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5 Do's And Don'ts When Filing Bankruptcy

It is surprising how often, as an Orlando bankruptcy lawyer, I wind up advising clients NOT to do something they planned to do before they came to see me about filing bankruptcy. Many times, they had a feeling they shouldn't do whatever it was in the first place, but were coming to see me for clarification and certainty. Some of these plans, if seen through, could seriously jeopardize their bankruptcy case. I've put together a quick list of 5 things you should or should not do when filing bankruptcy.

1. DO: Disclose all of your assets and all of your creditors in your Petition

When someone files bankruptcy, they fill out a lot of paperwork known as the bankruptcy petition, which is prepared and filed with the Court by their bankruptcy lawyer. In that document, the Debtor (person filing bankruptcy), must acknowledge all of their assets and their debts. This is the core principal in bankruptcy, that everyone who files bankruptcy must provide full disclosure. Therefore, if you are filing bankruptcy, all of your possessions (no matter who purchased them originally) and all of your creditors must be listed on the petition.

2. DON'T: Contact the Trustee's office if you have an attorney.

The Orlando Chapter 13 Trustee recently conducted a luncheon wherein she informed all the attorneys in attendance that if our clients contact her office, only bad things would result from it. She made it very clear that we were to instruct our clients NOT to contact her office. You see, when you are represented by an attorney and you contact the Trustee's office directly, the staff member in question has to stop what they were doing and pull up your file. Once they have your file up, they take that opportunity to review your case. Have they missed something? Did they receive your most recent tax refund? Are you late with your Plan payment?

3. DO: Let your bankruptcy lawyer know about any changes in your income while you are in a Chapter 13 bankruptcy.

When you enter into a Chapter 13 bankruptcy, it can go on for up to 5 years. Think of a Chapter 13 as a partnership between you and your bankruptcy lawyer. To reach the intended successful outcome, each party must perform their duties. One of the obligations of a person filing bankruptcy under Chapter 13 is to ensure their bankruptcy lawyer is aware of any changes in their income, whether an increase, or decrease, during the entire case. While you may be hesitant to let your bankruptcy lawyer know about an income increase, you must keep in mind that it does not always result in an increased plan payment.

4. DON'T: Before filing bankruptcy, give your property away.

This DON'T might be the biggest and most important. Just re-read the statement after DON'T above, it doesn't sound honest, does it? The bankruptcy Court certainly doesn't believe that it is. In fact, the Court calls this FRAUD and you can get in a lot of trouble for it. Transferring any property out of your name before filing bankruptcy is just something you shouldn't do.

5. DO: Be honest and Disclose

If there is one thing that every experienced bankruptcy lawyer tells their clients, and that is to disclose everything. In other words, if you are not sure whether or not you should list something in your bankruptcy petition, list it. It could be that it was not important and nothing is lost by disclosing it. Alternatively, what if you don't list it and the Trustee uncovers it and believes you were trying to get away with something shady and misleading. If the second, you could be in a lot of trouble. So what you should take away from this DO: inform your bankruptcy lawyer about everything.

There you go, 5 quick Do's and Don'ts to keep in mind when filing bankruptcy, or considering filing bankruptcy. Believe me, there are many, many more.

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