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If you’re struggling with financial problems, you’re not alone. According to the Federal Reserve, American consumers are currently carrying more than $3 trillion in debt. That includes more than $800 billion in credit card debt.¹ Many Americans are struggling under the weight of that debt. Data from TransUnion, one of the three major credit reporting agencies, indicates that about 4.5 million U.S. credit card accounts are currently delinquent.² And, more than 100,000 foreclosure filings are reported each month.³ In 2012, individual Chapter 7 bankruptcy filers alone listed more than $144 million in debt.⁴

I’ve worked with thousands of people buried in debt, and I know that when you’re in that situation, it often feels like the deck is stacked against you.

Creditors and debt collectors only care about getting as much money from you as possible, and many are willing to use dirty tricks to achieve that goal.

Credit card companies and mortgage companies use your financial difficulties as an excuse to charge you even more, adding fees and raising interest rates when you’re already struggling.
Even federal bankruptcy laws, which exist to help people in tough financial situations, were shaped by creditors. And, many bankruptcy attorneys confine their role to the basic bankruptcy case, meaning that you don’t get the full protection the law has to offer.

But, **if you’re serious about solving your financial problems, help is available.**

Understanding your options is the first step toward taking control and reclaiming financial freedom. I know from experience that people whose debt problems once seemed insurmountable go on to live better lives, pay their bills on time, answer the telephone without fear and even set money aside for their children’s college expenses or a trip to Disney World. They own homes, finance automobiles and enjoy a peace and stability that once seemed unimaginable. I want that kind of future for you. If you’re going to conquer your financial problems, you have to want it, too.

The first steps are to take a hard look at your own current reality and to educate yourself about your options.

**This book will help you do both.**
Understand What You Want To Change

This book is about finding the right solution to your financial problems. But, that can't happen until you're truly ready to make a change. So, before you read this book, stop and think about where you are now. Is your situation bad enough that you're ready to act?

The questions below will help you clarify where you stand, whether you're ready to take action and what you're willing to do in order to solve your problem. Be specific! Writing down your answers will help you organize your thoughts and see your situation clearly. Don't try to come up with the “right answer,” just be brutally honest. These answers are for you, so that you'll have a clear vision of your future and can make a good decision about your next steps.

1. What is the main issue that is motivating you to consider bankruptcy?
2. How long have you been dealing with this issue?
3. What has changed that made you decide to take action now?
4. How do you want your life to be different as a result of this process?
5. What do you want to accomplish now and in the future?
6. How are your financial problems getting in the way of those goals?

Armed with this frank assessment of your current circumstances and a vision for the future, you'll be better equipped to assess each of your options and determine which solution is best for you. You'll also have a powerful motivation to move forward, solve your financial problems and claim the life you envision.
Knowing what you want is an important first step, but before you can make good decisions about your financial future, you also need a solid understanding of the numbers. Obviously, your expenses are overwhelming or you wouldn’t be reading this book. But, too many people rely on a vague sense of being short of money and don’t take a hard look at the numbers. Precise calculations will help clarify your situation and allow you to make educated decisions.

Use the worksheet on the next page to add up all of your income for the month and then all of your expenses. Make sure your expenses include everything - not just fixed bills and large expenses, but groceries, clothing and even every cup of coffee you pick up on the way to work. If the expense number exceeds the income number, something has to change.

If this analysis yields a simple solution such as “cut out the cable bill, and the budget will balance,” congratulations!

Unfortunately, by the time most people are making this analysis, the problem runs much deeper. Be realistic about what changes you can implement and stick with for as long as it takes to pay off those debts. If your new budget depends on factors outside your control, such as never needing a car repair, you’re setting yourself up to fail.

In subsequent chapters, I’ll talk about the pros and cons of several alternatives, including debt settlement, home equity loans, cashing in retirement accounts and bankruptcy. Remember that this is only general information, not legal advice. I can only offer legal advice when I’ve had the opportunity to talk with you one-on-one and gather specific information about your situation.
Budget Worksheet

Monthly After-Tax Income

Additional Monthly Income (alimony/child support, etc.)

Total Monthly Income

- Mortgage or rent
- Property tax
- Homeowner’s/renter’s insurance
- Homeowner’s association or condo fees
- Electricity
- Gas/heating oil
- Water
- Telephone
- Trash collection
- Cable TV
- Internet service
- Cell phone
- Medical/dental insurance
- Car payments
- Car insurance
- Public transportation costs
- Gas
- Parking/tolls
- Credit card payments
- Student Loans
- Alimony/child support paid
- Groceries
- Meals out
- Entertainment
- Hobbies
- Child care
- School tuition
- School lunches
- Lessons/sports
- Dry cleaning/laundry
- Other

The expenses below don’t occur on a regular monthly basis, but must be part of your budget. Add up your average annual costs for each item below and divide by 12 to arrive at a monthly cost.

- Personal grooming
- Clothing
- Vehicle registration
- Car maintenance/repairs
- Other

Total Monthly Expenses

Income – Expenses =
Finding the Right Solution for You

There’s no one-size-fits-all solution for financial problems. The right answer for you depends on a number of factors, including your income, your age, your goals and priorities, the amount and type of debt you have and your other obligations.

Unfortunately, some of the approaches that are least likely to succeed are also the most popular. While you’ll want to carefully consider each option, do so with a realistic view. Some solutions aren’t solutions at all, while others work well in certain circumstances but aren’t the right answer for everyone.

Wait and See Won't Work

Many people in dire financial straits get caught up in wishful thinking, hoping that the situation will improve in time. That kind of thinking is understandable, but dangerous. Once your finances start to spiral out of control, it’s very unlikely that they’ll fall back into place. For most people, unaddressed financial problems snowball. Think about how long you have been dealing with your debt, and you’ll probably recognize that it has only gotten worse over time.

Even when your credit cards are maxed out and you theoretically can’t qualify to incur new debt, late fees and interest charges keep those balances growing.
For example, the Federal Reserve’s credit card calculator estimates that if you owe $3,500 at 18.9% interest and make only minimum payments, it will take 33 years to pay off your balance and you’ll pay $10,247 in interest during that time. Of course, that assumes that all of your payments are on time, so that no late fees accrue, and that you don’t incur any additional charges during that time.

Even if you have the discipline and available cash to keep making $70/month payments as the minimum required declines, it will take 8 years to pay off that $3,500 balance and you’ll pay $3,187.55 in interest.

### Payments of $70.00 per month on $3,500 balance at 18.9% interest

The longer you wait to take action, the deeper in debt you get. While some of those growing problems can ultimately be solved in bankruptcy, delay limits your options and may create even greater expense and complication. I’ve seen balances increase, homes and automobiles lost, utilities disconnected and a host of other problems caused by good people holding on for too long to the hope that their problems would just go away.

Of course, this growing financial distress also means greater stress for you and your family. The growing sense of urgency will make it harder and harder to think clearly and make good decisions for your future.
The time to take action is now, before your situation worsens or you face consequences that can’t be repaired.

Unfortunately, the first solutions many people lean toward aren’t really solutions at all.

First, Do No Harm

Most people struggling with debt are good, honest people just like you. And, just like you, they had every intention of paying those debts when they took out loans, used credit cards and bought large ticket items like houses and cars.

Then, circumstances changed. Maybe you lost your job and had to take a new one at a much lower pay rate. Maybe a medical crisis cut into your income at the same time you were running up huge medical bills. Maybe you were simply unprepared for the jump in mortgage payments when your adjustable rate kicked in and haven’t been able to keep on top of your bills since.

Whatever the cause, most people who end up filing bankruptcy had the best of intentions when they took on debt. And, because they truly want to make good on those debts, many make even more serious mistakes.

When you’re in a tough situation, there’s always somebody waiting in the wings to take advantage. Whatever solution you’re considering, make sure that you do your research thoroughly and don’t fall victim to a scheme that will leave you worse off than you were before.
For example, the Federal Trade Commission (FTC) warns about automobile loan modification scams in which you pay up front fees to get your payments lowered and then nothing happens. In many cases, these companies compound the problem by telling their clients to stop making car payments during the “negotiations.” Often, people who’d paid hundreds of dollars in fees didn’t learn that they weren’t really receiving services until their automobiles were repossessed. The FTC calls this type of fraud “Last Dollar Scams,” because the schemes are designed to take advantage of people who are already struggling.

You should also beware of debt settlement companies that claim they can resolve your credit card and other debts for a fraction of what you owe. Since the beginning of the recession, the Better Business Bureau has received thousands of complaints about companies making such claims. If a solution sounds too good to be true, it probably is. Don’t let desperation block out your common sense. And, if you do believe that you’ve found the right solution for you, make sure that you verify what you’ve been told and don’t ignore red flags.

Negotiating with Creditors

The first line of defense when you have a problem with someone is typically to find out whether you can resolve the problem between you. Depending on the amount of your debt, the number of credit accounts you have, your payment history and other factors, you may be able to negotiate with your creditors to create a workable payment plan.

Reach Out to Creditors Directly

If you want to try to negotiate with your creditors, first determine how much you can reliably afford to pay in total each month. That number is going to have to cover all of your outstanding debts, and you’ll want to allow some buffer to set aside money for emergencies like car repairs. Otherwise, the whole system will fall apart the first time you face an unexpected expense.

When you know how much you have to devote to paying your debts each month, gather your bills and start making phone calls.
Remember that you’re chipping away at a total as you go: if you reach an agreement with one creditor, deduct that payment from the amount you have to work with.

Most credit card companies will be willing to reduce your balance by 50% or more. However, they often want you to pay the entire negotiated balance at once. You must evaluate whether you have enough cash in reserve to pay off the reduced balance, and whether there will be enough money left over after that lump sum payment to resolve other debts that remain.

Even if you are able to negotiate lower monthly payments instead of a lump sum payoff, there’s more to managing your debts than reducing monthly payments. In order to make real progress toward resolving your financial problems, you’ll need more favorable interest rates, elimination of fees and other concessions that will bring your debt down to a manageable level. Otherwise, those lower monthly payments will simply mean more interest and higher balances.

Before entering into any agreement, be sure that it will actually help solve your problem rather than just take the pressure off in the short-term. The Federal Reserve’s credit card calculator, mentioned above, is a useful tool for determining what kind of agreement will allow you to achieve your payoff goals. You can use it for free at: http://www.federalreserve.gov/creditcardcalculator/

**Debt Settlement**

As I mentioned earlier in this book, debt settlement scams are common. If you’re considering this option, make sure to thoroughly research the company you’ll be working with. Check the Better Business Bureau for past complaints, and be sure to read the contract carefully and to consult an attorney if any of the terms are not entirely clear to you.

Debt settlement companies claim that they can settle your accounts for a fraction of what you owe, and sometimes that’s true. However, in addition to the difficulty in finding a reputable company, there are several downsides that these companies frequently fail to mention.
Debt settlement companies typically take monthly payments from you and set aside that money to negotiate with when you’ve accumulated a sufficient amount. The standard practice is to negotiate with one creditor at a time. So, for example, once you’ve accumulated $3,500, the company might reach out to a creditor you owe $7,000-10,000 and propose settling the debt for as low as 50 cents on the dollar.

If successful, you save a substantial amount of money on the debt. However, it may take months to accumulate the funds to negotiate with just one creditor. Meanwhile, your balances continue to grow, your credit continues to worsen and you may face lawsuits and other collection action. And, your creditors are under no obligation to settle.

In April of 2010, the Better Business Bureau stated on its website:

Better Business Bureau is warning financially troubled families to beware of misleading debt settlement companies that claim they can easily reduce or eliminate credit card debt. Since the start of the recession, BBB has received more than 3,500 complaints from individuals, including many who paid hundreds of dollars in upfront fees to debt settlement companies but only fell deeper into debt.

“The debt settlement industry is flourishing and many families are being lured into believing that debt settlement is an easy fix and that their credit card debt will just disappear,” said Stephen A. Cox, President and CEO of the Council of Better Business Bureaus. “The truth is that the process doesn’t work for many consumers, it has potentially serious negative consequences, and should primarily be used as a last ditch effort to stave off bankruptcy.”

Consumers from all 50 states have filed complaints with BBB about debt settlement companies since the recession began in late 2007. In addition to BBB, angry customers are also taking their complaints to their state Attorney General. Attorneys General from Florida, Maine, Texas, Idaho, Missouri, New York, Illinois, West Virginia, Vermont and Minnesota have taken action against companies such as Dallas-based Debt Settlement
High upfront fees – Beware of companies that require large upfront fees before any debts are settled. Often, these upfront fees may be better used to reduce a consumer’s overall debt.

Promises that are too good to be true– Some companies might promise that they can reduce debt by more than half even before looking into the customer’s financial situation.

Claims that it’s a fast, easy and painless process. - Reducing debt through debt settlement takes time - often years - and can have a significant negative impact on the customer’s credit score. It can also expose consumers to lawsuits and garnishments.

Even if debt settlement is successful, it can take years to work your way through multiple creditors, and you’ll be making payments to the debt settlement company that could have gone toward settling your debts more quickly if you’d handled the negotiations yourself. Often, your credit is destroyed even as you’re paying your debts, since you are only paying one debt at a time while the rest of your debts continue to show a late or missed payment history. I’ve seen many people in my office who have paid thousands of dollars to debt settlement companies, only to ultimately determine that bankruptcy is their best option.

One last thing to consider, whether negotiating with creditors directly or working with a debt settlement company: the amount you save is taxable income. So, after your debt is settled, you’ll owe a new one to the IRS. For example, if a $10,000 balance is reduced to $4,000 and the creditor writes off the balance, you’ll be receiving a 1099 for that $6,000 in “income” and be expected to pay income taxes on it. For most people, a 50% reduction in debt actually works out to a 20-30% savings.
Using Your Assets to Pay off Debt

One of the first options many people struggling with debt consider is to somehow restructure their debt or to use existing assets to pay off that debt. Since most people don’t qualify for new unsecured credit at this point, this typically means borrowing against or cashing in an asset. As with many possible solutions, these options work well for people in some circumstances but may be catastrophic in others.

Borrowing against Your Home

Taking out a home equity loan or line of credit to pay off credit card debt, medical bills and other unsecured debts may seem like the perfect solution. Depending upon the amount of debt you have to pay off, the amount of equity in your home, and your ability to make payments, drawing on the value of your home could allow you to make good on your debts and rebuild your credit. However, when you borrow money to pay off bills, you still owe just as much money as you did to begin with.

The primary difference is that your credit card balances, medical bills and many other debts are unsecured and often dischargeable in bankruptcy. The new debt is secured by your home. So, you may not be able to discharge that debt if you still can’t keep up the payments, and you could face foreclosure if you fall too far behind.
When you use the value of your home to pay off unsecured debts, you could be upgrading your problems from collection calls and wage garnishment to the risk of losing your home.

If you’re considering borrowing against the equity in your home in order to pay off debt, consider these questions:

1. **How much remaining equity would you have in your home if you took out this loan or used a line of credit?**
   Think very carefully about whether you want to wipe out what may be your primary (or only) asset in order to continue making payments and incurring interest on those debts.

2. **How confident are you that you will be able to comfortably make the payments on the loan or line of credit?**
   Perhaps consolidating and lowering the interest rate on your outstanding debts will lower your payments enough that you can make them on time—but be very sure. Otherwise, you may find yourself in the same position you’re in now, but with much more at stake.

3. **Are you ready to stop incurring debt?**
   One of the worst mistakes people make in this situation is to pay off existing debt with equity in their homes, only to continue to use credit cards or other forms of credit. Before long, many find themselves once again drowning in credit card debt, but with fewer options.

4. **Are you current on all your bills?**
   If you are already late on any bills, your credit score is already affected. The likelihood of getting your home refinanced is remote. Unfortunately, the mortgage company won’t tell you that. You could waste hundreds of dollars applying and several months waiting, only to find out that they won’t qualify you for the loan. And, by the time they tell you, your situation will be worse.
Cashing in Your Retirement

That 401(k) can be very tempting when you’re facing serious financial problems. Taking tens of thousands of dollars out of your retirement account to pay off credit card bills and other debts may seem like a quick and easy answer to all of your problems.

But, gutting your retirement accounts can create new risks. While you may think that you have plenty of time to rebuild the coffers, you know by now that not everything in your financial life goes according to plan. By depleting your retirement account to pay off unsecured debts, you may be limiting or eliminating a safety net, incurring penalties and tax obligations and jeopardizing your future financial security. Almost all states protect retirement savings from attachment by creditors in bankruptcy court or other legal proceedings.

Value of $30,000 at Retirement

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<th></th>
<th>Conservative</th>
<th>Moderate</th>
<th>Aggressive</th>
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<td>After 15 years</td>
<td>63,420</td>
<td>99,420</td>
<td>155,667</td>
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<td></td>
<td>70,586</td>
<td>220,992</td>
<td>466,665</td>
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<td></td>
<td>172,348</td>
<td>491,223</td>
<td>1,398,389</td>
</tr>
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- **Conservative**
- **Moderate**
- **Aggressive**
When considering using retirement funds to pay off debts, ask yourself these questions:

1. **Are you leaving yourself adequately protected if you withdraw those funds?**
   Taking $10,000 out of a retirement account worth $150,000 is a very different decision from emptying (or even halving) your future provisions to pay off debt.

2. **What are the tax and penalty consequences of making this withdrawal, and how do they compare with the purely financial benefits?**
   When calculating the money you’ll save in interest and late fees, be sure to take into account the costs associated with the withdrawal—not just those short-term hard costs, but also the long-term loss of value when you consider the interest that would have accrued on those dollars before retirement.

3. **Are you ready to stop incurring debt?**
   Taking a chunk of your retirement savings in order to solve your debt problems once and for all is one thing; chipping away at your long-term security for a short-term fix is another.

In short, desperate measures may have serious consequences, particularly when those measures put your security at risk. Carefully assess the long-term ramifications of any fix you’re considering, and get professional advice before making any big moves.
Bankruptcy

If you’re like most people, you have only a vague understanding of how bankruptcy works or how it could benefit you. And, you may have heard some popular myths that have made you wary of pursuing bankruptcy as a possible solution to your financial problems.

Regardless of your current feelings about bankruptcy, you have nothing to lose by learning more. Just like talking with a bankruptcy lawyer about your situation, reading on will simply provide you with more information to help you make an educated decision about the best solution for you.

Bankruptcy Myths

Before jumping into specifics about how bankruptcy law works and the protections it provides for people like you, I want to dispel some common misconceptions about bankruptcy.

**Bankruptcy Myth # 1**

**If you file for bankruptcy, you can’t get credit for ten years.**

A bankruptcy filing can stay on your credit report for up to ten years, but that’s different from “ruining your credit.” The truth is that your credit is probably bad right now—and not likely to get any better as you continue to juggle bills and make late payments. Creditors often know as much about your financial dire straits as you do through various credit reporting tools. They know you are upside down on your bills.

They know you might file for bankruptcy at any time. You don’t look like a very good risk to potential lenders and that is, essentially, the definition of credit. After bankruptcy, your debt will be eliminated or substantially reduced, you may have disposable income for the first time in several years (or your adult life), and you may not qualify for bankruptcy relief for some time. You may actually appear to be a better risk to a potential lender after bankruptcy than before you filed. A bankruptcy filing is one negative item on your credit report and has the potential to wipe out numerous other negative factors that impact your credit worthiness.
Bankruptcy Myth # 2
You can’t buy a house if you’ve filed for bankruptcy.

This fallacy actually hinges on buying into Myth # 1: if your credit is “ruined,” then you won’t be able to buy a house. You probably won’t be able to qualify for a mortgage loan right after you file for bankruptcy - just like you probably couldn’t qualify for one today. After bankruptcy, you have the opportunity to start fresh and build a better credit history.

Many people who manage their money carefully and re-establish credit are able to finance a home as soon as two years after bankruptcy. Your ability to borrow money after bankruptcy has more to do with the steps you take to rebuild your credit after you file than it does the amount of time that has passed.

Bankruptcy Myth # 3
Only deadbeats file for bankruptcy.

Studies have consistently shown that most people who file for bankruptcy do so after being derailed by a significant life event, such as job loss, serious illness or divorce. In other words, the majority of people filing for bankruptcy protection are honest, hard working people just like you who have fallen on tough times and need a break to get back on their feet and rebuild their finances. I’ll tell you a bit more about who those people are and what drives them to file for bankruptcy in the next section.

Bankruptcy Myth # 4
Everyone will know about it if you file for bankruptcy.

Bankruptcy is a matter of public record, but that doesn’t mean it’s going to attract publicity. Unless you’re a public figure, odds are that nobody other than your creditors is interested in your bankruptcy case. With more than 1.1 million bankruptcy filings in 2012 alone, few publications have the space or the inclination to publicize them all. More than 15 million people have benefitted from the fresh start permitted by the bankruptcy laws.
Bankruptcy Myth # 5

If you file for bankruptcy, you’ll lose everything.

The vast majority of people I have helped have kept EVERYTHING they owned coming into the filing. They lost nothing, keeping houses, cars, businesses and inheritances. Bankruptcy law and your state laws classify certain property as “exempt,” meaning protected from creditor attachment.

Exempt property, in most states, includes necessities such as furniture, clothing, work tools, an automobile up to a certain value, a certain amount of equity in your home and other basics. Many people who file for Chapter 7 bankruptcy have no non-exempt property and so don’t lose anything. When you file for Chapter 13 bankruptcy, the property you want to keep and can realistically support is protected.

These are only a few of the most popular myths and misconceptions about bankruptcy. In this book, I can’t possibly cover all of the misinformation that’s floating around about filing bankruptcy. Just be aware that much of what you’ve heard from friends or read online about bankruptcy may be inaccurate, and an attorney with a focus on bankruptcy law is the best source of accurate information.

Who Files for Bankruptcy?

If you’ve bought into the “dishonest deadbeat” stereotype regarding bankruptcy filers, you’ll be surprised to hear about some of the Americans who have benefitted from bankruptcy protection.
The list of recognizable names is long, but here are just a few:

- Abraham Lincoln, President of the United States
- Ulysses S. Grant, President of the United States and noted General in the Union Army
- Walt Disney, Founder of the Disney entertainment empire
- Stan Lee, Co-Creator of Spiderman
- Mark Twain, Author
- Larry King, Talk Show Host
- Charles Goodyear, Inventor of vulcanized rubber
- H.J. Heinz, Founder of Heinz Ketchup
- William Fox, Co-Founder of 20th Century Fox Film Corporation

Perhaps you noticed that two of our most famous bankruptcy filers have their pictures on U.S. currency. And, there are some great success stories among the rest. Henry Ford’s first company ended in bankruptcy, but that didn’t stop him from moving forward to create mass production of automobiles. In fact, the ability to start fresh after a business failure or unexpected set-back clears the way for invention and productivity.

Of course, most people who file for bankruptcy protection aren’t Presidents or famed inventors. Most are people just like you, who work hard and never anticipated finding themselves in the circumstances that compelled them to file bankruptcy.

A 2009 study by a research team including then-Harvard-law-professor Elizabeth Warren (now a U.S. Senator who fights for consumer rights) concluded that 62% of consumer bankruptcies had a medical cause. And, the study found, most of those families had been solidly middle-class before health problems intervened: more than half owned their homes and three-fifths had gone to college. It wasn’t poor planning or irresponsible spending that led these families into rough financial waters, but circumstances beyond their control. Other common causes include divorce and job loss.

**Is Bankruptcy Right for You?**

Bankruptcy is a powerful tool for people struggling with debt, and has given millions of Americans a fresh start. Like the other solutions discussed above, though, bankruptcy isn’t right for everyone.
One test many experts recommend to determine whether or not bankruptcy is the right answer for you is to calculate how long it would take you to pay off your current debts while maintaining a reasonable standard of living.

When making these calculations, be sure to take into account the interest your debts will be accruing during the repayment period and the likelihood of incurring late fees. If you can’t pay off those bills within three years without compromising basic necessities, bankruptcy may be the answer. On the other hand, if your calculations reveal that you’ll be able to maintain a decent standard of living and pay off those debts in 36 months or less, you may want to trim expenses where you can and get those bills paid off—particularly if you can negotiate with some of your creditors to make payments more manageable.

Another way to determine whether you should consider bankruptcy is to look at the impact your financial problems are having on your life. For example, you may want to talk to a bankruptcy attorney if:

- You’re juggling bills each month to make sure nothing gets “too far behind”
- Your credit card accounts are at or near the limit and you’re struggling to make minimum payments
- You’re borrowing from one creditor to pay another
- Creditor and debt collector calls have you afraid to pick up the phone
- Your wages are being garnished
- Someone has filed a lawsuit against you
- You’re concerned about your car being repossessed
- You’re falling behind on your mortgage and possibly facing foreclosure
- You’re unable to set aside any money for emergencies, retirement or your children’s education
- Financial stress is causing problems in your marriage or keeping you awake at night
- You’re considering drastic solutions like a home equity line of credit or cashing in your retirement
If this sounds all-too-familiar, bankruptcy may be the answer for you. The next section will provide you with some basic information about how bankruptcy works, the differences between Chapter 7 and Chapter 13 bankruptcy and how filing for bankruptcy protection helps many people regain control of their financial lives.

How Can Bankruptcy Help?

Chapter 7 bankruptcy and Chapter 13 bankruptcy offer different solutions for people with different types of financial problems. In the next section, I'll explain each type of bankruptcy and the advantages it offers. First, though, let's take a look at some of the general benefits of bankruptcy.

The Automatic Stay

One of the most powerful tools in consumer bankruptcy is the automatic stay. In essence, the automatic stay is a court order that prohibits your creditors from taking further collection action for as long as the stay is in effect.

In most cases, the automatic stay becomes effective as soon as your bankruptcy case is filed and prevents creditors and debt collectors from taking any further action for the duration of your case, unless they get permission from the court to do so.

That means no more telephone calls, no threatening letters, no wage garnishment, no utility disconnections, no lawsuits. In fact, any actions that are already in progress, such as a foreclosure case, are frozen.

Creditors and collectors who ignore the automatic stay and continue collection activities are violating the law and can face penalties. I regularly sue creditors when they violate the automatic stay.

The Bankruptcy Discharge

In a nutshell, the bankruptcy discharge eliminates your obligation to repay some or all of your unsecured debts. This discharge is intended to wipe the slate clean and give you a fresh financial start.
Just like the automatic stay, the bankruptcy discharge is a court order. Creditors and collectors can face serious penalties if they violate the discharge by filing suit against you, reporting the debt to credit reporting agencies or taking other collection action after discharge.

**There’s More to Bankruptcy than Bankruptcy**

While many bankruptcy law firms focus on petitions and schedules and then consider their work done when the discharge is entered, I believe in protecting your fresh start and making sure that you get the full benefit of your bankruptcy filing. That means we’ll aggressively pursue creditors and debt collectors who violate consumer protection statutes, the automatic stay and the bankruptcy discharge.

**Some common violations include:**

- Fair Debt Collection Practices Act (FDCPA) violations, such as false representations about legal action, harassing telephone calls to friends, family or your place of work and continuing to contact you after being advised that you are represented by an attorney.

- Violations of the automatic stay, including telephone calls, collection letters, continuing legal action or any type of collection activity that takes place while the automatic stay is in effect.

- Discharge violations, such as continuing to report a discharged debt as delinquent or sending collection letters after discharge.

Unfortunately, many bankruptcy attorneys ignore these violations, focusing on the mechanics of the bankruptcy case and leaving the debtor to fend for himself after discharge. Too often, that means a person files bankruptcy only to find himself victimized by continuing harassment and credit problems.

My goal is not just to get a client a bankruptcy discharge, but to make sure that he receives the full benefit of that discharge by ending creditor and debt collector harassment, keeping his credit report clean and possibly even collecting damages from violators.
The week I wrote this book, my law firm filed three lawsuits against creditors for simply failing to accurately report the discharged status of my client’s debt to the credit reporting agencies and two more lawsuits for contacting my clients after being notified that I represented them.

Adhere to the law or face the consequences. I take these violations very seriously, and so do the judges. Occasionally, my clients finance their entire bankruptcy cases through settlement payments made by creditors.

Besides suing your creditors, my promise to you is that I’m going to teach you how to rebuild your credit. If you don’t rebuild your credit after filing, it’s basically the same as having knee surgery but then not rehabbing your knee. Eventually, you’re going to take another fall.

Types of bankruptcy

“Bankruptcy” actually refers to more than one financial solution offered under the United States Bankruptcy Code. For consumers, Chapter 7 bankruptcy is by far the most common, followed by Chapter 13 bankruptcy.

According to data released by the Statistics Division of the Administrative Office of the United States Courts, approximately 1.1 million individuals with primarily consumer debt filed for bankruptcy protection in 2012. Of those, about 69% filed under Chapter 7 and about 31% under Chapter 13.

In this chapter, I’ll explain the differences between Chapter 7 and Chapter 13 bankruptcy and the factors that help determine which—if either—might be the right solution for your financial problems.

Chapter 7 v. Chapter 13 Bankruptcy

This quick comparison chart illustrates the basics of Chapter 7 and Chapter 13 at a glance. The next two sections provide more detail about each option.
<table>
<thead>
<tr>
<th>Chapter 7 is commonly used when:</th>
<th>Chapter 13 is commonly used when:</th>
</tr>
</thead>
<tbody>
<tr>
<td>You have little property except for the basic necessities like furniture and clothing.</td>
<td>You need help getting caught up on your house or car payment.</td>
</tr>
<tr>
<td>You have little or no money left after paying basic expenses each month, or you’re not even meeting basic expenses.</td>
<td>You have regular income and can pay your living expenses, but you can’t keep up the scheduled payments on your debts.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Advantages of Chapter 7:</th>
<th>Advantages of Chapter 13:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Most unsecured debts can be discharged (completely eliminated).</td>
<td>You can keep most of your property while catching up past due accounts over time.</td>
</tr>
<tr>
<td>The process moves quickly—you may receive your discharge in just a few months.</td>
<td>You’ll have 3-5 years to catch up delinquent accounts according to a schedule that you, your attorney and the bankruptcy trustee agree is workable for you.</td>
</tr>
<tr>
<td>Creditors can’t contact you while the automatic stay is in effect, or after debts are discharged.</td>
<td>You’ll make one monthly payment to the bankruptcy trustee for distribution to your creditors—you’ll have no direct contact with creditors during the protection period of 3-5 years.</td>
</tr>
<tr>
<td>Co-signers remain responsible for discharged debts unless they also file.</td>
<td>Co-signers may be protected.</td>
</tr>
</tbody>
</table>

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<tr>
<th>Who can file under Chapter 7?</th>
<th>Who can file under Chapter 13?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtors who have qualified under the 'means test' and completed a required pre-filing session with a credit counselor may file for Chapter 7 bankruptcy protection</td>
<td>Almost everyone who has an ability to make a monthly payment.</td>
</tr>
</tbody>
</table>
Chapter 7 Bankruptcy

Chapter 7 bankruptcy, also known as “elimination of debt,” is what most people mean when they speak of “filing bankruptcy.” Chapter 7 bankruptcy wipes out most unsecured debts.

This type of bankruptcy helps many people who have high medical bills, credit card balances and other unsecured debts such as payday loans and past-due utility bills.

The court appoints a representative of the creditors, called the bankruptcy trustee, to oversee your assets and eliminate your debt. So, Chapter 7 is usually not the right choice for people who own valuable property like a paid in full home, significant amounts of cash or a business that they want to keep. However, most people who file for Chapter 7 bankruptcy have little or no non-exempt property, and so don’t lose anything.

Who Can File for Chapter 7 Bankruptcy?

Since 2005, Chapter 7 bankruptcy petitioners have been required to pass a “means test.” The means test is one of those obstacles created by the credit industry lobby, and is intended to weed out people they claimed were abusing the bankruptcy process. Since most people don’t file for bankruptcy unless they truly need to, most people considering filing under Chapter 7 are able to do so.

The actual means test calculations can be complicated, and your bankruptcy attorney can walk you through the specifics, but here’s a quick breakdown to give you an idea of what to expect:

**Step 1**

Compare your income to the median income for a household of the same size in your state. If your income is below the median, you can file under Chapter 7. If your income is above the median, move on to Step 2.
Step 2

Certain allowed expenses under IRS standards are subtracted from your income to find “disposable income.” If your disposable income over the next five years is less than $6,000 ($1,250 per year), you are likely eligible to file under Chapter 7. If it is more than $10,000, you are likely not. In the gray area between $6,000 and $10,000, a third step is required.

Step 3

Compare your disposable income over the next five years, based on IRS allowable expenses, with the balance of your unsecured, non-priority debts. If your disposable income is greater than 25% of that balance, you may not be eligible for Chapter 7 bankruptcy.

If you do not qualify for Chapter 7 bankruptcy under the means test, you may still be able to file for Chapter 13 bankruptcy protection. You’ll learn more about Chapter 13 bankruptcy in the next section.

How Long Does a Chapter 7 Case Take?

A Chapter 7 bankruptcy case typically takes 3-6 months to complete. Here’s what you can expect:

**Before Filing:** Before filing for Chapter 7 bankruptcy, you must complete a Credit Counseling Briefing with an approved agency. Your certificate of completion must be filed with your bankruptcy petition. This briefing can be taken online or over the phone from your home, office or anywhere else with a telephone or Internet connection and usually takes 90 minutes or less.

**Filing:** Your bankruptcy case begins when your petition is filed with the bankruptcy court. Typically, schedules disclosing assets, liabilities (debts), income and expenses are filed with your petition. In most cases, the automatic stay takes effect immediately.
**Post-Filing:** The court will send notice to you and all of the creditors listed in your petition. The notice will include the date and time of your meeting of creditors and will advise creditors of the deadlines for objections and claims.

**Approximately 30 Days Post-Filing:** Within 30 days of filing, or before your meeting of creditors, we must file a Statement of Intention with the court. This document advises the court as to whether you plan to keep property that serves as collateral for secured debts, such as cars or real estate, or surrender the property to your creditors. You then have 45 days to surrender or continue to make payment for the property as stated.

**Approximately 3-6 Weeks Post-Filing:** The court will hold the meeting of creditors. The meeting of creditors is a short hearing before the bankruptcy trustee, a court appointed representative of your creditors. The trustee will ask you questions under oath to verify that the information you provided in your petition and schedules is correct. The creditors usually do not appear and the hearing most often lasts only 5-10 minutes. At least 7 days prior to this meeting, sometimes earlier, you must provide a copy of your most recent tax return.

After the meeting, the bankruptcy trustee and creditors have 30 days to make objections to your exemptions and creditors have 60 days to object to the discharge of any listed debts. The trustee has the same period to move to dismiss your case if he finds that granting relief would be an abuse of the bankruptcy process. Creditors have 90 days after the first scheduled meeting date to file a Proof of Claim if it appears that there will be assets to distribute and they want to claim a share. So long as your attorney has properly advised you and you have been truthful about your financial condition, there should be no surprises.

**Within 45 Days Post-Filing:** You must file various documents with the court, including a certificate from your attorney attesting that you received an explanation of the various chapters available to you under the U.S. Bankruptcy Code, evidence of any payments you've received from any employer within 60 days of filing, an itemized statement of your monthly income and an estimate of any increase in income or expenditures you expect over the next 12 months.
Bankruptcy Myth # 4

Everyone will know about it if you file for bankruptcy.

Bankruptcy is a matter of public record, but that doesn’t mean it’s going to attract publicity. Unless you’re a public figure, odds are that nobody other than your creditors is interested in your bankruptcy case. With more than 1.1 million bankruptcy filings in 2012 alone, few publications have the space or the inclination to publicize them all. More than 15 million people have benefitted from the fresh start permitted by the bankruptcy laws.

Unlike Chapter 7 bankruptcy, which is designed primarily to eliminate unsecured debt for consumers with little income and few assets, Chapter 13 bankruptcy offers an opportunity to reorganize debt. A Chapter 13 debtor submits a proposed repayment plan to the bankruptcy court. Depending on the specifics of the case, this plan will typically spread payments out over three to five years. At the end of the repayment period, some remaining unsecured debt may be discharged.

Chapter 13 Bankruptcy

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Chapter 13 primarily helps people who:

1. have a lot of secured debt and want to keep their property;
2. have fallen behind on payments and can afford monthly payments plus a smaller payment to catch up on past due amounts, but can’t make a lump sum payment to catch up; or
3. have too many assets to qualify for a chapter 7 without risking having those items sold, but still have debt they can’t afford to pay under the original payment terms.

The long-term repayment period allows debtors to restructure payments in a manageable way and catch up past-due balances over time. For instance, if you are behind on your mortgage payment and the bank is threatening or has already filed a foreclosure or repossession or is otherwise taking or threatening non-judicial action, a Chapter 13 filing will freeze any action, consolidate your past due payments and/or future balance, and allow you to spread those over a payment plan that is often as long as five years.
Some people also choose to file under Chapter 13 because they don’t qualify for Chapter 7 bankruptcy or have non-exempt assets that they want to keep.

**Who Can File for Chapter 13 Bankruptcy?**

Because Chapter 13 debtors repay some or all of their debts through the three to five year repayment plan, Chapter 13 is open to people the means test disqualifies from Chapter 7.

In order to qualify for Chapter 13 bankruptcy, a debtor must have regular income that will allow for predictable plan payments and fall within prescribed debt limits: no more than $383,175 in unsecured debt and $1,149,525 in secured debt.

**How Long Does a Chapter 13 Case Take?**

A Chapter 13 plan typically runs from three to five years. The exact timeline will vary based on your income, your debts and your plans for your debts and property. Here is a general timeline:

**Before Filing:** Before filing for Chapter 13 bankruptcy, you must complete Credit Counseling with an approved agency. Your certificate of completion must be filed with your bankruptcy petition. This is the same briefing discussed in the Chapter 7 section, and can be taken online or by telephone from the comfort of your home, usually in 90 minutes or less.

**Filing:** Your bankruptcy case begins when your petition is filed with the bankruptcy court. Typically, your schedules will be filed with the petition, although the law allows 15 days to complete and submit the schedules. In most cases, the automatic stay takes effect immediately.

**15 Days Post-Filing:** Schedules not filed with the petition must be submitted to the court, along with your repayment plan. About this same time, the court will send notice to you and all of the creditors listed in your petition. The notice will include the date and time of your meeting of creditors and will advise creditors of the deadlines for objections and proofs of claim.

**Within 30 Days of Filing:** You must make the first payment under your plan.
Approximately 45 Days Post-Filing: The court will hold the meeting of creditors. At the hearing, a court appointed professional called a trustee will ask you questions to verify that you have accurately reported your financial situation. Your creditors also have the opportunity to ask questions; however, most creditors do not appear. The meeting is typically informal and often lasts only a few minutes.

After the meeting, the bankruptcy trustee and creditors have 30 days in which to make objections. Creditors have 90 days after the first scheduled meeting date to file a Proof of Claim (governmental entities have 180 days). So long as your attorney has properly advised you and you have been truthful about your financial condition, there should be no surprises.

45 Days after the Meeting of Creditors: The court will hold a confirmation hearing during which the trustee will make a recommendation as to whether your plan should be approved by the court.

3-5 Years from the Date of Your First Payment: Assuming that you have made all of the payments under your Chapter 13 plan and completed the required financial management course, discharge will be entered after you make your final payment under the plan. The final payment must be made within five years of the date of your first payment. The Personal Financial Management Course can also be taken online from the comfort of your home and usually lasts less than two hours. Often, the Course is offered for free by the Chapter 13 trustee.
The truth is, I got lucky. When I started practicing bankruptcy law in 2007, I had no idea that it would turn out to be the perfect area for combining my education, my strengths and my passion.

I’m a numbers guy who cares about people and believes in making real change in the world. When I was working on my undergraduate degree in finance, I didn’t know that one day my ability to see financial patterns and do quick calculations would help me turn people’s lives around. But, bankruptcy law offered me the opportunity to do just that.

In most areas of law, there’s a winner and a loser. Often, as in divorce cases, no one walks away happy. Right away, I saw that bankruptcy law was different. I can help nearly everyone who walks through my door, and the end result is a positive life change. Although that was very rewarding from the beginning, I realized that the standard bankruptcy law firm practice of focusing on the paperwork and the discharge wasn’t enough. I knew that for people to experience real, lasting changes in their lives, they needed more than a fresh start: they needed the tools to make the most of that fresh start and the protection that would keep unscrupulous creditors and debt collectors from pursuing them after discharge.

That’s how UpRight Law was born. I built my own firm so that I could combine bankruptcy law, consumer protection and education to truly give people everything they needed to build brighter financial futures. To know that I have helped thousands of people sleep peacefully again after months of stress, keep their family homes, or just breathe a sigh of relief is immensely satisfying. I’m looking forward to helping thousands more make the same type of positive changes.
How We Are Different

We’re not just here to file your bankruptcy case, get your discharge and move on. Our mission is to empower people to find a better way of living through passion, innovation and thoughtfulness.

Our Clients

We build relationships with clients, and our clients know that we care about their lives because we work to remove obstacles and help them achieve their goals. That includes recognizing that each client is an individual with specific needs. We ask questions to identify what is most important to each client and what kind of assistance and education will best help him move forward.

Our Team

As a team, we embrace a culture of openness, learning and mentoring. We’re not in competition: we combine our strengths to set high goals and then exceed them for the benefit of our clients, our practice and the individuals who make up our team. We’re serious about our mission, but we’re not always serious. We believe that laughter and loving what you do are important parts of life, and we go out of our way to make others smile, too.

In short, we’re committed to finding better ways to serve our clients and improve lives every day, and we love doing it.

How We Can Help

If you’re in over your head financially, you need an advocate who understands the law, is truly in your corner and will make sure that you receive the full protection of the law.

You can file bankruptcy on your own, but that’s a little like saying you can build your own operating system for your computer or whip up your own medication to treat your high blood pressure: anyone can do it...as long as you have the extensive skills and knowledge required to get the job done right. You can also hire the attorney who handled your brother-in-law’s DUI, but that’s a little like asking your family doctor to remove a brain tumor.
There’s much more to successful management of your bankruptcy case than just filling out forms and showing up at the meeting of creditors.

The attorneys at UpRight Law can be the skilled, knowledgeable advocates you need, because we:

- Truly believe that good people find themselves in difficult financial circumstances and we want to help you take control of your financial life;
- Focus our practice entirely in bankruptcy and consumer protection, and so have the experience and knowledge base to put the law to work for you; and
- Understand that getting you the full benefit of a bankruptcy case means much more than just obtaining a discharge.

We’re here to help you every step of the way, from providing the information and advice to help you make good decisions through the bankruptcy process and prosecution of claims against creditors and debt collectors who violate the law.

When you’re ready to learn more, call us at (877) 853-4322 or visit our website at http://www.uprightlaw.com
Resources and Citations

Information and Resources

UpRight Law:
http://www.uprightlaw.com or (877) 853-4322

U.S. Bankruptcy Courts:

Better Business Bureau:
http://www.bbb.org

Federal Reserve Repayment Calculator:
http://www.federalreserve.gov/creditcardcalculator/

Federal Trade Commission Consumer Information:
http://www.consumer.ftc.gov/

Statistics Cited in this Book

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2) http://newsroom.transunion.com/press-releases/transunion-q3-report-demonstrates-consumers-manag-1070204#.UqEm8DZQGSo

3) http://www.realtytrac.com/content/foreclosure-market-report/october-2013-us-foreclosure-market-report-7934


5) http://ftc.gov/media-resources/consumer-finance


**Budget Worksheet**

**Monthly After-Tax Income**

**Additional Monthly Income (alimony/child support, etc.)**

### Total Monthly Income

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mortgage or rent</td>
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<td></td>
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<tr>
<td>Entertainment</td>
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</tr>
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<td>Dry cleaning/laundry</td>
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<td>Other</td>
<td></td>
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The expenses below don't occur on a regular monthly basis, but must be part of your budget. Add up your average annual costs for each item below and divide by 12 to arrive at a monthly cost.

<table>
<thead>
<tr>
<th>Item</th>
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<td>Clothing</td>
<td></td>
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<td>Vehicle registration</td>
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<tr>
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### Total Monthly Expenses

**Income – Expenses =**
# Budget Worksheet

**Monthly After-Tax Income**

**Additional Monthly Income (alimony/child support, etc.)**

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<th>Monthly Expense</th>
<th>Daily Expense</th>
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<tr>
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## Total Monthly Expenses

Income - Expenses =  

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38