

Form 18. DISCHARGE OF DEBTOR

[Caption as in Form 16A]

DISCHARGE OF DEBTOR

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

Dated: _____

BY THE COURT

United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

EXPLANATION OF BANKRUPTCY DISCHARGE
IN A CHAPTER 7 CASE

This court order grants a discharge to the person 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. [*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 that are in the nature of alimony, maintenance, or support;
- c. Debts for most student loans;
- d. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- e. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle while intoxicated;
- f. Some debts which were not properly listed by the debtor;
- g. Debts that the bankruptcy court specifically has decided or will decide in this bankruptcy case are not discharged;
- h. Debts for which the debtor has given up the discharge protections by signing a reaffirmation agreement in compliance with the Bankruptcy Code requirements for reaffirmation of debts.

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.

INSTRUCTIONS FOR COMPLETING OFFICIAL FORM 18 DISCHARGE OF DEBTOR

I. INTRODUCTION

The discharge is a court order that grants a discharge of debts to the person named as the debtor. This Official Form covers only an individual debtor in a chapter 7 case. There are other procedural forms issued by the Director of the Administrative Office of the United States Courts for use in cases filed by joint debtors (husband and wife filing together) and in chapter 12 and chapter 13 cases. These are illustrated in Part II of this Manual.

The effect of a discharge order is to free the debtor of any personal liability for most debts that arose before the bankruptcy case was filed. It is not a dismissal of the case, and it does not determine how much money, if any, the trustee will pay to creditors.

The clerk will prepare the order of discharge in the case. These instructions are provided for the information and reference of parties in a bankruptcy case.

II. APPLICABLE LAW AND RULES

The chapter 7 discharge order eliminates a debtor's legal obligation to pay any debt that is discharged. Most, but not all, types of debts are discharged by law if the debt existed on the date the bankruptcy case was filed. 11 U.S.C. §§ 524, 727(b). (If the case began under a different chapter of the Bankruptcy Code and was converted to chapter 7, the discharge applies to debts that existed on the date the bankruptcy case was converted. See 11 U.S.C. §§ 348(d), 727(b).)

By law, the discharge prohibits any attempt to collect from the debtor a debt that has been discharged. 11 U.S.C. § 524(a)(2). 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. There are also special rules that may protect certain "community property" owned by the debtor's spouse, even if that spouse did not file a bankruptcy case. 11 U.S.C. § 524(a)(3). A creditor, however, 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. 11 U.S.C. § 362(c).

Even if a debt has been discharged by law, a debtor may still voluntarily choose to pay it. 11 U.S.C. § 524(f).

Although most of the debtor's debts are discharged, some types of debts are not discharged in a chapter 7 bankruptcy case. Some of the common types of debts that are not discharged are set out on the back of the discharge. The types of debts discharged in a chapter 12 or chapter 13 case vary somewhat from those discharged in a chapter 7 case. 11 U.S.C. §§ 1228, 1328.

This information is only a general summary of the bankruptcy discharge, and there are exceptions to these general rules. The law is complicated, so debtors and creditors may want to consult an attorney to determine the exact effect of the discharge in any particular case.

Federal Rule of Bankruptcy Procedure 4004(g) requires the clerk to send a copy of the discharge order to the debtor, all creditors, the United States trustee, the trustee, and the trustee's attorney, if any.

III. DIRECTIONS

1. The Official Form should be used in a chapter 7 case in which the debtor is an individual. (The Director of the Administrative Office of the United States Courts has issued other procedural forms, which are adaptations of Official Form 18, for use in cases filed by joint debtors and in chapter 12 and chapter 13 cases. These appear in Part II of this Manual.)
2. The caption of the discharge should conform to Official Form 16A. Instructions for Official Form 16A, Caption (Full), may be found following that form.
3. The date the court granted the discharge should be inserted in the space provided.
4. The signature of the bankruptcy judge should appear in the space provided.
5. The clerk will enter the discharge order on the bankruptcy case docket and mail a copy of the discharge order to the debtor, the trustee, the trustee's attorney (if any), the United States trustee, and all creditors.

Form 18. DISCHARGE OF DEBTOR

COMMITTEE NOTE (1991)

This form previously was numbered Official Form No. 27. The form has been revised to accommodate cases commenced by the filing of either a voluntary or an involuntary petition.

1995 COMMITTEE NOTE

The form is amended to include debts described in section 523(a)(15) of the Code, which was added by the Bankruptcy Reform Act of 1994, in the list of debts discharged unless determined by the court to be nondischargeable.

1997 COMMITTEE NOTE

The discharge order has been simplified by deleting paragraphs which had detailed some, but not all, of the effects of the discharge. These paragraphs have been replaced with a plain English explanation of the discharge. This explanation is to be printed on the reverse of the order, to increase understanding of the bankruptcy discharge among creditors and debtors. The bracketed sentence in the second paragraph should be included when the case involves community property.