

VBA BANKRUPTCY LAW SECTION
BENCH-BAR BROWN BAG LUNCH MEETING
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge
United States Bankruptcy Court, Rutland
Friday, February 12, 2016 ~ 12:00 - 1:00 PM

AGENDA

1. CREATING INFO SHEET FOR DEBTORS RE SERVICES AVAILABLE Jan Sensenich/
➤ e.g., thru HEAP, Hunger Free VT, and 211 generally Judge Brown
2. FORM OF BNC GENERATED ORDERS, POST 12/1/15 Theresa Davidson
➤ they will be slightly different (*sample of old and new forms attached*)
3. NEW PHONE NUMBERS FOR THE COURT (EFFECTIVE MARCH 1, 2016) Theresa Davidson
➤ Toll free number: 1-844-644-7459
➤ New general clerk's office number: 1-802-657-6400
➤ Theresa Davidson's new #: 1-802-657-6403
➤ New general chambers number: 1-802-657-6430
4. SPRING VBA CONFERENCE – April 1, 2016 at Burlington Hilton
➤ On the agenda: Ch 12 Bk'cy Program – Options for distressed farmers Jan Sensenich
➤ Possibility: An Intro to Consumer Bk'cy & Homestead Law (*simultaneously?*) Heather Cooper
5. A 5-MINUTE TAX TIP FOR BANKRUPTCY PRACTICE Melissa Ranaldo
➤ IRS collection of non-dischargeable taxes post-discharge;
➤ IRS contact info for post-confirmation questions
6. FORM NUMBER: B 423 – MOTIONS TO EXTEND TIME TO FILE (formerly Form 23) Judge Brown
7. REMINDER THAT RUTLAND 341 MEETINGS WILL BE IN A DIFFERENT LOCATION Lisa Penpraze
8. ANY OTHER TOPICS FOR TODAY? SUGGESTED TOPICS FOR OUR NEXT MEETING? Heather Cooper
9. **DISCUSSION ITEM:**
Whether to Defer Entry of Discharge Until Completion of Mediation Judge Brown
➤ S.O. #10-01 says the discharge will be held until mediation is complete, BUT it is superceded by LRs adopted in 2012 (and revised in 2015).
➤ The LRs are silent on this question.
➤ As a matter of practice, the Clerk's Office has continued to delay entry of discharges until mediation was completed.
➤ That will change, and discharge will enter in the ordinary course (so our practice is consistent with LRs) *unless* a new SO is entered to formally adopt the practice of delaying entry of discharge until mediation is complete.
➤ The Court is looking for input from the bar prior to deciding whether to
○ continue current practice (of deferring discharge until conclusion of mediation) and enter a Standing Order to formalize that, OR
○ change local practice (and resume entry of discharges in the ordinary course, even if mediation is still going on) to comport with LRs.

OLD

United States Bankruptcy Court

District of Vermont

Filed & Entered
On Docket
November 4, 2015

In re:

Christopher Kay
Last four digits of Social-Security No or other Individual
Taxpayer-Identification No (ITIN): xxx-xx-1658
Debtor.

Case Number: 15-11026 cab
Chapter: 13

ORDER FOR PAYMENT OF FILING FEES IN INSTALLMENTS

The Debtor having applied for permission to pay the case filing fee by installment in accordance with Federal Rule of Bankruptcy Procedure 1006,

IT IS ORDERED that the Debtor pay the case filing fee, \$310.00, as follows:

\$80.00 Due on or before December 9, 2015

\$80.00 Due on or before January 11, 2016

\$80.00 Due on or before February 9, 2016

\$70.00 Due on or before March 9, 2016

Checks or money orders should be made payable to: **U.S. Bankruptcy Court** at the address in the lower left corner. Note that the court will not accept as payment the personal check or credit card of the person filing the petition.

IT IS FURTHER ORDERED, in accordance with Federal Rule of Bankruptcy Procedure 1017(b)(1) and 11 U.S.C. § 102, that failure to pay timely any installment may result in dismissal without further hearing.

Dated: November 4, 2015



Colleen A. Brown
United States Bankruptcy Judge

United States Bankruptcy Court
District of Vermont
11 Elmwood Ave, Suite 240
P.O. Box 1663
Burlington, VT 05402-1663

Tel. (802) 776-2000
VCIS* (866) 222-8029
* Voice Case Information System
<http://www.vtb.uscourts.gov>
Form 121 -

NEW

Information to identify the case.
Debtor 1 **Robert W Taylor Jr.**

United States Bankruptcy Court for the **District of Vermont**
Case number: **16-11038**
Chapter filing under: **13**

Order Approving Payment of Filing Fees in Installments

After considering the *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 103A), the court orders that:

- The debtor(s) may pay the filing fee in installments on the terms proposed in the application.
- The debtor(s) must pay the filing fee according the following terms:

<u>You must pay...</u>	<u>On or before this date...</u>
\$ <u>77.50</u>	<u>February 19, 2016</u> Month/ day/ year
\$ <u>77.50</u>	<u>March 11, 2016</u> Month/ day/ year
\$ <u>77.50</u>	<u>March 25, 2016</u> Month/ day/ year
+ \$ <u>77.50</u>	<u>April 8, 2016</u> Month/ day/ year
Total \$ <u>310</u>	

Until the filing fee is paid in full, the debtor(s) must not make any additional payment or transfer any additional property to an attorney or to anyone else for services in connection with this case.

United States Bankruptcy Court
District of Vermont
11 Elmwood Ave
P.O. Box 1663
Burlington, VT 05402-1663

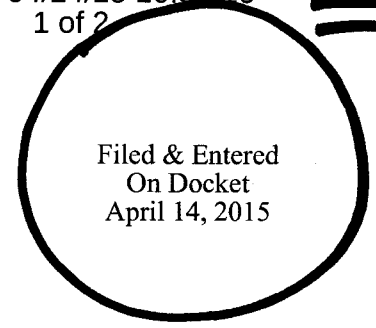
February 3, 2016
Month/ day/ year

By the court: Colleen A. Brown
Colleen A. Brown
United States Bankruptcy Judge

OLD

United States Bankruptcy Court

District of Vermont



Filed & Entered
On Docket
April 14, 2015

Case Number: 14-10614 cab
Chapter: 7

In re:

Rhonda Davis (other names used by debtor: Bennington Dry Cleaners & Coin
Op Laundry)
Last four digits of Social Security No or other Individual
Taxpayer Identification No (ITIN): xxx-xx-8699
Debtor.

DISCHARGE OF DEBTOR

It appearing that debtor Rhonda Davis is entitled to a discharge, **IT IS ORDERED** that debtor Rhonda Davis is granted a discharge under section 727 of title 11, United States Code, (the Bankruptcy Code).

Dated: April 14, 2015

A handwritten signature in black ink that reads "Colleen A. Brown".

Colleen A. Brown
United States Bankruptcy Judge

SEE BACK SIDE OF THIS ORDER FOR IMPORTANT INFORMATION

United States Bankruptcy Court
District of Vermont
151 West Street
P.O. Box 6648
Rutland, VT 05702-6648

Tel. (802) 776-2000
VCIS* (866) 222-8029
* Voice Case Information System
<http://www.vtb.uscourts.gov>
Form 137 - nbw

**EXPLANATION OF BANKRUPTCY DISCHARGE
IN A CHAPTER 7 CASE**

This court order grants a discharge to the person(s) named as the debtor. It is not a dismissal of the case and it does not determine how much money, if any, the trustee will pay to creditors.

Collection of Discharged Debts Prohibited

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor(s). [*In a case involving community property:*] [There are also special rules that protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.] A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts That are Discharged

The chapter 7 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt existed on the date the bankruptcy case was filed. (If this case was begun under a different chapter of the Bankruptcy Code and converted to chapter 7, the discharge applies to debts owed when the bankruptcy case was converted.)

Debts that are Not Discharged.

Some of the common types of debts which are not discharged in a chapter 7 bankruptcy case are:

- a. Debts for most taxes;
- b. Debts incurred to pay nondischargeable taxes;
- c. Debts that are domestic support obligations;
- d. Debts for most student loans;
- e. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- f. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- g. Some debts which were not properly listed by the debtors;
- h. Debts that the bankruptcy court specifically has decided or will decide in this bankruptcy case are not discharged;
- i. Debts for which the debtors have given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts; and
- j. Debts owed to certain pension, profit sharing, stock bonus, other retirement plans, or to the Thrift Savings Plan for federal employees for certain types of loans from these plans.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.

NEW

Information to identify the case:			
Debtor 1	Jonah I. Jonathan		Social Security number or ITIN xxx-xx-8101
	First Name	Middle Name	Last Name
Debtor 2			EIN - - - - -
(Spouse, if filing)	First Name	Middle Name	Last Name
			Social Security number or ITIN - - - - -
			EIN - - - - -
United States Bankruptcy Court District of Vermont			
Case number: 15-10506			

Order of Discharge

12/15

IT IS ORDERED: A discharge under 11 U.S.C. § 727 is granted to:

Jonah I. Jonathan

2/2/16

By the court: Colleen A. Brown
United States Bankruptcy Judge

Explanation of Bankruptcy Discharge in a Chapter 7 Case

This order does not close or dismiss the case, and it does not determine how much money, if any, the trustee will pay creditors.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

This order does not prevent debtors from paying any debt voluntarily or from paying reaffirmed debts according to the reaffirmation agreement. 11 U.S.C. § 524(c), (f).

Most debts are discharged

Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtors' personal liability for debts owed before the debtors' bankruptcy case was filed.

Also, if this case began under a different chapter of the Bankruptcy Code and was later converted to chapter 7, debts owed before the conversion are discharged.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

For more information, see page 2 >

Some debts are not discharged

Examples of debts that are not discharged are:

- ◆ debts that are domestic support obligations;
- ◆ debts for most student loans;
- ◆ debts for most taxes;
- ◆ debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;
- ◆ debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- ◆ some debts which the debtors did not properly list;
- ◆ debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and
- ◆ debts for death or personal injury caused by operating a vehicle while intoxicated.

Also, debts covered by a valid reaffirmation agreement are not discharged.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of the bankruptcy discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

OLD

United States Bankruptcy Court

District of Vermont

Filed & Entered
On Docket
November 1, 2013

In re:

Bruce D. Lowell
Last four digits of Social-Security No or other Individual
Taxpayer-Identification No (ITIN): xxx-xx-9663
Debtor.

Case Number: 10-11001 cab
Chapter: 13

**DISCHARGE OF DEBTOR AFTER COMPLETION
OF CHAPTER 13 PLAN**

It appearing that debtor Bruce D. Lowell is entitled to a discharge,

IT IS ORDERED that debtor Bruce D. Lowell is granted a discharge under section 1328(a) of title 11, United States Code, (the Bankruptcy Code).

Dated: November 1, 2013



Colleen A. Brown
United States Bankruptcy Judge

SEE BACK SIDE OF THIS ORDER FOR IMPORTANT INFORMATION

United States Bankruptcy Court
District of Vermont
151 West Street
P.O. Box 6648
Rutland, VT 05702-6648

Tel. (802) 776-2000
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<http://www.vtb.uscourts.gov>
Form 155 - src

**EXPLANATION OF BANKRUPTCY DISCHARGE
IN A CHAPTER 13 CASE**

This court order grants a discharge to the person(s) named as the debtor after the debtor has completed all payments under the chapter 13 plan. It is not a dismissal of the case.

Collection of Discharged Debts Prohibited

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. *[In a case involving community property:]* [There are also special rules that protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.] A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts That are Discharged

The chapter 13 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt is provided for by the chapter 13 plan or is disallowed by the court pursuant to section 502 of the Bankruptcy Code.

Debts that are Not Discharged.

Some of the common types of debts which are not discharged in a chapter 13 bankruptcy case are:

- a. Domestic support obligations;
- b. Debts for most student loans;
- c. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- d. Debts for personal injury or death caused by the debtor's operation of a motor vehicle, vessel, or aircraft while intoxicated;
- e. Debts for restitution, or damages, awarded in a civil action against the debtor as a result of malicious or willful injury by the debtor that caused personal injury to an individual or the death of an individual;
- f. Debts provided for under section 1322(b)(5) of the Bankruptcy Code and on which the last payment is due after the date on which the final payment under the plan was due;
- g. Debts for certain consumer purchases made after the bankruptcy case was filed if prior approval by the trustee of the debtor's incurring the debt was practicable but was not obtained;
- h. Debts for most taxes to the extent not paid in full under the plan; and
- i. Some debts which were not properly listed by the debtor.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.

NEW

Information to identify the case:

Debtor 1	Glen B. Moyer	Social Security number or ITIN	xxx-xx-1211
	First Name Middle Name Last Name	EIN	--
Debtor 2	Suzanne H. Moyer	Social Security number or ITIN	xxx-xx-4696
(Spouse, if filing)	First Name Middle Name Last Name	EIN	--
United States Bankruptcy Court District of Vermont			
Case number: 09-11021			

Order of Discharge

12/15

IT IS ORDERED: A discharge under 11 U.S.C. § 1328(a) is granted to:

Glen B. Moyer

Suzanne H. Moyer

2/4/16

By the court: Colleen A. Brown
United States Bankruptcy Judge

Explanation of Bankruptcy Discharge in a Chapter 13 Case

This order does not close or dismiss the case.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

This order does not prevent debtors from paying any debt voluntarily. 11 U.S.C. § 524(f).

Most debts are discharged

Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtors' personal liability for debts provided for by the chapter 13 plan.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

Some debts are not discharged

Examples of debts that are not discharged are:

- ◆ debts that are domestic support obligations;
- ◆ debts for most student loans;
- ◆ debts for certain types of taxes specified in 11 U.S.C. §§ 507(a)(8)(C), 523(a)(1)(B), or 523(a)(1)(C) to the extent not paid in full under the plan;

For more information, see page 2

- ◆ debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;
- ◆ debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- ◆ some debts which the debtors did not properly list;
- ◆ debts provided for under 11 U.S.C. § 1322(b)(5) and on which the last payment or other transfer is due after the date on which the final payment under the plan was due;
- ◆ debts for certain consumer purchases made after the bankruptcy case was filed if obtaining the trustee's prior approval of incurring the debt was practicable but was not obtained;
- ◆ debts for restitution, or damages, awarded in a civil action against the debtor as a result of malicious or willful injury by the debtor that caused personal injury to an individual or the death of an individual; and
- ◆ debts for death or personal injury caused by operating a vehicle while intoxicated.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of a chapter 13 discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

DISCHARGE PROVISIONS OF OTHER BANKRUPTCY COURTS'
LOSS MITIGATION PROGRAMS

EDNY: General Order 582 has Loss Mitigation Program Procedures provides (at p.6)

D. Discharge:

The Clerk of the Court shall not enter a discharge during the pendency of a Loss Mitigation Period.

SDNY: Loss Mitigation Program Procedures (as revised 6/17/13) provides (at p.2)

Parties are encouraged to request Loss Mitigation as early in a case as possible, but Loss Mitigation may be initiated at any time prior to the entry of a discharge order ...

➤ More importantly, it also provides (p.4) (emphasis added)

C. EFFECT

6. Unless otherwise ordered by the Bankruptcy Court, in a Chapter 7 case, the entry of the “Loss Mitigation Order” **defers the entry of an order granting the Debtor’s discharge** until one day after an “Order Terminating Loss Mitigation and Final Report” is filed, pursuant to Federal Rule of Bankruptcy Procedure 4004(c)(2). The time to object to the Debtor’s discharge or the dischargeability of a debt is NOT extended by this Order.

Rhode Island: 8th Amended Loss Mitigation Program and Procedures (as revised 4/1/14) provides (at p.2):

The fact that a discharge has entered or that relief from stay has been granted does not prevent a Debtor from requesting loss mitigation or prevent the Court from entering a Loss Mitigation Order. However, neither do these actions prevent such Creditors from pursuing their state court rights during the loss mitigation period, if they so elect. Nothing herein prevents a party from filing a motion for specific relief.

➤ More importantly , it provides (p.6) (emphasis added)

C. EFFECT

...

2. In a Chapter 7 case, if the loss mitigation period is anticipated to continue more than 80 days from the date the Chapter 7 petition was filed, **Debtors may seek to extend the entry of discharge** pursuant to Fed. R. Bankr. P. 4004(c)(2), in order that the automatic stay not expire under 11 U.S.C. § 362(c)(2) (C).