

However, it is important to know the new law changes made it significantly tougher on non-attorneys to file for bankruptcy. It significantly increased the amount of paperwork, the various deadlines, there's more financial analysis that must be done and more rules and regulations that are very difficult to understand. It introduced what is known as the “Means Test,” which is convoluted formula for determining if you are qualified for Chapter 7 or Chapter 13. At first glance many people see the Means Test and determine because of this factor or that factor that they simply can't qualify for a Chapter 7. However, if you study the law and understand precisely how to apply certain qualifications and exemptions like we do, you can find perfectly legal ways to still qualify. In fact, we are able to find creative ways to help up to 95% of our clients who want or need to file a Chapter 7 to fit within those criteria.

One of the reasons why the credit card companies and banks pushed through the change in law was to push more people into repayment plans and force more people to file a Chapter 13. Chapter 13 is a “best effort plan,” in other words, you pay what you can afford for three to five years on your unsecured debt and what's not paid back is discharged at the end of the plan. A primary goal of the new bankruptcy laws was to push more people into this kind of a repayment plan. Believe me when I tell you people are still filing Chapter 7 just as they were before. There are more restrictions now. It is much more complicated, but the net effect is still the same. When you work with us we can usually help you file a Chapter 7, assuming that is the best option for you. We can help you get a fresh start.

One of the dirty little secrets they don't want you to know is the new changes in the law were driven by these huge multi-billion dollar credit card companies and one of the primary goals of the new law was simply just to make it much harder for average, every day consumers to file for bankruptcy protection. They wanted to scare you away from filing and if you file they came up with many different ways you can lose your assets and your rights, especially if you tried to do it on your own. The change in the bankruptcy laws were led by the credit card companies. In legal terms, the new law is referred to as "BAPCPA" which stands for the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005."

As you can see, the bankruptcy abuse prevention came first, which protects the creditors and the consumer protection is last. The consumer protection part of this new law is secondary to everything else which is why you need an attorney to help protect your rights when you go through this process. It's set up for the benefit of the creditors. It takes most bankruptcy attorneys 6 months to a year to understand how and when to apply the "Means Test" – the convoluted test that Congress and the creditor's lobbyists came up with. I've been practicing bankruptcy law for over 9 years now so I have lots of experience with this process. In fact, there are still court cases and lawsuits being filed to better define the Means Test.

Consumers need to understand that filing for bankruptcy is not designed to be simple. The lobbyists intentionally made it complicated and that is one of the reasons why you should hire us to file bankruptcy for you. I spend close to 80 hours every week serving my clients, studying the laws, going to bankruptcy seminars, and reading case studies because I want to make sure I know everything there is to know about bankruptcy. A lot of people file on their own, this is known as filing pro se, and they believe they are saving money. Yet these are the same people I see break down at the bankruptcy 341 hearing and even cry in front of the bankruptcy trustee!

Let me explain, about 40 days after you submit your bankruptcy file you go in front of the trustee at the court. This is known as the 341 hearing of creditors. The trustee, who is a lawyer who acts on behalf of all your creditors, will ask you all kinds of questions trying to get you to admit you messed up or did not disclose some of your assets or you paid back a family member when you shouldn't have, or you kept too much cash in the bank because you know you have an upcoming bill to pay. Their goal is to get as much money for the creditors as possible and since you are representing yourself, you need to be ready to answer all of their questions.

I have personally seen many people who file on their own (pro se) make common mistakes and the trustee has been able to find several thousand dollars that is no longer protected in their bankruptcy, but could have been if they would have sought out an attorney to help them. Their explanation is usually along the lines of, "Well, that's my money for food.

How am I going to buy food without any money?" Or, "That's my rent money. If I don't pay my rent, my landlord will kick me out!" Or even, "How is my family going to survive if

you take my last dollar?" Unfortunately, they find out too late that even though the trustee's are nice people, they don't care about you. You are not their client and they have absolutely no responsibility to make sure your needs are taken care of. Their clients are your creditors and they are legally obligated to focus solely on their needs and wants and they want your money! See, people need to know the bankruptcy trustee is paid a percentage of all the money they collect from you for the creditors so they have a built in incentive to collect as much as possible.

You need an attorney to protect your assets and your interests. The people who file on their own try to save a little bit of money, but spend countless nights trying to figure out how to file the petition, make sure they meet all the deadlines and schedules, how to fill out all the forms, and do their best to fulfill all the requirements. Yet they still get slammed by the trustee at the 341 hearing, far too often they lose some of their assets, which didn't have to happen. The saying "penny wise and pound foolish" comes to mind. This happens all because they were trying to save a little money by doing it on their own.

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Lawrence "D" Pew is Managing Attorney for the Pew Law Center, one of the leading bankruptcy and tax law firms in Arizona. They have worked with over 2,000 clients to help them file bankruptcy and eliminate over \$100 Million dollars in taxes and debt.

When founding the Pew Law Center, Mr. Pew's vision is of a premier, client oriented law firm that is designed to consistently exceed client expectations and achieve stellar legal representation. Mr. Pew's concern and compassion for his clients adds to the excellent service and standards at the Pew Law Center. He has worked tirelessly in order to produce fantastic results and outcomes for the firm's clients. Mr. Pew is a member of the State Bar of Arizona and the National Association of Consumer Bankruptcy Attorneys (NACBA). He continually educates himself on the latest trends and developments in the areas of bankruptcy and tax to ensure the highest service possible for his clients. Given his diverse background and experience, Mr. Pew provides real world answers and practical solutions to complicated problems. Mr. Pew continues to practice law because of the difference he can make in people's lives, especially during their darkest most trying hours.

**You can read his book: *Bankruptcy Secrets "They" Don't Want You to Know***

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