



# Bankruptcy and the Role of the Courts

ARIZONA SUPREME COURT

FARE PROGRAM



Bankruptcy isn't  
that simple.  
But ...  
understanding  
the process isn't  
as hard as one  
might think...



# FOCUS

- Define Notice of Filing and Discharge for both Chapter 7 and Chapter 13
- How to process a Notice of Filing and Discharge?
- FARE and DSO impacts
- Resources



# Comparison



	Chapter 7	Chapter 13
<b>Type of Bankruptcy</b>	"Fresh Start"/Liquidation	Reorganization into repayment plan
<b>Who can file?</b>	Individuals & Companies	Individuals only
<b>Initial filing → Discharge</b>	Months (Avg. 4 – 8)	Years (Avg. 3 – 5)
<b>Amount</b>	Debts completely discharged	Only pays % of debt owed
<b>Court</b>	Must file documents and attend proceeding	
<b>Proof of Claim</b>	CV & CR are not dischargeable - may recover monetary obligations owed	CV are dischargeable - may recover monetary obligations owed
<b>Automatic Stay</b>	Stops most collection actions against debtor or debtor's property	



CHAPTER 7  
VERSUS  
CHAPTER 13  
BANKRUPTCY

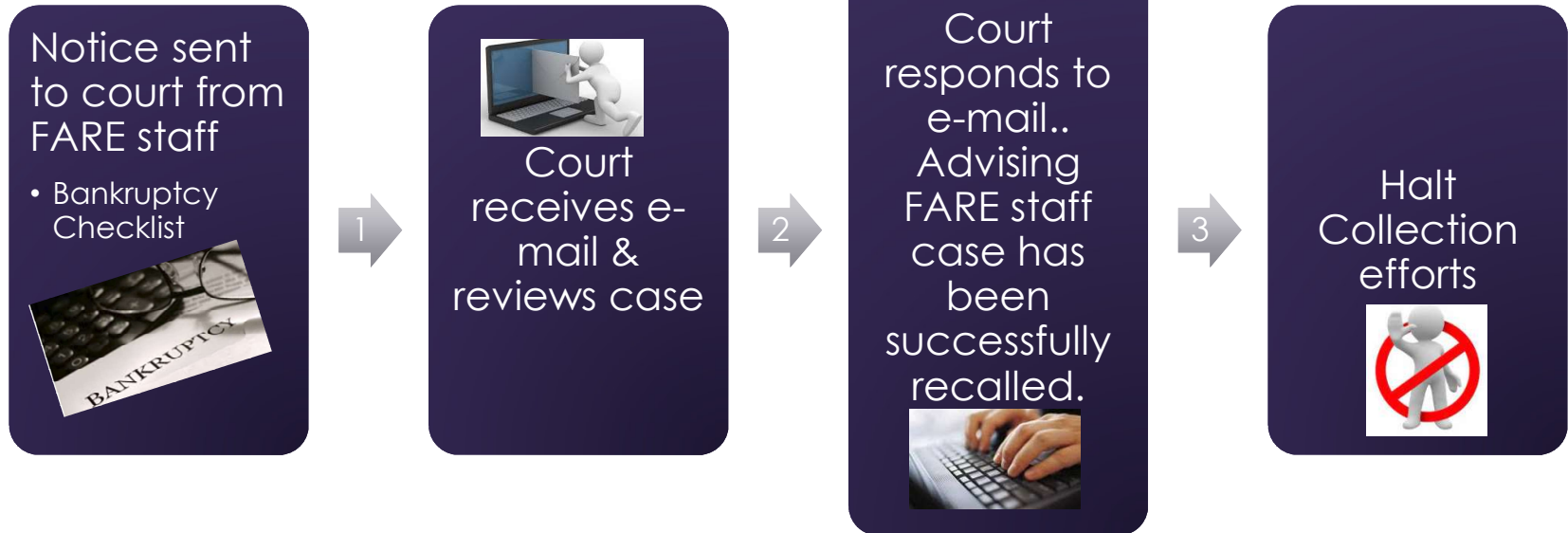
# Notice of filing Chapter 7 & 13

COURT'S REQUIREMENT

# Court Requirements Notice of Filing

	Chapter 7 & 13
Collection Effects	Court <b>must cease</b> all collection efforts
Driver License	Suspension <b>must be lifted</b>
<b>FARE</b>	<b>RECALL</b> <ul style="list-style-type: none"> <li>• Suspend FARE fees</li> <li>*Automatically lifts TTEAP hold</li> </ul>
Phone Call/Letters	<b>Cannot</b> be mailed or contacted
Civil Traffic Charges	Default status = <b>Set aside</b> and <b>abstract</b> sent to MVD
<b>DSO</b>	<b>Must Cease</b> <ul style="list-style-type: none"> <li>✓ <u>Auto TIP</u> = recall from FARE, removes case from TIP</li> <li>✓ <u>Manual</u> = zero balance in TIP</li> <li>✓ <u>Non-TIP</u> = correct case in CMS and export updated file</li> </ul>
<b>FARE CAP</b>	Recall case and close out the FARE CAP Payment contract

# Notice of Filing Process



We work together!



# Notice of Discharge Overview

	Chapter 7	Chapter 13
<b>Fines <u>Excluded</u> from Discharge</b>	<ul style="list-style-type: none"> <li>▪ Criminal Fines</li> <li>▪ Penalties</li> <li>▪ Forfeitures which include traffic</li> <li>▪ Parking and similar penalties</li> </ul>	Only Debt for: <ul style="list-style-type: none"> <li>▪ Restitution</li> <li>▪ Criminal Fine (<i>included in a sentence on the debtor's conviction of a crime</i>)</li> </ul>
<b>Authority</b>	Per § 523 (a)(7) makes a "fine" non-dischargeable	Per § 1328(a)(3); broader relief for debtor Limits non-dischargeable fines to criminal fines
<b>Action after Notification</b>	Resume collection efforts and complete FARE Discharge Form	
<b>Civil Traffic Charges</b>	Default & license suspension re-established <ul style="list-style-type: none"> <li>• Abstract sent to MVD</li> </ul>	<b>Civil fines are dischargeable; collections may <u>not</u> resume</b> <ul style="list-style-type: none"> <li>• Suspend any remaining balance</li> <li>• Change disposition on application charges to final disposition and send to MVD</li> </ul>
<b>FARE / DSO</b>	Reassign case to FARE ; Re-establish any FARE Fees Reassign to TIP if not AUTO-TIP	
<b>FARE CAP</b>	Discuss & review with defendant on possibly re-entering a FARE CAP Payment contract.	



# Reimbursable fees

- ▶ Such as jail fees
  - ▶ Public defender fees
  - ▶ Probation fees, etc
- 
- ✓ These are **all** dischargeable under Chapter 13.
  - ✓ The court would have to adjust any receivables before resubmitting to FARE under a chapter 13 discharge.

# Notice of Discharge Process

Notice sent to court from FARE staff

- Bankruptcy Checklist
- Discharge Form



1

Court receives e-mail & reviews case  
Place case back in FARE  
Sign Discharge Form

→ *Signature*

2

Court returns Discharge form



3

Collection Resumes on case



We work together!



Bankruptcy-Order of Discharge  
Continue Collection Activity Court Request

Name of Court [Redacted]  
Court Location Number [Redacted]

**PURPOSE**

This form is to be completed when a court has received an Order of Discharge for Bankruptcy.  
AZTEC does not provide the functionality to automatically lift the Bankruptcy Suspend in FARE.  
Therefore, this form will be used to document that the court has acknowledged the Bankruptcy has been discharged and delinquent collections may resume.  
Until proper notification is received by the court, delinquent collections will remain suspended.  
**Note: Chapter 13 Bankruptcy Civil cases are not eligible for continued collections.**

**Information to Identify the Case**

If a Debtor has more identified cases than the space allows, continue to list the cases in the indicated boxes.

Debtor Name  
[Redacted]

List the Case Number(s) Below  
[Redacted]

Debtor Name  
[Redacted]

List the Case Number(s) Below  
[Redacted]

Debtor Name  
[Redacted]

List the Case Number(s) Below  
[Redacted]

By checking this box, the court authorizes delinquent collection activity to resume on the case(s) indicated within this document.

  
Court Signature

[Redacted]  
Date

Please scan or fax this form to the FARE Program  
FAX: 602.307.1288

# Example of Discharge Form

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## What is Proof of Claim in Bankruptcy?



Filing a  
Proof of  
Claim  
Form

# Filing a Proof of Claim form

Chapter 7	Chapter 13
Both Civil (CV) & Criminal (CR) are <b>NOT</b> dischargeable	Civil (CV) are dischargeable
The trustee will notify all creditors if there are any assets and then send a deadline to file the form	Recommended to file prior to Notice of Discharge... <ul style="list-style-type: none"><li>• Court may recover monetary obligations owed</li></ul>



# Proof of Claim

## Fill in this information to identify the case:

Debtor 1 \_\_\_\_\_  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing)  
United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
Case number \_\_\_\_\_

## Official Form 410

### Proof of Claim

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. A documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of runn mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If tl explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bank

#### Part 1: Identify the Claim

1. Who is the current creditor?

\_\_\_\_\_  
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor \_\_\_\_\_

2. Has this claim been acquired from someone else?

No

Yes. From whom? \_\_\_\_\_

3. Where should notices and payments to the creditor be sent?

Where should notices to the creditor be sent?

Where should paym  
different)

Federal Rule of  
Bankruptcy Procedure  
(FRBP) 2002(g)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Number Street

\_\_\_\_\_  
Number Street

A decorative graphic consisting of a dark purple rounded rectangle with a pink square on its right side, partially overlapping the top edge.

## Does the court file a Proof of Claim Form?

- ▶ A proof of claim is required on all for Chapter 13 and only on chapter 7 if a notice is sent by the trustee

# FAQ's

- ▶ **Question:** A defendant has submitted a letter that identifies he or she is in bankruptcy. May I accept this correspondence?
  - ▶ **Answer:** Legitimate bankruptcy notifications are often types and completed by the Bankruptcy Court. Often, these documents are received by mail or by the FARE collection vendor and forwarded to the appropriate court.
  - ▶ If the court is unsure of the validity of the notification, contact the Bankruptcy Voice Case Information System (VCIS) and enter the debtor's information to confirm their status.
  - ▶ The VCIS is free and can be accessed by dialing **866-222-8029** from a touch tone phone.

# FAQ's

- ▶ **Question:** How can I check the status of a discharge notification?
  - ▶ **Answer:** Great question! The Bankruptcy Court offers the Bankruptcy Voice Case Information System (VCIS) to the public for such inquiries. To use this service, a caller is prompted to enter either a debtor's name, case number, or social security number/tax id number. The service is free and can be accessed by dialing **866-222-8029** from a touch tone phone.

# FAQ's

- ▶ **Question:** A bankruptcy notification was provided to the court and the person's case was in a post-disposition status and available for payment on the Online Citation Payment (OLCP) website. May a case appear on the OLCP website if bankruptcy notification is received?
  - ▶ **Answer:** Having a case appear on OLCP web payment portal is not considered a collection action. This is a service provided to the defendants to assist in making payments available and increases the access to do so.
  - ▶ However, sending the case to FARE (as ultimately it would be assumed no payments will be made while in Post-Dispo) cannot occur, as FARE Delinquency provides services and actions that are considered collection effort.



# Questions