
BEFORE YOU GET STARTED

Thank You for downloading this valuable resource. We give this advice to our clients who are thinking about filing for bankruptcy protection. Just because you are going to see a bankruptcy attorney doesn't mean that you are going to have to file for bankruptcy. Nothing could be further from the truth. We tell people all the time that filing for bankruptcy would be a terrible idea for them. Bankruptcy should always be your last resort. But, if used wisely, bankruptcy could be your best friend. If used wisely, bankruptcy is a financial planning tool that could change your finances and put you on an entirely different track going forward. We've seen it happen thousands of times. During the last bankruptcy boom in 2008 – 2009, we saw thousands of individuals who went from prosperity to financial ruin almost overnight and the worst part was: IT WASN'T THEIR FAULT. Now, we are seeing job losses and financial devastation right before our eyes in real time because of the Coronavirus, and we don't want to see Good, Honest and Hardworking People of Florida suffer from another financial collapse that wasn't their fault. Last time, people made mistakes which caused them hundreds of thousands of dollars because they didn't have a plan, and we don't want to see it happen again.

At the Dellutri Law Group, we treat each client's case with the same care and respect that we would treat a family member's case. So, we have put together this list of Bankruptcy Do's and Don'ts to help educate our clients about certain issues that we have seen pop up in other cases (not our clients-Thank goodness). We don't want to see any Floridian make a financial mistake during this financial collapse.

First, it's important that you talk to an attorney immediately. You need to understand what you can do in a bankruptcy and, more importantly, what you cannot do.

Lastly, we view the bankruptcy process as financial planning; therefore, we want all our clients to come out of this process with a better understanding of money, finances and a clear view of where they are heading in the future. These lists will help you on your way. You will want to comply with the Do list and avoid the Don't list.

Sincerely,

Carmen Dellutri



BANKRUPTCY “DO”S

Bankruptcy Counsel: If you have to ask whether you need a competent Bankruptcy Attorney, the answer is: Yes, **DO HIRE THE RIGHT ATTORNEY**. Before you file any papers, make sure you understand exactly what is required of you. When your assets and finances are in question, you need to protect yourself.

Bankruptcy Court: **DO TAKE IT SERIOUSLY**. The Bankruptcy Court protects the honest, but unfortunate debtor from his or her creditors. There are processes built into the code that protect the debtor and the creditors. Everything you do will be under penalties of perjury; therefore, you want to cross your T's and dot your I's and make sure you have answered every question as openly and honestly as possible. Even if the information that you are providing is embarrassing, it is important that your attorney knows. Any creditors not listed in your bankruptcy paperwork will not be discharged. Now is the time to avoid making any financial decisions that may make your creditors or the bankruptcy court think that you filed your bankruptcy in bad faith.

Debit Card: **DO USE YOUR DEBIT CARD(S)** from this point going forward. This will help you track all of your expenses so that we can clearly demonstrate exactly how much gas, groceries, etc. you spend on a monthly basis. If you have high out of pocket medical expenses, we will need to properly document those expenses as well.

Assets: **DO LIST ALL OF YOUR ASSETS AND DEBTS**. I cannot stress this enough. If you own something, list it. If you are holding property for someone else, tell us that. Believe it or not, there is a place for that as well. Also, you are not allowed to pick and choose which creditors you want to include in the bankruptcy filing. If you owe a creditor a penny or more, they must be disclosed and included in the bankruptcy filing.



Tax Returns: **DO FILE ALL TAX RETURNS** that were supposed to be filed. Even if you know that you owe the IRS money, it is still important to file your tax returns in a timely fashion. Not filing your tax returns is never a good strategy.

Tax Refunds: **DO REVIEW ALL TAX REFUNDS** Tax refunds are usually considered property of your bankruptcy estates; therefore, we encourage everyone to look at their withholding and try to determine a proper balance between the withholding and how much of a refund you will receive.

Car Payments:

- 1) If you are going to keep your car, **DO KEEP THE PAYMENTS CURRENT**. Also, please **DO KEEP IT INSURED**.
- 2) If you intend to surrender your car and have stopped making the payments already, please **DO REMOVE ALL PERSONAL ITEMS** from the vehicle in case it is repossessed.
- 3) If you intend to surrender the car and the payments are current, again, please **Do START REMOVING YOUR PERSONAL ITEMS** immediately from the vehicle.
- 4) Again, please **DO KEEP ALL VEHICLES INSURED** until such time as the surrender of the vehicle is completed.

House payments:

- 1) If you intend to keep your home, please **DO KEEP ALL OF YOUR PAYMENTS CURRENT**. It's always better to enter bankruptcy court with your house payments current.
- 2) If your house payments are in arrears and you intend to surrender the home, please **DO NOT MAKE ANY PAYMENTS**.
- 3) If your house payments are in arrears and you intend to keep the home, please **DO SPEAK WITH THE ATTORNEY** about how this should be handled.



BANKRUPTCY “DON’T”S

DON’T PAY YOUR RELATIVES OR FRIENDS THE MONEY YOU OWE THEM rather than pay your regular creditors. The bankruptcy code provides for a look back period to see whether you paid back friends and relatives. If you did, there is a good chance that money will be coming back into the estate. The bankruptcy trustee will ask about transfers at your meeting of creditors.

Credit Cards: We ask that you **DON’T USE ANY TYPE OF CREDIT CARD** longer (we are going out of order here, but we want to make it clear, debit cards and credit cards are not the same). If it is your intention to file for bankruptcy protection, you will be looking to discharge all credit card debts. Believe it or not, there is a process where a credit card could sue you during the bankruptcy process for loading up the credit card prior to filing your bankruptcy, so please Don’t do it.

DON’T TRANSFER ANYTHING OF VALUE OUT OF YOUR NAME without a proper accounting of what was sold, who it was sold to, when it was sold, how much was it sold for, and knowing where the money went. If you need to sell something, please contact your attorney on exactly what steps you will need to take to protect yourself. Again, the bankruptcy trustee will ask if you sold, transferred or traded anything of value.

DON’T LEAVE OUT INCOME from a second job. It is income, so please list it.

DON’T TAKE A LOAN AGAINST YOUR REAL ESTATE in an effort to reduce the equity. You can often file a bankruptcy and not lose this valuable asset.

DON’T TAKE OUT A SECOND MORTGAGE to pay a credit card debt, you may be putting your homestead at risk.



DON'T PAY AHEAD OR PAY OFF BALANCES EARLY on **secured loans** (loans for which there is collateral like prepaying car payments, house payments or rent payments to get rid of cash).

DON'T PAY AHEAD OR PAY OFF BALANCES EARLY on **unsecured loans** (personal loans, medical bills, credit cards or store cards, etc.).

DON'T FILE FOR BANKRUPTCY PROTECTION if you or your spouse are planning on having a medical procedure in the very near future.

DON'T ATTEMPT TO SELL YOUR PROPERTY for less than what it's worth. This will not reduce the amount you might eventually have to repay – and you or whoever you sold it to may end up stuck with the difference.

DON'T RUN UP YOUR CREDIT CARD DEBT prior to filing a bankruptcy. The court may view this as an attempt to exploit the bankruptcy system, and the judge may treat it accordingly.

DON'T BUY ANY LUXURY ITEMS prior to filing for bankruptcy. Any luxury items purchased on a credit card prior to filing for bankruptcy may be viewed as a non-dischargeable debt.

DON'T TAKE ANY MAJOR CASH ADVANCES from your credit cards prior to filing for bankruptcy. The court may suspect that you are acting in bad faith and may refuse to discharge the debt.

DON'T BORROW, WITHDRAW FROM OR CASH out your 401K, IRA, or ERISA qualified savings and retirement plans to pay bills. If you do, you may be liable for penalties and taxes that are not protected by the bankruptcy filing. If you don't use these funds before bankruptcy, you are very likely to have them to draw on after bankruptcy if necessary.



DON'T FILE IF YOU ARE ABOUT TO RECEIVE A TAX REFUND or inheritance. Discuss the timing of your bankruptcy filing with your attorney.

DON'T TRANSFER MONEY INTO YOUR CHILDREN'S BANK ACCOUNTS before filing for bankruptcy protection. They have you as a co-signer and their accounts are subject to the same review as your bank accounts.

DON'T GET MARRIED JUST BEFORE FILING if your spouse has a high income. When a married person files an individual bankruptcy, we still must look at the household income.

DON'T MISREPRESENT FACTS TO YOUR ATTORNEY, we are working to help you.

DON'T WAIT UNTIL AFTER THE BANKRUPTCY FILING to purchase a vehicle if you need one right now. If you know you need a more dependable car, please take care of that immediately. We do not want you driving an unsafe vehicle on the roads. Each case is different, so if you need to do this please contact the attorney first.

DON'T ASSUME THAT THE BANKRUPTCY WILL GET RID OF ALL YOUR DEBTS. Some tax liabilities are non-dischargeable. Student loans are now non-dischargeable except in rare situations and cases of extreme hardship.

DON'T TELL YOUR ATTORNEY THAT CERTAIN ITEMS of personal property do not belong to you if they really do belong to you.

DON'T EXPECT YOUR ATTORNEY TO HELP YOU DEFRAUD the Bankruptcy Court and your creditors, it won't happen.

DON'T LIE. You will be signing the bankruptcy papers under penalty of perjury.

