

THE ROAD TO RECOVERY



UNBURDEN YOURSELF FROM
FEAR AND ANXIETY ABOUT YOUR



Todd Farmer & Sam Wright

THE ROAD TO RECOVERY

www.FarmerWright.com

THE ROAD TO RECOVERY -

Unburden Yourself from Fear and Anxiety about Your Debt

**Todd A. Farmer
Samuel J. Wright**

Second Edition

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The law firm of Farmer & Wright, LLC has been designated as a Federal Debt Relief Agency by an Act of Congress and since 2007, Todd Farmer and Sam Wright have proudly helped consumers file for bankruptcy relief under the U.S. Bankruptcy Code. Before choosing an attorney, you should give this matter careful consideration. This decision is one that could affect you and your family for many years.

If *you* need help with unburdening yourself from your debt, contact Farmer & Wright, PLLC now for a free consultation. This \$275.00 value is our free gift to you.

Call now for a free consultation!

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Authors' Reviews

Donna – October 2016 ★★★★★

“I was quite devastated and was wondering what and how I was going to take care of my problem. I walked into the office crying and of little hope. Sam was compassionate. The first thing he did was offer a tissue and kind words. Sam took care of everything he said he would. I am very pleased with the office lady as she was very compassionate to. I gave them a five star because they deserve it! I would highly recommend Farmer and Wright. I plan on using their services again on another issue in 2017.”

Review of Authors from www.google.com.

Debbie - November 2016 ★★★★★

“Very professional. I highly recommend this firm for anyone. Very friendly honest and helpful. They helped me with my legal issues and I thankful for them. Thanks guys!!!!”

Review of Authors from www.google.com.

Jim – September 2016 ★★★★★

“Amazing attorney. Farmer was very thorough and very detailed with his analysis about my case. I did not hesitate to hire him and happy with my results. Thanks again!”

Review of Authors from www.google.com.

Michael – August 2016 ★★★★★

“Farmer & Wright are very reliable attorneys. They have help me every step of the way and paid attention to all the details. I would highly recommend this firm to friends and family!”

Review of Authors from www.google.com.

Authors' Notes and Acknowledgements

Our mission at Farmer & Wright is provide our clients with the highest quality legal representation to help them accomplish their goals. As part of that mission, we believe you must give to receive.

We want to thank our entire staff who take a genuine interest in our clients and go above and beyond to make sure they are having the best possible experience under sometimes difficult circumstances. Without their hard work it would be impossible to serve some many people each month.

We hope you will use this book as a guide to assist you or someone you know through stressful times. We know being burdened with debt can cause significant stress and pain. Please use this book as the first step towards a fresh financial start.

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Introduction

THE ROAD TO RECOVERY - **Unburden Yourself from Fear and Anxiety about Your Debt**

When it comes to practicing bankruptcy law, Todd and I had similar reasons for why we started. As young lawyers, we met several people touched by huge financial challenges. These were good, hardworking people who, through bad luck or careless error, found themselves struggling to make ends meet.

Their financial problems bled over into other areas of their lives; prompting tears, embarrassment, the breakdown of relationships, and depression. Seeing these proud people in such a state left an indelible impression on us and inspired our journeys. If you've been touched by a financial crisis, or you've seen a loved one dragged through the ringer, you understand.

For instance, take former clients James and Rebecca¹. Shortly after moving into this beautiful home with a young child and family dog, the family faced two devastating setbacks. First, James, an electrician, was forced out of work for months, when he suffered a work-related injury. Then Rebecca discovered

¹ In order to protect their identity, the client names have been changed.

that the company she had worked at for years had decided to close its plant and she would soon be out of a job.

James and Rebecca had to confront the very real possibility that they would lose their house, and have to move back in with Rebecca's mother.

Or what about Jim, a 72-year-old retired man who, after tragically losing his wife, was overcome with her medical bills and prescription costs. These insurmountable costs depleted his savings and effectively wiped out his safety net.

Arvin, a 35-year-old entrepreneur, racked up almost \$50,000 in credit card debt trying to get his online business off the ground. Barely able to keep up with the monthly payments, he developed crippling anxiety from the harassing calls from debt collectors and grew afraid of ever answering the phone.

After helping these people we knew that we wanted to do bankruptcy work. Helping good people who need protection from negative forces that they do not understand nor have the skills or knowledge to control is very satisfying.

Ever since we started doing bankruptcy work, we've discovered it to be a very satisfying profession. We have practiced over the years in a number of areas and none are quite as rewarding. One we reason we have dedicated our practice to bankruptcy is because of the bankruptcy client. Everyone wants to be appreciated and we have found through the representation of hundreds of bankruptcy clients that they truly appreciate the

work that we put into their case and are thankful for the results they received.

Being a successful bankruptcy attorney requires more than just an intellectual understanding of the law and having the skill to identify and deploy the right strategies at the right time to fight creditors and protect essential assets. This work also requires the ability to empathize and to connect with people.

Our clients have been through heart wrenching situations, and we are proud to be able to provide people the connection and reassurance they need.

Why do we have so much passion for helping people with bankruptcy?

Every day we come to work is a great day. We get to meet hardworking, earnest, and dedicated people who are stuck but have hope. Our clients come to us in pain. They are ashamed that they can't pay their bills. They are frustrated that they can't support their families and give their children the lives they deserve. They are scared socially, dreading upcoming high school reunions or chance encounters with exes at a supermarket. And they are exhausted from the harassing calls and scary letters from creditors.

Many of our clients live in a perpetual touch-and-go state. It's month-to-month or sometimes even day-to-day.

We are honored that our clients have chosen us and our firm to help them when they have nowhere else to turn. Our goal is help relieve their pain, stop the phone calls, and help them reclaim their natural dignity. This makes what we do an honor and a privilege. It's why everyone on our team was carefully chosen.

What we do in a nutshell: Offer good people a release from stress, shame, fear and uncertainty.

When our clients first see us, they get instant relief in that very first meeting. Why? It's not necessarily because of anything we say or do – the strategies we lay out for them, the action plan, etc. Rather, the relief comes because we *sit there and listen* attentively.

In our opinion, people these days are starved for empathy – for the need to “feel felt.” This is especially true for folks who've been through the wringer, who've confronted demons in multiple areas of their lives – financial, medical, psychological, and spiritual.

People want to know that someone is on their side. We always keep a box of Kleenex handy, because discussing these issues can sometimes be very emotional.

All too often, when people have come to us they have not been getting straight answers or know where to turn. We sympathize, diagnose, and will offer practical solutions to whatever ails them.

If you're raising two kids at home with another on the way, and you're in credit card debt, and then you get into a car accident... sure, you want practical insight. But you also need someone just to acknowledge the scope of your challenge. And when we do that, we immediately notice a shift and a sense of release, because our clients know they're no longer dealing with this alone and in a vacuum.

BANKRUPTCY IN A NUTSHELL

THE BANKRUPTCY MYTH:

The bankruptcy myth that you will hear from the credit card companies is:

“Bankruptcy is only for people who can’t manage their money and purposefully run up their credit cards”.

WRONG! This couldn’t be further from the truth.

At Farmer & Wright we have filed bankruptcy cases for people from all walks of life. We have filed cases for people as young as 18 or as old as 87. We have represented accountants, physicians, business owners, teachers, electricians, surveyors, cashiers, carpenters, senior citizens, single mothers, ministers, pipefitters, college students, bankers, barbers, and even other lawyers.

People seeking bankruptcy relief usually have found themselves in situations beyond their control. The majority of people who file for bankruptcy either lost their job, lost a business, were in an accident, got a divorce or simply got really sick.

Bad luck can happen to anyone. As we tell every client, it doesn’t matter how you got to where you are. The point is where you are going. For most people in financial distress, filing bankruptcy will put them on the Road to Recovery.

WHAT IS BANKRUPTCY?

Bankruptcy is a set of federal laws that provide people and business with a way to get a fresh financial start by reducing or eliminating debts. Most debts can be eliminated in bankruptcy except for some debts (such as child support) cannot be eliminated.

For most people who file bankruptcy there are two options, A Chapter 7 bankruptcy or a Chapter 13 bankruptcy. A Chapter 7 bankruptcy is a “Big Eraser” and immediately eliminates most debts. Since this is such a large remedy not everyone qualifies for Chapter 7 relief. Chapter 7 debtors are subject to an income or “means” test to determine if they qualify. A Chapter 13 bankruptcy is a ‘forced repayment plan’ whereby a person can make payments on their debts solely based on what they have the ability to pay, not based on how much they owe.

One of the biggest advantages of seeking bankruptcy protection is the automatic stay or the automatic “stop”. What this means is the day someone files for bankruptcy court protection ALL collection efforts against that person must stop. Wage garnishments, tax levies, foreclosures even harassing phone calls all come to a halt the day a bankruptcy case is filed.

If someone filing for bankruptcy has pledged property as collateral for a loan (such as a mortgage against a house or a lien against a car), they must continue to be paid or they must turn over the property upon court order.

WHAT IS THE FIRST STEP?

The first step in seeing if bankruptcy makes sense for someone is to determine their financial situation. It is surprising to learn that most people who find their way into a lawyer's office have no idea how bad their financial situation is. We have many clients who come in with stacks and stacks of bills that they haven't even opened!

The most useful exercise is to first complete a financial picture of your household's finances:

- Assets – make a list of any assets that you own and an estimate of their value in their current condition;
- Debts – make a list of secured debts (house, car, etc.) and unsecured debts (credit cards, medical bills, collection agencies, etc.)
- Income – your household's monthly income; and
- Expenses – your household's monthly expenses; We recommend that you look at the last three months to determine what you actually spent to come up with an "average month".

This initial financial snapshot is not intended to be exact. It is intended to give you and your attorney an idea of where you are so that can advise you on your best options.

ASSETS

Anyone who files for bankruptcy protection is required to disclose all of his or her assets and to give an estimate of the values of their property in its current condition. Items like, bank accounts, stocks, life insurance, certificates of deposit are easy to value. The challenging part is to value items such as furniture, vehicles and real estate.

We advise people to value household items as what they would be worth if you had to sell the item quickly at say a yard sale or if you had to sell real estate at an absolute auction.

The mistake that most people make is they over value their personal items because the items either have sentimental value to them or they go by what they paid for the item. In today's internet world you can find out what anything is worth fairly quickly. We recommend that people go onto sites such as *Ebay* or *Craigslist* to get a gauge of what they believe the items to be worth.

Vehicles are somewhat easier to value. There are a number of websites that provide quick estimates of the value of used vehicles such as Edmunds.com, kbb.com, or nada.com. These websites also adjust the value of the vehicle based on the mileage and its condition.

Real estate can be somewhat difficult to value. We recommend always providing a copy of the current tax bill from your county which will show what the property value administrator thinks the real estate is worth. Another valuable resource is

Zillow.com which will show homes in the general area that are currently for sale.

Debts

Anyone filing for bankruptcy protection is required to disclose any and all debts or potential debts at the time of filing. It is essential to tell your attorney everyone that you owe so they can best assess what your best option is with dealing with your creditors.

We recommend simply making a list of each person that you owe with an estimate of the current balance. (It does not have to be an exact amount.) Even if you owe certain debts that you know you cannot discharge (such as child support or student loans) it is essential to disclose this information because it directly impacts exactly what your disposable income is after these payments. If someone has filed a lawsuit against you or you think someone may have the right to file a suit against you, please advise your attorney of that fact.

Unburdened 1

If I file for bankruptcy, am I destined to lose my home?

This is the first question that we receive from worried clients during our initial consultation. The bank cannot take your home, even if you are filing for bankruptcy, as long as you are current on your mortgage payments. But what if you fall behind? And what if you need to file for Chapter 7 bankruptcy protection?

If you are current on your house payment and file a Chapter 7 bankruptcy, chances are you can keep your home. There are details that need to be discussed with your bankruptcy attorney regarding your house, although for the majority of cases we have filed, our clients have kept their homes if they wanted to.

No matter the situation, here are some steps to take. First, if possible, get current on your house payments. If you cannot get current, you can still look to a Chapter 13 bankruptcy for help. Next, ask the bank to modify your loan or work out a rehabilitation plan with your lender. I understand for many people this may not be realistic

because the bank may want more than you have to catch up the loan. If the lender won't be flexible, don't fret there is another option.

In many cases we recommend our clients file a Chapter 13 bankruptcy. In these cases, a Chapter 13 bankruptcy works like a forced repayment plan to make your mortgage company let you catch up on your house payments. These payments are based on what you can afford not on what they demand. (Even in most Chapter 7 cases our clients can keep their homes if they can afford the house payments.)

Even if the bank has filed a foreclosure action against you, it is still very possible that you can keep your house and stop the foreclosure process. It is important that you contact a bankruptcy attorney immediately if a foreclosure has been filed against you.

Unburdened 2

Does Bankruptcy mean I have to surrender my car?

In most all of our cases, our clients are able to keep their vehicles if they can afford the payment. This can depend on a number of factors.

For example, let's say Jennie owes money on her Ford Explorer. Jennie has three kids and needs this SUV to pick up her kids from daycare after each workday. Filing bankruptcy and not having to make credit card payments freed up enough money each month so that her car payment was no longer killing her. Since she was able to stay current and could afford the car payment she was able to keep it.

Another example would be a debtor who was five payments behind on his truck. If he filed for Chapter 7, he would likely lose his truck. Instead he opted to file a Chapter 13 and forced the bank to let him catch up the payments on his terms, not the banks.

Depending on the circumstances, bankruptcy allows the debtor to determine if he or she wants to keep the vehicle or surrender it in a bankruptcy.

Unburdened 3

After bankruptcy, will I ever be able to get a loan for a home or vehicle again?

Here's an astonishing fact: filing for bankruptcy can actually *boost* your credit score.

You read that right!

If that sounds too good to be true, consider that credit bureaus look at what's known as "debt to income ratio" when determining how much someone can pay towards debt each month. When you get rid of your unsecured debt via bankruptcy, your ability to pay your remaining debt improves; hence, your credit score also could improve. This is not to say that bankruptcy is magic – that you will suddenly be able to buy your dream home or vehicle at amazing rates.

But the idea that bankruptcy is a kind of death sentence for your credit rating or your ability to secure loans or buy property is a myth.

Jason, for instance, really needed a car. His 3-year-old went to daycare across town, and his job was located across town in the opposite direction. Plus, he needed to drop off and pick up his child at his ex-wife's house 20 miles away every week. Without a car, his life would come to a screeching halt, literally.

After strategically filing for Chapter 7 bankruptcy, Jason qualified for a car loan almost immediately after the discharge. His rates were not ideal, but he was able to find reliable transportation. He also qualified for a credit card with a small limit in case of emergencies to help him improve his credit. With proper financial planning and dedication, Jason improved his credit score within just 11 months after he filed for bankruptcy.

Jason's story of rebuilding quickly after bankruptcy is no anomaly. And that's because bankruptcy is *not* a scarlet letter you must wear for life. It's quite the opposite – a mechanism designed to give borrowers like Jason, a *fresh start* and a chance to turn life around.

Unburdened 4

Should I get help from a debt negotiation agency?

Let's face it: most of us, when left up to us to choose the path of least resistance. This is human nature. It seems intuitively easier to call a debt settlement company and have them "take care of it" rather than find a qualified bankruptcy attorney and go through an unknown legal process.

This tempting shortcut, however, can lead to disastrous results.

Consider Kelly, who ran up \$35,000 in credit card debt trying to launch an online art store during the day while working night shifts at Wal-Mart. Kelly would go weeks without opening her mail. After Kelly realized that she was subconsciously rearranging her life to avoid looking at the big fat credit card company bills in the mailbox she knew she needed to take action.

Rather than call an attorney, she followed the path of least resistance. She called a debt settlement company who she

found online. The company promised that it could settle all her debts for ‘pennies on the dollar’. Sounded good!

But what Kelly didn’t realize was that the company’s fee would be 20 percent of the 50 percent the company would help her save. The company charged her \$5,000, which was slotted into her payment plan. It *seemed* like she was putting that \$5,000 towards reducing her debt. In reality, that \$5,000 went right into the settlement company’s pocket before any debt was repaid.

Kelly wasn’t making progress on her debt. While she made payments each month the creditors continued to hound her and negatively reported each month on her credit.

Finally, after a creditor filed to garnish her Wal-Mart wages, she knew it was time to do something.

Filing for bankruptcy dealt with all of Kelly’s debts in one swift swoop and within 90 days all of her debts were wiped away and she was saving hundreds of dollars each month in debt payments.

The bankruptcy option freed her of her consumer debt and allowed her to escape the seemingly endless cycle.

It is also important to know that credit card companies are not forced to accept what a debt negotiation agency offers. Furthermore, the credit card companies are not required to stop taking collection actions against you if you are working with a debt negotiation agency!

Unburdened 5

As an alternative to bankruptcy, can I use a consumer credit counseling agency?

Credit counseling businesses are not completely ineffective. But their powers are limited. For instance: they can't negotiate with the Internal Revenue Service (IRS); they can't help with your mortgage (and help you keep your home); and some credit card companies won't even talk to credit counseling companies.

They can, however, create a workable debt management plan for you. In some situations, particularly if your debt is not large and confined to credit cards, opting for a counseling service might be a solid idea.

In cases where this is your best option an experienced attorney will recommend you to a trustworthy counseling agency that can service and execute a debt repayment plan.

We always recommend to speak to a qualified bankruptcy attorney first to understand your options.

The key is to use the most appropriate tool for the situation. We see far too many people who were in debt settlement plans that had way too much debt or who had way too little income for it to make sense.

Unburdened 6

Is bankruptcy right for me? How do I know?

Most experienced bankruptcy attorneys will evaluate your budget and debt load and perform an analysis.

The following example will illustrate this point. Debbie and Rhonda both accrued serious credit card and medical debt. I separately asked each one: “if you could no longer use *any* of your credit cards, starting today, would you be able to pay them all down within a reasonable timeframe?”

Debbie, who was struggling just to make her monthly minimums, said no. Debbie said that if she was forced to make any payments on her credit cards she would not be able to pay her mortgage. Bankruptcy was the best option for Debbie. Otherwise she would never get out of debt. If she had chosen not to file for bankruptcy, she would have worked forty hours a week for the next ten years and would not be any better off financially than when she started.

Rhonda, on the other hand, said that she *could* pay down the cards, but it would take planning and discipline. She thought with a tight budget she could get out of debt within two years. In Rhonda's case it made sense for her to explore other options before choosing bankruptcy.

Qualified legal representation can assist in giving people an unbiased assessment of where they are and what it will take to have a manageable budget.

We had an older client who came to our office a couple of years ago who was really struggling. I asked her if she thought she could afford the house she was living in. She said absolutely, never missed a payment. When we were filing out her budget I asked her what her prescription costs were per month. She said they should have been \$400 per month but she couldn't afford to buy her medicines. After going through this analysis, she realized what her family had never told her, she needed to get rid of her credit cards and lower her housing expense. Her daughter later told me that she had known this for a while, but she wouldn't listen. All it took in this case was an unbiased professional to go through this analysis with her to change her life forever. (She has now lowered her expenses dramatically and said she is stress free for the first time in a long time.)

Unburdened 7

Do I need help with bankruptcy, or can I do it myself?

Jonathan was a natural born entrepreneur – a self-made success story who started his own auto shop and built it from the ground up. But then a customer sued the business after an accident, claiming that Jonathan’s employee botched a brake job which caused an accident. Suddenly, Jonathan found himself in financial duress, and he chose to file for bankruptcy protection. Rather than hire a lawyer, he defaulted to the approach he knew best: “do it yourself” (DIY).

The problem with DIY is winning a bankruptcy case is a lot like trying to replace an engine in a car. This is certainly doable if you have been trained to do that. We know we would never try to replace the engines in our cars, they would never run again. There are a myriad of technical details you must know that you just can’t learn without training and experience.

Nothing prohibits a party from representing themselves in any case filed in any court. Lack of knowledge and

expertise, however, can destroy an easily winnable bankruptcy case.

For example: bankruptcy proceedings are governed by federal law. State laws, however, in many jurisdictions determine whether liens are valid or how much property a party is entitled to keep.

Jonathan might find a website that explains some technical details about how to file for bankruptcy, and he then uses that information as his guide. However, that site may only have *national* relevance, not relevance to his specific state or jurisdiction. Most all bankruptcy courts have local rules as well. These national websites will not likely review the local court rules when providing explanations for the bankruptcy procedures.

After all, filing for bankruptcy is not a “plug and play” situation. The court won’t tell you in advance “You own XYZ assets, and you owe ABC debts; therefore, according to this special formula, here’s exactly what you’ll get.” It is up to the person filing the case to know what their rights are. It is not the Court’s job to tell you. An experienced bankruptcy attorney who knows the ins and outs of the local system can maximize asset protection and get you results.

A “DIY” individual like Jonathan might object and argue “at least I’ll save on legal fees.” But this, too, is short sighted. If you go about the bankruptcy the wrong way – even the slightest way– you could face extra expenses and the loss of assets that you could have preserved, not to mention loss of peace of mind.

Someone who tries to do it by themselves also likely will not be aware of certain resources at his disposal. For instance, maybe creditors have been coming into his shop after hours, hounding him or leaving nasty messages. This could be considered a violation of federal law. A qualified bankruptcy attorney could sue these creditors to stop the harassment and possibly collect legal fees, filing fees, and beyond.

This process is intended to be a stepping-stone to a better life. You only want to file bankruptcy one time in your life. Make sure you are getting the maximum benefit allowed by law.

Unburdened 8

Shouldn't I have to pay my debts? Isn't that the fair way to resolve things?

Our culture teaches us that truly successful people somehow find ways to “pick themselves up by the bootstraps” when things go south. Obviously, there is a lot to be said about self-reliance, resiliency, and a never quit attitude – all important and worthy values.

Most clients we see *do* possess those values, and in spades. Sadly though, they don't appreciate the extent to which external, negative forces have challenged them. Instead, they blame themselves.

We see this as tragic for a few reasons. First, from a practical point of view, if you blame yourself for your debt, you may be inclined to accept bad treatment from creditors, the loss of your vehicle and other bad results as “punishment” for your behavior. Second, when you blame yourself, you're unlikely to act aggressively to defend your interests and more likely to fall into apathy or depression, which will make dealing with your debt that much harder. Finally, this attitude is likely to yield only

short-term thinking that will fail to protect your long-term financial interests.

Consider Paul, for instance, a 48 year-old construction worker raising a family of three. Paul was working out of town when he fell and hurt his back and smashed four bones in his spine, making him unable to work. A bad reaction to his pain medication led to several additional hospitalizations and \$60,000 in unexpected hospital bills that his insurance decided not to cover. Even if you accept the proposition that it was partially Paul's "fault" for being inattentive at work, that's a huge, outsized price to pay for a momentary lapse of attention.

Or what about Cassidy, whose husband left her on the eve of their third wedding anniversary, leaving her to raise their two children on her small bookkeeper's salary?

Or how about Andy and Jane, who got scammed by a roofing company after an ice storm? They now have a roof that leaks, so they can't sell their house and they don't have any money to fix it.

If you have read the Bible, then you are familiar with the fifth chapter, Deuteronomy. The Bible is a living history book. Read Deuteronomy 15:1-18. In those days every seventh year the people were forgiven of their debt! It is known as the year of "Jubilee". Therefore, and in keeping

with the Bible, we as a civilized society developed a system whereby we sanction the forgiveness of debt.

Public perception about bankruptcy is dead wrong. We have been involved in thousands of bankruptcy cases and cannot recall any clients who we thought intended from the beginning to file bankruptcy.

To the contrary, most people in need of bankruptcy did not get into financial trouble by carelessly racking up credit card debt while shopping and leading extravagant lifestyles. No one ever asks to get sick or lose their job – life happens. They just encountered bad luck or bad timing. Or maybe they made a few decisions that, in retrospect, were financially unwise.

In any case, let go of the guilt, and get the help you need and deserve to move beyond what's happened to you.

Unburdened 9

What's right for me: A Chapter 7 or a Chapter 13 bankruptcy?

There are two different types of bankruptcy which apply to most people. A Chapter 7 offers borrowers a chance to *liquidate (or discharge)* many of their debts, discharging obligations to pay credit cards, hospital bills and other debts that are unsecured. Chapter 7 also takes care of deficiencies you owe (e.g. as a result of a vehicle repossession or home foreclosure.) It also immediately stops garnishments!

Chapter 13 bankruptcy, on the other hand, gives you a chance to *reorganize* your debts, so you can pay them off in an easier, more strategic fashion without interest. In some ways, Chapter 13 is akin to debt consolidation, but it's superior to that approach in that you don't need to negotiate with creditors. Instead, once the court approves the plan (assuming it meets the bankruptcy code's requirements), creditors are forced to accept what you can afford.

After the court signs off, a person called a *trustee* collects your payments and then divvies them up to pay your creditors. The Chapter 13 option can be particularly useful if you are facing a foreclosure or repossession.

To prevent foreclosure if you haven't been paying your mortgage, a Chapter 13 could allow you to create a five year repayment plan to catch up and get current. If you owe more on the house than its value, the process can in some cases effectively transform your second mortgage into unsecured debt and discharge it, so you'll only need to pay down the first mortgage. Chapter 13 can also be useful for dealing with IRS debt.

Rachel developed lupus that sapped her strength (and earning power) and forced her on disability. She slowly fell into debt and behind on her house payments. She was able to use Chapter 13 instead of Chapter 7 to save her home.

Had Rachel chosen the Chapter 7 liquidation option, she would not have been able to keep her house because she had too much equity (the likely fair market value less what is owed against it). She would have gone over her allowed exemptions and the bankruptcy trustee would have gone after the house. An experienced bankruptcy attorney would have known this in advance and counseled Rachel on all her options.

Unburdened 10

Does Chapter 13 only reorganize my debt? Or can it also discharge some of it?

When learning about Chapter 13, many people hear the term “reorganization” and imagine that the process simply pushes debt around, much like a snowplow doesn’t melt snow as much as it “reorganizes it” to make driving easier.

That’s not the case!

In fact, the process can significantly reduce or wipe away your unsecured debt. Prior bankruptcy laws called upon judges to order people to pay a minimum percentage of your debts back. But changes to the law in 2005 removed that minimum. Since then, Courts have often approved Chapter 13 cases in which unsecured creditors get little if anything.

How much do my payments have to be? This is a question that we get every time when discussing a Chapter 13 bankruptcy. The answer is: it depends.

The good news is the payment is based upon how much you can afford to pay NOT based upon how much you owe.

Unburdened 11

Will my retirement account be affected?

NO! Warren for example had accrued \$40,000 in IRA's and 401(k) plans after decades of saving. But when doctors diagnosed his wife, Sarah, with fibromyalgia and an immune system disorder, he raided these retirement accounts to pay for her medical expenses. In addition to paying fees and taxes for this early withdrawal, he and Sarah were unable to keep up with other bills and thus accrued credit card debt and medical bills. Eventually, they had to file for bankruptcy to get a fresh start.

Stories like Warren and Sarah's are tragic because retirement accounts, such as pensions, IRAs and 401(k) accounts, are considered exempt assets. In other words, creditors cannot go after what you've saved in those accounts.

Frustratingly, many people don't realize that they have this protection until after they've drained their retirement savings to pay unsecured debts. Had they known or talked to a bankruptcy lawyer first, Warren and Sarah could have

discharged ALL their debts and kept ALL their retirement money.

Unburdened 12

Won't everyone who knows me find out if I file for bankruptcy?

No. Frankly, most people are too busy or preoccupied with their own concerns to do that. The only people who will receive direct notice of Jamie's bankruptcy filing are the creditors who she wants to stop harassing her!

Jamie is a very private person from a "respectable" family, and she worries about what might happen not only to her reputation but also to her career prospects if she chooses bankruptcy.

Most every court case in America is public knowledge. If someone wanted to go through the Court's database they could find out. In reality very few people take the time to go to the Courthouses and research who has done what. Very few publications list who has filed for bankruptcy unless that person is a famous celebrity.

Secondly, and much more importantly, bankruptcy is no longer stigmatized. There are no debtor's prisons in the

United States. They cannot put you in jail for not paying a debt.

We would also suggest to Jamie that what other (needlessly judgmental and catty) people think about her is far less important than her ability to clear her debts. The most important is to stop living in fear of the phone and mailbox, and create a path to a better financial future.

Unburdened 13

Will filing for bankruptcy stop creditors from calling me or bothering me at work?

There is a watershed moment in the bankruptcy process. It's called an *automatic stay*. The automatic stay is a powerful bankruptcy protection that immediately stops nearly all creditors from taking ANY action to collect their debt. The automatic stay is a temporary injunction against debt collection.

This protection is immediate and “automatic” upon filing a bankruptcy petition – no hearing necessary. Creditors are prohibited after filing from

- Contacting the debtor to request a payment
(stops collection calls)
- Initiating or continuing a lawsuit
(stops lawsuits)
- Enforcing a judgment
(stops wage garnishments)

- Taking steps to reclaim collateral
(stops repossessions or foreclosures)

As soon as you file for bankruptcy, this automatic stay instantly prevents creditors from directly or indirectly trying to collect or even contact you. They are frozen out. No calls. No statements. No letters. No wage garnishments. If a creditor has started a wage garnishment, they are required by law to stop immediately.

In Maria's case, most of her creditors respected her stay, but one did not. Instead, that creditor got really angry and started calling her at work and leaving rude messages on her voicemail. Maria had grounds to sue the creditor and recover damages. In other words, not only was the creditor compelled to stop, but he also faced a lawsuit in the United States District Court for violating a federal law.

We love working for people like Maria – folks contending with harassment and bad treatment – because we know *exactly* how to stop such atrocious behavior and punish it in the courts, if necessary.

If a creditor violates the automatic stay there are several remedies that may be available.

Fair Debt Collections Practices Act

The Fair Debt Collection Practices Act, or FDCPA, is a federal law that protects against abusive collection practices by third party collectors. Third party collectors include collection agencies and collection attorneys. The FDCPA does not apply to business debts or to original creditors.

The FDCPA prohibits certain abusive practices including:

- Telephone calls before 8 a.m. or after 9 p.m. (your time);
- Requesting payment beyond what is actually owed;
- Using abusive, profane or obscene language;
- Threatening legal action which is not permitted by law (e.g. criminal action);
- Telephone calls at work after being instructed that your employer prohibits phone calls from debt collectors;
- Contacting you directly after being instructed that you are represented by an attorney.

Fair Credit Reporting Act

Another federal protection is the Fair Credit Reporting Act (FCRA). The FCRA is designed to promote accuracy and ensure the privacy of the information used in consumer credit reports. The FCRA contains a dispute process for correcting inaccurate information placed on your credit report. More information about the Fair Debt

Collection Practices Act and the Fair Credit Reporting Act can be found on the Federal Trade Commission's Bureau of Consumer Protection website. The FTC is charged with enforcement of both acts.

Telephone Consumer Protection Act

When you are in debt it feels like you have lost all control. You may receive embarrassing letters or harassing telephone calls at home or work. When this happens to you, protect yourself by learning your consumer rights. One powerful, yet relatively unknown, consumer protection is the federal Telephone Consumer Protection Act, or TCPA.

Under the TCPA, a debt collector cannot:

- Call before 8am or after 9pm;
- Call a hospital room using automated dialing; nor
- Call a cell phone without prior express consent.

The TCPA can be tricky for creditors that use auto dialers to contact debtors. The creditor cannot call the debtor's cell phone without express permission from the debtor. However, the debtor's express consent could be found in a written document creating the debt, such as a credit card agreement. Obviously, if the telephone harassment is too severe, changing your cell phone number will stop creditors from auto dialing you.

The debt collector who uses an auto dialer must provide a name and contact information for the creditor on whose behalf the call is made. But compliance with the TCPA may run afoul of the Fair Debt Collections Practices Act, another federal consumer law that prohibits debt collectors from disclosing your debt information to uninterested third parties. For instance, if your babysitter picks up your home phone and takes a message from a collection agency, the creditor has violated the Fair Debt Collection Practices Act.

Penalties for violating the TCPA are serious. The TCPA provides for statutory damages of \$500 per call, and up to \$1500 per call if the violation is willful. If you are receiving auto dialer collection calls on your cell phone, and you did not give express permission to contact you on your cell phone, there are a few steps to take:

1. Make a written record of the phone number that called to your cell. Get the name of the person who called, if possible.
2. Save any recorded message.
3. Save your cell phone bills that have the numbers of the company that called your cell.
4. Contact your attorney.

By knowing your rights you can stop debt collection harassment.

Unburdened 14

Can bankruptcy discharge back taxes?

Most people believe that bankruptcy cannot wipe out IRS debts. In many cases, this conventional wisdom is correct. However, that's not always the case!

Consider Michael, who ran up a debt to the IRS while putting himself through school. Ironically, Michael was so afraid of accumulating crushing student loans that he chose to fall behind on his taxes rather than risk being burdened with student loans.

After consulting with Michael and reviewing his situation we were able to determine that he might meet the requirements to discharge these taxes in bankruptcy. If he had never called our office he would have spent the next ten years paying the IRS.

Even if he couldn't get his desired result this way, he might still opt for bankruptcy to reorganize. Filing for Chapter 13 can be an excellent way to manage a priority creditor like the Internal Revenue Service. Michael might establish a Chapter 13 plan that lets him preferentially pay

the IRS first, ahead of unsecured debt owed to credit card companies, preventing the IRS or credit card companies from garnishing his wages or taking his assets.

Unburdened 15

What will bankruptcy do to my credit rating?

The credit reporting agencies now appear to regard the filing of bankruptcy as a more positive event than in years past. We tell every client that filing bankruptcy could have a negative impact on your credit rating.

However, we ask would you rather have a higher credit rating and not have any money left every single month; or have a slightly lower credit score and be able to breathe and have money left over at the end of the month? That is an easy choice.

By the time many of our clients come to see us their credit rating has already been damaged and filing bankruptcy has no effect on their credit score.

One point we want to emphasize is that credit is not impossible after bankruptcy! If you have steady employment and you can put a down payment down, you should be able to obtain financing for an automobile within a reasonable time after your bankruptcy filing. I

equate it to being nineteen again (wouldn't we all take that?!?). You will have to just start small and reestablish your credit. It's the consistent use of credit and paying on time that bring credit scores up.

We have many clients that as soon as their case is discharged they start getting flooded with credit solicitations in the mail. The creditor's thought process is that if you have discharged all of your other debts then your ability to pay has increased. They also believe that their chances of getting paid are better since you can't file a Chapter 7 bankruptcy again for eight years.

While we never encourage anyone to incur credit unless necessary, that option will be out there down the road.

Unburdened 16

I am in the middle of a divorce. Should I wait until my divorce is over?

Often people who are in the process of separating or getting divorced are having financial difficulties. We firmly believe that financial pressures contribute to divorce as much as any other factor.

One of the most hotly contested issues in divorce cases is often who will be responsible for this debt and that debt after the divorce. The family courts are required to allocate the debt between the parties. In many cases we have filed bankruptcy for a couple prior to their divorce being final. This has simplified their divorce because after the bankruptcy there was no debt left to fight about in the divorce case and the parties can get on with their lives.

Many people wrongfully assume that they can just get divorced and then discharge all of the debts that they were ordered to pay in their divorce. The bankruptcy code has very strict rules with respect to what debts can be discharged. In fact, many of these ordered debt payments in divorces are the type that are non-dischargeable. We

always encourage anyone who thinks this could be an issue to consult with a bankruptcy attorney prior to finalizing their divorce.

Unburdened 17

Why should I work with your firm?

Choosing an attorney to represent you is the most important decision you will make during your bankruptcy case. The fact is that bankruptcy law has become a very specialized profession. Many people who have hired “general practice” attorneys have found that these attorneys are “generally bad” at bankruptcy.

Everyone wants a skilled and experienced bankruptcy attorney. Consequently, interviewing your prospective bankruptcy counsel essentially comes down to three questions:

Question One: “How much of your practice is devoted to bankruptcy?”

Bankruptcy law is a complex mixture of federal law, state law, prior court cases, and the common practices of the bankruptcy court and the trustee. It is also important for your attorney to be familiar with creditor practices and their attorneys. Bankruptcy law is constantly evolving and

changing, and many bankruptcy attorneys devote all or most of their practice to bankruptcy law.

It is vitally important that you choose a bankruptcy attorney that practices regularly in bankruptcy law. An attorney that “files a few cases a month” does not deal with the bankruptcy laws, procedures, or people on a daily basis. It is easy for an inexperienced attorney to make an easy bankruptcy case difficult, and a complicated case a complete disaster. Remember, your bankruptcy judge and trustee work exclusively in bankruptcy law every day. Don’t you want an attorney similarly experienced and prepared?

At Farmer & Wright we file more bankruptcy cases in the Western District of Kentucky than any other firm. We have the experience, knowledge, and resources to represent you during bankruptcy. Our team has worked with a diverse roster of clients to end creditor harassment, rekindle hope and give people their freedom back.

Question Two: “How long have you been practicing in bankruptcy?”

We all know that experience matters. New attorneys do not have the knowledge and experience of a veteran bankruptcy attorney. Often a bankruptcy case can become complicated by other non-bankruptcy issues, like divorce,

tax law, or criminal law. Experienced attorneys have “been there, done that,” and can guide you through those difficult issues.

Unfortunately, there are some attorneys who think they have “seen it all” and fail to keep up with the rapidly changing bankruptcy laws. The best choice for a bankruptcy attorney is an experienced attorney who also takes the extra steps to stay proficient in the law.

Todd Farmer and Sam Wright have over twenty years of combined experience in handling bankruptcy cases in this district. Our firm has been rated Excellent by Avvo.Com the leading lawyer locator service and was named one of Legal Elite’s Best Bankruptcy Firms in Kentucky.

*Question 3: What is the experience like
at Farmer & Wright?*

Why should you choose *our* team as opposed to another qualified bankruptcy law firm?

Here’s what distinguishes what we do for our clients:

1. We explain everything in clear, action-oriented language.

Bankruptcy can be a wildly sophisticated process. The terms and ideas used can sound like a foreign language to the untrained. We translate “bankruptcy-ese” into normal human language, and we are extremely good at what we do. We’ve seen thousands of bankruptcy cases, and we understand exactly how to leverage the law and exploit nuances in the process (in an ethical fashion) to get our clients the results they need.

2. We help our clients fight back against creditors.

Creditors who do not follow the law and who bother our clients do not make us happy. We defend our clients’ rights. Period.

3. We are objective.

I had a client early in my career that said I was “too honest”. While we strive to never be rude, we have found over the years by the time people get to the point of having to call a lawyer for help, they need frank and objective opinions about their situation, not what they want to hear.

4. We Care.

We see it as our job to *really listen* to our clients – where they're coming from, what their values are, and what they want to achieve.

We see bankruptcy law as more than just a job. It's a calling. It's a call to service, a call to help the unfairly disempowered, a call to restore people's dignity and freedom. We have the facility, passion, and track record to help you win.

We can put you on **the road to recovery.**

Life After Bankruptcy

The United States Supreme Court has said that the purpose of the bankruptcy laws is to give “the honest, but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.” In other words, bankruptcy gives you a fresh start on a new financial future!

The truth is that neither the bankruptcy law nor the bankruptcy court gives any guidance on how to begin your “fresh start.” So, how in the world do you start fresh?

Life after bankruptcy is all about hope and promise. The relief provided by your bankruptcy discharge is real and the possibilities are endless. The purpose of this book is to give you a head start on your fresh start. It points out some things you need to know and offers suggestions on how to begin your new journey.

We wanted to address a few common concerns that clients routinely ask about life after bankruptcy. Such as “How do I rebuild my credit?” and “What if a discharged creditor contacts me?” It may take a little effort, but over

time your financial ship will be repaired and you will be sailing in smooth waters.

The credit score for some debtors drops dramatically upon filing bankruptcy. For others who have struggled financially for some time, the drop is not much at all. Bankruptcy has a detrimental impact on your ability to borrow money for the short run. However, bankruptcy also lightens your debt load significantly and gives you a second chance to arrange your finances in a way that is manageable for years to come.

How Do I Repair My Credit After Bankruptcy?

While the bankruptcy laws promise a “fresh start”, it does not mean that your credit score is reset. It is up to you to rebuild your credit after your bankruptcy discharge.

Fortunately bankruptcy is not a debtor’s prison or a financial death sentence. Many people are able to rebuild their credit and obtain credit cards, or purchase automobiles and real estate just months after their bankruptcy case closes. The process is actually very simple, but requires a great deal of care, attention, and information. Below are some common sense suggestions to help you “fix” credit and improve your credit score.

Obtain Copies of Your Credit Reports

After your case closes, we recommend after sixty to ninety days you obtain a copy of your credit report. Federal law states that you are entitled to one free copy of your credit report every twelve months. The three largest credit reporting bureaus (Experian, Equifax, and TransUnion) have established a web site for obtaining these reports free of charge: <https://www.annualcreditreport.com>

AnnualCreditReport.com is the ONLY authorized source to get your free annual credit reports under federal law.

You can request your free report online, by phone or by mail. Visit AnnualCreditReport.com, call 1-877-322-8228, or fill out the Annual Credit Report Request form and mail it to: Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281.

No matter how you request your report, you have the option to request all three reports at once or to order one report at a time.

Don't be misled by flashy television commercials or catchy jingles that offer "free" credit reports. Some sites, like Experian owned FreeCreditReport.com, use the offer of free credit reports to lure customers to pay for a

monthly service that alerts subscribers to important changes in their credit status. Annualcreditreport.com is entirely free for your credit reports. If you want to add your credit score to your reports, it is available for a modest extra charge.

Contest Erroneous Information On Your Credit Reports

Debts that were discharged by the bankruptcy court during your case should be listed on your credit report as “Discharged in Bankruptcy” or “Included in Bankruptcy” with a “Zero Balance.” The date of the last activity should be the bankruptcy filing date, not the discharge date.

These discharged debts should reflect no activity after the date of your bankruptcy filing. This includes transfer of the debt to collection agencies. The report of the transfer or update of records after the filing date is a collection activity that impacts your credit score. Collection attempts after the date of the bankruptcy filing are protected by the bankruptcy automatic stay, and attempts after the discharge date are protected by the bankruptcy discharge injunction.

All of the credit bureaus have simple instructions for contesting erroneous information on your report and is supplied to you with your reports. For most debtors it is recommended that you send a copy of the discharge order

and bankruptcy schedules D and F (secured and unsecured creditors) to the credit bureau by certified mail. This information will speed the bureau's correction process and decrease the likelihood that the information will be falsely verified.

There are three main credit reporting agencies:

Equifax

www.equifax.com
(800) 685-1111
P.O. Box 740241
Atlanta, GA 30374-0241

Experian

www.experian.com
888-397-3742
P.O. Box 2104
Allen, TX 75013

Transunion

www.tuc.com
(800) 916-800
Chester, PA 19022

Once you have contested the erroneous information on your credit report, the reporting bureau is required to send you an updated credit report. Review this new report for errors. You may need to repeat the process once or twice before your report is finally accurate. Remember, your credit report is only as good as the information the credit reporting bureau receives. It is your responsibility to ensure that it has accurate information.

Keeping Up To Date With Your Credit Report

Once your credit report is correct, it is important to monitor your credit periodically. It is a good idea to check your credit report and score at minimum six months after you have completed your initial report correction. It is not uncommon for a discharged debt to reappear unexpectedly on your credit report with a changed status of the account.

For instance, a car surrendered to the bank during your bankruptcy should be listed as “Included in Bankruptcy” with a zero balance. Months after your bankruptcy case closes the bank may sell the vehicle for less than what is owed. The bank may send an update to the credit bureaus reporting that the car was “Repossessed” and may show the deficiency balance. While this is a violation of the bankruptcy discharge injunction, the bank has probably made an error of negligence. The easiest way to fix the

problem is to contest the account directly with the credit bureau and notify the creditor of the error by certified mail with a copy of your scheduled debt and discharge order.

Occasionally a discharged debt may be sent to a collection agency or purchased by a third party. Again, this is a violation of the bankruptcy discharge injunction, but likely an error of negligence. The first thing to do is to file a direct dispute to the credit bureau and to notify the collection company by certified mail with a copy of your scheduled debt and discharge order.

Rebuilding Your Credit Score

Once you have corrected your credit report, it is time to rebuild your credit score. Your credit score is a number that lenders use to estimate risk, and is made up of several aspects: approximately 1/3 of your score is based on your payment history; 1/3 is your available credit; and 1/3 is various items like types of credit and length of credit history. The best way to rebuild a credit score is to start a new, responsible history of managing credit.

The perfect credit file has often been described as two credit cards with high limits, low balances and perfect payment history; one car loan and one house loan with perfect payment history; many years at the same job; and

no public records (bankruptcy, repossession, foreclosure, or lawsuits). As you can see, your credit report essentially comes down to a description of the types of credit you have used, how you have managed that credit, and how financially stable you are.

For instance, a person with a high credit score who suddenly applies for four different credit cards will see a drastic and immediate reduction in her credit score. Why? This behavior is an indication that the person is loading up on credit and may be indicative of trouble in the person's life! The credit score model is highly sensitive to these types of activities or patterns.

Rebuilding your credit history requires diligence and patience. It is important to be vigilant and careful with your credit each month, and it takes time to establish a positive credit history. With responsible use of credit and on-time payments you will discover that your credit score will increase month after month.

Pay Your Existing Bills On Time Each Month

The first and most important aspect to rebuild your credit is to pay any debt that survives the bankruptcy discharge early every month. Certain debts may be non-dischargeable (e.g. student loans), and others may have

been reaffirmed during the bankruptcy (e.g. a car loan). Pay these monthly debts religiously and early.

Since approximately 1/3 of a credit score is based on payment history, simply making payments on time each month will greatly enhance your credit score over time. Some credit counselors advocate paying off revolving debt balances each month, but in some cases the creditor will not issue a report for a consumer who carries a zero balance. It is important that your creditors report your timely payment history each month. Carrying a small balance on a credit card (less than 10%) will ensure timely reporting and not negatively impact your credit score.

Avoid Any Late Payment

While on-time payments to a creditor will improve your credit score, a thirty day late will significantly harm your rebuilding efforts. If you begin having difficulty, speak with the creditor immediately and make payment arrangements. The road to financial recovery takes persistence and some patience. Do not allow your efforts to be wasted by one careless act.

Keep Your Credit Balances Low

Approximately one third of your credit score is the amount of available credit you have. The credit scoring model favors low balances, whether that is a 10% use of a \$50,000 limit or a 10% use of a \$500 limit. Keeping your credit available suggests that you are not cash-strapped and that you are able to pay your creditors. When you are using a high percentage of your credit limit, it suggests that you are unable to meet your monthly bills without resorting to using credit. Even though you may pay your bills on time each month, your credit score will be lowered. This is especially a bad sign to lenders when coupled with a previous bankruptcy filing.

Get New Credit

Many individuals have found that they can quickly rebuild their credit by making on-time payments on one or two credit cards. In most cases debtors report being offered unsecured credit cards shortly after their bankruptcy discharge. This is not surprising considering that a recently discharged debtor is unable to receive another bankruptcy discharge for several years, and likely has a good debt-to-income ratio. Many post-discharge credit card offers carry high interest rates and fees, so choose wisely.

Your First Step

Thank you for spending time with us to let us pull back the curtain on the bankruptcy process and lay to rest some common misconceptions about how it works and what you can expect from it.

In exchange for your investment in time, we'd like to reciprocate and offer you a free gift. We charge a minimum consultation fee of \$275.00 for prospective clients. But if you call our offices and mention this book, that fee will be entirely waived.

Please call our offices to schedule this private, completely confidential consultation. It won't cost you a penny, but the benefits for your peace of mind will be priceless. We look forward to hearing from you.

P.S. Don't forget to mention the book to receive your free consultation.

