

COVID-19 FINANCIAL HARDSHIPS



Is bankruptcy
right for you?

B & M BOURNAKIS &
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ATTORNEYS AT LAW

Overwhelmed with Debt?

Introduction

You may feel reluctant to consider bankruptcy, so I want to start off this guide by reminding you of the very important reason bankruptcy laws exist. They are to help hard working people just like you find a path to a fresh start.

With the bankruptcy laws on your side, you can rebuild your life quickly. COVID-19 has affected millions of Americans in different ways. Some lost loved ones. Some lost their livelihood. Others are facing huge medical bills or funeral costs. Some are simply buried under a pile of bills on top of trying to pay rent and put food on the table. Whatever your situation, we can discuss some options that may help you recover financially from the pandemic of 2020.

Coronavirus Stimulus Payments

The CARES Act relief package offers one time stimulus checks in the amount of \$1200 per adult and \$500 per child.

This payment will help with short term needs such as rent, food and/or utility bills. It will not be counted as income for bankruptcy eligibility.

What happens when this simply is not enough to get you back on solid financial ground?

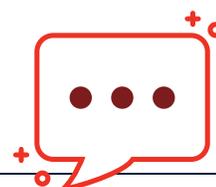
Step One

- Compile a list of assets and liabilities
- Determine avenues of income once businesses begin to rehire



Contact us for a Consultation

This is a stressful and anxious time for everyone. We're here to support you! Call (706) 291-1200.



A photograph showing two people from the chest up, wearing white t-shirts, holding a large white rectangular sign. The sign has the text "PANDEMIC #COVID19" printed in bold, black, sans-serif font. The background is a solid orange color. The person on the left is holding the top-left corner, and the person on the right is holding the top-right corner. Their hands are visible at the bottom of the sign.

**PANDEMIC
#COVID19**

MORE ALTERNATIVES

Prior to the COVID-19 crisis when we advised clients contemplating bankruptcy, there were fewer alternatives to consider. Fortunately for you, many creditors are more open to negotiation and there are federal, state and local programs available to assist.

Negotiating with Creditors

After a crisis, creditors will often accept less than the full amount owed in order to get something rather than nothing. You may find an opportunity to settle with your creditors and avoid bankruptcy. If not, we can consider the type of bankruptcy claim that best suits your situation.

Look for alternatives to bankruptcy first.

Trouble paying your mortgage? Lenders will automatically offer 3 months of forbearance and tack those payments onto the end of your mortgage term. Some lenders will extend this forbearance period up to 12 months.

Trouble paying student loans? Under the federal stimulus plan, most student loan payments are suspended until September 30, 2020, with no penalty, and interest won't accrue during this time. Confirm this information with your lender.

Utility bills piling up? Many cities across the nation made the decision to prohibit utility companies from shutting off critical utilities during the crisis. This will not forgive the amount owed for the services, but only prevents a shut-off. You need to plan to repay the amount owed (or discharge these debts with bankruptcy).

Credit cards overdue? Call the company and ask them to lower your interest rate, reduce the minimum amount due or waive late fees. Many companies have relaxed their policies and are willing to assist temporarily.

How Bankruptcy Can Help



A huge benefit of bankruptcy is that it can discharge credit card balances, medical bills, overdue and uncollected past rent, and other debts like these that can help alleviate the stress caused by COVID-19.

Take notice that it does not discharge all debt. You cannot get rid of child support arrears or student loan debt.

There are two types of bankruptcy options available - Chapter 7 and Chapter 13. Your situation will dictate which will provide you with the best outcome. Our attorneys analyze all the factors and advise you how to proceed.

Contact us now at
(706) 291-1300

Debt

Debt Free



Chapter 7 or Chapter 13? Which is Best for My Situation?



The main difference is that in Chapter 7 Bankruptcy you do not pay back your creditors, while in Chapter 13 you make payments over a 3-5 year period. That being said, not everyone qualifies to file Chapter 7 because there are strict income restrictions.

To qualify for Chapter 7 Bankruptcy your income cannot exceed the state's median income for a household of your size. Keep in mind that even with Chapter 7 bankruptcy, not all debt gets wiped out. Some nondischargeable debt includes income taxes, child and spousal support obligations, and student loans.

If your income exceeds the qualification for Chapter 7 Bankruptcy, then you may get some relief by filing a Chapter 13 Bankruptcy. This establishes a repayment plan with your creditors over a 3-5 month period. The more property you have (real and personal), the higher your monthly payment will be under the repayment plan. After successful completion of your repayment plan, any outstanding balances on your unsecured debts (credit cards, etc.) will be discharged.

Quick assessment of whether Chapter 13 is the better option for you:

1. Does your income exceed the Chapter 7 limitations?
2. Are you trying to avoid foreclosure of your home?
3. Are you trying to prevent repossession of your vehicle?
4. Have you already filed Chapter 7 within the last eight years?

If yes to any of the above, Chapter 13 may be your best solution.

Let's discuss your specific facts to determine what is in your best interests.



HOW BANKRUPTCY IMPACTS YOUR HOME



The first question often concerns saving your home, whether you own it or rent it. For renters, they often wonder whether filing bankruptcy can stop an eviction. The answer depends on whether your landlord has already obtained a judgment for possession of the property.

If you file bankruptcy after your landlord has a judgment for possession of the premises, then bankruptcy probably will not provide you much protection from eviction. However, filing bankruptcy may temporarily stop the eviction proceedings and give you more time to catch up on past due rent.

Due to COVID-19, landlords across the United States have limited legal recourse due to court closure, but this is only temporary. Having a good working relationship with your landlord may be the best strategy to negotiate rent abatement or forgiveness.

For those who own their homes, when faced with missed mortgage payments, many fear foreclosure and seek solutions offered by the bank directly such as loan modifications. Chapter 13 bankruptcy may be a better solution than loan modification.

In the repayment plan constructed during the Chapter 13 bankruptcy order, the arrears owed on the home will be factored into the repayment plan. This means that once the bankruptcy is approved, the mortgage is considered current and the foreclosure is stopped.

A Chapter 13 bankruptcy may be better than a loan modification because it is often much quicker to implement and you don't extend the length of the loan like most loan modifications do. You pay back the arrears through the repayment plan while simultaneously making your regular mortgage payments. You also have the option to seek a loan modification to lower the mortgage payment and then request the court's permission for the loan modification in the Chapter 13.

Our goal is always to help you protect your home.





RETIREMENT CONSIDERATIONS

Coronavirus Impacts Retirement

The market is down, unemployment is up, and many face using retirement savings for current living expenses. This can be devastating to future retirement plans. It may not be the best approach if you can discharge some of these debts in bankruptcy while still protecting certain qualified retirement accounts.



The money you have saved or invested in most retirement plans are protected from creditors during bankruptcy. However, if you are retired and taking income distributions from your retirement plan(s) at the time you file bankruptcy, that money becomes more accessible to your creditors.

The amount that can be touched by creditors depends on how much money you need to cover your living expenses. If you file bankruptcy under Chapter 7, your creditors may be able to access any retirement income that is above the amount you need to support yourself.

In a Chapter 13 bankruptcy, your retirement distributions will be considered part of your income which is used to determine how much you can afford to pay your creditors under your repayment plan.

Regardless of how much you have saved in your 401(k), 403(b), or other defined benefit plan, this money will be safe from creditors if you file a Chapter 7 bankruptcy and will not affect the amount you must repay in a Chapter 13 filing.

Our goal is always to help you protect your future.

Next Steps



YOUR SAFETY IS OUR PRIORITY

We have a safe process in place to review your case and determine whether bankruptcy is right for you. Do not simply stop paying your bills without a solid plan in place. We can help you develop this plan of action.

The disruption to courts caused by COVID-19 has delayed the process; however, we can still help you proceed. One of the biggest benefits to filing bankruptcy - the automatic stay - still goes into effect upon filing.

WHAT IS AN AUTOMATIC STAY?

Under the U.S. bankruptcy code, an automatic stay is an injunction that halts actions by creditors to collect debts from a debtor who has declared bankruptcy. The automatic stay begins at the moment the bankruptcy petition is filed.

Experience Financial Freedom Once and For All.
Call 706.291.1300.



What to Expect

We know this is a big decision for you and we strive to make the process as painless as possible.

BANKRUPTCY TRUSTEE

Once you file for bankruptcy, the court appoints a trustee to manage your case. The trustee's responsibilities include checking the accuracy of your petition and schedules, verifying your identity, and, if money is available to pay creditors, dispersing payments.

Prior to meeting with your trustee, you'll provide "521 documents," such as bank statements, paycheck stubs, and tax returns, to the trustee.

It's important to understand that the trustee's job is to find money to pay creditors, not to protect your interests.

The primary job of the trustee in a Chapter 7 bankruptcy is to sell your property and use the money to repay your creditors. Some property is considered exempt. We will explain what property is yours to keep based on any qualifying exemptions.

The trustee distributes funds to creditors in a Chapter 13 case also, but the funds come from another source. Instead of selling your assets to pay the creditors, you'll pay the value of your nonexempt property over the course of a three- to five-year repayment plan.

We will help you create a plan to propose and the trustee will review it to ensure:

- your total plan payment equals the value of your nonexempt property (at a minimum);
- creditors will receive the proper payment amount;
- and you have enough income to complete the plan.

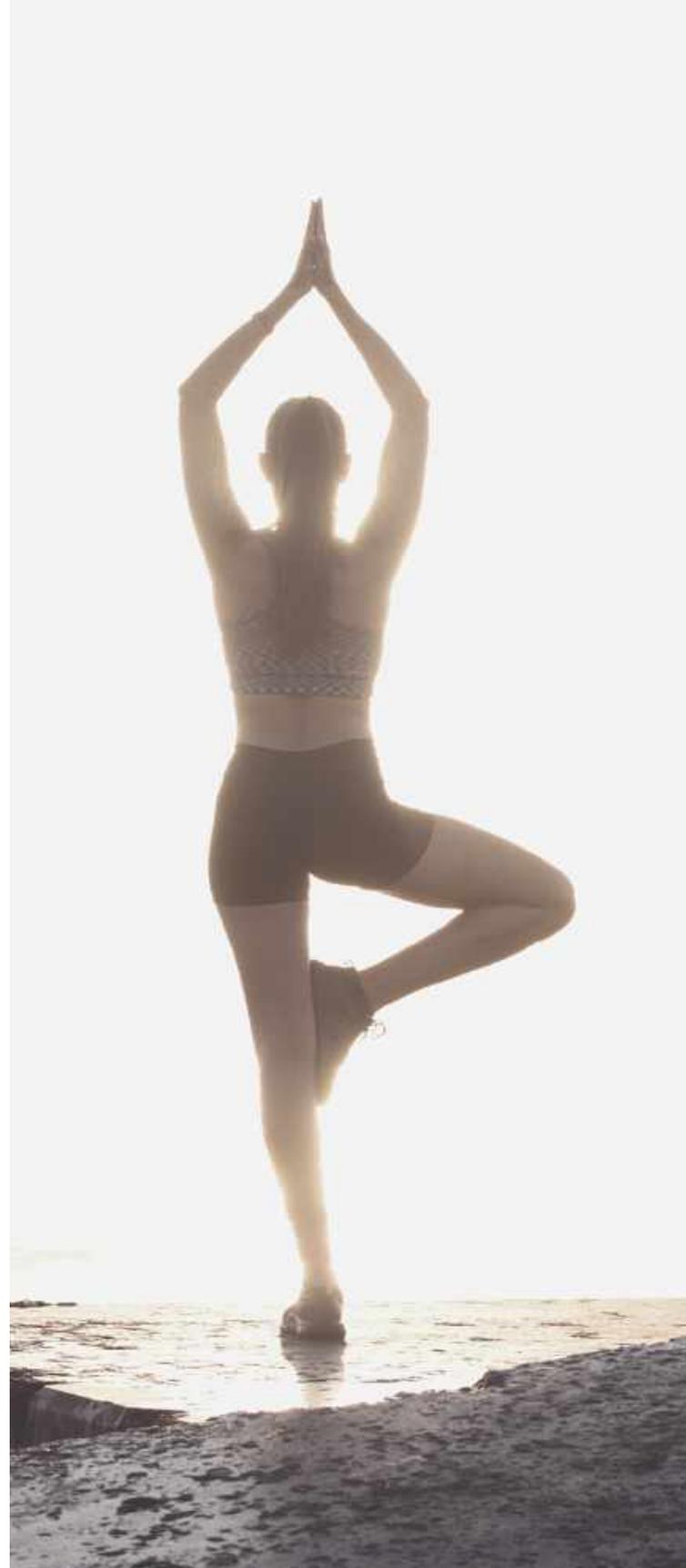
REBUILDING YOUR LIFE AFTER BANKRUPTCY

While it is true that filing bankruptcy will have an adverse impact on your credit score, so will not paying bills on time and allowing creditors to send your debts to collection. Depending on the type of bankruptcy you file, you can expect your credit score to drop between 160 and 220 points.

The bankruptcy filing itself and the debts associated with the bankruptcy are listed differently on a credit report. A completed Chapter 13 filing will be reported for up to 7 years, and a Chapter 7 bankruptcy will stay on a credit report for 10 years.

Late payments, collection actions, and tax liens associated with the underlying debts will generally remain on the report for up to 7 years. Since the debts associated with a Chapter 7 bankruptcy are discharged soon after filing, they will fall off a credit report before the bankruptcy filing itself.

However, many debts will remain active in a Chapter 13 bankruptcy until the end of the payment plan, so some of the debts that were discharged could actually remain on the report longer than the filing. Time is your main remedy.



**You can put the problems arising from this pandemic
in your rearview mirror. Contact us to learn now.**

Can We Help?



Bournakis & Mitchell, PC is a bankruptcy law firm assisting clients throughout Northwest Georgia in a variety of legal matters, with a particular focus on consumer bankruptcy issues. Our legal team has been providing efficient, responsive, and cost-effective legal representation for small businesses and individuals for over 12 years.

We know legal services can be overwhelming, both personally and financially. First, we listen. Then we work with you to efficiently and effectively resolve your legal needs. Let us help you prepare for a more secure future.



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