

## Glossary of Terms

**341 meeting:** (also: Meeting of creditors): a meeting of creditors held by the trustee where the debtor is questioned under oath by the trustee, any creditors that may be present, or the U.S. trustee about the debtor's financial affairs

**Adversary proceeding:** a lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the Bankruptcy Court. Adversary proceedings usually relate to the ability of the debtor to receive a discharge or to the dischargeability of a certain debt.

**Assets:** every form of property that a debtor owns. This includes intangible things such as business goodwill, the right to sue someone or the inheritance a debtor will receive from a relative's will. All assets must be disclosed in the bankruptcy forms

**Automatic stay:** an injunction that automatically stops most debt collection efforts, including lawsuits, foreclosures, and garnishments against the debtor the moment a bankruptcy case is filed

**Bankruptcy:** a legal procedure that allows a debtor to eliminate the legal obligation to pay some or all of his or her debts

**Bankruptcy Code:** the informal name for Title 11 of the United States Code (11 U.S.C. § 101 et. Seq.)

**Bankruptcy estate:** all of the interests of the debtor in all property at the time of the bankruptcy filing. The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.

**Bankruptcy petition preparer:** a person, other than the attorney for the debtor or an employee under direct supervision of the attorney for the debtor, who is paid to prepare bankruptcy forms for filing. Bankruptcy petition preparers may not give legal advice and, in the Eastern District of Michigan, they may only charge \$100 for their services

**Chapter 7:** the most common form of bankruptcy, a Chapter 7 case is a liquidation case where non-exempt property is sold and the proceeds are used to pay creditors

**Chapter 11:** a reorganization bankruptcy, usually involving a corporation or partnership. The debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. Individuals with a large amount of assets and liabilities may also file Chapter 11

**Chapter 13:** a repayment plan for individuals with regular income that allows for repayment of some or all debtors over three to five years. Chapter 13 can be used to try to catch up on back payments under a mortgage or car loan, for example.

**Claim:** a creditor's assertion of a right to payment from a debtor

**Collateral:** property pledged as security for payment of a debt. For example, a car is collateral for a car loan.

**Complaint:** the first document filed in an adversary proceeding (or any lawsuit) that notifies the court and the defendant of the grounds claimed by the plaintiff for an award of money or other relief against the defendant

**Confirmation:** approval of a plan of repayment or reorganization by a bankruptcy judge which makes the terms of the plan binding on all parties

**Consumer debt:** debts for personal, family or household purposes and not for operation of a business

**Contingent debt:** a debt that may be owed by a debtor only if certain things happen first. For example, where the debtor is a co-signer on a loan and the primary signer must default before the debtor is liable for payment

**Creditor:** a person or organization who is owed money or some other obligation by the debtor

**Debtor:** the person or entity who is liable for debts and who is the subject of the bankruptcy case

**Defendant:** a person or business against whom a lawsuit is filed

**Discharge:** the release of a debtor from the legal liability to pay certain debts. The discharge also prevents creditors owed those debts from taking any action against the debtor to collect the debts, including telephone calls, letters and personal contact.

**Dischargeable debts:** the types of debts that the Bankruptcy Code allows to be discharged in a bankruptcy proceeding.

**Dismissal:** the termination of a bankruptcy case without either the entry of a discharge or the denial of a discharge. After dismissal, the debtor and the creditors have the same rights as they had before the bankruptcy case was filed and the legal obligation of the debtor to pay debts remains in place.

**Disposable income:** Income not reasonably necessary for the maintenance or support of the debtor or the debtor's dependents.

**Domestic support obligation:** debts for alimony, maintenance or support owed to a child, spouse or governmental entity that is paid for the support of a child or spouse. These debts are not dischargeable.

**Equity:** the value of a debtor's interest in property after all creditors' interests are considered. For example, if a debtor owns a house worth \$100,000 and there is a \$50,000 mortgage on the house, the debtor's equity in the house is \$50,000. If a debtor owns a house worth \$100,000 and there is a \$130,000 mortgage on the house, the debtor has no equity in the house.

**Executory contract or lease:** any contracts or leases where both parties to the contract or lease still have something to do. For example, the debtor signed a contract with a painter to have his or her house painted and the painter still has to paint the house and the debtor still has to pay the painter. In bankruptcy, a debtor may assume the contract (keep it) or reject the contract (terminate it).

**Exemption:** the types and amounts of property that a debtor may keep to get a fresh start in a bankruptcy case. Exempt property cannot be sold to pay creditors. The debtor selects the exemptions listed in the Bankruptcy Code or the applicable state law. In Michigan, the debtor chooses either state exemptions or federal exemptions.

**Fraudulent transfer:** a transfer of a debtor's property made with intent to defraud creditors or for which the debtor received less than the property's value

**Homestead:** a person's primary residence, whether it is a house, apartment, condo or other real estate

**Insider (of individual debtor):** a relative of the debtor or of a general partner of the debtor, a general partner of the debtor, a partnership in which the debtor is a general partner, a general partner of the debtor, or a corporate of which the debtor is a director, officer or person in control of the debtor

**Joint petition:** one bankruptcy petition filed by a husband and wife together

**Lien:** an interest of a creditor in property which secures payment of a debt. A lien may be voluntary, such as a mortgage or car loan, or involuntary, such as a judgment lien or tax lien. Most liens survive bankruptcy.

**Liquidated debt:** a debt that is for a known dollar amount

**Liquidation:** the sale of a debtor's property with the proceeds used to pay creditors

**Means test:** a test used in Chapter 7 cases to see whether a debtor should be filing Chapter 13 instead because they are supposedly able to repay some of their debts. The means test is found in Official Form 122A-1. Debtors who fail the means test may convert their cases to another chapter of bankruptcy.

**Meeting of creditors:** (also 341 meeting) a meeting of creditors held by the trustee where the debtor is questioned under oath by the trustee, any creditors that may be present, or the U.S. trustee about the debtor's financial affairs

**Motion to lift the automatic stay:** a request by a creditor to allow the creditor to take an action against the debtor or debtor's property that would otherwise be prohibited by the automatic stay.

**Movant:** a party in a case or lawsuit who files a motion with the court

**No-asset case:** a Chapter 7 case where there are no assets available to satisfy any portion of creditors' unsecured claims

**Non-dischargeable debts:** the types of debts that cannot be eliminated in a bankruptcy. Some types of non-dischargeable debts include domestic support obligations, most taxes, and most tickets (parking and traffic).

**Objection to discharge:** a trustee's or creditor's objection to the debtor receiving a discharge for all or part of his or her debts. Most objections to discharge must be brought as adversary proceedings.

**Objection to exemptions:** a trustee's or creditor's objection to the debtor's attempt to claim certain property as exempt

**Personal property:** all property of the debtor that is not real estate or affixed to real estate; for example, a car, clothing, furniture, jewelry, etc.

**Petition:** the form (Official Form 101) that initiates the filing of a bankruptcy proceeding, setting forth basic information regarding the debtor.

**Plan:** a debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time. A plan is required in Chapter 13 cases.

**Plaintiff:** a person or business who begins a lawsuit by filing a complaint with the court

**Preference/Preferential payment:** a payment made by a debtor to a creditor within the 90 days before filing bankruptcy (or within the one year before filing if the creditor was an insider) for pre-existing debts that gives the creditor more than the creditor would receive in the debtor's chapter 7 case. The trustee may recover preference payments from the creditor(s) who received them for the benefit of all the creditors. In certain very limited situations, the debtor may also recover preference payments from creditors.

**Priority:** the Bankruptcy Code establishes the order in which debts are paid based on the type of debt. Higher priority debts must be paid in full before lower priority debts. General the priority is: 1) court and administrative costs, 2) priority claims, and 3) general unsecured claims. Secured debts are paid from the proceeds of liquidating the priority which secures the claims

**Priority claims:** an unsecured debt that is given higher priority under the Bankruptcy Code. Some priority claims include domestic support obligations and taxes.

**Proof of claim:** a form (Official Form 410) filed by a creditor describing the amount owed to the creditor by the debtor and why

**Property of the estate:** all property owned by the debtor as of the day the bankruptcy case is filed. The property of the estate includes all property in which the debtor has any interest of any kind.

**Reaffirmation agreement:** in Chapter 7, an agreement between the debtor and creditor that the debtor will stay liable for the entire amount of debt that would otherwise be dischargeable in bankruptcy. Reaffirmation agreements are usually signed for the purpose of keeping property that would otherwise be subject to repossession. (For example, a debtor would be required to sign a reaffirmation agreement for a car loan in order to keep the car)

**Redemption:** A procedure in a Chapter 7 case where the debtor removes a secured creditor's lien on property by paying the creditor the value of the property. The debtor may then retain the property.

**Schedules:** official forms submitted by the debtor that list the debtor's property, debts and other financial information

**Secured debt:** a debt where the creditor has a right to collect specific property if the debtor stops paying. The property is said to secure payment of the debt. Examples of secured debts are mortgages, car loans, buying furniture on installments, a home equity line of credit, etc.

**Statutory lien:** this is a lien that arises by operation of law and not because the debtor agreed to give the creditor a lien on his or her property or because a creditor got a judgment against the debtor. A tax lien is one example of a statutory lien.

**Transfer:** the disposal of property or the passing of property from one person to another by any means, including by gift, donation, sale, swap, loss or otherwise

**Trustee:** a third party appointed by the Bankruptcy Court to administer and supervise a bankruptcy case under the supervision of the bankruptcy judge and the U.S. trustee

**United States Trustee:** (also U.S. trustee) an officer of the Justice Department responsible for supervising the administration of bankruptcy cases and making sure that all parties in a bankruptcy case follow applicable laws and procedures

**Un-liquidated debt:** a debt where the exact amount owed is not known because the extent of the debtor's liability is not known. For example, if a debtor caused a car accident and injured another person and that person has not yet sued the debtor, the debtor's debt is un-liquidated because he or she has some liability to the injured party but the exact amount will not be known until there is a trial.

**Unsecured debt:** a debt for which a creditor holds no special assurance of payment; a debt where the creditor does not have the right to take specific property just because the debtor has not paid. Typical examples of unsecured debts are credit cards or medical bills