

**CHAMBERS PROCEDURES: JUDGE ELIZABETH E. BROWN  
UNITED STATES BANKRUPTCY COURT, DISTRICT OF COLORADO**

**Common Grounds for Dismissal**

The requirements placed on a debtor seeking bankruptcy protection are numerous and complex. This is an extremely difficult process for a debtor who is not represented by a bankruptcy attorney. If you have the ability to hire an attorney, the Court strongly advises you to do so. The Court sees countless cases dismissed due to a debtor's lack of knowledge of all the requirements. With a dismissal, the debtor receives none of the benefits of a bankruptcy discharge or "forgiveness" of debts, but suffers the financial "black eye" of a bankruptcy filing on his or her credit report.

The following list is not intended to be comprehensive but only to list some of the most common grounds we see leading to the dismissal of a debtor's case:

- a. Failure to Timely Provide Tax Return to Trustee.** Debtors are required to provide the chapter 7 trustee with a copy of their tax returns (if a tax return was required by law) for the most recent tax year ending immediately before the bankruptcy filing. 11 U.S.C. § 521(e)(2)(A)(i). There is a very strict deadline for the submission of the tax return – *no later than seven days before the scheduled meeting of creditors*. This requirement is intended to give the trustees adequate time to prepare for the creditors' meeting at which they will question the debtors under oath. They are not required to chase the debtor down to obtain the tax return. Failure to adhere to this requirement and its deadline will result in the dismissal of the case and the Court is given little to no discretion to relieve the debtor of the consequences.
- b. Failure to File a Certificate of Credit Counseling.** Individual debtors are required by law to receive credit counseling *before* they file for bankruptcy. They cannot make up this requirement after filing. They cannot take the course on the same day as the bankruptcy filing. Debtors also cannot take the class more than 180 days before the filing. The intent behind the law is to force debtors to consider other alternatives to bankruptcy filing shortly before they file. The Court is aware that many debtors do not think this class is useful. Nevertheless, the Court must enforce the law as it is written. There is also a deadline for filing a certificate with the Court demonstrating that the debtor took the course during this six-month window of time. It must be filed *no later than fourteen days after the bankruptcy filing date*.
- c. Failure to Complete Payments on Filing Fee.** This one is self-explanatory but many debtors forget to pay and suffer dismissal as a consequence.
- d. Failure to file Pay Stubs or Alternative Form.** Debtors are required to file copies of all payment advices (*i.e.* paystubs or other evidence of the income they received within sixty days before the bankruptcy filing date). If a debtor did not receive income for all or part of this 60-day time period, then the debtor must file an alternative form, Local Bankruptcy Form 1007-6.1.

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- e. Failure to file all required documents.** The local rules contain a list of all the documents that are required to be filed when a bankruptcy case is opened. This list, located in the appendix, is titled L.B.R. 1007-1APP and can be found at <http://www.cob.uscourts.gov/local-rules>. These documents must be filed with the Court. Providing a copy to the Trustee does not fulfill the requirement. A dismissal on this basis is automatic and the court has no discretion to relieve a debtor from this form of dismissal.
- f. Failure to respond to a Court Order.** If the Court sets a deadline and it is not met, the case may be dismissed. All requests for more time must be filed in writing with the Court.