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ACC NEXTGEN STARTER BRIEF: BANKRUPTCY BASICS

Presented by:

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BANKRUPTCY BASICS

Automatic Stay – Almost all creditor action and litigation stayed when the Debtor files the bankruptcy petition.

- Generally, prohibits foreclosures, repossessions, starting or continuing a lawsuit against the debtor

Debtor has the ability to transfer or sell property free and clear of interests with court approval

Debtor may terminate undesirable contracts and leases or assign the contract

TYPES OF BANKRUPTCY CHAPTER 7 - LIQUIDATION

- Best known as ***liquidation bankruptcy***
- For individuals and companies
- Most common type

TYPES OF BANKRUPTCY CHAPTER 13 (OR 12)

Chapter 13 – Individual Payment Plan

Chapter 12 – Individual Payment Plan for farmers and fishermen/women

TYPES OF BANKRUPTCY CHAPTER 11

- Can be a reorganization or a liquidation

- The Debtor may continue to operate and maintain ownership of all assets while working out a plan to pay off creditors

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BANKRUPTCY NOTICE

Information to identify the case:

Debtor 1: [redacted] — First Name Middle Name Last Name

Social Security number or ITIN: [redacted]
EIN: --_---------

Debtor 2: (Spouse, if filing) — First Name Middle Name Last Name

Social Security number or ITIN: ____
EIN: --_---------

United States Bankruptcy Court: District of Maine

Date case filed for chapter: 13 February 16, 2022

Case number: 22-[redacted]

Official Form 309I — 10/20

Notice of Chapter 13 Bankruptcy Case

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at pacer.uscourts.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

	About Debtor 1:	About Debtor 2:
1. Debtor's full name	[redacted]	
2. All other names used in the last 8 years	[redacted]	
3. Address	[redacted] Sanford, ME 04073	
4. Debtor's attorney Name and address	J Scott Logan Esq. Law Office of J. Scott Logan, LLC 75 Pearl Street, Suite 212 Portland, ME 04101	Contact phone (207) 699-1314 Email: scott@southernmainebankruptcy.com
5. Bankruptcy trustee Name and address	Andrew M. Dudley Esq. Standing Chapter 13 Trustee's Office P.O. Box 429 Brunswick, ME 04011	Contact phone (207) 725-1300 Email: jawl@chap13.com
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at pacer.uscourts.gov.	537 Congress Street Portland, ME 04101-3318	Hours open: Monday-Friday 8:30 am - 1:00 pm 1:30 pm - 4:30 pm Contact phone (207)780-3482 Date: February 17, 2022

For more information, see page 2

Debtor [redacted] — Case number 22-[redacted]

7. Meeting of creditors
Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.

March 18, 2022 at 10:00 AM
The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

Location:
The meeting of creditors will be held TELEPHONICALLY.
For meeting call-in information contact the Trustee listed in Section 5 of this notice.

8. Deadlines
The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.

Deadline to file a complaint to challenge dischargeability of certain debts: **Filing deadline: May 17, 2022**

You must file:
- a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f), or
- a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4).

Deadline for all creditors to file a proof of claim (except governmental units): **Filing deadline: April 27, 2022**

Deadline for governmental units to file a proof of claim: **Governmental units have 180 days from the date of filing the case or the date of conversion to file proof of claim.**

Deadline to seek a determination of automatic dismissal for failure to file all information required by section 521(a)(1) is 75 days from the date of filing the case.

Deadlines for filing proof of claim:
A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at www.uscourts.gov or any bankruptcy clerk's office. An automated proof of claim can be filed online at https://ecf.meb.uscourts.gov/cgi-bin/autoFilingClaims.pl.
If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed.
Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.

Deadline to object to exemptions: **Filing deadline:** 30 days after the conclusion of the meeting of creditors
The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.

9. Filing and Confirmation of plan
The hearing on confirmation will be held on **April 26, 2022** at **10:00 AM** , at **537 Congress Street, Portland, ME 04101-3318** .
A copy of the plan and a notice of the hearing on confirmation will be sent separately.

10. Creditors with a foreign address
If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

11. Filing a chapter 13 bankruptcy case
Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.

12. Exempt property
The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at pacer.uscourts.gov. If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.

13. Discharge of debts
Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion by the deadline.

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WHEN YOU RECEIVE A BANKRUPTCY NOTICE

Check important dates

- Deadline to file a proof of claim
- Meeting of the Creditors

Stop all collection efforts on pre-bankruptcy debt

WHEN YOU RECEIVE A BANKRUPTCY NOTICE

Talk to your Attorney:

- If you are continuing to do business with the debtor, talk to your attorney about your continued obligations, and whether you may request adequate assurance payments.
- If you provided goods within 20 days before the bankruptcy case was filed.
- If the debtor paid you in the 90 days before the bankruptcy case was filed.
- If you have reclamation rights. You may be able to reclaim goods delivered in the period immediately before the bankruptcy was filed. Talking to your lawyer is essential to avoid violating the automatic stay.

WHEN YOU RECEIVE A BANKRUPTCY NOTICE

Proof of claim

- Debtor name matches
- The amount owed is as of the start date of the bankruptcy case (petition date)
- Interest or fees are broken out on a statement attached to the proof of claim. If your agreement provides for these, they absolutely can be included but you need to itemize them.
- Attach supporting documents. Usually, an account statement or unpaid invoices

PROTECTING PAYMENTS

Claw Back or Preference

- A debtor or trustee may seek to recover payments made by a debtor in the period before filing bankruptcy

Before a bankruptcy filing

- To the extent possible, make sure invoices are paid on time and consistent with past practice between you and the distressed company.
- Send invoices/bills on a regular schedule, such as monthly or quarterly. Do not deviate, if possible.
- Do not take any extraordinary collection efforts without first discussing the risks of those efforts with your attorney.
- Keep a detailed record of the payment relationship including any discussions about payment of invoices.

PROTECTING PAYMENTS

Before a bankruptcy filing

- Do not change the terms of payment (for example, do not switch from 30-day to 15-day payment terms). If you would like to change the terms of payment to ensure that the client makes payment, talk with your attorney about the risks.

- Review any agreements and terms and conditions to ensure your actions and the payment relationship are consistent with the terms contained in those documents.

- Consider whether you want to terminate the contract before the company can file bankruptcy.

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Bodie B. Colwell is an Attorney in Preti Flaherty's Creditors' Rights & Bankruptcy group, practicing primarily out of the firm's Portland office.

- Helps businesses recover money owed to them;
- Represents businesses in financial distress both in and out of court;
- Represents lenders in commercial and consumer matters and
- Represents creditors in matters involving preference and fraudulent transfer avoidance claims.

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