

# The Stay

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## **The Automatic Stay**

Your bankruptcy case has now been filed with the Bankruptcy Court in Oklahoma City. Under Federal Bankruptcy Law there now exists an **Automatic Stay** prohibiting all of your normal creditors from taking any action against you or your property.

This Automatic Stay, sometimes just called the “**Stay**”, means that no Creditor should call or write you or attempt to contact you in any way without the advance permission of the Bankruptcy Judge. Such permission is seldom granted.

The Stay also prohibits filing or continuing litigation and garnishments of your wages and bank accounts.

**There are limited exceptions. Fines and criminal prosecutions are not affected, your child support obligation does not stop and there are a few other minor exceptions. Secured creditors must be paid if you are to keep their collateral.**

## **Calls from Creditors**

If you receive any calls from a Creditor, I recommend that you politely but firmly tell them you have filed for bankruptcy and to not call you again.

To give credibility to your request, tell the Creditor your bankruptcy was filed in Oklahoma City and give them your Bankruptcy Case number. This number appears on your filed Petition and on the Notice of First Meeting of Creditors.

**You should double check to ensure this Creditor was listed in your Bankruptcy Schedules filed with the Bankruptcy Court. If the Creditor was overlooked, notify us immediately.**

If the Creditor calls you again, get their name and address and report this to our office. We will see that they stop.

## **Correspondence from Creditors**

If you receive a bill or letter from a Creditor, I recommend that you mail them a photocopy of your Notice of First Meeting of Creditors with a copy of their bill or letter. All reputable Creditors will honor the Stay and leave you alone once they know you have filed bankruptcy.

Again, you should double check to ensure this Creditor was listed in your Bankruptcy Schedules filed with the Bankruptcy Court.

If the Creditor writes you again, report this to our office. We will see that they stop writing and leave you alone.

## **Lawsuits**

**If you receive a summons or have reason to believe that you have been sued by a Creditor, contact our office immediately with copies of the suit papers.**

You may not ignore a lawsuit just because you have filed for bankruptcy. We must file certain papers in the lawsuit to ensure that your bankruptcy filing protects you.

**“The Automatic Stay . . . means that no Creditor can attempt to contact you in any way. . . .”**

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## Reaffirmed Debts

Occasionally a Debtor will want to pay a Creditor after the bankruptcy. This is known as **Reaffirming** a debt. You must sign a written Reaffirmation Agreement to make this binding on you.

There are many reasons to Reaffirm: A person in a small town with only one doctor may want to Reaffirm their bill with that doctor to ensure continued medical care. Or, someone wanting to keep an asset like an automobile subject to a lien may be required to Reaffirm to be able to keep the asset.

**If you plan to reaffirm a debt, you will want to deal with that Creditor differently. Normally, you will want to continue to make the payments on time and in full. You will probably also want to personally talk to such creditors who you live nearby. This will help keep their good will since you must continue to deal with them after the bankruptcy is over.**

If we haven't already done so, be sure that you talk to us about how to handle any Creditors that you want to pay regardless of bankruptcy.

## Notice to Creditors

Under the new bankruptcy law a Creditor must be provided adequate notice of your bankruptcy to include the account number that the Creditor uses to identify you. So, it is critical for you to provide us the accurate name, address and any identifying account number if you want to stop harassment by Creditors. The Bankruptcy Questionnaire is the appropriate way to do this.

## What's Next

**Wait.** Your *First Meeting of Creditors* (sometimes called the **341 Hearing**) is the next step which will be scheduled on a Thursday morning about six weeks after you filed for bankruptcy.

We will write you with more information once this 341 Hearing is scheduled.

## Referrals

We appreciate the opportunity to help you during this difficult time in your life.

**We hope we have been helpful and thoughtful and that you are pleased with our services. If you have been, we hope you will recommend us to your friends and neighbors who may also need legal services.**

## The Author

**Larry D. Lahman**, the author of this publication, was born in Carmen, Oklahoma. He attended Northwestern Oklahoma State University receiving a Bachelor of Science in Chemistry, Mathematics and Physics in 1965.

Lahman subsequently attended graduate school at OSU and later received a Juris Doctorate Degree from the OU Law School. He is admitted to practice before all state and local federal courts including the United States Supreme Court.

Lahman served as President of the Garfield County Bar Association and other organizations. He was a parachute officer with the U.S. Army Special Forces – the Green Berets – in Vietnam and retired as a Lieutenant Colonel in the Army Reserves.

### Caveat:

This brochure is designed to give general advice only.

Specific Questions should be directed to your Lawyer.