

## **NON-WORKING SAMPLE OF PROFESSIONALLY DESIGNED TEMPLATES FOR THE CONSUMER BANKRUPTCY ATTORNEY**

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Once this template is open, the drafter will need to delete this section (which contains instructions solely for your benefit) as well as any other sections that do not apply to the bankruptcy case. This template may also be saved as separate documents and accessed as each one is needed.

### **What is a Motion to Convert?**

Life changes from moment to moment. If your client files a bankruptcy petition, situations may change that cause bankruptcy cases to be converted from one chapter to another. In most no-asset, consumer cases, the Motion to Convert from a Chapter 7 to a Chapter 13 is rarely used. The reason being that the bankruptcy case is over and done with before drastic life changes take effect; but they do happen and you will need this template from time to time.

However, if you work with no-asset, consumer cases, you will use the Motion to Convert from a Chapter 13 to a Chapter 7 template more frequently. This is because many debtors do not keep in contact with their attorneys and report variances in their income and expenses so that the attorney can help them. Since it is impossible for the attorney to know the personal income and expense variations, they rely on the court to notify them. In most cases, when a Trustee files a Motion to Dismiss, the debtors are behind in their Chapter 13 Plan payments, which normally is a result of a loss of income or increase in expenses. In most situations, the situation could require a Motion to Convert but an attorney needs to make this call.

Notice that in some jurisdictions, a Notice of Conversion is used instead of the Motion to Convert. Both are included in this package.

For an excellent article on case conversions in bankruptcy, visit:

<http://www.bankruptcylawnetwork.com/2007/08/16/converting-a-chapter-13-to-a-chapter-7/>

## **Additional Tips About Motions to Convert**

Conversion is very easy in bankruptcy. A Notice of Conversion or Motion to Convert (depending on the bankruptcy court's Local Rules) is filed. The bankruptcy court enters a Conversion Order in one or two business days. Again, depending on the bankruptcy court's Local Rules and the details of the debtor's case, the attorney may need to file a new Means Test and amended Schedules. The debtor may also be entitled to a refund of some or all of the payments held by the Chapter 13 Trustee that has not been sent to the creditors if they are converting from a Chapter 13 to a Chapter 7.

When a bankruptcy case is converted, the attorney and debtor will need to attend a new 341 Meeting and comply with the requirements of the new Chapter. Debtors also have the right to add new debts they have incurred since their original bankruptcy petition was filed during the conversion process. The filing fee to convert a bankruptcy case is currently \$25 but the attorney may charge additional fees for preparing and filing the pleading,

For additional information about bankruptcy in general, an excellent resource is at:  
<http://bankruptcy.avvo.com/>

### **Tip Regarding Signature Formatting**

In an effort to prevent fraud, all documents should be formatted so that the signature line for the attorney or judge has at least two lines of text on the signature page. In other words, do not have one page with nothing on it but a signature block. A circumstance like this may indicate that the attorney did not review the document and could have signed a blank sheet of paper. Also, in some circumstances, someone could alter the document and use the page with the attorney or judge's signature on it for filing a document illegally. The attorney may never know this illegal activity occurred until after it is revealed in court. Therefore, to protect the attorney and his or her law firm, ALWAYS carry over at least TWO LINES of text onto a page the attorney or judge signs before printing or saving as a PDF.

### **What Exhibits Should You Attach to the Motion?**

Bankruptcy courts may differ in the documentation they require you to attach to a Motion to Convert. However, in most cases you will need to attach one or more of the following: (1) Pay check stubs; (2) Letter of Employment if no pay check has been received yet; (3) Any other verification to show new income that differs from the income provided on Schedule I and J of the original bankruptcy petition; (4) An AMENDED Schedule I and J showing the updated income and expenses; (5) A Chapter 13 Plan if the case is being converted from a Chapter 7 to a Chapter 13.

If possible, check the Local Rules or contact an experienced bankruptcy attorney in your area to make sure you follow the regulations put into place for your particular bankruptcy court.

### **Be Very Careful With Conversions**

If a bankruptcy case is converted from a Chapter 7 to a Chapter 13, there is normally little chance that the assets of the debtor are in jeopardy. (Remember the word "normally.") However, when a case is converted from a Chapter 13 to a Chapter 7, the attorney needs to examine the assets on Schedule D and make sure they will be protected during the conversion.

For example: if a debtor is paying off arrearages in their Chapter 13 Plan, converting their case to a Chapter 7 could potentially cause them to lose their home.

As an attorney, make sure you weigh all possibilities of how converting a debtor from a Chapter 13 to a Chapter 7 could ultimately cause them harm. As the attorney for the debtor, your job is to keep your client's best interest always at the forefront. If converting from a Chapter 13 to a Chapter 7 is going to financially cause harm to your clients, you need to discuss the problem with them, be prepared to offer solutions and ask them to make a decision on how you (the attorney) is to proceed.

## **Be Prepared for Objections**

Depending on the assets and type of debts involved, any creditor in the bankruptcy has the opportunity to object to the Motion for Conversion. Normally, if a case is being converted from a Chapter 7 to a Chapter 13, creditors do NOT object. Why would they? Instead of getting paid “nothing” they will get paid “something.”

However, when a debtor is paying their creditors and they suddenly are unable to continue paying them, creditors have a tendency to get upset. If possible, they will try to find a valid reason to object to the Motion to Convert and file an Objection stating their reasons. If an Objection is filed, the attorney for the debtor is notified. The debtor’s attorney now has the opportunity to Answer the Objection if he or she wishes to do so. This process can continue until the Objection due date (established by the court) and the Judge will make the ultimate decision on the matter.

## **Tip When Attaching Exhibits**

Attach all Exhibits as supporting documentation for the reasons stated in the pleading. Make sure you label the Exhibits with the corresponding letter or number. (Example: Exhibit A needs to be labeled Exhibit A either at the top or the bottom of the exhibit page. This identification may be handwritten or you can purchase Exhibit stickers from legal office supply stores and apply them before filing the document for a more professional look. To turn a hard copy sheet of paper into a PDF for filing with the bankruptcy court, use a scanner or fax to an online fax service such as: <http://www.maxemail.com> or <http://www.myfax.com> ).

## **Tip Regarding Order**

Federal Rule of Bankruptcy Procedure 1017(f)(3) provides that NO COURT ORDER is required for a Notice of Conversion or Motion to Convert. The debtor may simply file a notice of conversion in order to convert the case from one chapter to another.

## **Tip Regarding the Certificate of Service**

All motions (and most other pleadings) must have a Certificate of Service that provides the name and address of the parties that were served copies of the pleading. The Creditor’s Matrix is normally used to ensure that all parties are served when a Notice of Conversion or a Motion to Convert is filed with the court. The U.S. Trustee and the Trustee for the bankruptcy case are always served copies of any documents pertaining to any bankruptcy case. Normally, these parties are served electronically when the pleading is filed electronically through PACER. Other parties listed on the Certificate of Service who are not served when the pleading is electronically filed, must be mailed a printed copy of the pleading by regular, first-class, postage paid, U.S. mail.

For more information on how to prepare a pleading for proper service, visit: [http://www.law.cornell.edu/uscode/html/uscode10a/usc\\_sec\\_10a\\_00000039----000-.html](http://www.law.cornell.edu/uscode/html/uscode10a/usc_sec_10a_00000039----000-.html)

## **Tip Regarding Certification of Proper Service and Lack of Response to Motion**

The local rules in some bankruptcy courts may permit you to use the Certificate of Proper Service and Lack of Response in order to expedite the court process. If so, you will need to fill in the Local Rule that applies to the use of this document before filing it.

## **Disclaimer**

The templates distributed by Victoria Ring are a part of their private collection that was accumulated over many years of working under the direction of bankruptcy attorneys. This template must be edited by a licensed attorney before it is can be filed with the bankruptcy court. Although this template may be used

by a non-attorney to draft a pleading for an attorney, it will need to be reviewed and approved by an attorney before actual use. Any other use may be a violation of unauthorized practice of law regulations and subject to fines, imprisonment or both.

### **How to Order**

The entire collection of pleadings is available for \$149.99 at:  
<http://coloradobankruptcytraining.com/templates.html>

### **Motion to Avoid Secure Lien and Strip Second Mortgage**

1. Debtor's Verified Motion to Avoid Lien and Determine Secured Status of Mortgage Company Claim
2. Unsworn Declaration in Support of Debtor's Verified Motion to Avoid Lien and Determine Secured Status of Mortgage Company Claim
3. Notice and Motion to Avoid Judicial Lien of Creditor
4. Order Granting Debtor's Motion to Determine Secured Status of Mortgage Company and to Strip Lien Effective Upon Discharge
5. Certificate of Service
6. Notice of Hearing and Motion for Valuation of Debtors Resident and Avoidance of Junior Trustee Deed; Memorandum of Points and Authorities in Support Thereof; Declaration of John Edward Doe; Declaration of Jane NMN Doe; Declaration of Attorney Name Here in Support Thereof
7. Memorandum of Points and Authorities
8. Declaration of Attorney
9. Declaration of John Edward Doe in Support of Motion for Valuation of Debtors Residence and Avoidance of Junior Trust Deed
10. Complaint of the Debtors Pursuant to 11 U.S.C. Section 506(a) and Bankruptcy Rule 3012 to Determine the Value of Security and Creditors Allowed Secured Claim
11. Motion to Avoid Liens
12. Order Granting Partial Summary Judgment
13. Debtors Responsive Point and Authorities in Support of Motion for Summary Judgment
14. Debtors Plan was Res Judicata as to the Characterization of Defendants Claim
15. Notice of Motion and Opportunity for Hearing

### **Motion for Relief from Stay Package**

1. Motion for Relief from Stay (normally filed by the creditor)
2. Answer to Motion for Relief from Stay (normally filed by the debtor)
3. Agreed Order on Motion for Relief from Stay

4. 20 Day Notice
5. Certificate of Service
6. Certification of Proper Service and Lack of Response to Motion
7. Order on Motion from Relief from Stay

#### **Motion to Convert**

1. Motion to Convert a Chapter 7 Proceeding to a Chapter 13 Proceeding
2. Motion to Convert a Chapter 13 Proceeding to a Chapter 7 Proceeding
3. Notice of Conversion (used instead of Motion in some jurisdictions)
4. Certification of Proper Service and Lack of Response to Motion

#### **Motion to Modify Chapter 13 Plan**

1. Motion to Modify Chapter 13 Plan
2. Motion to Modify Plan to Surrender Property
3. 20 Day Notice
4. Certificate of Service
5. Certification of Proper Service and Lack of Response to Motion
6. Order on Motion to Modify Chapter 13 Plan

#### **Wage Garnishment Letters**

1. Notice to Stop Garnishment (faxed or hand delivered to payroll department)
2. Attorney Letter to Garnishment Party (Creditor)

The entire collection of pleadings is available for \$149.99 at:

<http://coloradobankruptcytraining.com/templates.html>

#### **Victoria Ring**

Certified Paralegal and Bankruptcy Specialist  
1670 East Cheyenne Mountain Blvd, Suite F257  
Colorado Springs, CO 80906  
Cell: 719-659-0743  
Fax: 719-325-8332  
Email: [victoriaring1958@gmail.com](mailto:victoriaring1958@gmail.com)

**UNITED STATES BANKRUPTCY COURT**  
**\_\_\_\_\_ DISTRICT OF \_\_\_\_\_**  
**\_\_\_\_\_ DIVISION (if applicable)**

In Re: \_\_\_\_\_ : Case No. \_\_\_\_\_  
: Chapter \_\_\_\_\_  
Client Name (1) : Judge \_\_\_\_\_  
SSN: 000-00-0000 :  
: :  
Client Name (2) : :  
SSN: 000-00-0000 : :  
: :  
Debtor(s) :

**MOTION TO CONVERT A CHAPTER 7 PROCEEDING  
TO A CHAPTER 13 PROCEEDING**

Now comes DEBTOR(S) NAME(S), Debtor, by and through counsel, who respectfully moves the Court to issue an order converting the above-captioned Chapter 7 case to a case under Chapter 13 of the Bankruptcy Code.

Respectfully submitted,

\_\_\_\_\_  
Attorney or Client Name (Attorney Bar #)  
Street Address  
City, State, Zip  
(000) 000-0000

**MEMORANDUM IN SUPPORT OF THE MOTION  
(Change to fit circumstances)**

The above-captioned Motion is made pursuant to 11 U.S.C. Section 706, allowing Debtor to convert "at any time." This case has not been previously converted from a Chapter 13 or 11. The Debtor is eligible to be a Debtor under Chapter 13.

*(Example: At the time the case was filed on January 10, 2010, the Debtor was unemployed and qualified to file a Chapter 7 bankruptcy case. Prior to discharge, debtor obtained employment with ABC Corporation on February 23, 2010 and now earns an income that qualifies him to become a Chapter 13\_. (Pay stubs attached and labeled Exhibit A.)*