

DO YOU NEED TO MAKE

A FINANCIAL U-TURN?

**Discover the TRUTH about using Bankruptcy to
point your finances in the right direction.**

By Attorney Christian B. Felden

FOOD FOR THOUGHT

In 2013 I helped folks eliminate \$9,912,930 dollars' worth of debt. If you extrapolate that out over my 30+ year career, I'm approaching \$297,387,900 in debt **GONE FOR GOOD! No sum is insurmountable!**

How much debt can I help eliminate for you?

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CLIENT TESTIMONIALS:

WHAT SOME OF OUR CLIENTS HAVE TO SAY

Over the course of this book you will see that I absolutely love what I do! My mission is to fight for and guide my clients, with personalized service, through the process of regaining control of their lives after suffering a financial setback – but don't take my word for it, take theirs!

“Thanks so much for everything!!” – Mary Ranck, Florida

“We just want to thank you for all your hard work in helping us with our Bankruptcy. Everyone there has been very courteous and helpful as well as patient. We both appreciate all you have done and will certainly refer anyone we know to you should they need your services.” – Charles and Lynn Reber, Florida

“You're my hero!” – S.T., North Carolina

“You have been such a big help. I know you are probably a very busy person and to take the time to speak to me means a lot. May it pay forward. You're my angel!” – Jamie G., Florida

“You’ve been great...do you know that? Really responsive and thorough and always kind. I thank you for that. This has been very overwhelming and embarrassing and you made it much easier than I anticipated.” – Anonymous, North Carolina

“Thank you so much. You are a very kind and understanding individual. More businesses should operate and show compassion as you do.” – Freddie Smiling, North Carolina

I LOOK FORWARD TO SERVING YOU AS WELL!

**WANT IMMEDIATE ANSWERS
TO YOUR SPECIFIC QUESTIONS?**

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FAQ: ANSWERS TO YOUR BASIC QUESTIONS

Throughout this book my goals are to both simplify the bankruptcy process and show you just how powerful bankruptcy can be to solve many of the financial problems you may be facing. After reading just the first few chapters of the book you will have a good understanding of the basics of how Chapter 7 Bankruptcy and Chapter 13 Bankruptcy work, and also how the financial problems you are facing can be easily solved.

However, some of you may want a fast answer to a burning question about bankruptcy that is weighing on your mind. Others may be skeptical because you will think it sounds too good to be true, or too easy. You may start off by being skeptical because you've talked to a friend or relative who filed bankruptcy years ago and their experiences don't sound anything like I will describe things in this book.

First, let me assure you that bankruptcy can and does work as easily as I describe it in this book for the vast majority of people. For those of you who want to cut to the chase, let me address the most common questions and concerns I receive from potential clients before going into the basics of bankruptcy and debt.

What can a creditor do to me if I don't file bankruptcy?

Debt collection is a three step process. They can contact you to collect the debt, but they may not make any idle or illegal threats - such as throwing you in jail (remember, debtors prisons went out with the French Revolution); reporting you to social services (no, they can't take your kids); or taking belongings that aren't connected to the debt itself. Some of those things may seem obvious and ridiculous, yet they have all been threatened to clients of mine over the years. Creditors can take you to court and may obtain a judgment against you for the money owed. This judgment lasts for several years (the exact time period varies depending on the state where the judgment is issued). During the time the judgment is valid they may attempt to take your property. This most often involves garnishment of your bank accounts or your wages.

If I ignore my creditors won't they eventually just go away?

This is a more common question than you might think. From a theoretical standpoint you do have three options when you have financial problems. One option you always have is to file bankruptcy. Option two is to work out a deal to pay off your creditors. This second option obviously works for very few people

either because they don't have enough money to work out arrangements with their creditors or their creditors are simply not willing to work with them. The third option is to do nothing. This third option, however, also works for very few people. That's because eventually one or more of your creditors are likely to sue you and get a judgment against you. As mentioned in the preceding section, a judgment is essentially a court order that allows the creditor to confiscate money or assets from you up to the dollar amount of the judgment. This judgment will also last for many years. So where you may not have anything for them to come and take or garnish now, that may not be the case years from now, if you are able to get yourself to a different place financially. Remember, at any point during the life of the judgment the creditor can and will take assets from you even though you may not have owned that asset at the time the judgment was issued. Therefore doing nothing is usually not a reasonable option, unless you're very old, don't have any assets, and are not likely to acquire anymore assets in the future.

TOM'S STORY:

Tom had a unique situation when he first came in to speak with me about filing bankruptcy. He was in a horrible financial state and had been for some time, but he had recently found out that he was coming into a small inheritance that he planned on using to turn his life around. When we parted that day, he ultimately decided to hold off on filing bankruptcy, and tried to pay off his debts with the money he was receiving. Not surprisingly, he didn't receive enough money to pay off all of his debts, so some creditors still went unpaid. He was sued several times and received several judgments for monies he owed, but with no income and no real assets, there wasn't anything for his creditors to take...so he thought. A few years later, Tom, now a successful sales representative, was back in my office signing bankruptcy papers because those judgments didn't go away like he thought they would. I will never forget what he said – he said if, “I had only filed for bankruptcy when I first came to see you, not only would my finances already be cleaned up, but I wouldn't be facing losing over 15% of my monthly income to these sharks. I just can't seem to catch a break!” I reminded him, though, that bankruptcy was the break he needed.

What will bankruptcy do about the collection agencies that keep harassing me?

As soon as your case is filed, the bankruptcy court issues what is called an automatic stay (or stop). The automatic stay is essentially a bankruptcy injunction that forbids your creditors from contacting you or taking any action against you to collect the debt. The federal courts impose strict penalties on creditors for willful violation of the automatic stay, and you may be eligible to receive monetary compensation for these creditor violations.

NANCY'S STORY:

When Nancy first contacted me she was *desperate* to make the noise in her life stop.

She was being harassed non-stop at work, at home, on her cellphone – even her friends were receiving calls from HER creditors looking for payment!

I will never forget the look of relief she had on her face when I told her how the INSTANT her bankruptcy was filed, no one would be able to make threatening calls to her anymore at all hours of the day and night.

The liberation she felt from her nightmare was immediate. She even told me she wasn't afraid to answer her phone anymore, and after seeing her smile, I believe her!

Won't I lose my Retirement Savings if I file for Bankruptcy?

In most states all, or virtually all, retirement account and

MARTY AND SUE'S STORY:

Marty and Sue were frustrated when they sought bankruptcy advice from me. They had watched their retirement savings dwindle from \$80,000 to \$40,000 while they tried to pay back creditors who were ruthlessly pursuing collections against them. They never imagined their retirement years would be spent like this, and they certainly never imagined that their retirement account would be depleted so rapidly, with very little progress. I told them to immediately stop the bleeding! By filing bankruptcy, they were able to keep what was left of their nest egg safe, and since retirement accounts are protected in most bankruptcy filings, had they come to me sooner – I could have saved them \$40,000 in heartache! Bottom line: Don't allow your financial security to be robbed out from under you!

pension plan funds are exempt from creditors, meaning you get to keep them if you file for Chapter 7 bankruptcy. There are some limitations depending on where you live so you should always remember to ask your bankruptcy attorney this important question. In the states where I practice predominantly my clients are able to protect all of their retirement savings. In Chapter 13 bankruptcy, because your retirement accounts are exempt, they won't affect how much you must repay unsecured creditors.

Plans subject to this exemption include the most common types of pension plans, such as:

- 401(k)s
- 403(b)s
- IRAs (Roth, SEP, and SIMPLE)
- Keoghs
- Profit-sharing plans
- Money purchase plans, and
- Defined-benefit plans.

Although the funds in your retirement accounts may be exempt from creditors, retirement benefits that are paid to you as income are not exempt. For instance, for the purposes of Chapter 13 bankruptcy, this kind of retirement income is included in your repayment plan and will help determine what portion of your unsecured debts you must repay.

Don't I have to give up everything I own if I file for bankruptcy?

Absolutely not! Every state legislature has enacted what are known as exemption laws that protect certain assets from creditors, even if that creditor has a judgment against you. These same exemption laws apply inside bankruptcy as well as outside bankruptcy. Exemption laws vary from state to

state. That is why getting advice from a friend who filed bankruptcy in another state often isn't helpful because the exemptions in his or her state are likely to be different than your state. It is important to note that state exemptions laws can also tend to be very generous. Most of our clients who are eligible for Chapter 7 Bankruptcy are able to keep everything they own while completely wiping out their unsecured debt. Determining what assets you can protect is an important step in determining what type of bankruptcy you should file. If you cannot protect everything you own in a Chapter 7, you may decide to file for Chapter 13 Bankruptcy protection instead. Why, you may be asking? Because all of your assets can be protected in a Chapter 13 Bankruptcy!

I have been told if I file for bankruptcy I will lose my home, is this true?

This is completely false. One of the main purposes for filing bankruptcy is to protect your home from foreclosure. If you are current on your payments, you can protect your home's equity from creditors and keep your home in bankruptcy. As I mentioned in the previous question, state exemptions laws protect certain assets you own and every state has some type of exemption for protecting at least a portion of the equity in your home. For example, the two states I practice in predominantly

are North Carolina and Florida. At a minimum, individuals filing for bankruptcy protection in North Carolina can protect \$35,000 worth of equity in their primary residence or \$70,000 for married couples. This protected equity amount is unlimited for Florida individuals and couples. Plus, as mentioned at the end of the previous section, all of your assets can be protected in a Chapter 13, even excess equity you may have above your homestead exemption limit in those states that have limited homestead exemption laws. *And, as you will learn later in this book when I discuss Chapter 13 Bankruptcies, if you are behind on your mortgage payments, there are options under Chapter 13 Bankruptcy to force your bank to allow you to catch up on your back payments and keep your home - even if it has gone into foreclosure.*

I am married, do both of us have to file bankruptcy?

No. You can file individually. Whether you should or not depends on who is legally liable on the debts that you have, but if you have individual debts then it is safe for you to file individually. However, if you have joint debts with your spouse it is not a good idea to file an individual bankruptcy. The reason I say this is that if only one joint debtor on a joint debt files bankruptcy, the other joint debtor who did not file bankruptcy is still liable for the debt. The nice thing though is that, if you both

have to file bankruptcy, a husband and wife can file a joint case for no extra cost. That's like getting two bankruptcies for the price of one.

If I file for bankruptcy, won't everyone know I have filed?

Usually not. While a bankruptcy filing is a public court record, it is not easy for most people to find out about it. It is on a court database that is not searchable from websites like Google or Yahoo. And, unless the person filing for bankruptcy happens to be a celebrity, it is rarely reported in the newspapers. If you are concerned about this, you can check your local newspaper to ensure that it does not report local bankruptcies before we file.

If I filed bankruptcy previously, can I file again?

Yes, but how long you have to wait to re-file depends on the type of bankruptcy that you initially filed and the type of bankruptcy you now wish to file. The time periods vary from two years to eight years.

If I file for Chapter 13 Bankruptcy Relief, will I have to make monthly payments to every creditor?

No. This is why Chapter 13 Bankruptcy is a not a debt consolidation. If you go to a debt consolidation company you may get a minor modification to your monthly payments on your debt, but you will normally end up having to pay all of your creditors back in full. In a Chapter 13 Bankruptcy, your monthly payment is usually based on what you can afford to pay on a monthly basis, regardless of how much unsecured debt you have. So, if your budget shows that you can only afford to pay, for example, \$150.00 each month, then that's all you will pay for either three years or five years regardless of if you owe \$10,000 or \$100,000 to your creditors. You will then pay this amount to the bankruptcy trustee, and he or she will distribute that money to your creditors. At the end of your three to five year bankruptcy plan, any unpaid portion of your dischargeable, unsecured debt (think credit cards, medical bills, personal loans, etc.) is completely wiped out.

TRACY AND DON'S STORY:

Tracy had to drag Don into my office – literally. He was so opposed to the idea of bankruptcy that he could hardly bring himself to speak the word. I reassured him that I was not there to pressure him into any decision, just to lay out his options for him, and he agreed to hear what I had to say. Over the course of our consultation, I found out that Don' didn't feel that they were candidate for bankruptcy because they were still making their minimum monthly payments for their debts. I pointed out that that was great, but were they making any headway on the debt balances themselves? We did the math and quickly came the conclusion that their over \$500 a month in minimum payments would take over 50 years to pay back all of their debts! And that was assuming that they could keep up with lofty payments of \$500 a month. I did the rough bankruptcy calculations, and based on their income and household size, their Chapter 13 Plan payments would be around \$275 per month. That was half of what they were currently paying, AND their debts would be gone (FOR GOOD) in a matter of 5 years. Needless to say, Don realized the gravity of their financial situation at that point and saw the light at the end of the tunnel of debt.

What kinds of debts can I NOT eliminate under bankruptcy?

You cannot eliminate student loans, certain tax debts, or court ordered support payments. You also cannot eliminate some debts incurred within 60 to 90 days of filing for bankruptcy (Such as purposely running up your credit card debt right before filing bankruptcy). You typically cannot eliminate secured debts (such as mortgages or car loans) for personal and real property that you plan on keeping. However, as you will learn later, in many cases you can modify payments on car loans.

What about the companies I see on TV that say they will wipe out my debts without bankruptcy?

To this I say, be afraid – be very afraid. There are many unfounded claims being made by agencies that do not have the right to practice law. The Federal Trade Commission recently warned of these "credit repair" scams. The truth is, these companies depend on your creditors voluntarily agreeing to reduce your debt in exchange for your lump sum payment. Unlike legal debt relief, they cannot force your creditors to stop harassing you or even to participate in the deal. They cannot stop collection agency harassment or judgments against you. Only legal debt relief through bankruptcy can. Furthermore, they usually charge far more to reduce a few of your debts than

any attorney charges to legally eliminate *all* of the same debts in bankruptcy.

Do I have to make a court appearance?

Usually no. The only appearance the vast majority of bankruptcy filers make is at an informal 341 Creditor's Meeting where there is no judge. The bankruptcy trustee will ask you a few questions for the record about your bankruptcy at this meeting. These questions usually take less than 5 minutes to complete.

If I file bankruptcy, won't my credit be messed up for 10 years?

If you file, the bankruptcy is allowed to remain on your credit report for up to 10 years, however, this does not mean that you cannot get credit during this time period. It simply means that it is allowed to remain on your credit report for this period of time. How long it takes you to obtain credit will really depend more on the other circumstances going on in your life at the time you apply for credit than it will on the bankruptcy. Most lenders these days will do a full review of your credit request despite the bankruptcy on your record. If you have a good cash flow and steady income situation, you will probably not find it difficult to obtain most types of credit right

away. Also, as of the time of your bankruptcy discharge, you will have a fresh start to rebuild your credit with no debt burden. The alternative to not filing bankruptcy is to go on with debts hovering over you that will take many years to pay off, and will remain on your credit report for 7 years after that - usually an even worse situation than bankruptcy. This is especially true with judgments which may be collected for many years after they are placed against you. It is typically far worse to have a judgment on your record than a bankruptcy.

If I file for bankruptcy, what happens to my credit score?

There is no doubt that your credit score will go down as a result of a bankruptcy filing, but your credit score is only one component that lenders use in determining your credit worthiness. Lenders also look at your income and your debt burden. If you have missed payments, have collection accounts, have judgments, or repossessions, your credit score is already very low. Bankruptcy will lower the score even more, but bankruptcy can also eliminate your debt burden completely. In a lender's eyes, this can make you more credit worthy since your income is free from the burden of your old debt payments. Moreover, once you make a fresh start, you will be able to rebuild your credit over time.