



DANA C. McWAY
CLERK OF COURT

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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF MISSOURI
THOMAS F. EAGLETON U.S. COURTHOUSE
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Rules Suggestion 24-BK-F

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June 5, 2024

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Re: Suggested Modifications to Discharge Forms

Dear Committee Members:

I write on behalf of the Unclaimed Funds Expert Panel, a subgroup of the Financial Managers Working Group, to suggest modifications to Forms 3180W, 3180WH, and 318.

We suggest the forms be modified to include a paragraph urging recipients to check for the availability of unclaimed funds. Our reasoning supporting this suggestion is that discharge forms reach a wide audience, including those for whom Bankruptcy courts hold unclaimed funds, making the forms an ideal vehicle to inform potential claimants of available funds. We limit our suggestion to discharge forms involving Chapters 7 & 13 cases, as those are the cases for which bankruptcy courts most often see a case trustee deposit unclaimed funds with the court. We leave to the Committee's decision whether to apply our suggestion to the discharge forms in Chapter 12 and Subchapter V chapter 11 cases where the incidences of unclaimed funds deposited with the courts are rare.

We suggest language for the Committee's consideration.

Money may be left over in this case.

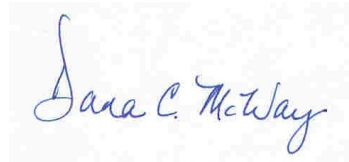
Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. To search unclaimed funds, use the Unclaimed Funds Locator at <https://ucf.uscourts.gov/>.

We have included this language on the last page of each form as a placeholder but express no view on where the Committee may wish to place this language on each form. Our suggested language is in bold-face type to draw the reader's attention; again, we defer to the Committee whether the language should be placed in bold-faced type, within a box, or in some other manner to draw the reader's attention. We also note that the URL included in our suggested language may not apply to all bankruptcy courts because some bankruptcy courts operate their own search locators via their

*Ltr to Committee on Rules of Practice and Procedure re: Suggested Modifications to Discharge Forms
June 5, 2024*

websites as opposed to joining the Unclaimed Funds Locator operated by the U.S. Bankruptcy Court for Eastern District of Virginia. For that reason, we suggest the inclusion of a particular URL on each form should be court configurable.

Sincerely,

A handwritten signature in blue ink that reads "Dana C. McWay". The signature is written in a cursive style and is centered within a light gray rectangular box.

Dana C. McWay
Clerk of Court
Chair, Unclaimed Funds Expert Panel

Encl. Modified Discharge Forms (3)

Cc: Unclaimed Funds Expert Panel members

Information to identify the case:

Debtor 1 _____ Last 4 digits of Social Security number or ITIN ____

First Name Middle Name Last Name EIN ____ - _____

Debtor 2 _____ Last 4 digits of Social Security number or ITIN ____

(Spouse, if filing) First Name Middle Name Last Name EIN ____ - _____

United States Bankruptcy Court for the: _____ District of _____

(State)

Case number: _____

Order of Discharge

12/18

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

_____ [_____]
 [include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

 MM / DD / YYYY

By the court: _____
 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 restitution, or a criminal fine, included in a sentence on debtor's criminal conviction;
- 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.

Money may be left over in this case.

Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. To search unclaimed funds, use the Unclaimed Funds Locator at <https://ucf.uscourts.gov/>.

Information to identify the case:

Debtor 1 _____ Last 4 digits of Social Security number or ITIN _____
 First Name Middle Name Last Name EIN ____ - _____

Debtor 2 _____ Last 4 digits of Social Security number or ITIN _____
 (Spouse, if filing) First Name Middle Name Last Name EIN ____ - _____

United States Bankruptcy Court for the: _____ District of _____
 (State)

Case number: _____

Order of Discharge

IT IS ORDERED: A discharge under 11 U.S.C. § 1328(b) is granted to:
 _____ [_____]
 [include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

 MM / DD / YYYY

By the court: _____
 United States Bankruptcy Judge

Explanation of Bankruptcy Discharge Before Completion of a Chapter 13 Plan

The court has determined that the debtors are entitled to a discharge pursuant to 11 U.S.C. § 1328(b) without completing all of the requirements under the chapter 13 plan. A discharge pursuant to § 1328(b) is referred to as a “hardship discharge.”

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;

For more information, see page 2 ►

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;

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; 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 hardship 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.

Money may be left over in this case.

Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. To search unclaimed funds, use the Unclaimed Funds Locator at <https://ucf.uscourts.gov/>.

Information to identify the case:

Debtor 1 _____ Last 4 digits of Social Security number or ITIN ____
 First Name Middle Name Last Name EIN ____ - _____

Debtor 2 _____ Last 4 digits of Social Security number or ITIN ____
 (Spouse, if filing) First Name Middle Name Last Name EIN ____ - _____

United States Bankruptcy Court for the: _____ District of _____
 (State)

Case number: _____

Order of Discharge

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

_____ [_____]
 [include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

 MM / DD / YYYY

By the court: _____
 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.

Money may be left over in this case.

Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. To search unclaimed funds, use the Unclaimed Funds Locator at <https://ucf.uscourts.gov/>.