

I JUST RECEIVED A MOTION TO DISMISS IN MY CHAPTER 13 CASE

WHAT CAN I DO?

You may have noticed that the Chapter 13 Trustee does not add a late fee or other fees if your payment is late. So, for example, if your payment is due on the 17th of the month, there is generally nothing that will happen if your payment is actually made on the 20th. However, should you get more than a month or two behind, YOU WILL see a Motion to Dismiss your case filed by the Trustee.

If you should happen to get such a Motion, do not panic. The motion will tell you how behind you are and how much is needed in order for you to catch up. If you believe that you can catch up on these arrears, give the Trustee a call and discuss it directly with their office. Note that there is nothing that we can do from this office. The Trustee will want to deal directly with you on this and will require your signatures on any arrangement that you may work out with the Trustee's office to catch up on these arrears. Generally, if this is a first time Motion to Dismiss, the Trustee will be glad to work out a reasonable payment plan for you to get caught up. If you believe that the Trustee's office has not credited a payment, be prepared to show them copies of any cancelled checks that do not appear on their payment records. If your Trustee is Sally Zeman, she will normally provide a meeting time and date when you can physically drop by her office to discuss the matter with her. Trustee Keil will want to deal with you by phone. Once you work out a payment arrangement to get caught up over time, the Trustee will expect that you will adhere to that schedule and complete your catch up payments as promised. If you fail to do so, the Trustee will normally (but is not required to) give one more written notice before he/she "certifies" to the court that the case should be dismissed. **DO NOT SIMPLY IGNORE THE MOTION!** If you make arrangements and can't comply with those arrangements, contact us (your attorney) immediately. Once the Trustee files a "Certification of Default and Request for Dismissal of Chapter 13 Case" the case is over and the Dismissal Order will often be signed within hours after the Certificate is filed with the Court.

In most cases, you do not want your case to be dismissed, especially if you are far along in your payment plan. In some cases, especially if there has been a *substantial* change of circumstances in either your income or your normal monthly expenses (budget), we may be able to have the plan modified. If you believe that this is the case, give us a call and let's see if there is anything we can do. However you will need to provide us with information concerning why the change is substantial, catastrophic, and not temporary. (See the information sheet on "Modifying a Chapter 13 Plan." In addition, you will need to provide us with a new budget showing how things have changed. If this is the case, be sure to contact us right away because if nothing is done by you before the deadline date provided on the Motion to Dismiss, the Trustee will be certifying that you ignored the Motion and the Court will then enter an Order immediately dismissing your case.