

**ADVISORY COMMITTEE  
ON  
BANKRUPTCY RULES**

**Austin, TX  
April 22-23, 2014**

**APPENDICES**



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# APPENDIX A



Appendix A  
Forms for Final Approval  
Effective Date 2014





*[Caption as in Form 16A, 16B, or 16D, as appropriate]*

**NOTICE OF APPEAL AND STATEMENT OF ELECTION**

**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): \_\_\_\_\_

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- Plaintiff
- Defendant
- Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- Debtor
- Creditor
- Trustee
- Other (describe) \_\_\_\_\_

**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: \_\_\_\_\_

2. State the date on which the judgment, order, or decree was entered: \_\_\_\_\_

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**

\_\_\_\_\_  
Signature of attorney for appellant(s) (or appellant(s)  
if not represented by an attorney)

Date: \_\_\_\_\_

Name, address, and telephone number of attorney  
(or appellant(s) if not represented by an attorney):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

## COMMITTEE NOTE

The form is amended and renumbered. It is amended to add to the Notice of Appeal an optional Statement of Election to have the appeal heard by the district court rather than by the bankruptcy appellate panel. Current Rule 8005(a) eliminates the requirement, imposed by former Rule 8001(e), that a separate document be used in making an election to have an appeal heard by the district court rather than the bankruptcy appellate panel. It instead requires a statement that conforms substantially to the Official Form for such an election. Form 17A effectuates Rule 8005(a)'s requirement for election by an appellant by combining the notice of appeal and statement of election. It thereby facilitates compliance with the statutory requirement that an appellant wishing to make an election do so at the time of filing the appeal. 28 U.S.C. § 158(c)(1)(A).

The statement of election in Part 4 is applicable only in districts for which appeals to a bankruptcy appellate panel have been authorized. If an appeal is being taken from a bankruptcy court located in a circuit that does not have a bankruptcy appellate panel or in a district that has not authorized appeals to be heard by the circuit's bankruptcy appellate panel, the appellant should not complete Part 4.

When a bankruptcy appellate panel is available to hear an appeal, completion of Part 4 is optional. An appellant that wants its appeal heard by the bankruptcy appellate panel should not complete this part.

The form is renumbered as Official Form 17A because a new companion form—Optional Appellee Statement of Election to Proceed in the District Court—is designated as Official Form 17B, and another bankruptcy appellate form—Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2)—is designated as Official Form 17C.

The fixed caption has been deleted because the short title caption on the current form is not appropriate if the debtor is the appellant or if the appeal is in an adversary proceeding. *See* 11 U.S.C. § 342(c); Rule 7008; Rule 9004(b). The form should be captioned as in Official Form 16A, Caption (Full); Official Form 16B, Caption (Short Title); or Official Form 16D, Caption for Use in Adversary proceeding, as appropriate.



Draft: May 10, 2013

[Caption as in Form 16A, 16B, or 16D, as appropriate]

### OPTIONAL APPELLEE STATEMENT OF ELECTION TO PROCEED IN DISTRICT COURT

This form should be filed only if all of the following are true:

- this appeal is pending in a district served by a Bankruptcy Appellate Panel,
- the appellant(s) did not elect in the Notice of Appeal to proceed in the District Court rather than in the Bankruptcy Appellate Panel,
- no other appellee has filed a statement of election to proceed in the district court, and
- you elect to proceed in the District Court.

#### **Part 1: Identify the appellee(s) electing to proceed in the District Court**

1. Name(s) of appellee(s):

\_\_\_\_\_

2. Position of appellee(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- Plaintiff
- Defendant
- Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- Debtor
- Creditor
- Trustee
- Other (describe) \_\_\_\_\_

#### **Part 2: Election to have this appeal heard by the District Court (applicable only in certain districts)**

I (we) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

#### **Part 3: Sign below**

\_\_\_\_\_  
Signature of attorney for appellee(s) (or appellee(s) if not represented by an attorney)

Date: \_\_\_\_\_

\_\_\_\_\_  
Name, address, and telephone number of attorney (or appellee(s) if not represented by an attorney):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## COMMITTEE NOTE

This form is new. It is the Official Form for an appellee to state its election to have an appeal heard by the district court rather than by the bankruptcy appellate panel. If an appellee desires to make that election and the appellant or another appellee has not already done so, the appellee must file a statement that conforms substantially to this form within 30 days of service of the Notice of Appeal. 28 U.S.C. § 158(c)(1)(B).

The form is applicable only in districts for which appeals to a bankruptcy appellate panel have been authorized. If an appeal is being taken from a bankruptcy court located in a circuit that does not have a bankruptcy appellate panel or in a district that has not authorized appeals to be heard by the circuit's bankruptcy appellate panel, the appellee should not complete this form.

When a bankruptcy appellate panel is available to hear an appeal, completion of the form is optional. An appellee that wants its appeal heard by the bankruptcy appellate panel should not complete this form.

The form should be captioned as in Official Form 16A, Caption (Full); Official Form 16B, Caption (Short Title); or Official Form 16D, Caption for Use in Adversary proceeding, as appropriate. *See* 11 U.S.C. § 342(c); Rule 7008; Rule 9004(b).





*[This certification must be appended to your brief if the length of your brief is calculated by maximum number of words or lines of text rather than number of pages.]*

**Certificate of Compliance With Rule 8015(a)(7)(B) or 8016(d)(2)**

This brief complies with the type-volume limitation of Rule 8015(a)(7)(B) or 8016(d)(2) because:

- this brief contains [*state the number of*] words, excluding the parts of the brief exempted by Rule 8015(a)(7)(B)(iii) or 8016(d)(2)(D), or
- this brief uses a monospaced typeface having no more than 10½ characters per inch and contains [*state the number of*] lines of text, excluding the parts of the brief exempted by Rule 8015(a)(7)(B)(iii) or 8016(d)(2)(D).

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Print name of person signing certificate of compliance:  
\_\_\_\_\_



## **COMMITTEE NOTE**

This form is new. When the length of a brief is calculated by the maximum number of words or lines of text rather than by number of pages, Rules 8015(a)(7)(C) and 8016(d)(3) require an attorney or unrepresented party to certify that the brief complies with the applicable type-volume limitation. Completion of this form satisfies that certification requirement. This form is not needed if the brief meets the applicable page limitation under Rule 8015(a)(7)(A) or 8016(d)(1).

The form does not include a caption because it is included in the brief.



# Instructions for the Chapter 7 Statement of Your Current Monthly Income and Means Test Calculation

**If you are filing under chapter 11, 12, or 13, do not fill out this form.**

## How to fill out these forms

Official Forms 22A-1 and 22A-2 determine whether your income and expenses create a presumption of abuse that may prevent you from obtaining relief from your debts under chapter 7 of the Bankruptcy Code. Chapter 7 relief can be denied to a person who has primarily consumer debts if the court finds that the person has enough income to repay creditors an amount that, under the Bankruptcy Code, would be a sufficient portion of their claims.

You must file 22A-1, the *Chapter 7 Statement of Your Current Monthly Income* (Official Form 22A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income for households of the same size in your state. If your income is not above the median, there is no presumption of abuse and you will not have to fill out the second form.

Similarly, *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 22A-1Supp) determines whether you may be exempted from the presumption of abuse because you do not have primarily consumer debts or because you have provided certain military or homeland defense services. If one of these exemptions applies, you should file a supplement, Form 22A-1Supp, and verify the supplement by completing Part 3 of Form 22A-1. If you qualify for an exemption, you are not required to fill out any part of Form 22A-1 other than the verification. If the exemptions do not apply, you should complete all of the parts of Form 22A-1 and file it without the supplemental form.

If you and your spouse are filing together, you and your spouse may file a single Form 22A-1. However, if an exemption on Form 22A-1Supp applies to only one of you, separate forms may be required.

11 U.S.C. § 707(b)(2)(C).

If your completed Form 22A-1 shows income above the median, you must file the second form, *Chapter 7 Means Test Calculation* (Official Form 22A-2). The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay other debts. If this amount is high enough, it will give rise to a *presumption of abuse*. A presumption of abuse does not mean you are actually trying to abuse the bankruptcy system. Rather, the presumption simply means that you are presumed to have enough income that you should not be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

If you cannot obtain relief under chapter 7, you may be eligible to continue under another chapter of the Bankruptcy Code and pay creditors over a period of time.

Read each question carefully. You may not be required to answer every question on this form. For example, your military status may determine whether you must fill out the entire form. The instructions will alert you if you may skip questions.

If you have nothing to report for a line, write \$0.

## Information for completing the forms

To fill out several lines of the forms, you must look up information provided on websites or from other sources. For information to complete line 13 of Form 22A-1 and lines 6-15, 30, and 36 of Form 22A-2, go to: [www.justice.gov/ust/eo/bapcpa/meanstesting.htm](http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm).

For the *Bankruptcy Basics* information referred to on line 36 of Form 22A-2, go to: [www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx](http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx).

If you do not have a computer with internet access, you may be able to use a public computer at the bankruptcy clerk's office or at a public library.

### Understand the terms used in the form

This form uses *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, this form uses *you* to ask for information from both debtors. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

### Things to remember when filling out these forms

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not include these instructions when you submit your bankruptcy forms to the court. Keep them for your records.**

**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(if known)

**Check one box only as directed in this form and in Form 22A-1Supp:**

1. There is no presumption of abuse.

2. The presumption of abuse will be calculated under *Chapter 7 Means Test Calculation* (Official Form 22A-2).

3. The Means Test does not apply now because of qualified military service but it could apply later.

Check if this is an amended filing

**Official Form 22A-1**

**Chapter 7 Statement of Your Current Monthly Income**

12/14

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known). If you believe that you are exempted from a presumption of abuse because you do not have primarily consumer debts or because of qualifying military service, complete and file *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 22A-1Supp) with this form.

**Part 1: Calculate Your Current Monthly Income**

1. **What is your marital and filing status?** Check one only.
- Not married.** Fill out Column A, lines 2-11.
  - Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.
  - Married and your spouse is NOT filing with you. You and your spouse are:**
    - Living in the same household and are not legally separated.** Fill out both Columns A and B, lines 2-11.
    - Living separately or are legally separated.** Fill out Column A, lines 2-11; do not fill out Column B. By checking this box, you declare under penalty of perjury that you and your spouse are legally separated under nonbankruptcy law that applies or that you and your spouse are living apart for reasons that do not include evading the Means Test requirements. 11 U.S.C. § 707(b)(7)(B).

**Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case.** 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write \$0 in the space.

	<i>Column A For you</i>	<i>Column B Debtor 2 or non-filing spouse</i>
2. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).	\$ _____	\$ _____
3. <b>Alimony and maintenance payments.</b> Do not include payments from a spouse if Column B is filled in.	\$ _____	\$ _____
4. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	\$ _____	\$ _____
5. <b>Net income from operating a business, profession, or farm</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from a business, profession, or farm	\$ _____ <b>Copy here →</b>	\$ _____
6. <b>Net income from rental and other real property</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from rental or other real property	\$ _____ <b>Copy here →</b>	\$ _____
7. <b>Interest, dividends, and royalties</b>	\$ _____	\$ _____

Column A For you Column B Debtor 2 or non-filing spouse

8. Unemployment compensation

Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ...

For you \$ For your spouse \$

\$ \$

9. Pension or retirement income. Do not include any amount received that was a benefit under the Social Security Act.

\$ \$

10. Income from all other sources not listed above. Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.

10a. \$ \$

10b. \$ \$

10c. Total amounts from separate pages, if any. +\$ + \$

11. Calculate your total current monthly income. Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.

\$ + \$ = \$ Total current monthly income

Part 2: Determine Whether the Means Test Applies to You

12. Calculate your current monthly income for the year. Follow these steps:

12a. Copy your total current monthly income from line 11. Copy line 11 here \$ x 12 12b. The result is your annual income for this part of the form. \$

13. Calculate the median family income that applies to you. Follow these steps:

Fill in the state in which you live. Fill in the number of people in your household. Fill in the median family income for your state and size of household. \$ To find a list of applicable median income amounts, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

14. How do the lines compare?

14a. Line 12b is less than or equal to line 13. On the top of page 1, check box 1, There is no presumption of abuse. Go to Part 3. 14b. Line 12b is more than line 13. On the top of page 1, check box 2, The presumption of abuse is determined by Form 22A-2. Go to Part 3 and fill out Form 22A-2.

Part 3: Sign Below

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Form 22A-2.

If you checked line 14b, fill out Form 22A-2 and file it with this form.



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(if known)

Check the appropriate box as directed in lines 40 or 42:

According to the calculations required by this Statement:

- 1. There is no presumption of abuse.
  - 2. There is a presumption of abuse.
- Check if this is an amended filing

## Official Form 22A-2 Chapter 7 Means Test Calculation

12/14

To fill out this form, you will need your completed copy of *Chapter 7 Statement of Your Current Monthly Income* (Official Form 22A-1).

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

**Part 1: Determine Your Adjusted Income**

1. **Copy your total current monthly income.** ..... Copy line 11 from Official Form 22A-1 here → ..... 1. \$ \_\_\_\_\_

2. **Did you fill out Column B in Part 1 of Form 22A-1?**

- No. Fill in \$0 on line 3d.
- Yes. Is your spouse filing with you?
  - No. Go to line 3.
  - Yes. Fill in \$0 on line 3d.

3. **Adjust your current monthly income by subtracting any part of your spouse's income not used to pay for the household expenses of you or your dependents.** Follow these steps:

On line 11, Column B of Form 22A-1, was any amount of the income you reported for your spouse NOT regularly used for the household expenses of you or your dependents?

- No. Fill in 0 on line 3d.
- Yes. Fill in the information below:

State each purpose for which the income was used For example, the income is used to pay your spouse's tax debt or to support people other than you or your dependents	Fill in the amount you are subtracting from your spouse's income
3a. _____	\$ _____
3b. _____	\$ _____
3c. _____	+ \$ _____
3d. <b>Total.</b> Add lines 3a, 3b, and 3c. ....	\$ _____

Copy total here → ..... 3d. — \$ \_\_\_\_\_

4. **Adjust your current monthly income.** Subtract line 3d from line 1.

\$ \_\_\_\_\_

Part 2: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, go online using the link specified in the separate instructions for this form. This information may also be available at the bankruptcy clerk's office.

Deduct the expense amounts set out in lines 6-15 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not deduct any amounts that you subtracted from your spouse's income in line 3 and do not deduct any operating expenses that you subtracted from income in lines 5 and 6 of Form 22A-1.

If your expenses differ from month to month, enter the average expense.

Whenever this part of the form refers to you, it means both you and your spouse if Column B of Form 22A-1 is filled in.

5. The number of people used in determining your deductions from income

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

[Empty box for line 5]

National Standards You must use the IRS National Standards to answer the questions in lines 6-7.

6. Food, clothing, and other items: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items. \$ \_\_\_\_\_

7. Out-of-pocket health care allowance: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories—people who are under 65 and people who are 65 or older—because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 22.

People who are under 65 years of age

7a. Out-of-pocket health care allowance per person \$ \_\_\_\_\_

7b. Number of people who are under 65 X \_\_\_\_\_

7c. Subtotal. Multiply line 7a by line 7b. \$ \_\_\_\_\_ Copy line 7c here → ..... \$ \_\_\_\_\_

People who are 65 years of age or older

7d. Out-of-pocket health care allowance per person \$ \_\_\_\_\_

7e. Number of people who are 65 or older X \_\_\_\_\_

7f. Subtotal. Multiply line 7d by line 7e. \$ \_\_\_\_\_ Copy line 7f here → ..... + \$ \_\_\_\_\_

7g. Total. Add lines 7c and 7f.....

[Box for line 7g subtotal]

Copy total here → [Box for line 7g total]

**Local Standards** You must use the IRS Local Standards to answer the questions in lines 8-15.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities – Insurance and operating expenses
- Housing and utilities – Mortgage or rent expenses

To answer the questions in lines 8-9, use the U.S. Trustee Program chart.

To find the chart, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

8. **Housing and utilities – Insurance and operating expenses:** Using the number of people you entered in line 5, fill in the dollar amount listed for your county for insurance and operating expenses. \$ \_\_\_\_\_

9. **Housing and utilities – Mortgage or rent expenses:**

9a. Using the number of people you entered in line 5, fill in the dollar amount listed for your county for mortgage or rent expenses. 9a. \$ \_\_\_\_\_

9b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Name of the creditor	Average monthly payment
_____	\$ _____
_____	\$ _____
_____	+ \$ _____
9b. Total average monthly payment	\$ _____

Copy line 9b here → - \$ \_\_\_\_\_ Repeat this amount on line 33a.

9c. Net mortgage or rent expense. Subtract line 9b (total average monthly payment) from line 9a (mortgage or rent expense). If this amount is less than \$0, enter \$0. 9c. \$ \_\_\_\_\_ Copy line 9c here → \$ \_\_\_\_\_

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim. \$ \_\_\_\_\_

Explain why: \_\_\_\_\_

11. **Local transportation expenses:** Check the number of vehicles for which you claim an ownership or operating expense.

- 0. Go to line 14.
- 1. Go to line 12.
- 2 or more. Go to line 12.

12. **Vehicle operation expense:** Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the *Operating Costs* that apply for your Census region or metropolitan statistical area. \$ \_\_\_\_\_

13. Vehicle ownership or lease expense: Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1:

13a. Ownership or leasing costs using IRS Local Standard 13a. \$

13b. Average monthly payment for all debts secured by Vehicle 1. Do not include costs for leased vehicles.

To calculate the average monthly payment here and on line 13e, add all amounts that are contractually due to each secured creditor in the 60 months after you filed for bankruptcy. Then divide by 60.

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment

Name of each creditor for Vehicle 1 Average monthly payment Copy 13b here - \$ Repeat this amount on line 33b.

13c. Net Vehicle 1 ownership or lease expense Subtract line 13b from line 13a. If this amount is less than \$0, enter \$0. 13c. \$ Copy net Vehicle 1 expense here .... \$

Vehicle 2 Describe Vehicle 2:

13d. Ownership or leasing costs using IRS Local Standard 13d. \$

13e. Average monthly payment for all debts secured by Vehicle 2. Do not include costs for leased vehicles.

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment

Name of each creditor for Vehicle 2 Average monthly payment Copy 13e here - \$ Repeat this amount on line 33c.

13f. Net Vehicle 2 ownership or lease expense Subtract line 13e from 13d. If this amount is less than \$0, enter \$0. 13f. \$ Copy net Vehicle 2 expense here .... \$

14. Public transportation expense: If you claimed 0 vehicles in line 11, using the IRS Local Standards, fill in the Public Transportation expense allowance regardless of whether you use public transportation. \$

15. Additional public transportation expense: If you claimed 1 or more vehicles in line 11 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for Public Transportation. \$

**Other Necessary Expenses** In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

16. **Taxes:** The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes. \$ \_\_\_\_\_  
Do not include real estate, sales, or use taxes.
17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. \$ \_\_\_\_\_  
Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.
18. **Life insurance:** The total monthly premiums that you pay for your own term life insurance. If two married people are filing together, include payments that you make for your spouse's term life insurance. Do not include premiums for life insurance on your dependents, for a non-filing spouse's life insurance, or for any form of life insurance other than term. \$ \_\_\_\_\_
19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. \$ \_\_\_\_\_  
Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.
20. **Education:** The total monthly amount that you pay for education that is either required:  
 as a condition for your job, or  
 for your physically or mentally challenged dependent child if no public education is available for similar services. \$ \_\_\_\_\_
21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. \$ \_\_\_\_\_  
Do not include payments for any elementary or secondary school education.
22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7. \$ \_\_\_\_\_  
Payments for health insurance or health savings accounts should be listed only in line 25.
23. **Telecommunication services:** The total monthly amount that you pay for telecommunication services, such as pagers, call waiting, caller identification, special long distance, business internet service, or business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. + \$ \_\_\_\_\_  
Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 8 of Official Form 22A-1, or any amount you previously deducted.
24. **Add all of the expenses allowed under the IRS expense allowances.** \$ \_\_\_\_\_  
Add lines 6 through 23.

**Additional Expense Deductions**

These are additional deductions allowed by the Means Test.  
Note: Do not include any expense allowances listed in lines 6-24.

25. **Health insurance, disability insurance, and health savings account expenses.** The monthly expenses for health insurance, disability insurance, and health savings accounts that are reasonably necessary for yourself, your spouse, or your dependents.

Health insurance \$ \_\_\_\_\_  
Disability insurance \$ \_\_\_\_\_  
Health savings account + \$ \_\_\_\_\_

Total \$ \_\_\_\_\_ Copy total here → ..... \$ \_\_\_\_\_

Do you actually spend this total amount?

No. How much do you actually spend? \$ \_\_\_\_\_  
 Yes

26. **Continued contributions to the care of household or family members.** The actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. \$ \_\_\_\_\_

27. **Protection against family violence.** The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family under the Family Violence Prevention and Services Act or other federal laws that apply. \$ \_\_\_\_\_  
By law, the court must keep the nature of these expenses confidential.

28. **Additional home energy costs.** Your home energy costs are included in your non-mortgage housing and utilities allowance on line 8. \$ \_\_\_\_\_  
If you believe that you have home energy costs that are more than the home energy costs included in the non-mortgage housing and utilities allowance, then fill in the excess amount of home energy costs.  
You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

29. **Education expenses for dependent children who are younger than 18.** The monthly expenses (not more than \$156.25\* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school. \$ \_\_\_\_\_  
You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 6-23.  
\* Subject to adjustment on 4/01/16, and every 3 years after that for cases begun on or after the date of adjustment.

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards. \$ \_\_\_\_\_  
To find a chart showing the maximum additional allowance, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.  
You must show that the additional amount claimed is reasonable and necessary.

31. **Continuing charitable contributions.** The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 26 U.S.C. § 170(c)(1)-(2). \$ \_\_\_\_\_

32. **Add all of the additional expense deductions.** Add lines 25 through 31. \$ \_\_\_\_\_

**Deductions for Debt Payment**

33. For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 33a through 33g.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

**Mortgages on your home:**

33a. Copy line 9b here ..... ➔ **Average monthly payment**  
\$ \_\_\_\_\_

**Loans on your first two vehicles:**

33b. Copy line 13b here. .... ➔ \$ \_\_\_\_\_

33c. Copy line 13e here. .... ➔ \$ \_\_\_\_\_

Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
33d. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33e. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33f. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	+ \$ _____
33g. Total average monthly payment. Add lines 33a through 33f.....			<div style="border: 1px solid black; padding: 2px;">\$ _____</div>
			Copy total here ➔
			<div style="border: 1px solid black; padding: 2px;">\$ _____</div>

34. Are any debts that you listed in line 33 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- No. Go to line 35.
- Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 34, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

Name of the creditor	Identify property that secures the debt	Total cure amount	Monthly cure amount
_____	_____	\$ _____ ÷ 60 =	\$ _____
_____	_____	\$ _____ ÷ 60 =	\$ _____
_____	_____	\$ _____ ÷ 60 =	+ \$ _____
Total			<div style="border: 1px solid black; padding: 2px;">\$ _____</div>
			Copy total here ➔
			\$ _____

35. Do you owe any priority claims such as a priority tax, child support, or alimony — that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507.

- No. Go to line 36.
- Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

Total amount of all past-due priority claims ..... \$ \_\_\_\_\_ ÷ 60 = \$ \_\_\_\_\_

36. Are you eligible to file a case under Chapter 13? 11 U.S.C. § 109(e). For more information, go online using the link for Bankruptcy Basics specified in the separate instructions for this form. Bankruptcy Basics may also be available at the bankruptcy clerk's office.

- No. Go to line 37.
Yes. Fill in the following information.

Projected monthly plan payment if you were filing under Chapter 13 \$

Current multiplier for your district as stated on the list issued by the Administrative Office of the United States Courts (for districts in Alabama and North Carolina) or by the Executive Office for United States Trustees (for all other districts). X

To find a list of district multipliers that includes your district, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

Average monthly administrative expense if you were filing under Chapter 13 \$ Copy total here \$

37. Add all of the deductions for debt payment. Add lines 33g through 36.

\$

Total Deductions from Income

38. Add all of the allowed deductions.

Copy line 24, All of the expenses allowed under IRS expense allowances..... \$

Copy line 32, All of the additional expense deductions..... \$

Copy line 37, All of the deductions for debt payment..... + \$

Total deductions \$ Copy total here \$

Part 3: Determine Whether There Is a Presumption of Abuse

39. Calculate monthly disposable income for 60 months

39a. Copy line 4, adjusted current monthly income..... \$

39b. Copy line 38, Total deductions..... - \$

39c. Monthly disposable income. 11 U.S.C. § 707(b)(2). Subtract line 39b from line 39a. \$ Copy line 39c here \$

For the next 60 months (5 years)..... x 60

39d. Total. Multiply line 39c by 60..... 39d. \$ Copy line 39d here \$

40. Find out whether there is a presumption of abuse. Check the box that applies:

- The line 39d is less than \$7,475\*. On the top of page 1 of this form, check box 1, There is no presumption of abuse. Go to Part 5.
The line 39d is more than \$12,475\*. On the top of page 1 of this form, check box 2, There is a presumption of abuse. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.
The line 39d is at least \$7,475\*, but not more than \$12,475\*. Go to line 41.

\* Subject to adjustment on 4/01/16, and every 3 years after that for cases filed on or after the date of adjustment.



41. 41a. Fill in the amount of your total nonpriority unsecured debt. If you filled out A Summary of Your Assets and Liabilities and Certain Statistical Information Schedules (Official Form 6), you may refer to line 3b on that form.

38a. \$

x .25

41b. 25% of your total nonpriority unsecured debt. 11 U.S.C. § 707(b)(2)(A)(i)(I) Multiply line 41a by 0.25.

Calculation box with 'Copy here' arrow and result field.

42. Determine whether the income you have left over after subtracting all allowed deductions is enough to pay 25% of your unsecured, nonpriority debt.

Check the box that applies:

- Line 39d is less than line 41b. On the top of page 1 of this form, check box 1, There is no presumption of abuse. Go to Part 5.
Line 39d is equal to or more than line 41b. On the top of page 1 of this form, check box 2, There is a presumption of abuse. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

Part 4: Give Details About Special Circumstances

43. Do you have any special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative? 11 U.S.C. § 707(b)(2)(B).

- No. Go to Part 5.
Yes. Fill in the following information. All figures should reflect your average monthly expense or income adjustment for each item. You may include expenses you listed in line 25.

You must give a detailed explanation of the special circumstances that make the expenses or income adjustments necessary and reasonable. You must also give your case trustee documentation of your actual expenses or income adjustments.

Table with 2 columns: Give a detailed explanation of the special circumstances, Average monthly expense or income adjustment. Includes 4 rows of input fields.

Part 5: Sign Below

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

Signature of Debtor 1

Signature of Debtor 2

Date MM/DD/YYYY

Date MM/DD/YYYY



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 22B**

**Chapter 11 Statement of Your Current Monthly Income**

12/14

**You must file this form if you are an individual and are filing for bankruptcy under Chapter 11. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).**

**Part 1:** Calculate Your Average Monthly Income

1. **What is your marital and filing status?** Check one only.

- Not married.** Fill out Column A, lines 2-11.
- Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.
- Married and your spouse is NOT filing with you.** Fill out Column A, lines 2-11.

**Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case.** 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write \$0 in the space.

<i>Column A</i> <b>For Debtor 1</b>	<i>Column B</i> <b>Debtor 2 or non-filing spouse</b>
--	---

<p>2. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).</p> <p>3. <b>Alimony and maintenance payments.</b> Do not include payments from a spouse if Column B is filled in.</p> <p>4. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.</p> <p>5. <b>Net income from operating a business, profession, or farm</b></p> <p>Gross receipts (before all deductions) \$ _____</p> <p>Ordinary and necessary operating expenses - \$ _____</p> <p>Net monthly income from a business, profession, or farm \$ _____</p>	<p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>	<p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>
<p>6. <b>Net income from rental and other real property</b></p> <p>Gross receipts (before all deductions) \$ _____</p> <p>Ordinary and necessary operating expenses - \$ _____</p> <p>Net monthly income from rental or other real property \$ _____</p>	<p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>	<p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>

Column A For Debtor 1	Column B Debtor 2 or non-filing spouse
--------------------------	--

**7. Interest, dividends, and royalties**

\$ _____	\$ _____
----------	----------

**8. Unemployment compensation**

\$ _____	\$ _____
----------	----------

Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ..... ↓

For you ..... \$ \_\_\_\_\_

For your spouse..... \$ \_\_\_\_\_

**9. Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act.

\$ _____	\$ _____
----------	----------

**10. Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.

10a. \_\_\_\_\_ \$ \_\_\_\_\_

10b. \_\_\_\_\_ \$ \_\_\_\_\_

10c. Total amounts from separate pages, if any.

+ \$ _____	+ \$ _____
------------	------------

**11. Calculate your total average monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.

\$ _____	+	\$ _____	=	\$ _____
----------	---	----------	---	----------

Total average monthly income

**Part 2:** Deduct any applicable marital adjustment

**12. Copy your total average monthly income from line 11.**

\$ \_\_\_\_\_

**13. Calculate the marital adjustment.** Check one:

- You are not married. Fill in 0 in line 13d.
- You are married and your spouse is filing with you. Fill in 0 in line 13d.
- You are married and your spouse is not filing with you.

Fill in the amount of the income listed in line 11, Column B, that was NOT regularly paid for the household expenses of you or your dependents, such as payment of the spouse's tax liability or the spouse's support of someone other than you or your dependents.

In lines 13a-c, specify the basis for excluding this income and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page.

If this adjustment does not apply, enter 0 on line 13d.

13a. \_\_\_\_\_ \$ \_\_\_\_\_

13b. \_\_\_\_\_ \$ \_\_\_\_\_

13c. \_\_\_\_\_ + \$ \_\_\_\_\_

13d. Total ..... \$ \_\_\_\_\_ Copy here. → 13d. \_\_\_\_\_

**14. Your current monthly income.** Subtract line 13d from line 12.

14. \$ \_\_\_\_\_

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Case number (if known) \_\_\_\_\_

**Part 2:** Sign Below

By signing here, under penalty of perjury I declare that the information on this statement and in any attachments is true and correct.

**x** \_\_\_\_\_  
Signature of Debtor 1

**x** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY



## Official Form 22B

### Instructions for the Chapter 11 Statement of Your Current Monthly Income

United States Bankruptcy Court

12/01/14

**If you are filing under chapter 7, 12, or 13, do not fill out this form.**

#### How to Fill Out this Form

You must file the *Chapter 11 Statement of Your Current Monthly Income* (Official Form 22B) if you are an individual filing for bankruptcy under Chapter 11.

If you have nothing to report for a line, write \$0.

#### Understand the terms used in the form

This form uses *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, this form

uses *you* to ask for information from both debtors. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

#### Things to remember when filling out this form

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not include these instructions when you submit your bankruptcy forms to the court. Keep them for your records.**





## Official Forms 22C–1 and 22C–2

### Instructions for the Chapter 13 Statement of Your Current Monthly Income, Calculation of Commitment Period and Chapter 13 Calculation of Your Disposable Income

United States Bankruptcy Court

12/01/14

**If you are filing under chapter 7, 11, or 12, do not fill out this form.**

#### How to Fill Out these Forms

Official Forms 22C–1 and 22C–2 determine the commitment period for your payments to creditors, how the amount you may be required to pay to creditors is established, and, in some situations, how much you must pay.

You must file 22C–1, the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 22C–1) if you are an individual and you are filing under chapter 13. This form will report your current monthly income and determine whether your income is at or below the median income for households of the same size in your state. If your income is equal to or less than the median, you will not have to fill out the second form. Form 22C–1 also will determine your applicable commitment period—the time period for making payments to your creditors, unless the court orders otherwise.

If your income is above the median, you must file the second form, 22C–2, *Chapter 13 Calculation of Your Disposable Income*. The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay unsecured debts. Your chapter 13 plan may be required to provide for payment of this amount toward unsecured debts.

Read each question carefully. You may not be required to answer every question on this form. The instructions will alert you if you may skip questions.

Some of the questions require you to go to other sources for information. In those cases, the form has instructions for where to find the information you need.

Generally, if you and your spouse are filing together, you should file one statement together.

#### Understand the terms used in these forms

These forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. When information is needed about the spouses separately, the forms use *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

#### Information for completing the forms

To fill out several lines of the forms, you must look up information provided on websites or from other sources. For information to complete line 16c of Form 22C-1 and lines 6-15, 30, and 36 of Form 22C-2, go to: [www.justice.gov/ust/eo/bapcpa/meanstesting.htm](http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm).

If you do not have a computer with internet access, you may be able to use a public computer at the bankruptcy clerk's office or at a public library.

#### Things to remember when filling out this form

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).
- If two married people are filing together, both are equally responsible for supplying correct information.

**Do not include these instructions when you submit your bankruptcy forms to the court. Keep them for your records.**



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

**Check as directed in lines 17 and 21:**

According to the calculations required by this Statement:

1. Disposable income is not determined under 11 U.S.C. § 1325(b)(3).

2. Disposable income is determined under 11 U.S.C. § 1325(b)(3).

---

3. The commitment period is 3 years.

4. The commitment period is 5 years.

Check if this is an amended filing

# Official Form 22C-1

## Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period

12/14

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

**Part 1:** Calculate Your Average Monthly Income

1. **What is your marital and filing status?** Check one only.
- Not married.** Fill out Column A, lines 2-11.
- Married.** Fill out both Columns A and B, lines 2-11.

**Fill in the average monthly income that you from all sources, derived during the 6 full months before you file this bankruptcy case.** 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write \$0 in the space.

	Column A For Debtor 1	Column B Debtor 2 or non-filing spouse
2. <b>Your gross wages, salary, tips, bonuses, overtime, and commissions</b> (before all payroll deductions).	\$ _____	\$ _____
3. <b>Alimony and maintenance payments.</b> Do not include payments from a spouse if Column B is filled in.	\$ _____	\$ _____
4. <b>All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support.</b> Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	\$ _____	\$ _____
5. <b>Net income from operating a business, profession, or farm</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from a business, profession, or farm	\$ _____	\$ _____
	<b>Copy here →</b>	
6. <b>Net income from rental and other real property</b>		
Gross receipts (before all deductions)	\$ _____	
Ordinary and necessary operating expenses	- \$ _____	
Net monthly income from rental or other real property	\$ _____	\$ _____
	<b>Copy here →</b>	

<b>Column A For Debtor 1</b>	<b>Column B Debtor 2 or non-filing spouse</b>
----------------------------------	---

7. **Interest, dividends, and royalties** \$ \_\_\_\_\_
8. **Unemployment compensation** \$ \_\_\_\_\_
- Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ..... ↓
- For you ..... \$ \_\_\_\_\_
- For your spouse ..... \$ \_\_\_\_\_
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act. \$ \_\_\_\_\_
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.
- 10a. \_\_\_\_\_ \$ \_\_\_\_\_
- 10b. \_\_\_\_\_ \$ \_\_\_\_\_
- 10c. Total amounts from separate pages, if any. + \$ \_\_\_\_\_
11. **Calculate your total average monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.

\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____
+ \$ _____	+ \$ _____
\$ _____	+ \$ _____ = \$ _____
	<b>Total average monthly income</b>

**Part 2: Determine How to Measure Your Deductions from Income**

12. **Copy your total average monthly income from line 11.** ..... \$ \_\_\_\_\_

13. **Calculate the marital adjustment.** Check one:

You are not married. Fill in 0 in line 13d.

You are married and your spouse is filing with you. Fill in 0 in line 13d.

You are married and your spouse is not filing with you.

Fill in the amount of the income listed in line 11, Column B, that was NOT regularly paid for the household expenses of you or your dependents, such as payment of the spouse's tax liability or the spouse's support of someone other than you or your dependents.

In lines 13a-c, specify the basis for excluding this income and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page.

If this adjustment does not apply, enter 0 on line 13d.

13a. \_\_\_\_\_ \$ \_\_\_\_\_

13b. \_\_\_\_\_ \$ \_\_\_\_\_

13c. \_\_\_\_\_ + \$ \_\_\_\_\_

13d. Total ..... \$ \_\_\_\_\_ Copy here. → 13d. \_\_\_\_\_

14. **Your current monthly income.** Subtract line 13d from line 12. 14. \$ \_\_\_\_\_

15. **Calculate your current monthly income for the year.** Follow these steps:

15a. Copy line 14 here → ..... 15a. \$ \_\_\_\_\_

Multiply line 15a by 12 (the number of months in a year). **x 12**

15b. The result is your current monthly income for the year for this part of the form. 15b. \$ \_\_\_\_\_

16. Calculate the median family income that applies to you. Follow these steps:

- 16a. Fill in the state in which you live. \_\_\_\_\_
- 16b. Fill in the number of people in your household. \_\_\_\_\_
- 16c. Fill in the median family income for your state and size of household.....16c. \$ \_\_\_\_\_  
To find a list of applicable median income amounts, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

17. How do the lines compare?

- 17a.  Line 15b is less than or equal to line 16c. On the top of page 1 of this form, check box 1, *Disposable income is not determined under 11 U.S.C. § 1325(b)(3)*. **Go to Part 3.** Do NOT fill out *Calculation of Disposable Income* (Official Form 22C-2).
- 17b.  Line 15b is more than line 16c. On the top of page 1 of this form, check box 2, *Disposable income is determined under 11 U.S.C. § 1325(b)(3)*. **Go to Part 3 and fill out Calculation of Disposable Income (Official Form 22C-2).** On line 35 of that form, copy your current monthly income from line 14 above.

**Part 3:** Calculate Your Commitment Period Under 11 U.S.C. §1325(b)(4)

18. Copy your total average monthly income from line 11. .... 18. \$ \_\_\_\_\_

19. Deduct the marital adjustment if it applies. If you are married, your spouse is not filing with you, and you contend that calculating the commitment period under 11 U.S.C. § 1325(b)(4) allows you to deduct part of your spouse's income, copy the amount from line 13d.

If the marital adjustment does not apply, fill in 0 on line 19a. 19a. — \$ \_\_\_\_\_

Subtract line 19a from line 18. 19b. \$ \_\_\_\_\_

20. Calculate your current monthly income for the year. Follow these steps:

20a. Copy line 19b..... 20a. \$ \_\_\_\_\_

Multiply by 12 (the number of months in a year). **x 12**

20b. The result is your current monthly income for the year for this part of the form. 20b. \$ \_\_\_\_\_

20c. Copy the median family income for your state and size of household from line 16c. .... \$ \_\_\_\_\_

21. How do the lines compare?

- Line 20b is less than line 20c. Unless otherwise ordered by the court, on the top of page 1 of this form, check box 3, *The commitment period is 3 years*. Go to Part 4.
- Line 20b is more than or equal to line 20c. Unless otherwise ordered by the court, on the top of page 1 of this form, check box 4, *The commitment period is 5 years*. Go to Part 4.

**Part 4:** Sign Below

By signing here, under penalty of perjury I declare that the information on this statement and in any attachments is true and correct.

**x** \_\_\_\_\_  
Signature of Debtor 1

**x** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

If you checked 17a, do NOT fill out or file Form 22C-2.

If you checked 17b, fill out Form 22C-2 and file it with this form. On line 35 of that form, copy your current monthly income from line 14 above.



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

Check if this is an amended filing

## Official Form 22C-2

### Chapter 13 Calculation of Your Disposable Income

12/14

To fill out this form, you will need your completed copy of *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (Official Form 22C-1)*.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

#### Part 1: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, go online using the link specified in the separate instructions for this form. This information may also be available at the bankruptcy clerk's office.

Deduct the expense amounts set out in lines 6-15 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not include any operating expenses that you subtracted from income in lines 5 and 6 of Form 22C-1, and do not deduct any amounts that you subtracted from your spouse's income in line 13 of Form 22C-1.

If your expenses differ from month to month, enter the average expense.

Note: Line numbers 1-4 are not used in this form. These numbers apply to information required by a similar form used in chapter 7 cases.

**5. The number of people used in determining your deductions from income**

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

**National Standards** You must use the IRS National Standards to answer the questions in lines 6-7.

**6. Food, clothing, and other items:** Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items.

\$ \_\_\_\_\_

**7. Out-of-pocket health care allowance:** Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories—people who are under 65 and people who are 65 or older—because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 22.

People who are under 65 years of age

7a. Out-of-pocket health care allowance per person \$

7b. Number of people who are under 65 X

7c. Subtotal. Multiply line 7a by line 7b. \$ Copy line 7c here -> \$

People who are 65 years of age or older

7d. Out-of-pocket health care allowance per person \$

7e. Number of people who are 65 or older X

7f. Subtotal. Multiply line 7d by line 7e. \$ Copy line 7f here -> + \$

7g. Total. Add lines 7c and 7f. \$ Copy total here -> ..... 7g. \$

Local Standards You must use the IRS Local Standards to answer the questions in lines 8-15.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities - Insurance and operating expenses
Housing and utilities - Mortgage or rent expenses

To answer the questions in lines 8-9, use the U.S. Trustee Program chart. To find the chart, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

8. Housing and utilities - Insurance and operating expenses: Using the number of people you entered in line 5, fill in the dollar amount listed for your county for insurance and operating expenses. \$

9. Housing and utilities - Mortgage or rent expenses:

9a. Using the number of people you entered in line 5, fill in the dollar amount listed for your county for mortgage or rent expenses. \$

9b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Next divide by 60.

Table with 2 columns: Name of the creditor, Average monthly payment. Includes blank rows for entry.

9b. Total average monthly payment ..... \$ Copy line 9b here -> - \$ Repeat this amount on line 33a.

9c. Net mortgage or rent expense.

Subtract line 9b (total average monthly payment) from line 9a (mortgage or rent expense). If this number is less than \$0, enter \$0. \$ Copy 9c here -> \$

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim. \$

Explain why: \_\_\_\_\_



11. Local transportation expenses: Check the number of vehicles for which you claim an ownership or operating expense.

- 0. Go to line 14.
1. Go to line 12.
2 or more. Go to line 12.

12. Vehicle operation expense: Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the Operating Costs that apply for your Census region or metropolitan statistical area. \$

13. Vehicle ownership or lease expense: Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1: [Blank line]

13a. Ownership or leasing costs using IRS Local Standard 13a. \$

13b. Average monthly payment for all debts secured by Vehicle 1. Do not include costs for leased vehicles.

To calculate the average monthly payment here and on line 13e, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment. Includes a 'Copy 13b here' instruction and a 'Repeat this amount on line 33b' instruction.

13c. Net Vehicle 1 ownership or lease expense 13c. \$ Copy net Vehicle 1 expense here \$

Vehicle 2 Describe Vehicle 2: [Blank line]

13d. Ownership or leasing costs using IRS Local Standard 13d. \$

13e. Average monthly payment for all debts secured by Vehicle 2. Do not include costs for leased vehicles.

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment. Includes a 'Copy here' instruction and a 'Repeat this amount on line 33c' instruction.

13f. Net Vehicle 2 ownership or lease expense 13f. \$ Copy net Vehicle 2 expense here \$

14. Public transportation expense: If you claimed 0 vehicles in line 11, using the IRS Local Standards, fill in the Public Transportation expense allowance regardless of whether you use public transportation. \$

15. Additional public transportation expense: If you claimed 1 or more vehicles in line 11 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for Public Transportation. \$

Other Necessary Expenses

In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

- 16. Taxes: The total monthly amount that you actually pay for federal, state and local taxes...
17. Involuntary deductions: The total monthly payroll deductions that your job requires...
18. Life insurance: The total monthly premiums that you pay for your own term life insurance...
19. Court-ordered payments: The total monthly amount that you pay as required by the order of a court...
20. Education: The total monthly amount that you pay for education that is either required...
21. Childcare: The total monthly amount that you pay for childcare...
22. Additional health care expenses, excluding insurance costs: The monthly amount that you pay for health care...
23. Optional telephones and telephone services: The total monthly amount that you pay for telecommunication services...
24. Add all of the expenses allowed under the IRS expense allowances.

Additional Expense Deductions

These are additional deductions allowed by the Means Test. Note: Do not include any expense allowances listed in lines 6-24.

- 25. Health insurance, disability insurance, and health savings account expenses. The monthly expenses for health insurance, disability insurance, and health savings accounts...
26. Continuing contributions to the care of household or family members. The actual monthly expenses that you will continue to pay...
27. Protection against family violence. The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family...

28. **Additional home energy costs.** Your home energy costs are included in your non-mortgage housing and utilities allowance on line 4.

If you believe that you have home energy costs that are more than the home energy costs included in the non-mortgage housing and utilities allowance, then fill in the excess amount of home energy costs. \$ \_\_\_\_\_

You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

29. **Education expenses for dependent children who are younger than 18.** The monthly expenses (not more than \$156.25\* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school. \$ \_\_\_\_\_

You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 6-23.

\* Subject to adjustment on 4/01/16, and every 3 years after that for cases begun on or after the date of adjustment.

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards. \$ \_\_\_\_\_

To find a chart showing the maximum additional allowance, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

You must show that the additional amount claimed is reasonable and necessary.

31. **Continuing charitable contributions.** The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 11 U.S.C. § 548(d)3 and (4). + \_\_\_\_\_

Do not include any amount more than 15% of your gross monthly income.

32. **Add all of the additional expense deductions.**

Add lines 25 through 31.

\$ \_\_\_\_\_

**Deductions for Debt Payment**

33. **For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 33a through 33g.**

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

**Average monthly payment**

**Mortgages on your home**

33a. Copy line 9b here ..... ➔ \$ \_\_\_\_\_

**Loans on your first two vehicles**

33b. Copy line 13b here. .... ➔ \$ \_\_\_\_\_

33c. Copy line 13e here. .... ➔ \$ \_\_\_\_\_

Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
--	---	--	--

33d. \_\_\_\_\_ No Yes \$ \_\_\_\_\_

33e. \_\_\_\_\_ No Yes \$ \_\_\_\_\_

33f. \_\_\_\_\_ No Yes + \$ \_\_\_\_\_

33g. Total average monthly payment. Add lines 33a through 33f..... \$ \_\_\_\_\_ **Copy total here ➔** \$ \_\_\_\_\_

34. Are any debts that you listed in line 33 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- No. Go to line 35.
Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 34, to keep possession of your property (called the cure amount). Next, divide by 60 and fill in the information below.

Table with 4 columns: Name of the creditor, Identify property that secures the debt, Total cure amount, Monthly cure amount. Includes calculation rows and a total box with 'Copy total here' arrow.

35. Do you owe any priority claims—such as a priority tax, child support, or alimony—that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507.

- No. Go to line 36.
Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

Total amount of all past-due priority claims. \$ \_\_\_\_\_ ÷ 60 \$ \_\_\_\_\_

36. Projected monthly Chapter 13 plan payment

\$ \_\_\_\_\_

Current multiplier for your district as stated on the list issued by the Administrative Office of the United States Courts (for districts in Alabama and North Carolina) or by the Executive Office for United States Trustees (for all other districts).

x \_\_\_\_\_

To find a list of district multipliers that includes your district, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

Average monthly administrative expense \$ \_\_\_\_\_ Copy total here -> \$ \_\_\_\_\_

37. Add all of the deductions for debt payment. Add lines 33g through 36.

\$ \_\_\_\_\_

Total Deductions from Income

38. Add all of the allowed deductions.

Copy line 24, All of the expenses allowed under IRS expense allowances..... \$ \_\_\_\_\_

Copy line 32, All of the additional expense deductions..... \$ \_\_\_\_\_

Copy line 37, All of the deductions for debt payment..... + \$ \_\_\_\_\_

Total deductions

\$ \_\_\_\_\_ Copy total here -> \$ \_\_\_\_\_

Part 2: Determine Your Disposable Income Under 11 U.S.C. § 1325(b)(2)

39. Copy your total current monthly income from line 14 of Form 22C-1, Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period. \$

40. Fill in any reasonably necessary income you receive for support for dependent children. The monthly average of any child support payments, foster care payments, or disability payments for a dependent child, reported in Part I of Form 22C-1, that you received in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child. \$

41. Fill in all qualified retirement deductions. The monthly total of all amounts that your employer withheld from wages as contributions for qualified retirement plans, as specified in 11 U.S.C. § 541(b)(7) plus all required repayments of loans from retirement plans, as specified in 11 U.S.C. § 362(b)(19). \$

42. Total of all deductions allowed under 11 U.S.C. § 707(b)(2)(A). Copy line 38 here \$

43. Deduction for special circumstances. If special circumstances justify additional expenses and you have no reasonable alternative, describe the special circumstances and their expenses. You must give your case trustee a detailed explanation of the special circumstances and documentation for the expenses.

Table with 2 columns: Describe the special circumstances, Amount of expense. Rows 43a, 43b, 43c, 43d. Total. Add lines 43a through 43c. Copy 43d here + \$

44. Total adjustments. Add lines 40 and 43d. \$ Copy total here - \$

45. Calculate your monthly disposable income under § 1325(b)(2). Subtract line 44 from line 39. \$

Part 3: Change in Income or Expenses

46. Change in income or expenses. If the income in Form 22C-1 or the expenses you reported in this form have changed or are virtually certain to change after the date you filed your bankruptcy petition and during the time your case will be open, fill in the information below. For example, if the wages reported increased after you filed your petition, check 22C-1 in the first column, enter line 2 in the second column, explain why the wages increased, fill in when the increase occurred, and fill in the amount of the increase.

Table with 6 columns: Form, Line, Reason for change, Date of change, Increase or decrease?, Amount of change. Rows for 22C-1 and 22C-2 with checkboxes for Increase/Decrease.

**Part 4:** Sign Below

By signing here, under penalty of perjury you declare that the information on this statement and in any attachments is true and correct.

**x** \_\_\_\_\_  
Signature of Debtor 1

**x** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

## COMMITTEE NOTE

Official Forms 22A-1, 22A-1Supp, 22A-2, 22C-1, and 22C-2 are new versions of the “means test” forms used by individuals in chapter 7 and 13, formerly Official Forms 22A and 22C. The original forms were substantially revised as part of the Forms Modernization Project, which was designed so that the individuals completing the forms would do so more accurately and completely. Official Form 22B, used by individuals in chapter 11, has also been revised as part of the project.

The revised versions of the means test forms present the relevant information in a format different from the original versions of the forms. For chapter 7, former Official Form 22A has been split into two forms: 22A-1 and 22A-2. The first form, Official Form 22A-1, *Chapter 7 Statement of Your Current Monthly Income*, is to be completed by all chapter 7 debtors. It calculates a debtor’s current monthly income and compares that calculation to the median income for households of the same size in the debtor’s state. The second form, Official Form 22A-2, *Chapter 7 Means Test Calculation*, is to be completed only by those chapter 7 debtors whose income is above the applicable state median. The prior version of Official Form 22A was introduced by several questions bearing on the applicability of the means test. Debtors who do not have primarily consumer debts, as well as certain members of the armed forces, are exempt from a presumption of abuse under the means test, and so are excused from completing the form. However, the great majority of individual debtors in chapter 7 do not fall within the exemptions. Accordingly, the exemptions from means testing have been placed in a separate supplement, Official Form 22A-1Supp, that will be filed only where applicable, making Form 22A present the relevant information more directly and in a manner consistent with the parallel chapter 13 form.

For the chapter 13 means test, there is a similar split of income and expense calculations. All chapter 13 debtors must complete Official Form 22C-1, *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period*, which calculates current monthly income and the plan commitment period. Debtors only need to complete the second form, Official Form 22C-2, *Chapter 13 Calculation of Your Disposable Income*, if their current monthly income exceeds the applicable median. Form 22C-2 calculates disposable income under 11 U.S.C. § 1325(b)(3), through a report of allowed expense deductions.

Line 60 of former Official Form 22C has not been repeated in Official Form 22C-2. This line allowed debtors to list, but not deduct from income, “Other Necessary Expense” items that are not included within the categories specified by the Internal Revenue Service. Because debtors are separately allowed to list—and deduct—any expenses arising from special circumstances, former Line 60 was rarely used.

Form 22C-2 also reflects the Supreme Court’s decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010). The Court held in *Lanning* that the calculation of a chapter 13 debtor’s projected disposable income under § 1325(b) required consideration of changes to income or expenses reported elsewhere on former Official Form 22C that, at the time of plan confirmation, had occurred or were virtually certain to occur. Those changes could result in either an increased or decreased projected disposable income. Because only debtors whose annualized current monthly income exceeds the applicable median family income have their projected disposable income determined by the information provided on both parts of Official Form 22C, only these debtors are required to provide the information about changes to income and expenses on Official Form 22C-1 and 22C-2. Part 3 of Official Form 22C-2 provides for the reporting of those changes.

In reporting changes to income a debtor must indicate whether the amounts reported in Official Form 22C-1—which are monthly averages of various types of income received during the six months prior to the filing of the bankruptcy case—have already changed or are virtually certain to change during the pendency of the case. For each change, the debtor must indicate the line of Official Form 22C-1 on which the amount to be changed was reported, the reason for the change, the date of its occurrence, whether the change is an increase or decrease of income, and the amount of the change. Similarly, in reporting changes to expenses, a debtor must list changes to the debtor’s actual expenditures reported in Part 1 of Official Form 22C-2 that are virtually certain to occur while the case is pending. With respect to the deductible amounts reported in Part 1 that are determined by the IRS national and local standards, only changed amounts that result from changed circumstances in the debtor’s life—such as the addition of a family member or the surrender of a vehicle—should be reported. For each change in expenses, the same information required to be provided for income changes must be reported.

Unlike former Official Forms 22A and 22C, Official Forms 22A-2 and 22C-2 permit, at line 23, the deduction of cell phone



expenses necessary for the production of income if those expenses have not been reimbursed by the debtor's employer or deducted by the debtor in calculating net self-employment income. The same line also states that expenses for internet service may be deducted as a telecommunication services expense only if necessary for the production of income. Under IRS guidelines adopted in 2011, expenses for home internet service used for other purposes are included in the Local Standards for Housing and utilities— Insurance and operating expenses. Also, Official Forms 22A-2 and 22C-2 now provide, at line 18, for deductions of the premiums paid by one jointly filing debtor on term life insurance policies of the other joint debtor as well for premium payments on the debtor's own policies.

Official Form 22B now includes, at lines 12-14, space for a married debtor whose chapter 11 case is not a joint case to claim an adjustment to current monthly income for any of the spouse's income that is not contributed to pay for household expenses of the debtor or the debtor's dependents. Because § 1129(a)(15)(B) requires that disposable income be calculated as provided by § 1325(b)(2), the same marital adjustment that is included in Official Form 22C-1 has been added to Official Form 22B.



Appendix A  
Forms for Final Approval  
Effective Date 2015



**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter you are filing under:  
 Chapter 7  
 Chapter 11  
 Chapter 12  
 Chapter 13

Check if this is an amended filing

**Official Form 101**

**Voluntary Petition for Individuals Filing for Bankruptcy**

12/15

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Identify Yourself**

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
<p><b>1. Your full name</b></p> <p>Write the name that is on your government-issued picture identification (for example, your driver’s license or passport).</p> <p>Bring your picture identification to your meeting with the trustee.</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>Suffix (Sr., Jr., II, III) _____</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>Suffix (Sr., Jr., II, III) _____</p>
<p><b>2. All other names you have used in the last 8 years</b></p> <p>Include your married or maiden names.</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p>
<p><b>3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)</b></p>	<p>XXX – XX – _____</p> <p>OR</p> <p>9 XX – XX – _____</p>	<p>XXX – XX – _____</p> <p>OR</p> <p>9 XX – XX – _____</p>

About Debtor 1:

About Debtor 2 (Spouse Only in a Joint Case):

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

Include trade names and doing business as names

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

Number Street

City State ZIP Code

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City State ZIP Code

If Debtor 2 lives at a different address:

Number Street

City State ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City State ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

Four horizontal lines for explanation.

Check one:

I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

Four horizontal lines for explanation.

**Part 2: Tell the Court About Your Bankruptcy Case****7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form B2010)). Also, go to the top of page 1 and check the appropriate box.

- Chapter 7
- Chapter 11
- Chapter 12
- Chapter 13

**8. How you will pay the fee**

**I will pay the entire fee when I file my petition.** Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

**I need to pay the fee in installments.** If you choose this option, sign and attach the *Application for Individuals to Pay Your Filing Fee in Installments* (Official Form 103A).

**I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

**9. Have you filed for bankruptcy within the last 8 years?**

No

Yes. District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

**10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?**

No

Yes. Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

**11. Do you rent your residence?**

No. Go to line 12.

Yes. Has your landlord obtained an eviction judgment against you and do you want to stay in your residence?

No. Go to line 12.

Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor

12. Are you a sole proprietor of any full- or part-time business?

- No. Go to Part 4.
Yes. Name and location of business

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

Name of business, if any
Number Street
City State ZIP Code

Check the appropriate box to describe your business:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
Stockbroker (as defined in 11 U.S.C. § 101(53A))
Commodity Broker (as defined in 11 U.S.C. § 101(6))
None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a small business debtor?

For a definition of small business debtor, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. 1116(1)(B).

- No. I am not filing under Chapter 11.
No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

- No
Yes. What is the hazard?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

If immediate attention is needed, why is it needed?

Where is the property? Number Street

City State ZIP Code



**Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**

**15. Tell the court whether you have received briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

**About Debtor 1:**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**About Debtor 2 (Spouse Only in a Joint Case):**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**Part 6:** Answer These Questions for Reporting Purposes

**16. What kind of debts do you have?**

**16a. Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as “incurred by an individual primarily for a personal, family, or household purpose.”

No. Go to line 16b.  
 Yes. Go to line 17.

**16b. Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

No. Go to line 16c.  
 Yes. Go to line 17.

**16c.** State the type of debts you owe that are not consumer debts or business debts.

\_\_\_\_\_

**17. Are you filing under Chapter 7?**

No. I am not filing under Chapter 7. Go to line 18.

Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?

No  
 Yes

**Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?**

**18. How many creditors do you estimate that you owe?**

<input type="checkbox"/> 1-49	<input type="checkbox"/> 1,000-5,000	<input type="checkbox"/> 25,001-50,000
<input type="checkbox"/> 50-99	<input type="checkbox"/> 5,001-10,000	<input type="checkbox"/> 50,001-100,000
<input type="checkbox"/> 100-199	<input type="checkbox"/> 10,001-25,000	<input type="checkbox"/> More than 100,000
<input type="checkbox"/> 200-999		

**19. How much do you estimate your assets to be worth?**

<input type="checkbox"/> \$0-\$50,000	<input type="checkbox"/> \$1,000,001-\$10 million	<input type="checkbox"/> \$500,000,001-\$1 billion
<input type="checkbox"/> \$50,001-\$100,000	<input type="checkbox"/> \$10,000,001-\$50 million	<input type="checkbox"/> \$1,000,000,001-\$10 billion
<input type="checkbox"/> \$100,001-\$500,000	<input type="checkbox"/> \$50,000,001-\$100 million	<input type="checkbox"/> \$10,000,000,001-\$50 billion
<input type="checkbox"/> \$500,001-\$1 million	<input type="checkbox"/> \$100,000,001-\$500 million	<input type="checkbox"/> More than \$50 billion

**20. How much do you estimate your liabilities to be?**

<input type="checkbox"/> \$0-\$50,000	<input type="checkbox"/> \$1,000,001-\$10 million	<input type="checkbox"/> \$500,000,001-\$1 billion
<input type="checkbox"/> \$50,001-\$100,000	<input type="checkbox"/> \$10,000,001-\$50 million	<input type="checkbox"/> \$1,000,000,001-\$10 billion
<input type="checkbox"/> \$100,001-\$500,000	<input type="checkbox"/> \$50,000,001-\$100 million	<input type="checkbox"/> \$10,000,000,001-\$50 billion
<input type="checkbox"/> \$500,001-\$1 million	<input type="checkbox"/> \$100,000,001-\$500 million	<input type="checkbox"/> More than \$50 billion

**Part 7:** Sign Below

**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**X** \_\_\_\_\_ **X** \_\_\_\_\_  
 Signature of Debtor 1 Signature of Debtor 2

Executed on \_\_\_\_\_ Executed on \_\_\_\_\_  
 MM / DD / YYYY MM / DD / YYYY

Debtor 1

\_\_\_\_\_  
First Name Middle Name Last Name

Case number (if known) \_\_\_\_\_

**For your attorney, if you are represented by one**

**If you are not represented by an attorney, you do not need to file this page.**

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

**X**

\_\_\_\_\_  
Signature of Attorney for Debtor Date

\_\_\_\_\_  
MM / DD / YYYY

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name

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

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

\_\_\_\_\_  
Contact phone

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Bar number

\_\_\_\_\_  
State

**For you if you are filing this bankruptcy without an attorney**

**If you are represented by an attorney, you do not need to file this page.**

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- No
- Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- No
- Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- No
- Yes. Name of Person \_\_\_\_\_

Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

**x**

\_\_\_\_\_  
Signature of Debtor 1

Date \_\_\_\_\_  
MM / DD / YYYY

Contact phone \_\_\_\_\_

Cell phone \_\_\_\_\_

Email address \_\_\_\_\_

**x**

\_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Contact phone \_\_\_\_\_

Cell phone \_\_\_\_\_

Email address \_\_\_\_\_

## COMMITTEE NOTE

Official Form 101, *Voluntary Petition for Individuals Filing for Bankruptcy*, applies only in cases of individual debtors. Form 101 replaces Official Form 1, Voluntary Petition. It is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations, and includes stylistic changes throughout the form. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. Because the goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions.

Official Form 101 has been substantially reorganized. References to Exhibits A, B, C, and D, and the exhibits themselves, have been eliminated because the requested information is now asked in the form or is not applicable to individual debtors.

Part 1, *Identify Yourself*, line 6, replaces the venue box from page 2 of Official Form 1 and deletes venue questions that pertain only to non-individuals.

Part 2, *Tell the Court About Your Bankruptcy Case*, line 7, removes choices for chapters 9 and 15 filings because they do not pertain to individuals. The status of “being filed” is added to the question regarding bankruptcy cases pending or filed by a spouse, business partner, or affiliate (line 10). Lastly, the question “Do you rent your residence?” (line 11) and Official Forms 101A, *Initial Statement About an Eviction Judgment Against You*, and 101B, *Statement About Payment of An Eviction Judgment Against You*, replace “certification by a debtor who resides as a tenant of residential property,” on page 2 of Official Form 1.

Part 3, *Report About Any Businesses You Own as a Sole Proprietor*, line 12, incorporates options from the “nature of

business” box from page 1 of Official Form 1 that would apply to individual debtors, thus eliminating checkboxes for railroads and clearing banks. Part 3, line 13, also eliminates a checkbox to report whether a plan was filed with the petition, or if plan acceptances were solicited prepetition. Additionally, line 13 rephrases the question relating to whether a debtor filing under Chapter 11 is a small business debtor.

Part 4, *Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention*, line 14, replaces Exhibit C from Official Form 1 and adds the category of “property that needs immediate attention.”

Part 5, *Explain Your Efforts to Receive Credit Counseling* (line 15), replaces Exhibit D from Official Form 1. Additionally, this part describes incapacity and disability using a simplified definition, tells the debtor of the ability to file a motion for a waiver, and eliminates statutory reference about districts where credit counseling does not apply because such districts are rare.

Part 6, *Answer These Questions for Reporting Purposes* (line 16c), provides a text field for the debtor to describe the type of debts owed if the debtor believes they are neither primarily consumer nor business debts.

Part 7, *Sign Here*, deletes from the debtor’s declaration the phrase “to the best of my knowledge, information, and belief” in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008. This part combines the two attorney signature blocks into one certification and eliminates signature lines for corporations/partnerships and chapter 15 Foreign Representative. The declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has also been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 119. That form must be completed and signed by the BPP and filed with each document prepared by a BPP.

Fill in this information to identify your case:

Draft February 28, 2014

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (If known)

Official Form 101A

Initial Statement About an Eviction Judgment Against You

12/15

File this form with the court and serve a copy on your landlord when you first file bankruptcy only if:

- you rent your residence; and
- your landlord has obtained a judgment for possession in an eviction, unlawful detainer action, or similar proceeding (called *eviction judgment*) against you to possess your residence.

Landlord's name \_\_\_\_\_

Landlord's address \_\_\_\_\_  
 Number Street

\_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

If you want to stay in your rented residence after you file your case for bankruptcy, also complete the certification below.

Certification About Applicable Law and Deposit of Rent

I certify under penalty of perjury that:

- Under the state or other nonbankruptcy law that applies to the judgment for possession (*eviction judgment*), I have the right to stay in my residence by paying my landlord the entire delinquent amount.
- I have given the bankruptcy court clerk a deposit for the rent that would be due during the 30 days after I file the *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).

X \_\_\_\_\_  
Signature of Debtor 1

X \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

- Stay of Eviction:** (a) **First 30 days after bankruptcy.** If you checked both boxes above, signed the form to certify that both apply, and served your landlord with a copy of this statement, the automatic stay under 11 U.S.C. § 362(a)(3) will apply to the continuation of the eviction against you for 30 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).
- (b) **Stay after the initial 30 days.** If you wish to stay in your residence after that 30-day period and continue to receive the protection of the automatic stay under 11 U.S.C. § 362(a)(3), you must pay the entire delinquent amount to your landlord as stated in the eviction judgment before the 30-day period ends. You must also fill out *Statement About Payment of an Eviction Judgment Against You* (Official Form 101B), file it with the bankruptcy court, and serve your landlord a copy of it before the 30-day period ends.

Check the Bankruptcy Rules ([www.uscourts.gov/rulesandpolicies/rules.aspx](http://www.uscourts.gov/rulesandpolicies/rules.aspx)) and the local court's website (to find your court's website, go to [www.uscourts.gov/Court\\_Locator.aspx](http://www.uscourts.gov/Court_Locator.aspx)) for any specific requirements that you might have to meet to serve this statement. 11 U.S.C. §§ 362(b)(22) and 362(l)





Fill in this information to identify your case:

Draft February 28, 2014

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (if known)

Official Form 101B

Statement About Payment of an Eviction Judgment Against You

12/15

Fill out this form only if:

- you filed *Initial Statement About an Eviction Judgment Against You* (Official Form 101A); and
- you served a copy of Form 101A on your landlord; and
- you want to stay in your rented residence for more than 30 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).

File this form within 30 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). Also serve a copy on your landlord within that same time period.

Certification About Applicable Law and Payment of Eviction Judgment

I certify under penalty of perjury that (Check all that apply):

- Under the state or other nonbankruptcy law that applies to the judgment for possession (*eviction judgment*), I have the right to stay in my residence by paying my landlord the entire delinquent amount.
- Within 30 days after I filed my *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101), I have paid my landlord the entire amount I owe as stated in the judgment for possession (*eviction judgment*).

X \_\_\_\_\_  
Signature of Debtor 1

X \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

You must serve your landlord with a copy of this form.

Check the Bankruptcy Rules ([www.uscourts.gov/rulesandpolicies/rules.aspx](http://www.uscourts.gov/rulesandpolicies/rules.aspx)) and the court's local website (go to [http://www.uscourts.gov/Court\\_Locator.aspx](http://www.uscourts.gov/Court_Locator.aspx) to find your court's website) for any specific requirements that you might have to meet to serve this statement.



## COMMITTEE NOTE

Official Form 101A, *Initial Statement About an Eviction Judgment Against You*, and Official Form 101B, *Statement About Payment of an Eviction Judgment Against You*, are new forms promulgated as part of the Forms Modernization Project. They replace the “*Certification by a Debtor Who Resides as a Tenant of Residential Property*” section on Official Form 1, *Voluntary Petition*. The forms apply only in cases of individual debtors.

**Official Form 101A** explains that debtors need to complete and file the form only if their landlord has a judgment for possession or an eviction judgment against them and they rent their residence. The form further explains that if the debtor wishes to stay in their residence for 30 days after filing their bankruptcy petition, the certification must be completed. The form adds references to the provisions in the Bankruptcy Code that specify when debtor-tenants subject to eviction may remain in their residence after filing for bankruptcy.

The form eliminates the checkboxes that the debtor has served the landlord with the certification and paid the court the rent that would be due during the 30 days after the filing of the bankruptcy petition. Instead, debtors are required to certify under penalty of perjury that the rent has been paid to the court, and the instructions direct debtors to serve a copy of the statement on the landlord.

The form eliminates the checkbox that the debtor claims there are circumstances under applicable nonbankruptcy law under which the debtor would be permitted to cure the monetary default that gave rise to the judgment for possession (or eviction judgment) and remain in residence. Instead, debtors are required to certify under penalty of perjury that they have the right to stay in their residence under state law or other nonbankruptcy law by paying their landlord the entire delinquent amount.

**Official Form 101B** is new. If debtors wish to stay in their residence for more than 30 days after filing the petition, they must complete, file, and serve the form within 30 days after the petition is filed. Under Official Form 101B, debtors certify under penalty of perjury that

they have the right to stay in their residence under state law or other nonbankruptcy law by paying their landlord the entire delinquent amount and that they have paid their landlord the entire amount owed as stated in the judgment for possession or in the eviction judgment.

**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 104**

**For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders**

12/15

If you are an individual filing for bankruptcy under Chapter 11, you must fill out this form. If you are filing under Chapter 7, Chapter 12, or Chapter 13, do not fill out this form. Do not include claims by anyone who is an *insider*. Insiders include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20 percent or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Also, do not include claims by secured creditors unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information.

**Part 1:** List the 20 Unsecured Claims in Order from Largest to Smallest. Do Not Include Claims by Insiders.

		Unsecured claim
<b>1</b>	<p>What is the nature of the claim? _____ \$ _____</p> <p>Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p>Contact _____</p> <p>Contact phone _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> None of the above apply</p> <p><b>Does the creditor have a lien on your property?</b></p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Total claim (secured and unsecured): \$ _____</p> <p>Value of security: - \$ _____</p> <p>Unsecured claim \$ _____</p>	
<b>2</b>	<p>What is the nature of the claim? _____ \$ _____</p> <p>Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p>Contact _____</p> <p>Contact phone _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent</p> <p><input type="checkbox"/> Unliquidated</p> <p><input type="checkbox"/> Disputed</p> <p><input type="checkbox"/> None of the above apply</p> <p><b>Does the creditor have a lien on your property?</b></p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Total claim (secured and unsecured): \$ _____</p> <p>Value of security: - \$ _____</p> <p>Unsecured claim \$ _____</p>	

Unsecured claim

3

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Yes. Total claim (secured and unsecured):
Value of security:
Unsecured claim

4

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Yes. Total claim (secured and unsecured):
Value of security:
Unsecured claim

5

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Yes. Total claim (secured and unsecured):
Value of security:
Unsecured claim

6

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Yes. Total claim (secured and unsecured):
Value of security:
Unsecured claim

7

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Yes. Total claim (secured and unsecured):
Value of security:
Unsecured claim

Unsecured claim

8

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?

9

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?

10

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?

11

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?

12

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?

Unsecured claim

**13** \_\_\_\_\_ **What is the nature of the claim?** \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's Name \_\_\_\_\_

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

City State ZIP Code \_\_\_\_\_

Contact \_\_\_\_\_

Contact phone \_\_\_\_\_

**As of the date you file, the claim is:** Check all that apply.

Contingent

Unliquidated

Disputed

None of the above apply

**Does the creditor have a lien on your property?**

No

Yes. Total claim (secured and unsecured): \$ \_\_\_\_\_

Value of security: - \$ \_\_\_\_\_

Unsecured claim \$ \_\_\_\_\_

**14** \_\_\_\_\_ **What is the nature of the claim?** \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's Name \_\_\_\_\_

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

City State ZIP Code \_\_\_\_\_

Contact \_\_\_\_\_

Contact phone \_\_\_\_\_

**As of the date you file, the claim is:** Check all that apply.

Contingent

Unliquidated

Disputed

None of the above apply

**Does the creditor have a lien on your property?**

No

Yes. Total claim (secured and unsecured): \$ \_\_\_\_\_

Value of security: - \$ \_\_\_\_\_

Unsecured claim \$ \_\_\_\_\_

**15** \_\_\_\_\_ **What is the nature of the claim?** \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's Name \_\_\_\_\_

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

City State ZIP Code \_\_\_\_\_

Contact \_\_\_\_\_

Contact phone \_\_\_\_\_

**As of the date you file, the claim is:** Check all that apply.

Contingent

Unliquidated

Disputed

None of the above apply

**Does the creditor have a lien on your property?**

No

Yes. Total claim (secured and unsecured): \$ \_\_\_\_\_

Value of security: - \$ \_\_\_\_\_

Unsecured claim \$ \_\_\_\_\_

**16** \_\_\_\_\_ **What is the nature of the claim?** \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's Name \_\_\_\_\_

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

City State ZIP Code \_\_\_\_\_

Contact \_\_\_\_\_

Contact phone \_\_\_\_\_

**As of the date you file, the claim is:** Check all that apply.

Contingent

Unliquidated

Disputed

None of the above apply

**Does the creditor have a lien on your property?**

No

Yes. Total claim (secured and unsecured): \$ \_\_\_\_\_

Value of security: - \$ \_\_\_\_\_

Unsecured claim \$ \_\_\_\_\_

**17** \_\_\_\_\_ **What is the nature of the claim?** \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's Name \_\_\_\_\_

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

City State ZIP Code \_\_\_\_\_

Contact \_\_\_\_\_

Contact phone \_\_\_\_\_

**As of the date you file, the claim is:** Check all that apply.

Contingent

Unliquidated

Disputed

None of the above apply

**Does the creditor have a lien on your property?**

No

Yes. Total claim (secured and unsecured): \$ \_\_\_\_\_

Value of security: - \$ \_\_\_\_\_

Unsecured claim \$ \_\_\_\_\_



Debtor 1

First Name Middle Name Last Name

Case number (if known)

Unsecured claim

18

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Value of security: - \$
Unsecured claim \$

19

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Value of security: - \$
Unsecured claim \$

20

Creditor's Name
Number Street
City State ZIP Code
Contact
Contact phone

What is the nature of the claim?
As of the date you file, the claim is: Check all that apply.
Does the creditor have a lien on your property?
Value of security: - \$
Unsecured claim \$

Part 2: Sign Below

Under penalty of perjury, I declare that the information provided in this form is true and correct.

X Signature of Debtor 1
Date MM / DD / YYYY

X Signature of Debtor 2
Date MM / DD / YYYY



## COMMITTEE NOTE

Official Form 104, *For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders*, is revised as part of the Forms Modernization Project. It replaces Official Form 4, *List of Creditors Holding 20 Largest Unsecured Claims* in chapter 11 cases filed by individuals or joint debtors. The form is renumbered to distinguish it from the version to be used in chapter 11 cases filed by non-individuals, such as corporations and partnerships, and in chapter 9 cases.

Form 104 is reformatted to make it easier to complete and understand and to be more visually appealing. Blanks and checkboxes are provided for specific information about each claim, replacing columns for listing information. A separate, numbered section is provided for each of the 20 claims.

The instruction not to include fully secured claims is restated in less technical terms. Debtors are instructed to include a secured creditor only if the creditor has an unsecured claim resulting from inadequate collateral value that is among the 20 largest unsecured claims. Blanks are provided to calculate the value of the unsecured portion of a partially secured claim.

Examples of “insiders” are provided in addition to the statutory reference. The form adds an explicit instruction not to file the form in a chapter 7, chapter 12, or chapter 13 case. An instruction to be as complete and accurate as possible is added, along with a warning that, if two married people are filing jointly, both are equally responsible for supplying correct information.

With respect to children who may be creditors, the direction to state only the initials of a minor child and the name and address of the child's parent or guardian, rather than the child's full name, is moved to the general instruction booklet for the forms because it applies to all of the forms.



**Fill in this information to identify the case:**

United States Bankruptcy Court for the:  
 \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number (if known): \_\_\_\_\_ Chapter \_\_\_\_\_

Check if this is an amended filing

**Official Form 105**

**Involuntary Petition Against an Individual**

12/15

Use this form to begin a bankruptcy case against an individual you allege to be a debtor subject to an involuntary case. If you want to begin a case against a non-individual, use the *Involuntary Petition Against a Non-individual (Official Form 205)*. Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write name and case number (if known).

**Part 1: Identify the Chapter of the Bankruptcy Code Under Which Petition Is Filed**

- 1. Chapter of the Bankruptcy Code** *Check one:*
- Chapter 7
- Chapter 11

**Part 2: Identify the Debtor**

**2. Debtor's full name**

\_\_\_\_\_ First name

\_\_\_\_\_ Middle name

\_\_\_\_\_ Last name

\_\_\_\_\_ Suffix (Sr., Jr., II, III)

**3. Other names you know the debtor has used in the last 8 years**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Include any assumed, married, maiden, or trade names, or *doing business as* names.

**4. Only the last 4 digits of debtor's Social Security Number or federal Individual Taxpayer Identification Number (ITIN)**

Unknown

XXX - XX - \_\_\_\_\_ OR 9 XX - XX - \_\_\_\_\_

**5. Any Employer Identification Numbers (EINs) used in the last 8 years**

Unknown

\_\_\_\_ - \_\_\_\_ - \_\_\_\_\_ EIN

\_\_\_\_ - \_\_\_\_ - \_\_\_\_\_ EIN

6. Debtor's address

Principal residence

Number Street

City State ZIP Code

County

Principal place of business

Number Street

City State ZIP Code

County

Mailing address, if different from residence

Number Street

City State ZIP Code

7. Type of business

Debtor does not operate a business

Check one if the debtor operates a business:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- None of the above

8. Type of debt

Each petitioner believes:

- Debts are primarily consumer debts.** Consumer debts are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- Debts are primarily business debts.** Business debts are debts that were incurred to obtain money for a business or investment or through the operation of the business or investment.

9. Do you know of any bankruptcy cases pending by or against any partner, spouse, or affiliate of this debtor?

- No
- Yes. Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ Date filed \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY  
Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ Date filed \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

**Part 3:** Report About the Case

**10. Venue**

Check one:

Reason for filing in this court.

- Over the last 180 days before the filing of this bankruptcy, the debtor has resided, had the principal place of business, or had principal assets in this district longer than in any other district.
- A bankruptcy case concerning debtor's affiliates, general partner, or partnership is pending in this district.
- Other reason. Explain. (See 28 U.S.C. § 1408.) \_\_\_\_\_

**11. Allegations**

Each petitioner is eligible to file this petition under 11 U.S.C. § 303(b).  
The debtor may be the subject of an involuntary case under 11 U.S.C. § 303(a).

At least one box must be checked.

- The debtor is generally not paying such debts as they become due, unless they are the subject of a bona fide dispute as to liability or amount.
- Within 120 days before the filing of this petition, a custodian, other than a trustee, receiver, or agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

**12. Has there been a transfer of any claim against the debtor by or to any petitioner?**

- No
- Yes. Attach all documents that evidence the transfer and any statements required under Bankruptcy Rule 1003(a).

**13. Each petitioner's claim**

Name of petitioner	Nature of petitioner's claim	Amount of the claim above the value of any lien
		\$ _____
		\$ _____
		\$ _____
Total		\$ _____

If more than 3 petitioners, attach additional sheets with the statement under penalty of perjury, each petitioner's (or representative's) signature under the statement, along with the signature of the petitioner's attorney, and the information on the petitioning creditor, the petitioner's claim, the petitioner's representative, and the attorney following the format on this form.

**Part 4: Request for Relief**

Petitioners request that an order for relief be entered against the debtor under the chapter specified in Part 1 of this petition. If a petitioning creditor is a corporation, attach the corporate ownership statement required by Bankruptcy Rule 1010(b). If any petitioner is a foreign representative appointed in a foreign proceeding, a certified copy of the order of the court granting recognition is attached.

Petitioners declare under penalty of perjury that the information provided in this petition is true and correct to the best of their knowledge, information, and belief. Petitioners understand that if they make a false statement, they could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. If relief is not ordered, the court may award attorneys' fees, costs, damages, and punitive damages. 11 U.S.C. § 303(i).

**Petitioners or Petitioners' Representative**

**X** \_\_\_\_\_  
Signature of petitioner or representative, including representative's title

\_\_\_\_\_  
Printed name of petitioner

Date signed \_\_\_\_\_  
MM / DD / YYYY

**Mailing address of petitioner**

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

\_\_\_\_\_  
City State ZIP Code

**If petitioner is an individual and is not represented by an attorney:**

Contact phone \_\_\_\_\_

Email \_\_\_\_\_

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**Attorneys**

**X** \_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Date signed \_\_\_\_\_  
MM / DD / YYYY

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



**x**

\_\_\_\_\_  
Signature of petitioner or representative, including representative's title

\_\_\_\_\_  
Printed name of petitioner

Date signed \_\_\_\_\_  
MM / DD / YYYY

**Mailing address of petitioner**

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

\_\_\_\_\_  
City State ZIP Code

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**x**

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Date signed \_\_\_\_\_  
MM / DD / YYYY

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

**x**

\_\_\_\_\_  
Signature of petitioner or representative, including representative's title

\_\_\_\_\_  
Printed name of petitioner

Date signed \_\_\_\_\_  
MM / DD / YYYY

**Mailing address of petitioner**

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

\_\_\_\_\_  
City State ZIP Code

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**x**

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Date signed \_\_\_\_\_  
MM / DD / YYYY

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



## COMMITTEE NOTE

Official Form 105, *Involuntary Petition Against an Individual*, which is used only in cases of individual debtors, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered to distinguish it from the version to be used in non-individual cases, and stylistic changes were made throughout the form.

The form is derived from Official Form 5, *Involuntary Petition*. The new form separates questions into four parts likely to be more familiar to non-lawyers, groups questions of a similar nature together, and eliminates questions unrelated to individual debtors.

Part 1, *Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*, moves to the beginning of the form the question regarding the chapter of the Bankruptcy Code under which the petition is filed.

Part 2, *Identify the Debtor*, includes the questions regarding the debtor's name, prior names, Social Security Number, Individual Taxpayer Identification Number and Employer Identification Number. Petitioners must list the address for the debtor's principal residence, mailing address (if different), and principal place of business. Petitioners must indicate whether the debtor operates a business, and, if so, use checkboxes to indicate whether the business falls into certain categories. The statutory definition of "consumer debts" is provided, as well as a definition of "business debts."

Part 3, *Report About the Case*, amends the question regarding venue to advise that venue is "the reason to file in this court" and amends the choices for venue. The first option is revised to read: "Over the last 180 days before the filing of this bankruptcy, the debtor has resided, had the principal place of business, or had principal assets in this district longer than any other district." Also, the form adds an option for "Other reason."

Explain,” with a statutory reference. The filing fee amounts are provided. In the question for Allegations, the exact citation to the Bankruptcy Code is provided for the second allegation, and checkboxes are provided for the last allegation. Petitioners must check “yes” or “no” to answer whether there has been any transfer of any claim against the debtor by or to a petitioner. The information regarding the petitioner’s claims is moved to this part of the form, and the portion listing the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

Part 4, *Request for Relief*, amends the instructions to include a warning about making a false statement, and adds a separate requirement for each petitioner’s mailing address. Also, petitioners’ attorneys must provide their email addresses, or if a petitioner is an individual and not represented by an attorney, the contact phone and email address of that petitioner must be provided.

**Fill in this information to identify your case and this filing:**

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_

Check if this is an amended filing

**Official Form 106A/B**  
**Schedule A/B: Property**

12/15

In each category, separately list and describe items. List an asset only once. If an asset fits in more than one category, list the asset in the category where you think it fits best. Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Describe Each Residence, Building, Land, or Other Real Estate You Own or Have an Interest In**

**1. Do you own or have any legal or equitable interest in any residence, building, land, or similar property?**

- No. Go to Part 2.
- Yes. Where is the property?

1.1. \_\_\_\_\_  
 Street address, if available, or other description

\_\_\_\_\_

\_\_\_\_\_

City State ZIP Code

\_\_\_\_\_

County

**What is the property?** Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

Do not deduct secured claims or exemptions. Put the amount of any secured claims on *Schedule D: Creditors Who Have Claims Secured by Property*.

**Current value of the entire property?** \$ \_\_\_\_\_

**Current value of the portion you own?** \$ \_\_\_\_\_

**Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.**

\_\_\_\_\_

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Check if this is community property** (see instructions)

**Other information you wish to add about this item, such as local property identification number:** \_\_\_\_\_

If you own or have more than one, list here:

1.2. \_\_\_\_\_  
 Street address, if available, or other description

\_\_\_\_\_

\_\_\_\_\_

City State ZIP Code

\_\_\_\_\_

County

**What is the property?** Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

Do not deduct secured claims or exemptions. Put the amount of any secured claims on *Schedule D: Creditors Who Have Claims Secured by Property*.

**Current value of the entire property?** \$ \_\_\_\_\_

**Current value of the portion you own?** \$ \_\_\_\_\_

**Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.**

\_\_\_\_\_

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Check if this is community property** (see instructions)

**Other information you wish to add about this item, such as local property identification number:** \_\_\_\_\_

1.3. \_\_\_\_\_  
 Street address, if available, or other description  
 \_\_\_\_\_  
 \_\_\_\_\_  
 City State ZIP Code  
 \_\_\_\_\_  
 County

**What is the property?** Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Other information you wish to add about this item, such as local property identification number:** \_\_\_\_\_

Do not deduct secured claims or exemptions. Put the amount of any secured claims on *Schedule D: Creditors Who Hold Claims Secured by Property*.

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
\$ _____	\$ _____

**Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.**  
\_\_\_\_\_

**Check if this is community property** (see instructions)

2. Add the dollar value of the portion you own for all of your entries from Part 1, including any entries for pages you have attached for Part 1. Write that number here. \_\_\_\_\_ →

\$ \_\_\_\_\_

**Part 2: Describe Your Vehicles**

**Do you own, lease, or have legal or equitable interest in any vehicles, whether they are registered or not?** Include any vehicles you own that someone else drives. If you lease a vehicle, also report it on *Schedule G: Executory Contracts and Unexpired Leases*.

**3. Cars, vans, trucks, tractors, sport utility vehicles, motorcycles**

- No
- Yes

3.1. Make: \_\_\_\_\_  
 Model: \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Approximate mileage: \_\_\_\_\_  
 Other information:  
 \_\_\_\_\_

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Check if this is community property** (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on *Schedule D: Creditors Who Have Claims Secured by Property*.

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
\$ _____	\$ _____

If you own or have more than one, describe here:

3.2. Make: \_\_\_\_\_  
 Model: \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Approximate mileage: \_\_\_\_\_  
 Other information:  
 \_\_\_\_\_

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Check if this is community property** (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on *Schedule D: Creditors Who Have Claims Secured by Property*.

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
\$ _____	\$ _____

3.3. Make: \_\_\_\_\_  
Model: \_\_\_\_\_  
Year: \_\_\_\_\_  
Approximate mileage: \_\_\_\_\_  
Other information:

[Text box for other information]

Who is an owner of the property? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is community property (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property? Current value of the portion you own?

\$ \_\_\_\_\_ \$ \_\_\_\_\_

3.4. Make: \_\_\_\_\_  
Model: \_\_\_\_\_  
Year: \_\_\_\_\_  
Approximate mileage: \_\_\_\_\_  
Other information:

[Text box for other information]

Who is an owner of the property? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is community property (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property? Current value of the portion you own?

\$ \_\_\_\_\_ \$ \_\_\_\_\_

4. Watercraft, aircraft, motor homes, ATVs and other recreational vehicles, other vehicles, and accessories

Examples: Boats, trailers, motors, personal watercraft, fishing vessels, snowmobiles, motorcycle accessories

- No
Yes

4.1. Make: \_\_\_\_\_  
Model: \_\_\_\_\_  
Year: \_\_\_\_\_  
Other information:

[Text box for other information]

Who is an owner of the property? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is community property (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property? Current value of the portion you own?

\$ \_\_\_\_\_ \$ \_\_\_\_\_

If you own or have more than one, list here:

4.2. Make: \_\_\_\_\_  
Model: \_\_\_\_\_  
Year: \_\_\_\_\_  
Other information:

[Text box for other information]

Who is an owner of the property? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is community property (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property? Current value of the portion you own?

\$ \_\_\_\_\_ \$ \_\_\_\_\_

5. Add the dollar value of the portion you own for all of your entries from Part 2, including any entries for pages you have attached for Part 2. Write that number here

[Sum total box with dollar sign]

**Part 3: Describe Your Personal and Household Items**

**Do you own or have any legal or equitable interest in any of the following items?**

**Current value of the portion you own?**  
Do not deduct secured claims or exemptions.

**6. Household goods and furnishings**

*Examples:* Major appliances, furniture, linens, china, kitchenware

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**7. Electronics**

*Examples:* Televisions and radios; audio, video, stereo, and digital equipment; computers, printers, scanners; music collections; electronic devices including cell phones, cameras, media players, games

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**8. Collectibles of value**

*Examples:* Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; stamp, coin, or baseball card collections; other collections, memorabilia, collectibles

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**9. Equipment for sports and hobbies**

*Examples:* Sports, photographic, exercise, and other hobby equipment; bicycles, pool tables, golf clubs, skis; canoes and kayaks; carpentry tools; musical instruments

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**10. Firearms**

*Examples:* Pistols, rifles, shotguns, ammunition, and related equipment

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**11. Clothes**

*Examples:* Everyday clothes, furs, leather coats, designer wear, shoes, accessories

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**12. Jewelry**

*Examples:* Everyday jewelry, costume jewelry, engagement rings, wedding rings, heirloom jewelry, watches, gems, gold, silver

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**13. Non-farm animals**

*Examples:* Dogs, cats, birds, horses

No  
 Yes. Describe .....  \$ \_\_\_\_\_

**14. Any other personal and household items you did not already list, including any health aids you did not list**

No  
 Yes. Give specific information.....  \$ \_\_\_\_\_

**15. Add the dollar value of all of your entries from Part 3, including any entries for pages you have attached for Part 3. Write that number here** .....  \$ \_\_\_\_\_ **→**



**Part 4: Describe Your Financial Assets**

**Do you own or have any legal or equitable interest in any of the following?** **Current value of the portion you own?**  
Do not deduct secured claims or exemptions.

**16. Cash**

*Examples:* Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition

No  
 Yes..... Cash: ..... \$ \_\_\_\_\_

**17. Deposits of money**

*Examples:* Checking, savings, or other financial accounts; certificates of deposit; shares in credit unions, brokerage houses, and other similar institutions. If you have multiple accounts with the same institution, list each.

No  
 Yes..... Institution name:

17.1. Checking account:	_____	\$ _____
17.2. Checking account:	_____	\$ _____
17.3. Savings account:	_____	\$ _____
17.4. Savings account:	_____	\$ _____
17.5. Certificates of deposit:	_____	\$ _____
17.6. Other financial account:	_____	\$ _____
17.7. Other financial account:	_____	\$ _____
17.8. Other financial account:	_____	\$ _____
17.9. Other financial account:	_____	\$ _____

**18. Bonds, mutual funds, or publicly traded stocks**

*Examples:* Bond funds, investment accounts with brokerage firms, money market accounts

No  
 Yes..... Institution or issuer name:

_____	\$ _____
_____	\$ _____
_____	\$ _____

**19. Non-publicly traded stock and interests in incorporated and unincorporated businesses, including an interest in an LLC, partnership, and joint venture**

No  
 Yes. Give specific information about them.....

Name of entity:	%	%
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

20. Government and corporate bonds and other negotiable and non-negotiable instruments

Negotiable instruments include personal checks, cashiers' checks, promissory notes, and money orders. Non-negotiable instruments are those you cannot transfer to someone by signing or delivering them.

Form for section 20 with checkboxes for 'No' and 'Yes. Give specific information about them...' and lines for issuer name and dollar amounts.

21. Retirement or pension accounts

Examples: Interests in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans

Form for section 21 with checkboxes for 'No' and 'Yes. List each account separately..' and lines for account types (401(k), Pension plan, IRA, etc.) and dollar amounts.

22. Security deposits and prepayments

Your share of all unused deposits you have made so that you may continue service or use from a company. Examples: Agreements with landlords, prepaid rent, public utilities (electric, gas, water), telecommunications companies, or others

Form for section 22 with checkboxes for 'No' and 'Yes...' and lines for institution name or individual and various categories (Electric, Gas, Heating oil, etc.) with dollar amounts.

23. Annuities (A contract for a periodic payment of money to you, either for life or for a number of years)

Form for section 23 with checkboxes for 'No' and 'Yes...' and lines for issuer name and description and dollar amounts.

24. **Interests in an education IRA** as defined in 26 U.S.C. § 530(b)(1) or under a qualified state tuition plan as defined in 26 U.S.C. § 529(b)(1).

No

Yes ..... Institution name and description. Separately file the records of any interests. 11 U.S.C. § 521(c):

\_\_\_\_\_  
\$ \_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_

25. **Trusts, equitable or future interests in property (other than anything listed in line 1), and rights or powers exercisable for your benefit**

No

Yes. Give specific information about them...

\_\_\_\_\_ \$ \_\_\_\_\_

26. **Patents, copyrights, trademarks, trade secrets, and other intellectual property**

*Examples:* Internet domain names, websites, proceeds from royalties and licensing agreements

No

Yes. Give specific information about them...

\_\_\_\_\_ \$ \_\_\_\_\_

27. **Licenses, franchises, and other general intangibles**

*Examples:* Building permits, exclusive licenses, cooperative association holdings, liquor licenses, professional licenses

No

Yes. Give specific information about them...

\_\_\_\_\_ \$ \_\_\_\_\_

**Money or property owed to you?**

**Current value of the portion you own?**  
Do not deduct secured claims or exemptions.

28. **Tax refunds owed to you**

No

Yes. Give specific information about them, including whether you already filed the returns and the tax years. ....

\_\_\_\_\_

Federal: \$ \_\_\_\_\_  
State: \$ \_\_\_\_\_  
Local: \$ \_\_\_\_\_

29. **Family support**

*Examples:* Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement

No

Yes. Give specific information.....

\_\_\_\_\_

Alimony: \$ \_\_\_\_\_  
Maintenance: \$ \_\_\_\_\_  
Support: \$ \_\_\_\_\_  
Divorce settlement: \$ \_\_\_\_\_  
Property settlement: \$ \_\_\_\_\_

30. **Other amounts someone owes you**

*Examples:* Unpaid wages, disability insurance payments, disability benefits, sick pay, vacation pay, workers' compensation, Social Security benefits; unpaid loans you made to someone else

No

Yes. Give specific information.....

\_\_\_\_\_ \$ \_\_\_\_\_

31. Interests in insurance policies

Examples: Health, disability, or life insurance; health savings account (HSA); credit, homeowner's, or renter's insurance

No

Yes. Name the insurance company of each policy and list its value. ... Company name: Beneficiary: Surrender or refund value: \$

32. Any interest in property that is due you from someone who has died

If you are the beneficiary of a living trust, expect proceeds from a life insurance policy, or are currently entitled to receive property because someone has died.

No

Yes. Give specific information. ... \$

33. Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment

Examples: Accidents, employment disputes, insurance claims, or rights to sue

No

Yes. Describe each claim. ... \$

34. Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims

No

Yes. Describe each claim. ... \$

35. Any financial assets you did not already list

No

Yes. Give specific information. ... \$

36. Add the dollar value of all of your entries from Part 4, including any entries for pages you have attached for Part 4. Write that number here



\$

Part 5: Describe Any Business-Related Property You Own or Have an Interest In. List any real estate in Part 1.

37. Do you own or have any legal or equitable interest in any business-related property?

No. Go to Part 6. Yes. Go to line 38.

Current value of the portion you own? Do not deduct secured claims or exemptions.

38. Accounts receivable or commissions you already earned

No

Yes. Describe. ... \$

39. Office equipment, furnishings, and supplies

Examples: Business-related computers, software, modems, printers, copiers, fax machines, rugs, telephones, desks, chairs, electronic devices

No

Yes. Describe. ... \$

40. Machinery, fixtures, equipment, supplies you use in business, and tools of your trade

No
Yes. Describe..... \$

41. Inventory

No
Yes. Describe..... \$

42. Interests in partnerships or joint ventures

No
Yes. Describe..... Name of entity: % of ownership: \$

43. Customer lists, mailing lists, or other compilations

No
Yes. Do your lists include personally identifiable information (as defined in 11 U.S.C. § 101(41A))?
No
Yes. Describe..... \$

44. Any business-related property you did not already list

No
Yes. Give specific information ..... \$

45. Add the dollar value of all of your entries from Part 5, including any entries for pages you have attached for Part 5. Write that number here

\$

Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In. If you own or have an interest in farmland, list it in Part 1.

46. Do you own or have any legal or equitable interest in any farm- or commercial fishing-related property?

No. Go to Part 7.
Yes. Go to line 47.

Current value of the portion you own? Do not deduct secured claims or exemptions.

47. Farm animals

Examples: Livestock, poultry, farm-raised fish

No
Yes..... \$

**48. Crops—either growing or harvested**

No  
 Yes. Give specific information. \_\_\_\_\_ \$ \_\_\_\_\_

**49. Farm and fishing equipment, implements, machinery, fixtures, and tools of trade**

No  
 Yes \_\_\_\_\_ \$ \_\_\_\_\_

**50. Farm and fishing supplies, chemicals, and feed**

No  
 Yes \_\_\_\_\_ \$ \_\_\_\_\_

**51. Any farm- and commercial fishing-related property you did not already list**

No  
 Yes. Give specific information. \_\_\_\_\_ \$ \_\_\_\_\_

**52. Add the dollar value of all of your entries from Part 6, including any entries for pages you have attached for Part 6. Write that number here** \_\_\_\_\_ → **\$ \_\_\_\_\_**

**Part 7: Describe All Property You Own or Have an Interest in That You Did Not List Above**

**53. Do you have other property of any kind you did not already list?**

*Examples: Season tickets, country club membership*

No  
 Yes. Give specific information. \_\_\_\_\_ \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

**54. Add the dollar value of all of your entries from Part 7. Write that number here** \_\_\_\_\_ → **\$ \_\_\_\_\_**

**Part 8: List the Totals of Each Part of this Form**

**55. Part 1: Total real estate, line 2** \_\_\_\_\_ → **\$ \_\_\_\_\_**

**56. Part 2: Total vehicles, line 5** \$ \_\_\_\_\_

**57. Part 3: Total personal and household items, line 15** \$ \_\_\_\_\_

**58. Part 4: Total financial assets, line 36** \$ \_\_\_\_\_

**59. Part 5: Total business-related property, line 45** \$ \_\_\_\_\_

**60. Part 6: Total farm- and fishing-related property, line 52** \$ \_\_\_\_\_

**61. Part 7: Total other property not listed, line 54** + \$ \_\_\_\_\_

**62. Total personal property. Add lines 56 through 61.** \_\_\_\_\_ **\$ \_\_\_\_\_** Copy personal property total → **+ \$ \_\_\_\_\_**

**63. Total of all property on Schedule A/B. Add line 55 + line 62.** \_\_\_\_\_ **\$ \_\_\_\_\_**

**Fill in this information to identify your case:**

Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	_____		District of _____
			(State)
Case number (if known)	_____		

Check if this is an amended filing

**Official Form 106C**

**Schedule C: The Property You Claim as Exempt**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

**For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.**

**Part 1: Identify the Property You Claim as Exempt**

1. **Which set of exemptions are you claiming?** *Check one only, even if your spouse is filing with you.*

- You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
- You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. **For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.**

Brief description of the property and line on <i>Schedule A/B</i> that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
	Copy the value from <i>Schedule A/B</i>	<i>Check only one box for each exemption.</i>	
Brief description: _____ Line from <i>Schedule A/B</i> : _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from <i>Schedule A/B</i> : _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from <i>Schedule A/B</i> : _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____

3. **Are you claiming a homestead exemption of more than \$155,675?**

(Subject to adjustment on 4/01/16 and every 3 years after that for cases filed on or after the date of adjustment.)

- No
- Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
  - No
  - Yes

Part 2: Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own Copy the value from Schedule A/B	Amount of the exemption you claim Check only one box for each exemption	Specific laws that allow exemption
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____



Fill in this information to identify your case:

Debtor 1 First Name Middle Name Last Name
Debtor 2 (Spouse, if filing) First Name Middle Name Last Name
United States Bankruptcy Court for the: District of (State)
Case number (If known)

Check if this is an amended filing

Official Form 106D

Schedule D: Creditors Who Have Claims Secured by Property

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, number the entries, and attach it to this form. On the top of any additional pages, write your name and case number (if known).

1. Do any creditors have claims secured by your property?

- No. Check this box and submit this form to the court with your other schedules. You have nothing else to report on this form.
Yes. Fill in all of the information below.

Part 1: List All Secured Claims

2. List all secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim. If more than one creditor has a particular claim, list the other creditors in Part 2. As much as possible, list the claims in alphabetical order according to the creditor's name.

Table with 3 columns: Column A Amount of claim, Column B Value of collateral that supports this claim, Column C Unsecured portion If any

2.1 Describe the property that secures the claim:
Creditor's Name
Number Street
City State ZIP Code
Who owes the debt? Check one.
Date debt was incurred Last 4 digits of account number

2.2 Describe the property that secures the claim:
Creditor's Name
Number Street
City State ZIP Code
Who owes the debt? Check one.
Date debt was incurred Last 4 digits of account number

Add the dollar value of your entries in Column A on this page. Write that number here: \$

<b>Part 1:</b>	Additional Page	<b>Column A</b>	<b>Column B</b>	<b>Column C</b>
	<b>After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.</b>	<b>Amount of claim</b> Do not deduct the value of collateral.	<b>Value of collateral that supports this claim</b>	<b>Unsecured portion</b> If any

□		<b>Describe the property that secures the claim:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> <b>Check if this claim relates to a community debt</b>	<b>As of the date you file, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed			
	<b>Date debt was incurred</b> _____	<b>Nature of lien.</b> Check all that apply. <input type="checkbox"/> An agreement you made (such as mortgage or secured car loan) <input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien) <input type="checkbox"/> Judgment lien from a lawsuit <input type="checkbox"/> Other (including a right to offset) _____			
		<b>Last 4 digits of account number</b> _ _ _ _			

□		<b>Describe the property that secures the claim:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> <b>Check if this claim relates to a community debt</b>	<b>As of the date you file, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed			
	<b>Date debt was incurred</b> _____	<b>Nature of lien.</b> Check all that apply. <input type="checkbox"/> An agreement you made (such as mortgage or secured car loan) <input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien) <input type="checkbox"/> Judgment lien from a lawsuit <input type="checkbox"/> Other (including a right to offset) _____			
		<b>Last 4 digits of account number</b> _ _ _ _			

□		<b>Describe the property that secures the claim:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> <b>Check if this claim relates to a community debt</b>	<b>As of the date you file, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed			
	<b>Date debt was incurred</b> _____	<b>Nature of lien.</b> Check all that apply. <input type="checkbox"/> An agreement you made (such as mortgage or secured car loan) <input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien) <input type="checkbox"/> Judgment lien from a lawsuit <input type="checkbox"/> Other (including a right to offset) _____			
		<b>Last 4 digits of account number</b> _ _ _ _			

<b>Add the dollar value of your entries in Column A on this page. Write that number here:</b>	\$ _____
<b>If this is the last page of your form, add the dollar value totals from all pages. Write that number here:</b>	\$ _____

**Part 2: List Others to Be Notified for a Debt That You Already Listed**

Use this page only if you have others to be notified about your bankruptcy for a debt that you already listed in Part 1. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the creditor in Part 1, and then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Part 1, list the additional creditors here. If you do not have additional persons to be notified for any debts in Part 1, do not fill out or submit this page.

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_  
Number Street \_\_\_\_\_  
City State ZIP Code \_\_\_\_\_

On which line in Part 1 did you enter the creditor? \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 106E/F**

**Schedule E/F: Creditors Who Have Unsecured Claims**

12/15

**Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY claims and Part 2 for creditors with NONPRIORITY claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Property* (Official Form 106A/B) and on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G). Do not include any creditors with partially secured claims that are listed in *Schedule D: Creditors Who Hold Claims Secured by Property*. If more space is needed, copy the Part you need, fill it out, number the entries in the boxes on the left. Attach the Continuation Page to this page. If you have no information to report in a Part, do not file that Part. On the top of any additional pages, write your name and case number (if known).**

**Part 1: List All of Your PRIORITY Unsecured Claims**

**1. Do any creditors have priority unsecured claims against you?**

- No. Go to Part 2.
- Yes.

**2. List all of your priority unsecured claims.** If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. If a claim has both priority and nonpriority amounts, list that claim here and show both priority and nonpriority amounts. As much as possible, list the claims in alphabetical order according to the creditor's name. If you have more than two priority unsecured claims, fill out the Continuation Page of Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3.

(For an explanation of each type of claim, see the instructions for this form in the instruction booklet.)

	Total claim	Priority amount	Nonpriority amount
<div style="border: 1px solid black; padding: 2px; width: 30px; float: left; margin-right: 5px;">2.1</div> <p>Priority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Debtor 1 only</li> <li><input type="checkbox"/> Debtor 2 only</li> <li><input type="checkbox"/> Debtor 1 and Debtor 2 only</li> <li><input type="checkbox"/> At least one of the debtors and another</li> <li><input type="checkbox"/> <b>Check if this claim is for a community debt</b></li> </ul> <p><b>Is the claim subject to offset?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Yes</li> </ul>	<p><b>Last 4 digits of account number</b> _____ \$ _____ \$ _____ \$ _____</p> <p><b>When was the debt incurred?</b> _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contingent</li> <li><input type="checkbox"/> Unliquidated</li> <li><input type="checkbox"/> Disputed</li> <li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li> </ul> <p><b>Type of PRIORITY unsecured claim:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Domestic support obligations</li> <li><input type="checkbox"/> Taxes and certain other debts you owe the government</li> <li><input type="checkbox"/> Claims for death or personal injury while you were intoxicated</li> <li><input type="checkbox"/> Other. Specify _____</li> </ul>		

<div style="border: 1px solid black; padding: 2px; width: 30px; float: left; margin-right: 5px;">2.2</div> <p>Priority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Debtor 1 only</li> <li><input type="checkbox"/> Debtor 2 only</li> <li><input type="checkbox"/> Debtor 1 and Debtor 2 only</li> <li><input type="checkbox"/> At least one of the debtors and another</li> <li><input type="checkbox"/> <b>Check if this claim is for a community debt</b></li> </ul> <p><b>Is the claim subject to offset?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Yes</li> </ul>	<p><b>Last 4 digits of account number</b> _____ \$ _____ \$ _____ \$ _____</p> <p><b>When was the debt incurred?</b> _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contingent</li> <li><input type="checkbox"/> Unliquidated</li> <li><input type="checkbox"/> Disputed</li> <li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li> </ul> <p><b>Type of PRIORITY unsecured claim:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Domestic support obligations</li> <li><input type="checkbox"/> Taxes and certain other debts you owe the government</li> <li><input type="checkbox"/> Claims for death or personal injury while you were intoxicated</li> <li><input type="checkbox"/> Other. Specify _____</li> </ul>		
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Part 1: Your PRIORITY Unsecured Claims – Continuation Page

After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth. Total claim Priority amount Nonpriority amount

Form 1: Priority creditor entry with fields for name, address, account number, debt type, and offset status.

Form 2: Priority creditor entry with fields for name, address, account number, debt type, and offset status.

Form 3: Priority creditor entry with fields for name, address, account number, debt type, and offset status.

**Part 2: List All of Your NONPRIORITY Unsecured Claims**

**3. Do any creditors have nonpriority unsecured claims against you?**

- No. You have nothing to report in this part. Submit this form to the court with your other schedules.
- Yes

**4. List all of your nonpriority unsecured claims in the alphabetical order of the creditor who holds each claim.** If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. Do not list claims already included in Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3. If you have more than four priority unsecured claims fill out the Continuation Page of Part 2.

			Total claim
4.1	<p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Debtor 1 only</li><li><input type="checkbox"/> Debtor 2 only</li><li><input type="checkbox"/> Debtor 1 and Debtor 2 only</li><li><input type="checkbox"/> At least one of the debtors and another</li></ul> <p><input type="checkbox"/> <b>Check if this claim is for a community debt</b></p> <p><b>Is the claim subject to offset?</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> No</li><li><input type="checkbox"/> Yes</li></ul>	<p>Last 4 digits of account number _____</p> <p>When was the debt incurred? _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Contingent</li><li><input type="checkbox"/> Unliquidated</li><li><input type="checkbox"/> Disputed</li><li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li></ul> <p><b>Type of NONPRIORITY unsecured claim:</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> Student loans</li><li><input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims</li><li><input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts</li><li><input type="checkbox"/> Other. Specify _____</li></ul>	\$ _____
4.2	<p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Debtor 1 only</li><li><input type="checkbox"/> Debtor 2 only</li><li><input type="checkbox"/> Debtor 1 and Debtor 2 only</li><li><input type="checkbox"/> At least one of the debtors and another</li></ul> <p><input type="checkbox"/> <b>Check if this claim is for a community debt</b></p> <p><b>Is the claim subject to offset?</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> No</li><li><input type="checkbox"/> Yes</li></ul>	<p>Last 4 digits of account number _____</p> <p>When was the debt incurred? _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Contingent</li><li><input type="checkbox"/> Unliquidated</li><li><input type="checkbox"/> Disputed</li><li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li></ul> <p><b>Type of NONPRIORITY unsecured claim:</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> Student loans</li><li><input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims</li><li><input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts</li><li><input type="checkbox"/> Other. Specify _____</li></ul>	\$ _____
4.3	<p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Debtor 1 only</li><li><input type="checkbox"/> Debtor 2 only</li><li><input type="checkbox"/> Debtor 1 and Debtor 2 only</li><li><input type="checkbox"/> At least one of the debtors and another</li></ul> <p><input type="checkbox"/> <b>Check if this claim is for a community debt</b></p> <p><b>Is the claim subject to offset?</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> No</li><li><input type="checkbox"/> Yes</li></ul>	<p>Last 4 digits of account number _____</p> <p>When was the debt incurred? _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Contingent</li><li><input type="checkbox"/> Unliquidated</li><li><input type="checkbox"/> Disputed</li><li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li></ul> <p><b>Type of NONPRIORITY unsecured claim:</b></p> <ul style="list-style-type: none"><li><input type="checkbox"/> Student loans</li><li><input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims</li><li><input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts</li><li><input type="checkbox"/> Other. Specify _____</li></ul>	\$ _____

Part 2: Your NONPRIORITY Unsecured Claims – Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

Input box for claim number

Nonpriority Creditor's Name, Number, Street, City, State, ZIP Code

Who incurred the debt? Check one. Debtor 1 only, Debtor 2 only, Debtor 1 and Debtor 2 only, At least one of the debtors and another. Check if this claim is for a community debt. Is the claim subject to offset? No, Yes

Last 4 digits of account number \_\_\_\_\_ \$ \_\_\_\_\_

When was the debt incurred? \_\_\_\_\_

As of the date you file, the claim is: Check all that apply.

- Contingent, Unliquidated, Disputed, Liquidated and neither contingent nor disputed

Type of NONPRIORITY unsecured claim:

- Student loans, Obligations arising out of a separation agreement or divorce that you did not report as priority claims, Debts to pension or profit-sharing plans, and other similar debts, Other. Specify \_\_\_\_\_

Input box for claim number

Nonpriority Creditor's Name, Number, Street, City, State, ZIP Code

Who incurred the debt? Check one. Debtor 1 only, Debtor 2 only, Debtor 1 and Debtor 2 only, At least one of the debtors and another. Check if this claim is for a community debt. Is the claim subject to offset? No, Yes

Last 4 digits of account number \_\_\_\_\_ \$ \_\_\_\_\_

When was the debt incurred? \_\_\_\_\_

As of the date you file, the claim is: Check all that apply.

- Contingent, Unliquidated, Disputed, Liquidated and neither contingent nor disputed

Type of NONPRIORITY unsecured claim:

- Student loans, Obligations arising out of a separation agreement or divorce that you did not report as priority claims, Debts to pension or profit-sharing plans, and other similar debts, Other. Specify \_\_\_\_\_

Input box for claim number

Nonpriority Creditor's Name, Number, Street, City, State, ZIP Code

Who incurred the debt? Check one. Debtor 1 only, Debtor 2 only, Debtor 1 and Debtor 2 only, At least one of the debtors and another. Check if this claim is for a community debt. Is the claim subject to offset? No, Yes

Last 4 digits of account number \_\_\_\_\_ \$ \_\_\_\_\_

When was the debt incurred? \_\_\_\_\_

As of the date you file, the claim is: Check all that apply.

- Contingent, Unliquidated, Disputed, Liquidated and neither contingent nor disputed

Type of NONPRIORITY unsecured claim:

- Student loans, Obligations arising out of a separation agreement or divorce that you did not report as priority claims, Debts to pension or profit-sharing plans, and other similar debts, Other. Specify \_\_\_\_\_



Part 3: List Others to Be Notified About a Debt That You Already Listed

5. Use this page only if you have others to be notified about your bankruptcy, for a debt that you already listed in Parts 1 or 2. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the original creditor in Parts 1 or 2, then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Parts 1 or 2, list the additional creditors here. If you do not have additional persons to be notified for any debts in Parts 1 or 2, do not fill out or submit this page.

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Name
Number Street
City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line \_\_\_ of (Check one): [ ] Part 1: Creditors with Priority Unsecured Claims
[ ] Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number \_\_\_ \_\_\_ \_\_\_ \_\_\_

Part 4: Add the Amounts for Each Type of Unsecured Claim

6. Total the amounts of certain types of unsecured claims. This information is for statistical reporting purposes only. 28 U.S.C. §159. Add the amounts for each type of unsecured claim.

Total claims from Part 1

6a. Domestic support obligations

6a. \$ \_\_\_\_\_

6b. Taxes and certain other debts you owe the government

6b. \$ \_\_\_\_\_

6c. Claims for death or personal injury while you were intoxicated

6c. \$ \_\_\_\_\_

6d. Other. Add all other priority unsecured claims. Write that amount here.

6d. + \$ \_\_\_\_\_

6e. Total. Add lines 6a through 6d.

6e. \$ \_\_\_\_\_

Total claim

Total claims from Part 2

6f. Student loans

6f. \$ \_\_\_\_\_

6g. Obligations arising out of a separation agreement or divorce that you did not report as priority claims

6g. \$ \_\_\_\_\_

6h. Debts to pension or profit-sharing plans, and other similar debts

6h. \$ \_\_\_\_\_

6i. Other. Add all other nonpriority unsecured claims. Write that amount here.

6i. + \$ \_\_\_\_\_

6j. Total. Add lines 6f through 6i.

6j. \$ \_\_\_\_\_

Total claim

**Fill in this information to identify your case:**

Debtor \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse If filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 106G**

**Schedule G: Executory Contracts and Unexpired Leases**

12/15

**Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the additional page, fill it out, number the entries, and attach it to this page. On the top of any additional pages, write your name and case number (if known).**

**1. Do you have any executory contracts or unexpired leases?**

- No. Check this box and file this form with the court with your other schedules. You have nothing else to report on this form.
- Yes. Fill in all of the information below even if the contracts or leases are listed on *Schedule A/B: Property* (Official Form 106A/B).

**2. List separately each person or company with whom you have the contract or lease. Then state what each contract or lease is for (for example, rent, vehicle lease, cell phone). See the instructions for this form in the instruction booklet for more examples of executory contracts and unexpired leases.**

Person or company with whom you have the contract or lease	State what the contract or lease is for
<p><b>1</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>2</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>3</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>4</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>5</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	

**Additional Page if You Have More Contracts or Leases**

Person or company with whom you have the contract or lease	What the contract or lease is for
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	

**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (if known)

Check if this is an amended filing

## Official Form 106H Schedule H: Your Codebtors

12/15

**Codebtors are people or entities who are also liable for any debts you may have. Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, and number the entries in the boxes on the left. Attach the Additional Page to this page. On the top of any Additional Pages, write your name and case number (if known). Answer every question.**

1. **Do you have any codebtors?** (If you are filing a joint case, do not list either spouse as a codebtor.)

- No  
 Yes

2. **Within the last 8 years, have you lived in a community property state or territory?** (Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.)

- No. Go to line 3.  
 Yes. Did your spouse, former spouse, or legal equivalent live with you at the time?  
 No  
 Yes. In which community state or territory did you live? \_\_\_\_\_. Fill in the name and current address of that person.

\_\_\_\_\_  
 Name of your spouse, former spouse, or legal equivalent

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

\_\_\_\_\_  
 City State ZIP Code

3. **In Column 1, list all of your codebtors. Do not include your spouse as a codebtor if your spouse is filing with you. List the person shown in line 2 again as a codebtor only if that person is a guarantor or cosigner. Make sure you have listed the creditor on Schedule D (Official Form 106D), Schedule E/F (Official Form 106E/F), or Schedule G (Official Form 106G). Use Schedule D, Schedule E/F, or Schedule G to fill out Column 2.**

**Column 1: Your codebtor**

**Column 2: The creditor to whom you owe the debt**

Check all schedules that apply:

3.1

\_\_\_\_\_  
 Name

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

\_\_\_\_\_  
 City State ZIP Code

- Schedule D, line \_\_\_\_\_  
 Schedule E/F, line \_\_\_\_\_  
 Schedule G, line \_\_\_\_\_

3.2

\_\_\_\_\_  
 Name

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

\_\_\_\_\_  
 City State ZIP Code

- Schedule D, line \_\_\_\_\_  
 Schedule E/F, line \_\_\_\_\_  
 Schedule G, line \_\_\_\_\_

3.3

\_\_\_\_\_  
 Name

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

\_\_\_\_\_  
 City State ZIP Code

- Schedule D, line \_\_\_\_\_  
 Schedule E/F, line \_\_\_\_\_  
 Schedule G, line \_\_\_\_\_

Additional Page to List More Codebtors

Column 1: Your codebtor

Column 2: The creditor to whom you owe the debt

Check all schedules that apply:

<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____
<input type="checkbox"/>	Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Schedule D, line _____ <input type="checkbox"/> Schedule E/F, line _____ <input type="checkbox"/> Schedule G, line _____

**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 106Dec**

**Declaration About an Individual Debtor's Schedules**

12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Sign Below

**Did you pay or agree to pay someone who is NOT an attorney to help you fill out bankruptcy forms?**

- No
- Yes. Name of person \_\_\_\_\_ . Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

**Under penalty of perjury, I declare that I have read the summary and schedules filed with this declaration and that they are true and correct.**

**X** \_\_\_\_\_  
Signature of Debtor 1

**X** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY





**Fill in this information to identify your case:**

Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	_____		District of _____
			(State)
Case number	_____		
	(If known)		

Check if this is an amended filing

**Official Form 106Sum**

**Summary of Your Assets and Liabilities and Certain Statistical Information 12/15**

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Fill out all of your schedules first; then complete the information on this form. If you are filing amended schedules after you file your original forms, you must fill out a new *Summary* and check the box at the top of this page.

**Part 1: Summarize Your Assets**

	<b>Your assets</b> Value of what you own
1. <b>Schedule A/B: Property</b> (Official Form 106A/B)	
1a. Copy line 55, Total real estate, from <i>Schedule A/B</i> .....	\$ _____
1b. Copy line 62, Total personal property, from <i>Schedule A/B</i> .....	\$ _____
1c. Copy line 63, Total of all property on <i>Schedule A/B</i> .....	\$ _____

**Part 2: Summarize Your Liabilities**

	<b>Your liabilities</b> Amount you owe
2. <b>Schedule D: Creditors Who Have Claims Secured by Property</b> (Official Form 106D)	
2a. Copy the total you listed in Column A, <i>Amount of claim</i> , at the bottom of the last page of Part 1 of <i>Schedule D</i> .....	\$ _____
3. <b>Schedule E/F: Creditors Who Have Unsecured Claims</b> (Official Form 106E/F)	
3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of <i>Schedule E/F</i> .....	\$ _____
3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of <i>Schedule E/F</i> .....	+ \$ _____
<b>Your total liabilities</b>	\$ _____

**Part 3: Summarize Your Income and Expenses**

4. <b>Schedule I: Your Income</b> (Official Form 106I)	
Copy your combined monthly income from line 12 of <i>Schedule I</i> .....	\$ _____
5. <b>Schedule J: Your Expenses</b> (Official Form 106J)	
Copy your monthly expenses from line 22, Column A, of <i>Schedule J</i> .....	\$ _____

**Part 4:** Answer These Questions for Administrative and Statistical Records

**6. Are you filing for bankruptcy under Chapters 7, 11, or 13?**

- No. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.
- Yes

**7. What kind of debt do you have?**

- Your debts are primarily consumer debts.** *Consumer debts* are those "incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Fill out lines 8-10 for statistical purposes. 28 U.S.C. § 159.
- Your debts are not primarily consumer debts.** You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.

**8. From the *Statement of Your Current Monthly Income* (Official Form 108-1, 109, or 110-1):**  
Copy your total current monthly income from line 11.

\$ \_\_\_\_\_

**9. Copy the following special categories of claims from Part 4, line 6 of *Schedule E/F*.**

**Total claim**

**From Part 4 on *Schedule E/F*, copy the following:**

9a. Domestic support obligations (Copy line 6a.)	\$ _____
9b. Taxes and certain other debts you owe the government. (Copy line 6b.)	\$ _____
9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)	\$ _____
9d. Student loans. (Copy line 6f.)	\$ _____
9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)	\$ _____
9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)	<b>+</b> \$ _____
9g. <b>Total.</b> Add lines 9a through 9f.	\$ _____

## COMMITTEE NOTE

The schedules to be used in cases of individual debtors are revised as part of the Forms Modernization Project, making them easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats. Therefore, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions. The individual debtor schedules are also renumbered, starting with the number 106 and followed by the letter or name of the schedule to distinguish them from the versions to be used in non-individual cases.

**Official Form 106Sum**, *Summary of Your Assets and Liabilities and Certain Statistical Information*, replaces Official Form 6, *Summary of Schedules and Statistical Summary of Certain Liability and Related Data (28 U.S.C. § 159)*, in cases of individual debtors.

The form is reformatted and updated with cross-references indicating the line numbers of specific schedules from which the summary information is to be gathered. In addition, because most filings are now done electronically, the form no longer requires the debtor to indicate which schedules are attached or to state the number of sheets of paper used for the schedules.

**Official Form 106A/B**, *Schedule A/B: Property*, consolidates information about an individual debtor's real and personal property into a single form. It replaces Official Form 6A, *Real Property*, and Official Form 6B, *Personal Property*, in cases of individual debtors. In addition to specific questions about the assets, the form also includes open text fields for providing additional information regarding particular assets when appropriate.

The layout and categories of property on Official Form 106A/B have changed. Instead of dividing property interests into

two categories (real or personal property), the new form uses seven categories likely to be more familiar to non-lawyers: real estate, vehicles, personal household items, financial assets, business-related property, farm- and commercial fishing-related property, and a catch-all category for property that was not listed elsewhere in the form. The new form categories and the examples provided in many of the categories are designed to prompt debtors to be thorough and list all of their interests in property. The debtor may describe generally items of minimal value (such as children's clothes) by adding the value of the items and reporting the total.

Although a particular item of property may fit into more than one category, the instructions for the form explain that it should be listed only once.

In addition, because property that falls within a particular category may not be specifically elicited by the particular line items on the form, the debtor is asked in Parts 3–6 (lines 14, 35, 44, and 51) to specifically identify and value any other property in the category.

In Part 1, *Describe Each Residence, Building, Land, or Other Real Estate You Own or Have an Interest In*, the debtor is asked to state the “current value of the portion you own,” and to also state whether ownership is shared with someone else. In addition, the debtor is asked for the nature of the ownership interest, if known by the debtor. Furthermore, instead of asking for an open-ended description of the property, the form guides the debtor in answering the description question by providing eight options from which to choose: single-family home, duplex or multi-unit building, condominium or cooperative, manufactured or mobile home, land, investment property, timeshare, and other.

Part 2, *Describe Your Vehicles*, also guides the debtor in answering the question, asking for the make, model, year, and mileage of the car or other vehicle. Because mileage is just a general indication of vehicle value, the debtor is not required to list the exact mileage, but instead is prompted to provide the approximate mileage.

Part 3, *Describe Your Personal and Household Items*, simplifies wording, updates categories, and uses more common terms. For example, “Wearing apparel” is changed to “Clothes” and examples include furs, which were previously grouped with jewelry. Firearms, on the other hand, which were previously grouped with sports and other hobbies, are now set out as a separate category. Additionally, because a new Part 6 has been added to separately describe-farm related property, Part 3 includes a category for “Non-farm animals.”

Part 4, *Describe Your Financial Assets*, prompts a listing of the debtor’s financial assets through several questions providing separate space, after each listed type of account or deposit, for the institution or issuer name and the value of the debtor’s interest in the asset. Two new categories of financial assets are added: “Bonds, mutual funds, or publicly traded stocks” and “Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment.”

Part 5, *Describe Any Business-Related Property You Own or Have an Interest In*, provides prompts for listing business-related property such as accounts receivable, inventory, and machinery, and includes a direction to list business-related real estate in Part 1, to avoid listing real estate twice.

Part 6, *Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In*, provides prompts for listing farm- or commercial fishing-related property, such as farm animals, crops, and feed. It also includes a direction to list any farm- or commercial fishing-related real estate in Part 1.

Part 7, *Describe All Property You Own or Have an Interest in That You Did Not List Above*, is a catch-all provision that allows the debtor to report property that is difficult to categorize.

Part 8, *List the Totals of Each Part of this Form*, tabulates the total value of the debtor’s interest in the listed property. The tabulation includes two subtotals, one for real estate, which corresponds to the real property total that was reported on former Official Form 6A. The second subtotal is of Parts 2-7, which

corresponds to the personal property total that was reported on former Official Form 6B.

**Official Form 106C**, *Schedule C: The Property You Claim as Exempt*, replaces Official Form 6C, *Property Claimed as Exempt*, in cases of individual debtors.

Part 1, *Identify the Property You Claim as Exempt*, includes a table to list the property the debtor seeks to exempt, the value of the property owned by the debtor, the amount of the claimed exemption, and the law that allows the exemption. The first column asks for a brief description of the exempt property, and it also asks for the line number where the property is listed on Schedule A/B. The second column asks for the value of the portion of the asset owned by the debtor, rather than the entire asset. The third column asks for the amount, rather than the value, of the exemption claim.

The form has also been changed in light of the Supreme Court's ruling in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010). Entries in the "amount of the exemption you claim" column may now be listed as either a dollar limited amount or as 100% of fair market value, up to any applicable statutory limit. For example, a debtor might claim 100% of fair market value for a home covered by an exemption capped at \$15,000, and that limit would be applicable. This choice would impose no dollar limit where the exemption is unlimited in dollar amount, such as some exemptions for health aids, certain governmental benefits, and tax-exempt retirement funds.

**Official Form 106D**, *Schedule D: Creditors Who Hold Claims Secured by Property*, replaces Official Form 6D, *Creditors Holding Secured Claims*, in cases of individual debtors.

Part 1, *List Your Secured Claims*, now directs the debtor to list only the last four digits of the account number. Part 1 also adds four checkboxes with which to describe the nature of the lien: an agreement the debtor made (such as mortgage or secured car loan); statutory lien (such as tax lien, mechanic's lien); judgment lien from a lawsuit; and other.

The form adds Part 2, *List Others to Be Notified for a Debt That You Already Listed*. The debtor is instructed to use Part 2 if there is a need to notify someone about the bankruptcy filing other than the creditor for a debt listed in Part 1. For example, if a collection agency is trying to collect for a creditor listed in Part 1, the collection agency would be listed in Part 2.

**Official Form 106E/F, Schedule E/F: Creditors Who Have Unsecured Claims**, consolidates information about priority and nonpriority unsecured claims into a single form. It replaces Official Form 6E, *Creditors Holding Unsecured Priority Claims*, and Official Form 6F, *Creditors Holding Unsecured Nonpriority Claims*, in cases of individual debtors.

Although both priority and nonpriority unsecured claims are reported in Official Form 106E/F, the two types of claims are separately grouped so that the total for each type can be reported for case administration and statistical purposes. The form eliminates the question “consideration for claim” and instructs debtors to list claims in the alphabetical order of creditors as much as possible.

Part 1, *List All of Your PRIORITY Unsecured Claims*, includes four checkboxes for identifying the type of priority that applies to the claim: domestic support obligations; taxes and certain other debts owed to the government; claims for death or personal injury while intoxicated; and “other.” The first three categories are required to be separately reported for statistical purposes. If the debtor selects “other,” the debtor must specify the basis of the priority, *e.g.*, wages or employee benefit plan contribution.

Part 2, *List All of Your NONPRIORITY Unsecured Claims*, contains four checkboxes, including three for types of claims that must be separately reported for statistical purposes: student loans; obligations arising out of a separation agreement or divorce not listed as priority claims; and debts to pension or profit-sharing plans and other similar debts. The remaining “other” checkbox treats claims not subject to separate reporting. If the debtor selects “other,” the debtor must specify the basis of the claim.

Part 3, *List Others to Be Notified About a Debt That You Already Listed*, is new. The debtor is instructed to use Part 3 only if there is a need to give notice of the bankruptcy to someone other than a creditor listed in Parts 1 and 2. For example, if a collection agency is trying to collect for a creditor listed in Part 1, the collection agency would be listed in Part 3.

Finally, Part 4, *Add the Amounts for Each Type of Unsecured Claim*, requires the debtor to provide the total amounts of particular types of unsecured claims for statistical reporting purposes and the overall totals of the priority and nonpriority unsecured claims reported in this form.

**Official Form 106G, Schedule G: Executory Contracts and Unexpired Leases**, replaces Official Form 6G, *Executory Contracts and Unexpired Leases*, in cases of individual debtors.

The form is simplified. Instead of requiring the debtor to make multiple assertions about each potential executory contract or unexpired lease, the form simply requires the debtor to identify the name and address of the other party to the contract or lease, and to state what the contract or lease deals with. Definitions and examples of executory contracts and unexpired leases are included in the separate instructions for the form.

An additional page is provided in case the debtor has so many executory contracts and unexpired leases that the available page is not adequate. If the debtor needs to use the additional page, the debtor is required to fill in the entry number.

**Official Form 106H, Schedule H: Your Codebtors**, replaces Official Form 6H, *Codebtors*, in cases of individual debtors.

The form breaks out the questions about whether there are any codebtors, and whether the debtor has lived with a spouse, former spouse or legal equivalent in a community property state in the prior eight years. It also removes Alaska from the listed community property states. Finally, it asks the debtor to indicate where the debt is listed on Schedule D, Schedule E/F or Schedule



G, thereby eliminating the need to list the name and address of the creditor.

**Official Form 106I**, *Schedule I: Your Income*, replaces Official Form 6I, *Your Income*, in cases of individual debtors.

The form is one of an initial set of forms that were published as part of the Forms Modernization Project in 2012. It is renumbered and internal cross references are updated to conform to the new numbering system now being introduced by the Forms Modernization Project.

**Official Form 106J**, *Schedule J: Your Expenses*, replaces Official Form 6J, *Your Expenses*, in cases of individual debtors.

The form is one of an initial set of forms that were published as part of the Forms Modernization Project in 2012. It is renumbered and internal cross references are updated to conform to the new numbering system now being introduced by the Forms Modernization Project.

**Official Form 106Dec**, *Declaration About an Individual Debtor's Schedules*, replaces Official Form 6, *Declaration Concerning Debtor's Schedules*, in cases of individual debtors.

The form, which is to be signed by the debtor and filed with the debtor's schedules, deletes the Declaration and Signature of Bankruptcy Petition Preparer (BPP). Instead, the debtor is directed to complete and file Official Form 119, *Bankruptcy Petition Preparer's Notice, Declaration, and Signature*, if a BPP helped fill out the bankruptcy forms.

Because the form applies only to individual debtors, it no longer contains the Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership. It also deletes from the declaration the phrase "to the best of my knowledge, information, and belief" in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008.



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

Check if this is an amended filing

**Official Form 107**

**Statement of Financial Affairs for Individuals Filing for Bankruptcy**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Give Details About Your Marital Status and Where You Lived Before**

**1. What is your current marital status?**

- Married
- Not married

**2. During the last 3 years, have you lived anywhere other than where you live now?**

- No
- Yes. List all of the places you lived in the last 3 years. Do not include where you live now.

Debtor 1:	Dates Debtor 1 lived there	Debtor 2:	Dates Debtor 2 lived there
		<input type="checkbox"/> Same as Debtor 1	<input type="checkbox"/> Same as Debtor 1
Number _____ Street _____	From _____ To _____	Number _____ Street _____	From _____ To _____
City _____ State _____ ZIP Code _____		City _____ State _____ ZIP Code _____	
		<input type="checkbox"/> Same as Debtor 1	<input type="checkbox"/> Same as Debtor 1
Number _____ Street _____	From _____ To _____	Number _____ Street _____	From _____ To _____
City _____ State _____ ZIP Code _____		City _____ State _____ ZIP Code _____	

**3. Within the last 8 years, did you ever live with a spouse or legal equivalent in a community property state or territory? (Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.)**

- No
- Yes. Make sure you fill out *Schedule H: Your Codebtors* (Official Form 106H).

**Part 2: Explain the Sources of Your Income**

**4. Did you have any income from employment or from operating a business during this year or the two previous calendar years?**

Fill in the total amount of income you received from all jobs and all businesses, including part-time activities.

If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Check all that apply.	Gross income (before deductions and exclusions)	Sources of income Check all that apply.	Gross income (before deductions and exclusions)
<b>From January 1 of current year until the date you filed for bankruptcy:</b>	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
<b>For last calendar year:</b> (January 1 to December 31, _____) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
<b>For the calendar year before that:</b> (January 1 to December 31, _____) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____

**5. Did you receive any other income during this year or the two previous calendar years?**

Include income regardless of whether that income is taxable. Examples of *other income* are alimony; child support; Social Security, unemployment, and other public benefit payments; pensions; rental income; interest; dividends; money collected from lawsuits; royalties; and gambling and lottery winnings. If you are filing a joint case and you have income that you received together, list it only once under Debtor 1.

List each source and the gross income from each source separately. Do not include income that you listed in line 4.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)
<b>From January 1 of current year until the date you filed for bankruptcy:</b>	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
<b>For last calendar year:</b> (January 1 to December 31, _____) YYYY	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
<b>For the calendar year before that:</b> (January 1 to December 31, _____) YYYY	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____

Part 3: List Certain Payments You Made Before You Filed for Bankruptcy

6. Are either Debtor 1's or Debtor 2's debts primarily consumer debts?

No. Neither Debtor 1 nor Debtor 2 has primarily consumer debts. Consumer debts are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$6,225\* or more?

No. Go to line 7.

Yes. List below each creditor to whom you paid a total of \$6,225\* or more in one or more payments and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

\* Subject to adjustment on 4/01/16 and every 3 years after that for cases filed on or after the date of adjustment.

Yes. Debtor 1 or Debtor 2 or both have primarily consumer debts.

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$600 or more?

No. Go to line 7.

Yes. List below each creditor to whom you paid a total of \$600 or more and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

Table with 4 columns: Dates of payment, Total amount paid, Amount you still owe, Was this payment for... (Mortgage, Car, Credit card, Loan repayment, Suppliers or vendors, Other). It contains three rows of creditor information for reporting.

**7. Within 1 year before you filed for bankruptcy, did you make a payment on a debt you owed anyone who was an insider?**

*Insiders* include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20% or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Include payments for domestic support obligations, such as child support and alimony.

- No
- Yes. List all payments to an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment
_____ Insider's Name  _____ Number Street  _____  _____ City State ZIP Code	_____	\$ _____	\$ _____	
_____ Insider's Name  _____ Number Street  _____  _____ City State ZIP Code	_____	\$ _____	\$ _____	

**8. Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an insider?**

Include payments on debts guaranteed or cosigned by an insider.

- No
- Yes. List all payments that benefited an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment
_____ Insider's Name  _____ Number Street  _____  _____ City State ZIP Code	_____	\$ _____	\$ _____	Include creditor's name
_____ Insider's Name  _____ Number Street  _____  _____ City State ZIP Code	_____	\$ _____	\$ _____	

Part 4: Identify Legal Actions, Repossessions, and Foreclosures

9. Within 1 year before you filed for bankruptcy, were you a party in any lawsuit, court action, or administrative proceeding?

List all such matters, including personal injury cases, small claims actions, divorces, collection suits, paternity actions, support or custody modifications, and contract disputes.

- No
Yes. Fill in the details.

Table with 3 columns: Nature of the case, Court or agency, Status of the case. Includes fields for Case title, Case number, Court Name, Number Street, City State ZIP Code, and checkboxes for Pending, On appeal, Concluded.

10. Within 1 year before you filed for bankruptcy, was any of your property repossessed, foreclosed, garnished, attached, seized, or levied?

Check all that apply and fill in the details below.

- No. Go to line 11.
Yes. Fill in the information below.

Table with 3 columns: Describe the property, Date, Value of the property. Includes fields for Creditor's Name, Number Street, City State ZIP Code, and checkboxes for Property was repossessed, foreclosed, garnished, attached, seized, or levied.

11. Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off any amounts from your accounts or refuse to make a payment because you owed a debt?

- No
- Yes. Fill in the details.

	Describe the action the creditor took	Date action was taken	Amount
Creditor's Name <hr/> Number Street <hr/> City State ZIP Code			\$
	Last 4 digits of account number: XXXX-__ __ __ __		

12. Within 1 year before you filed for bankruptcy, was any of your property in the possession of an assignee for the benefit of creditors, a court-appointed receiver, a custodian, or another official?

- No
- Yes

**Part 5:** List Certain Gifts and Contributions

13. Within 2 years before you filed for bankruptcy, did you give any gifts with a total value of more than \$600 per person?

- No
- Yes. Fill in the details for each gift.

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
Person to Whom You Gave the Gift <hr/> Number Street <hr/> City State ZIP Code Person's relationship to you _____			\$
			\$

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
Person to Whom You Gave the Gift <hr/> Number Street <hr/> City State ZIP Code Person's relationship to you _____			\$
			\$



**14. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?**

- No
- Yes. Fill in the details for each gift or contribution.

Gifts or contributions to charities that total more than \$600	Describe what you contributed	Date you contributed	Value
Charity's Name <hr/> Number Street <hr/> City State ZIP Code		_____	\$ _____
		_____	\$ _____

**Part 6:** List Certain Losses

**15. Within 1 year before you filed for bankruptcy or since you filed for bankruptcy, did you lose anything because of theft, fire, other disaster, or gambling?**

- No
- Yes. Fill in the details.

Describe the property you lost and how the loss occurred	Describe any insurance coverage for the loss	Date of your loss	Value of property lost
	Include the amount that insurance has paid. List pending insurance claims on line 33 of <i>Schedule A/B: Property</i> .	_____	\$ _____

**Part 7:** List Certain Payments or Transfers

**16. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?**

Include any attorneys, bankruptcy petition preparers, or credit counseling agencies for services required in your bankruptcy.

- No
- Yes. Fill in the details.

Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Person Who Was Paid <hr/> Number Street <hr/> City State ZIP Code Email or website address Person Who Made the Payment, if Not You	_____	\$ _____
	_____	\$ _____

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Person Who Was Paid <hr/> Number Street <hr/> City State ZIP Code <hr/> Email or website address <hr/> Person Who Made the Payment, if Not You <hr/>	<div style="border: 1px solid black; height: 150px;"></div>	_____	\$ _____
		_____	\$ _____

17. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone who promised to help you deal with your creditors or to make payments to your creditors?  
Do not include any payment or transfer that you listed on line 16.

- No
- Yes. Fill in the details.

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Person Who Was Paid <hr/> Number Street <hr/> City State ZIP Code <hr/>	<div style="border: 1px solid black; height: 100px;"></div>	_____	\$ _____
		_____	\$ _____

18. Within 2 years before you filed for bankruptcy, did you sell, trade, or otherwise transfer any property to anyone, other than property transferred in the ordinary course of your business or financial affairs?  
Include both outright transfers and transfers made as security (such as the granting of a security interest or mortgage on your property).  
Do not include gifts and transfers that you have already listed on this statement.

- No
- Yes. Fill in the details.

	Description and value of property transferred	Describe any property or payments received or debts paid in exchange	Date transfer was made
Person Who Received Transfer <hr/> Number Street <hr/> City State ZIP Code <hr/> Person's relationship to you _____ <hr/>	<div style="border: 1px solid black; height: 150px;"></div>	<div style="border: 1px solid black; height: 150px;"></div>	_____
Person Who Received Transfer <hr/> Number Street <hr/> City State ZIP Code <hr/> Person's relationship to you _____ <hr/>			_____

19. Within 10 years before you filed for bankruptcy, did you transfer any property to a self-settled trust or similar device of which you are a beneficiary? (These are often called asset-protection devices.)

- No
Yes. Fill in the details.

Table with 2 columns: Description and value of the property transferred, Date transfer was made. Includes fields for Name of trust.

Part 8: List Certain Financial Accounts, Instruments, Safe Deposit Boxes, and Storage Units

20. Within 1 year before you filed for bankruptcy, were any financial accounts or instruments held in your name, or for your benefit, closed, sold, moved, or transferred?

- No
Yes. Fill in the details.

Table with 4 columns: Last 4 digits of account number, Type of account or instrument, Date account was closed, sold, moved, or transferred, Last balance before closing or transfer. Includes fields for Name of Financial Institution, Number, Street, City, State, ZIP Code.

21. Do you now have, or did you have within 1 year before you filed for bankruptcy, any safe deposit box or other depository for securities, cash, or other valuables?

- No
Yes. Fill in the details.

Table with 3 columns: Who else had access to it?, Describe the contents, Do you still have it?. Includes fields for Name of Financial Institution, Name, Number, Street, City, State, ZIP Code.

22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?

- No
- Yes. Fill in the details.

Who else has or had access to it?		Describe the contents	Do you still have it?
Name of Storage Facility	Name		<input type="checkbox"/> No <input type="checkbox"/> Yes
Number Street	Number Street		
City State ZIP Code	City State ZIP Code		
City State ZIP Code	City State ZIP Code		

**Part 9:** Identify Property You Hold or Control for Someone Else

23. Do you hold or control any property that someone else owns? Include any property you borrowed from, are storing for, or hold in trust for someone.

- No
- Yes. Fill in the details.

Where is the property?	Describe the property	Value
Owner's Name Number Street City State ZIP Code	Number Street City State ZIP Code	\$ _____

**Part 10:** Give Details About Environmental Information

For the purpose of Part 10, the following definitions apply:

- **Environmental law** means any federal, state, or local statute or regulation concerning pollution, contamination, releases of hazardous or toxic substances, wastes, or material into the air, land, soil, surface water, groundwater, or other medium, including statutes or regulations controlling the cleanup of these substances, wastes, or material.
- **Site** means any location, facility, or property as defined under any environmental law, whether you now own, operate, or utilize it or used to own, operate, or utilize it, including disposal sites.
- **Hazardous material** means anything an environmental law defines as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, contaminant, or similar term.

Report all notices, releases, and proceedings that you know about, regardless of when they occurred.

24. Has any governmental unit notified you that you may be liable or potentially liable under or in violation of an environmental law?

- No
- Yes. Fill in the details.

Governmental unit	Environmental law, if you know it	Date of notice
Name of site Number Street City State ZIP Code	Governmental unit Number Street City State ZIP Code	_____

25. Have you notified any governmental unit of any release of hazardous material?

- No
Yes. Fill in the details.

Form with columns: Governmental unit, Environmental law, if you know it, Date of notice. Includes fields for Name of site, Number Street, City, State, ZIP Code.

26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- No
Yes. Fill in the details.

Form with columns: Court or agency, Nature of the case, Status of the case. Includes fields for Case title, Case number, Court Name, Number Street, City, State, ZIP Code, and checkboxes for Pending, On appeal, Concluded.

Part 11: Give Details About Your Business or Connections to Any Business

27. Within 4 years before you filed for bankruptcy, did you own a business or have any of the following connections to any business?

- A sole proprietor or self-employed in a trade, profession, or other activity, either full-time or part-time
A member of a limited liability company (LLC) or limited liability partnership (LLP)
A partner in a partnership
An officer, director, or managing executive of a corporation
An owner of at least 5% of the voting or equity securities of a corporation
No. None of the above applies. Go to Part 12.
Yes. Check all that apply above and fill in the details below for each business.

Form for business details with columns: Describe the nature of the business, Employer Identification number, Name of accountant or bookkeeper, Dates business existed. Includes fields for Business Name, Number Street, City, State, ZIP Code, EIN, and From To dates.



## COMMITTEE NOTE

Official Form 107, *Statement of Financial Affairs for Individuals Filing for Bankruptcy*, which applies only in cases of individual debtors, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats. Therefore, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions. In addition, the form is renumbered to distinguish it from the version to be used in non-individual cases, and stylistic changes were made throughout the form.

The form is derived from former Official Form 7, *Statement of Financial Affairs*. The new form uses eleven sections likely to be more understandable to non-lawyers, groups questions of a similar nature together, and eliminates questions unrelated to individual debtors. The new form deletes the instruction, previously found in many questions, that married debtors filing under chapter 12 or chapter 13 must include information applicable to their spouse, even if their spouse is not filing with them, unless the spouses are separated. This change was made because a non-filing spouse's general financial affairs are not relevant to the debtor's bankruptcy case.

Part 1, *Give Details About Where You Lived Before*, moves the questions regarding the debtor's prior addresses, as well as residences in a community property state, to the beginning of the form. The form eliminates the "name used" question in reference to prior addresses. Also, the debtor is no longer required to list the name of a spouse or former spouse who lived with the debtor in a community property state since that information will be provided in Official Form 106F.

Part 2, *Explain the Sources of Your Income*, consolidates the questions regarding income, adding "wages, commissions, bonuses, tips" as a category for sources of income, and it

eliminates the option to report income on a fiscal year basis. In addition, the form provides examples of types of “other income.” The time period is clarified to indicate that the prior two years means two calendar years, plus the portion of the calendar year in which the bankruptcy is filed.

Part 3, *List Certain Payments You Made Before You Filed for Bankruptcy*, includes questions related to payments made in the 90 days prior to bankruptcy, with a separate question for payments made to insiders within one year before filing for bankruptcy. The statutory definition of consumer debt is provided. The question regarding the nature of the debtor’s debts requires the debtor to use checkboxes to indicate whether or not they are primarily consumer debts. The form instructs debtors not to include payments for domestic support obligations in the section regarding insider payments. The form provides a separate question regarding payments or transfers on account of a debt that benefited an insider. For both questions regarding payments to insiders, the debtor is required to provide a reason for the payment. Partnerships of which the debtor is a general partner have been added to the examples of “insiders.”

Part 4, *Identify Legal Actions, Repossessions, and Foreclosures*, consolidates questions regarding actions against the debtor’s property. The form provides examples of types of legal actions, and requires the debtor to indicate the status of any action. The form adds the requirements that a debtor include any property levied on within a year of filing for bankruptcy and that the debtor provide the last four digits of any account number for any setoffs. Also, a debtor must list any assignment for the benefit of creditors made within one year of filing for bankruptcy.

Part 5, *List Certain Gifts and Contributions*, changes the reporting threshold to \$600 per person or charity and increases the look-back period from one to two years.

Part 6, *List Certain Losses*, clarifies how to report insurance coverage for losses. It provides that the debtor must include on this form amounts of insurance that have been paid, but must list pending insurance claims on Official Form 106A/B.



Part 7, *List Certain Payments or Transfers*, includes questions regarding payments or transfers of property by the debtor. The question regarding payments or transfers to anyone who was consulted about seeking bankruptcy or preparing a bankruptcy petition requires the email or website address of the person who was paid, as well as the name of the person who made the payment if it was not the debtor. There is a separate question asked about payments or transfers to anyone who promised to help the debtor deal with creditors or make payments to creditors, reminding the debtor not to include any payments or transfers already listed. Also, the debtor must list any transfers of property, outright or for security purposes, made within two years of filing for bankruptcy, unless the transfer was made in the ordinary course of the debtor's business. There is a reminder not to list gifts or other transfers already included elsewhere on the form. The question regarding self-settled trusts adds an explanation that such trusts are often referred to as asset-protection devices.

Part 8, *List Certain Financial Accounts, Safety Deposit Boxes, and Storage Units*, adds money market accounts to the examples provided for the question regarding financial accounts or instruments and removes "other instruments" from the examples. Also, the form adds a question about whether the debtor has or had property stored in a storage unit within one year of filing for bankruptcy. The debtor must provide the name and address of the storage facility and anyone who has or had access to the unit, as well as a description of the contents and whether the debtor still has access to the storage unit. Storage units that are part of the building in which the debtor resides are excluded.

Part 9, *Identify Property You Hold or Control for Someone Else*, instructs that the debtor should include any property that the debtor borrowed from, is storing for, or is holding in trust for someone.

Part 10, *Give Details About Environmental Information*, requires the debtor to list the case title and nature of the case for any judicial or administrative proceeding under any environmental law and to indicate the status of the case.

Part 11, *Give Details About Your Business or Connections to Any Business*, eliminates instructions that apply only to corporations and partnerships. The debtor must indicate if, within four years (previously six years) before filing for bankruptcy, the debtor owned a business or had certain connections to a business, with five categories of businesses provided as checkboxes. If the debtor has a connection to a business, the debtor must list the name, address, nature, and Employer Identification number of the business, the dates the business existed, and the name of an accountant or bookkeeper for the business. Accounting information requested is truncated; the debtor is simply required to provide the name of the business bookkeeper or accountant.

Part 12, *Sign Below*, eliminates the signature boxes for a partnership or corporation and a non-attorney bankruptcy petition preparer. Also, the debtor is asked to indicate through checkboxes whether additional pages are attached to the form.

**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(if known)

Check if this is an amended filing

**Official Form 112**

**Statement of Intention for Individuals Filing Under Chapter 7**

12/15

If you are an individual filing under chapter 7, you must fill out this form if:

- creditors have claims secured by your property, or
- you have leased personal property and the lease has not expired.

You must file this form with the court within 30 days after you file your bankruptcy petition or by the date set for the meeting of creditors, whichever is earlier, unless the court extends the time for cause. You must also send copies to the creditors and lessors you list on the form.

If two married people are filing together in a joint case, both are equally responsible for supplying correct information. Both debtors must sign and date the form.

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).

**Part 1: List Your Creditors Who Hold Secured Claims**

1. For any creditors that you listed in Part 1 of *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D), fill in the information below.

Identify the creditor and the property that is collateral	What do you intend to do with the property that secures a debt?	Did you claim the property as exempt on Schedule C?
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes

**Part 2:** List Your Unexpired Personal Property Leases

For any unexpired personal property lease that you listed in *Schedule G: Executory Contracts and Unexpired Leases (Official Form 106G)*, fill in the information below. Do not list real estate leases. *Unexpired leases* are leases that are still in effect; the lease period has not yet ended. You may assume an unexpired personal property lease if the trustee does not assume it. 11 U.S.C. § 365(p)(2).

<b>Describe your unexpired personal property leases</b>	<b>Will the lease be assumed?</b>
---	-----------------------------------

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

Lessor's name: _____	<input type="checkbox"/> No
	<input type="checkbox"/> Yes

Description of leased property: \_\_\_\_\_

**Part 3:** Sign Below

Under penalty of perjury, I declare that I have indicated my intention about any property of my estate that secures a debt and any personal property that is subject to an unexpired lease.

**X** \_\_\_\_\_  
 Signature of Debtor 1

**X** \_\_\_\_\_  
 Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY

## COMMITTEE NOTE

Official Form 112, *Statement of Intention for Individuals Filing Under Chapter 7*, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered, and stylistic changes are made throughout the form.

The form is derived from former Official Form 8, *Chapter 7 Individual Debtor's Statement of Intention*. The new form uses language likely to be understandable to non-lawyers. In addition, the instructions are more extensive, advising an individual Chapter 7 debtor that the form must be completed and filed within 30 days and that the debtor must deliver copies of the form to creditors and lessors listed on the form.

Part 1, *Your Creditors Who Hold Secured Claims*, refers to entering into a "Reaffirmation Agreement" rather than asking whether the debtor intends to "reaffirm the debt." In addition, the debtor is asked if the property is claimed as exempt on Schedule C (Official Form 106C).

Part 2, *List Your Unexpired Personal Property Leases*, defines unexpired leases and explains that a debtor may assume an unexpired personal property lease if the trustee does not assume it.



**Fill in this information to identify the case:**

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_ Chapter \_\_\_\_\_  
 (If known)

**Official Form 119****Bankruptcy Petition Preparer's Notice, Declaration, and Signature****12/15**

**Bankruptcy petition preparers as defined in 11 U.S.C. § 110 must fill out this form every time they help prepare documents that are filed in the case. If more than one bankruptcy petition preparer helps with the documents, each must sign in Part 3. A bankruptcy petition preparer who does not comply with the provisions of title 11 of the United States Code and the Federal Rules of Bankruptcy Procedure may be fined, imprisoned, or both. 11 U.S.C. § 110; 18 U.S.C. § 156.**

**Part 1: Notice to Debtor**

**Bankruptcy petition preparers must give the debtor a copy of this form and have the debtor sign it before they prepare any documents for filing or accept any compensation. A signed copy of this form must be filed with any document prepared.**

Bankruptcy petition preparers are not attorneys and may not practice law or give you legal advice, including the following:

- whether to file a petition under the Bankruptcy Code (11 U.S.C. § 101 et seq.);
- whether filing a case under chapter 7, 11, 12, or 13 is appropriate;
- whether your debts will be eliminated or discharged in a case under the Bankruptcy Code;
- whether you will be able to keep your home, car, or other property after filing a case under the Bankruptcy Code;
- what tax consequences may arise because a case is filed under the Bankruptcy Code;
- whether any tax claims may be discharged;
- whether you may or should promise to repay debts to a creditor or enter into a reaffirmation agreement;
- how to characterize the nature of your interests in property or your debts; or
- what procedures and rights apply in a bankruptcy case.

**The bankruptcy petition preparer \_\_\_\_\_ has notified me of  
 Name  
 any maximum allowable fee before preparing any document for filing or accepting any fee.**

\_\_\_\_\_  
 Signature of Debtor 1 acknowledging receipt of this notice Date MM / DD / YYYY

\_\_\_\_\_  
 Signature of Debtor 2, acknowledging receipt of this notice Date MM / DD / YYYY

**Part 2: Declaration and Signature of the Bankruptcy Petition Preparer**

**Under penalty of perjury, I declare that:**

- I am a bankruptcy petition preparer or the officer, principal, responsible person, or partner of a bankruptcy petition preparer;
- I or my firm prepared the documents listed below and gave the debtor a copy of them and the *Notice to Debtor by Bankruptcy Petition Preparer* as required by 11 U.S.C. §§ 110(b), 110(h), and 342(b); and
- if rules or guidelines are established according to 11 U.S.C. § 110(h) setting a maximum fee for services that bankruptcy petition preparers may charge, I or my firm notified the debtor of the maximum amount before preparing any document for filing or before accepting any fee from the debtor.

Printed name \_\_\_\_\_ Title, if any \_\_\_\_\_ Firm name, if it applies \_\_\_\_\_  
 \_\_\_\_\_  
 Number \_\_\_\_\_ Street \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_ Contact phone \_\_\_\_\_

**I or my firm prepared the documents checked below and the completed declaration is made a part of each document that I check:**  
 (Check all that apply.)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Voluntary Petition (Form 101)   | <input type="checkbox"/> Schedule I (Form 106I)   | <input type="checkbox"/> Chapter 11 Statement of Your Current Monthly Income (Form 109)  |
| <input type="checkbox"/> Statement About Your Social Security Numbers (Form 121)                       | <input type="checkbox"/> Schedule J (Form 106J)   | <input type="checkbox"/> Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (Form 110-1) |
| <input type="checkbox"/> Your Assets and Liabilities and Certain Statistical Information (Form 106Sum) | <input type="checkbox"/> Declaration About an Individual Debtor's Schedules (Form 106Dec)                   | <input type="checkbox"/> Chapter 13 Calculation of Your Disposable Income (Form 110-2)   |
| <input type="checkbox"/> Schedule A/B (Form 106A/B)  | <input type="checkbox"/> Statement of Financial Affairs (Form 107)  | <input type="checkbox"/> Application to Pay Filing Fee in Installments (Form 103A)   |
| <input type="checkbox"/> Schedule C (Form 106C)  | <input type="checkbox"/> Statement of Intention for Individuals Filing Under Chapter 7 (Form 112)           | <input type="checkbox"/> Application to Have Chapter 7 Filing Fee Waived (Form 103B)   |
| <input type="checkbox"/> Schedule D (Form 106D)  | <input type="checkbox"/> Chapter 7 Statement of Your Current Monthly Income (Form 108-1)                    | <input type="checkbox"/> A list of names and addresses of all creditors ( <i>creditor or mailing matrix</i> )                  |
| <input type="checkbox"/> Schedule E/F (Form 106E/F)  | <input type="checkbox"/> Statement of Exemption from Presumption of Abuse Under § 707(b)(2) (Form 108-1Sup) | <input type="checkbox"/> Other _____   |
| <input type="checkbox"/> Schedule G (Form 106G)  | <input type="checkbox"/> Chapter 7 Means Test Calculation (Form 108-2)                                      |  |
| <input type="checkbox"/> Schedule H (Form 106H)  |   |  |

Bankruptcy petition preparers must sign and give their Social Security numbers. If more than one bankruptcy petition preparer prepared the documents to which this declaration applies, the signature and Social Security number of each preparer must be provided. 11 U.S.C. § 110.

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner \_\_\_\_\_ Social Security number of person who signed \_\_\_\_\_ Date \_\_\_\_\_  
 MM / DD / YYYY

Printed name \_\_\_\_\_

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner \_\_\_\_\_ Social Security number of person who signed \_\_\_\_\_ Date \_\_\_\_\_  
 MM / DD / YYYY

Printed name \_\_\_\_\_



## COMMITTEE NOTE

Official Form 119, *Bankruptcy Petition Preparer's Notice, Declaration, and Signature*, applies only in cases of individual debtors. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered, and stylistic changes are made throughout the form.

The form is derived from former Official Form 19, *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer*. An instruction is added to the form that provides statutory citations. Filers are advised that if more than one bankruptcy petition preparer helped with the documents, each must sign the form.

Part 1, *Notice to Debtor*, is moved to the beginning of the form and revised. An instruction is added that bankruptcy petition preparers must give the debtor a copy of the form and have the debtor sign it before they prepare any documents for filing or accept compensation, and that the form must be filed with any document prepared. It warns the debtor that bankruptcy petition preparers are not attorneys and may not practice law or give legal advice, with a list of examples of advice that may not be provided by a bankruptcy petition preparer. The signature line of this part includes a statement that the debtor acknowledges receipt of the notice.

Part 2, *Declaration and Signature of the Bankruptcy Petition Preparer*, revises the declaration by the bankruptcy petition preparer to include an officer, principal, responsible person, or partner of a bankruptcy petition preparer. The bankruptcy petition preparer must provide a firm name, if applicable, as well as a contact phone, and must indicate which documents the bankruptcy petition preparer prepared from a list of documents. An "other" option is provided for any additional documents. The signature line includes spaces for the bankruptcy petition preparer to enter a social security number, and language

regarding an officer, principal, responsible person, or partner of the  
bankruptcy petition preparer.

**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
State

Case number (If known): \_\_\_\_\_

Draft March 14, 2014

**Official Form 121**

**Statement About Your Social Security Numbers**

12/15

Use this form to tell the court about any Social Security or federal Individual Taxpayer Identification numbers you have used. Do not file this form as part of the public case file. This form must be submitted separately and must not be included in the court's public electronic records. Please consult local court procedures for submission requirements.

To protect your privacy, the court will not make this form available to the public. You should not include a full Social Security Number or Individual Taxpayer Number on any other document filed with the court. The court will make only the last four digits of your numbers known to the public. However, the full numbers will be available to your creditors, the U.S. Trustee or bankruptcy administrator, and the trustee assigned to your case.

Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**Part 1: Tell the Court About Yourself and Your spouse if Your Spouse is Filing With You**

**For Debtor 1:**

**For Debtor 2 (Only If Spouse Is Filing):**

**1. Your name**

First name \_\_\_\_\_  
Middle name \_\_\_\_\_  
Last name \_\_\_\_\_

First name \_\_\_\_\_  
Middle name \_\_\_\_\_  
Last name \_\_\_\_\_

**Part 2: Tell the Court About all of Your Social Security or Federal Individual Taxpayer Identification Numbers**

**2. All Social Security Numbers you have used**

\_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_  
\_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

\_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_  
\_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

You do not have a Social Security number.

You do not have a Social Security number.

**3. All federal Individual Taxpayer Identification Numbers (ITIN) you have used**

9 \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_  
9 \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

9 \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_  
9 \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

You do not have an ITIN.

You do not have an ITIN.

**Part 3: Sign Below**

Under penalty of perjury, I declare that the information I have provided in this form is true and correct.

Under penalty of perjury, I declare that the information I have provided in this form is true and correct.

**x** \_\_\_\_\_  
Signature of Debtor 1

**x** \_\_\_\_\_  
Signature of Debtor 2

Date \_\_\_\_\_  
MM / DD / YYYY

Date \_\_\_\_\_  
MM / DD / YYYY



## COMMITTEE NOTE

Official Form 121, *Statement About Your Social Security Numbers*, is revised as part of the Forms Modernization Project. The form, which applies only in cases of individual debtors, replaces former Official Form 21, *Statement of Social Security Number(s)*. It is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations and partnerships.

To make Form 121 easier to understand and complete, the form is divided into three sections, and directions on the form are simplified. The debtors' Employer Tax-Identification number (EIN) is eliminated from the form, and the debtor's name is moved from the caption to the body of the form.



**Information to identify the case:**

Debtor 1 \_\_\_\_\_ Last 4 digits of Social Security number or ITIN \_\_\_\_\_  
 First Name Middle Name Last Name  
 EIN \_\_\_\_ - \_\_\_\_\_

Debtor 2 \_\_\_\_\_ Last 4 digits of Social Security number or ITIN \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name  
 EIN \_\_\_\_ - \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number: \_\_\_\_\_

## Order of Discharge

**IT IS ORDERED:** A discharge under 11 U.S.C. § 727 is granted to:

\_\_\_\_\_ [\_\_\_\_\_]  
 [include all names used by each debtor, including trade names, within the 8 years prior to the filing of the petition]

\_\_\_\_\_  
 MM / DD / YYYY

**By the court:** \_\_\_\_\_  
 United States Bankruptcy Judge

### Explanation of Bankruptcy Discharge in a Chapter 7 Case

This order does not close or dismiss the case, and it does not determine how much money, if any, the trustee will pay creditors.

This order does not prevent debtors from paying any debt voluntarily or from paying reaffirmed debts according to the reaffirmation agreement.  
11 U.S.C. § 524(c), (f).

#### **Creditors cannot collect discharged debts**

This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors damages and attorney's fees.

#### **Most debts are discharged**

Most debts are covered by the discharge, but not all. Generally a discharge removes the debtors' personal liability for debts owed before the debtors' bankruptcy case was filed.

Also, if this case began under a different chapter of the Bankruptcy Code and was later converted to chapter 7, debts owed before the conversion are discharged.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

**For more information, see page 2 ►**

**Some debts are not discharged**

Examples of some debts that are not discharged are:

- debts that are domestic support obligations;
- debts for most student loans;
- debts for most taxes;
- debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;
- debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- some debts which the debtors did not properly list;
- debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and
- debts for death or personal injury caused by operating a vehicle while intoxicated.

Also, debts covered by a valid reaffirmation agreement are not discharged.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

**This information is only a general summary of the bankruptcy discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.**



## COMMITTEE NOTE

Official Form 318, *Order of Discharge*, is revised and renumbered as part of the Forms Modernization Project. The form is used to issue a discharge in chapter 7 cases filed by individuals or joint debtors. It replaces former Official Form 18, *Discharge of Debtor*, Director's Procedural Form 18J, *Discharge of Joint Debtors*, and Director's Procedural Form 18JO, *Discharge of One Joint Debtor*.

To make the discharge order and the explanation of it easier to read and understand, legal terms are explained more fully or replaced with commonly understood terms, and the form is reformatted.

Reaffirmed debts are explained more fully, and readers are informed that a discharge will not stop creditors from collecting debts from any property in which they have a valid lien. In addition, readers are advised that the discharge does not stop creditors from collecting from anyone else who is liable on the debt, such as a cosigner on the loan or an insurance company.

Director's Procedural Forms 18J and 18JO are no longer needed because Form 318 specifies the names of the debtors, or debtor, to whom the discharge is issued. Any alternate names of the debtor or debtors appear in the order not in the information box at the top of the form.



Fill in this information to identify the case:

Draft February 25, 2014

Debtor 1 \_\_\_\_\_  
 First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)

Case number \_\_\_\_\_  
 (If known)

Official Form 423

Certification About a Financial Management Course

12/15

If you are an individual, you must take an approved course about personal financial management if:

- you filed for bankruptcy under chapter 7 or 13, or
- you filed for bankruptcy under chapter 11 and § 1141 (d)(3) does not apply.

In a joint case, each debtor must take the course. 11 U.S.C. §§ 727(a)(11) and 1328(g).

After you finish the course, the provider will give you a certificate. The provider may notify the court that you have completed the course. If the provider does notify the court, you need not file this form. If the provider does not notify the court, then Debtor 1 and Debtor 2 must each file this form with the certificate number before your debts will be discharged.

- If you filed under chapter 7 and you need to file this form, file it within 60 days after the first date set for the meeting of creditors under § 341 of the Bankruptcy Code.
- If you filed under chapter 11 or 13 and you need to file this form, file it before you make the last payment that your plan requires or before you file a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Bankruptcy Code. Fed. R. Bankr. P. 1007(c).

In some cases, the court can waive the requirement to take the financial management course. To have the requirement waived, you must file a motion with the court and obtain a court order.

Part 1: Tell the Court About the Required Course

You must check one:

I completed an approved course in personal financial management:

Date I took the course \_\_\_\_\_  
MM / DD / YYYY

Name of approved provider \_\_\_\_\_

Certificate number \_\_\_\_\_

I am not required to complete a course in personal financial management because the court has granted my motion for a waiver of the requirement based on (check one):

- Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
- Disability.** My physical disability causes me to be unable to complete a course in personal financial management in person, by phone, or through the internet, even after I reasonably tried to do so.
- Active duty.** I am currently on active military duty in a military combat zone.
- Residence.** I live in a district in which the United States trustee (or bankruptcy administrator) has determined that the approved instructional courses cannot adequately meet my needs.

Part 2: Sign Here

I certify that the information I have provided is true and correct.

Signature of debtor named on certificate \_\_\_\_\_

Printed name of debtor \_\_\_\_\_

Date \_\_\_\_\_  
MM / DD / YYYY



## COMMITTEE NOTE

Official Form 423, *Certification About a Financial Management Course*, is revised as part of the Forms Modernization Project. The form replaces former Official Form 23, *Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management*. Form 423 is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations and partnerships.

To make Form 423 easier to understand, legal terms are explained more fully or replaced with commonly understood terms, and the form is reformatted. Part 1, *Tell the Court About the Required Course*, provides definitions for “incapacity” and “disability,” rather than providing statutory citations.

A statement is added that, in some cases, the court can waive the requirement to complete the financial management course. To have the requirement waived, the debtor must file a motion with the court and obtain a court order.



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

Draft March 31, 2014

**Official Form 427**  
**Cover Sheet for Reaffirmation Agreement**

12/14

**Anyone who is a party to a reaffirmation agreement may fill out and file this form. Fill it out completely, attach it to the reaffirmation agreement, and file the documents within the time set under Bankruptcy Rule 4008.**

**Part 1: Explain the Repayment Terms of the Reaffirmation Agreement**

1. **Who is the creditor?** \_\_\_\_\_  
Name of the creditor

---

2. **How much is the debt?** On the date that the bankruptcy case is filed \$ \_\_\_\_\_  
 To be paid under the reaffirmation agreement \$ \_\_\_\_\_  
 \$ \_\_\_\_\_ per month for \_\_\_\_\_ months (if fixed interest rate)

---

3. **What is the Annual Percentage Rate (APR) of interest? (See Bankruptcy Code § 524(k)(3)(E).)**  
 Before the bankruptcy case was filed \_\_\_\_\_ %  
 Under the reaffirmation agreement \_\_\_\_\_ %  Fixed rate  
 Adjustable rate

---

4. **Does collateral secure the debt?**  No  
 Yes. Describe the collateral. \_\_\_\_\_  
 Current market value \$ \_\_\_\_\_

---

5. **Does the creditor assert that the debt is nondischargeable?**  No  
 Yes. Attach an explanation of the nature of the debt and the basis for contending that the debt is nondischargeable.

---

	Income and expenses reported on Schedules G and H	Income and expenses stated on the reaffirmation agreement
<b>6. Using information from Schedule G: Your Income</b> (Official Form 106G) <b>and Schedule H: Your Expenses</b> (Official Form 106H), fill in the amounts.	6a. Combined monthly income from line 12 of Schedule G \$ _____	6e. Monthly income from all sources after payroll deductions \$ _____
	6b. Monthly expenses from Column A, line 22 of Schedule H — \$ _____	6f. Monthly expenses — \$ _____
	6c. Monthly payments on all reaffirmed debts not listed on Schedule H — \$ _____	6g. Monthly payments on all reaffirmed debts not included in monthly expenses — \$ _____
	6d. <b>Scheduled net monthly income</b> \$ _____ Subtract lines 6b and 6c from 6a. If the total is less than 0, put the number in brackets.	6h. <b>Present net monthly income</b> \$ _____ Subtract lines 6f and 6g from 6e. If the total is less than 0, put the number in brackets.

Debtor 1

First Name Middle Name Last Name

Case number (if known)

7. Are the income amounts on lines 6a and 6e different?  No  Yes. Explain why they are different and complete line 10. \_\_\_\_\_

\_\_\_\_\_

8. Are the expense amounts on lines 6b and 6f different?  No  Yes. Explain why they are different and complete line 10. \_\_\_\_\_

\_\_\_\_\_

9. Is the net monthly income in line 6h less than 0?  No  Yes. A presumption of hardship arises (unless the creditor is a credit union). Explain how the debtor will make monthly payments on the reaffirmed debt and pay other living expenses. Complete line 10.

\_\_\_\_\_

\_\_\_\_\_

10. Debtor's certification about lines 7-9 I certify that each explanation on lines 7-9 is true and correct.

If any answer on lines 7-9 is Yes, the debtor must sign here.  \_\_\_\_\_  \_\_\_\_\_

If all the answers on lines 7-9 are No, go to line 11. Signature of Debtor 1 Signature of Debtor 2 (Spouse Only in a Joint Case)

11. Did an attorney represent the debtor in negotiating the reaffirmation agreement?  No  Yes. Has the attorney executed a declaration or an affidavit to support the reaffirmation agreement?

No  Yes

Part 2: Sign Here

Whoever fills out this form must sign here. I certify that the attached agreement is a true and correct copy of the reaffirmation agreement between the parties identified on this Cover Sheet for Reaffirmation Agreement.

\_\_\_\_\_ Date \_\_\_\_\_

Signature MM / DD / YYYY

\_\_\_\_\_

Printed Name

Check one:

Debtor or Debtor's Attorney

Creditor or Creditor's Attorney



## **COMMITTEE NOTE**

Line 3 of the form has been changed to clarify the requirement to disclose an annual percentage rate of interest. Section 524(k)(3)(E) of the Bankruptcy Code defines the “Annual Percentage Rate” to be disclosed in connection with a reaffirmation agreement. Line 3 of the form now includes a reference to that Code provision, which in appropriate circumstances permits disclosure of the simple interest rate as the Annual Percentage Rate.



# Instructions

## Bankruptcy Forms for Individuals

U.S. Bankruptcy Court

|

December 2015

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# About this Booklet of Instructions

This booklet provides instructions for completing selected forms that individuals filing for bankruptcy must submit to the U.S. Bankruptcy Court. You can download all of the required forms without charge from: <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

The instructions are designed to accompany the forms and are intended to help you understand what information is required to properly file. You are responsible for properly completing the forms. These instructions are not intended to provide, and should not be understood to provide, legal advice. They are not designed to fully explain, or to be relied upon in interpreting, the law.

Completing the forms is only a part of the bankruptcy process. You are strongly encouraged to hire a qualified attorney not only to help you complete the forms but also to give you general advice about bankruptcy and to represent you in your bankruptcy case. If you cannot afford to pay an attorney, you might qualify for free legal services if they are provided in your area. Contact your state or local bar association for help in obtaining free legal services or in hiring an attorney.

**Note: It is extremely difficult to succeed in a chapter 11, 12, or 13 case without an attorney.**

If an attorney represents you, you must provide information so the attorney can prepare your forms. Once the attorney prepares the forms, you must make sure that the forms are accurate and complete. These instructions may help you perform those tasks. If you are filing for bankruptcy without the help of an attorney, this booklet tells you which forms must be filed and provides information about them.

You should carefully read this booklet and keep it with your records. Review the individual forms as you read the instructions for each.

Although bankruptcy petition preparers can help you type the bankruptcy forms, they cannot tell you how to complete the forms, they cannot file the documents for you, and they cannot give you legal advice. Court employees cannot give you legal advice, either.

## Read These Important Warnings

**Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.**

**Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.**

**You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.**

**Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**

### About the bankruptcy forms and filing bankruptcy

Use the forms that are numbered in the 100 series to file bankruptcy for individuals or married couples. Use the forms that are numbered in the 200 series if you are preparing a bankruptcy on behalf of a nonindividual, such as a corporation, partnership, or limited liability company (LLC). Sole proprietors must use the forms that are numbered in the 100 series.

When a bankruptcy is filed, the U.S. Bankruptcy Court opens a case. It is important that the answers to the questions on the forms be complete and accurate so that the case proceeds smoothly. A person filing bankruptcy who gives false information could be charged with a federal crime or could lose all the benefits of filing for bankruptcy.

You should understand that filing a bankruptcy case is not private. Anyone has a right to see your bankruptcy forms after you file them, unless the court orders otherwise under 11 U.S.C. § 107. Certain information in court filings, however, must be protected from public disclosure under Bankruptcy Rule 9037.

### Understand the terms used in the forms

The forms for individuals use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors.

For example, if a form asks, “Do you own a car?” the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the forms use *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

To understand other terms used in the forms and the instructions, see the *Glossary* at the end of this booklet.

#### Things to remember when filling out these forms

- Do not file these instructions with the bankruptcy forms that you file with the court.
- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to the form. On the top of any additional pages, write your name and case number (if known). Also identify the form and line number to which the additional information applies.

- If two married people are filing together, both are equally responsible for supplying correct information.
- Do not list a minor child’s full name. Instead, fill in only the child’s initials and the full name and address of the child’s parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Bankruptcy Rule 1007(m) and 9037.
- For your records, be sure to keep a copy of your bankruptcy documents and all attachments that you file.

#### On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debt is from a credit card, fill in the month and year of the first and last transaction.

# About the Process for Filing a Bankruptcy Case for Individuals

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## Before you file your bankruptcy case

Before you file for bankruptcy, you must do several things:

- ❑ **Receive a briefing about credit counseling from an approved agency** within 180 days before you file. (If you and your spouse are filing together, each of you must receive a briefing before you file. Failure to do so may result in the dismissal of your case.) You may have a briefing about credit counseling one-on-one or in a group, by telephone, or by internet.

For a list of approved providers, go to: [http://www.justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm)

In Alabama and North Carolina, go to: <http://www.uscourts.gov>.

After you finish the briefing, you will receive a certificate that you will need to file in your bankruptcy case.

- ❑ **Find out in which bankruptcy court you must file your bankruptcy case.** It is important that you file in the correct district within your state. To find out which district you are in, go to: <http://www.uscourts.gov/courtlinks>
- ❑ **Check the local court's website** for any specific local requirements that you might have to meet. Go to: <http://www.uscourts.gov/courtlinks>
- ❑ **Find out which chapters of the Bankruptcy Code you are eligible for.** For descriptions of each chapter, review the information contained in the notice, *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form B2010), which is included in this booklet.



## When you file your bankruptcy case

There are several forms and documents that you must give the court at the time you file. Additional forms and documents must be filed no later than 14 days after you file your bankruptcy case, although they may be filed at the same time you file your case.

You must file the forms listed below on the date you open your bankruptcy case. For copies of the forms listed here, go to <http://www.uscourts.gov>. (The list continues on the next page.):

- ❑ *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). This form opens the case. Directions for filling it out are included in the form itself.
- ❑ *Statement About Your Social Security Numbers* (Official Form 121). This form gives the court your full Social Security number or federal Individual Taxpayer Identification number. To protect your privacy, the court will make only the last four digits of your number known to the general public. However, the court will make your full number available to your creditors, the U.S. trustee or bankruptcy administrator, and the trustee assigned to your case. This form has no separate instructions.
- ❑ Your filing fee. If you cannot pay the entire filing fee, you must also include:
  - ❑ *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 103A), or
  - ❑ *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B). Use this form only if you are filing under chapter 7 and you meet the criteria to have the chapter 7 filing fee waived.
- ❑ A list of names and addresses of all of your creditors, formatted as a mailing list according to instructions from the bankruptcy court in which you file. (Your court may call this a *creditor matrix* or *mailing matrix*.)
- ❑ Your credit counseling certificate from an approved credit counseling agency. (See *Before you file your bankruptcy case*, above). If you have received the briefing about credit counseling but have not yet received the certificate, file it no later than 14 days after you file for bankruptcy. If you have not already received the briefing and believe you are entitled to a temporary waiver from receiving it or that you are not required to receive the briefing, see line 15 of the *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).
- ❑ *For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders* (Official Form 104). Fill out this form only if you file under chapter 11.
- ❑ *Initial Statement About an Eviction Judgment Against You* (Official Form 101A) and *Statement About Payment of an Eviction Judgment Against You* (Official Form 101B). Use Form 101A if your landlord has an eviction judgment against you. If you complete Form 101A and you want to stay in your residence for the first 30 days after you file, you must indicate that on the form. Use Form 101B if you have completed Form 101A and you want to stay in your rented residence form more than 30 days after you file for bankruptcy.
- ❑ *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119) and *Disclosure of Compensation of Bankruptcy Petition Preparer* (Form 2800). Use these forms if a bankruptcy petition preparer typed your forms.

## When you file your bankruptcy case or within 14 days after you file

You must file the forms listed below either when you file your bankruptcy case or within 14 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). If you do not do so, your case may be dismissed. Although it is possible to open your case by submitting only the documents that are listed under *When you file your bankruptcy case*, you should file the entire set of forms at one time to help your case proceed smoothly.

Although some forms may ask you similar questions, you must fill out all of the forms completely to protect your legal rights.

The list below shows the forms that all individuals must file as well as the forms that are specific to each chapter. For copies of the official forms listed here, go to <http://www.uscourts.gov>.

**All individuals who file for bankruptcy must file these forms and the forms for the specific chapter:**

- ❑ *Schedules of Assets and Liabilities* (Official Form 106) which includes these forms:
  - ❑ *Schedule A/B: Property* (Official Form 106A/B)
  - ❑ *Schedule C: The Property You Claim as Exempt* (Official Form 106C)
  - ❑ *Schedule D: Creditors Who Have Claims Secured by Your Property* (Official Form 106D)
  - ❑ *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F)
  - ❑ *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G)
  - ❑ *Schedule H: Your Codebtors* (Official Form 106H)
  - ❑ *Schedule I: Your Income* (Official Form 106I)
  - ❑ *Schedule J: Your Expenses* (Official Form 106J)
- ❑ *Summary of Your Assets and Liabilities and Certain Statistical Information* (Official Form 106Sum). This form gives an overview of the totals on the schedules
- ❑ *Declaration About an Individual Debtor's Schedules* (Official Form 106Dec)
- ❑ *Statement of Financial Affairs for Individuals Filing for Bankruptcy* (Official Form 107)
- ❑ *Disclosure of Compensation to Debtor's Attorney*— Unless local rules provide otherwise, Director's Form 2030 may be used.
- ❑ Credit counseling certificate that you received from an approved credit counseling agency
- ❑ Copies of all payment advices (*pay stubs*) or other evidence of payment that you received within 60 days before you filed your bankruptcy case. Some local courts may require that you submit these documents to the trustee assigned to your case rather than filing them with the court. Check the local court's website to find out if local requirements apply. Go to <http://www.uscourts.gov/courtlinks>.

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**If you file under chapter 7, you must also file:**

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- Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112)
- Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1)
- If necessary, *Chapter 7 Means Test Calculation* (Official Form 108-2)
- If necessary, *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 22A-1Supp)

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**If you file under chapter 11, you must also file:**

---

- Chapter 11 Statement of Your Current Monthly Income* (Official Form 109)

If you file under chapter 11 and are a small business debtor (that is, if you are self-employed and your debts are less than \$2,490,925\*), within 7 days after you file your bankruptcy forms to open your case, you must also file your most recent:

- Balance sheet
- Statement of operations
- Cash-flow statement
- Federal income tax return

If you do not have these documents, you must file a statement made under penalty of perjury that you have not prepared either a balance sheet, statement of operations, or cash-flow statement or you have not filed a federal tax return.

If you file under chapter 11, you must file additional documents beyond the scope of these instructions. You should consult your attorney.

\* Subject to adjustment on 4/01/16, and every 3 years after that for cases begun on or after the date of adjustment.

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**If you file under chapter 12, you must also file:**

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- Chapter 12 Plan (within 90 days after you file your bankruptcy forms to open your case)

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**If you file under chapter 13, you must also file:**

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- Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1)
- If necessary, *Chapter 13 Calculation of Your Disposable Income* (Official Form 110-2)
- Chapter 13 Plan* (Official Form 113, if in effect) If Official Form 113 is not effective when you file, many bankruptcy courts require you to use a local form plan. Check the local court's website for any specific form that you might have to use. Go to <http://www.uscourts.gov/courtlinks>.)

# Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)

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**This notice is for you if:**

**You are an individual filing for bankruptcy,**  
and

**Your debts are primarily consumer debts.**  
*Consumer debts* are defined in 11 U.S.C.  
§ 101(8) as “incurred by an individual  
primarily for a personal, family, or  
household purpose.”

The types of bankruptcy that are  
available to individuals

Individuals who meet the qualifications may file  
under one of four different chapters of the  
Bankruptcy Code:

- Chapter 7 — Liquidation
- Chapter 11— Reorganization
- Chapter 12— Voluntary repayment plan  
for family farmers or  
fishermen
- Chapter 13— Voluntary repayment plan  
for individuals with regular  
income

**You should have an attorney review your  
decision to file for bankruptcy and the choice of  
chapter.**

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## Chapter 7: Liquidation

---

	\$245	filing fee
	\$75	administrative fee
+	\$15	trustee surcharge
	\$335	total fee

Chapter 7 is for individuals who have financial  
difficulty preventing them from paying their  
debts and who are willing to allow their non-  
exempt property to be used to pay their  
creditors. The primary purpose of filing under  
chapter 7 is to have your debts discharged. The  
bankruptcy discharge relieves you after  
bankruptcy from having to pay many of your  
pre-bankruptcy debts. Exceptions exist for  
particular debts, and liens on property may still  
be enforced after discharge. For example, a  
creditor may have the right to foreclose a home  
mortgage or repossess an automobile.

However, if the court finds that you have  
committed certain kinds of improper conduct  
described in the Bankruptcy Code, the court  
may deny your discharge.

You should know that even if you file  
chapter 7 and you receive a discharge, some  
debts are not discharged under the law.  
Therefore, you may still be responsible to pay:

- most taxes;
- most student loans;
- domestic support and property settlement  
obligations;

- most fines, penalties, forfeitures, and criminal restitution obligations; and
- certain debts that are not listed in your bankruptcy papers.

You may also be required to pay debts arising from:

- fraud or theft;
- fraud or defalcation while acting in breach of fiduciary capacity;
- intentional injuries that you inflicted; and
- death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs.

If your debts are primarily consumer debts, the court can dismiss your chapter 7 case if it finds that you have enough income to repay creditors a certain amount. You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108–1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to complete the other chapter 7 form, the *Chapter 7 Means Test Calculation* (Official Form 108–2).

If your income is above the median for your state, you must file a second form—the *Chapter 7 Means Test Calculation* (Official Form 108–2). The calculations on the form—sometimes called the *Means Test*—deduct from your income living expenses and payments on certain debts to determine any amount available to pay unsecured creditors. If

your income is more than the median income for your state of residence and family size, depending on the results of the *Means Test*, the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b) of the Bankruptcy Code. If a motion is filed, the court will decide if your case should be dismissed. To avoid dismissal, you may choose to proceed under another chapter of the Bankruptcy Code.

If you are an individual filing for chapter 7 bankruptcy, the trustee may sell your property to pay your debts, subject to your right to exempt the property or a portion of the proceeds from the sale of the property. The property, and the proceeds from property that your bankruptcy trustee sells or liquidates that you are entitled to, is called *exempt property*. Exemptions may enable you to keep your home, a car, clothing, and household items or to receive some of the proceeds if the property is sold.

Exemptions are not automatic. To exempt property, you must list it on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

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## Chapter 11: Reorganization

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	\$1,167	filing fee
+	\$550	administrative fee
	\$1,717	total fee

Chapter 11 is often used for reorganizing a business, but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

## Read These Important Warnings

Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.

Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.

You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.

Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

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### Chapter 12: Repayment plan for family farmers or fishermen

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	\$200	filing fee
+	\$75	administrative fee
	\$275	total fee

Similar to chapter 13, chapter 12 permits family farmers and fishermen to repay their debts over a period of time using future earnings and to discharge some debts that are not paid.

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### Chapter 13: Repayment plan for individuals with regular income

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	\$235	filing fee
+	\$75	administrative fee
	\$310	total fee

Chapter 13 is for individuals who have regular income and would like to pay all or part of their debts in installments over a period of time and to discharge some debts that are not paid. You are eligible for chapter 13 only if your debts are not more than certain dollar amounts set forth in 11 U.S.C. § 109.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, usually using your future earnings. If the court approves your plan, the court will allow you to repay your debts, as adjusted by the plan, within 3 years or 5 years, depending on your income and other factors.

After you make all the payments under your plan, many of your debts are discharged. The debts that are not discharged and that you may still be responsible to pay include:

- domestic support obligations,
- most student loans,
- certain taxes,
- debts for fraud or theft,
- debts for fraud or defalcation while acting in a fiduciary capacity,
- most criminal fines and restitution obligations,
- certain debts that are not listed in your bankruptcy papers,
- certain debts for acts that caused death or personal injury, and
- certain long-term secured debts.

### Warning: File Your Forms on Time

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to: [http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

### Bankruptcy crimes have serious consequences

- If you knowingly and fraudulently conceal assets or make a false oath or statement under penalty of perjury—either orally or in writing—in connection with a bankruptcy case, you may be fined, imprisoned, or both.
- All information you supply in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the U.S. Trustee, the Office of the U.S. Attorney, and other offices and employees of the U.S. Department of Justice.

### Make sure the court has your mailing address

The bankruptcy court sends notices to the mailing address you list on *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). To ensure that you receive information about your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address.

A married couple may file a bankruptcy case together—called a *joint case*. If you file a joint case and each spouse lists the same mailing address on the bankruptcy petition, the bankruptcy court generally will mail you and your spouse one copy of each notice, unless you file a statement with the court asking that each spouse receive separate copies.

### Understand which services you could receive from credit counseling agencies

The law generally requires that you receive a credit counseling briefing from an approved credit counseling agency. 11 U.S.C. § 109(h). If you are filing a joint case, both spouses must receive the briefing. With limited exceptions, you must receive it within the 180 days **before** you file your bankruptcy petition. This briefing is usually conducted by telephone or on the Internet.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional course before you can receive a discharge. If you are filing a joint case, both spouses must complete the course.

You can obtain the list of agencies approved to provide both the briefing and the instructional course from: [http://justice.gov/ust/eo/hapcpa/ccde/cc\\_approved.html](http://justice.gov/ust/eo/hapcpa/ccde/cc_approved.html).

In Alabama and North Carolina, go to: <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/ApprovedCreditAndDebtCounselors.aspx>.

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.

# Instructions for Selected Forms



## Schedule A/B: Property (Official Form 106A/B)

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*Schedule A/B: Property* (Official Form 106A/B) lists property interests that are involved in a bankruptcy case. All individuals filing for bankruptcy must list everything they own or have a legal or equitable interest in. *Legal or equitable interest* is a broad term and includes all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

The information in this form is grouped by category and includes several examples for many items. Note that those examples are meant to give you an idea of what to include in the categories. They are not intended to be complete lists of everything within that category. Make sure you list everything you own or have an interest in.

You must verify under penalty of perjury that the information you provide is complete and accurate. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

### Understand the terms used in this form

**Community property** — Type of property ownership available in certain states for property owned by spouses and, in some instances, legal equivalents of spouses. Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

**Current value** — In this form, report the *current value* of the property that you own in each category. *Current value* is sometimes called *fair market value* and, for this form, is the fair market value as of the date of the filing of the petition. *Current value* is how much the property is worth, which may be more or less than when you purchased the property. *Property you own* includes property you have purchased, even if you owe money on it, such as a home with a mortgage or an automobile with a lien.

### Report the current value of the portion you own

For each question, report the current value of the portion of the property that you own. To do this, you would usually determine the current value of the entire property and the percentage of the property that you own. Multiply the current value of the property by the percentage that you own. Report the result where the form asks for *Current value of the portion you own*. For example:

- If you own a house by yourself, you own 100% of that house. Report the entire current value of the house.
- If you and a sister own the house equally, report 50% of the value of the house (or half of the value of the house).

In certain categories, current value may be difficult to figure out. When you cannot find the value from a reputable source (such as a pricing guide for your car), estimate the value and be prepared to explain how you determined it.

**List items once on this form**

List items only once on this form; do not list them in more than one category. List all real estate in Part 1 and other property in the other parts of the form.

Where you list similar items of minimal value (such as clothing), add the value of the items and report a total.

Be specific when you describe each item. If you have an item that you think could fit into more than one category, select the most suitable category and list the item there.

Separately describe and list individual items worth more than \$500.

**Match the values to the other schedules**

Make sure that the values you report on this form match the values you report on *Schedule D: Creditors Who Have Claims Secured by Your Property* (Official Form 106D) and *Schedule C: The Property You Claim as Exempt* (Official Form 106C).

# Schedule C: The Property You Claim as Exempt (Official Form 106C)

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## How exemptions work

If you are an individual filing for bankruptcy, the law may allow you to keep some property, or it may entitle you to part of the proceeds if the property is sold after your case is filed. Property that the law permits you to keep is called *exempt* property. For example, exemptions may enable you to keep your home, a car, clothing, and household items.

Exemptions are not automatic. For property to be considered exempt, you must list the property on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

**You may unnecessarily lose property if you do not claim exemptions to which you are entitled. You are strongly encouraged to hire a qualified attorney to advise you.**

## Determine which set of exemptions you will use

Before you fill out this form, you must learn which set of exemptions you can use. In general, exemptions are determined on a state-by-state basis. Some states permit you to use the exemptions provided by the Bankruptcy Code. 11 U.S.C. § 522.

The Bankruptcy Code provides that you use the exemptions in the law of the state where you had your legal home for 730 days before you file for bankruptcy. Special rules may apply if you did not have the same home state for 730 days before you file.

You may lose property if you do not use the best set of exemptions for your situation.

If your spouse is filing with you and you are filing in a state in which you may choose between state and federal sets of bankruptcy exemptions, you both must use the same set of exemptions.

## Claiming exemptions

Using the property and values that you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list on this form the property that you claim as exempt.

## Listing the amount of each exemption

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. Usually, a specific dollar amount is claimed as exempt, but in some circumstances, the amount of the exemption claimed might be indicated as 100% of fair market value. For example, a debtor might claim 100% of fair market value for an exemption that is unlimited in dollar amount, such as some exemptions for health aids.

## Listing which laws apply

In the last column of the form, you must identify the laws that allow you to claim the property as exempt. If you have questions about exemptions, consult a qualified attorney.

## Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D)

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The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. When you file for bankruptcy, the court needs to know who all your creditors are and what types of claims they have against you.

Typically in bankruptcy cases, there are more debts than assets to pay those debts. The court must know as much as possible about your creditors to make sure that their claims are properly treated according to the rules.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

If your debts are not paid, a creditor with a secured claim may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. That property is sometimes called *collateral* for your debt and could include items such as your house, your car, or your furniture. Creditors with unsecured claims do not have rights against specific property.

Many creditors' claims have a specific amount, which you do not dispute. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must list the claims of all your creditors in your schedules, even if the claims are contingent, unliquidated, or disputed.

### Claims may be contingent, unliquidated, or disputed

Claims may be:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. For example, if you cosigned someone else's note, you may not have to pay unless that other person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been determined.

A claim is *disputed* if you disagree about whether you owe the debt. For instance, if a bill collector demands payment for a bill you believe you already fully paid, you may describe the claim as disputed.

A single claim can have one, more than one, or none of these characteristics.

On *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D), list all creditors who have a claim that is secured by your property.

## Do not leave out any secured creditors

In alphabetical order (as much as possible), list anyone who has judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests against your property. When listing creditors who have secured claims, be sure to include all of them. For example, include the following:

- Your relatives or friends who have a lien or security interest in your property;
- Car or truck lenders, stores, banks, credit unions, and others who made loans to enable you to finance the purchase of property and who have a lien against that property;
- Anyone who has a mortgage or deed of trust on real estate that you own;
- Contractors or mechanics who have liens on property you own because they did work on the property and were not paid;
- Someone who won a lawsuit against you and has a judgment lien;
- Another parent or a government agency that has a lien for unpaid child support;
- Doctors or attorneys who have liens on the outcome of a lawsuit;
- Federal, state, or local government agencies such as the IRS that have tax liens against property for unpaid taxes; and
- Anyone who is trying to collect a secured debt from you, such as collection agencies and attorneys.

List the debt in Part 1 only once and list any others that should be notified about that debt in Part 2. For example, if a collection agency or an attorney is trying to collect from you for a debt you owe to someone else, list the person to whom you owe the debt in Part 1, and list the collection agency in Part 2. If you are not sure who the creditor is, list the person you are paying in Part 1 and list anyone else who has contacted you about this debt in Part 2.

If a creditor's full claim is more than the value of your property securing that claim—for instance, a car loan in an amount greater than the value of the car—the creditor's claim may be partly secured and partly unsecured. In that situation, list the claim only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D). Do not repeat it on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F). List a creditor in *Schedule D* even if it appears that there is no value to support that creditor's secured claim.

## Determine the unsecured portion of secured claims

To determine the amount of a secured claim, compare the amount of the claim to the value of your portion of the property that supports the claim. If that value is greater than the amount of the claim, then the entire amount of the claim is secured. But if that value is less than the amount of the claim, the difference is an *unsecured portion*. For example, if the outstanding balance of a car loan is \$10,000 and the car is worth \$8,000, the car loan has a \$2,000 unsecured portion.

If there is more than one secured claim against the same property, the claim that is entitled to be paid first must be subtracted from the property value to determine how much value remains for the next claim. For example, if a home worth \$300,000 has a first mortgage of \$200,000 and a second mortgage of \$150,000, the first mortgage would be fully secured, and there would be \$100,000 of property value for the second mortgage, which would have an unsecured portion of \$50,000.

\$300,000	value of a home
- \$200,000	<u>first mortgage</u>
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	<u>remaining property value</u>
\$ 50,000	unsecured portion of second mortgage

## Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)

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The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. When you file for bankruptcy, the court needs to know who all your creditors are and what types of claims they have against you.

Typically in bankruptcy cases, there are more debts than assets to pay those debts. The court must know as much as possible about your creditors to make sure that their claims are properly treated according to the rules.

Use *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F) to identify everyone who has an unsecured claim against you when you file your bankruptcy petition, unless you have already listed them on *Schedule D: Creditors Who Have Claims Secured by Your Property* (Official Form 106D).

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. That property is sometimes called *collateral* for your debt and could include items such as your house, your car, or your furniture. Creditors

with unsecured claims do not have rights against specific property.

Many creditors' claims have a specific amount, which you do not dispute. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must list the claims of all your creditors in your schedules, even if the claims are contingent, unliquidated, or disputed.

### **Claims may be contingent, unliquidated, or disputed**

Claims may be:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. For example, if you cosigned someone else's note, you may not have to pay unless that person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

A claim is *disputed* if you disagree about whether you owe the debt. For instance, if a bill collector demands payment for a bill you believe you already fully paid, you may describe the claim as disputed.

A single claim can have one, more than one, or none of these characteristics.

Creditors with unsecured claims do not have liens on or other security interests in your property. Secured creditors have a right to take property if you do not pay them. Common examples are lenders for your car, your home, or your furniture.

### **Do not leave out any unsecured creditors**

List all unsecured creditors in each part of the form in alphabetical order as much as possible. Even if you plan to pay a creditor, you must list that creditor. When listing creditors who have unsecured claims, be sure to include all of them. For instance, include the following:

- Your relatives or friends to whom you owe money;
- Your ex-spouse, if you are still obligated under a divorce decree or settlement agreement to pay joint debts;
- A credit card company, even if you intend to fully pay your credit card bill;
- A lender, even if the loan is cosigned;
- Anyone who has a loan or promissory note that you cosigned for someone else;
- Anyone who has sued or may sue you because of an accident, dispute, or similar event that has occurred; or
- Anyone who is trying to collect a debt from you such as a bill collector or attorney.

## **Unsecured claims could be priority or nonpriority claims**

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### **What are priority unsecured claims?**

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In bankruptcy cases, *priority unsecured claims* are those debts that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common priority unsecured claims are certain income tax debts and past due alimony or child support. Priority unsecured claims include those you owe for:

- **Domestic support obligations**—If you owe domestic support to a spouse or former spouse; a child or the parent, legal guardian, or responsible relative of a child; or a governmental unit to whom such a domestic support claim has been assigned.  
11 U.S.C. § 507(a)(1).
- **Taxes and certain other debts you owe the government**—If you owe certain federal, state, or local government taxes, customs duties, or penalties.  
11 U.S.C. § 507(a)(8).
- **Claims for death or personal injury that you caused while you were intoxicated**—If you have a claim against you for death or personal injury that resulted from your unlawfully operating a motor vehicle or vessel while you were unlawfully intoxicated from alcohol, drugs, or another substance. This priority does not apply to claims for property damage.  
11 U.S.C. § 507(a)(10).



■ **Other:**

- **Deposits by individuals**—If you received money from someone for the purchase, lease, or rental of your property or the use of your services but you never delivered or performed. For the debt to have priority, the property or services must have been intended for personal, family, or household use (only the first \$2,775\* per person is a priority debt). 11 U.S.C. § 507(a)(7).
- **Wages, salaries, and commissions**—If you owe wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before you filed your bankruptcy petition or ceased business. In either instance, only the first \$12,475\* per claim is a priority debt. 11 U.S.C. § 507(a)(4).
- **Contributions to employee benefit plans**—If you owe contributions to an employee benefit plan for services an employee rendered within 180 days before you file your bankruptcy petition, or within 180 days before your business ends. Count only the first \$12,475\* per employee, less any amounts owed for wages, salaries, and commissions. 11 U.S.C. § 507(a)(5).

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**What are nonpriority unsecured claims?**

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*Nonpriority unsecured claims* are those debts that generally will be paid after priority unsecured claims are paid. The most common examples of nonpriority unsecured claims are credit card bills, medical bills, and educational loans.

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**What if a claim has both priority and nonpriority amounts?**

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If a claim has both priority and nonpriority amounts, list that claim in Part 2 and show both priority and nonpriority amounts. Do not list it again in Part 3.

In Part 3, list all of the creditors you have not listed before. You must list every creditor that you owe, regardless of the amount you owe and even if you plan to pay a particular debt. If you do not list a debt, it may not be discharged.

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**What is needed for statistical purposes?**

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For statistical reasons, the court must collect information about some specific categories of unsecured claims.

The categories for priority unsecured claims are:

- **Domestic support obligations**
- **Taxes and certain other debts you owe the government**
- **Claims for death or personal injury that you caused while you were intoxicated**

The categories for nonpriority unsecured claims are:

- **Student loans**—If you owe money for any loans that you used to pay for your education;
- **Obligations arising out of a separation agreement or divorce that you did not report as priority claims**—If you owe debts for separation or divorce agreements or for domestic support and you did not report those debts in Part 2; and
- **Debts to pension or profit-sharing plans and other similar debts**—If you owe money to a pension or profit-sharing plan.

## Schedule G: Executory Contracts and Unexpired Leases (Official Form 106G)

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Use *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G) to identify your ongoing leases and certain contracts. List all of your executory contracts and unexpired leases.

*Executory contracts* are contracts between you and someone else in which neither you nor the other party has performed all of the requirements by the time you file for bankruptcy. *Unexpired leases* are leases that are still in effect; the lease period has not yet ended.

You must list all agreements that may be executory contracts or unexpired leases, even if they are listed on *Schedule A/B: Property* (Official Form 106A/B), including the following:

- Residential leases (for example, a rental agreement for a place where you live or vacation, even if it is only a verbal or month-to-month arrangement);
- Service provider agreements (for example, contracts for cell phones and personal electronic devices);
- Internet and cable contracts;
- Vehicle leases;
- Supplier or service contracts (for example, contracts for lawn care or home alarm or security systems);
- Timeshare contracts or leases;
- Rent-to-own contracts;
- Employment contracts;
- Real estate listing agreements;
- Contracts to sell a residence, building, land, or other real property;
- Equipment leases;
- Leases for business or investment property;
- Supplier and service contracts for your business;
- Copyright and patent license agreements; and
- Development contracts.

## Schedule H: Your Codebtors (Official Form 106H)

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If you have any debts that someone else may also be responsible for paying, these people or entities are called *codebtors*. Use *Schedule H: Your Codebtors* (Official Form 106H) to list any codebtors who are responsible for any debts you have listed on the other schedules.

To help fill out this form, use both *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D) and *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

List all of your codebtors and the creditors to whom you owe the debt. For example, if someone cosigned for the car loan that you owe, you must list that person on this form.

**If you are filing a joint case, do not list either spouse as a codebtor.**

Other codebtors could include the following:

- Cosigner;
- Guarantor;
- Former spouse;
- Unmarried partner;
- Joint contractor; or
- Nonfiling spouse—even if the spouse is not a cosigner—where the debt is for necessities (such as food or medical care) if state law makes the nonfiling spouse legally responsible for debts for necessities.

# Schedule I: Your Income (Official Form 106I)

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In *Schedule I: Your Income* (Official Form 106I), you will give the details about your employment and monthly income as of the date you file this form. If you are married and your spouse is living with you, include information about your spouse even if your spouse is not filing with you. If you are separated and your spouse is not filing with you, do not include information about your spouse.

## How to report employment and income

If you have nothing to report for a line, write \$0.

In Part 1, line 1, fill in employment information for you and, if appropriate, for a non-filing spouse. If either person has more than one employer, attach a separate page with information about the additional employment.

In Part 2, give details about the monthly income you currently expect to receive. Show all totals as monthly payments, even if income is not received in monthly payments.

If your income is received in another time period, such as daily, weekly, quarterly, annually, or irregularly, calculate how much income would be by month, as described below.

If either you or a non-filing spouse has more than one employer, calculate the monthly amount for each employer separately, and then combine the income information for all employers for that person on lines 2-7.

One easy way to calculate how much income per month is to total the payments earned in a year, then divide by 12 to get a monthly figure. For example, if you are paid seasonally, you would simply divide the amount you expect to earn in a year by 12 to get the monthly amount

Below are other examples of how to calculate monthly amount.

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### Example for weekly payments:

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If you are paid \$1,000 every week, figure your monthly income in this way:

$$\begin{array}{r} \$1,000 \text{ income every week} \\ \times \quad 52 \text{ number of pay periods in the year} \\ \hline \$52,000 \text{ total income for the year} \end{array}$$

$$\frac{\$52,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$4,333 \text{ monthly income}$$

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### Example for bi-weekly payments:

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If you are paid \$2,500 every other week, figure your monthly income in this way:

$$\begin{array}{r} \$2,500 \text{ income every other week} \\ \times \quad 26 \text{ number of pay periods in the year} \\ \hline \$65,000 \text{ total income for the year} \end{array}$$

$$\frac{\$65,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,417 \text{ monthly income}$$

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**Example for daily payments:**

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If you are paid \$75 a day and you work about 8 days a month, figure your monthly income in this way:

\$75	income a day
X 96	days a year
\$7,200	total income for the year

$\frac{\$7,200 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$600 \text{ monthly income}$

or this way:

\$75	income a day
X 8	payments a month
\$600	income for the month

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**Example for quarterly payments:**

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If you are paid \$15,000 every quarter, figure your monthly income in this way:

\$15,000	income every quarter
X 4	pay periods in the year
\$60,000	total income for the year

$\frac{\$60,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,000 \text{ monthly income}$

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**Example for irregular payments:**

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If you are paid \$4,000 8 times a year, figure your monthly income in this way:

\$4,000	income a payment
X 8	payments a year
\$32,000	income for the year

$\frac{\$32,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$2,667 \text{ monthly income}$

In Part 2, line 11, fill in amounts that other people provide to pay the expenses you list on *Schedule J: Your Expenses*. For example, if you and a person to whom you are not married pay all household expenses together and you list all your joint household expenses on Schedule J, you must list the amounts that person contributes monthly to pay the household expenses on line 11. If you have a roommate and you divide the rent and utilities, do not list the amounts your roommate pays on line 11 if you have listed only your share of those expenses on Schedule J. Do not list on line 11 contributions that you already disclosed elsewhere on the form.

Note that the income you report on *Schedule I* may be different from the income you report on other bankruptcy forms. For example, the *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1), *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109), and the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1) all use a different definition of income and apply that definition to a different period of time. *Schedule I* asks about the income that you are now receiving, while the other forms ask about income you received in the applicable time period before filing. So the amount of income reported in any of those forms may be different from the amount reported here.

If, after filing Schedule I, you need to file an estimate of income in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental Schedule I. To do so you must check the “supplement” box at the top of the form and fill in the date.

## Schedule J: Your Expenses (Official Form 106J)

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*Schedule J: Your Expenses* (Official Form 106J) provides an estimate of the monthly expenses, as of the date you file for bankruptcy, for you, your dependents, and the other people in your household whose income is included on *Schedule I: Your Income* (Official Form 106I).

If you are married and are filing individually, include your non-filing spouse's expenses unless you are separated.

If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.

Do not include expenses that other members of your household pay directly from their income if you did not include that income on *Schedule I*. For example, if you have a roommate and you divide the rent and utilities and you have not listed your roommate's contribution to household expenses in line 11 of *Schedule I*, you would list only your share of these expenses on *Schedule J*.

Show all totals as monthly payments. If you have weekly, quarterly, or annual payments,

calculate how much you would spend on those items every month.

Do not list as expenses any payments on credit card debts incurred before filing bankruptcy.

Do not include business expenses on this form. You have already accounted for those expenses as part of determining net business income on *Schedule I*.

On line 20, do not include expenses for your residence or for any rental or business property. You have already listed expenses for your residence on lines 4 and 5 of this form. You listed the expenses for your rental and business property as part of the process of determining your net income from that property on *Schedule I* (line 8a).

If you have nothing to report for a line, write \$0.

If, after filing *Schedule J*, you need to file an estimate of expenses in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental *Schedule J*. To do so you must check the "supplement" box at the top of the form and fill in the date.

## Summary of Your Assets and Liabilities and Certain Statistical Information (Official Form 106Sum)

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When you file for bankruptcy, you must summarize certain information from the following forms:

- *Schedule A/B: Property* (Official Form 106A/B)
- *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D)
- *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F)
- *Schedule I: Your Income* (Official Form 106I)
- *Schedule J: Your Expenses* (Official Form 106J)
- *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1), *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109), or *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1)

After you fill out all of the forms, complete *Summary of Your Assets and Liabilities and Certain Statistical Information* (Official Form 106Sum) to report the totals of certain information that you listed in the forms.

If you are filing an amended version of any of these forms at some time after you file your original forms, you must fill out a new *Summary* to ensure that your information is up to date and you must check the box at the top.



# Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)

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*Your Statement of Financial Affairs for Individuals Filing for Bankruptcy*, provides a summary of your financial history over certain periods of time before you file for bankruptcy. If you are an individual in a bankruptcy case, you must fill out this statement. 11 U.S.C. § 521(a) and Bankruptcy Rule 1007(b)(1).

If you are married and your spouse is not filing this case with you, you need only provide information on this form about your spouse if you are filing under chapter 12 or chapter 13 and are not separated from your spouse.

If you are in business as a sole proprietor, partner, family farmer, or self-employed

professional, you must provide the information about all of your business and personal financial activities.

Although this statement may ask you questions that are similar to some questions on the schedules, you must fill out all of the forms completely to protect your legal rights.

## **Understand the terms used in this form**

**Legal equivalent of a spouse** — A person whom applicable nonfederal law recognizes as having a relationship with the debtor that grants legal rights and responsibilities equivalent, in whole or in part, to those granted to a spouse.

## Chapter 7 Statement of Your Current Monthly Income and Means Test Calculation (Official Forms 108-1, 108A-1Supp, and 108-2)

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**If you are filing under chapter 11, 12, or 13, do not fill out this form.**

Official Forms 108-1 and 108-2 determine whether your income and expenses create a presumption of abuse that may prevent you from obtaining relief from your debts under chapter 7 of the Bankruptcy Code. Chapter 7 relief can be denied to a person who has primarily consumer debts if the court finds that the person has enough income to repay creditors an amount that, under the Bankruptcy Code, would be a sufficient portion of their claims.

You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income for households of the same size in your state. If your income is not above the median, there is no presumption of abuse and you will not have to fill out the second form.

Similarly, *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 108A-1Supp) determines whether you may be exempted from the presumption of abuse because you do not have primarily consumer debts or because you have provided certain military or homeland defense services. If one of these exemptions applies, you

should file a supplement, Form 108A-1Supp, and verify the supplement by completing Part 3 of Form 108A-1. If you qualify for an exemption, you are not required to fill out any part of Form 108A-1 other than the verification. If the exemptions do not apply, you should complete all of the parts of Form 108A-1 and file it without the supplemental form.

If your income is above the median, you must file the second form, *Chapter 7 Means Test Calculation* (Official Form 108-2). The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay other debts.

If this amount is high enough, it will give rise to a *presumption of abuse*. A presumption of abuse does not mean you are actually trying to abuse the bankruptcy system. Rather, the presumption simply means that you are presumed to have enough income that you should not be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

If you cannot obtain relief under chapter 7, you may be eligible to continue under another chapter of the Bankruptcy Code and pay creditors over a period of time.

Read each question carefully. You may not be required to answer every question on this form. For example, your military status may

determine whether you must fill out the entire form. The instructions will alert you if you may skip questions.

If you have nothing to report for a line, write \$0.

If you and your spouse are filing together, you and your spouse may file a single statement. However, if an exclusion in Parts 1 or 2 applies to either of you, separate statements may be required. 11 U.S.C. § 707(b)(2)(C).

### **Information for completing the forms**

To fill out several lines of the forms, you must look up information provided on websites or from other sources. For information to complete line 13 of Form 108-1 and lines 6-15, 30, and 36 of Form 108-2, go to: [www.justice.gov/ust/eo/bapcpa/meanstesting.htm](http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm)

For line 36 of Form 108-2, also go to that site unless your case is filed in Alabama or North Carolina. If your case is filed in one of those states, go to:

[www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/AdministrativeExpensesMultiplier.aspx](http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/AdministrativeExpensesMultiplier.aspx)

For the *Bankruptcy Basics* information referred to on line 36 of Form 22A-2, go to:

[www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx](http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics.aspx).

If you do not have a computer with internet access, you may be able to use a public computer at the bankruptcy clerk's office or at a public library.

# Chapter 11 Statement of Your Current Monthly Income (Official Form 109)

---

**If you are filing under chapter 7, 12, or 13, do not fill out this form.**

You must file the *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109) if you are an individual filing for bankruptcy under chapter 11.

If you have nothing to report for a line, write \$0.

# Chapter 13 Statement of Your Current Monthly Income, Calculation of Commitment Period and Chapter 13 Calculation of Your Disposable Income (Official Forms 110–1 and 110–2)

---

**If you are filing under chapter 7, 11, or 12, do not fill out this form.**

Official Forms 110–1 and 110–2 determine the commitment period for your payments to creditors, how the amount you may be required to pay to creditors is established, and, in some situations, how much you must pay.

You must file the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110–1) if you are an individual and you are filing under chapter 13. This form will report your current monthly income and determine whether your income is at or below the median income for households of the same size in your state. If your income is equal to or less than the median, you will not have to fill out the second form. Form 110-1 also will determine your applicable commitment period—the time period for making payments to your creditors, unless the court orders otherwise.

If your income is above the median, you must file the second form, *Chapter 13 Calculation of Your Disposable Income* (Official Form 110–2). The calculations on this form—

sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay unsecured debts. Your chapter 13 plan may be required to provide for payment of this amount toward unsecured debts.

Read each question carefully. You may not be required to answer every question on this form. The instructions will alert you if you may skip questions.

Generally, if you and your spouse are filing together, you should file one statement together.

## Information for completing the forms

To fill out several lines of the forms, you must look up information provided on websites or from other sources. For information to complete line 16c of Form 110-1 and lines 6-15, 30, and 36 of Form 110-2, go to: [www.justice.gov/ust/eo/bapcpa/meanstesting.htm](http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm).

If you do not have a computer with internet access, you may be able to use a public computer at the bankruptcy clerk’s office or at a public library.

# Statement of Intention for Individuals Filing Under Chapter 7 (Official Form 112)

---

**If you are filing under chapter 11, 12, or 13, do not fill out this form.**

If you are an individual filing under chapter 7, you must fill out the *Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112) if:

- creditors have claims secured by your property, or
- you have leased personal property and the lease has not expired.

The Bankruptcy Code requires you to state your intentions about such claims and provides for early termination of the automatic stay as to personal property if the statement is not timely filed. The same early termination of the automatic stay applies to any unexpired lease of personal property unless you state that you intend to assume the unexpired lease if the trustee does not do so.

To help fill out this form, use the information you have already provided on the following forms:

- *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D),
- *Schedule C: The Property You Claim as Exempt* (Official Form 106C), and
- *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G).

## **Explain what you intend to do with your property that is collateral for a claim**

If you have property that is collateral (or security) for a claim, you must state what you intend to do with that property.

You may choose either to surrender the property to the creditor, or retain the property. Below is more information about each of these options.

**You may surrender the property to the creditor.** If you surrender the property to the creditor, your bankruptcy discharge will protect you from any claim for the difference between what you owe the creditor and what the creditor receives from a sale of the property, unless the court determines that the debt is nondischargeable.

**You may want to retain the property.** If you want to retain your secured personal property, you may be able to reaffirm the debt, redeem the property, or take other action (for example, avoid a lien using 11 U.S.C. § 522(f)).

- **You may be able to reaffirm the debt.** You may decide to remain legally obligated to pay a debt so that you can keep the property securing the debt. This is called *reaffirming a debt*. You may reaffirm the debt in full on its original terms or you and the creditor may agree to change the terms. For example, if you want to keep your car, you may reaffirm a car loan, stating that you will continue to make monthly payments for it. **Only reaffirm those debts that you are confident you can repay.** You may seek to reaffirm the debt if you sign a *Reaffirmation Agreement*, which is a contract between you and a creditor, and

you follow the proper procedure for the *Reaffirmation Agreement*. 11 U.S.C. § 524. The procedure is explained in greater detail in the Disclosures that are part of the reaffirmation documents.

- **You may be able to redeem your property.** 11 U.S.C. § 722. You can redeem property only if all of the following apply:
  - The property secures a debt that is a *consumer debt* — you incurred the debt primarily for personal, family, or household use.
  - The property is *tangible personal property* — the property is physical, such as furniture, appliances, and cars.
  - You are either claiming the property as exempt or the trustee has abandoned it.

To obtain court authorization to redeem your property, you must file a motion with the court. If the court grants your motion, you pay the creditor the value of the property or the amount of the claim, whichever is less. The payment will be a single lump-sum payment.

### **Explain what you intend to do with your leased personal property**

If you lease personal property such as your car, you may be able to continue your lease if the trustee does not assume the lease. To continue your lease, you can write to the lessor that you want to assume your lease. The creditor may, at its option, notify you that it is willing to have you assume the lease and may condition the assumption on cure of any outstanding default. If the lessor notifies you that it is willing to have you assume the lease, you must write to the lessor within 30 days stating that you assume the lease. 11 U.S.C. § 365(p)(2).

### **File the *Statement of Intention* before the deadline**

You must file this form either within 30 days after you file your bankruptcy petition or by the date set for the meeting of creditors, whichever is earlier. You must also deliver copies of this statement to the creditors and lessors you listed on the form. Bankruptcy Rule 1007(b)(2).

If two married people are filing together in a joint case, both are equally responsible for supplying correct information. Both debtors must sign and date the form.

## Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A)

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If you cannot afford to pay the full filing fee when you first file for bankruptcy, you may pay the fee in installments. However, in most cases, you must pay the entire fee within 120 days after you file, and the court must approve your payment timetable. Your debts will not be discharged until you pay your entire fee.

Do not file this form if you can afford to pay your full fee when you file.

If you are filing under chapter 7 and cannot afford to pay the full filing fee at all, you may be qualified to ask the court to waive your filing fee.

See *Application to Have Your Chapter 7 Filing Fee Waived* (Official Form 103B).

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out the *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119); include a copy of it when you file this application.



# Application to Have the Chapter 7 Filing Fee Waived (Official Form 103B)

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The fee for filing a bankruptcy case under chapter 7 is \$335. If you cannot afford to pay the entire fee now in full or in installments within 120 days, use this form. If you can afford to pay your filing fee in installments, see *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 103A).

If you file this form, you are asking the court to waive your fee. After reviewing your application, the court may waive your fee, set a hearing for further investigation, or require you to pay the fee in installments or in full.

## **For your fee to be waived, all of these statements must be true:**

- You are filing for bankruptcy under chapter 7.
- You are an individual.
- The total combined monthly income for your family is less than 150% of the official poverty guideline last published by the U.S. Department of Health and Human Services (DHHS). (For more information about the guidelines, go to <http://www.uscourts.gov>.)
- You cannot afford to pay the fee in installments.

*Your family* includes you, your spouse, and any dependents listed on *Schedule I*. Your family may be different from your *household*, referenced on *Schedules I* and *J*. Your household may include your unmarried partner and others who live with you and with whom you share income and expenses.

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119); include a copy of it when you file this application.

If you have already completed the following forms, the information on them may help you when you fill out this application:

- *Schedule A/B: Property* (Official Form 106A/B)
- *Schedule I: Your Income* (Official Form 106I)
- *Schedule J: Your Expenses* (Official Form 106J)

# For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders (Official Form 104)

**If you are filing under chapter 7, 12, or 13, do not fill out this form.**

The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. If you are an individual filing for bankruptcy under chapter 11, you must fill out *For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders* (Official Form 104).

Creditors may have different types of claims:

- Secured claims, or
- Unsecured claims.

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. If a creditor has security interest in your property, but the value of the property available to pay the creditor is less than the amount you owe the creditor, the creditor has both a secured and an unsecured claim against you. The amount of the unsecured claim is the total claim minus the value of the property that is available to pay the creditor.

Generally, creditors with unsecured claims do not have rights against specific property, or the specific property in which the creditor has rights is not worth enough to pay the creditor in

full. For example, if you owe a creditor \$30,000 for your car and the creditor has a security interest in your car but the car is worth only \$20,000, the creditor has a \$20,000 secured claim and a \$10,000 unsecured claim.

\$30,000	Total amount you owe creditor
– \$20,000	Amount your car is worth (amount of secured claim)
<hr/>	
\$10,000	Amount of unsecured claim

Many claims have a specific amount, and you clearly owe them. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must include such claims when listing your 20 largest unsecured claims on this list.

## **Claims may be contingent, unliquidated, or disputed.**

The form asks you to identify claims that are:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

A claim is *disputed* if you do not agree that you owe the debt. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

A single claim can have one, more than one, or none of these characteristics.

### **On this form, list the creditors with the 20 largest unsecured claims who are not insiders**

You must file this form when you file your chapter 11 bankruptcy case with the court.

When you list the 20 largest unsecured creditors, include all unsecured creditors, except for the following two types of creditors, even if you plan to pay them. Do not include:

- Anyone who is an *insider*. *Insiders* include relatives; general partners of you or your relatives; corporations of which you are an officer, director, or person in control; and any managing agent. 11 U.S.C. § 101(31).
- Secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Make sure that all of the creditors listed on this form are also listed on either *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D) or *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

On the form, you will fill in what the claim is for. Examples include trade debts, bank loans, professional services, and government contracts.

# Glossary

## Definitions of Some Terms Used in the Forms for Individuals Filing for Bankruptcy

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Here are definitions of some of the important terms used in the forms for individuals who are filing for bankruptcy. See *Bankruptcy Basics* ([www.uscourts.gov/FederalCourts](http://www.uscourts.gov/FederalCourts)) for more information about filing for bankruptcy and other important terms you should know. These definitions are intended only to provide guidance. They are not a substitute for legal advice.

**Annuity** — A contract for the periodic payment of money to you, either for life or for a number of years.

**Bankruptcy petition preparer** — A person or business, other than a lawyer or someone who works for a lawyer, that charges a fee to prepare bankruptcy documents. Under your direction and control, the bankruptcy petition preparer generates bankruptcy forms for you to file by typing them. Because they are not attorneys, they cannot give legal advice or represent you in bankruptcy court. Also called *typing services*.

**Business debt** — A debt that you incurred to obtain money for a business or investment or incurred through the operation of the business or investment.

**Claim** — A creditor's right to payment, even if contingent, disputed, unliquidated, or unmatured.

**Codebtor** — A person or entity that may also be responsible for paying a claim against the debtor.

**Collateral** — Specific property subject to a lien from which a creditor may be paid ahead of other creditors without liens on that property. Includes a mortgage, security interest, judgment lien, statutory lien, or other lien.

**Community property** — A type of property ownership available in certain states for property owned by spouses and, in some instances, legal equivalents of spouses. Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

**Consumer debt** — A debt you incurred primarily for a personal, family, or household purpose.

**Contingent claim** — A debt you are not obligated to pay unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

**Creditor matrix or mailing matrix** — A list of names and addresses of all of your creditors, formatted as a mailing list according to instructions from the bankruptcy court in which you file.

**Creditor** — A person or organization to whom you owe money or who claims that you owe it money.

**Current value, fair market value, or value** — The amount property is worth, which may be more or less than when you purchased the property. Absent specific instruction, the value should be the price that could be realized from a cash sale or liquidation without duress within a reasonable time. See the instructions for specific forms regarding whether the value requested is as of the date of the filing of the petition, the date you complete the form, or some other date.

**Debtor 1** — A debtor filing alone or one person in married couple who is filing a bankruptcy case with a spouse. The same person retains this designation in all of the forms.

**Debtor 2** — A second person in a married couple who is filing a bankruptcy case with a spouse.

**Dependent** — A person who is economically dependent on you regardless of whether the person can be claimed as a dependent on your federal tax return. However, *Chapter 7 Means Test Calculation* (Official Form 108-2) and *Chapter 13 Calculation of Your Disposable Income* (Official Form 110-2) use the term in a more limited way. See the instructions on those forms.

**Discharge** — A discharge in bankruptcy relieves you after your bankruptcy case is over from having to pay debts that you owed before you filed your bankruptcy case. Most debts are covered by the discharge, but not all. (The instruction booklet explains more about common debts that are not discharged in bankruptcy.) Only your personal liability is removed by the discharge.

**Disputed claim** — A debt you do not agree that you owe. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

**Eviction judgment** — A judgment for possession that your landlord has obtained in an eviction, unlawful detainer action, or similar proceeding.

**Executory contract** — A contract between you and someone else in which both of you still have obligations to perform under the contract at the time you file for bankruptcy.

**Exempt property** — Property, or the value of a portion of it, that the law allows you to keep for your use rather than surrender it for the payment of your debts, provided that you follow the correct procedure to claim the exemption.

**Garnishment** — A procedure by which a creditor can reach money of yours that is in the hands of a third party to satisfy a debt. Garnishments are sometimes used by creditors to obtain money from your wages or bank account.

**Individual debtor** — A human being who is filing for bankruptcy either alone or with a spouse, whether or not the individual owns a business.

**Joint case** — A single case filed by a married couple.

**Judgment lien** — A lien that arises as a result of a judgment against you.

**Legal equivalent of a spouse** — A person recognized by applicable nonfederal law as having a relationship with the debtor that grants legal rights and responsibilities equivalent, in whole or in part, to those granted to a spouse.

**Legal or equitable interest** — A broad term that includes all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

**Negotiable instrument** — A financial instrument that you can transfer to someone by signing or delivering it, including personal checks, cashiers' checks, promissory notes, and money orders.

**Non-individual debtor** — A debtor that is not a human being – for example, an artificial entity such as a corporation, partnership, or limited liability company (LLC).

**Non-negotiable instrument** — A financial instrument that you cannot transfer to someone by signing or delivering it.

**Nonpriority unsecured claim** — A debt that generally will be paid after priority unsecured claims are paid. The most common examples are credit card bills, medical bills, and educational loans.

**Payment advice** — A statement such as a pay stub or earnings statement from your employer that shows all earnings and deductions from your pay.

**Presumption of abuse** — A rebuttable legal presumption that you have too much income after allowed expenses to be granted relief under chapter 7.

**Priority unsecured claim** — A debt that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common examples are certain income tax debts and past due alimony or child support.

**Property you own** — Includes property you have purchased, even if you owe money on it, such as a home with a mortgage or an automobile with a lien.

**Reaffirming a debt** — Agreeing to repay a debt that would otherwise be discharged by entering into a new written agreement with the creditor. A reaffirmation agreement may allow you to keep property that a creditor has the right to take from you because it secures the debt being reaffirmed. For a reaffirmation agreement to be effective, there are many procedural and legal requirements that must be satisfied during the bankruptcy case.

**Secured claim** — A claim that may be satisfied in whole or in part either

- by a charge against or an interest in specific property of the debtor, or
- by a right of setoff.

Common examples of creditors who have secured claims are lenders from your car, your home, or your furniture.

**Sole proprietorship** — A business you own as an individual that is not a separate legal entity such as a corporation, partnership, or LLC. Sole proprietors must use the bankruptcy forms that are numbered in the 100 series.

**Statutory lien** — A lien that arises as a result of a statute.

**Unexpired lease** — A lease that is in effect at the time you filed for bankruptcy.

**Unliquidated claim** — A debt with an amount cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been determined.

**Unsecured claim** — A claim held by a creditor who does not have security interest in or other lien on your property or a right of setoff.

**You** — A debtor filing alone or one person in married couple who is filing a bankruptcy case with a spouse.



Appendix B  
Forms for Publication



# United States Bankruptcy Court

\_\_\_\_\_ District Of \_\_\_\_\_

In re \_\_\_\_\_ ,  
Debtor

Case No. \_\_\_\_\_  
Chapter \_\_\_\_\_

## **GENERAL POWER OF ATTORNEY**

*[Abrogated]*



**2015 COMMITTEE NOTE**

The form is abrogated. Former Official Form 11A , although abrogated as an Official Form, continues to be available as a Director’s Procedural Form.

Parties routinely modify the General Power of Attorney form to conform to state law, the needs of the case, or local practice. The exact language of the form is not needed. The proposed amendment to Rule 9009, however, restricts alteration of the Official Forms, except as provided in the rules or in a particular Official Form.

The Director’s Procedural Forms are issued by the Director of the Administrative Office pursuant to Rule 9009 as an accommodation for the courts and parties. The procedural forms may be altered as needed and their use is not mandatory, unless required by local rule.



# United States Bankruptcy Court

\_\_\_\_\_ District Of \_\_\_\_\_

In re \_\_\_\_\_ ,  
Debtor

Case No. \_\_\_\_\_  
Chapter \_\_\_\_\_

## **SPECIAL POWER OF ATTORNEY**

*[Abrogated]*





## Official Form 11B

### **2015 COMMITTEE NOTE**

The form is abrogated. Former Official Form 11B , although abrogated as an Official Form, continues to be available as a Director's Procedural Form.

Parties routinely modify the Special Power of Attorney form to conform to state law, the needs of the case, or local practice. The exact language of the form is not needed. The proposed amendment to Rule 9009, however, restricts alteration of the Official Forms, except as provided in the rules or in a particular Official Form.

The Director's Procedural Forms are issued by the Director of the Administrative Office pursuant to Rule 9009 as an accommodation for the courts and parties. The procedural forms may be altered as needed and their use is not mandatory, unless required by local rule.



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

Check if this is:

- An amended filing
- A supplement showing post-petition chapter 13 expenses as of the following date:

\_\_\_\_\_  
MM / DD / YYYY

# Official Form 106J

## Schedule J: Your Expenses

12/15

**Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.**

**Part 1:** Describe Your Household

**1. Is this a joint case?**

- No. Go to line 2.
- Yes. **Does Debtor 2 live in a separate household?**
  - No
  - Yes. Debtor 2 must file Official Forms 106J-2, *Expenses for Separate Household of Debtor 2*.

**2. Do you have dependents?**

Do not list Debtor 1 and Debtor 2.  
  
Do not state the dependents' names.

- No
- Yes. Fill out this information for each dependent.....

**Dependent's relationship to Debtor 1 or Debtor 2**

**Dependent's age**

**Does dependent live with you?**

Dependent's relationship to Debtor 1 or Debtor 2	Dependent's age	Does dependent live with you?
_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

**3. Do your expenses include expenses of people other than yourself and your dependents?**

- No
- Yes

**Part 2:** Estimate Your Ongoing Monthly Expenses

**Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed. If this is a supplemental Schedule J, check the box at the top of the form and fill in the applicable date.**

**Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on Schedule I: Your Income (Official Form B 6I.)**

**4. The rental or home ownership expenses for your residence.** Include first mortgage payments and any rent for the ground or lot.

**Your expenses**

4. \$ \_\_\_\_\_

**If not included in line 4:**

- 4a. Real estate taxes 4a. \$ \_\_\_\_\_
- 4b. Property, homeowner's, or renter's insurance 4b. \$ \_\_\_\_\_
- 4c. Home maintenance, repair, and upkeep expenses 4c. \$ \_\_\_\_\_
- 4d. Homeowner's association or condominium dues 4d. \$ \_\_\_\_\_

Your expenses

5. Additional mortgage payments for your residence, such as home equity loans

5. \$

6. Utilities:

6a. Electricity, heat, natural gas

6a. \$

6b. Water, sewer, garbage collection

6b. \$

6c. Telephone, cell phone, Internet, satellite, and cable services

6c. \$

6d. Other. Specify:

6d. \$

7. Food and housekeeping supplies

7. \$

8. Childcare and children's education costs

8. \$

9. Clothing, laundry, and dry cleaning

9. \$

10. Personal care products and services

10. \$

11. Medical and dental expenses

11. \$

12. Transportation. Include gas, maintenance, bus or train fare. Do not include car payments.

12. \$

13. Entertainment, clubs, recreation, newspapers, magazines, and books

13. \$

14. Charitable contributions and religious donations

14. \$

15. Insurance.

Do not include insurance deducted from your pay or included in lines 4 or 20.

15a. Life insurance

15a. \$

15b. Health insurance

15b. \$

15c. Vehicle insurance

15c. \$

15d. Other insurance. Specify:

15d. \$

16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20. Specify:

16. \$

17. Installment or lease payments:

17a. Car payments for Vehicle 1

17a. \$

17b. Car payments for Vehicle 2

17b. \$

17c. Other. Specify:

17c. \$

17d. Other. Specify:

17d. \$

18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 6I).

18. \$

19. Other payments you make to support others who do not live with you.

Specify:

19. \$

20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.

20a. Mortgages on other property

20a. \$

20b. Real estate taxes

20b. \$

20c. Property, homeowner's, or renter's insurance

20c. \$

20d. Maintenance, repair, and upkeep expenses

20d. \$

20e. Homeowner's association or condominium dues

20e. \$

21. Other. Specify: \_\_\_\_\_

21. +\$ \_\_\_\_\_

22. Calculate your monthly expenses.

22a. Add lines 4 through 21.

22b. Copy line \_\_\_\_ (monthly expenses for Debtor 2), if any, from Official Form 106J-2

22c. Add line 22a and 22b. The result is your monthly expenses.

22. 

\$	_____
\$	_____
\$	_____

23. Calculate your monthly net income.

23a. Copy line 12 (your combined monthly income) from Schedule I.

23a. \$ \_\_\_\_\_

23b. Copy your monthly expenses from line 22 above.

23b. - \$ \_\_\_\_\_

23c. Subtract your monthly expenses from your monthly income.

The result is your *monthly net income*.

23c. 

\$	_____
----	-------

24. Do you expect an increase or decrease in your expenses within the year after you file this form?

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

No.

Yes.

Explain here:



**Fill in this information to identify your case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_  
(If known)

Check if this is:

- An amended filing
- A supplement showing post-petition chapter 13 expenses as of the following date:

\_\_\_\_\_  
MM / DD / YYYY

**Official Form 106J-2**

**Schedule J-2: Expenses for Separate Household of Debtor 2**

12/15

Use this form for Debtor 2's separate household expenses ONLY IF Debtor 1 and Debtor 2 maintain separate households. Answer the questions on this form with respect to Debtor 2 only. If Debtor 1 and Debtor 2 have one or more dependents in common, list the dependent on both Schedule J and Schedule J-2. Be as complete and accurate as possible. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

**Part 1: Describe Your Household**

Do you and Debtor 1 maintain separate households?  Yes  
 No (Do not complete this form)j

1. Do you have dependents?	Dependent's relationship to Debtor 2:	Dependent's age	Does dependent live with you?
<input type="checkbox"/> No <input type="checkbox"/> Yes. Fill out this information for each dependent.....	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Do not list Debtor 1 but list all other dependents of Debtor 2 regardless of whether listed as a dependent of Debtor 1 on Schedule J.  Only list dependents  Do not state the dependents' names.	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

2. Do your expenses include expenses of people other than yourself, your dependents, and Debtor 1?  No  
 Yes

**Part 2: Estimate Your Ongoing Monthly Expenses**

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on *Schedule I: Your Income* (Official Form 106I.)

	Your expenses
3. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.	4. \$ _____
<b>If not included in line 4:</b>	
4a. Real estate taxes	4a. \$ _____
4b. Property, homeowner's, or renter's insurance	4b. \$ _____
4c. Home maintenance, repair, and upkeep expenses	4c. \$ _____
4d. Homeowner's association or condominium dues	4d. \$ _____

Your expenses

4. Additional mortgage payments for your residence, such as home equity loans

5. \$

5. Utilities:

6a. Electricity, heat, natural gas

6a. \$

6b. Water, sewer, garbage collection

6b. \$

6c. Telephone, cell phone, Internet, satellite, and cable services

6c. \$

6d. Other. Specify:

6d. \$

6. Food and housekeeping supplies

7. \$

7. Childcare and children's education costs

8. \$

8. Clothing, laundry, and dry cleaning

9. \$

9. Personal care products and services

10. \$

10. Medical and dental expenses

11. \$

11. Transportation. Include gas, maintenance, bus or train fare. Do not include car payments.

12. \$

12. Entertainment, clubs, recreation, newspapers, magazines, and books

13. \$

13. Charitable contributions and religious donations

14. \$

14. Insurance.

Do not include insurance deducted from your pay or included in lines 4 or 20.

15a. Life insurance

15a. \$

15b. Health insurance

15b. \$

15c. Vehicle insurance

15c. \$

15d. Other insurance. Specify:

15d. \$

16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20. Specify:

16. \$

17. Installment or lease payments:

17a. Car payments for Vehicle 1

17a. \$

17b. Car payments for Vehicle 2

17b. \$

17c. Other. Specify:

17c. \$

17d. Other. Specify:

17d. \$

18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 106I).

18. \$

19. Other payments you make to support others who do not live with you.

Specify:

19. \$

20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.

20a. Mortgages on other property

20a. \$

20b. Real estate taxes

20b. \$

20c. Property, homeowner's, or renter's insurance

20c. \$

20d. Maintenance, repair, and upkeep expenses

20d. \$

20e. Homeowner's association or condominium dues

20e. \$



21. **Other.** Specify: \_\_\_\_\_

21. **+\$** \_\_\_\_\_

22. **Your monthly expenses.** Add lines 4 through 21.  
The result is the monthly expenses of Debtor 2. Copy the result to line 22b of Schedule J to calculate the total expenses for Debtor 1 and Debtor 2.

22. \$ \_\_\_\_\_

23. Line not used on this form.

\_\_\_\_\_

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

No.

Yes.

Explain here:



## COMMITTEE NOTE

*Schedule J: Your Expenses* (Official Form 106J), formally Official Form 6J, has been revised to include references to new *Schedule J-2: Expenses for Separate Household of Debtor 2* (Official Form 106J-2) at line 1 and new line 22b. The revisions clarify how to calculate monthly net income in joint cases where Debtor 1 and Debtor 2 maintain separate households. Line 22b is added so Schedule J and Schedule J-2 are easily coordinated. Schedule J is also renumbered to conform to the three digit numbering system that was developed for official bankruptcy forms as part of the Forms Modernization Project.

Schedule J-2 is new. It is used to report the monthly expenses of Debtor 2 in a joint debtor case only if Debtor 1 and Debtor 2 maintain separate households.



Debtor \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_

[Bankruptcy district] \_\_\_\_\_

Case number: \_\_\_\_\_

Chapter you are filing under: \_\_\_\_\_

Check if this is an amended plan

# Official Form 113

## Chapter 13 Plan

12/15

### Part 1: Notices

**To Debtors:** This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. In the following notice to creditors, you must check each box that applies.

**To Creditors:** Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

The following matters may be of particular importance to you. Boxes must be checked by debtor(s) if applicable.

- The plan seeks to limit the amount of a secured claim, as set out in Part 3, section 3.2, which may result in a partial payment or no payment at all to the secured creditor.
- The plan requests the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as set out in Part 3, section 3.4.
- The plan sets out nonstandard provisions in Part 9.

### Part 2: Plan Payments and Length of Plan

**2.1 Debtor(s) will make regular payments to the trustee as follows:**

\$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months  
[and \$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months.] *Insert additional lines if needed.*

If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in Parts 3 through 6 of this plan.

**2.2 Regular payments to the trustee will be made from future earnings in the following manner:**

*Check all that apply.*

- Debtor(s) will make payments pursuant to a payroll deduction order.
- Debtor(s) will make payments directly to the trustee.
- Other (specify method of payment): \_\_\_\_\_.

**2.3 Federal income tax refunds.**

*Check one.*

- Debtor(s) will retain any federal tax refunds received during the plan term.
- Debtor(s) will supply the trustee with a copy of each federal tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all federal income tax refunds, other than earned income tax credits, received during the plan term.
- Debtor(s) will supply the trustee with federal tax returns filed during the plan term and will turn over to the trustee a portion of any federal income tax refunds received during the plan term as specified below.

\_\_\_\_\_  
\_\_\_\_\_

**2.4 Additional payments.**

Check one.

- None.** If *None* is checked, the rest of section 2.4 need not be completed or reproduced.
- Debtor(s) will make additional payment(s) to the trustee from other sources, as specified below. Describe the source, estimated amount, and date of each anticipated payment.

\_\_\_\_\_

\_\_\_\_\_

**2.5 The total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ \_\_\_\_\_.**

**Part 3: Treatment of Secured Claims**

**3.1 Maintenance of payments and cure of any default.**

Check one.

- None.** If *None* is checked, the rest of section 3.1 need not be completed or reproduced.
- The debtor(s) will maintain the contractual installment payments on the claims listed below, with any changes required by the applicable contract, and cure any default in payments on the secured claims listed below. The allowed claim for any arrearage amount will be paid under the plan, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease and all secured claims based on that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Current installment payment (including escrow )	Amount of arrearage	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				

*Insert additional claims as needed.*

**3.2 Request for valuation of security and claim modification. Check one.**

**None.** If *None* is checked, the rest of section 3.2 need not be completed or reproduced.

*The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.*

The debtor(s) request that the court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor(s) state that the value of the secured claim should be as stated below in the column headed *Amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the court, the amounts listed in proofs of claim filed in accordance with the Bankruptcy Rules control over any contrary amounts listed below. For each listed secured claim, the controlling amount of the claim will be paid in full under the plan with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

The holder of any claim listed below as having value in the column headed *Amount of secured claim* will retain the lien until the earlier of:

- (a) payment of the underlying debt determined under nonbankruptcy law, or
- (b) discharge under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor. See Bankruptcy Rule 3015.

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____

*Insert additional claims as needed.*

**3.3 Secured claims excluded from 11 U.S.C. § 506.**

*Check one.*

**None.** If *None* is checked, the rest of section 3.3 need not be completed or reproduced.

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim or modification of a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	

*Insert additional claims as needed.*

**3.4 Lien avoidance.**

Check one.

- None.** If *None* is checked, the rest of section 3.4 need not be completed or reproduced.  
**The remainder of this paragraph will be effective only if the applicable box on Part 1 of this plan is checked.**

- The judicial liens or nonpossessory, nonpurchase money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). A judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of the order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 5. The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d). *If more than one lien is to be avoided, provide the information separately for each lien.*

Information regarding judicial lien or security interest	Calculation of lien avoidance	Treatment of remaining secured claim
Name of creditor  _____	a. Amount of lien  \$ _____	<b>Amount of secured claim after avoidance</b> (line a minus line f) \$ _____
	b. Amount of all other liens  \$ _____	
Collateral  _____	c. Value of claimed exemptions  + \$ _____	<b>Interest rate</b> (if applicable)  _____ %
	d. Total of adding lines a, b, and c  \$ _____	
Lien identification (such as judgment date, date of lien recording, book and page number)  _____ _____	e. Value of debtor's interest in property  - \$ _____	<b>Monthly plan payment</b> \$ _____
	f. Subtract line e from line d.  \$ _____	
Extent of exemption impairment (Check applicable box):		
<input type="checkbox"/> <b>Line f is equal to or greater than line a.</b> The entire lien is avoided. (Do not complete the next column.)		
<input type="checkbox"/> <b>Line f is less than line a.</b> A portion of the lien is avoided. (Complete the next column.)		

*Insert additional claims as needed.*

**3.5 Surrender of collateral.**

Check one.

- None.** If *None* is checked, the rest of section 3.5 need not be completed or reproduced.
- The debtor(s) elect to surrender to each creditor listed below the collateral that secures the creditor's claim. The debtor(s) consent to termination of the stay under 11 U.S.C. § 362(a) and § 1301 with respect to the collateral upon confirmation of the plan. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Name of creditor	Collateral
_____	_____
_____	_____

*Insert additional claims as needed.*



**Part 4:** Treatment of Trustee's Fees and Priority Claims

**4.1 General**

Trustee's fees and all allowed priority claims other than those treated in section 4.5 will be paid in full without interest.

**4.2 Trustee's fees**

Trustee's fees are estimated to be \_\_\_\_\_% of plan payments; and during the plan term, they are estimated to total \$\_\_\_\_\_.

**4.3 Attorney's fees**

The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$\_\_\_\_\_.

**4.4 Priority claims other than attorney's fees and those treated in section 4.5.**

Check one.

- None.** If *None* is checked, the rest of section 4.4 need not be completed or reproduced.
- The debtor estimates the total amount of other priority claims to be \_\_\_\_\_.

**4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.**

Check one.

- None.** If *None* is checked, the rest of section 4.5 need not be completed or reproduced.
- The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4), but not less than the amount that would have been paid on such claim if the estate of the debtor were liquidated under chapter 7, see 11 U.S.C. § 1325(a)(4).

a.	Name of creditor	Amount of claim to be paid
	_____	\$ _____
c.	_____	\$ _____

*Insert additional claims as needed.*

**Part 5:** Treatment of Nonpriority Unsecured Claims

**5.1 General**

Nonpriority unsecured claims will be paid to the extent allowed as specified in this Part.

**5.2 Nonpriority unsecured claims not separately classified.**

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata. If more than one option is checked, the option providing the largest payment will be effective. *Check all that apply.*

- The sum of \$\_\_\_\_\_.
- \_\_\_\_\_% of the total amount of these claims.
- The funds remaining after disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7, nonpriority unsecured claims would be paid approximately \$\_\_\_\_\_. Regardless of the options checked above, payments on allowed nonpriority unsecured claims will be made in at least this amount.

**5.3 Interest on allowed nonpriority unsecured claims not separately classified. Check one.**

- None.** If *None* is checked, the rest of section 5.3 need not be completed or reproduced.
- Interest on allowed nonpriority unsecured claims that are not separately classified will be paid at an annual percentage rate of \_\_\_\_\_ % under 11 U.S.C. §1325(a)(4), and is estimated to total \$ \_\_\_\_\_.

**5.4 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.**

- None.** If *None* is checked, the rest of section 5.4 need not be completed or reproduced.
- The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. The allowed claim for the arrearage amount will be paid under the plan.

Name of creditor	Current installment payment	Estimated arrearage	Estimated total payments by trustee
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____

*Insert additional claims as needed.*

**5.5 Other separately classified nonpriority unsecured claims. Check one.**

- None.** If *None* is checked, the rest of section 5.5 need not be completed or reproduced.
- The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows:

Name of creditor	Basis for separate classification and treatment	Estimated amount to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____ %	\$ _____
_____	_____	\$ _____	_____ %	\$ _____

*Insert additional claims as needed.*

**Part 6:** Executory Contracts and Unexpired Leases

**6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.**

**None.** If checked, the rest of section 6.1 need not be completed or reproduced.

**Assumed items.** The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Property description	Treatment (Refer to other plan section if applicable)	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____
_____	_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____

*Insert additional contracts or leases as needed.*

**Part 7:** Order of Distribution of Trustee Payments

**7.1 The trustee will make the payments required in Parts 3 through 6 in the following order:**

- a. Trustee's fees
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_
- f. \_\_\_\_\_
- g. \_\_\_\_\_
- h. \_\_\_\_\_

**Part 8:** Vesting of Property of the Estate

**8.1 Property of the estate shall revert in the debtor(s) upon**

*Check the applicable box:*

- Plan confirmation.
- Closing of the case.
- Other: \_\_\_\_\_.

Debtor \_\_\_\_\_

Case number \_\_\_\_\_

**Part 9:** Nonstandard Plan Provisions

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*Under Bankruptcy Rule 3015(c), nonstandard provisions are required to be set forth below.*

***These plan provisions will be effective only if the applicable box in Part 1 of this plan is checked.***

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**Part 10:** Signatures

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**X** \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Attorney for Debtor(s)

**Signature(s) of Debtor(s) (required if not represented by an attorney; otherwise optional)**

**X** \_\_\_\_\_ Date \_\_\_\_\_  
Signature(s) of Debtor(s)

**X** \_\_\_\_\_ Date \_\_\_\_\_  
Signature(s) of Debtor(s)

# Chapter 13 Plan Exhibit: Estimated Amounts of Trustee Payments

The trustee will make the following estimated payments on allowed claims in the order set forth in section 7.1:

- a. **Maintenance and cure payments on secured claims** *(Part 3, section 3.1 total):* \$ \_\_\_\_\_
- b. **Modified secured claims** *(Part 3, section 3.2 total):* \$ \_\_\_\_\_
- c. **Secured claims excluded from 11 U.S.C. § 506** *(Part 3, section 3.3 total):* \$ \_\_\_\_\_
- d. **Judicial liens or security interests partially avoided** *(Part 3, section 3.4 total):* \$ \_\_\_\_\_
- e. **Administrative and other priority claims** *(Part 4 total):* \$ \_\_\_\_\_
- f. **Nonpriority unsecured claims** *(Part 5, section 5.2 total):* \$ \_\_\_\_\_
- g. **Interest on allowed unsecured claims** *(Part 5, section 5.3 total)* \$ \_\_\_\_\_
- h. **Maintenance and cure payments on unsecured claims** *(Part 5, section 5.4 total)* \$ \_\_\_\_\_
- i. **Separately classified unsecured claims** *(Part 5, section 5.5 total)* \$ \_\_\_\_\_
- j. **Arrearage payments on executory contracts and unexpired leases** *(Part 6, section 6.1 total)* + \$ \_\_\_\_\_

**Total of lines a through j**.....

\$ _____
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## COMMITTEE NOTE

Official Form 113 is new and is the required plan form in all chapter 13 cases. See Bankruptcy Rule 3015. Alterations to the text of the form or the order of its provisions, except as permitted by the form itself, must comply with Bankruptcy Rule 9009. As the form explains, spaces for responses may be expanded or collapsed as appropriate, and sections that are inapplicable do not need to be reproduced. Portions of the form provide multiple options for provisions of a debtor's plan, but some of those options may not be accepted or recognized in the debtor's judicial district. Debtors are advised to refer to the applicable local rules and standing orders of the bankruptcy court.

Amounts listed in the plan form are controlling, unless the form requests an estimated or approximate amount.

*Part 1.* This part is intended to highlight some provisions of the plan for the benefit of interested parties and the court. For that reason, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 9 of the plan proposes a provision not included in, or contrary to, the Official Form, then that nonstandard provision will be ineffective if the appropriate check box is not selected.

*Part 2.* This part states the proposed periodic plan payments, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments accordingly, that should be indicated in § 2.1. If the debtor proposes to make payments according to different "steps," the amounts and intervals of those payments should also be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make regular payments to the trustee. If the debtor selects the option of making payments pursuant to a payroll deduction order, that selection serves as a request by the debtor for entry of the order. Whether to enter a payroll deduction order is determined by the court. See Code § 1325(c). If the debtor selects the option of making payments other than by direct payments to the trustee or by a payroll deduction order, the alternative method (*e.g.*, a designated third party electronic funds transfer program) must be specified.

*Part 3.* This part provides for the treatment of secured claims.

Section 3.1 provides for the treatment of claims under Code § 1322(b)(5) (maintaining current payments and curing any arrearage). For the claim of a secured creditor listed in § 3.1, an estimated arrearage amount should be given. A contrary arrearage amount listed on the creditor's proof of claim, unless contested by objection or motion, will control over the amount given in the plan.

In § 3.2, the plan may propose to determine under Code § 506(a) the value of a secured claim. For example, the plan could seek to reduce the secured portion of a creditor's claim to the value of the collateral securing it. For the secured claim of a nongovernmental creditor, that determination would be binding upon confirmation of the plan. For the secured claim of a governmental unit, however, a contrary valuation listed on the creditor's proof of claim, unless contested by objection or motion, would control over the valuation given in the

plan. See Bankruptcy Rule 3012. Bankruptcy Rule 3002 contemplates that a debtor, the trustee, or another entity may file a proof of claim if the creditor does not do so in a timely manner. See Bankruptcy Rules 3004 and 3005. Section 3.2 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.3 deals with secured claims that may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for an interest rate other than the contract rate to be applied to payments on such a claim. If appropriate, a claim may be treated under § 3.1 instead of § 3.3.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). This section includes space for the calculation of the amount of the judicial lien or security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. See Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.5 provides for elections to surrender collateral and consent to termination of the stay under § 362(a) and § 1301 with respect to the collateral surrendered. Termination will be effective upon confirmation of the plan.

*Part 4.* This part provides for the treatment of trustee's fees and claims entitled to priority status. Section 4.1 provides that trustee's fees and all allowed priority claims (other than those domestic support obligations treated in § 4.5) will be paid in full. In § 4.2, the plan lists an estimate of the trustee's fees. Although the estimate may indicate whether the plan will be feasible, it does not affect the trustee's entitlement to fees as determined by statute. In § 4.3, the form requests the balance of attorney's fees owed. Additional details about payments of attorney's fees, including information about their timing and approval, are left to the requirements of local practice. In § 4.4, the plan calls for an estimated amount of priority claims. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in § 4.4. In § 4.5, the plan may propose to pay less than the full amount of a domestic support obligation that has been assigned to, or is owed to, a governmental unit, but not less than the amount that claim would have received in a chapter 7 liquidation.

*Part 5.* This part provides for the treatment of unsecured claims that are not entitled to priority status. Section 5.1 provides generally that the amounts of such claims listed on creditors' proofs of claim will control, unless otherwise ordered by the court. In § 5.2, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or also provide that a defined percentage of the total amount of unsecured claims will be paid. In § 5.4, the plan may provide for the separate classification of nonpriority unsecured claims (such as co-debtor claims) as permitted under Code § 1322(b)(1).

*Part 6.* This part provides for executory contracts and unexpired leases. An executory contract or unexpired lease is rejected unless it is listed in this part. If the plan proposes neither to assume nor reject an executory contract or



unexpired lease, that treatment should be set forth as a nonstandard provision in Part 9.

*Part 7.* This part provides an order of distribution of payments under the plan. Other than the trustee's fees, the order of distribution is left to be completed by the debtor in keeping with the requirements of the Code. The debtor may instead elect to have the trustee direct the order of distribution.

*Part 8.* This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon closing the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

*Part 9.* This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or are contrary to, the Official Form. All such nonstandard provisions must be set forth in this part and nowhere else in the plan. This part will not be effective unless the appropriate check box in Part 1 is selected. See Bankruptcy Rule 3015.

*Part 10.* The plan must be signed by the attorney for the debtor or debtors. If the debtor or debtors are not represented by an attorney, they may sign the plan but are not required to do so.



**Fill in this information to identify the case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter \_\_\_\_\_

Check if this is an amended filing

**Official Form 201**

**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name \_\_\_\_\_

2. All other names debtor used in the last 8 years \_\_\_\_\_

Include any assumed names, trade names and *doing business* as names

3. Debtor's federal Employer Identification Number (EIN) \_\_\_\_\_

4. Debtor's address

	<b>Principal place of business</b>	<b>Mailing address, if different from principal place of business</b>
--	------------------------------------	---

Number Street

Number Street

P.O. Box

City State ZIP Code

City State ZIP Code

**Location of principal assets, if different from principal place of business**

County

Number Street

City State ZIP Code

5. Debtor's website (URL) \_\_\_\_\_

6. Type of debtor

- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
- Partnership (excluding LLP)
- Other. Specify: \_\_\_\_\_

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. §101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. §781(3))
- None of the above

B. Check all that apply:

- Tax-exempt entity (as described in 26 U.S.C. §501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 6-digit code that best describes debtor.  
See [www.naics.com/search.htm](http://www.naics.com/search.htm).

\_\_\_\_\_

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:
  - Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every 3 years after that).
  - The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
  - A plan is being filed with this petition.
  - Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A) with this form.
  - The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- No
- Yes. District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- No
- Yes. Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_  
MM / DD / YYYY
- Case number, if known \_\_\_\_\_

List all cases. If more than 1, attach a separate list.

11. Why is venue proper in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- No
- Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.  
What is the hazard? \_\_\_\_\_
- It needs to be physically secured or protected from the weather.
- It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- Other \_\_\_\_\_

Where is the property?

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

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Is the property insured?

- No
  - Yes. Insurance agency \_\_\_\_\_
- Contact name \_\_\_\_\_
- Phone \_\_\_\_\_

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- Funds will be available for distribution to unsecured creditors.
- After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

- |                                  |  |  |
|----------------------------------|--|--|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |  |

15. Estimated assets

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

16. Estimated liabilities

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

**Request for Relief, Declaration, and Signatures**

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**17. Declaration and signature of authorized representative of debtor**

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X**

\_\_\_\_\_  
Signature of authorized representative of debtor

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

**18. Signature of attorney**

**X**

\_\_\_\_\_  
Signature of attorney for debtor

Date \_\_\_\_\_  
MM / DD / YYYY

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name

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

\_\_\_\_\_  
City State ZIP Code

\_\_\_\_\_  
Contact phone

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Bar number

\_\_\_\_\_  
State

## COMMITTEE NOTE

Official Form 201, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*, replaces Official Form 1, *Voluntary Petition*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 201 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Official Form 201 has been substantially reformatted and reorganized. References to Exhibits B, C, and D, and the exhibits themselves, have been eliminated because the requested information is now asked in the form or is not applicable to non-individual debtors. Official Form 201A, *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11*, has replaced Exhibit A. The debtor is instructed to file Official Form 201A if the debtor is filing under chapter 11 and is required to file periodic reports with the Securities and Exchange Commission. A checkbox has been added to the form to indicate whether it is an amended filing.

In Question 2, *All other names debtor used in the last 8 years*, instructions pertaining only to individuals have been deleted, and an instruction to include *doing business as* names and assumed names has been added. In Question 3, *Debtor's federal Employee Identification Number (EIN)*, references to social security numbers and individual taxpayer I.D. numbers have been deleted. In Question 4, *Debtor's address*, the order of listing the various addresses for the debtor has been rearranged, and an address for the location of principal assets is required if different from the principal place of business. Also, the form has been revised to include a space for listing the debtor's website in Question 5.

In Question 6, *Type of Debtor*, options pertaining only to individual debtors have been deleted, and an instruction that the "partnership" option does not include LLPs has been added. Question 7, *Describe debtor's business*, is revised to include a statutory citation for each business type, to add an option for "none of the above," and to delete the option for "other." A new instruction requires the debtor to indicate if the debtor is an investment company, including a hedge fund or pooled investment vehicle; an investment advisor; or a tax exempt entity. The definition of "tax exempt entity" has been removed and replaced with a statutory citation. Additionally, an instruction has been added to require the debtor to list its North American Industry Classification System 6-digit code. A hyperlink is provided for information on finding the correct code.

In Question 8, *Under which chapter of the Bankruptcy Code is the debtor filing*, several separate boxes have been combined, and the options for Chapter 13 and Chapter 15 have been deleted. More detailed options have been added for Chapter 11. The question regarding the nature of the debtor's debts has been removed.

Question 9, *Were prior bankruptcy cases filed by or against the debtor within the last 8 years*, has been revised to instruct the debtor to include prior bankruptcy cases filed against the debtor and to list the district rather than location of the prior filings. In Question 10, *Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor*, the reference to



spouse and the requirement to list the judge in any other cases have been removed.

Question 11, *Why is venue proper in this district*, has been revised to delete references that pertain only to individuals.

Question 12, *Does the debtor own or have possession of any real property or personal property that needs immediate attention*, replaces Exhibit C from Official Form 1. The category of “property that needs immediate attention” has been added, as well as options to indicate why the property needs immediate attention. Additionally, the form has been revised to require the debtor to list the location of the property and whether or not the property is insured and, if so, the insurance details.

*Statistical and administrative information* has been moved to immediately above the signature line, and the reference to exempt property has been removed. The maximum values for “Estimated Assets” and “Estimated Liabilities” have been increased from “more than \$1 billion” to “more than \$50 billion.” *Request for Relief, Declaration, and Signatures* has been reformatted and the signature lines for individual debtors and non-attorney bankruptcy petition preparers have been removed.



**Fill in this information to identify the case and this filing:**

Debtor Name \_\_\_\_\_  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number (If known): \_\_\_\_\_

**Official Form 202****Declaration Under Penalty of Perjury for Non-Individual Debtors****12/15**

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

**WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**

## Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- Schedule A/B: Assets—Real and Personal Property* (Official Form 206A/B)
- Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
- Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
- Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
- Schedule H: Codebtors* (Official Form 206H)
- A Summary of Assets and Liabilities for Non-Individuals* (Official Form 206—Summary)
- Amended *Schedule* \_\_\_\_\_
- Other document that requires a declaration \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
 MM / DD / YYYY

✕

\_\_\_\_\_  
 Signature of individual signing on behalf of debtor

\_\_\_\_\_  
 Printed name

\_\_\_\_\_  
 Position or relationship to debtor



## COMMITTEE NOTE

Official Form 202, *Declaration Under Penalty of Perjury for Non-Individual Debtors*, replaces Official Form 2, *Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership*, and the section of Official Form 6 Declaration, *Declaration Concerning Debtor's Schedules* containing a corporation's or partnership's declaration. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 202 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

Official Form 202 has been substantially reformatted and reorganized with elements from both Official Form 2 and the section of Official Form 6 for a corporation or partnership. Instructions have been added, along with warning language regarding bankruptcy fraud. Checkboxes are provided so the declaration will indicate the schedules included with the declaration or, if the declaration accompanies another document, a description of the attached document. The phrase "to the best of my information and belief" has been deleted from the declaration in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008. The form, however, includes a statement that the person signing the declaration has examined the information in the documents subject to the declaration and has "a reasonable belief that the information is true and correct." Finally, the person signing the declaration must indicate his or her position or relationship to the debtor.



**Fill in this information to identify the case:**

Debtor name \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (If known): \_\_\_\_\_

Check if this is an amended filing

**Official Form 204**

**Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1							
2							
3							
4							
5							
6							
7							
8							

Debtor \_\_\_\_\_  
Name

Case number *(if known)* \_\_\_\_\_

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim <small>If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.</small>		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							



## COMMITTEE NOTE

Official Form 204, *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders*, replaces Official Form 4, *List of Creditors Holding 20 Largest Unsecured Claims*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 204 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Official Form 204 has been reformatted and reorganized. The instructions have been shortened and revised to include a full cite to the definition of “insider” and a revised explanation of when to include a secured creditor’s unsecured claim. The warning regarding the disclosure of a minor child’s name has been deleted as a caution has been added to the general instructions for all forms regarding listing a minor child’s name.

The heading of the second column of the form has been revised to require the “name, telephone number, and email address of creditor contact,” eliminating the need to provide a complete

mailing address for the creditor contact. Additional examples of “nature of claim” have been provided in the third column. In the fourth column, “subject to setoff” has been removed as an option.

The fifth column has been revised to include three separate potential entries to be used to list the value of the unsecured claim: the total claim, if partially secured; the deduction for value of collateral or setoff; and unsecured claim. The new instructions for the fifth column contain an explanation that if a claim is a fully unsecured claim, only the final sub-column needs to be completed, and that all of the columns must be completed if a claim is partially secured.

The signature line and the instruction to include a declaration have been deleted from the form.

**Fill in this information to identify the case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter \_\_\_\_\_

 Check if this is an amended filing**Official Form 205****Involuntary Petition Against a Non-Individual**

12/15

Use this form to begin a bankruptcy case against a non-individual you allege to be a debtor subject to an involuntary case. If you want to begin a case against an individual, use the *Involuntary Petition Against an Individual* (Official Form 105). Be as complete and accurate as possible. If more space is needed, attach any additional sheets to this form. On the top of any additional pages, write debtor's name and case number (if known).

**Part 1: Identify the Chapter of the Bankruptcy Code Under Which Petition Is Filed****1. Chapter of the Bankruptcy Code**

Check one:

- Chapter 7  
 Chapter 11

**Part 2: Identify the Debtor****2. Debtor's name** \_\_\_\_\_**3. Other names you know the debtor has used in the last 8 years**

Include any assumed names, trade names, or *doing business as* names.

**4. Debtor's federal Employer Identification Number (EIN)** Unknown\_\_\_\_ - \_\_\_\_ - \_\_\_\_\_  
EIN**5. Debtor's address****Principal place of business**

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

City State ZIP Code \_\_\_\_\_

County \_\_\_\_\_

**Mailing address, if different**

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

P.O. Box \_\_\_\_\_

City State ZIP Code \_\_\_\_\_

**Location of principal assets, if different from principal place of business**

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

City State ZIP Code \_\_\_\_\_

6. Debtor's website (URL) \_\_\_\_\_

7. Type of debtor
- Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
  - Partnership (excluding LLP)
  - Other type of debtor. Specify: \_\_\_\_\_

8. Type of debtor's business
- Check one:*
- Health Care Business (as defined in 11 U.S.C. § 101(27A))
  - Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
  - Railroad (as defined in 11 U.S.C. §101(44))
  - Stockbroker (as defined in 11 U.S.C. § 101(53A))
  - Commodity Broker (as defined in 11 U.S.C. § 101(6))
  - Clearing Bank (as defined in 11 U.S.C. §781(3))
  - None of the types of business listed.
  - Unknown type of business.

9. To the best of your knowledge, are any bankruptcy cases pending by or against any partner or affiliate of this debtor?
- No
  - Yes. Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ Date filed \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY  
  
Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ Date filed \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

**Part 3:** Report About the Case

10. Venue
- Check one:*
- Over the last 180 days before the filing of this bankruptcy, the debtor had a domicile, principal place of business, or principal assets in this district longer than in any other district.
  - A bankruptcy case concerning debtor's affiliates, general partner, or partnership is pending in this district.

11. Allegations
- Each petitioner is eligible to file this petition under 11 U.S.C. § 303(b).  
The debtor may be the subject of an involuntary case under 11 U.S.C. § 303(a).
- At least one box must be checked.*
- The debtor is generally not paying its debts as they become due, unless they are the subject of a bona fide dispute as to liability or amount.
  - Within 120 days before the filing of this petition, a custodian, other than a trustee, receiver, or an agent appointed or authorized to take charge of less than substantially all of the property of the debtor for the purpose of enforcing a lien against such property, was appointed or took possession.

12. Has there been a transfer of any claim against the debtor by or to any petitioner?
- No
  - Yes. Attach all documents that evidence the transfer and any statements required under Bankruptcy Rule 1003(a).

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**13. Each petitioner's claim**

Name of petitioner

Nature of petitioner's claim

Amount of the claim above the value of any lien

_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
Total of petitioners' claims		\$ _____

If more space is needed to list petitioners, attach additional sheets. Write the alleged debtor's name and the case number, if known, at the top of each sheet. Following the format of this form, set out the information required in Parts 3 and 4 of the form for each additional petitioning creditor, the petitioner's claim, the petitioner's representative, and the petitioner's attorney. Include the statement under penalty of perjury set out in Part 4 of the form, followed by each additional petitioner's (or representative's) signature, along with the signature of the petitioner's attorney.

**Part 4: Request for Relief**

**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Petitioners request that an order for relief be entered against the debtor under the chapter of 11 U.S.C. specified in this petition. If a petitioning creditor is a corporation, attach the corporate ownership statement required by Bankruptcy Rule 1010(b). If any petitioner is a foreign representative appointed in a foreign proceeding, attach a certified copy of the order of the court granting recognition.

I have examined the information in this document and have a reasonable belief that the information is true and correct.

**Petitioners or Petitioners' Representative**

**Name and mailing address of petitioner**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X** \_\_\_\_\_  
Signature of petitioner or representative, including representative's title

**Attorneys**

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

Bar number \_\_\_\_\_

State \_\_\_\_\_

**X** \_\_\_\_\_  
Signature of attorney

Date signed \_\_\_\_\_  
MM / DD / YYYY

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**Name and mailing address of petitioner**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X** \_\_\_\_\_  
Signature of petitioner or representative, including representative's title

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

Bar number \_\_\_\_\_

State \_\_\_\_\_

**X** \_\_\_\_\_  
Signature of attorney

Date signed \_\_\_\_\_  
MM / DD / YYYY

**Name and mailing address of petitioner**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

**Name and mailing address of petitioner's representative, if any**

\_\_\_\_\_  
Name

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

\_\_\_\_\_  
City State ZIP Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X** \_\_\_\_\_  
Signature of petitioner or representative, including representative's title

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name, if any

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

\_\_\_\_\_  
City State ZIP Code

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

Bar number \_\_\_\_\_

State \_\_\_\_\_

**X** \_\_\_\_\_  
Signature of attorney

Date signed \_\_\_\_\_  
MM / DD / YYYY

## COMMITTEE NOTE

Official Form 205, *Involuntary Petition Against a Non-Individual*, replaces Official Form 5, *Involuntary Petition*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 205 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

Part 1, *Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*, has been moved to the beginning of the form.

In Part 2, *Identify the Debtor*, instructions pertaining only to individuals have been deleted, and an instruction to include doing-business-as names and assumed names has been added. The references to social security numbers and individual taxpayer I.D. numbers have been deleted. The order of listing the various addresses for the debtor have been rearranged in Line 5, and an address for the location of principal assets is required if different from the principal place of business. The form has been revised to include a space for listing the debtor's website in Line 6.

Also in Part 2, the options for type of debtor that pertained only to individuals have been deleted, and an instruction that the “partnership” option does not include LLPs has been added. The options regarding the type of debtor’s business have been revised to include a statutory citation for each business type, to add an option for “none of the above,” and to delete the option for “other.” The question regarding pending bankruptcy cases has been revised to remove the reference to spouse and the requirement to list the judge in any other cases.

In Part 3, *Report About the Case*, the question regarding venue has been revised in Line 10 to read “[o]ver the past 180 days before the filing of this bankruptcy, the debtor had a domicile, principal place or business, or principal assets in this district longer than in any other district.” In the question for Allegations, “each” has been added to the first allegation, the exact citation to the Bankruptcy Code has been provided for the second allegation, and checkboxes have been provided for the last allegation. Also, in Line 12, petitioners must check “yes” or “no” to answer whether there has been any transfer of any claim against the debtor by or to a petitioner.

The information regarding the petitioner’s claims has been moved to Part 3, and the portion listing the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

Part 4, *Request Relief*, has been amended to include a warning about making a false statement, and the declaration under penalty of perjury has been revised in order to conform to the language of 28 U.S.C. § 1746. See Rule 1008. A statement has been added that each petitioner, or the petitioner’s representative, has reviewed the information in the petition and has “a reasonable belief that the information is true and correct.” A requirement has been added for each petitioner’s mailing address. Also, petitioners’ attorneys must provide their email addresses, bar number, and state of bar membership.



**Fill in this information to identify the case:**

Debtor name \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_

Check if this is an amended filing

**Official Form 206A/B**

**Schedule A/B: Assets — Real and Personal Property**

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit. Also include assets and properties which have no book value, such as fully depreciated assets or assets that were not capitalized. In Schedule A/B, list any executory contracts or unexpired leases with a net value. Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known). Also identify the form and line number to which the additional information applies. If an additional sheet is attached, include the amounts from the attachment in the total for the pertinent part.

For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category. List each asset only once. In valuing the debtor's interest, do not deduct the value of secured claims. See the instructions to understand the terms used in this form.

**Part 1: Cash and cash equivalents**

1. Does the debtor have any cash or cash equivalents?

- No. Go to Part 2.
- Yes. Fill in the information below.

**All cash or cash equivalents owned or controlled by the debtor**

**Current value of debtor's interest**

2. Cash on hand

\$ \_\_\_\_\_

3. Checking, savings, money market, or financial brokerage accounts (*Identify all*)

Name of institution (bank or brokerage firm)                      Type of account                      Last 4 digits of account number

3.1. \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_                      \$ \_\_\_\_\_

3.2. \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_                      \$ \_\_\_\_\_

4. Other cash equivalents (*Identify all*)

4.1. \_\_\_\_\_                      \$ \_\_\_\_\_

4.2. \_\_\_\_\_                      \$ \_\_\_\_\_

5. Total of Part 1

\$ \_\_\_\_\_

Add lines 2 through 4 (including amounts on any additional sheets). Copy the total to line 80.

**Part 2: Deposits and prepayments**

6. Does the debtor have any deposits or prepayments?

- No. Go to Part 3.
- Yes. Fill in the information below.

**Current value of debtor's interest**

7. Deposits, including security deposits and utility deposits

Description, including name of holder of deposit

7.1. \_\_\_\_\_                      \$ \_\_\_\_\_

7.2. \_\_\_\_\_                      \$ \_\_\_\_\_



**Part 5: Inventory, excluding agriculture assets**

18. Does the debtor own any inventory (excluding agriculture assets)?

- No. Go to Part 6.  
 Yes. Fill in the information below.

General description	Date of the last physical inventory	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
19. Raw materials	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
20. Work in progress	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
21. Finished goods, including goods held for resale	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
22. Other inventory or supplies	_____ MM / DD / YYYY	\$ _____	_____	\$ _____
23. Total of Part 5	Add lines 19 through 22. Copy the total to line 84.			\$ _____

24. Is any of the property listed in Part 5 perishable?

- No  
 Yes. Is any of the property listed in Part 5 subject to or part of a possible PACA claim?  
 No  
 Yes

25. Has any of the property listed in Part 5 been purchased within 20 days before the bankruptcy was filed?

- No  
 Yes. Book value \_\_\_\_\_ Valuation method \_\_\_\_\_ Current value \_\_\_\_\_

26. Has any of the property listed in Part 5 been appraised by a professional within the last year?

- No  
 Yes

**Part 6: Agricultural assets (other than titled motor vehicles and land)**

27. Does the debtor own any agricultural assets (other than titled motor vehicles and land)?

- No. Go to Part 7.  
 Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
28. Crops—either planted or harvested	\$ _____	_____	\$ _____
29. Farm animals <i>Examples:</i> Livestock, poultry, farm-raised fish	\$ _____	_____	\$ _____

30. **Farm machinery and equipment** (Other than titled motor vehicles)  
 \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
31. **Farm and fishing supplies, chemicals, and feed**  
 \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_
32. **Other farm-related property not already listed in Part 5.**  
 \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

33. **Total of Part 6.** Add lines 28 through 32. Copy the total to line 85. \$ \_\_\_\_\_

34. **Is the debtor a member of an agricultural cooperative?**
- No
- Yes. Is any of the debtor's property stored at the cooperative?
- No
- Yes

35. **Has any of the property listed in Part 6 been purchased within 20 days before the bankruptcy was filed?**
- No
- Yes. Book value \$ \_\_\_\_\_ Valuation method \_\_\_\_\_ Current value \$ \_\_\_\_\_

36. **Is a depreciation schedule available for any of the property listed in Part 6?**
- No
- Yes

37. **Has any of the property listed in Part 6 been appraised by a professional within the last year?**
- No
- Yes

**Part 7:** Office furniture, fixtures, and equipment; and collectibles

38. **Does the debtor own any office furniture, fixtures, equipment, or collectibles?**
- No. Go to Part 8.
- Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
39. <b>Office furniture</b> _____	\$ _____	_____	\$ _____
40. <b>Office fixtures</b> _____	\$ _____	_____	\$ _____
41. <b>Office equipment, including all computer equipment and communication systems equipment and software</b> _____	\$ _____	_____	\$ _____
42. <b>Collectibles</b> <i>Examples:</i> Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; china and crystal; stamp, coin, or baseball card collections; other collections, memorabilia, or collectibles			
42.1 _____	\$ _____	_____	\$ _____
42.2 _____	\$ _____	_____	\$ _____
42.3 _____	\$ _____	_____	\$ _____
43. <b>Total of Part 7.</b> Add lines 39 through 42. Copy the total to line 86. <span style="border: 1px solid black; padding: 2px;">\$ _____</span>			

**44. Is a depreciation schedule available for any of the property listed in Part 7?**

- No  
 Yes

**45. Has any of the property listed in Part 7 been appraised by a professional within the last year?**

- No  
 Yes

**Part 8: Machinery, equipment, and vehicles**

**46. Does the debtor own any machinery, equipment, or vehicles?**

- No. Go to Part 9.  
 Yes. Fill in the information below.

General description	Net book value of debtor's interest	Valuation method used for current value	Current value of debtor's interest
Include year, make, model, and identification numbers (i.e., VIN, HIN, or N-number)	(Where available)		

**47. Automobiles, vans, trucks, motorcycles, trailers, and titled farm vehicles**

47.1 _____	\$ _____	_____	\$ _____
47.2 _____	\$ _____	_____	\$ _____
47.3 _____	\$ _____	_____	\$ _____
47.4 _____	\$ _____	_____	\$ _____

**48. Watercraft, trailers, motors, and related accessories** Examples: Boats, trailers, motors, floating homes, personal watercraft, and fishing vessels

48.1 _____	\$ _____	_____	\$ _____
48.2 _____	\$ _____	_____	\$ _____

**49. Aircraft and accessories**

49.1 _____	\$ _____	_____	\$ _____
49.2 _____	\$ _____	_____	\$ _____

**50. Other machinery, fixtures, and equipment (excluding farm machinery and equipment)**

_____	\$ _____	_____	\$ _____
-------	----------	-------	----------

**51. Total of Part 8.**

Add lines 47 through 50. Copy the total to line 87.

\$ \_\_\_\_\_

**52. Is a depreciation schedule available for any of the property listed in Part 8?**

- No  
 Yes

**53. Has any of the property listed in Part 8 been appraised by a professional within the last year?**

- No  
 Yes

**Part 9: Real property**

54. Does the debtor own any real property?

- No. Go to Part 10.  
 Yes. Fill in the information below.

55. Any building, other improved real estate, or land which the debtor owns or in which the debtor has an interest

Description and location of property Include street address or other description such as Assessor Parcel Number (APN), and type of property (for example, acreage, factory, warehouse, apartment or office building), if available.	Nature and extent of debtor's interest in property	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
55.1 _____	_____	\$ _____	_____	\$ _____
55.2 _____	_____	\$ _____	_____	\$ _____
55.3 _____	_____	\$ _____	_____	\$ _____
55.4 _____	_____	\$ _____	_____	\$ _____
55.5 _____	_____	\$ _____	_____	\$ _____
55.6 _____	_____	\$ _____	_____	\$ _____

56. Total of Part 9.

Add the current value on lines 55.1 through 55.6 and entries from any additional sheets. Copy the total to line 88.

\$ \_\_\_\_\_

57. Is a depreciation schedule available for any of the property listed in Part 9?

- No  
 Yes

58. Has any of the property listed in Part 9 been appraised by a professional within the last year?

- No  
 Yes

**Part 10: Intangibles and Intellectual Property**

59. Does the debtor have any interests in intangibles or intellectual property?

- No. Go to Part 11.  
 Yes. Fill in the information below.

General description	Net book value of debtor's interest (Where available)	Valuation method used for current value	Current value of debtor's interest
60. Patents, copyrights, trademarks, and trade secrets _____	\$ _____	_____	\$ _____
61. Internet domain names and websites _____	\$ _____	_____	\$ _____
62. Licenses, franchises, and royalties _____	\$ _____	_____	\$ _____
63. Customer lists, mailing lists, or other compilations _____	\$ _____	_____	\$ _____
64. Other intangibles, or intellectual property _____	\$ _____	_____	\$ _____
65. Goodwill _____	\$ _____	_____	\$ _____

66. Total of Part 10.

Add lines 60 through 65. Copy the total to line 89.

\$ \_\_\_\_\_

67. Do your lists or records include personally identifiable information of customers (as defined in 11 U.S.C. §§ 101(41A) and 107)?

- No
- Yes

68. Is there an amortization or other similar schedule available for any of the property listed in Part 10?

- No
- Yes

69. Has any of the property listed in Part 10 been appraised by a professional within the last year?

- No
- Yes

**Part 11:** All other assets

70. Does the debtor own any other assets that have not yet been reported on this form?

- No. Go to Part 12.
- Yes. Fill in the information below.

**Current value of debtor's interest**

71. Notes receivable

Description (include name of obligor)

\_\_\_\_\_ Total face amount — \_\_\_\_\_ doubtful or uncollectible amount = → \$ \_\_\_\_\_

72. Tax refunds and unused net operating losses (NOLs)

Describe (for example, federal, state, local)

\_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ Tax year \_\_\_\_\_ \$ \_\_\_\_\_

73. Interests in insurance policies or annuities

\_\_\_\_\_ \$ \_\_\_\_\_

74. Causes of action against third parties (whether or not a lawsuit has been filed)

\_\_\_\_\_ \$ \_\_\_\_\_

Nature of claim \_\_\_\_\_

Amount requested \$ \_\_\_\_\_

75. Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off claims

\_\_\_\_\_ \$ \_\_\_\_\_

Nature of claim \_\_\_\_\_

Amount requested \$ \_\_\_\_\_

76. Trusts, equitable or future interests in property

\_\_\_\_\_ \$ \_\_\_\_\_

77. Other property of any kind not already listed *Examples: Season tickets, country club membership*

\_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

78. Total of Part 11.

Add lines 71 through 77. Copy the total to line 90.

\$ \_\_\_\_\_

79. Has any of the property listed in Part 11 been appraised by a professional within the last year?

- No
- Yes

**Part 12:** Summary

In Part 12 copy all of the totals from the earlier parts of the form.

Type of property	Current value of personal property	Current value of real property
80. <b>Cash, cash equivalents, and financial assets.</b> <i>Copy line 45, Part 1.</i>	\$ _____	
81. <b>Deposits and prepayments.</b> <i>Copy line 9, Part 2.</i>	\$ _____	
82. <b>Accounts receivable.</b> <i>Copy line 12, Part 3.</i>	\$ _____	
83. <b>Investments.</b> <i>Copy line 17, Part 4.</i>	\$ _____	
84. <b>Inventory.</b> <i>Copy line 23, Part 5.</i>	\$ _____	
85. <b>Agricultural assets.</b> <i>Copy line 33, Part 6.</i>	\$ _____	
86. <b>Office furniture, fixtures, and equipment, and collectibles.</b> <i>Copy line 43, Part 7.</i>	\$ _____	
87. <b>Machinery, equipment, and vehicles.</b> <i>Copy line 51, Part 8.</i>	\$ _____	
88. <b>Real property.</b> <i>Copy line 56, Part 9.</i> .....	→	\$ _____
89. <b>Intangibles and intellectual property.</b> <i>Copy line 66, Part 10.</i>	\$ _____	
90. <b>All other assets.</b> <i>Copy line 78, Part 11.</i>	+ \$ _____	
91. <b>Total.</b> Add lines 80 through 90 for each column.....91a.	\$ _____	+ 91b. \$ _____
92. <b>Total of all property on Schedule A/B.</b> Lines 91a + 91b = 92. ....	\$ _____	



**Fill in this information to identify the case:**

Debtor name \_\_\_\_\_  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number (if known): \_\_\_\_\_

Check if this is an amended filing

**Official Form 206D**

**Schedule D: Creditors Who Have Claims Secured by Property**

12/15

Be as complete and accurate as possible.

**1. Do any creditors have claims secured by debtor's property?**

- No. Check this box and submit page 1 of this form to the court with debtor's other schedules. Debtor has nothing else to report on this form.
- Yes. Fill in all of the information below.

**Part 1: List Creditors Who Have Secured Claims**

**2. List in alphabetical order all creditors who have secured claims.** If a creditor has more than one secured claim, list the creditor separately for each claim.

Column A Amount of claim Do not deduct the value of lien.	Column B Value of debtor's property that secures this claim
---	--

**2.1 Creditor's name**

**Describe debtor's property that is subject to a lien**

\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**Creditor's mailing address**

\_\_\_\_\_  
 \_\_\_\_\_

**Describe the lien**

**Creditor's email address, if known**

\_\_\_\_\_

**Is the creditor an insider or related party?**

- No
- Yes

**Date debt was incurred** \_\_\_\_\_

**Is anyone else liable on this claim?**

- No
- Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

**Last 4 digits of account number** \_\_\_\_\_

**Do multiple creditors have an interest in the same property?**

- No
- Yes. Specify each creditor, including this creditor, and its relative priority.

**As of the petition filing date, the claim is:**

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

**2.2 Creditor's name**

**Describe debtor's property that is subject to a lien**

\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**Creditor's mailing address**

\_\_\_\_\_  
 \_\_\_\_\_

**Describe the lien**

**Creditor's email address, if known**

\_\_\_\_\_

**Is the creditor an insider or related party?**

- No
- Yes

**Date debt was incurred** \_\_\_\_\_

**Is anyone else liable on this claim?**

- No
- Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

**Last 4 digits of account number** \_\_\_\_\_

**Do multiple creditors have an interest in the same property?**

- No
- Yes. Have you already specified the relative priority?
  - No. Specify each creditor, including this creditor, and its relative priority.

**As of the petition filing date, the claim is:**

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

\_\_\_\_\_

- Yes. The relative priority of creditors is specified on lines \_\_\_\_\_

**3. Total of the dollar amounts from Part 1, Column A, including the amounts from the Additional Page, if any.**

\$ \_\_\_\_\_

Part 1: Additional Page

Column A	Column B
Amount of claim Do not deduct the value of lien.	Value of debtor's property that secures this claim

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

**2.** Creditor's name \_\_\_\_\_ Describe debtor's property that is subject to a lien \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's mailing address \_\_\_\_\_  
\_\_\_\_\_

Creditor's email address, if known \_\_\_\_\_

Date debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Do multiple creditors have an interest in the same property?  
 No  
 Yes. Have you already specified the relative priority?  
 No. Specify each creditor, including this creditor, and its relative priority.  
\_\_\_\_\_  
\_\_\_\_\_  
 Yes. The relative priority of creditors is specified on lines \_\_\_\_\_

Describe the lien \_\_\_\_\_

Is the creditor an insider or related party?  
 No  
 Yes

Is anyone else liable on this claim?  
 No  
 Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

As of the petition filing date, the claim is:  
Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Liquidated and neither contingent nor disputed

**2.** Creditor's name \_\_\_\_\_ Describe debtor's property that is subject to a lien \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

Creditor's mailing address \_\_\_\_\_  
\_\_\_\_\_

Creditor's email address, if known \_\_\_\_\_

Date debt was incurred \_\_\_\_\_  
Last 4 digits of account number \_\_\_\_\_

Do multiple creditors have an interest in the same property?  
 No  
 Yes. Have you already specified the relative priority?  
 No. Specify each creditor, including this creditor, and its relative priority.  
\_\_\_\_\_  
\_\_\_\_\_  
 Yes. The relative priority of creditors is specified on lines \_\_\_\_\_

Describe the lien \_\_\_\_\_

Is the creditor an insider or related party?  
 No  
 Yes

Is anyone else liable on this claim?  
 No  
 Yes. Fill out *Schedule H: Codebtors* (Official Form 206H).

As of the petition filing date, the claim is:  
Check all that apply.  
 Contingent  
 Unliquidated  
 Disputed  
 Liquidated and neither contingent nor disputed





**Fill in this information to identify the case:**

Debtor \_\_\_\_\_  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number \_\_\_\_\_  
 (If known)

Check if this is an amended filing

**Official Form 206E/F**

**Schedule E/F: Creditors Who Have Unsecured Claims**

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY unsecured claims and Part 2 for creditors with NONPRIORITY unsecured claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Real and Personal Property (Official Form 206A/B)* and on *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*. Number the entries in Parts 1 and 2 in the boxes on the left. If more space is needed for Part 1 or Part 2, fill out and attach the Additional Page of that Part included in this form.

**Part 1:** List All Creditors with PRIORITY Unsecured Claims

1. Do any creditors have priority unsecured claims? (See 11 U.S.C. § 507).

- No. Go to Part 2.
- Yes. Go to line 2.

2. List in alphabetical order all creditors who have unsecured claims that are at least partially entitled to priority. If the debtor has more than 3 creditors with priority unsecured claims, fill out and attach the Additional Page of Part 1.

	Total claim	Priority amount
<p><b>2.1</b> Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: \$ _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contingent</li> <li><input type="checkbox"/> Unliquidated</li> <li><input type="checkbox"/> Disputed</li> <li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li> </ul> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Yes</li> </ul>	<p>\$ _____</p>

<p><b>2.2</b> Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: \$ _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contingent</li> <li><input type="checkbox"/> Unliquidated</li> <li><input type="checkbox"/> Disputed</li> <li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li> </ul> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Yes</li> </ul>	<p>\$ _____</p>
---	---	-----------------

<p><b>2.3</b> Priority creditor's name and mailing address</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Date or dates debt was incurred _____</p> <p>Last 4 digits of account number _____</p> <p>Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (____)</p>	<p>As of the petition filing date, the claim is: \$ _____</p> <p><i>Check all that apply.</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Contingent</li> <li><input type="checkbox"/> Unliquidated</li> <li><input type="checkbox"/> Disputed</li> <li><input type="checkbox"/> Liquidated and neither contingent nor disputed</li> </ul> <p>Basis for the claim: _____</p> <p>Is the claim subject to offset?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No</li> <li><input type="checkbox"/> Yes</li> </ul>	<p>\$ _____</p>
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Part 1. Additional Page

Copy this page if more space is needed. Continue numbering the lines sequentially from the previous page. If no additional PRIORITY creditors exist, do not fill out or submit this page.

Total claim

Priority amount

2. Priority creditor's name and mailing address

As of the petition filing date, the claim is: \$ \_\_\_\_\_ \$ \_\_\_\_\_

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

Date or dates debt was incurred

Basis for the claim:

Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?

- No
- Yes

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (\_\_\_\_)

2. Priority creditor's name and mailing address

As of the petition filing date, the claim is: \$ \_\_\_\_\_ \$ \_\_\_\_\_

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

Date or dates debt was incurred

Basis for the claim:

Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?

- No
- Yes

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (\_\_\_\_)

2. Priority creditor's name and mailing address

As of the petition filing date, the claim is: \$ \_\_\_\_\_ \$ \_\_\_\_\_

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

Date or dates debt was incurred

Basis for the claim:

Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?

- No
- Yes

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (\_\_\_\_)

2. Priority creditor's name and mailing address

As of the petition filing date, the claim is: \$ \_\_\_\_\_ \$ \_\_\_\_\_

Check all that apply.

- Contingent
- Unliquidated
- Disputed
- Liquidated and neither contingent nor disputed

Date or dates debt was incurred

Basis for the claim:

Last 4 digits of account number \_\_\_\_\_

Is the claim subject to offset?

- No
- Yes

Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (\_\_\_\_)

**Part 2:** List All Creditors with NONPRIORITY Unsecured Claims

**3. Do any creditors have unsecured claims not listed on Part 1 of this form or on Schedule G?**

- No. Go to Part 3.
- Yes. Go to line 4.

**4. List in alphabetical order all of the creditors with nonpriority unsecured claims.** If the debtor has more than 4 creditors with nonpriority unsecured claims, fill out and attach the Additional Page of Part 2.

**Amount of claim**

<b>4.1</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____ <b>Last 4 digits of account number</b> _____	<b>Basis for the claim:</b> _____ <b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.2</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____ <b>Last 4 digits of account number</b> _____	<b>Basis for the claim:</b> _____ <b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.3</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____ <b>Last 4 digits of account number</b> _____	<b>Basis for the claim:</b> _____ <b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.4</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	<b>Date or dates debt was incurred</b> _____ <b>Last 4 digits of account number</b> _____	<b>Basis for the claim:</b> _____ <b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

<b>4.5</b>	<b>Nonpriority creditor's name and mailing address</b> _____ _____ _____	<b>As of the petition filing date, the claim is:</b> <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> None of the above	\$ _____
	<b>Date or dates debt was incurred</b> _____ <b>Last 4 digits of account number</b> _____	<b>Basis for the claim:</b> _____ <b>Is the claim subject to offset?</b> <input type="checkbox"/> No <input type="checkbox"/> Yes	

**Part 2:** Additional Page

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page. If no additional NONPRIORITY creditors exist, do not fill out or submit this page.

Amount of claim

4.____	Nonpriority creditor's name and mailing address _____ _____ _____	As of the petition filing date, the claim is: <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	Date or dates debt was incurred _____ Last 4 digits of account number _____	Basis for the claim: _____ Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	

4.____	Nonpriority creditor's name and mailing address _____ _____ _____	As of the petition filing date, the claim is: <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	Date or dates debt was incurred _____ Last 4 digits of account number _____	Basis for the claim: _____ Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	

4.____	Nonpriority creditor's name and mailing address _____ _____ _____	As of the petition filing date, the claim is: <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	Date or dates debt was incurred _____ Last 4 digits of account number _____	Basis for the claim: _____ Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	

4.____	Nonpriority creditor's name and mailing address _____ _____ _____	As of the petition filing date, the claim is: <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	Date or dates debt was incurred _____ Last 4 digits of account number _____	Basis for the claim: _____ Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	

4.____	Nonpriority creditor's name and mailing address _____ _____ _____	As of the petition filing date, the claim is: <i>Check all that apply.</i> <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> Liquidated and neither contingent nor disputed	\$ _____
	Date or dates debt was incurred _____ Last 4 digits of account number _____	Basis for the claim: _____ Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	



**Part 3:** List Others to Be Notified About Unsecured Claims

**5. Does the debtor want to notify additional parties about the claims listed in Parts 1 and 2 or for some other reason?**

Examples of entities that may be listed are collection agencies, assignors or assignees of claims listed above, and attorneys for unsecured creditors.

- No. If no others are to be notified of the debtor's unsecured debts, go to Part 4.
- Yes. Fill in the information below.

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any
5.1. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.2. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.3. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.4. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.1. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.5. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.6. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.7. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.8. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.9. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.10. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5.11. _____ _____ _____	Line ____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____

**Part 3:**

**Additional Page for Others to Be Notified About Unsecured Claims**

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____
5. _____ _____ _____	Line _____ <input type="checkbox"/> Not listed. Explain _____ _____	____ - ____ - ____ - ____

**Part 4:**

**Total Amounts of the Priority and Nonpriority Unsecured Claims**

**6. Add the amounts of priority and nonpriority unsecured claims.**

**Total of claim amounts**

6a. **Total claims from Part 1** 6a. \$ \_\_\_\_\_

6b. **Total claims from Part 2** 6b. + \$ \_\_\_\_\_

6c. **Total of Parts 1 and 2** 6c. \$ \_\_\_\_\_  
Lines 6a + 6b = 6c.



**Fill in this information to identify the case:**

Debtor name \_\_\_\_\_  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number (if known): \_\_\_\_\_ Chapter \_\_\_\_\_

Check if this is an amended filing

**Official Form 206G**

**Schedule G: Executory Contracts and Unexpired Leases**

12/15

Be as complete and accurate as possible. If more space is needed, copy and attach the additional page, numbering the entries consecutively.

**1. Does the debtor have any executory contracts or unexpired leases?**

- No. Check this box and file this form with the court with the debtor's other schedules. There is nothing else to report on this form.
- Yes. Fill in all of the information below even if the contracts or leases are listed on *Schedule A/B: Real and Personal Property* (Official Form 206A/B).

**2. List all contracts and unexpired leases**

**State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease**

<b>2.1</b>	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
<b>2.2</b>	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
<b>2.3</b>	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
<b>2.4</b>	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
<b>2.5</b>	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____

Additional Page if Debtor Has More Executory Contracts or Unexpired Leases

Copy this page only if more space is needed. Continue numbering the lines sequentially from the previous page.

List all contracts and unexpired leases		State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____
2.	State what the contract or lease is for and the nature of the debtor's interest _____ _____ State the term remaining _____ List the contract number of any government contract _____	_____ _____ _____ _____

## COMMITTEE NOTE

The schedules to be used in cases of non-individual debtors have been revised as part of the Forms Modernization Project, making them easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals eliminate questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records. The non-individual debtor schedules are also renumbered, starting with the number 206 and followed by the letter or name of the schedule to distinguish them from the versions to be used in individual cases. Each form includes a checkbox to indicate whether it is an amended filing.

**Official Form 206Sum**, *Summary of Assets and Liabilities for Non-Individuals*, replaces Official Form 6, *Summary of Schedules and Statistical Summary of Certain Liability and Related Data (28 U.S.C. § 159)*, in cases of non-individual debtors. The form is reformatted and updated with cross-references indicating the line numbers from specific schedules from which the summary information is to be gathered, and the Statistical Summary is deleted because it only applies to individual debtors. In addition, because most filings are now done electronically, the form no longer requires the debtor to indicate which schedules are attached or to state the number of sheets of paper used for the schedules.

**Official Form 206A/B**, *Schedule A/B: Assets – Real and Personal Property*, consolidates information about a non-

individual debtor's real and personal property into a single form and replaces Official Form 6A - *Real Property* and Official Form 6B - *Personal Property*, in cases of non-individual debtors. The layout and categories of property on Official Form 206A/B have changed. Instead of dividing property interests into two categories (real or personal property), the new form uses eleven categories of property types. For each part, the specific items are broken out and debtors are instructed to total the part and list the total on a specific line later in the form.

Part 1: *Cash and cash equivalents*, includes cash and cash equivalents and a shortened list of examples. All financial assets other than cash or cash equivalents are moved to Part 4: *Investments*. In the section to list checking, savings, money market, or financial brokerage accounts, debtors are instructed to include the name of the institution and the last 4-digits of any account number.

In Part 2: *Deposits and prepayments*, adds prepayments and examples. A requirement has been added to include the name of the holder of any deposit.

Part 3: *Accounts receivable*, has been revised to divide accounts receivable into two categories depending on age and asks for separate values for the two categories.

Part 4: *Investments*, has been expanded and includes more detail.

Part 5: *Inventory, excluding agricultural assets*, has been amended to separate non-agricultural from agricultural assets, and has been expanded to include more detail. Categories of inventory are listed, and debtors must include the last date of physical inventory, the net book value of debtor's interest (if available), the valuation method used for current value, and the current value of debtor's interest. The form has been further amended to require the debtor to indicate whether the properties listed are perishable, whether any of the property was purchased within 20 days of the bankruptcy filing, and whether any of the property was appraised by a professional within the year prior to the bankruptcy filing.



In Part 6: *Agricultural assets (other than titled motor vehicles and land)*, the form has been amended to require more detailed responses and to require the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. A requirement to list fishing supplies has been added. The form has been further amended to require the debtor to indicate whether the properties listed are perishable, whether any of the property was purchased within 20 days of the bankruptcy filing, whether a depreciation schedule is available for any of the property listed, and whether any of the property was appraised by a professional within the year prior to the bankruptcy filing.

Part 7: *Office furniture, fixtures, and equipment; and collectibles*, has been amended to combine several categories of assets and to require more detail, including requiring the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. Examples of collectibles are provided. The form has been further amended to require the debtor to indicate whether a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 8: *Machinery, equipment, and vehicles*, has been amended to combine several categories of property and to require more detail, including requiring the debtor to indicate the net book value of the debtor's interest, the valuation method used for current value, and the current value of debtor's interest. More examples are provided for each property type. The form has been further amended to indicate whether a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 9: *Real property*, includes the elements of Official Form 6A, *Real Property*, and has been amended to expand the required information to include the net book value of the debtor's interest and the valuation method used for current value. Also, an instruction has been added for the description and location of the property. The form has been further amended to indicate whether

a depreciation schedule is available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 10: *Intangibles and intellectual property*, includes amendments to combine several categories of property and to include more property types. The debtor is required to list the net book value of the debtor's interest and the valuation method used for current value. The question regarding personally identifiable information has been revised, and the form has been amended to require the debtor to indicate if there is an amortization schedule or similar schedule available for any property listed and whether any of the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 11: *All other assets*, includes a new category for notes receivable, which requires a description, including the name of the obligor, the face amount, and any uncollectible amount. In addition, the form has been amended to combine tax refunds and net operating losses into a single question and to require more detail, to delete the requirement to list the insurance company name for any interests in insurance policies, to expand the question regarding contingent and unliquidated claims, and to include examples of other property. The form has been further amended to include a question regarding whether the property listed was appraised by a professional within the year prior to the bankruptcy filing.

Part 12, *Summary*, has been amended to list relevant line numbers for each type of property.

**Official Form 206D**, *Schedule D: Creditors Who Hold Claims Secured by Property*, replaces Official Form 6D, *Creditors Holding Secured Claims*, for non-individual debtors and has been revised to eliminate instructions that pertain only to individuals. The form has been further amended to instruct debtors that if a creditor has more than one secured claim, to list the creditor separately for each claim; to list the creditor's email address, if known; to indicate if multiple creditors have an interest in the same collateral; to list the order of each creditor's priority interest in the collateral; and to indicate whether the creditor is an insider or

related party. The debtor is also instructed to describe the lien and to fill out *Schedule H: Codebtors*, if anyone else is liable on the claim. A new category for describing claims has been added—“unliquidated and neither contingent nor disputed”. Finally, the form has been amended to require the debtor to list the value of the debtor’s property that secures the claim.

A new Part 2: *List Others to be Notified for a Debt Already Listed in Part 1* has been added, with instructions to list any others who must be notified about the bankruptcy for a debt listed in Part 1 of the form. Examples are provided. The debtor must include the relevant line from Part 1 and the last 4 digits of the account number for the entity.

A new Part 3: *Total Amounts of Claims and the Unsecured Portion of Claims*, has been added.

**Official Form 206E/F, *Schedule E/F: Creditors Who Hold Unsecured Claims***, has been amended to combine Official Form 6E, *Schedule E – Creditors Holding Unsecured Priority Claims* and Official Form 6F, *Schedule F – Creditors Holding Unsecured Nonpriority Claims* for non-individual debtors. Priority unsecured claims are listed in Part 1, and nonpriority unsecured claims are listed in Part 2. The instructions have been revised to require the debtor to list the other party to any executory contract or unexpired lease on this schedule and on *Schedule A/B Real and Personal Property* and *Schedule G: Executory Contracts and Unexpired Leases* (Official Forms 206A/B and 206G).

Part 1, *List All Creditors with PRIORITY Unsecured Claims*, has been revised to delete the requirement to list the amount not entitled to priority and to add requirements to specify the Code section for the priority unsecured claim and whether the claim is subject to offset. A new category of “liquidated and neither contingent nor disputed” has been added to Part 2, *List All Creditors with NONPRIORITY Unsecured Claims*, along with the requirement to indicate if the claim is subject to offset. The instructions have also been significantly shortened. Part 3, *List Others to be Notified About Unsecured Claims*, has been added, with instructions to list any others that the debtor wants to notify about claims listed in Parts 1 and 2. Examples are given. The

debtor must include the relevant line from Part 1 or 2 and the last 4 digits of the account number for the entity. A new Part 4: *Total Amounts of the Priority and Nonpriority Unsecured Claims* has been added.

**Official Form 206G, Schedule G: Executory Contracts and Unexpired Leases**, replaces Official Form 6G - *Executory Contracts and Unexpired Leases* for non-individual debtors. The form has been amended to delete the instruction regarding the listing of a minor child's name from the form as a caution is included in the general instructions for all forms regarding listing a minor child's name. A new requirement has been added to state the remaining term for any contract or lease listed.

**Official Form 206H, Schedule H: Codebtors**, replaces Official Form 6H – *Codebtors* for non-individual debtors. The form has been amended to delete the instruction regarding the listing of a minor child's name from the form as a caution is included in the general instructions for all forms regarding listing a minor child's name. A new requirement is added to indicate by checkbox what schedule applies to each co-debtor.

**Schedules C, Exemptions, I, Income and J, Expenses.** There are no Official Forms for Schedules C, I, and J in non-individual debtor cases. There is no need for an Official Form 206C for non-individual debtors because exemptions are inapplicable to non-individual debtors. And, although section 521(a) of the Bankruptcy Code requires all debtors, including non-individual debtors, to provide schedules of income and expenses, uncertainty about the state of the debtor's business on the petition date – whether it is operating or not, for example – makes it difficult to create standard income and expense forms for non-individual debtors. Some bankruptcy courts have adopted local rules and forms for reporting the income and expenses of non-individual debtors, and Director's Procedural Forms 2060I and 2060J, can be used and modified as appropriate if there are no applicable local rules and forms.

**Declaration.** There is no Official Form 206, Declaration. The portion of Official Form 6 Declaration for a declaration on behalf of a corporation or partnership has been replaced by Official

Form 202, *Declaration Under Penalty of Perjury for Non-Individual Debtors*. Official Form 202 includes checkboxes for the schedules included in Official Form 206.



**Fill in this information to identify the case:**

Debtor name \_\_\_\_\_  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
 (State)  
 Case number (if known): \_\_\_\_\_

Check if this is an amended filing

**Official Form 207**

**Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy 12/15**

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

**Part 1: Income**

**1. Gross revenue from business**

None

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year		Sources of revenue Check all that apply	Gross revenue (before deductions and exclusions)
<b>From the beginning of the fiscal year to filing date:</b>	From _____ to Filing date MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____
<b>For prior year:</b>	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____
<b>For the year before that:</b>	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	<input type="checkbox"/> Operating a business <input type="checkbox"/> Other _____	\$ _____

**2. Non-business revenue**

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

None

		Description of sources of revenue	Gross revenue from each source (before deductions and exclusions)
<b>From the beginning of the fiscal year to filing date:</b>	From _____ to Filing date MM / DD / YYYY	_____	\$ _____
<b>For prior year:</b>	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	_____	\$ _____
<b>For the year before that:</b>	From _____ to _____ MM / DD / YYYY MM / DD / YYYY	_____	\$ _____

**Part 2:** List Certain Transfers Made Before Filing for Bankruptcy

**3. Certain payments or transfers to creditors within 90 days before filing this case**

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,225. (This amount may be adjusted on 4/01/16 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

None

Creditor's name and address	Dates	Total amount or value	Reasons for payment or transfer <i>Check all that apply</i>
3.1. _____ Creditor's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other _____
3.2. _____ Creditor's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other _____

**4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider**

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or co-signed by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,225. (This amount may be adjusted on 4/01/16 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

None

Insider's name and address	Dates	Total amount or value	Reasons for payment or transfer
4.1. _____ Insider's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
<b>Relationship to debtor</b> _____			
4.2. _____ Insider's name _____ Street _____ City State ZIP Code	_____ _____ _____	\$ _____	_____
<b>Relationship to debtor</b> _____			



**5. Repossessions, foreclosures, and returns**

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

None

Creditor's name and address	Description of the property	Date	Value of property
5.1. Creditor's name _____ Street _____ City _____ State _____ ZIP Code _____	_____	_____	\$ _____
5.1. Creditor's name _____ Street _____ City _____ State _____ ZIP Code _____	_____	_____	\$ _____

**6. Setoffs**

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
Creditor's name _____ Street _____ City _____ State _____ ZIP Code _____	_____	_____	\$ _____
Last 4 digits of account number: XXXX- _____			

**Part 3: Legal Actions or Assignments**

**7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits**

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

None

Case title	Nature of case	Court or agency's name and address	Status of case
7.1. _____	_____	Name _____ Street _____ City _____ State _____ ZIP Code _____	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Case number _____			
7.2. _____	_____	Court or agency's name and address Name _____ Street _____ City _____ State _____ ZIP Code _____	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Case number _____			

**8. Assignments and receivership**

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

None

Custodian's name and address			Description of the property	Value
_____			_____	\$ _____
Custodian's name			<b>Case title</b>	<b>Court name and address</b>
Street			_____	_____
_____			<b>Case number</b>	Name
City	State	ZIP Code	_____	Street
_____			<b>Date of order or assignment</b>	_____
_____			_____	City State ZIP Code

**Part 4: Certain Gifts and Charitable Contributions**

**9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000**

None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
9.1. _____	_____	_____	\$ _____
Recipient's name	_____		
Street	_____		
_____			
City State ZIP Code			
<b>Recipient's relationship to debtor</b>			
_____			
9.2. _____	_____	_____	\$ _____
Recipient's name	_____		
Street	_____		
_____			
City State ZIP Code			
<b>Recipient's relationship to debtor</b>			
_____			

**Part 5: Certain Losses**

**10. All losses from fire, theft, or other casualty within 1 year before filing this case.**

None

Description of the property lost and how the loss occurred	Amount of payments received for the loss	Date of loss	Value of property lost
_____	If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received. List unpaid claims on <i>Schedule A/B: Property</i> .	_____	\$ _____
_____			

**Part 6:** Certain Payments or Transfers

**11. Payments related to bankruptcy**

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

None

Who was paid or who received the transfer?	If not money, describe any property transferred	Dates	Total amount or value
--	---	-------	-----------------------

11.1. \_\_\_\_\_ \$ \_\_\_\_\_

**Address**

Street

City State ZIP Code

**Email or website address**

**Who made the payment, if not debtor?**

Who was paid or who received the transfer?	If not money, describe any property transferred	Dates	Total amount or value
--	---	-------	-----------------------

11.2. \_\_\_\_\_ \$ \_\_\_\_\_

**Address**

Street

City State ZIP Code

**Email or website address**

**Who made the payment, if not debtor?**

**12. Self-settled trusts of which the debtor is a beneficiary**

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device.

Do not include transfers already listed on this statement.

None

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
-------------------------	-----------------------------------	---------------------------	-----------------------

\_\_\_\_\_ \$ \_\_\_\_\_

**Trustee**

**13. Transfers not already listed on this statement**

List any transfers of money or other property—by sale, trade, or any other means—made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

None

Who received transfer?	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
------------------------	--	------------------------	-----------------------

13.1. \_\_\_\_\_ \$ \_\_\_\_\_

**Address**

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

**Relationship to debtor**

\_\_\_\_\_

**Who received transfer?**

13.2. \_\_\_\_\_ \$ \_\_\_\_\_

**Address**

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

**Relationship to debtor**

\_\_\_\_\_

**Part 7: Previous Locations**

**14. Previous addresses**

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

Does not apply

Address	Dates of occupancy	
---------	--------------------	--

14.1. \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Street

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

14.2. \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
Street

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

**Part 8:** Healthcare Bankruptcies

**15. Healthcare bankruptcies**

Is the debtor primarily engaged in offering services and facilities for:

- diagnosing or treating injury, deformity, or disease, or
- providing any surgical, psychiatric, drug treatment, or obstetric care?

- No. Go to Part 9.  
 Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	--	---

15.1. \_\_\_\_\_  
 Facility name \_\_\_\_\_  
 \_\_\_\_\_  
 Street \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

\_\_\_\_\_

**Location where patient records are maintained** (if different from facility address). If electronic, identify any service provider. \_\_\_\_\_

**How are records kept?**

*Check all that apply:*

Electronically  
 Paper

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	--	---

15.2. \_\_\_\_\_  
 Facility name \_\_\_\_\_  
 \_\_\_\_\_  
 Street \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

\_\_\_\_\_

**Location where patient records are maintained** (if different from facility address). If electronic, identify any service provider. \_\_\_\_\_

**How are records kept?**

*Check all that apply:*

Electronically  
 Paper

**Part 9:** Personally Identifiable Information

**16. Does the debtor collect and retain personally identifiable information of customers?**

- No.  
 Yes. State the nature of the information collected and retained. \_\_\_\_\_
- Does the debtor have a privacy policy about that information?
- No  
 Yes

**17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b) or other pension or profit-sharing plan made available by the debtor as an employee benefit?**

- No. Go to Part 10.  
 Yes. Does the debtor serve as plan administrator?
- No. Go to Part 10.  
 Yes. Fill in below:

Name of plan	Employer identification number of the plan
_____	EIN: _____ - _____

- Has the plan been terminated?
- No  
 Yes

**Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units**

**18. Closed financial accounts**

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

None

	Financial institution name and address	Last 4 digits of account number	Type of account	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
18.1.	_____ Name _____ Street _____ City State ZIP Code	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____
18.2.	_____ Name _____ Street _____ City State ZIP Code	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____

**19. Safe deposit boxes**

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

None

Depository institution name and address	Names of anyone with access to it	Description of the contents	Does debtor still have it?
_____ Name _____ Street _____ City State ZIP Code	_____ _____ _____	_____ _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Address</b>			
_____ _____			

**20. Off-premises storage**

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

None

Facility name and address	Names of anyone with access to it	Description of the contents	Does debtor still have it?
_____ Name _____ Street _____ City State ZIP Code	_____ _____ _____	_____ _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
<b>Address</b>			
_____ _____			



**24. Has the debtor notified any governmental unit of any release of hazardous material?**

- No  
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
Name _____	Name _____	_____	_____
Street _____	Street _____	_____	
City _____ State _____ ZIP Code _____	City _____ State _____ ZIP Code _____		

**Part 13: Details About the Debtor's Business or Connections to Any Business**

**25. Other businesses in which the debtor has or has had an interest**

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

- None

Business name and address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
25.1. Name _____ Street _____ City _____ State _____ ZIP Code _____	_____ _____ _____	EIN: _____ - _____ - _____ <b>Dates business existed</b> From _____ To _____
25.2. Business name and address _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	Describe the nature of the business _____ _____ _____	Employer Identification number Do not include Social Security number or ITIN. EIN: _____ - _____ - _____ <b>Dates business existed</b> From _____ To _____
25.3. Business name and address _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	Describe the nature of the business _____ _____ _____	Employer Identification number Do not include Social Security number or ITIN. EIN: _____ - _____ - _____ <b>Dates business existed</b> From _____ To _____



**26. Books, records, and financial statements**

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

None

	Dates of service
<b>Name and address</b> 26a.1. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	From _____ To _____

	Dates of service
<b>Name and address</b> 26a.2. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	From _____ To _____

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

None

	Dates of service
<b>Name and address</b> 26b.1. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	From _____ To _____

	Dates of service
<b>Name and address</b> 26b.2. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	From _____ To _____

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

None

	If any books of account and records are unavailable, explain why
<b>Name and address</b> 26c.1. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	_____ _____ _____

**Name and address**

**If any books of account and records are unavailable, explain why**

26c.2.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Street  
\_\_\_\_\_  
\_\_\_\_\_  
City State ZIP Code

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

None

**Name and address**

26d.2.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Street  
\_\_\_\_\_  
\_\_\_\_\_  
City State ZIP Code

**Name and address**

26d.2.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Street  
\_\_\_\_\_  
\_\_\_\_\_  
City State ZIP Code

**27. Inventories**

Have any inventories of the debtor's property been taken within 2 years before filing this case?

- No
- Yes. Give the details about the two most recent inventories.

**Name of the person who supervised the taking of the inventory**

**Date of inventory**

**The dollar amount and basis (cost, market, or other basis) of each inventory**

\_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_

**Name and address of the person who has possession of inventory records**

27.1.

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Street  
\_\_\_\_\_  
\_\_\_\_\_  
City State ZIP Code

Name of the person who supervised the taking of the inventory

Date of inventory

The dollar amount and basis (cost, market, or other basis) of each inventory

\_\_\_\_\_ \$ \_\_\_\_\_

Name and address of the person who has possession of inventory records

27.2.

Name \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Name	Address	Position and nature of any interest	% of interest, if any
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- No
- Yes. Identify below.

Name	Address	Position and nature of any interest	Period during which position or interest was held
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____
_____	_____	_____	From ____ To ____

30. Payments, distributions, or withdrawals credited or given to insiders

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- No
- Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
30.1. _____ Name _____ Street _____ City _____ State _____ ZIP Code _____	_____	_____	_____
Relationship to debtor _____	_____	_____	_____

Debtor \_\_\_\_\_  
Name

Case number (if known) \_\_\_\_\_

**Name and address of recipient**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

**Relationship to debtor**

\_\_\_\_\_

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

- No
- Yes. Identify below.

**Name of the parent corporation**

**Employer Identification number of the parent corporation**

\_\_\_\_\_

EIN: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

- No
- Yes. Identify below.

**Name of the pension fund**

**Employer Identification number of the pension fund**

\_\_\_\_\_

EIN: \_\_\_\_ - \_\_\_\_ - \_\_\_\_

**Part 14: Signature and Declaration**

**WARNING** -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

**X**

\_\_\_\_\_  
Signature of individual signing on behalf of the debtor

Printed name \_\_\_\_\_

Position or relationship to debtor \_\_\_\_\_

Are additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

- No
- Yes

## COMMITTEE NOTE

Official Form 207, *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy*, replaces Official Form 7, *Statement of Financial Affairs*, for non-individual debtors. It is renumbered to distinguish it from the forms used by individual debtors and includes formatting and stylistic changes throughout the form.

Official Form 207 is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reducing the need to produce the same information in multiple formats.

The Forms Modernization Project made a preliminary decision that separate forms should be created for individual debtors and for non-individual debtors because separate areas of inquiry apply to each group. The forms for non-individuals do not include questions that pertain only to individuals and use a more open-ended response format. Also, where possible, the forms for non-individuals parallel how businesses commonly keep their financial records.

The form is derived from Official Form 7, *Statement of Financial Affairs*, and has been substantially reorganized. The form is divided into 14 sections grouping similar questions together. Many of the instructions have been shortened, and questions and instructions pertaining to individual debtors have been deleted. The instructions at the beginning of the form have been shortened, and the definitions deleted or moved to other parts of the form.

In Part 1, *Income*, the questions regarding gross revenue from business and non-business revenue have been consolidated, and checkboxes have been added to indicate the source of revenue.

A definition of gross revenue has been added. Also, the debtor is instructed to include revenue only once.

In Part 2, *List Certain Transfers Made Before Filing for Bankruptcy*, information that pertains only to individuals has been eliminated, and the questions related to payments made in the 90 days prior to bankruptcy, payments made to insiders within one year prior to bankruptcy, repossessions, and setoffs have been consolidated. Instructions have been added to include expense reimbursements in answer to the questions regarding payments and to exclude regular employee compensation from the question regarding payments within 90 days. A dollar limitation has been added to the instructions for the question regarding payments to insiders. Checkboxes have been added to both questions to provide a reason for the payment, and the explanation that the dollar limitation changes every three years has been moved to the instructions from the footnotes. “Amount still owing” has been removed, and a definition of “insider” has been added along with a statutory citation to the question regarding insiders. Partnerships have been added to examples of “insiders.” The question regarding setoffs includes a revised definition and has been revised to require that the debtor provide a description of the creditor’s actions and the last four digits of any account number.

In Part 3, *Legal Actions or Assignments*, several questions have been consolidated, instructions pertaining only to individuals have been removed, and additional examples have been added. Checkboxes have been added to indicate the status of the legal action. The requirement to list the terms of any assignment or settlement has been removed.

In Part 4, *Certain Gifts and Charitable Contributions*, instructions pertaining only to individuals have been removed, and the reporting threshold has been changed to \$1,000 per recipient. The look-back period has been increased from one to two years.

Part 5, *Certain Losses*, has been revised to expand the types of payments for losses, and an instruction has been added to list unpaid claims on Official Form 206A/B (*Schedule A/B – Property*). Portions of the instructions that pertain only to

individuals have been removed. Losses due to gambling have been excluded from this part.

In Part 6, *Certain Payments or Transfers*, the questions regarding payments related to bankruptcy, payments to self-settled trusts, and other payments or transfers have been consolidated. Instructions and questions that relate only to individuals have been eliminated. An instruction has been added to include payments related to restructuring, and the email or website of the person who received the money or transfer is added as a requirement. In response to the question regarding self-settled trusts and other transfers not already listed, debtors are instructed to include payments or transfers of property made by a person acting on behalf of the debtor. A requirement has been added to the question regarding self-settled trusts to list the name of the trustee. The relationship to the debtor must be included for all transfers not already listed, as well as any debts paid in exchange. There is a reminder added not to include transfers already listed.

Part 7, *Previous Locations*, has been revised in the instructions, and information pertaining only to individuals has been deleted.

Part 8, *Healthcare Bankruptcies*, is new. Part 8 requires additional information if the debtor is primarily engaged in offering services and facilities for diagnosing or treating injury, deformity, or disease or providing any surgical, psychiatric, drug treatment or obstetric care. This part has been added to comply with the special requirements imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Part 9, *Personally Identifiable Information*, is also new and includes questions about pension and profit sharing plans and adds a question about whether the debtor collects and retains personally identifiable information of customers. Questions are added about whether the debtor is the plan administrator of any pension or profit sharing plan and if any such plan is terminated. Similar to Part 8, this part has been added to comply with the special requirements imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

In Part 10, *Certain Financial Accounts, Safe Deposit Boxes, and Storage Units*, money market accounts have been added to the examples provided for the question regarding financial accounts, and checkboxes have been added to indicate the type of account. The requirement of the date of surrender of any safe deposit box has been removed. A question has been added about whether the debtor has property kept in storage units or warehouses within one year of filing, and the debtor must provide the facility name and address, the name and address of anyone with access to the facility, the description of the contents, and whether the debtor still has the storage unit or warehouse. Facilities that are in a part of a building in which the debtor does business are excluded.

In Part 11, *Property the Debtor Holds or Controls That the Debtor Does Not Own*, an instruction has been added to include any property borrowed from, being stored for, or held in trust, and to exclude leased or rented property.

Part 12, *Details About Environmental Information*, has been revised to include new definitions of “Environmental law,” “Site,” and “Hazardous materials.” An instruction to report all notices, releases, and proceedings known, regardless of when they occurred, has been added.

In Part 13, *Details About the Debtor’s Business or Connections to Any Business*, questions regarding various business issues have been consolidated, and instructions that pertain only to individuals have been eliminated. The five-percent ownership limitation has been eliminated. The phrase “kept or supervised the keeping of books or account and records” has been replaced with “maintained the debtor’s books and records.” The instructions for the question regarding auditing or preparation of financial records have been revised to add compiling and reviewing the debtor’s books of account and records. A requirement has been added to explain if the debtor’s books of account and records are unavailable. The questions regarding current and former officers, directors, managing members, general partners, members in control, or controlling shareholders have combined the formerly separate corporate and partnership questions. The question regarding former officers and partners has been changed to add the



requirement of indicating the start and end dates for each listing. The instruction for withdrawals from a partnership or distribution by a corporation has been changed to add salary, other compensation, and draws to the list of examples.

In Part 14, *Signature and Declaration*, the declaration under penalty of perjury has been revised in order to conform to the language of 28 U.S.C. § 1746. See Rule 1008. A statement has been added that the individual signing on behalf of the debtor has reviewed the information in the Statement of Financial Affairs and any attachments and has “a reasonable belief that the information is true and correct.” The signature boxes for bankruptcy petition preparers have been eliminated, and checkboxes for the debtor to indicate whether additional pages are attached to the form have been added.



Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7 _____ MM / DD / YYYY] OR
Case number: _____	[Date case filed in chapter _____ MM / DD / YYYY]
	Date case converted to chapter 7 _____ MM / DD / YYYY]

## Official Form 309A (For Individuals or Joint Debtors)

### Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline 12/15

**For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 or the debtors' property. 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.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 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 [www.pacer.gov](http://www.pacer.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	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

**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 [www.pacer.com](http://www.pacer.com).

Hours open \_\_\_\_\_

Contact phone \_\_\_\_\_

**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.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location: \_\_\_\_\_

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**8. Presumption of abuse**

If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.

[The presumption of abuse does not arise.]

[The presumption of abuse arises.]

[Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]

**9. Deadlines**

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

**File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:**

Filing deadline: \_\_\_\_\_

**You must file a complaint:**

if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or

if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).

**You must file a motion** if you assert that

the discharge should be denied under § 727(a)(8) or (9).

**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.

**10. Proof of claim**

Please do not file a proof of claim unless you receive a notice to do so.

No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.

**11. 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 deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

**12. Exempt property**

The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at [www.pacer.gov](http://www.pacer.gov). If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.

Information to identify the case:	
Debtor 1 _____ <small>First Name Middle Name Last Name</small>	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____
Debtor 2 (Spouse, if filing) _____ <small>First Name Middle Name Last Name</small>	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____
United States Bankruptcy Court for the: _____ District of _____ <small>(State)</small>	[Date case filed for chapter 7 _____] OR [Date case filed in chapter _____] OR [Date case converted to chapter 7 _____] <small>MM / DD / YYYY MM / DD / YYYY MM / DD / YYYY</small>
Case number: _____	

## Official Form 309B (For Individuals or Joint Debtors)

### Notice of Chapter 7 Bankruptcy Case — Proof of Claim Deadline Set 12/15

**For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 or the debtors' property. 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.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 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 [www.pacer.gov](http://www.pacer.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	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

<p><b>6. Bankruptcy clerk's office</b></p> <p>Documents in this case may be filed at this address.</p> <p>You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.com">www.pacer.com</a>.</p>	<p>Hours open _____</p> <p>Contact phone _____</p>
<p><b>7. Meeting of creditors</b></p> <p>Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend.</p> <p>Creditors may attend, but are not required to do so.</p>	<p>_____ at _____</p> <p>Date Time Location:</p> <p>The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.</p>
<p><b>8. Presumption of abuse</b></p> <p>If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.</p>	<p>[The presumption of abuse does not arise.]</p> <p>[The presumption of abuse arises.]</p> <p>[Insufficient information has been filed to permit the clerk to determine whether the presumption of abuse arises. If more complete information is filed and shows that the presumption has arisen, the clerk will notify creditors.]</p>
<p><b>9. Deadlines</b></p> <p>The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.</p>	<p><b>File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:</b>      <b>Filing deadline:</b> _____</p> <p><b>You must file a complaint:</b></p> <ul style="list-style-type: none"> <li>■ if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or</li> <li>■ if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).</li> </ul> <p><b>You must file a motion</b> if you assert that</p> <ul style="list-style-type: none"> <li>■ the discharge should be denied under § 727(a)(8) or (9).</li> </ul> <hr/> <p><b>Deadline for all creditors to file a proof of claim (except governmental units):</b>      <b>Filing deadline:</b> _____</p> <p><b>Deadline for governmental units to file a proof of claim:</b>      <b>Filing deadline:</b> _____</p> <hr/> <p><b>Deadlines for filing proof of claim:</b></p> <p>A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at <a href="http://www.uscourts.gov">www.uscourts.gov</a> or any bankruptcy clerk's office. 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.</p> <p>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.</p> <hr/> <p><b>Deadline to object to exemptions:</b>      <b>Filing deadline:</b> 30 days after the <i>conclusion</i> of the meeting of creditors</p> <p>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.</p>
<p><b>10. Creditors with a foreign address</b></p>	<p>If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.</p>
<p><b>11. Liquidation of the debtor's property and payment of creditors' claims</b></p>	<p>The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them in the order specified by the Bankruptcy Code. To ensure you receive any share of that money, you must file a proof of claim as described above.</p>
<p><b>12. Exempt property</b></p>	<p>The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at <a href="http://www.pacer.gov">www.pacer.gov</a>. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.</p>

<b>Information to identify the case:</b>			
Debtor _____ Name	EIN _____		
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7	_____	MM / DD / YYYY OR
Case number: _____	[Date case filed in chapter _____	_____	MM / DD / YYYY
	Date case converted to chapter 7	_____	MM / DD / YYYY

## Official Form 309C (For Corporations or Partnerships)

### Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline **12/15**

**For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. 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.

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 [www.pacer.gov](http://www.pacer.gov)).

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

**Do not file this notice with any proof of claim or other filing in the case.**

<b>1. Debtor's full name</b>	
<b>2. All other names used in the last 8 years</b>	
<b>3. Address</b>	
<b>4. Debtor's attorney</b> Name and address	Contact phone _____ Email _____
<b>5. Bankruptcy trustee</b> Name and address	Contact phone _____ Email _____
<b>6. Bankruptcy clerk's office</b> 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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____
<b>7. Meeting of creditors</b> The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.
<b>8. Proof of claim</b> Please do not file a proof of claim unless you receive a notice to do so.	No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.
<b>9. Creditors with a foreign address</b>	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.





<b>Information to identify the case:</b>	
Debtor _____ Name	EIN _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 7 _____ MM / DD / YYYY OR [Date case filed in chapter _____ MM / DD / YYYY Date case converted to chapter 7 _____] MM / DD / YYYY
Case number: _____	

## Official Form 309D (For Corporations or Partnerships)

### Notice of Chapter 7 Bankruptcy Case — Proof of Claim Deadline Set 12/15

**For the debtor listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. 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.

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 [www.pacer.gov](http://www.pacer.gov)).

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

**Do not file this notice with any proof of claim or other filing in the case.**

<b>1. Debtor's full name</b>	
<b>2. All other names used in the last 8 years</b>	
<b>3. Address</b>	
<b>4. Debtor's attorney</b> Name and address	Contact phone _____ Email _____
<b>5. Bankruptcy trustee</b> Name and address	Contact phone _____ Email _____
<b>6. Bankruptcy clerk's office</b> 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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____
<b>7. Meeting of creditors</b> The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location: The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

For more information, see page 2 ►

**8. Deadlines**

The bankruptcy clerk's office must receive proofs of claim by the following deadlines.

**Deadline for all creditors to file a proof of claim (except governmental units):**

**Filing deadline:** \_\_\_\_\_

**Deadline for governmental units to file a proof of claim:**

**Filing deadline:** \_\_\_\_\_

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office. 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.

**9. 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 deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

**10. Liquidation of the debtor's property and payment of creditors' claims**

The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To ensure you receive any share of that money, you must file a proof of claim, as described above.

Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____ - _____ - _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed in chapter 11 _____ MM / DD / YYYY] OR
Case number: _____	[Date case filed in chapter _____ MM / DD / YYYY]
	Date case converted to chapter 11 _____ MM / DD / YYYY

## Official Form 309E (For Individuals or Joint Debtors)

### Notice of Chapter 11 Bankruptcy Case

12/15

**For the debtors listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors and debtors. Read it 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 or the debtors' property. 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 11 plan may result in a discharge of debt. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 10 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 [www.pacer.gov](http://www.pacer.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	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. 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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____

For more information, see page 2 ►

**6. 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.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location:

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**7. Deadlines**

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

**File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:**

**You must file a complaint:**

- if you assert that the debtor is not entitled to receive a discharge of any debts under 11 U.S.C. § 1141(d)(3) or
- if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).

First date set for hearing on confirmation of plan. The court will send you a notice of that date later.

**Filing deadline for dischargeability complaints:** \_\_\_\_\_

**Deadline for filing proof of claim:**

[Not yet set. If a deadline is set, the court will send you another notice.] or

[date, if set by the court]]

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office.

Your claim will be allowed in the amount scheduled unless:

- your claim is designated as *disputed*, *contingent*, or *unliquidated*;
- you file a proof of claim in a different amount; or
- you receive another notice.

If your claim is not scheduled or if your claim is designated as *disputed*, *contingent*, or *unliquidated*, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.

You may review the schedules at the bankruptcy clerk's office or online at [www.pacer.gov](http://www.pacer.gov).

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a 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.

**8. Creditors with a foreign address**

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

**9. Filing a Chapter 11 bankruptcy case**

Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate the debtor's business.

**10. Discharge of debts**

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of a debt. See 11 U.S.C. § 1141(d). 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 believe that a particular debt owed to you should be excepted from the discharge under 11 U.S.C. § 523 (a)(2), (4), or (6), 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. § 1141 (d)(3), you must file a complaint and pay the filing fee in the clerk's office by the first date set for the hearing on confirmation of the plan. The court will send you another notice telling you of that date.

**11. 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 [www.pacer.gov](http://www.pacer.gov). If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 7.

<b>Information to identify the case:</b>			
Debtor _____ Name	EIN _____		
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed in chapter 11	_____	MM / DD / YYYY OR
Case number: _____	[Date case filed in chapter _____	_____	MM / DD / YYYY
	Date case converted to chapter 11	_____	MM / DD / YYYY

## Official Form 309F (For Corporations or Partnerships)

### Notice of Chapter 11 Bankruptcy Case

12/15

**For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 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 [www.pacer.gov](http://www.pacer.gov)).

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

**Do not file this notice with any proof of claim or other filing in the case.**

<b>1. Debtor's full name</b>	
<b>2. All other names used in the last 8 years</b>	
<b>3. Address</b>	
<b>4. Debtor's attorney</b> Name and address	Contact phone _____ Email _____
<b>5. Bankruptcy clerk's office</b> 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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____
<b>6. Meeting of creditors</b> The debtor's representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	_____ at _____ Date Time Location:  The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

For more information, see page 2 ►

**7. Proof of claim deadline****Deadline for filing proof of claim:**

[Not yet set. If a deadline is set, the court will send you another notice.] or

[date, if set by the court]

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office.

Your claim will be allowed in the amount scheduled unless:

- your claim is designated as *disputed*, *contingent*, or *unliquidated*;
- you file a proof of claim in a different amount; or
- you receive another notice.

If your claim is not scheduled or if your claim is designated as *disputed*, *contingent*, or *unliquidated*, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled.

You may review the schedules at the bankruptcy clerk's office or online at [www.pacer.gov](http://www.pacer.gov).

Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a 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.

**8. Exception to discharge deadline**

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).

**Deadline for filing the complaint:** \_\_\_\_\_**9. Creditors with a foreign address**

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

**10. Filing a Chapter 11 bankruptcy case**

Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.

**11. Discharge of debts**

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

Information to identify the case:	
Debtor 1 First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____
Debtor 2 (Spouse, if filing) First Name _____ Middle Name _____ Last Name _____	Last 4 digits of Social Security number or ITIN _____ EIN _____
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 12 _____ MM / DD / YYYY OR [Date case filed in chapter _____ MM / DD / YYYY Date case converted to chapter 12 _____ MM / DD / YYYY]
Case number: _____	

## Official Form 309G (For Individuals or Joint Debtors)

### Notice of Chapter 12 Bankruptcy Case

12/15

**For the debtors listed above, a case has been filed under chapter 12 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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, from the debtors' property, or from 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.

Confirmation of a chapter 12 plan may result in a discharge of debt. Creditors who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (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 [www.pacer.gov](http://www.pacer.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	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____

For more information, see page 2 ►

**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.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location: \_\_\_\_\_

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**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: \_\_\_\_\_

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).

**Deadline for all creditors to file a proof of claim (except governmental units):**

Filing deadline: \_\_\_\_\_

**Deadline for governmental units to file a proof of claim:**

Filing deadline: \_\_\_\_\_

**Deadlines for filing proof of claim:**

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office.

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 of plan**

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: \_\_\_\_\_ at \_\_\_\_\_ Location: \_\_\_\_\_  
Date Time ]

Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan or summary 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 deadlines 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 12 bankruptcy case**

Chapter 12 allows family farmers and family fishermen to reorganize according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan. You may object to confirmation of the plan and attend the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business unless the court orders otherwise.

**12. Discharge of debts**

Confirmation of a chapter 12 plan may result in a discharge of debts, which may include all or part of your debt. Unless the court orders otherwise, the discharge will not be effective until all payments under the plan are made. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt excepted under 11 U.S.C. § 523(a)(2), (4), or (6), you must start a judicial proceeding by filing a complaint and paying the filing fee in the clerk's office by the deadline.

**13. 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. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 8.



<b>Information to identify the case:</b>			
Debtor _____ Name	EIN _____		
United States Bankruptcy Court for the: _____ District of _____ (State)	[Date case filed for chapter 12	_____	MM / DD / YYYY OR
Case number: _____	[Date case filed in chapter _____	_____	MM / DD / YYYY
	Date case converted to chapter 12	_____	MM / DD / YYYY

## Official Form 309H (For Corporations or Partnerships)

### Notice of Chapter 12 Bankruptcy Case

12/15

**For the debtor listed above, a case has been filed under chapter 12 of the Bankruptcy Code. An order for relief has been entered.**

**This notice has important information about the case for creditors, debtors, and trustees. Read it 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 debtor, the debtor's property, or certain codebtors. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 12 plan may result in the discharge of debt. Creditors who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (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 [www.pacer.gov](http://www.pacer.gov)).

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

**Do not file this notice with any proof of claim or other filing in the case.**

<b>1. Debtor's full name</b>	
<b>2. All other names used in the last 8 years</b>	
<b>3. Address</b>	
<b>4. Debtor's attorney</b> Name and address	Contact phone _____ Email _____
<b>5. Bankruptcy clerk's office</b> 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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____
<b>6. Bankruptcy trustee</b> Name and address	Contact phone _____ Email _____

For more information, see page 2 ►

**7. Meeting of creditors**

The debtor's representative must attend the meeting to be questioned under oath.

Creditors may attend, but are not required to do so.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location: \_\_\_\_\_

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**8. Exception to discharge deadline**

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 523(a)(2), (4), or (6).

**Deadline for filing the complaint:** \_\_\_\_\_

**9. Filing of plan**

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: \_\_\_\_\_ at \_\_\_\_\_ Location: \_\_\_\_\_  
Date Time]

Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan or summary and a notice of the hearing on confirmation will be sent separately.]

**10. Deadlines**

**Deadline for all creditors to file a proof of claim (except governmental units):**

**Filing deadline:** \_\_\_\_\_

**Deadline for governmental units to file a proof of claim:**

**Filing deadline:** \_\_\_\_\_

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office.

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.

**11. 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 deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.

**12. Filing a chapter 12 bankruptcy case**

Chapter 12 allows family farmers and family fishermen to reorganize according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan. You may object to confirmation of the plan and attend the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business.

**13. Discharge of debts**

Confirmation of a chapter 12 plan may result in a discharge of debts, which may include all or part of your debt. Unless the court orders otherwise, the discharge will not be effective until all payments under the plan are made. A discharge means that you may never try to collect the debt from the debtor 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), (4), or (6), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

<b>Information to identify the case:</b>		
Debtor 1	_____	Last 4 digits of Social Security number or ITIN _____
	First Name Middle Name Last Name	EIN _____
Debtor 2 (Spouse, if filing)	_____	Last 4 digits of Social Security number or ITIN _____
	First Name Middle Name Last Name	EIN _____
United States Bankruptcy Court for the: _____	District of _____	[Date case filed for chapter 13 _____
	(State)	MM / DD / YYYY OR
Case number: _____		[Date case filed in chapter _____
		MM / DD / YYYY
		Date case converted to chapter 13 _____
		MM / DD / YYYY

**Official Form 309I**

**Notice of Chapter 13 Bankruptcy Case**

12/15

**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. Read it 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 14 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 [www.pacer.gov](http://www.pacer.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	
2. All other names used in the last 8 years	
3. Address	If Debtor 2 lives at a different address:
4. Debtor's attorney Name and address	Contact phone _____ Email _____
5. Bankruptcy trustee Name and address	Contact phone _____ Email _____
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 <a href="http://www.pacer.com">www.pacer.com</a> .	Hours open _____ Contact phone _____

For more information, see page 2 ►

**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.

\_\_\_\_\_ at \_\_\_\_\_  
Date Time

Location: \_\_\_\_\_

The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.

**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:** \_\_\_\_\_

**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:** \_\_\_\_\_

**Deadline for governmental units to file a proof of claim:**

**Filing deadline:** \_\_\_\_\_

**Deadlines for filing proof of claim:**

A proof of claim is a signed statement describing a creditor's claim. If a proof of claim form is not included with this notice, obtain one at [www.uscourts.gov](http://www.uscourts.gov) or any bankruptcy clerk's office. 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 of plan**

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held on: \_\_\_\_\_ at \_\_\_\_\_ Location: \_\_\_\_\_  
Date Time ]

Or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]

Or [The debtor has not filed a plan as of this date. A copy of the plan or summary 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 [is included with this notice] or [will be sent to you later], and [the confirmation hearing will be held on the date shown in line 9 of this notice] or [the court will send you a 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 [www.pacer.gov](http://www.pacer.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. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 8.

## COMMITTEE NOTE

Official Forms 309A-I, collectively the Bankruptcy Case Commencement Notices, have been revised as part of the Forms Modernization Project to make them easier to read and understand. The notices, derived from Official Forms 9A-I are renumbered and stylistic changes have been made.

References to the limitations on the automatic stay imposed by 11 U.S.C. § 362(c)(3) and (4) in some repeat bankruptcy filings by individuals have been deleted from the three versions of the notice for cases filed by corporations and partnerships. Email addresses for the debtor's attorney and the trustee have been added to the form.

The parties are informed that they may review papers filed in the case through the judiciary's PACER system (Public Access to Court Electronic Records) as well as at the bankruptcy clerk's office.

The lettering scheme for the versions of Official Form 309 track the versions of Official Form 9 used in different types of bankruptcy cases with following exceptions. Official Forms 9E(Alt.) and 9F(Alt.) have been eliminated by including alternative language in Official Forms 309E and 309F to be used if the court sets a deadline for filing claims at the start of the chapter 11 case. In addition, the B and C versions have been reversed in order. That is, Official Form 9C has been designated 309B and Official Form 9B as 309C. This groups together the notices for chapter 7 individual debtors and for non-individual debtors. Finally, as a result of the reformatting, Official Form 309C has been reduced to a single page.

The four versions of the form for chapter 7 cases have been renamed to state whether the notice specifies a deadline for filing proofs of claim, rather than whether the case is an "asset" or "no-asset" case.



[Caption as in 416A]

## Order and Notice for Hearing on Disclosure Statement

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**To the debtor, its creditors, and other parties in interest:**

A disclosure statement and a plan under chapter 11 [or chapter 9] of the Bankruptcy Code having been filed by \_\_\_\_\_ on \_\_\_\_\_,

**IT IS ORDERED** and notice is hereby given, that:

1. The hearing to consider the approval of the disclosure statement shall be held at:

\_\_\_\_\_,  
on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_.m.

2. \_\_\_\_\_ is fixed as the last day for filing and serving in accordance with Fed. R. Bankr. P. 3017(a) written objections to the disclosure statement.

3. Within \_\_\_\_\_ days after entry of this order, the disclosure statement and plan shall be distributed in accordance with Fed. R. Bankr. P. 3017(a).

4. Requests for copies of the disclosure statement and plan shall be mailed to the debtor in possession [or trustee or debtor or \_\_\_\_\_] at the following mailing address:

[\_\_\_\_\_].

\_\_\_\_\_  
MM / DD / YYYY

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge





## COMMITTEE NOTE

Official Form 312, *Order and Notice for Hearing on Disclosure Statement* replaces Official Form 12, *Order and Notice for Hearing on Disclosure Statement*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



[Caption as in 416A]

## Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof

A disclosure statement under chapter 11 of the Bankruptcy Code having been filed by \_\_\_\_\_ on \_\_\_\_\_ [if appropriate, and by \_\_\_\_\_, on \_\_\_\_\_], referring to a plan under chapter 11 of the Code filed by \_\_\_\_\_, on \_\_\_\_\_ [if appropriate, and by \_\_\_\_\_, on \_\_\_\_\_ respectively] [if appropriate, as modified by a modification filed on \_\_\_\_\_]; and

It having been determined after hearing on notice that the disclosure statement [or statements] contain[s] adequate information:

**IT IS ORDERED**, and notice is hereby given, that:

- A. The disclosure statement filed by \_\_\_\_\_ dated \_\_\_\_\_ [if appropriate, and by \_\_\_\_\_, dated \_\_\_\_\_] is [are] approved.
- B. \_\_\_\_\_ is fixed as the last day for filing written acceptances or rejections of the plan [or plans] referred to above.
- C. Within \_\_\_\_\_ days after the entry of this order, the plan [or plans] or a summary or summaries thereof approved by the court, [and [if appropriate] a summary approved by the court of its opinion, if any, dated \_\_\_\_\_, approving the disclosure statement [or statements]], the disclosure statement [or statements], and a ballot conforming to *Ballot for Accepting or Rejecting Plan of Reorganization* (Official Form 314) shall be mailed to creditors, equity security holders, and other parties in interest, and shall be transmitted to the United States trustee, as provided in Fed. R. Bankr. P. 3017(d).
- D. If acceptances are filed for more than one plan, preferences among the plans so accepted may be indicated.
- E. [If appropriate] \_\_\_\_\_ is fixed for the hearing on confirmation of the plan [or plans].
- F. [If appropriate] \_\_\_\_\_ is fixed as the last day for filing and serving pursuant to Fed. R. Bankr. P. 3020(b)(1) written objections to confirmation of the plan.

\_\_\_\_\_  
MM / DD / YYYY

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge

[If the court directs that a copy of the opinion should be transmitted in lieu of or in addition to the summary thereof, the appropriate change should be made in paragraph C of this order.]



## COMMITTEE NOTE

Official Form 313, *Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof* replaces Official Form 13, *Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



Official Form 314  
(12/15)

[Caption as in 416A]

## Class [ ] Ballot for Accepting or Rejecting Plan of Reorganization

---

[Proponent] filed a plan of reorganization dated [Date] (the *Plan*) for the Debtor in this case. The Court has [conditionally] approved a disclosure statement with respect to the Plan (the *Disclosure Statement*). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from [name, address, telephone number and telecopy number of proponent/proponent's attorney.]

Court approval of the disclosure statement does not indicate approval of the Plan by the Court.

**You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your [claim] [equity interest] has been placed in class [ ] under the Plan. If you hold claims or equity interests in more than one class, you will receive a ballot for each class in which you are entitled to vote.**

**If your ballot is not received by [name and address of proponent's attorney or other appropriate address] on or before [date], and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan.**

**If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.**

### Acceptance or Rejection of the Plan

[At this point the ballot should provide for voting by the particular class of creditors or equity holders receiving the ballot using one of the following alternatives:]

[If the voter is the holder of a secured, priority, or unsecured nonpriority claim:]

The undersigned, the holder of a Class [ ] claim against the Debtor in the unpaid amount of Dollars (\$ )

[or, if the voter is the holder of a bond, debenture, or other debt security:]

The undersigned, the holder of a Class [ ] claim against the Debtor, consisting of Dollars (\$ ) principal amount of [describe bond, debenture, or other debt security] of the Debtor (For purposes of this Ballot, it is not necessary and you should not adjust the principal amount for any accrued or unmatured interest.)

[or, if the voter is the holder of an equity interest:]

The undersigned, the holder of Class [ ] equity interest in the Debtor, consisting of \_\_\_\_\_ shares or other interests of [describe equity interest] in the Debtor Official Form 14 continued (12/03)

[In each case, the following language should be included:]

*Check one box only*

**Accepts the plan**

**Rejects the plan**

Dated: \_\_\_\_\_

Print or type name: \_\_\_\_\_

Signature: \_\_\_\_\_ Title (if corporation or partnership) \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

**Return this ballot to:**

[Name and address of proponent's attorney or other appropriate address]



## COMMITTEE NOTE

Official Form 314, *Ballot for Accepting or Rejecting Plan* replaces Official Form 14, *Ballot for Accepting or Rejecting Plan*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



Official Form 315  
(12/15)

[Caption as in 416A]

## Order Confirming Plan

---

The plan under chapter 11 of the Bankruptcy Code filed by \_\_\_\_\_, on \_\_\_\_\_ [if applicable, as modified by a modification filed on \_\_\_\_\_], or a summary thereof, having been transmitted to creditors and equity security holders; and

It having been determined after hearing on notice that the requirements for confirmation set forth in 11 U.S.C. § 1129(a) [or, if appropriate, 11 U.S.C. § 1129(b)] have been satisfied;

**IT IS ORDERED** that:

The plan filed by \_\_\_\_\_, on \_\_\_\_\_, [If appropriate, include dates and any other pertinent details of modifications to the plan] is confirmed. [If the plan provides for an injunction against conduct not otherwise enjoined under the Code, include the information required by Rule 3020.]

A copy of the confirmed plan is attached.

\_\_\_\_\_  
MM / DD / YYYY

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge



## COMMITTEE NOTE

Official Form 315, *Order Confirming Plan* replaces Official Form 15, *Order Confirming Plan*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



**Fill in this information to identify the case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter 15

Check if this is an amended filing

**Official Form 401**

**Chapter 15 Petition for Recognition of a Foreign Proceeding**

12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write debtor's name and case number (if known).

1. Debtor's name \_\_\_\_\_

2. Debtor's unique identifier

**For non-individual debtors:**

Federal Employer Identification Number (EIN) \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Other \_\_\_\_\_. Describe identifier \_\_\_\_\_.

**For individual debtors:**

Social Security number: xxx - xx- \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Individual Taxpayer Identification number (ITIN): 9 xx - xx - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

Other \_\_\_\_\_. Describe identifier \_\_\_\_\_.

3. Name of foreign representative(s) \_\_\_\_\_

4. Foreign proceeding in which appointment of the foreign representative(s) occurred \_\_\_\_\_

5. Nature of the foreign proceeding

Check one:

Foreign main proceeding

Foreign nonmain proceeding

Foreign main proceeding, or in the alternative foreign nonmain proceeding

6. Evidence of the foreign proceeding

A certified copy, translated into English, of the decision commencing the foreign proceeding and appointing the foreign representative is attached.

A certificate, translated into English, from the foreign court, affirming the existence of the foreign proceeding and of the appointment of the foreign representative, is attached.

Other evidence of the existence of the foreign proceeding and of the appointment of the foreign representative is described below, and relevant documentation, translated into English, is attached.

\_\_\_\_\_  
\_\_\_\_\_

7. Is this the only foreign proceeding with respect to the debtor known to the foreign representative(s)?

No. (Attach a statement identifying each country in which a foreign proceeding by, regarding, or against the debtor is pending.)

Yes

**8. Others entitled to notice**

Attach a list containing the names and addresses of:

- (i) all persons or bodies authorized to administer foreign proceedings of the debtor,
- (ii) all parties to litigation pending in the United States in which the debtor is a party at the time of filing of this petition, and
- (iii) all entities against whom provisional relief is being sought under § 1519 of the Bankruptcy Code.

**9. Addresses**

**Country where the debtor has the center of its main interests:**

\_\_\_\_\_

**Debtor's registered office:**

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

P.O. Box \_\_\_\_\_

City State/Province/Region ZIP/Postal Code \_\_\_\_\_

Country \_\_\_\_\_

**Individual debtor's habitual residence:**

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

P.O. Box \_\_\_\_\_

City State/Province/Region ZIP/Postal Code \_\_\_\_\_

Country \_\_\_\_\_

**Address of foreign representative(s):**

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

P.O. Box \_\_\_\_\_

City State/Province/Region ZIP/Postal Code \_\_\_\_\_

Country \_\_\_\_\_

**10. Debtor's website (URL)**

\_\_\_\_\_

**11. Type of debtor**

Check one:

- Non-individual (check one):
  - Corporation. Attach a corporate ownership statement containing the information described in Fed. R. Bankr. P. 7007.1.
  - Partnership
  - Other. Specify: \_\_\_\_\_
- Individual



**12. Why is venue proper in this district?**

Check one:

- Debtor's principal place of business or principal assets in the United States are in this district.
- Debtor does not have a place of business or assets in the United States, but the following action or proceeding in a federal or state court is pending against the debtor in this district:  
\_\_\_\_\_
- If neither box is checked, venue is consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative, because:  
\_\_\_\_\_

**13. Signature of foreign representative(s)**

I request relief in accordance with chapter 15 of title 11, United States Code.

I am the foreign representative of a debtor in a foreign proceeding, the debtor is eligible for the relief sought in this petition, and I am authorized to file this petition.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct,

**X**

\_\_\_\_\_  
Signature of foreign representative

\_\_\_\_\_  
Printed name

Executed on \_\_\_\_\_

MM / DD / YYYY

**X**

\_\_\_\_\_  
Signature of foreign representative

\_\_\_\_\_  
Printed name

Executed on \_\_\_\_\_

MM / DD / YYYY

**14. Signature of attorney**

**X**

\_\_\_\_\_  
Signature of Attorney for foreign representative

Date

\_\_\_\_\_  
MM / DD / YYYY

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name

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

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

\_\_\_\_\_  
Contact phone

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Bar number

\_\_\_\_\_  
State



## COMMITTEE NOTE

Official Form 401 is required for any petition seeking recognition of a foreign proceeding under chapter 15 of the Bankruptcy Code. The form, which applies to foreign proceedings involving individual and non-individual debtors, consolidates information formerly included on Official Form 1 (Voluntary Petition). The petition must be signed by the foreign representative, under penalty of perjury, and by the foreign representative's attorney.

The petition requires disclosure of the foreign proceeding in which the foreign representative has been appointed (Line 4) and whether it is a foreign main proceeding or foreign nonmain proceeding (Line 5). If the foreign representative seeks recognition of the foreign proceeding as a foreign main proceeding or, in the alternative, a foreign nonmain proceeding, that request should be indicated in Line 5. Each country where any additional foreign proceeding known to the foreign representative is pending must be disclosed on Line 7. See Bankruptcy Rule 1004.2. Evidence of the foreign proceeding and of the foreign representative's appointment must accompany the petition. See 11 U.S.C. § 1515(b). These documents must be translated into English in accordance with 11 U.S.C. § 1515(d). The foreign representative must also attach a list of persons or bodies entitled to notice. See Bankruptcy Rule 2002(q).

The petition calls for information about the debtor, including the debtor's name (Line 1), other unique identifying information, if available (Line 2), and center of main interest (Line 9). The type of debtor is also requested (Line 11).

The foreign representative must indicate the basis for venue in the district by selecting an appropriate checkbox and, if necessary, providing additional information, such as a statement explaining why venue in the district is appropriate (Line 12). See 28 U.S.C. § 1410.



## Official Form 410

# Instructions for Proof of Claim

United States Bankruptcy Court

12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

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. §§ 152, 157 and 3571.

### How to fill out this form

- **Fill in all of the information about the claim as of the date the case was filed.**
- **Attach any supporting documents to this form.**  
Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)  
  
Also attach copies of documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called “Bankruptcy Rule”) 3001(c) and (d).
- **Do not attach original documents because attachments may be destroyed after scanning.**
- **If the claim is based on delivering health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.**
- **A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, individual’s tax identification number, or financial account number, and only the year of any person’s date of birth.** See Bankruptcy Rule 9037.
- **For a minor child, fill in only the child’s initials and the full name and address of the child’s parent or guardian.** For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State)*. See Bankruptcy Rule 9037.

### Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, either enclose a stamped self-addressed envelope and a copy of this form or go to the court’s PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) to view the filed form.

### Understand the terms used in this form

**Administrative expense:** Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing the bankruptcy estate. 11 U.S.C. § 503.

**Claim:** A creditor’s right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

**Creditor:** A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (10).

**Debtor:** A person, corporation, or other entity who is in bankruptcy. Use the debtor’s name and case number as shown in the bankruptcy notice you received. 11 U.S.C. § 101 (13).

**Evidence of perfection:** Evidence of perfection of a security interest may include a mortgage; lien; certificate of title; financing statement; in some instances, the original security agreement, or other document showing that a security interest has been filed or recorded.

**Information that is entitled to privacy:** A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

**Priority claim:** A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

**Proof of claim:** A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

**Redaction of information:** Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to privacy on the *Proof of Claim* form and any attached documents.

**Secured claim under 11 U.S.C. §506(a):** A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily

granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment may be a lien.

**Setoff:** Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

**Uniform claim identifier:** An optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

**Unsecured claim:** A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part if the amount of the claim is more than the value of the property on which a creditor has a lien.

### Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

**Do not file these instructions with your form.**

**Fill in this information to identify the case:**

Draft Jan. 17, 2014

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

**Official Form 410**  
**Proof of Claim**

12/15

**Read the instructions before filling out this form. Use this form to make a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

The law requires that filers **must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, 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. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**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? \_\_\_\_\_

<b>3. Where should notices and payments to the creditor be sent?</b>	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Name _____	Name _____
	Number _____ Street _____	Number _____ Street _____
	City _____ State _____ ZIP Code _____	City _____ State _____ ZIP Code _____
	Contact phone _____	Contact phone _____
	Contact email _____	Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	

**4. Does this claim amend one already filed?**  No  
 Yes. Claim number on court claims registry (if known) \_\_\_\_\_ Filed on \_\_\_\_\_  
 MM / DD / YYYY

**5. Do you know if anyone else has filed a proof of claim for this claim?**  No  
 Yes. Who made the earlier filing? \_\_\_\_\_

**Part 2:** Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**  No  Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. **How much is the claim?** \$ \_\_\_\_\_ **For leases state only the amount of default.**

**Does this amount include interest or other charges?**  
 No  Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?** Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as healthcare information.

\_\_\_\_\_

9. **Is all or part of the claim secured?**  No  Yes. The claim is secured by a lien on property.

**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_

**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_

**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  Variable

10. **Is this claim based on a lease?**  No  Yes. **Amount necessary to cure any default as of the date of the petition.** \$ \_\_\_\_\_

11. **Does this claim involve a right to setoff?**  No  Yes. Explain: \_\_\_\_\_



**12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

- No  
 Yes. Check all that apply:

**Amount entitled to priority**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_
- Up to \$2,775\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_
- Wages, salaries, or commissions (up to \$12,475\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_
- Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/1/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

**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. §§ 152, 157 and 3571.**

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date \_\_\_\_\_  
 MM / DD / YYYY

\_\_\_\_\_  
 Signature

**Print the name of the person who is completing and signing this claim:**

Name \_\_\_\_\_  
 First name Middle name Last name

Title \_\_\_\_\_

Company \_\_\_\_\_  
 Identify the corporate servicer as the company if the authorized agent is a servicer.

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

City State ZIP Code

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



**Mortgage Proof of Claim Attachment (12/15)**

If you file a claim secured by a security interest in individual debtor cases, you must use this form as an attachment to your proof of claim. See separate instructions

Draft 3.26.2014

PART I Mortgage and Case Information		PART II Total Debt Calculation		PART III Arrearage as of Date of the Petition		PART IV Monthly Mortgage Payment	
Case Number	13-12335	Principal Due	\$84,662.51	Principal & Interest Due:	\$968.30	Principal & Interest	\$684.15
Debtor 1	John Smith	Interest Due	\$872.23	Escrow Deficiency	\$978.95	Monthly Escrow	\$120.00
Debtor 2	Mary Smith	Fees, Costs Due	\$708.95	Prepetition Fees Due:	\$708.95	PMI	\$44.55
Last 4 digits used to identify	xxxx7790	Escrow Deficiency	\$978.95	Projected Escrow Shortage	\$300.00		
Servicer:	Wells Fargo	Less funds on hand	-\$74.31	Less funds on hand	-\$74.31	<b>Total Monthly Payment</b>	<b>\$848.70</b>
Creditor:	2010 US Bank Trust	<b>Total Debt</b>	<b>\$87,148.33</b>	<b>Total Prepetition Arrearage</b>	<b>\$2,881.89</b>		
Fixed accrual/Daily Simple Interest	Fixed						

**PART V Loan Payment History from First Date of Default**

(A) Date	(B) Contractual Payment amount	Account Activity		(E) Description	(F) Contractual Due Date	(G) Prin, Int & Esc Past Due Balance	How funds were applied/Amount Incurred					Balance after amount received or incurred				
		(C) Funds received	(D) Amount Incurred				(H) Amount to Principal	(I) Amount to Interest	(J) Amount to Escrow	(K) Amount to Fees or Charges	(L) Unapplied funds	(M) Principal Balance	(O) Accrued interest balance	(P) Escrow Balance	(Q) Fees / Charges Balance	(R) Unapplied Funds Balance
4/16/13			41.05	LATE FEE	Apr-13	804.15				41.05		85,405.01		0.00	41.05	0.00
5/1/13	804.15			CONTRACTUAL PAYMENT DUE	Apr-13	1,608.30						85,405.01		0.00	41.05	0.00
5/20/13			41.05	LATE FEE		1,608.30				41.05		85,405.01		0.00	82.10	0.00
6/1/13	804.15			CONTRACTUAL PAYMENT DUE	Apr-13	2,412.45						85,405.01		0.00	82.10	0.00
6/7/13		1,200.00		PAYMENT RECEIVED	May-13	1,608.30	247.49	436.15	120.00	-82.10	478.46	85,157.52		120.00	-82.10	478.46
6/20/13			300.00	PROPERTY TAXES		1,608.30				-600.00		85,157.52		-180.00	0.00	478.46
7/1/13	804.15	400.00		PAYMENT RECEIVED		2,012.45					400.00	85,157.52		-180.00	0.00	878.46
7/1/13				PAYMENT FROM SUSPENSE	Jun-13	1,208.30	247.50	436.14	120.00		-804.15	84,910.02		-180.00	0.00	74.31
7/29/13			750.00	ATTORNEY FEES		1,208.30				750.00		84,910.02		-180.00	750.00	74.31
8/1/13	804.15	845.20		PAYMENT RECEIVED	Jul-13	1,208.30	247.51	436.13	120.00	-41.05		84,662.51		-138.95	708.95	74.31
8/16/13			840.00	INSURANCE PAID		1,208.30				-840.00		84,662.51		-978.95	708.95	74.31



## Official Form 410A

# Instructions for Mortgage Proof of Claim Attachment

United States Bankruptcy Court

12/15

### Introduction

This form is used only in individual debtor cases. When required to be filed, it must be attached to *Proof of Claim* (Official Form B410) with other documentation required under the Federal Rules of Bankruptcy Procedure.

### Applicable Law and Rules

Rule 3001(c)(2)(A) of the Federal Rules of Civil Procedure requires for the bankruptcy case of an individual that any proof of claim be accompanied by a statement itemizing any interest, fees, expenses, and charges that are included in the claim.

Rule 3001(c)(2)(B) requires that a statement of the amount necessary to cure any default be filed with the claim if a security interest is claimed in the debtor's property.

If a security interest is claimed in property that is the debtor's principal residence, Rule 3001(c)(2)(C) requires this form to be filed with the proof of claim. The form implements the requirements of Rule 3001(c)(2)(A) and (B).

If an escrow account has been established in connection with the claim, Rule 3001(c)(2)(C) also requires an escrow statement to be filed with the proof of claim. The statement must be prepared as of the date of the petition and in a form consistent with applicable nonbankruptcy law.

### Directions

#### Definition

This form must list all transactions on the claim from the *first date of default* to the petition date. The *first date of default* is the first date on which the borrower failed to make a payment in accordance with the terms of the note and mortgage, unless the note was subsequently brought current with no principal, interest, fees, escrow payments, or other charges immediately payable.

#### Information required in Part 1: Mortgage and Case Information

Insert on the appropriate lines:

- the case number;
- the names of Debtor 1 and Debtor 2;
- the last 4 digits used to identify the mortgage loan number (i.e., the last 4 digits of the loan account number or any other information to identify the account);
- the creditor's name;
- the servicer's name, if applicable; and
- the method used to calculate interest on the debt (i.e., fixed accrual, daily simple interest, or other method).

**Information required in Part 2: Total Debt Calculation**

---

Insert:

- the principal balance on the debt;
- the interest due and owing;
- any fees or costs owed under the note or mortgage and outstanding as of the date of the bankruptcy filing; and
- any *Escrow deficiency for funds advanced*—that is, the amount of any prepetition payments for taxes and insurance that the servicer or mortgagee made out of its own funds and for which it has not been reimbursed.

Also disclose the *Total amount of funds on hand*. This amount is the total of the following, if applicable:

- a positive escrow balance,
- unapplied funds, and
- amounts held in suspense accounts.

Total the amounts owed—subtracting total funds on hand—to determine the total debt due.

Insert this amount under *Total debt*.

**Information required in the Part 3: Arrearage as of the Date of Petition**

---

Insert the amount of the principal and interest portion of all prepetition monthly installments that remain outstanding as of the petition date. The escrow portion of prepetition monthly installment payments should not be included in this figure.

Insert the amount of fees and costs outstanding as of the petition date. This amount should equal the *Fees/Charges balance* as shown in the last entry in Part 5, Column P.

Insert any *escrow deficiency for funds advanced*. This amount should be the same as the amount of *escrow deficiency* stated in Part 2.

Insert the *Projected escrow shortage* as of the date the bankruptcy petition was filed. The *projected escrow shortage* is the amount the claimant asserts should exist in the escrow account as of the petition date, less the amount actually held. The amount actually held should equal the amount of a positive escrow account balance as shown in the last entry in Part 5, Column O.

This calculation should result in the amount necessary to cure any prepetition default on the note or mortgage that arises from the failure of the borrower to satisfy the amounts required under the Real Estate Settlement Practices Act (RESPA). The amount necessary to cure should include 1/6 of the anticipated annual charges against the escrow account or 2 months of the monthly pro rata installments due by the borrower as calculated under RESPA guidelines. The amount of the projected escrow shortage should be consistent with the escrow account statement attached to the *Proof of Claim*, as required by Rule 3001(c)(2)(C).

Insert the amount of funds on hand that are unapplied or held in a suspense account as of the petition date.

Total the amounts due listed in Part 3, subtracting the funds on hand, and insert the calculated amount in *Total prepetition arrearage*.

**Information required in Part 4: Monthly Mortgage Payment**

---

Insert the principal and interest payment amount of the monthly payment as of the petition date.

Insert the monthly escrow portion of the monthly payment. This amount should take into account the receipt of any amounts claimed in Part 3 as escrow deficiency and projected escrow shortage. Therefore, a claimant should assume that the

escrow deficiency and shortage will be paid through a plan of reorganization and provide for a credit of a like amount when calculating postpetition escrow installment payments.

Claimants should also add any monthly private mortgage insurance amount.

Insert the sum of these amounts in *Total monthly payment*.

**Information required in Part 5: Loan Payment History from the First Date of Default**

---

Beginning with the First Date of Default, enter:

- the date of the default in Column A;
- amount incurred in Column D;
- description of the charge in Column E;
- principal balance, escrow balance, and unapplied or suspense funds balance as of that date in Columns M, O, and Q, respectively.

For (1) all subsequently accruing installment payments; (2) any subsequent payment received; (3) any fee, charge, or amount incurred; and (4) any escrow charge satisfied since the date of first default, enter the information in date order, showing:

- the amount paid, accrued, or incurred;
- a description of the transaction;
- the contractual due date, if applicable;
- how the amount was applied or assessed; and
- the resulting principal balance, accrued interest balance, escrow balance, outstanding fees or charges balance, and the total unapplied funds held or in suspense.

If more space is needed, fill out and attach as many copies of *Mortgage Proof of Claim Attachment: Additional Page* as necessary.





Fill in this information to identify the case:

Draft March 31, 2014

Debtor 1 \_\_\_\_\_

Debtor 2  
(Spouse, if filing) \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_

# Official Form 410S1

## Notice of Mortgage Payment Change

12/15

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: \_\_\_\_\_ Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number you use to identify the debtor's account: \_\_\_\_\_

Date of payment change:  
Must be at least 21 days after date of this notice \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

New total payment: \$ \_\_\_\_\_  
Principal, interest, and escrow, if any

### Part 1: Escrow Account Payment Adjustment

1. Will there be a change in the debtor's escrow account payment?

- No
- Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why: \_\_\_\_\_

Current escrow payment: \$ \_\_\_\_\_ New escrow payment: \$ \_\_\_\_\_

### Part 2: Mortgage Payment Adjustment

2. Will the debtor's principal and interest payment change based on an adjustment to the interest rate in the debtor's variable-rate note?

- No
- Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: \_\_\_\_\_

Current interest rate: \_\_\_\_\_% New interest rate: \_\_\_\_\_%

Current principal and interest payment: \$ \_\_\_\_\_ New principal and interest payment: \$ \_\_\_\_\_

### Part 3: Other Payment Change

3. Will there be a change in the debtor's mortgage payment for a reason not listed above?

- No
- Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (Court approval may be required before the payment change can take effect.)

Reason for change: \_\_\_\_\_

Current mortgage payment: \$ \_\_\_\_\_ New mortgage payment: \$ \_\_\_\_\_

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Case number (if known) \_\_\_\_\_

**Part 4: Sign Here**

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

**I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.**

**X** \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_\_  
Signature

Print: \_\_\_\_\_ Title \_\_\_\_\_  
First Name Middle Name Last Name

Company \_\_\_\_\_

Address \_\_\_\_\_  
Number Street  
\_\_\_\_\_  
City State ZIP Code

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

Fill in this information to identify the case:

Draft March 31, 2014

Debtor 1 \_\_\_\_\_

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: \_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number \_\_\_\_\_

## Official Form 410S2

# Notice of Postpetition Mortgage Fees, Expenses, and Charges 12/15

If you hold a claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any postpetition fees, expenses, and charges that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002. 1.

Name of creditor: \_\_\_\_\_

Court claim no. (if known): \_\_\_\_\_

Last 4 digits of any number you use to identify the debtor's account: \_\_\_\_\_

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

No

Yes. Date of the last notice: \_\_\_\_/\_\_\_\_/\_\_\_\_

### Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	_____	(3) \$ _____
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: _____	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002. 1.

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Case number (if known) \_\_\_\_\_

**Part 2: Sign Here**

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

- I am the creditor.
- I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

**I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.**

**X** \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
Signature

Print: \_\_\_\_\_ Title \_\_\_\_\_  
First Name Middle Name Last Name

Company \_\_\_\_\_

Address \_\_\_\_\_  
Number Street  
City State ZIP Code

Contact phone (\_\_\_\_) \_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

## COMMITTEE NOTE

Official Form 410, *Proof of Claim*, applies in all cases. Form 410 replaces Official Form 10, Proof of Claim. It is renumbered to distinguish it from the forms used by debtors for case opening, and includes stylistic changes throughout the form. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. Because the goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions.

Official Form 410 has been substantially reorganized. A new question has been added at line 10 that solicits information about claims based on leases.

Official Form 410A, *Mortgage Proof of Claim Attachment*, is revised in its content and format. Rather than requiring a home mortgage claimant to fill in blanks with itemized information about the principal, interest, and fees due as of the petition date and the amount necessary to cure a prepetition default, the form now requires the claimant to provide a loan history that reveals when payments were received, how they were applied, when fees and charges were incurred, and when escrow charges were satisfied. Because completion of the revised form can be automated, it will permit claimants to comply with Rule 3001(c)(2)(C) with efficiency and accuracy. Attachment of a loan history with a home mortgage proof of claim will also provide transparency about the basis for the claimant's calculation of the claim and arrearage amount.

The loan history should begin with the first date on which the borrower failed to make a payment in accordance with the terms of the note and mortgage, unless the note was subsequently

brought current with no principal, interest, fees, escrow payments, or other charges immediately payable.

Official Forms 410S1 and 410S2, *Notice of Mortgage Payment Change* and *Notice of Postpetition Mortgage Fees, Expenses, and Charges*, are revised as part of the Forms Modernization Project. There are formatting changes throughout the forms.

B416A (Official Form 416A) (12/15) Form 416A. CAPTION (FULL)

Debtor [1] \_\_\_\_\_

[Debtor 2] \_\_\_\_\_

Other names used by the debtor within the last 8 years  
\_\_\_\_\_

[Other names used by the debtor within the last 8 years]  
\_\_\_\_\_

Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Address, if Debtor 2 lives at a different address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]

Last 4 digits of Social Security number or ITIN \_\_\_\_\_

Last 4 digits of Social Security number or ITIN \_\_\_\_\_

[Employer Identification Number \_\_\_\_\_]

[Employer Identification Number \_\_\_\_\_]

United States Bankruptcy Court for the \_\_\_\_\_

[Bankruptcy district]

Case number \_\_\_\_\_

Chapter you are filing under \_\_\_\_\_

[Designation of Character of Paper]





## COMMITTEE NOTE

Official Form 416A, *Caption*, applies on all forms where prescribed. Form 416A replaces Official Form 16A, *Caption*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



B416B (Official Form 416B) (12/15) Form 416B. (Short Title) *(May be used if 11 U.S.C. § 342(c) does not apply)*

Debtor \_\_\_\_\_

United States Bankruptcy Court for the \_\_\_\_\_

[Bankruptcy district]

Case number: \_\_\_\_\_

Chapter you are filing under: \_\_\_\_\_

[Designation of Character of Paper]



## COMMITTEE NOTE

Official Form 416B, *Caption*, applies on all forms where prescribed. Form 416B replaces Official Form 16B, *Caption*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



B416D (Official Form 416D) (12/15) Form 416D. Caption to Use in Adversary Proceeding

Debtor 1 \_\_\_\_\_ Plaintiff \_\_\_\_\_

Defendant \_\_\_\_\_

United States Bankruptcy Court for the \_\_\_\_\_

[Bankruptcy district]

Case number: \_\_\_\_\_ Chapter you are filing under: \_\_\_\_\_ Adv. Proc. No. \_\_\_\_\_

**Complaint** [or other designation]

[If in a *Notice of Appeal* (see Form 417A) or other notice filed and served by a debtor, this caption must be altered to include the debtor's address and Employer's Tax Identification Numbers (EIN), last four digits of Social Security numbers, or Individual Taxpayer Identification number (ITIN) as in Form 416A.]





## COMMITTEE NOTE

Official Form 416D, *Caption for Use in Adversary Proceeding Other Than for a Complaint Filed by a Debtor*, applies on all forms where prescribed. Form 416D replaces Official Form 16D, *Caption for Use in Adversary Proceeding Other Than for a Complaint Filed by a Debtor*. It is renumbered as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



Official Form 424  
(12/15)

[Caption as described in Fed. R. Bankr. P. 7010 or 9004(b), as applicable]

## Certification to Court of Appeals by All Parties

---

A notice of appeal having been filed in the above-styled matter on \_\_\_\_\_ [Date], \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, [names of all the appellants and all the appellees, if any], who are all the appellants [and all the appellees] hereby certify to the court under 28 U.S.C. § 158(d)(2)(A) that a circumstance specified in 28 U.S.C. § 158(d)(2) exists as stated below.

Leave to appeal in this matter:

- is required under 28 U.S.C. § 158(a)
- is not required under 28 U.S.C. § 158(a).

[If from a final judgment, order, or decree] This certification arises in an appeal from a final judgment, order, or decree of the United States Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_ entered on \_\_\_\_\_ [Date].

[If from an interlocutory order or decree] This certification arises in an appeal from an interlocutory order or decree, and the parties hereby request leave to appeal as required by 28 U.S.C. § 158(a).

[The certification shall contain one or more of the following statements, as is appropriate to the circumstances.]

The judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for this circuit or of the Supreme Court of the United States, or involves a matter of public importance.

Or

The judgment, order, or decree involves a question of law requiring resolution of conflicting decisions.

Or

An immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken.

[The parties may include or attach the information specified in Rule 8001.]

Signed: [If there are more than two signatories, all must sign and provide the information requested below. Attach additional signed sheets if needed.]

Attorney for Appellant (or  
Appellant, if not represented  
by an attorney):

\_\_\_\_\_

Printed name of signer:

\_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number:

(\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Date:

\_\_\_\_/\_\_\_\_/\_\_\_\_  
MM / DD / YYYY

\_\_\_\_/\_\_\_\_/\_\_\_\_  
MM / DD / YYYY

## COMMITTEE NOTE

Official Form 424, *Certification to Court of Appeal by All Parties* replaces Official Form 424, *Certification to Court of Appeal by All Parties*. It is revised as part of the Forms Modernization Project, and includes stylistic changes throughout the form.



# Instructions

## For Bankruptcy Forms for Non-Individuals

U.S. Bankruptcy Court

|

December 2015

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# General Instructions

This document provides instructions for completing selected forms that entities other than individuals and municipalities filing for bankruptcy must submit to the U.S. Bankruptcy Court. All of the required forms can be downloaded without charge from:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

The instructions are designed to accompany the forms and are intended to help in understanding what information is required to properly file. The representatives of the debtor working on the forms should review each form and any pertinent instructions before supplying the information for each form.

Although the forms often parallel how businesses commonly keep their financial records, it is not always possible to do so

because information needed in a bankruptcy case is often different from that prescribed under generally accepted accounting principles. These instructions highlight some of the differences between the bankruptcy documents and accounting records. The debtor must provide all information required.

These instructions are not a substitute for legal advice about bankruptcy and the required forms. Completing the forms is only a part of the bankruptcy process.

Non-individual debtors must have an attorney to file for bankruptcy. Although the attorney may prepare the forms using information supplied by the debtor, representatives of the debtor must ensure that the forms are accurate and complete and must sign the forms under penalty of perjury.

## Read This Important Warning

**Non-individual debtors must be represented by an attorney.**

**Bankruptcy can have serious long-term financial and legal consequences, including loss of property. Only an attorney can give legal advice regarding the possible consequences of filing for bankruptcy and the various options that are available.**

**Entities may not file bankruptcy if they are not eligible to file or do not intend to file the documents necessary to complete the bankruptcy.**

**Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**

## Overview of the bankruptcy forms and filing bankruptcy

Use the forms in the 200 series if the debtor is a non-individual, such as a corporation, partnership, or limited liability company (LLC). Forms in the 100 series are used by individuals or married couples. Sole proprietors must use the forms in the 100 series.

When a bankruptcy petition is filed, the U.S. Bankruptcy Court opens a case. It is important that the answers to the questions on the forms be complete and accurate so that the case proceeds smoothly. A person who gives false information in connection with a bankruptcy case could be charged with a federal crime, and the debtor may lose the benefits of filing for bankruptcy.

Filing a bankruptcy case is not private. Anyone has a right to see a debtor's bankruptcy forms after the debtor files them. In some circumstances, the bankruptcy court may issue a protective order to keep trade secrets or other confidential proprietary information from being disclosed to the public. 11 U.S.C. § 107 and Bankruptcy Rule 9037.

### Follow these privacy restrictions

- Do not list a minor child's full name on any form. Instead, fill in only the child's initials and the full name and address of the child's parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Bankruptcy Rules 1007(m) and 9037.
- Do not list a person's date of birth.
- Do not list anyone's full Social Security number on any form.

## Understand the terms used in the forms

To understand terms used in the forms and the instructions, see the *Glossary* at the end of this document.

### Things to remember when filling out and filing these forms

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to the form. On the top of any pages added, write the debtor's name and case number, if known. Also identify the form and line number to which the additional information applies.
- Do not file these instructions with the bankruptcy forms that the debtor files with the court.
- For the debtor's records, be sure to keep a copy of the debtor's bankruptcy documents and all attachments that the debtor files.

### Filing amended forms

Check the box on the top of the form to show that the debtor is submitting an amendment.

### On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debt is from a credit card, fill in the month and year of the first and last transactions, if known.

# About the Process for Filing a Bankruptcy Case for Non-Individuals

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To file for bankruptcy, the debtor must give the court several forms and documents. Some must be filed at the time the debtor files the case. Others may be filed up to 14 days later.

## When the debtor files its bankruptcy case

The debtor must pay the entire filing fee when the case is filed. The debtor must file the forms listed below on the date the debtor files its bankruptcy case. For copies of the forms listed here, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

- ❑ *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201). This form opens the case. Directions for completing it are included in the form itself.
- ❑ *A list of names and addresses of all of the debtor's creditors*, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files. (The bankruptcy court may call this a *creditor matrix* or *mailing matrix*.)
- ❑ *Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against Debtor and Are Not Insiders* (Official Form 204). Fill out this form only if the debtor files under chapter 11.
- ❑ *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A). This form is filed only by non-individual debtors who file under chapter 11 and who are required to file periodic reports (for example, Forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

## When the debtor files its bankruptcy case or within 14 days after filing

The debtor must file the forms listed below with its *Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Official Form 201) or within 14 days, or such additional time as the court may order, after filing. If the debtor does not do so, the case may be dismissed. Although it is possible to open a case by submitting only the documents listed under *When the debtor files its bankruptcy case*, the debtor should file the entire set of forms at one time to help its case proceed smoothly.

The debtor must fill out all of the forms completely even though some forms may ask similar questions.

The list below identifies the documents that all non-individuals must file as well as those that are specific to each chapter. For copies of the official forms, go to <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

**All non-individuals who file for bankruptcy must file these forms and the forms for the specific chapter:**

- ❑ *Schedules of Assets and Liabilities* (Official Form 206) which includes these forms:
  - ❑ *Schedule A/B: Real and Personal Property* (Official Form 206A/B)
  - ❑ *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D)
  - ❑ *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F)
  - ❑ *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G)
  - ❑ *Schedule H: Codebtors* (Official Form 206H)
  - ❑ *Summary of Assets and Liabilities for Non-Individuals* (Official Form 206Sum). This form gives an overview of the totals on the schedules.
- ❑ *Declaration Under Penalty of Perjury for Non-Individual Debtors* (Official Form 202–Declaration)
- ❑ *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207)
- ❑ *Disclosure of Compensation to Debtor’s Attorney* — Unless local rules provide otherwise, Director’s Form 2030 may be used.
- ❑ Statement of current income and current expenditures — Unless local rules provide otherwise, debtors may use *Schedule I/J: Monthly Receipts and Disbursements of Non-Individual Debtors Where Current Accounting Statements Are Unavailable* (Form 2060 I/J)

**If a small business debtor files under chapter 11, the debtor must also file:**

If the debtor files under chapter 11 and meets the criteria and debt limits outlined in 11 U.S.C. § 101(51D), the debtor qualifies as a small business debtor and must file with the petition its most recent

- ❑ balance sheet,
- ❑ statement of operations,
- ❑ cash-flow statement, and
- ❑ federal income tax return.

If the debtor does not have these documents, the debtor must file a statement made under penalty of perjury that the debtor has not prepared either a balance sheet, statement of operations, or cash-flow statement or the debtor has not filed a federal tax return.

# Instructions for Selected Forms

# Schedule A/B: Real and Personal Property (Official Form 206A/B)

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*Schedule A/B: Assets – Real and Personal Property* (Official Form 206A/B) requires debtors to list most of the property interests that are involved in a bankruptcy case. All debtors filing for bankruptcy must honestly list everything they own or in which they have a legal, equitable, or future interest. *Legal, equitable, or future interest* are broad terms and include all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

The information in this form is grouped by asset category and, in general, follows the layout and order of liquidity found in a balance sheet. Examples are included for some items and are meant to give debtors an idea of what to include in the categories. The examples are not intended to be complete lists of everything within that category.

An authorized representative of the debtor must verify under penalty of perjury that the information provided is true and correct. Bankruptcy Rule 1008.

If the debtor makes a false statement or conceals property, the debtor may lose the property, be fined up to \$500,000, or be imprisoned for up to 20 years or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

## Understand the terms used in this form

### Current value

In this form, the debtor must report the *current value of the debtor's interest* in any property that it owns in each category. *Current value* is sometimes called *fair market value* and, for this form, it is the fair market value as of the date of filing the bankruptcy petition. *Current value* is how much the property is currently worth, which may be more or less than the amount the debtor paid for the property or the book value of the property.

### Valuation method used for current value

In certain asset categories, the debtor must also provide the valuation method used to calculate the current value. Select a reasonable method that provides an accurate estimation of current value.

Examples of valuation methods may include:

- **Appraisal** (provide the date the appraisal was conducted);
- **Comparable sales** (for example, blue-book values or comparable sales provided by a broker);
- **Revenue-based** (for example, present value of revenue streams calculated for a hotel or apartment complex based on rents and available rooms);

- **Liquidation value** (for example, the price of the property when it is not allowed sufficient time to sell in the open market—this figure is typically provided by a professional);
- **Expert** (for example, an accountant or advisor who has special expertise with regard to the property);
- **Replacement value** (the cost of replacing the property);
- **Tax records** (for example, the value assessed on the property by the county appraisal);
- **Recent cost-based valuations** (for example, first-in first-out inventory valuation method).

**Net book value of debtor’s interest (where available)**

If the debtor does not prepare a balance sheet for its financial records or for its tax returns, then it does not need to provide information in this column.

If the debtor prepares a balance sheet for its financial records or for its tax returns, then it must also provide the *net book value of debtor’s interest* for certain types of property. For purposes of this form, use the book value reported on the most recent balance sheet prepared before filing this case.

*Net book value* is the carrying value of an asset on the debtor’s books or financial records and is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

Depreciation and amortization expenses are calculated using accounting procedures that allocate the cost of certain property over its useful life. It represents the decline in value over time due to wear and tear, obsolescence, or other factors.

**How to list items on this form**

- List items only once on this form; do not list an item in more than one category. If an item could fit into more than one category, select the category the debtor thinks is the most suitable and list the item there. For example, a car dealership may report vehicles under *Part 4: Inventory* instead of under *Part 8: Machinery, equipment, and vehicles*.
- List property held for resale in *Part 4: Inventory*. If the debtor separates manufactured items into raw materials, work in progress, and finished goods, report those items in the categories provided as appropriate. If the debtor only purchases items and holds them for resale and does not do any manufacturing, then report the items under finished goods, not as raw materials or work in progress.
- The values reported on this form must match the values reported on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- In Schedule A/B, list any executory contracts or unexpired lease contracts that have a net value (for example, an unexpired lease for a building, a real estate listing agreement, or leases for machinery or equipment). Also list them on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G).

## Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)

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The people or organizations to whom the debtor owes money are called its *creditors*. A *claim* is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with secured claims may be able to get paid from specific property in which that creditor has a security interest, such as a mortgage or a lien. That property is sometimes called *collateral* for the debt. Creditors with unsecured claims do not have rights against specific property.

### Claims may be contingent, unliquidated, or disputed

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the bankruptcy petition is filed. All claims must be listed in the schedules, even if they are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the bankruptcy petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been determined.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

### Do not omit any secured creditors

In alphabetical order, list all creditors that have judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and purchase money security interests or other consensual liens against property of the debtor. These categories can be used to describe the lien.

The form is divided into parts. List a debt in Part 1 only once and list any other entities that should be notified about that debt in Part 2. For example, if an attorney is trying to collect a debt that the debtor owes to someone else, list the person to whom the debtor owes the debt in Part 1 and list the attorney in Part 2. If the case is a chapter 11 case and the amount of the creditor's unsecured claim in Column C makes it one of the 20 largest unsecured creditors, the creditor must also be included on *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Who Are Not Insiders* (Official Form B204).



**Determine the amount of each secured creditor’s claim or claims**

To determine the amount of a secured claim, compare the amount of the claim to the value of the debtor’s interest in the property that is collateral for the claim. If that value is greater than the amount of the claim, then the entire amount of the claim is *secured*.

If the value of the property that is collateral for the claim is less than the amount of the claim, the difference is *unsecured*.

For example, if the outstanding balance due on an equipment loan is \$100,000 and the equipment is worth \$80,000, the lender has a secured claim of \$80,000 and an unsecured claim of \$20,000. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D). Do not list the creditor again on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F). In addition, if the case is a chapter 11 case and the creditor’s unsecured claim makes it one of the 20 largest unsecured creditors, the creditor must also be included on *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Who Are Not Insiders* (Official Form 204).

List a creditor in Schedule D even if it appears that no value exists to support that creditor’s secured claim, as long as the creditor has a security interest in some property owned by the debtor. If the claim is secured only by property owned by a non-debtor, list the claim in Schedule E/F.

If there is more than one secured claim against the same property, the amount of the claim that is entitled to be paid first must be subtracted from the property value to determine how much value remains for the next claim.

For example, if a building worth \$300,000 has a first mortgage of \$200,000 and a second mortgage of \$150,000, the first mortgage would be fully secured, and there would be \$100,000 of property value for the second mortgage, and the claim secured by the second mortgage would have an unsecured portion of \$50,000.

\$300,000	value of a building
- \$200,000	first mortgage
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	remaining property value
\$ 50,000	unsecured portion of second mortgage claim

Show the amount of any unsecured portion of a secured claim on Schedule D in Column C.

## Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)

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The people or organizations to whom the debtor owes money are called its *creditors*. A claim is a creditor's right to payment.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

Creditors with unsecured claims typically do not have liens on or other security interests in the debtor's property.

Use *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F) to identify everyone who holds an unsecured claim against the debtor as of the date the bankruptcy petition is filed unless that creditor is already listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

Creditors with secured claims have a right to take property from the debtor if the debtor does not pay them. They should be listed on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D).

If a secured creditor's full claim exceeds the value of the property securing that claim, the creditor may have a secured claim for the value of the property and an unsecured claim for the deficiency. In that situation, list the creditor only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 206D). Do not list the creditor again on

*Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 206E/F).

List a creditor in Schedule D even if it appears that no value exists to support that creditor's secured claim.

### **Claims may be contingent, unliquidated, or disputed**

Many claims have a specific amount which the debtor clearly owes. But some claims are uncertain or become due only after the date the bankruptcy petition is filed. All claims, whether they are certain or uncertain as of the date of the filing, must be listed in the schedules, even if the claims are contingent, unliquidated, or disputed.

A claim is *contingent* if the debtor is not obligated to pay it unless a particular event occurs after the petition is filed.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount of the claim has not been set.

A claim is *disputed* if the debtor disagrees that it owes all or a portion of the debt.

A single claim can have one, more than one, or none of these characteristics.

## Unsecured claims may be either priority or nonpriority claims

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### What are priority unsecured claims?

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In bankruptcy cases, *priority unsecured claims* are those debts that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common priority unsecured claims are certain tax debts. Priority unsecured claims include those the debtor owes for:

- **Taxes and certain other debts owed to the government**—If the debtor owes certain federal, state, or local government taxes, customs duties, or penalties.  
11 U.S.C. § 507(a)(8).
- **Wages, salaries, and commissions**—If the debtor owes wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before the bankruptcy petition was filed or the debtor ceased business. In either instance, only the first \$12,475 per claim is a priority claim.\*  
11 U.S.C. § 507(a)(4).
- **Contributions to employee benefit plans**—If the debtor owes contributions to an employee benefit plan for services an employee rendered within 180 days before the bankruptcy petition was filed, or within 180 days before the debtor ceased business. Only the first \$12,475 per employee, less any amounts owed for wages, salaries, and commissions, is a priority claim.\*  
11 U.S.C. § 507(a)(5).
- **Certain claims of farmers and fishermen**—Only the first \$6,150 per farmer or fisherman is a priority claim.\* 11 U.S.C. § 507(a)(6).

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\* Subject to adjustment on 4/1/16, and every 3 years after that for cases begun on or after the date of adjustment.

- **Deposits by individuals** — If the debtor obtained from an individual a deposit for the purchase, lease, or rental of property or services for the individual or the individual's family, the deposit may be a priority claim. Unredeemed gift certificates are deposits. The priority is limited to \$2,775.\*  
11 U.S.C. § 507(a)(7).

Other categories exist.

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### What are nonpriority unsecured claims?

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*Nonpriority unsecured claims* are those debts that generally will be paid after priority unsecured claims are paid. The most common examples of nonpriority unsecured claims are trade debts, bank loans, contract obligations, and fees for professional services.

In Part 2, list every creditor owed money by the debtor not listed before, regardless of the amount and even if the debtor plans to pay a particular debt.

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### What if a claim has both priority and nonpriority amounts?

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If a claim has both priority and nonpriority amounts, list that claim in Part 1 and show both priority and nonpriority amounts. Do not list it again in Part 2.

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### On what date was a debt incurred?

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When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debtor has a line of credit with multiple draws, fill in the month and year of the first and last transactions, if known.

## Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)

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Use *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 206G) to identify the debtor's ongoing leases and certain contracts. List all of the debtor's executory contracts and unexpired leases.

*Executory contracts* are contracts between the debtor and another party in which neither party has performed all of the requirements by the time the debtor files for bankruptcy. *Unexpired leases* are leases that are still in effect.

The debtor must list all agreements that may be executory contracts or unexpired leases, even if they are listed on *Schedule A/B: Property* (Official Form 206A/B) or *Schedule E/F: Creditors Who Have Unsecured Claims*, (Official Form 206 E/F) including the following:

- Equipment leases;
- Vehicle leases;
- Leases for business or investment property (for example, office or warehouse space);
- Contracts to sell a building, land, or other real property;

- Service provider agreements (for example, maintenance contracts for office equipment, and contracts for cell phones, personal electronic devices, internet, and cable);
- Sales contracts;
- Supplier or service contracts;
- Leases or timeshare contracts;
- Employment contracts;
- Real estate listing agreements;
- Intellectual property license agreements (such as copyright, patent, trademark, and industrial rights);
- Development contracts; and
- Insurance contracts.

State the contract number of any government contract.

# Glossary

## Definitions Used in the Forms for Non-Individuals Filing for Bankruptcy

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Here are definitions for some of the important terms used in the forms for non-individuals who are filing for bankruptcy. See *Bankruptcy Basics* (<http://www.uscourts.gov/FederalCourts>) for more information about filing for bankruptcy and other important terms.

**Affiliate** — As used in the Bankruptcy Code and Rules, an affiliate of the debtor is:

- (a) an entity that directly or indirectly owns, controls, or holds with power to vote at least 20% of the outstanding voting securities of the debtor (excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (b) a corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the debtor (again excluding entities that hold such securities in a fiduciary or agency capacity without sole discretionary power to vote such securities or solely to secure a debt, if the entity has not in fact exercised such power to vote);
- (c) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or
- (d) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

**Amortization** — 1. A non-cash accounting method that allocates the cost of an intangible asset over its useful life. 2. Paying off a liability in regular installments over a period of time.

**Amortization schedule** — A report that contains a listing of intangible assets and the amount of amortization and accumulated amortization that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

**Annuity** — A contract for the periodic payment of money, either for the life of the recipient or for a fixed number of years.

**Book value** or **net book value** — The carrying value of an asset on the debtor's books or financial records. This amount is generally calculated by taking the original cost of the property and subtracting depreciation or amortization expenses (if any).

**Causes of action** — Claims where the debtor is entitled to money or other relief from a third party or where a third party is entitled to money or other relief from the debtor.

**Claim** — A creditor's right to payment, even if contingent, disputed, unliquidated, or unmatured.

**Codebtor** — A person or entity that may also be responsible for paying a claim against the debtor.

**Collateral** — Property that secures a debt.

**Contingent claim** — Debt that is only payable if certain events occur.

**Creditor matrix or mailing matrix** — A list of names and addresses of all of the debtor's creditors, formatted as a mailing list according to instructions from the bankruptcy court in which the debtor files the case.

**Creditor** — The person or organization to whom the debtor owes money.

**Current value or fair market value** — how much the property is worth, which may be more or less than the purchase price or the book value. See the instructions for specific forms regarding whether the value requested is as of the date of the filing of the petition, the date the debtor completes the form, or some other date.

**Debt** — Liability on a claim.

**Depreciation** — A non-cash accounting method that allocates the cost of a tangible asset over its useful life.

**Depreciation schedule** — A report that contains a listing of tangible assets and the amount of depreciation and accumulated depreciation that has been allocated over the life of those assets. These reports are typically maintained for purposes of calculating tax deductions and preparing tax returns.

**Discharge** — A discharge in bankruptcy relieves a debtor from having to pay certain debts. For non-individuals, it applies only in certain chapter 11 and chapter 12 cases.

**Disputed claim** — A claim about which there is a disagreement. A claim is disputed if the debtor disagrees about either the validity or amount of the claim.

**Doubtful or uncollectible accounts** — Receivables that the debtor has little or no expectation of collecting. This amount is deducted from total receivables to calculate the amount that the debtor reasonably expects will be collected on its receivables.

**Executory contract** — Contract between the debtor and another party as to which neither the debtor nor the other party has performed all of the requirements by the time the bankruptcy case is filed.

**Goodwill** — Amount of a purchase price that exceeds the net tangible assets. It can also be the value of an intangible asset that has a quantifiable value in business. Examples include a strong brand or reputation or, in an acquisition, goodwill.

**Gross income** — A company's gross revenue minus cost of goods sold.

**Gross revenue** — Amount generated by all of a company's operations before deductions for expenses.

**Insider** — Insiders include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of a debtor and insiders of such affiliates, and any managing agent of a debtor.  
11 U.S.C. § 101.

**Intangible assets** — Types of property that are not physical in nature and cannot be touched, seen, or held. Examples include intellectual property and name recognition.

**Intellectual property** — An intangible asset that consists of human knowledge and ideas. Examples include patents, copyrights, trademarks, and software.

**Legal or equitable interest** — Any interest of the debtor in both tangible and intangible property, whether or not anyone other than the debtor also has an interest in that property.

**Lien** — A charge against or interest in property to secure a debt.

**Nature of claim** — The legal type of a claim, not the factual basis for it. Examples include breach of contract, personal injury, malpractice, and fraud.

**Negotiable instrument** — A written and signed unconditional promise or order to pay a specified sum of money on demand or at a definite time payable to order or bearer. Negotiable instruments include government bonds, corporate bonds, personal checks, cashiers' checks, promissory notes, and money orders.

**Net operating loss (NOL)** — Occurs when allowable tax deductions exceed taxable income, resulting in negative taxable income. NOLs can generally be used to recover past tax payments (*carry-back*) or reduce future tax payments (*carry-forward*).

**Non-individual debtor** — A non-individual entity such as a corporation, partnership, or limited liability company (LLC), on whose behalf or against whom a bankruptcy case is filed.

**Non-negotiable instrument** — Financial instrument of the debtor that cannot be transferred to another party by signing or delivering it.

**Nonpriority unsecured claim** — Debt that generally will be paid after priority unsecured claims are paid. Examples include amounts due for products purchased, professional services, and utilities.

**Priority unsecured claim** — Debt that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. Examples include certain income tax debts and certain employee wage claims.



**Secured claim** — A claim that may be satisfied in whole or in part either

- through collateral,
- through a charge against or an interest in the debtor's property, or
- through a right of setoff.

**Setoff** — Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor. The Bankruptcy Code gives the trustee power to avoid some but not all setoffs that are made pre-petition.

**Sole proprietorship** — A business that a debtor owns as an individual, rather than a separate legal entity such as a corporation, partnership, or LLC. Sole proprietors must use the bankruptcy forms in the 100 series.

**Tangible asset** — Types of property that have physical form and can be seen, touched, or held. Examples include cash, machinery, buildings, and land.

**Unexpired lease** — Lease that is in effect at the time the bankruptcy petition is filed.

**Unliquidated claim** — A debt for which the amount cannot be readily determined, such as by referring to an agreement or by a simple computation. For instance, an unliquidated claim would arise from the debtor's sale of a defective product if the amount of damage it caused has not been determined.



## Appendix C

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## Comments on the Plan Form

### *General Comments*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** In several places, the plan states that if “none” is checked, the rest of a section need not be completed or reproduced. This is contrary to the standardization that is an advantage of a form plan. Lawyers will leave out paragraphs that should be included. Trustees and the courts should not be required to check each plan to make sure that something has not been eliminated or changed.

The plan does not provide for varying options for paying filing fees.

**Comment—BK-2013-0001-0009 Alicia Villines:** This looks clean and easily understandable.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- A nationwide plan is recommended, because plans should be uniform for all debtors and creditors to use and understand. Plan forms have worked well in N.D. Tex. for many years.
- Please do not adopt these rule amendments as proposed and do not require a national plan form.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** The proposed plan will increase the cost for consumers under chapter 13. It is too complicated and unrealistic in its expectations. The average consumer debtor will not be able to

complete the form, and consumer bankruptcy attorneys will have more difficulty doing so properly. The costs of filing a chapter 13 case will quite likely double or even triple.

This is not a criticism of the hard work of the Committee. I understand the reasoning behind a national plan and appreciate the Committee's efforts. But the disadvantages far outweigh the benefits.

**Comment BK-2013-0001-0015—Judge Jeff Bohm (Bankr. S.D. Tex.), on behalf of the United States Bankruptcy Court for the Southern District of Texas:** The proposed Official Form 113 should not be adopted. Although greater uniformity might be helpful for attorneys with multi-jurisdiction practices, we are concerned that the plan form (i) inadequately addresses implementation of chapter 13 plans with conduit payments, (ii) fails to adhere to case law regarding the necessity to make adequate protection payments and to pay debtor's counsel, (iii) lacks a statutory liquidation analysis, thereby making the confirmation process more difficult, and (iv) does not include a summary cover page with an easy-to-read reconciliation of sources and uses of funds.

**Comment BK-2013-0001-0027—Shmuel Klein (Attorney):** The Chapter 13 plan must include language from §524(i) [regarding the willful failure of a creditor to credit payments received under a confirmed plan].

The plan must also allow separate classification of student loan debt which should not be included in the § 109 limits for unsecured debt.

The plan must state that creditors are receiving more under the plan than under a liquidation scenario, and it should not have a minimum percentage payment of claims.

The plan should provide that the clerk will send notice of the discharge to all three major credit reporting agencies by electronic transmission as is done for major creditors.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** I oppose the national plan form. It does not address specific issues in our jurisdiction, and I suspect that each jurisdiction has specific issues that cannot be addressed properly in a national form.

**Comment BK-2013-0001-0036—Kurt Thornbladh (Attorney, Dearborn, Mich.):** I oppose the adoption of a national plan form. The E.D. Mich. plan is superior and is better adapted to local conditions. This is true of other local plan forms. The rationale for a national plan form—that mortgage servicing companies cannot train staff to handle different plans in different parts of the country—overlooks the fact that there are 50 different state codes relating to residential mortgages. Requiring a high standard for debtors' attorneys while "dumbing down" the standard for the financial services industry does not fulfill the goal of equal justice under law.

If a national plan form is adopted, those districts that have adopted their own model plans should be allowed to keep them until further study.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** I am generally in favor of a national plan form.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** I oppose adoption of the plan form.

**Comment BK-2013-0001-0041—Robert E. Hyman (Chapter 13 Trustee, E.D. Va.):** The concept of a national plan form is fine, but some of the content of the form is problematic.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** Whether NACBA supports a national chapter 13 plan form depends on whether the form permits debtors to exercise their right to propose a plan under § 1321, which provides that the debtor shall file the plan, and § 1322(b)(11), which permits the debtor to include in the plan any appropriate provision not inconsistent with the Code.

If the plan form is adopted, the Committee Note should make clear that the terms of the form are not presumptively better or more valid than other plans that do not contravene the Code. A court should not reject non-standard terms on the ground that they are not necessary or that the terms of the official form are better (as a few courts with local plans have done).

**Comment BK-2013-0001-0044—Judge Brian D. Lynch (Bankr. W.D. Wash.), on behalf of the bankruptcy judges of the district:** We support the proposed rule amendments for the most part. But we strongly oppose adoption of a mandatory national plan form. There is substantial opposition to the proposed form among practitioners, trustees, and judges. There has never been widespread demand for such a form.

We have six general objections to the mandatory plan form:

First, the form increases complexity without a commensurate benefit. It is markedly more complex than any current local chapter 13 plan. There is no empirical support for the claim that a national form will be more efficient. There is a risk that the form will instead add to the administrative burden and expense of chapter 13 at a time when the process is already weighed down by the requirements of BAPCPA.

Second, a single form cannot deal comprehensively with the variety in legal culture and debtor demographics around the country. Some districts, such as the W.D. Tenn., have opted for a short form, while others, such as D. Or., have adopted longer forms. The proposed national form adopts the more comprehensive Oregon approach. Even districts with similar demographics have substantial differences in legal culture. Seattle and Portland have similar debtor profiles but different legal cultures (e.g., Seattle is a conduit district, while Portland is not; plan confirmation is typically not a contested matter in Seattle, while it is a contested matter requiring Rule 7004 service in Portland).

Third, a comprehensive plan form is more costly. Apart from the costs of training practitioners, trustees, and courts in the process, the more comprehensive approach will increase attorney fees. It funnels matters such as lien avoidance toward the confirmation process, which leads to more complicated confirmation proceedings and more attorney disbursements. The Portland division has been in the top five nationally for disbursements to debtor attorneys, with annual average disbursements to attorneys over the last ten years almost double those of the Seattle division.

Fourth, the proposed form will lead to more objections, thereby delaying confirmation and payments to creditors. The order of distribution is one of the most important aspects of a chapter 13 plan. But the form leaves Part 7 open for the debtor to fill out without guidance. This will lead to confusion, mistakes, and mischief, and increase the number of objections.



Fifth, the proposed form increases the burden on courts and trustees to review whether there has been proper service under Rule 7004. To ensure that the plan provides proper service, debtors, trustees, and courts will need to review whether a plan is a contested matter and, if so, whether proper service has been effected.

Sixth, the proposed form is unlikely to promote uniformity. Courts disagree on issues of lien stripping, claim modifications, and lien avoidance. Even within districts there is disagreement. The alleged benefits of a mandatory plan form are more academic than real, because courts are unlikely to change their existing practices on these issues.

**Comment BK-2013-0001-0045—Judge Lamar W. Davis, Jr. (Bankr. S.D. Ga.):** The national plan form and related rules should not be adopted. The current system of chapter 13 practice, although variable from district to district, is not broken. The Advisory Committee has suggested six reasons for adopting a national form, but they are not persuasive.

First, the Advisory Committee suggests that the Bankruptcy Clause of the Constitution, Art. I, § 8, favors uniformity. Neither the text of the clause, nor any Supreme Court decision, suggests that it should be read as anything more than a grant of authority to Congress. It does not speak to the judiciary.

Second, there is a suggestion that a national form will lower costs. Perhaps it will lower costs for national or regional lenders and for software developers. But it will lead to higher costs for trustees, consumer debtor attorneys, and courts.

Third, the Advisory Committee suggests that the national form will lead to more effective education on chapter 13 issues. That benefit is outweighed by the costs of upending well-settled practices in each district and reeducating attorneys, trustees, judges, and their staffs.

Fourth, it has been suggested that a national form will lead to more effective appeals. It is more likely that the disruption of local practices will lead to more contested matters, more litigation, and more appeals for years to come. But more appeals does not mean “more effective” appeals.

Fifth, the Advisory Committee believes its proposal will improve procedures in chapter 13 cases. This claim is too vague to support the case for a national plan form.

Sixth, the Advisory Committee has justified its proposal as a response to *Espinosa*. This is a real concern for judges, who take seriously the Court’s comments in that case regarding the role of bankruptcy judges. But that language in *Espinosa* was not part of the holding. The decision does not mandate a national plan form.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** A national plan form might improve chapter 13 practice, but this form is far from ideal and unacceptable. It is my understanding that this form comes from the local practices of the judges on the Rules Committee. They have missed the mark in putting together a reasonable national plan form.

**Comment BK-2013-0001-0048—Mike Walters:** This is definitely a step in the right direction.

**Comment BK-2013-0001-0050—Hamilton J. Chauvin, Jr. (Attorney, La.):** A clear and uniform national plan form is worthwhile. This is even more compelling after *Espinosa*. But I fear that if this form is adopted without serious alterations, numerous courts will opt to

observe uniformity in the breach. The provisions of §§ 1322 and 1325 regarding plan confirmation include mandatory and permissible plan provisions. A national form should be limited to mandatory plan provisions.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** The bankruptcy judges of the D. Kan. oppose the national plan form. Our plan is better suited to our local conditions and precedent, as shown by the high level of chapter 13 cases that close with a discharge in our district (in fiscal year 2013, 71.3% as opposed to a national average of 44.6%). Our biggest concern is that proposed Official Form 113 will eliminate or greatly jeopardize our well-running mortgage conduit program. For example, § 3.1 allows debtors to choose who disburses post-petition mortgage payments, which is inconsistent with our local standing order.

Form 113 apparently is being adopted to make practice easier for national creditors, including state attorneys general, for software programmers, and to collect data. Thus, allowing judicial discretion will undermine these goals. But reasonable minds differ on the best way to effectual a successful chapter 13 program. The Code does not prohibit these differences. Form 113 as currently written will undermine the chapter 13 system.

We understand that at one point, chief bankruptcy judges were asked whether they favored the concept of a plan form, and the majority indicated approval. But that was not in response to this specific plan form.

**Comment BK-2013-0001-0052—O. Max Gardner III (Attorney, Shelby, NC):** There should be a detailed § 524(i) provision for mortgage payments and a provision for all mortgage obligations to be made through the plan via the trustee.

**Comment BK-2013-0001-0054—David Kestner:** The form is too long. Also, giving the debtor the option to pay directly and not to submit to a wage order will lead to an increase in plan defaults and motions to dismiss.

**Comment BK-2013-0001-0055—Larry Foyle (Attorney, Tampa, Fla.):** The emphasis on the confirmation hearing will require cases to run in lockstep and cause delays. It is better to treat discrete processes, such as claims objections, relief from stay, lien modifications, etc., separately. They can later be implemented through a confirmation order.

**Comment BK-2013-0001-0057—Susan Saidian (Attorney, Wichita, Kan.):** The debtor should make payments through the trustee.

I agree with the comments by the D. Kansas judges regarding all of the plan form provisions and related rules changes.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** The plan form should not be mandatory.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The NCBJ takes no position on the advisability of a national form. If a national form is to be adopted, proposed Official Form 113 should be modified.

**Comment BK-2013-0001-0061—Juliane Lore (Attorney, Mont.):** This form is too complex and will encourage an exodus from consumer bankruptcy practice. It will increase confusion and cost in chapter 13. I suggest instead a state-by-state approach to chapter 13 plans.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** We oppose a mandatory plan form.

**Comment BK-2013-0001-0064—Steven Wiechman (Attorney, Kansas):**  
The form should provide for state-by-state variations.

**Comment BK-2013-0001-0065—Judge Terrence L. Michael (Bankr. N.D. Okla.):**  
The plan form should not be mandatory. I agree with the comments submitted by Judge Lamar W. Davis, Jr., Judge Jeffrey Bohm, the judges of the United States Bankruptcy Court for the District of Kansas, NACBA, and others.

A mandatory form is a problem in search of a solution. There is no need for uniformity. The form will not result in more consistent decisionmaking, because judges make decisions based on the Code and case law and not based on the provisions of an Official Form. If the plan form is the greatest thing since sliced bread, people will use it voluntarily. If the form is designed to nationalize chapter 13 practice, I have no desire to see debtors in my court represented by lawyers from New York, Chicago, Dallas, or elsewhere.

This is a mistake of epic proportions.

**Comment BK-2013-0001-0066—Edward Claxton:** The plan is too comprehensive. It is too detailed for nonlawyers to complete.

Repeated use of the phrase “the claim amount listed on the proof of claim controls” is unnecessary. That phrase should be stated once at the beginning of the form (“The claim amount listed on the proof of claim controls unless the court orders otherwise”).

**Comment BK-2013-0001-0069—Lesley Hoenig:** I oppose a mandatory plan form.

**Comment BK-2013-0001-0070—Barbara B. Braziel (Attorney):**

I oppose a mandatory plan form.

Debtors will not understand this form. Debtors do not know the amounts requested throughout the form. What will happen after confirmation if the designated payment amounts turn out to be wrong?

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** I oppose a mandatory plan form.

**Comment BK-2013-0001-0073—Ronald Sykstus:** I oppose a mandatory plan form.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):**  
Allow local variations in the form.

Provide the option for a limited service plan (e.g., if the plan contains a minor amendment).

The form should state if it is a first, second, etc., amended plan. It should require debtors to state the reason for the amended plan.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** The plan form's treatment of secured creditors is unfair. A secured creditor must object, on 28 days' notice, and will be bound by the confirmed plan. But the debtor can avoid or modify a lien months or years later.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** I oppose a mandatory plan form.

If this form is adopted, pro se debtors should be exempted from having to use this form, or an alternative form should be provided for them. The plan form is complicated and intimidating.

**Comment BK-2013-0001-0082—Judge Karen K. Brown (Bankr. S.D. Tex.):** I agree with the comments of the judges of the S.D. Tex.

The proposed form is overly lengthy and confusing. It will create litigation and uncertainty.

In addition, proposed Rules 3007, 3012, and 3015, together with proposed Official Form 113, violate the Bankruptcy Code and binding precedent. They eliminate the statutory requirement of a claim objection and alter the evidentiary effects and burdens regarding a proof of claim. They also confuse collateral valuation under § 506 with claim allowance and disallowance under § 502. They violate creditors' due process rights.

**Comment BK-2013-0001-0085—Judge Roger Efremsky (Bankr. N.D. Cal.), on behalf of six judges of the bankruptcy court:** For reasons given by Judge Lamar W. Davis, Jr., we oppose a mandatory form. It is inflexible and will increase costs.

**Comment BK-2013-0001-0087—Anonymous:** The form requests too much detail that no consumer debtor will understand. It will be difficult and time consuming for lawyers to explain it to their clients.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** We oppose a mandatory plan form.

The form is too long and complex and will increase costs of preparation.

It will impose costs for retraining.

It will lead to more contested confirmation hearings.

It will increase the number of arithmetic errors.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** The plan form will improve chapter 13 practice.

The form should expressly permit confirmation even if the debtor has a pending loan modification request. This procedure has been used successfully in the N.D. Cal.

The form explicitly or implicitly takes a position on open issues of law by including certain provisions.

There should be a national registry for service upon insured depository institutions.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** We support the concept of a standardized chapter 13 plan form.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:**

The references to interest in the form have not been fully thought out. There is no mention of Code § 1322(b)(10).

There should be a special section (perhaps in Part 4) for domestic support orders generally, in addition to current § 4.5. We include detailed suggestions for the information in a new DSO section.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** I strongly support a national plan form. This is a worthy endeavor.

It will be efficient and cost effective by assisting creditors, courts, and trustees in locating and reviewing provisions of chapter 13 plans. It will reduce “hiding the ball,” through design or happenstance. It does not usurp the debtor’s ability to submit a plan, because it accommodates nonstandard provisions in Part 9. It can help develop a more cohesive body of law interpreting chapter 13 by moving away from parochial plan forms with disparate “boilerplate” provisions.

To ease concerns about the length of the form, the “none” box language could be made more forceful by substituting “should” for “need” so that it reads “If ‘none’ is checked, the rest of \_\_\_ ~~need~~ should not be completed or reproduced.”

**Comment BK-2013-0001-0099—Chief Judge David S. Kennedy (Bankr. W.D. Tenn.), on behalf of four of five judges of the court:** All but one of the judges of our court oppose a mandatory plan form.

The form benefits only national creditors and national law firms.

The form is too long. We have a one-page form.

Our chapter 13 trustees oppose the form. They administer chapter 13 plans and supervise the debtor’s estates.

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** We compliment the Advisory Committee for its efforts.

There should be a provision for preconfirmation adequate protection payments.

**Comment BK-2013-0001-0101—Chief Judge James K. Coachys (Bankr. S.D. Ind.):** I agree with the comments of Judge Lamar W. Davis Jr. and the judges of the bankruptcy court for the District of Kansas. The plan form should not be mandatory.

Over time, a national form will become more unworkable as courts render conflicting decisions about it and the applicable substantive law.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** I support the concept of a plan form but not a nationwide one.

**Comment BK-2013-0001-0107—Lauri Schmid:** Minnesota’s plan is superior. Each state has its own laws, rules, and cases and is in the best position to administer its own plan.

**Comment BK-2013-0001-0108—Mary Kate Kelley-Scheidler (Attorney, Minn.):** The form is easy to read. But one size does not fit all.

The form lacks a place to designate a start date and amount for payments based on creditor class.

**Comment BK-2013-0001-0109—Devin Derham-Burk (Chapter 13 Trustee, N.D. Cal. (San Jose Division)):** The national plan form should not be mandatory.

There is no uniformity among debtors. The plan form will be difficult and costly to administer.

The form is too long and complex. There are too many places where mistakes will be made. It will be harder for trustees to review plans.

**Comment BK-2013-0001-0110—Amy Tanner:** The national plan form should not be mandatory.

The plan form is too complex and confusing. The details will require many time-consuming plan amendments before confirmation. There is no “one-size-fits-all” plan for the entire nation.

**Comment BK-2013-0001-0111—Judge Elizabeth W. Magner (Bankr., E.D. La.):** I thank the Rules Committee for its work on these proposals.

**Comment BK-2013-0001-0112—John V. LaBarge, Jr. (Chapter 13 Trustee, St. Louis, Mo.):** I agree with the comments of the bankruptcy judges for the W.D. Wash.

The confirmation process will not be workable, because creditors will not be able to respond to valuation issues prior to confirmation. This is unfair to creditors. Liens should not be stripped via confirmation order. This should be handled formally.

The form will require more care to complete and will lead to more errors.

**Comment BK-2013-0001-0113—Judge Jim D. Pappas (Bankr. D. Idaho):** I support a national plan form.

In my rural district, there are few bankruptcy specialists. It is difficult for generalist lawyers to keep current on chapter 13. A national plan form will help these lawyers. It will lead to more attorneys handling chapter 13 cases.

Chapter 13 should be a national, not a local, concept.

**Comment BK-2013-0001-0114—Bradley J. Halberstadt (Attorney, Roseville, Minn.):** I applaud the Advisory Committee for proposing a national plan form.

The plan form needs a provision for pre-confirmation adequate protection payments. Requiring a separate motion and order for those payments wastes money and time.

There should be a mechanism for calculating interest on over-secured claims prior to confirmation.

**Comment BK-2013-0001-0117—Chief Judge Mary P. Gorman (Bankr. C.D. Ill.):** I oppose a mandatory plan form. I agree with the comments of Judge Lamar W. Davis and the bankruptcy judges of the D. Kan.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** We oppose a mandatory plan form. If it is adopted, it should be tested first in selected districts.

The plan form should provide for adequate protection payments.

**Comment BK-2013-0001-0120—Judge Robert E. Grant (Bankr. N.D. Ind.):** I oppose a mandatory plan form. It should be offered as a guideline.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** We oppose a mandatory plan form.

The current Maryland model plan is better.

The proposed plan form is complicated and will lead to errors.

If adopted the plan form will increase costs and lead to uncertainty in the short term.

Consider an exhibit for a certificate of service.

**Comment BK-2013-0001-0123—Randall Smith:** A national plan form will do more harm than good.

The published form is inaccurate in some respects.

The form purports to resolve issues that are subject to local differences in law and practice.

**Comment BK-2013-0001-0125—Judge Rebecca B. Connelly (Bankr. W.D. Va.):** I support the adoption of an Official Form for chapter 13 plans. I thank the Advisory Committee for its work on this project.

**Comment BK-2013-0001-0127—Chief Judge Susan Barrett (Bankr. S.D. Ga.), on behalf of the judges of the court:** We oppose adoption of the plan form. A national plan form will damage the professionalism of practice in our court. It will impair the close relationship between debtors and local attorneys.

Regional consolidation of the consumer *creditor* legal work has led to: (i) unprepared counsel; (ii) poor communication between debtors’ and creditors’ counsel; (iii) reduced accountability of counsel to the court in which they practice; (iv) increased delays and expenses. A national plan form will lead to similar problems with consumer *debtor* practice. Many of our debtors are poor, undereducated, elderly, ill, and ill-suited to fend for themselves. They will become untethered from local attorneys and staffs who are best suited to advise and guide them.

**Comment BK-2013-0001-0129—Beverly M. Burden (Chapter 13 Trustee, E.D. Ky.):** I support the effort to bring more uniformity to chapter 13 practice. I do not object in principle to a national plan form.

If there is too much opposition to the plan form, consider instead a form with a summary of the proposed treatment of secured creditors similar to the chapter 7 Statement of Intention.

**Comment BK-2013-0001-0130—John P. Gustafson (Chapter 13 Trustee, N.D. Ohio (Western Div.)):** I support a mandatory Official Form for chapter 13 plans.

Other bankruptcy Official Forms are mandatory.

Bankruptcy laws should be uniform. *See* U.S. Const., art. I, § 8. Even without a constitutional mandate, we have long encouraged the adoption of uniform acts.

Trustees receive information from data-enabled forms. But most chapter 13 plans must be handled manually. The ability to extract data from these nonstandard forms is limited. A national plan form will be helpful.

There is no evidence that a plan form will increase attorney's fees. In my division, there is no local chapter 13 plan, and we have one of the lowest chapter 13 attorney fee costs in the country.

The decreased costs for creditors should be considered.

A uniform plan form will help the appellate process. Cases will no longer turn on unique plan language that differs for each local area.

Criticism of the plan form is contradictory. Comments cite the need for flexibility regarding local culture and parochial interests while at the same time complaining that there are too many choices in the plan form.

I urge a change in Proposed Official Form 113. There should be two places for nonstandard provisions. One should be for nonstandard provisions that affect the treatment of creditors and another for nonstandard provisions that do not affect creditors.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** I oppose the adoption of a mandatory plan form. I agree with the comments of Judge Terrence Michael.

The proposed form will add complexity and cost.

There will be arithmetic errors and inconsistent calculations.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:** The plan form will improve uniformity and consistency in chapter 13 practice. Part 1 and Part 9 will expedite review and administration.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** The form uses the phrase “under the plan” inconsistently. To avoid confusion regarding confirmation, discharge, and administration, the phrase should be “paid by the trustee under the plan” or “paid under the plan by the trustee” if the intent is to have the trustee serve as the disbursing agent.

Add a sentence clarifying that the form does not take positions on issues such as conduit mortgage payments or the payment of post-petition tax refunds.

The form does not mention the date from which interest begins to accrue.

I have attached a revised plan form that addresses my concerns.



**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** I oppose a mandatory plan form. The form is different from my current practice and must reflect the drafter’s current practice. Some provisions are contrary to the Code.

The form should state that it does not change the Code, local rules, standing orders, or case law.

Remove references to estimated payments.

**Comment BK-2013-0001-0140—Penelope Souhrada:** I agree with the comments of Henry Sommer and the NCBJ. What better source for comments than bankruptcy judges?

A mandatory form makes no allowance for local laws and practices. The form will become the de facto law of chapter 13 whether or not intended.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** The plan form should not be mandatory. I agree with Judge Lamar Davis and Judge Terrence Michael.

Include a provision for adequate protection payments.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** I oppose a mandatory plan form. In the alternative, allow local options on the Official Form.

The plan form interferes with courts’ discretion in administering chapter 13.

**Comment BK-2013-0001-0144—Chontele A. McIntyre (Attorney, Memphis, Tenn.), on behalf of Bankruptcy Liaison Committee, W.D. Tenn. (Western Div.):** We oppose a mandatory plan form. The form should serve as a model instead.

The form is more complex than our one-page model plan. It will increase the cost of representation and review.

It will increase the number of objections to confirmation.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** I oppose the plan form. The chapter 13 system is not broken. There is no need for uniformity for its own sake. The plan form will encourage the unauthorized practice of law. It will dumb down bankruptcy practice.

There is no provision for pre-confirmation adequate protection payments.

Some courts have held that due process requires more than a plan provision to strip a lien. The plan form and rule amendments overrule these decisions.

This form appears to be part of an effort to encourage pro se filings. This is a bad idea.

**Comment BK-2013-0001-0148—Mark J. Giske (Attorney, W.D. Wash.):** I support movement toward a national plan form, but I oppose a mandatory plan form. The plan form should be a model, and each judicial district could “opt in” to use it.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I support a national plan form. The disparity in chapter 13 plans and procedures creates barriers to entry into bankruptcy practice and increases the costs of national creditors, who pass those costs to borrowers.

The proposed form will promote more attentive and careful representation of consumer debtors. It raises questions that counsel should address in interviews with debtor clients but that are often overlooked.

Nevertheless, it is important to allow some local variations. We require payroll deductions, and we are a mortgage conduit district. Allow these and similar variations.

The plan form is too long. It will be costly to print and serve it.

**Comment BK-2013-0001-0152—Cathleen Moran:** There is no need for a uniform national plan. There is no “problem” to fix.

The form is too complex. It will increase costs.

It will require multiple amendments.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** I strongly support the creation of a national chapter 13 plan form. Local differences in chapter 13 practice are a reason to favor—and not oppose—a national plan form.

**Comment BK-2013-0001-0156—Daniel Press (Attorney, Va.):** I am a consumer bankruptcy attorney representing primarily debtors.

I agree with the comments of Henry Sommer. I also agree with the comments of Judges Connolly, particularly with regard to the use of “serve,” and Martin Teel.

I disagree with comments opposing a national plan form. These are parochial views of those saying “our way is best.” In many cases, these local practices are contrary to the Code, but it is impossible to challenge them. Increased uniformity will make it easier to ensure that local practices do not contradict the law.

I disagree with comments by Nancy Spencer Grigsby. Procedures for avoiding or modifying liens through a plan do not violate Fourth Circuit law. In one case, the court held only that proper service and notice of the actual plan should be given. In the other, it held that an adversary proceeding was required to invalidate a lien under *nonbankruptcy* law—not to value collateral under § 506—and the decision was based on the Bankruptcy Rules in effect at the time. And prompt cure in order to assume a lease is consistent with § 365.

It is the Maryland plan and local rules that violate the law by mandating choices that the Code leaves to debtors to propose in a plan. This is a problem with other local plans, and it highlights why a national plan form is the best approach.

**Comment BK-2013-0001-0158—Debra Miller (Chapter 13 Trustee, N.D. Ind.):** I support a national plan format.

We began using the new proposed plan form in our district 12 months ago. There has been no outcry from creditors, no litigation about plan terms, and the plan has worked well.

See testimony of January 31, 2014.

**Comment BK-2013-0001-0160—Judson C. Hill (Attorney, Savannah, Ga.):** The plan form is riddled with ambiguous, extraneous, and unnecessary provisions.

Localized plans benefit the courts and those who appear and practice before them. Banks and other national creditors are behind the push for a national plan form, because they will save money by centralizing their work in-house or with large bankruptcy firms that practice by email and telephone. Professionalism and order in bankruptcy courts will suffer.

***Part 1: Notice to Interested Parties***

**Comment BK-2013-0001-0007—Judge Jacqueline P. Cox (Bankr. N.D. Ill.):** The following sentence should be substituted for the last sentence in Part 1: “In addition, you must file a Proof of Claim before the Claims Bar Date, or one must be filed on your behalf, in order for you to be paid under any plan that may be confirmed.”

**Comment BK-2013-0001-0008—Jon Waage (Chapter 13 Trustee, M.D. Fla.):** Part 1 should state clearly that the inclusion of a provision in the plan form does not mean that the option is available in every district. For example, debtors may argue that they can propose to pay secured creditors directly, even though many jurisdictions require payment through the chapter 13 trustee. If this were to happen, it would effectively shut down many chapter 13 trustee offices.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** The plan fails to state that choices on the form do not mean debtors can choose options inconsistent with local rules, customs, and practices. For example, allowing debtors to make post-petition mortgage payments directly is inconsistent with the local rule in the W.D. Wash. and would require my office to object to any plan proposing such a distribution scheme.

The form should indicate clearly whether debtors are eligible for a discharge.

The form should indicate whether the debtor’s income is above or below the median. This will make it easier for the trustee and creditors to determine if the proposed dividend to allowed nonpriority unsecured creditors is appropriate.

**Comment BK-2013-0001-0030—Judge Diane Finkle (Bankr. D.R.I.):** The following language should be included to deal with implied consent: “Any creditor, including a secured creditor or holder of a judicial lien, who does not timely file an objection to confirmation of the proposed plan or any of the above checked motions shall be deemed to have accepted the treatment of its claim as proposed in the plan.”

**Comment BK-2013-0001-0032—Judge Jack B. Schmetterer (Bankr. N.D. Ill.):** There should be a clearer warning to creditors on the front of the plan. Insert the following language: “The plan seeks to limit the amount of a secured claim *or may void that claim entirely even if that claim has not been filed*, as set out in Part 3, Section 3.2, which may result in a partial payment or no payment at all to the secured creditor.”

**Comment BK-2013-0001-0035—Robert G. Drummond (Chapter 13 Trustee, D. Mont.):** The plan should indicate clearly whether a debtor is eligible for a discharge.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):**  
The form does not provide a place to indicate that it is an original, amended, or modified plan.

The checkboxes in Part 1 will not serve their intended purpose of putting creditors and others on notice that those items are in the plan. Debtors' counsel will always check all of the boxes by default so as to ensure that entire sections of the plan are not made inapplicable.

The language regarding confirmation will require more confirmation hearings, particularly in districts that do not currently hold a confirmation hearing on every plan. For example, in the E.D. Tenn., by local rule a confirmation hearing is necessary only if an interested party objects prior to the meeting of creditors. Also, the 7-day notice period for objections to confirmation is too short for debtors' attorneys to work out confirmation issues without the need for a hearing.

**Comment BK-2013-0001-0041—Robert E. Hyman (Chapter 13 Trustee, E.D. Va.):** The date of the confirmation hearing should be set forth in Part 1.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The phrase “may be” in the last paragraph of Part 1 should be changed to “is” so that the concluding sentence reads: “In addition, you must file a proof of claim—or one must be filed on your behalf—in order for you to be paid under any plan that is ~~may be~~ confirmed.”

**Comment BK-2013-0001-0063—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** The notice in Part 1 should be revised to include the deadline for filing an objection to confirmation. That deadline should be 21 days after the debtor's filing of the notice of the time to object to confirmation.

**Comment BK-2013-0001-0066—Edward Claxton:** The entire plan affects creditors. Highlighting three sections implies that other sections are not important.

**Comment BK-2013-0001-0070—Barbara B. Braziel (Attorney):** The form should be identified as a “Plan and Motion.”

Debtors will check all boxes to preserve their rights. This will create more litigation.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** The first sentence should state: “The plan seeks to limit or eliminate . . . .”

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** This part should include the noticing standards when debtors propose to avoid or reduce a secured creditor's lien.

This part invites debtors to insert provisions that violate the Code.

The plan form requires an objection to be “filed” 7 days before the confirmation hearing. A creditor should have more time to object, including an oral objection at confirmation (e.g., in districts where the § 341 meeting and confirmation are held at the same time).

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:**

The checkbox for nonstandard provisions should have a space to describe what parts of the plan are affected.

A checkbox should be added if a debtor proposes to pay interest in order to ensure compliance with §§ 1322(b)(10) and 1325(a)(4).

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** It is not clear what obligation the trustee has when information is provided in §§ 3.2, 3.4, or Part 9 but the applicable box in Part 1 is not checked. Must the trustee object? Must the trustee ignore those sections and make no disbursements to the creditors listed in them?

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** The notice provisions are inadequate. The possible consequences of a creditor's failure to object, and of confirmation, should be conspicuous and unequivocal.

**Comment BK-2013-0001-0108—Mary Kate Kelley-Scheidler (Attorney, Minn.):** The checkbox for nonstandard provisions is a good feature.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** Debtors will routinely check all three checkboxes.

**Comment BK-2013-0001-0125—Judge Rebecca B. Connelly (Bankr. W.D. Va.):** I agree with Judge Martin Teel's comments on the language regarding filing an objection to confirmation. Also, the party receiving the plan may not have received the Notice of Bankruptcy and may not know the date, time, or place of the confirmation hearing. It would be better to provide a particular deadline to file an objection (e.g., 21 days from the date of the plan).

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** Debtor's counsel will always check all the boxes in this Part, rendering the notice meaningless.

The form does not include an indication whether the plan is an amended or modified plan.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass'n:** Add space to indicate what version of an amended plan is being filed.

We recommend stylistic changes regarding the notice and warning language.

Creditors' counsel in our group believe filing an objection 7 days before confirmation is problematic. Debtors' counsel disagree.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:** Add space to indicate whether it is an amended plan and, if so, what parts have been amended.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Add more spaces to identify the names of each debtor, the case number, counsel, etc.

Add space to identify the plan number.

Add a checkbox for modified plans.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Courts that do not allow lien avoidance through chapter 13 plans should be able to remove this provision from the plan form.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** State that the debtor may omit parts of the form that are not used.

Nonstandard provisions should be placed in each part where they logically belong, with that placement indicated in Part 1.

Because a bankruptcy court should be able to direct that no plan shall seek a determination of the amount of a secured claim or request lien avoidance, two of the checkboxes may be unnecessary.

Change references to “these papers” to “this plan.”

We set a deadline to object of 28 days after the plan is filed. The plan form interferes with this local variation. Although the plan form states that the court could order otherwise, doing so is unworkable and expensive. It will confuse creditors.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** Debtors’ attorneys will check all three boxes in Part 1.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** Draw greater attention to the requirement to file a proof of claim in order for a claim to be paid.

Language throughout the form should be changed to refer to payment of *allowed* claims.

**Comment BK-2013-0001-0161<sup>1</sup>—Diana D. Herman (Attorney, San Francisco, Cal.), on behalf of Insolvency Law Committee, State Bar of California Business Law Section:**

There appears to be an inconsistency between the proposed changes to Rule 3015 and the plan form. Part 1 of the plan form provides that an objection must be filed at least 7 days before the confirmation hearing “unless otherwise ordered by the Bankruptcy Court.” This is important for districts that confirm plans on negative notice. But it is unclear whether the proposed changes to Rule 3015(f) relating to the 7-day deadline to object to confirmation may be altered by the court.

### ***Part 2: Plan Payments and Length of Plan***

#### ***Section 2.1 (payments to the trustee)***

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** Section 2.1 should provide for the

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<sup>1</sup> This comment was submitted after the close of the public comment period.

possibility that debtors may propose plans with more than two payment amounts at different times. The addition of another “step” would cover most situations, and this issue may be addressed in any event by chapter 13 software vendors.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** Section 2.1 is too rigid as to how plan payments are made. There is no provision for “split payments” between husband and wife. There is only one place for “step up payments” when disposable income increases. Debtors may have many more payment changes over the life of a plan.

The form requires counting weeks on a calendar as opposed to averaging in order to get an accurate total amount for § 2.4 (estimated total amount of plan payments) and Exhibit B. There is no specified date or even month or year when the payments will begin. By local rule in the E.D. Tenn., the debtor must make a month’s worth of payments within 30 days of filing in order to pay administrative expenses in installments and adequate protection payments. These provisions will now end up as non-standard in Part 9.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** This should not be limited to only two plan payment steps.

**Comment BK-2013-0001-0049—Anne V. Kealing (Attorney, Edina, MN):** More payment steps should be included.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** This section does not provide enough detail for the trustee. Also, in districts where debtors are engaged in seasonal work, there should be more options for varying “step” payments.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Add more payment “steps.”

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** Add more payment “steps.”  
Provide for other plan lengths.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** State specifically the actual plan length.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** Add more payment “steps.”

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Add more payment “steps.”

**Comment BK-2013-0001-0112—John V. LaBarge, Jr. (Chapter 13 Trustee, St. Louis, Mo.):** Add more payment “steps.”

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** Add information about payments from each joint debtor. Add information on step payments, dates, etc. Alert the debtor of the statutory requirement to commence plan payments within 30 days of filing unless the court orders otherwise.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Add flexibility to the payment structure.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Include a commencement date for payments.

**Comment BK-2013-0001-0138—Robert Morje:** Add more payment steps.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** The plan duration and plan amount provisions need substantial changes. Provide different options for “100%” plans and variable rate (pro rata) plans.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

Include a start date for payments. By local rule in the E.D. Tenn., payments must begin within 30 days of filing.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** Add more payment steps. In the alternative, add a checkbox referring to Part 9.

*Section 2.2 (manner of payments to the trustee from future earnings)*

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:** Section 2.2 should not give a choice regarding payroll deductions. The lack of a place to designate the address of an employer for the payroll order will cause delay.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** The form should not include a provision that makes it appear that a payroll deduction is optional. This is a matter of judicial determination and not merely a choice for the debtor to make. This section should be left out entirely, or else the debtor should be required to give a specific reason why a payroll deduction is not possible.

**Comment BK-2013-0001-0030—Judge Diane Finkle (Bankr. D.R.I.):** The plan form should include a disclaimer that not all provisions may be available in a debtor’s district. This disclaimer is especially applicable to the proposed plan payment options.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** Part 2 does not include a place to designate the address of an employer for the payroll deduction order.

**Comment BK-2013-0001-0041—Robert E. Hyman (Chapter 13 Trustee, E.D. Va.):** Debtors should not be given the choice with respect to a payroll deduction. If given the choice,



debtors will not voluntarily select a payroll deduction because most debtors do not want their employers to know of the bankruptcy case. Our court now requires a payroll deduction if the debtor is not self-employed.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** A wage order should not be a choice for the debtor to make. It is the trustee’s duty to determine the necessity of a wage order. Remove this option.

**Comment BK-2013-0001-0049—Anne V. Kealing (Attorney, Edina, MN):** Consider a space to specify another method of payment (e.g., ACH).

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** There is no place for details about the wage order (e.g., differing amounts for each joint debtor; the address for the payroll deduction).

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** Provide more detail for division of payments among sources.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Remove the option for debtors to make payments without a wage order. We require a wage order in our district.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Remove the option for debtors to make payments without a wage order.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Remove the debtor’s choice with respect to a wage order.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Expand § 2.2 to identify how much will be contributed by payroll deduction from each debtor in a joint case.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** Make a payroll deduction order the default. Otherwise, the plan failure rate will increase.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** There is too much detail and complexity in this section.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Move the provision requiring turnover of the tax return to immediately above “check all that apply.”

Require debtors to turn over both personal and business tax returns, and any state returns.

The phrase “plan term” is not defined. Does it mean the applicable commitment period or the number of months listed in § 2.1?

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** Rephrase the title of § 2.2.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Remove this section or permit courts to alter it according to local usage.

We require payroll deduction in our district.

Include ACH as an option, which we use for self-employed debtors.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** The plan form should discourage debtors from paying directly and should include authorization for a wage order.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** Add greater flexibility to this section. Permit debtors to select some payments by wage order but others by direct payment (e.g., if one debtor in a joint case is self-employed).

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** The first sentence should refer to future income, not future earnings.

Clarify whether selecting the payroll deduction checkbox obviates the need for a separate order signed by the judge.

Provide space for detailed terms of the payroll deduction order.

This section may confuse pro se debtors. They might not realize that direct payment to the trustee is needed until the payroll deduction takes effect.

*Section 2.3 (additional payments to the trustee)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** Section 2.3 gives the debtor two choices—to turn over any tax refunds received during the plan term, or only refunds in excess of a specified amount. These choices are not statutorily based, are not based on circuit cases, and are not a complete description of all possible options. Tax refunds are not necessarily a part of the estate. In Kansas, for example, state law permits exemption of the refund portion attributable to the earned income tax credit. Also, trustees must consider other factors before requesting refunds, such as the best interest of creditors and the debtor’s history in other cases.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- Section 2.3 should provide an option for the debtor to turn over tax refunds for a period other than the plan term (e.g., the first three years of a five-year plan).
- The sentence beginning “On or before April 20 . . .” should be removed.
- The turnover of the tax refund and the tax return should not be required to accompany each other. Add an option for the trustee to receive a copy of the return without also receiving the refund.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 2.3 calls for the debtor to indicate additional income that will be paid to the trustee. The presumption should run the other way—the form should state that all income is included except as specifically excluded on the form. This section should state: “The plan will include additional payments to the trustee from tax refunds, lawsuits and claims, property sales, and all other sources of post-petition income and assets, except the following:\_\_\_\_\_.”

If this suggestion is not adopted, § 2.3 should nonetheless specify lawsuits and settlements as examples of “other sources of funding.”

Section 2.3 should provide for debtors to turn over their tax returns within 7 days after the return is filed, or by April 20 of each year, whichever is earlier.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** If this form is to help pro se debtors file chapter 13, they are unlikely to agree to turn over any of their tax refunds to the trustee. This just creates more work for the trustee or bankruptcy judge, because no pro se will propose turning over a tax refund.

The form takes away the trustee’s choice not to receive the debtor’s tax return, which will flood trustees with unneeded tax returns. This should be left as an option for the trustee administering the case.

There is very limited space for other sources of funding. It would be better to include a checkbox labeled “see special provisions.”

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** The section regarding tax refunds should be deleted. Where appropriate, the debtor could provide for funding from a tax refund under “other sources of funding.”

The tax refund language is objectionable for three reasons. First, it does not give the debtor the option of not turning over a tax refund, which is appropriate in many cases. To compute their disposable income in Form 22C, debtors have already accounted for tax refunds if they accurately report their tax liability. Requiring turnover of the refund is double counting. Second, future changes in a debtor’s income and expenses may occur, and the debtor should not be required to turn over tax refunds years after the petition without knowing those changes. A plan modification is the appropriate way to deal with such variable numbers. Third, the language about furnishing tax returns to the trustee is ambiguous. It appears to require that the return be submitted to the trustee in every case in conflict with Code § 521(e)(2), which requires the debtor to provide a tax return to the court (not the trustee) only if requested in a specific case by the U.S. Trustee or a party in interest. Also, many debtors seek extensions to file their returns, and thus will have nothing to provide on April 20.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** There should be greater flexibility as to the length of time in which refunds are required to be turned over. We require refunds for the first three years, and such an option is not given in this section.

**Comment BK-2013-0001-0049—Anne V. Kealing (Attorney, Edina, MN):** This provision should make clear whether the tax return, the refund, or both, are due on April 20. Also, many debtors seek extensions and do not file tax returns on April 15.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** We commend the language regarding annual submission of a copy of the tax return to the trustee. But other language does not account for districts, such as D. Kan., where portions of the return (e.g., earned income credit) are exempt. The section does not include enough options regarding the length of time for which refunds will be pledged.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The sentence making submission of the tax return automatic should be deleted. It contradicts the Code. Section 521(f) requires submission of the tax return only “[a]t the request of the court, the United States trustee, or any party in interest . . . .” The April 20 deadline ignores the right of debtors to obtain extensions of the time to file tax returns.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** I object to requiring the debtor to turn over a tax refund and annual tax returns. It will increase trustees’ costs.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** We object to the tax refund provision.

**Comment BK-2013-0001-0070—Barbara B. Braziel (Attorney):** The tax return provision will increase the trustees’ costs.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** The tax return language conflicts with Code § 521(f)(4).  
There is no deadline for turnover of refunds.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Specify a date for turning over tax refunds. Require copies of state and federal returns.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Specify a date for turning over tax refunds.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** The tax refund provisions should not be part of the plan form.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA’s comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Require the debtor to include the property tax ID number if real property is referenced.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Greater flexibility is needed with respect to tax refunds. Debtors may not know the “in excess of” dollar amount if it depends on an earned income tax credit. How the contributed tax refunds are treated (as additional amounts that increase distributions to unsecured creditors or as amounts that accelerate payments to creditors for an earlier plan completion date) should be included.

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** More detail is needed in the tax refund provision. Specify the manner in which tax refunds will be turned over. Specify a deadline.

**Comment BK-2013-0001-0111—Judge Elizabeth W. Magner (Bankr., E.D. La.):** The plan form excludes after-acquired property by default from distribution to creditors. The form should provide that all property acquired during the case is available for distribution.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** The debtor should have the option not to provide tax refunds.

The tax provisions will be burdensome for trustees, debtors, and counsel.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** Delete the tax refund provision. It improperly limits the debtor’s options.

The language regarding submission of tax returns is inconsistent with the Code. Also, a debtor may receive an extension to file a tax return.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** The tax refund provision should include more options: e.g., “not applicable”; a percentage option, which some trustees require; an amount in excess of the amount pro-rated as income on Schedule I; “other.”

The phrase “any tax refunds in excess of . . . received during the plan term” is vague. Does it mean “plan length” or “applicable commitment period”?

Do not put tax refunds and sale plan terms in the same section.

**Comment BK-2013-0001-0123—Randall Smith:** Debtors should not be required to turn over their tax refunds.

Debtors may seek an extension of time to file their taxes.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** Clarify that if a debtor agrees to turn over future

refunds, it is the responsibility of the debtor (and not the payor of the the refund) to notify the trustee of receipt of the refund.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** Clarify the tax refund provision.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** There is too much detail and complexity in this section.

**Comment BK-2013-0001-0138—Robert Morje:** Debtors may seek an extension to file their tax returns. Use a deadline based on the date of filing instead of a date certain.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** The tax refund provision does not include alternative options. Debtors may seek an extension to file their tax returns.

The “other sources of funding” provision should not limit the trustee if additional sources of funding later become available or are discovered.

It is not clear whether additional payments into the plan increase the base or pay the existing base more quickly.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Directing turnover of tax refunds is administratively unworkable.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** Debtors may seek an extension to file their tax returns.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** Include separate provisions for submitting the tax return and the tax refund. That way, a debtor could choose to supply the trustee with a tax return without agreeing to commit to paying any of the refund.

Will selecting the checkbox authorize the trustee to have the IRS send the tax refund directly to the trustee? This is not the practice in the N.D. Ill. The debtor should be informed of this consequence.

*Section 2.4 (estimated total amount of plan payments)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** The estimated total amount of plan payments is irrelevant. This will generate unnecessary and inaccurate information.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:** Section 2.4 is too imprecise to administer. An “estimated” amount says nothing to the trustee, creditors, or interested parties.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** What information is sought in this portion of the plan? Is it the sum of payments listed in §§ 2.1 and 2.3? Is § 2.4 simply for informational purposes? If so, the form should say so.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** Section 2.4 is unnecessary, because the amount of payments is already set out in § 2.1. The additional section creates confusion for parties reviewing the plan.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The amount in § 2.4 is irrelevant, because it does not include the tax refunds and other sources of funds. Also, in conduit districts, such as the E.D. Tenn., the amount in this section includes ongoing mortgage payments, which will change over the life of the plan.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Remove this provision. In the alternative, strike “estimated” and add tax refunds.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Estimates are irrelevant.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** The plan payment amount should not be an estimate.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** What will happen if the estimated plan payment (§ 2.4) conflicts with the plan payment (§ 2.1)?

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Section 2.4 should not be an estimate. Trustees like certainty in plan funding.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** Remove this section. Total payments, not estimated, should be under § 2.1.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Clarify that estimates are not binding.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** There should be a place for debtors to state a minimum total of plan payments.

*Section 2.5 (applicable commitment period)*

**Comment BK-2013-0001-0008—Jon Waage (Chapter 13 Trustee, M.D. Fla.):** Section 2.5 needs a third option for lengths other than 36 or 60 months.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:** Section 2.5 needs a third option (in addition to 36 months and 60 months)—a blank space for debtors to propose alternative plan lengths.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** The form should indicate whether the debtor is above or below median income rather than the number of months.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The form violates the Bankruptcy Code because there is no provision for plans with lengths other than 36 or 60 months. There should be an option for plans longer than 36 months but shorter than 60 months (e.g., 48 months).

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The statement of the applicable commitment period should be in § 2.1 or § 2.2.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** This section is unnecessary.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Section 2.5 is unnecessary. It is addressed in § 2.5.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Remove this section. Form B22C controls the applicable commitment period.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** Add a checkbox stating whether the plan dedicates all projected disposable income for the applicable commitment period.

Allow more options for plan length. Include an “other” checkbox.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** Allow more options for plan length.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass'n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass'n for the D. Md.:**



The plan term should be stated precisely. The applicable commitment period is merely informative.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** The plan length or term should be stated clearly. The applicable commitment period is not necessarily the plan term.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** There is no Code requirement that plan must be either 36 or 60 months. Indicate instead whether the Form 22C calculations apply and what those calculations indicate.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** Move § 2.5 to the beginning of Part 2. That way, the reader will quickly see if a reduction in plan payments after 36 months is justified because the applicable commitment period is 36 months.

### *Part 3: Treatment of Secured Claims*

#### *Part 3 (general)*

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The form should provide for other types of treatment for secured creditors (e.g., claims not treated under the plan).

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Add a separate section for secured claims not treated under the plan.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** Provide for pre-confirmation adequate protection payments.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments.

Provide a place for the date of the resumption of direct mortgage payments by the debtor.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Even if the claim controls, the form should require that the plan be revised to reflect the claim amount. This is preferable to requiring a search of the plan and also a court order that may contradict the plan.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** This Part does not adequately address conduit plans, adequate protection payments, allowance of deficiency claims, and cross-collateralization.

Add a designation of the debtor's principal residence.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass'n:** Include a provision for pre-confirmation adequate protection payments.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** The form appears to take a substantive position by permitting debtors to pay directly and not through the trustee.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** Add a section to provide other options for treating secured claims (e.g., exchange of property). *See In re Pence*, 905 F.2d 1107 (7th Cir. 1990) (upholding plan provision providing for release of lien on debtor's home in exchange for transfer of commercial property).

*Section 3.1 (maintenance and cure)*

**Comment BK-2013-0001-0010—Judge Kay Woods (Bankr. N.D. Ohio):** Section 3.1 states that “all payments under this plan as to that collateral will cease and all claims as to that collateral will no longer be treated by the plan.” This isn't the case, is it? Although payments for a *secured* claim as to that collateral will cease, shouldn't any deficiency claim be treated as an unsecured claim under the plan? Section 3.1 should reference § 3.5 (surrender of collateral) regarding the unsecured deficiency claim.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACCTT:**

- Section 3.1 is the biggest problem with the plan. The plan should not permit debtors to pay secured creditors directly. This will create problems for trustees who make conduit payments on mortgages and other secured debt. No chapter 13 trustee can operate his or her office without compensation. The drafters of the form need to talk to real persons involved in the administration of chapter 13 cases, rather than the non-professionals who are currently the decisionmakers.

- In keeping with *Espinosa*, do not let the claim control over contrary amounts listed on the plan.

- There are timing differences between when relief from the stay is granted and an order is entered and reflected in the trustee's computer records. Rather than cease payments under the plan as to the collateral, in the C.D. Cal. we address this by providing that the creditor will refund payments received after relief is granted.

- Section 3.1 needs an adequate protection provision for pre- and post-petition payments made through the chapter 13 trustee.

- Section 3.1 states that “[t]he allowed claim for any arrearage amount will be paid under the plan.” This provision states that direct payments are not made under the plan. They are, and it is only who makes them that differs.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** I like that § 3.1 states that payments will stop if the stay is lifted. But this form, in effect, overrules *Espinosa*. The arrearage amount listed in the plan should control over a contrary claim.

The treatment of the regular monthly payment and the arrearage amount should be separated into two parts—one for maintenance of payments and one for the arrearage—because the arrearage should always be paid by the trustee. Otherwise, there will be many objections when debtors attempt to pay arrearages directly. Remove the choice for debtors to make their arrearage payments directly. Arrearage payments are uniformly made by the trustee.

The form provides no term for arrearage payments. Is the assumption that arrearages will be paid in months 1-60? What if they are paid in months 1-37?

What is meant by “Monthly plan payment on arrearage or other payment arrangement”? What “other payment arrangement” is contemplated? This language should be removed and any special provisions should be treated in Part 9.

**Comment BK-2013-0001-0028—Michael D. Clark (Chapter 13 Trustee, C.D. Ill.):** The monthly payment on the arrearage should not be set by the plan but by the trustee, after consideration of all claims filed.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** There is no provision for pre-confirmation adequate protection payments, no provision for paying the filing fee through the plan, and no provision for pre-confirmation ongoing mortgage payments. These omissions will delay confirmation and payments to creditors. In Kansas, we have extensive procedures for dealing with real property mortgages. The form does not allow a way to implement our procedures.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Section 3.1 includes the following language: “. . . and all claims as to that collateral will no longer be treated by the plan.” This language is not needed and should be removed. Under § 1328, only claims provided for by the plan are discharged.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Section 3.1 does not address the problem of a post-petition arrearage claim that arises before the first plan payment is made.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** There are several problems with § 3.1.

Section 3.1 does not give enough space to list the name of the creditor and collateral. It does not take into account that cross-collateralization language in a loan may mean the collateral secures more than one debt.

Allowing the claim to control will invite motions to dismiss on feasibility grounds when the claim comes in higher than the amount stated in the plan.

Section 3.1 rather naively assumes that a mortgage payment with escrow will not change over the length of the plan. The last column becomes useless in a conduit district and throws off the calculations in Exhibit B, as the mortgage payment will change.

The portion of § 3.1 regarding relief from the automatic stay (“all payments under this plan paragraph as to that collateral will cease and all claims as to that collateral will no longer be treated by the plan . . .”) conflicts with the Bankruptcy Code to the extent that the language means there is no unsecured deficiency claim after the stay is lifted and the collateral liquidated.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** There is no need to list the monthly plan payment for each secured claim on which a default is being cured. This amount may not be known due, for example, to litigation about fees and charges. The amount may also change, so that at best an estimated total arrearage is known. It is better to provide that the debtor will propose to pay the arrearage within a reasonable time period and otherwise give sufficient direction to the trustee regarding the order of payment. The amounts are not needed.

The language about stay relief is problematic. The debtor may not wish the payments to that creditor to cease after the stay is lifted (so as to effect a cure before the creditor can foreclose on the collateral). The debtor may also wish to pay other creditors whose claims are secured by the same collateral.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** The plan should control over the proof of claim. Otherwise, mortgage creditors will file an estimated claim and amend. There would be no finality to a confirmation order. This is unfair discrimination in favor of home mortgage creditors.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** This section should make clear that any deficiency shall be treated as an unsecured claim to be discharged upon completion of the plan.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Section 3.1 is too elaborate.

There should be provision for adequate protection payments.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The phrase “under the plan” in the text following the “None” checkbox is unnecessary and should be deleted.

The column on the far right headed “Estimated total payments by trustee” should be deleted.

The use of the passive voice in this section should be avoided.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** The wording of this section suggests that interest is appropriate, although it is rarely paid on arrears. We recommend stylistic changes.

**Comment BK-2013-0001-0066—Edward Claxton:** The last sentence should be rephrased to read: “The final column represents payments disbursed by the trustee.”

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** This section is confusing. The position of the “disbursed by” boxes should be changed.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):**

Add a start date for the current installment payments.

Use “estimated monthly plan payment” instead of “monthly plan payment.” This gives debtors and trustees more flexibility.

Remove the option for debtors to pay directly. Conduit payments are more efficient and beneficial to debtors and help to fund trustee operations.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** We do not use conduit payments.

Remove the estimated total payments column. Delete the phrase “or other payment arrangement” in the prior column.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** This section is confusing in two respects.

First, it provides that “debtor(s) will maintain” the contractual installment payments. But there is an option for the trustee to make disbursements. Clarify that the trustee’s disbursements are subject to the terms of the contract.

Second, the language regarding the effects of stay relief (“and all claims as to that collateral will no longer be treated by the plan”) should be altered to deal with deficiency claims.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** We do not use conduit payments.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** Do not require the monthly plan payment on which a default is being cured. The amount may be in dispute or unknown. The amount may change throughout the life of the plan.

Debtors should be allowed to continue paying secured creditors even if relief from stay is granted.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA’s comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Make conduit payments the default and allow district-by-district nonstandard provisions for direct payments by debtors.

**Comment BK-2013-0001-0099—Chief Judge David S. Kennedy (Bankr. W.D. Tenn.), on behalf of four of five judges of the court:** Debtors should not have the choice to make payments directly. Our trustees would object if debtors proposed to do so.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Include a reference to Code § 1322(b)(5).

Do not give debtors a choice as to whether the trustee or debtor will makes payments.  
Include a space to indicate if the claim is secured by a lien on the debtor's principal residence.

Indicate lien priorities when multiple liens exist against the same collateral.

Eliminate the provisions about relief from the automatic stay.

Add provisions for adjustment of plan payment amounts due to interest rate and escrow changes.

Add provisions authorizing payment of postpetition claims under Rule 3002.1(c).

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** Include a provision for pre-confirmation adequate protection payments.

The language regarding relief from the automatic stay should be clarified so that only the secured portion of the claim will no longer be treated under the plan.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** The requirement to list the monthly plan amount applied to each secured claim is complex, unnecessary, and improperly limits a debtor's options. If plan payments are staged (e.g., to allow for payment of the filing fee in installments), the payment will vary and a single amount cannot be set out in the plan.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass'n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass'n for the D. Md.:** This section is confusing.

Does it provide for payment of interest on arrears contrary to *Rake v. Wade*, 508 U.S. 464 (1993)?

Does it mandate conduit payments?

Does it effectuate relief from stay without motion or merely provide that payments cease upon the entry of an order for relief from stay?

Does it provide valuation of collateral, lien avoidance, or just interest rate adjustments?

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** Clarify the introductory language in § 3.1. State that, upon stay relief, Rule 3002.1 no longer applies. State that the monthly installment payment is dictated by the applicable note, subject to Rule 3002.1. State that any debt provided for in § 3.1 is not "outside the plan," regardless of whether it is paid through the trustee or debtor.

The amount of the current installment payments should be an estimate.

Add a column for the debtor to state whether encumbered real property is a principal residence. A lender could then determine if Rule 3002.1 applies.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass'n:** Add a column for pre- and post-confirmation arrearage

Delete the column labeled "monthly plan payment on arrearage." This will mislead creditors into the assumption that they will receive monthly distributions in that amount.

Add more space. There are too many columns with unnecessary information.

Delete or alter the language regarding stay relief. Many debtors are seeking mortgage modifications, and if the modification remains pending after the stay is lifted, debtors benefit from continuing to pay arrears.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** If the trustee is the disbursing agent, then the first sentence should say “The Plan will maintain . . . .”

Include the contract maturity date. This is necessary to determine whether Rule 3002.1(a) applies.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Clarify the lift stay language. Does it deny the secured creditor the right to participate with the unsecured class? Some lift stay orders are self executing, and the trustee would not know about the order in time to cease payments to the secured creditor.

The plan does not need to address what happens in the event of a stay lift. Some cases hold that the obligation to pay the balance owed on the allowed secured claim does not cease once the stay lifts.

The current installment payment information is not necessary. It is disclosed in Schedule J.

Remove the estimates. Amounts should be binding.

Do not give debtors a choice regarding whether to disburse arrears or mortgage payments directly.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Revise the treatment of maintenance and cure payments. Remove the estimates of arrearages.

Do not allow debtors the option of choosing the trustee to make current installment payments. We require the debtor to make these payments directly in our district.

Remove the provision for stopping payments when the stay is lifted. If the creditor wants to decline further payments, it can withdraw its claim.

Provide for allowed secured claims that the debtor schedules as unsecured.

Specify the date from which interest, when applicable, runs on the cure of arrears.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

Include the option of listing the principal residence.

Include the option of giving the trustee authority to pay a notice of post-petition fees.

Section 3.1 provides for surrender of property but does not provide for allowance of a deficiency claim.

The Committee Note indicates that, upon termination of the stay, the provisions of Rule 3002.1 no longer apply. This language should be in the form.

**Comment BK-2013-0001-0152—Cathleen Moran:** The debtor often does not know the precise amount of the arrears.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** Clarify that only allowed claims will be paid.

Because the proof of claim will control over the amount listed in § 3.1, change the column heading for the installment payment to “estimated current installment payment.”

*Section 3.2 (request for valuation of security and claim modification)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** Why is it necessary to request that the court determine the value of property? Will there be an actual hearing? Shouldn’t the plan simply say that the debtor’s valuation of the property controls, unless objected to?

The reference to eligibility for discharge is misplaced in § 3.2.

**Comment BK-2013-0001-0010—Judge Kay Woods (Bankr. N.D. Ohio):** The third line of § 3.2 could be reworded more clearly to state “the value of the secured claim should be allowed as set forth below in the column . . .” (rather than “the value of the secured claim should be as stated below in the column . . .”).

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- This section should not give deference to claims by governmental units. Let governmental units object to confirmation just like other secured creditors are required to do. Using the term “interest” in § 3.2 looks like an attempt to get around the *Till* decision. The term “present value” should be used. *See* § 1325(a).

- In some jurisdictions, the court authorizes the chapter 13 trustee to disburse pre-confirmation adequate protection payments to secured or lease creditors pursuant to § 1326(a)(1) if the debtor’s plan so provides. Provision should be made for such adequate protection payments through the trustee by including a column titled “Monthly pre-confirmation adequate protection payment” with a subtitle indicating whether the debtor or trustee will make the payment.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 3.2 is trying to do too much. It should be simplified to provide for the secured portion of the claim and not deal with the ranking of the lien. The section needs information only as to the name of the creditor, the collateral, the amount of the secured claim and value of the collateral, the interest rate, and the estimated total payment. The rest of the information is useless. Is the trustee the police for the debtor and creditors on this section? The section also assumes that all secured creditor payments will be made over the life of the plan.

Section 3.2 should not include the discharge information. Eligibility for discharge should be moved to Part 1.

The columns for “estimated amount of creditor’s claim” and “amount of claims senior to creditor’s claim” will be erroneous in most cases. Neither is necessary to determine the secured claim or to tell the creditor how the collateral is being valued. These columns should be removed.

**Comment BK-2013-0001-0016—Richard Siegel (Attorney, Atlanta, Ga.):** The second sentence of § 3.2 refers to non-governmental secured claims “as to which a proof of



claim has been filed in accordance with Bankruptcy Rule 3002.” The verb tense is an issue, because the plan could be filed the day the petition is filed or shortly thereafter. Proofs of claim are filed later, and the present-tense wording limits the debtor to stating values for claims already filed. The language should be changed to include proofs of claim that can or will be filed.

**Comment BK-2013-0001-0021—Judge Randall Dunn (Bankr. D. Or.):** In the Committee Note to § 3.2, add a sentence like the one in the Committee Note to § 3.4 to the effect that service pursuant to Rule 7004 is required. Section 3.2’s Committee Note does refer to Rule 3012, which in turn refers to Rule 7004, but it would be clearer simply to add a reference in the Committee Note to service under Rule 7004.

Perhaps the plan should include a model certification as to service, such as:

In order to assure proper service on all creditors identified in Section 3.2 or 3.4 of the plan, pursuant to FRBPs 3012, 4003(b), 9014, and 7004: (a) I listed on the mailing matrix such creditors, other than insured depository institutions, in care of a person or entity authorized to be served; AND (b) I served by certified mail, on \_\_\_\_\_ (date), copies of the plan on any insured depository institution(s) affected by Section 3.2 or 3.4 of the plan; AND (c) the following list separately identifies all such creditors served via matrix listing and such creditors served by certified mail, including the names and addresses of all such creditors served (NOTE: With respect to creditors served by matrix listing, the list of names and addresses is identical to that included in the mailing matrix.).

**Comment BK-2013-0001-0028—Michael D. Clark (Chapter 13 Trustee, C.D. Ill.):** The monthly payment to creditors should be left to the trustee to determine, or should simply be listed as an estimate only.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** Section 3.2 raises several concerns.

This section does not provide enough space to list the name of the creditor and collateral.

The columns labeled “estimated amount of creditor’s claim” and “amount of secured claim” are duplicative. The estimated amount of the creditor’s claim and the value of the collateral are listed in Schedule D. It would be better to substitute “amount proposed as security” in place of these two columns.

The last column will more than likely change during the confirmation process. Transcribing the amount in Exhibit B will cause arithmetic errors.

This section does not provide for cross-collateralization of claims.

Does the language regarding governmental claims mean that the bankruptcy court cannot rule on an objection to a governmental unit’s claim?

This section speaks of “secured claims” instead of “allowed claims” as if to suggest that the claims objection process will go away.

Whether the debtor is eligible for a discharge should not be in this section. If this information must be in the form, it should be at the beginning.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** There are several problems with this section.

There is no reason to exclude governmental creditors from this provision.

There is no need to list the monthly payment to the creditor, as the payment may vary and be an estimate.

A debtor may provide for a valuation proceeding after confirmation. There is no requirement that valuation occur before confirmation.

There is no place on the form for preconfirmation adequate protection payments to a secured creditor or (as many courts have allowed) postconfirmation adequate protection payments while attorney's fees are being paid.

The title and wording of § 3.2 are misleading and underinclusive, because they suggest that this section is only for secured claims for which the debtor seeks a valuation of collateral. But there is no other provision for payments to secured creditors under § 1325(a)(5) that do not involve valuation of collateral, cure of defaults, or "hanging paragraph" claims. Section 3.2 should be changed to include all other secured claims provided for by the plan (e.g., if the debtor proposes to pay an allowed secured claim according to the contract terms because it carries a favorable interest rate).

Delete the checkboxes regarding the debtor's eligibility for a discharge. That information is already provided in the petition.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):**

Government creditors should not be excluded.

The term "interest rate" here and in § 3.1 should be changed to "present value rate" in light of the Supreme Court's decision in *Till*.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:**

We agree with Richard Siegel's comment regarding the verb tense.

The language regarding eligibility for a discharge is misplaced in this part. It should be in Part 1.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Section 3.2 makes use of the plan mandatory in order to avoid or strip a lien and ends the practice in many districts of doing so by motion or adversary proceeding. This should be left to each district.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend several stylistic changes. The subject and verb do not agree in the phrase "[t]he debtor(s) request" unless it is a joint case.

The word "non-governmental" should be inserted before "secured claims listed below" in the first sentence and the rest of the sentence deleted.

In the second sentence of the first full paragraph, the phrase "in accordance with Bankruptcy Rule 3002" is unnecessary and should be deleted.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):**

Reword the 8th column ("monthly payment to creditor") to indicate that the payment is estimated and an average that may change.

Remove the discharge language. We agree with NACBA.  
Are fully secured non-PMSI claims addressed in this section?

**Comment BK-2013-0001-0066—Edward Claxton:** This section is confusing to everyone except a law professor. There is not enough space to enter numbers. The phrase “controlling amount of the claim” is confusing. The distinction between “value of collateral” and “amount of secured claim” is confusing. The second paragraph should read: “The portion of any allowed claim that exceeds the value of collateral will be treated as an unsecured claim under Part 5 of this plan.”

The statement in (b) regarding discharge is an issue for the court, and not the debtor, to decide.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):**

What paragraph is not effective if the checkbox is not selected?

Eliminate the language stating that the provision will not be effective if the checkbox in Part 1 is not marked. It is not a realistic provision.

Add a provision showing the basis for the debtor’s valuation.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):**

This provision is unclear.

It is unclear who serves the valuation request. If the plan is served by the trustee, how will he or she know where to serve?

It is unclear how value is determined.

The exception for governmental units creates confusion.

Add a checkbox for valuation requested separately by motion.

The phrase “estimated monthly payment to creditor” should be used.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** This section conflicts with Fourth Circuit caselaw. *See Cen-Pen v. Hanson*, 58 F.3d 89 (4th Cir. 1993); *In re Snow*, 270 B.R. 38 (D. Md. 2001) (“For a debtor to extinguish or modify a lien during the bankruptcy process, some affirmative step must be taken toward that end.”). A free-standing motion should be required instead.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** What happens if the debtor proposes a \$0 valuation but the secured creditor does not file a proof of claim?

There is a conflict between this section and the Committee Note to Rule 4003(d), which states that “[l]ien avoidance not governed by this rule requires an adversary proceeding.”

There is not enough space to describe fully the collateral being valued.

Because the debtor does not sign the plan, the debtor has not authenticated his own opinion of value.

The service provisions under Rule 3012 should be referenced.

**Comment BK-2013-0001-0085—Judge Roger Efremsky (Bankr. N.D. Cal.), on behalf of six judges of the bankruptcy court:** We agree with Judge Montali’s comments regarding valuation. A plan is not evidence.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** This section is contrary to Fourth Circuit law. (See comment by Mark D. Sammons.)

Remove the discharge eligibility language.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** I support the option to permit the determination of allowed secured claim values as part of the chapter 13 plan confirmation process. This procedure is accepted in chapter 11 practice. There are no due process issues. The proposal will save significant amounts of time and money by eliminating unnecessary motions. We have used this procedure very successfully in the San Jose Division of the N.D. Cal.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** The term “value of the secured claims” is ambiguous. It could refer to the entire claim value or just the portion that is secured due to the amount of available collateral. The form appears to be using the latter meaning.

This section appears to take a position on whether the debtor can strip liens in a chapter 20 situation.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Governmental proofs of claim should not be excluded from the valuation provision.

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** Governmental proofs of claim should not be excluded from the valuation provision.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Government proofs of claim should not be excluded.

Add statutory references to §§ 506 and 1325(a)(5).

Remove the language regarding eligibility for discharge.

Reorient the information and add more space for responses.

Add a disclaimer that amounts are estimates that may fluctuate.

**Comment BK-2013-0001-0111—Judge Elizabeth W. Magner (Bankr., E.D. La.):** The language allowing a secured creditor’s lien to “ride through” should be changed. It could be interpreted to permit enforcement of the entire debt, including the prepetition arrearage and postpetition installments, against the collateral.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** The column labeled “Amount of claims senior to creditor’s claim” might be used improperly to determine priority of liens and bind creditors.

Revise the language regarding eligibility for discharge to state that debtors “contend” that they are eligible.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** This section is confusing. Does it provide for motions under *Till*?

The section’s final provision regarding the timing of lien avoidance may contradict Fourth Circuit case law. See *Branigan v. Davis (In re Davis)*, 716 F.3d 331 (4th Cir. 2013).

Include templates for service of process.

Include an additional checkbox for evidence necessary for valuation and debt if lien avoidance will be included in the plan.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** It is impractical to expect a trial on valuation issues at a chapter 13 confirmation hearing. This will lead to delays. Instead, include language indicating that the amount of the secured claim is an estimate, and that debtor may request valuation of the property and/or limitation of the amount of the secured claim through Rule 3012, 7001, or a claim objection.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Governmental claims should not be excluded. It is actually less burdensome on governmental creditors if their claims are included, because it eliminates the need to amend a claim or defend a claim objection in every case with a proposed modification.

Too much unnecessary information is included.

Too much instructional language is included. It is too harsh to debtors and takes away the ability to advocate positions on behalf of creditors (e.g., it eliminates the possibility of surrendering collateral in satisfaction of the debt).

Remove the discharge eligibility provision.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:** Use the phrase “amount of the secured claim” instead of “value of the secured claim.” Valuation of the collateral will determine the amount of the secured claim.

Require more detail about the collateral (e.g., VIN, vehicle mileage).

Add a provision to indicate the basis of the valuation.

Alter the lien release and retention language. End sentence (b) after “. . . § 1328”—the plan cannot unilaterally terminate a lien, which is a state law issue.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** In light of proposed Rule 5009(d), the language regarding lien retention needs another option for debtors who do not pay the debt in full or receive a discharge under § 1328.

If the “none” box is checked for this section, the discharge boxes will not appear anywhere on the form. The discharge language avoids unnecessary litigation over dischargeability.

The discharge language does not account for joint cases in which one debtor is eligible for discharge but the other is not. Use separate lines for each debtor.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** The form appears to take a substantive position by permitting debtors to pay directly and not through the trustee.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Do not exclude government claims. I also agree with the comments of Judge Nugent and Mr. Siegel.

The lien termination and release language is a concern. Some of our courts hold that a lien does not have to be released when there is a non-filing co-debtor. Does the plan form overrule these decisions?

The discharge language belongs in Part 1.

Remove the column “amount of claims senior to creditor’s claim.” A plan cannot alter the order of priority.

Remove the column “estimated total of monthly payments.” This will lead to arithmetic errors.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove this section. Do not permit valuation of collateral through the plan.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** Is the discharge provision subject to res judicata if the debtor is not entitled to a discharge?

Section 3.2 does not provide for secured creditors to retain the liens securing their claims. No plan using this form could be confirmed under § 1325(a)(5)(B)(i)(I) and (II).

Does the confirmation order constitute “otherwise ordered by the court”? If so, what is the significance of this provision?

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

Section 3.2 makes no provision for long-term liens and long-term debt to survive discharge.

Include a provision for pre-confirmation adequate protection payments.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** The verb tenses in the second sentence are confusing. No proofs of claim will have been filed at the time the plan is filed.

The reference to proofs of claim filed “in accordance with Rule 3002” is ambiguous, because (as the Committee Note indicates) proofs of claim may be filed under other rules (e.g., Rule 3004).

The reference to the “controlling amount of the claim” is ambiguous. I suggest revised language.

I suggest revised language for the second paragraph of this section dealing with the unsecured portion of the claim.

The lien retention provision in the final paragraph does not cover claims not secured by any value.

**Comment BK-2013-0001-0158—Debra Miller (Chapter 13 Trustee, N.D. Ind.):** I agree with NACBA and others about § 3.2.

First, the language appears to permit valuation only if the secured creditor has filed a proof of claim. Although a proof of claim may be required for distribution, the value of the

secured portion is set at confirmation. Whether or not a proof of claim is filed, if the value of the secured claim is paid during the life of the bankruptcy, the lien is stripped and voided at discharge. The current language gives secured creditors an incentive not to file a proof of claim.

Second, governmental claims should not be excluded. Section 506 of the Code does not distinguish secured claims of governmental units.

See testimony of January 31, 2014.

*Section 3.3 (secured claims excluded from 11 U.S.C. § 506)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** The boxes in § 3.3 that appear to allow direct payment should not be there. If the debtor proposes a direct payment, that should be a nonstandard provision in Part 9.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- The final column in § 3.3 includes only payments disbursed by the trustee. This section should include the following language concerning other payments: “Claims paid under the exact terms of the contract with no cure of arrears may be maintained through payment made by debtor or trustee as is customary in the district. Claims that cure arrears or affect the interest rate paid on the claim are impaired and will be paid in accordance with controlling law, or as is customary in the district if no objection is asserted by the Trustee.”

- Remove the option of the debtor(s) as disbursing agent, unless they are maintaining or curing default. Also, use “present value” instead of “interest.”

- Section 3.2 should be referenced in § 3.3.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 3.3 is an attempt to overrule *Espinosa*. A plan that leaves the proof of claim controlling will result in incorrect figures for every secured claim, putting the trustee in the position of doing everyone else’s work. The plan should control, and the creditor should object if it disagrees with the amount.

Section 3.3 does not include a space for the term of the payments. A column should be added with the term of the monthly payment (e.g., months 1-24 or 5-56, etc.).

Section 3.3 should not permit direct payment by the debtor. The general rule is provided in Code § 1326(c) that payments are made through the trustee. Plans that propose otherwise are subject to feasibility concerns. The rare exception for direct payment can be included as a nonstandard provision in Part 9.

**Comment BK-2013-0001-0028—Michael D. Clark (Chapter 13 Trustee, C.D. Ill.):** The monthly plan payment to the creditor(s) should be determined by the trustee, or simply listed as an estimate only.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** There are several problems with § 3.3.

There is not enough space to list the name of the creditor and the collateral.

Allowing the claim to control will invite feasibility issues if the claim is filed after confirmation. For example, if the amount of a 910 claim listed in the plan is incorrect, the creditor should take enough interest in the process to file an objection to confirmation.

The last column is an invitation to arithmetic errors.

This section refers to “secured claims” instead of “allowed claims” as if to suggest that the claims objection process is going away.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** The form should clarify that a debtor is not required to treat 910 claims in this section. The debtor may choose to deal with those claims in § 3.1. The language in the last paragraph before the listing of creditors should state “except as provided in § 3.1” or words to that effect.

NACBA objects to requiring that monthly payments be listed, because they will be estimates that may vary.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** This section is unclear.

It suggests incorrectly that the interest rate on a 910 day car claim cannot be crammed down.

Because the proof of claim controls, this section will require a claim objection and accomplish little.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend several stylistic changes.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** The third column (“amount of claim”) and fifth column (“monthly plan payment”) should be estimates.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** The “monthly plan payment” heading is inconsistent with the other sections. It should be an estimate.

Do not allow debtors the option of making direct payments.

The total payment information is unnecessary. It will change throughout the case.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Strike the word “estimated” from the total payments column.

In our district, the trustee and not the debtor makes payments on arrearages.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** The debtor should not be allowed to modify the interest rate if the debtor (and not the trustee) is making payments.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** This section is contrary to Fourth Circuit law. (See comments by Mark D. Sammons.)



**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA’s comments.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** The form should include the option of soliciting a secured creditor’s acceptance of the plan under Code § 1325(a)(5)(A). The form includes the two other statutory options for secured claims—surrender (§ 3.5) and payment of the present value in installments (§§ 3.2 and 3.3)—and include the third option of the secured creditor’s acceptance of the plan.

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** Make clear that this section might apply to claims other than 910-day car claims (e.g., where the value of the collateral exceeds the value of the secured claim).

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Do not allow debtors the option of making direct payments.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** § 3.3. should also include other secured claims excluded from § 506, such as short-term real property debts or co-signed debts.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** The number of valuation and lien avoidance provisions in the plan is confusing.  
Include a template for service.

**Comment BK-2013-0001-0123—Randall Smith:** This section appears to overrule *Till* by giving the creditor unilateral control over the interest rate on a 910-day car loan. The creditor should have the burden of going forward with evidence that the debtor’s proposed rate is inadequate.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** The “amount of claim” column should be an estimate.  
The section should not limit claims to the two examples listed. Other claims could include sewer liens, secured tax claims that cannot be modified, homeowner’s association liens, etc.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Include language regarding the claim holder’s lien retention and release.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Remove the direct payment option. Delete the column “estimated total payments by trustee” or state that estimates are not binding.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** The plan form should address the debtor’s option of paying the entire secured claim under the plan, without maintaining any direct payments to the creditor.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

Section 3.3 makes no provision for payment of claims outside the plan by third parties.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** Because the claim controls in this section, change the column heading to “estimated amount of claim.”

*Section 3.4 (lien avoidance)*

**Comment BK-2013-0001-0010—Judge Kay Woods (Bankr. N.D. Ohio):** Section 3.4 should include language (after the bolded statement that the section will be effective only if the box in Part 1 is checked) that Exhibit A must also be completed. There is no basis for lien avoidance without Exhibit A.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Exhibit A should state that the amount of the lien avoided will be treated as an unsecured claim.

**Comment BK-2013-0001-0019—Gene Killian (Attorney):** Motions under Code § 522(f) and generally all other lien avoidance vehicles should be included in the plan form.

**Comment BK-2013-0001-0021—Judge Randall Dunn (Bankr. D. Or.):** How will lien avoidance work with title companies? The plan does not appear to have a place to include real property descriptions. Are separate orders contemplated?

**Comment BK-2013-0001-0028—Michael D. Clark (Chapter 13 Trustee, C.D. Ill.):** The first sentence should clarify that (i) either Code § 522(b) or state exemption schemes would apply and (ii) any monthly plan payment stemming from liens not avoided will be determined by the trustee (or listed as an estimate).

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The form provides for lien avoidance upon confirmation without a motion or adversary proceeding. This provision creates noticing difficulties, because most plans are filed the day the petition is filed. It is difficult to find out who is the proper person for service before claims are filed. This provision will not reduce adversary proceedings or motions to avoid judicial liens. It will encourage pro se filings that will not accomplish removal of judicial liens. It will also lead to more litigation over whether the creditor received proper notice under Rule 4003.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA supports this provision of the form. But the form should not dictate, as the last sentence of § 3.4 does [“The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan.”], how the portion of the lien that is not avoided should be treated. The debtor may choose not to provide for the remaining allowed secured claim, or to cure and maintain

payments rather than paying in full. Qualifying language, such as “unless otherwise provided in the plan” should be included.

The Code does not require lien avoidance to occur before confirmation. The form should be flexible and accommodate the possibility of post-confirmation valuation.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):**

The term “interest rate” is irrelevant if the debtor is paying for an item not subject to valuation under the plan. Only when the debt is paid through the trustee and the interest rate is being modified would a rate other than the contract rate apply.

The debtor’s option to make direct payments should be clearly limited to where the contract payment is being maintained.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend several stylistic changes.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** The “monthly plan payment” column should be an estimate.

**Comment BK-2013-0001-0066—Edward Claxton:** The second sentence of § 3.4 (“A judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of the order confirming the plan”) is not correct. Avoidance is permanent only upon discharge.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** Add a provision showing the basis for the debtor’s valuation.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):**

Pursuing lien avoidance through a plan and not by motion could affect court statistics used to determine budgets, staffing, etc.

The monthly plan payment heading is inconsistent with other sections. It should be an estimate.

Add a checkbox for lien avoidance pursued by separate motion.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** A free-standing motion should be required instead.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** This section should require authenticated evidence in support of a lien avoidance request.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** This section is contrary to Fourth Circuit law. (See comments by Mark D. Sammons.)

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** Clarify that § 3.4 does not apply to statutory liens that cannot be voided under Code § 522(f). Tax liens are specifically protected under § 522(c)(2), but some debtors may try improperly to avoid tax liens.

A similar clarification should be added to the Committee Note of Rule 4003(d).

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA's comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** Clarify the second sentence ("A judicial lien or security interest . . .") by stating "Such judicial lien or security interest . . ."

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** I recommend including a provision that sets a deadline by which a secured creditor must file an amended deficiency claim.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Eliminate this section. Nothing in the Code or Bankruptcy Rules authorizes challenging the validity of a lien absent a motion in compliance with Rule 4003(d) and 9014. For real property, title companies will not rely on a chapter 13 plan in lieu of a court order.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** We support the provision allowing a debtor to avoid a lien through the plan confirmation process.

The form appears to limit a debtor's ability to avoid a lien by motion.

The debtor may choose not to provide for the unavowed portion of the lien, or to cure and maintain payments. The form does not include these options.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass'n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass'n for the D. Md.:** If § 3.4 is for lien avoidance under Code § 522(f), it should say so.

The requirement for Exhibit A in this section should be retained.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Clarify whether the plan or the proof of claim controls with respect to interest rates.

Add language regarding the claim holder's lien retention and release.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Local courts should be able to remove the lien avoidance provisions from the plan form.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove this section. Lien avoidance should not be done through a plan.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass'n:** See comments of Cynthia T. Lawson.

Section 3.4 should provide that lien avoidance occurs at discharge so that the creditor does not have to refile its lien if the case is dismissed after confirmation.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** The final column is confusing. Revise it to read “estimated total amount to be paid by the trustee of secured claim.”

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** The last column heading should be “estimated total of monthly payments” and not “estimated total amount of secured claim.”

*Section 3.5 (surrender of collateral)*

**Comment BK-2013-0001-0010—Judge Kay Woods (Bankr. N.D. Ohio):** In our court, the plan and confirmation order require the creditor with surrendered collateral to file a proof of claim within 90 days after the confirmation order is entered. If the collateral has not been liquidated by that time, the creditor is required to file a good-faith estimate of the deficiency, if any, and then amend when the exact amount is known. An untimely unsecured claim is barred. Add a similar 90-day period requirement or a blank for when the proof of claim is required to be filed.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- Section 3.5 is well stated and addresses all the issues with surrender.
- Can't debtors surrender collateral in full satisfaction of debt? Section 3.5 should include a paragraph relating to the value of the property surrendered and a checkbox indicating surrender “in full satisfaction of debt.”

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 3.5 does not state a surrender value. Does this mean the plan assumes that surrender is in full satisfaction of the claim? Language should be added to the effect that surrender is in full satisfaction of the secured claim.

**Comment BK-2013-0001-0016—Richard Siegel (Attorney, Atlanta, Ga.):** Section 3.5's second sentence states: “The debtor(s) consent to termination of the stay under 11 U.S.C. § 362(a) and § 1301 with respect to the collateral upon confirmation of the plan.” Section 1301 involves the co-debtor stay. While the debtor may consent to relief from the co-debtor stay, his interest and that of the co-debtor are often not the same. If their interests differ, the debtor cannot dispose of both interests in a plan provision. Creditors may read this language to permit them to proceed, wrongfully, to collection or foreclosure on the ground that the co-debtor stay is terminated along with the automatic stay. Clarification is needed. The second sentence should read: “The debtor(s) consent to termination of the stay under 11 U.S.C. Section 362(a) and Section 1301 with respect to the collateral upon confirmation of the plan, but nothing herein shall be deemed to terminate the 11 U.S.C. Section 1301 stay upon confirmation.” The creditor would then be required to seek co-debtor relief by motion if it desires. It may be more clear simply to

eliminate the reference to § 1301 in the clause referring to the debtor's consent to termination of the stay.

A new provision should be added to the plan so that parties are relieved from compliance with Rule 3002.1 if relief from the automatic stay is granted.

**Comment BK-2013-0001-0066—Edward Claxton:** Section 3.5 does not provide for surrender of collateral in full satisfaction of the debt. Also, how can the stay be lifted upon confirmation without a required motion from a party in interest under § 362(d)? In addition, the debtor cannot consent to co-debtor stay relief under § 1301.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** A debtor cannot waive a co-debtor's stay rights under § 1301. We agree with Richard Siegel's comment on this point.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

The last sentence ("Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below") should be deleted, because it takes a position on a disputed question of substantive law. Courts differ on when and how a secured creditor obtains an unsecured deficiency claim after disposing of collateral surrendered in a plan. See *In re Sneijder*, 407 B.R. 46 (S.D.N.Y. 2009).

We recommend several stylistic changes.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** The debtor should be allowed to surrender in full satisfaction or provide other treatment when surrendering.

**Comment BK-2013-0001-0068—Nancy Whaley (Chapter 13 Trustee, N.D. Ga.):** Permit the debtor to pay secured claims other than 910-day car claims in full (e.g., co-signed debts).

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Elimination of stay-relief motions will reduce revenues from filing fees for those motions. It will also affect statistics used to determine court budgets, staffing, etc.

State courts in our district often require an order from the court granting relief from stay.

**Comment BK-2013-0001-0081—James Draper:** The second sentence of § 3.5 ("The debtor(s) consent to termination of the stay . . . with respect to the collateral upon confirmation . . .") is ambiguous. It could be read to mean that the consent (and not the termination of the stay) is effective upon confirmation, thereby implying that some further action by the creditor is necessary for stay termination. This should be clarified.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Provide space for the debtor to indicate the alleged value of collateral being surrendered.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** The language of this section is ambiguous. It should state that the stay and co-debtor stay are lifted as to the collateral without further notice or court order upon confirmation.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** Provide that “the stay shall terminate” instead of “[t]he debtor(s) consent to termination . . . .”

**Comment BK-2013-0001-0123—Randall Smith:** Section 3.5 implies that the debtor has an affirmative obligation to deliver to the creditor surrendered property.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** Section 3.5 should state directly that upon confirmation, the debtor and co-debtor stays are lifted as to a lender’s *in rem* rights. Language to this effect is included in plans in some districts (e.g., N.D. Tex., S.D. Ohio (Cincinnati); S.D. Fla.).

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Provide detail about when a deficiency claim must be filed.

Add clearer language (e.g., “without further order of the court”) in the stay termination provision.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:**

Add a provision with a deadline by which the debtor must surrender the collateral.

Require termination of the stay, and not merely “consent” to termination, upon surrender.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Address how an allowed unsecured claim from disposition of collateral will be calculated and treated.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Add a column for the value of collateral being surrendered.

Surrender at confirmation is at odds with our local rule, which provides for surrender after a specified number of days after the plan is filed. Our rule cuts costs and the creditor does not need to await a potentially drawn out confirmation process.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Clarify the term “surrender.” It could mean surrender of possession or surrender to the processes of nonbankruptcy law.

The consent to lifting the stay is ineffective without a court order. The plan should effect a termination of the stays under §§ 362(a) and 1301.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** The plan form does not address the timing of an amended deficiency claim for surrendered collateral.

Section 3.5 does not address stay relief as to the trustee.

How does the debtor consent to the termination of the co-debtor stay when the co-debtor is not participating in the case?

#### ***Part 4: Treatment of Trustee’s Fees and Administrative and Other Priority Claims***

##### ***Part 4 (general)***

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** There is no provision for the court fee to be paid in installments. This will cause the arithmetic to be wrong in Exhibit B, which should not be in the plan.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** Allow the debtor to pay postpetition priority claims directly.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** Section 4.1 refers to payment of allowed priority claims “without interest.” Clarify that this refers to postpetition interest and not prepetition interest.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** The combination of §§ 4.1, 4.4, and 4.5 does not make sense. The provision for interest appears to be incorrect. Under Code § 1322(b)(10), the debtor should not pay interest unless there is enough disposable income to pay all allowed claims in full.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** The sections in Part 4 should be combined.

The form should state that, with each disbursement, trustee’s fees and attorney’s fees will be paid in accordance with local rules

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Retitle this Part “Treatment of Trustee’s Fees, Administrative Claims, and Other Priority Claims.”

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Section 4.1 should read “All allowed priority claims provided for under this plan other than those treated in § 4.5 will be paid in full by the Trustee without interest, unless otherwise stated.”

Section 4.1 should require the plan to provide for a priority claim in order for the claim to be paid. This is necessary for that claim to be discharged under § 1328. Otherwise, debtors may emerge from bankruptcy owing post-petition interest and penalties that were not discharged.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Combine and shorten §§ 4.1 through 4.4.



**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

*Section 4.2 (trustee’s fees)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** Section 4.2 should simply disclose the 10% maximum trustee’s fee. Also, some trustees are paid on disbursements and some on receipts.

**Comment BK-2013-0001-0008—Jon Waage (Chapter 13 Trustee, M.D. Fla.):** Section 4.2 should state that the maximum fee is 10% and that, in the event the trustee does not retain the full 10%, any portion not retained will be paid to unsecured creditors pro rata. In the alternative, the fee calculation should be eliminated and language included to state instead that the fee percentage is fixed periodically by the U.S. Trustee.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

Section 4.2 should not require debtors to estimate the trustee’s fee. These fees are set by the Department of Justice and fluctuate. This section will increase trustees’ objections to confirmation. Eliminate the section or, in the alternative, include a calculation set at the maximum possible fee (10%) under 28 U.S.C. § 586(e)(1)(B)(i).

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** The 10% maximum fee should be disclosed instead.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** Section 4.2 is problematic and unnecessary. It will generate objections by trustees to avoid being bound by the fee calculated in the plan.

**Comment BK-2013-0001-0019—Gene Killian (Attorney):** Some chapter 13 trustees require an allocation of 11% for the trustee’s fees on the ground that this provides a margin for future increases in the fee during the plan term. This is a hardship for debtors and leaves less money for payment toward other plan items. Marginal cases can be rendered unfeasible by the trustees’ demands. Limit trustee payments to what is actually paid as of the time of filing.

**Comment BK-2013-0001-0035—Robert G. Drummond (Chapter 13 Trustee, D. Mont.):** This provision is unnecessary. The amount of the trustee’s fee changes periodically throughout the year. This is especially true in a state like Montana with a low volume of chapter 13 cases.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Trustee’s fees are not an administrative expense in a chapter 13 case, because compensation for the trustee is not allowed under § 330, and therefore not allowed under § 503(b), and therefore not a priority claim under § 507. If the Advisory Committee believes the plan must contain a statement about trustee’s fees, then the statement should read: “These fees shall be paid in

accordance with 28 U.S.C. § 586” or “These fees shall be paid in accordance with 28 U.S.C. § 586 and are estimated to be \$\_\_\_\_\_.”

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The amount of the trustee’s fee fluctuates. This provision would not bind the trustee in any event. It should be removed from the form.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** Eliminate the estimated total trustee fees.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** This section serves no purpose.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend stylistic changes.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** This information is unnecessary.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** This section serves no purpose.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** Trustee fees may vary over the course of a case.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** The trustee’s fee may vary.

**Comment BK-2013-0001-0108—Mary Kate Kelley-Scheidler (Attorney, Minn.):** Add more detail about trustee’s fees. Are they paid at once or does the trustee get a portion of each payment?

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** The trustee’s fee varies.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** Omit the arithmetic from this section. It is unnecessary.  
The trustee’s fee varies.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** The term “plan payments” is vague. Fees should be stated as a percentage of “all payments received under the plan.” That is the language used in the trustee fee statute. 28 U.S.C. § 586(e)(2).  
The phrase “plan term” is not defined.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** Remove the total trustee’s fee. It is unnecessary.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** The trustee’s fee should be set at 10%. That way, fluctuations in the actual fee will not require modification.

Remove the estimate of total fees.

Add a provision for the trustee to charge and collect noticing fees. This is allowed in a number of our courts.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove the estimate of trustee’s fees.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0152—Cathleen Moran:** Remove the estimate of trustee’s fees. The amount varies.

*Section 4.3 (attorney’s fees)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** Section 4.3 does not tell the trustee the exact amount to pay the debtor’s attorney.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 4.3 should require the debtor’s attorney to recap all fees to assure they do not exceed the allowable amount. This section should include information on the total fees to be paid, the amount paid separately by the debtor, and the amount to be paid in the plan.

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** Section 4.3 does not give direction about the treatment of outstanding attorney’s fees. Jurisdictions differ on this issue. It would be helpful if the plan informed debtors, creditors, and trustees about how the attorney is to be paid. The “order of distribution” in Part 7 is not sufficiently specific.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** Section 4.3 does not allow the trustee to know what exact amount is to be paid to the attorney.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** This section takes into account only “no look” fees. It does not disclose what the attorney was paid prior to filing and assumes that the attorney will be paid the fee listed in the plan based on the bankruptcy judge’s final determination of the fee.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** This section must clearly indicate who is

paying what fee. All parties in interest are entitled to know the entire amount of the fees to be paid, and the total should be disclosed along with the amount already paid, if any.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** Add more detail regarding fee arrangements.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Add more detail regarding fee arrangements. An attorney may elect to submit a fee application instead of a flat fee.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Add more detail regarding attorney's fees. This provision conflicts with our local rules.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Add more detail regarding attorney's fees. Section 1326(b) recognizes that attorney's fees can be paid "before or at the time of each payment to creditors under the plan."

**Comment BK-2013-0001-0108—Mary Kate Kelley-Scheidler (Attorney, Minn.):** Add more detail regarding attorney's fees. The form does not indicate when they will be paid.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** Add more detail regarding attorney's fees. Include the amounts and increments.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** Add more detail regarding attorney's fees.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass'n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass'n for the D. Md.:** The attorney's fee should be a precise number unless otherwise ordered by the court.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Add more detail regarding attorney's fees.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Add more detail regarding attorney's fees. Pre-petition fees should also be disclosed.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove the estimate of attorney's fees.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass'n:** See comments of Cynthia T. Lawson.

*Section 4.4 (other priority claims)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):**

There is no section addressing non-assigned domestic support obligations. Include a specific reference to those obligations in § 4.4 (on going; arrearage; payment through the trustee; payment through an existing state court order).

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACCTT:**

- What does “Other Priority Claims” mean? Is the term limited to domestic support obligation claims assigned to a governmental unit and paid less than the full amount? Is this section meant to enumerate claims referenced in § 4.1? Maybe the term “other” is misleading. Combine this section with § 4.1.
- Section 4.4 should reference § 4.2.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** Section 4.4 requires the debtor to “estimate” the amount of priority claims and the interest. This is meaningless. If an allowed claim is a priority claim, it will be paid. The only reason for this section is to permit the amount to be transcribed to Exhibit B, which is going to be inaccurate in any event because of the number of “estimates” in that exhibit.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** As with secured claims, the monthly payments on priority claims should not be required to be listed. They often cannot be known at confirmation. There is no need to list priority creditors that will be paid in full, because they are already listed in the debtor’s schedules.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** For §§ 4.4 and 4.5, debtors should be required to state affirmatively whether they do or do not have a DSO and whether it is ongoing or only an arrearage.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend stylistic changes.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Add the following to the sentence regarding priority claims: “. . . however a filed proof of claim prevails over the estimate, unless a timely objection is upheld.”

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** Do not require the monthly plan payment on priority claims. The amount may be in dispute or unknown. The amount may change throughout the life of the plan.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA’s comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Add language as to whether the plan or claim controls.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Add space for the debtor to explain the statutory basis for the priority specified.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** See comments on § 3.1. The form should not list the monthly amount applied to each priority claim.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** Omit the requirement to state the basis for priority treatment. This is the creditor’s burden.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Clarify whether the plan or proof of claim controls with respect to interest rates.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Do not include the names of holders of other priority claims, the basis for priority treatment, and the estimates of amounts. The schedules and proofs of claim already indicate this information.

The interest rate does not need to be repeated multiple times. Clarify that this is postconfirmation interest.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

*Section 4.5 (domestic support obligations assigned to a governmental unit)*

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

Part 4 does not contain any provision for existing domestic support orders to continue. This is not in compliance with the domestic support provisions of the Code.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** Part 4 has no provision for existing support orders to continue.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** The title of § 4.5 is underinclusive. The words “or owed” should be inserted after “assigned,” because Code § 507(a)(1)(B) covers domestic support obligations owed to a governmental unit, whether or not they have been assigned.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** This section is unclear. The amount of claim to be paid should be an estimate. The column for estimated total amount of payments is unnecessary.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Strike “estimated” from the total payments column.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA's comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** The instructions should state that this provision cannot be used unless the debtor dedicates all disposable income for the applicable commitment period and the plan length of five years was selected in § 2.5.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** This section should address all domestic support obligations, not only those assigned to a governmental unit and paid less than the full amount.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Clarify whether the plan or proof of claim controls with respect to interest rates.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Simplify this section.

#### ***Part 5: Treatment of Nonpriority Unsecured Claims***

##### *Section 5.1 (maintenance and cure)*

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- Section 5.1 is confusing in conjunction with § 5.2. If a nonpriority unsecured claim is listed to be paid separately, then the claim is being classified and should be entered in § 5.2. The two sections should be combined.
- Section 5.1 should be removed.
- The only claims that could possibly be included in § 5.1 are student loans and co-signer debts. Both should be treated in § 5.2.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Section 5.1 starts with the wrong presumption by allowing a class of unsecured claims whose last payment is beyond the term of the plan to be paid in full, plus arrearages. Reorganize and renumber the order of the treatment of nonpriority, not separately classified, unsecured creditors paid on a pro rata basis. Current § 5.1 should be § 5.3.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** Part 5 provides for cure and maintenance of payments on unsecured claims where the last payment is due after the final plan payment. This is an unusual provision with unknown effects. If this is intended to address student loans, it would be better to do so as a special class of nonpriority unsecured debt.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Section 5.1 does not address the problem of a post-petition arrearage claim that arises before the first plan payment is made.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** Remove this section. This should be a non-standard provision.

**Comment BK-2013-0001-0057—Susan Saidian (Attorney, Wichita, Kan.):** Section 5.1 seems to permit the debtor to prefer unsecured creditors without justification for different treatment. Does it address something other than special class creditors or executory contracts in default?

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The heading of the second column from the right should be changed to insert “estimated” at the beginning, so that the heading reads: “Estimated Amount of arrearage to be paid.”

**Comment BK-2013-0001-0066—Edward Claxton:** Aren’t “amount of arrearage to be paid” and “estimated total payments by trustee” the same amount?

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** It is not clear what debts are included in this section.

The current installment payment and amount of arrearage to be paid should be estimates.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Make conduit payments the default and allow district-by-district nonstandard provisions for direct payments by debtors.

Add language as to whether the plan or claim controls.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** More detail is needed. Add a column for the total amount of the debt as well as the amount to be paid. If this section is intended for student loan debts, include a disclosure regarding the payment of interest and the basis for discriminating against other unsecured claims.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** This entire Part is too complicated and may be unnecessary.

If this section is for student loans, then say so.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** The first sentence should read “The Plan will maintain . . . .”

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Clarify whether the plan or proof of claim controls with respect to interest rates.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Combine §§ 5.1 and 5.2. Do not give debtors the option of paying directly.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove the estimates of claims.



Do not give debtors the option of having the trustee make current installment payments.  
Include a checkbox for debtors to make payments directly to cure arrears on a § 1322(b)(5) claim.

Include a column for the date the payments under the claim are due to expire.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** To be consistent with other parts of the plan, this section should provide for “estimated” installment payments and arrearages, with the proof of claim controlling.

*Section 5.2 (separately classified nonpriority unsecured claims)*

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Most separately classified unsecured claims are for co-signed consumer debt. There should be a monthly payment amount for this paragraph.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** This is the one section of a plan where the claim should control, but the form does not do so. This section will generate guesses or estimates that will need to be changed once the claim is filed.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The word “allowed” should be shifted in the text below the “None” checkbox. The revised text should read: “The allowed nonpriority unsecured ~~allowed~~ claims listed below are separately classified and will be treated as follows:”

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** There should be an election for payment by debtor, co-debtor, or trustee.  
The amount of claim to be paid should be an estimate.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:**

Clarify the label for this section.

This section should not suggest that the payment of interest on nondischargeable claims is appropriate, except when Code § 1322(b)(10) has been satisfied.

The form should not take a position suggesting that separate classification of unsecured claims is permitted. It is a minority position.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Add a statutory reference to the basis for separate classification.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** This section requires a level of legal knowledge that inexperienced practitioners or pro se debtors are unlikely to have.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** The “amount of claim to be paid” should be an estimate.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Clarify whether the plan or proof of claim controls with respect to interest rates.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** Remove this section. It should be a nonstandard provision in Part 9.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Eliminate this section. Separate classification is rare and should be a nonstandard provision.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

*Section 5.3 (nonpriority unsecured claims)*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** The third box under § 5.3 suggest that unsecured creditors cannot be paid until all other claims are paid. There is an argument that unsecured creditors could be paid pro rata with other claims, particular when it is a best-interest-of-creditors-test issue. The asset may be dissipated or the debtor may dismiss the case if one waits until the end to pay.

It is helpful to know how the debtor arrived at the best-interest-of-creditors number. Our local plan form provides a place for that calculation.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACCTT:**

- Is the first option under § 5.3 intended to represent projected disposable income? If it is, then clearly say so.
- The third option will encourage debtors to propose the acceleration of secured debt payments and thereby consume funds that would otherwise be disbursed to unsecured claims.
- The form does not make clear that the debtor must pay the greater of the estate’s liquidation value or the projected disposable income on a means test. The language concerning liquidation value suggests that liquidation value will be disbursed exclusively to nonpriority unsecured claims, which is incorrect. The concept includes payment to priority creditors. The third option should be eliminated and the form clarified to state that priority claims will share in the disbursement of the estate’s liquidation.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** There are a number of problems with § 5.3.

This section will generate arithmetic errors.

Many debtors’ attorneys will propose a low amount or percentage, because after confirmation the debtor will be required to pay back that exact amount or percentage.

This section will generate more modified plans after the claims bar date passes, because plans will not pay the amounts or percentages stated as a result of the number of estimates called for by the form. If the goal is to give unsecured creditors a quick look at how much they will be

paid on their claims, the form should include instead a range of dividend percentages. We use this type of scale in the E.D. Tenn., where there are checkboxes for 0%, 1-5%, 6-20%, etc.

**Comment BK-2013-0001-0043—Dan Melchi (Attorney, Alpharetta, Ga.):** The third checkbox should be removed. An unsecured creditor should be told in unambiguous terms what that creditor’s claim will receive under the plan. The language of the third checkbox will be chosen by every debtor, because (unlike the first two checkboxes) it does not require the debtor to commit to an amount certain. For example, a debtor who selects the third checkbox could later decide to cure a post-petition arrearage on a mortgage with funds that would otherwise go to unsecured creditors. If the first or second checkbox had been selected, the debtor would have been required to modify the plan.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** While we approve the inclusion of a “best interest of creditors” number, we agree with the comment submitted by the NACTT that the concept of liquidation includes payment to priority creditors.

The debtor should explain how the best interest number was derived.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

Delete the phrase “up to the full amount of the claims” from the sentence immediately below the heading “Nonpriority unsecured claims.” The phrase is unnecessary. The revised sentence should read: “Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata, ~~up to the full amount of the claims,~~ as follows:”

The phrase “under chapter 7” in the last paragraph should be changed to “in a chapter 7 case” so that the sentence reads: “If the estate of the debtor(s) were liquidated ~~under~~ in a chapter 7 case, nonpriority unsecured claims would be paid . . . .”

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** Only one choice should be selected.

**Comment BK-2013-0001-0066—Edward Claxton:** Is there a need for the phrase “up to the full amount of the claim”? Could more be paid?

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Only one choice should be selected.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** This section conflicts with our local practice. The debtor should pay a sum certain. That way, if a creditor does not file a timely proof of claim, other creditors (and not the debtor) will benefit.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** These options are confusing and misleading. This section is contrary to the “pot plan” practice in D. Md.

The liquidation test will be difficult to determine when the plan is filed. The value of assets and exemptions may not be determined until confirmation.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:**

Does the form contemplate that debtors will be able to object to proofs of claim after confirmation? Is a claim res judicata after confirmation?

What is the process for challenging timely government claims filed after confirmation?

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Modify § 5.3 to include a “base” amount in the last option—that is, the monthly plan payment multiplied by the applicable commitment period or plan length. This number is in § 2.4.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** This section does not make sense. Debtors will not enter correct amounts under these options. The calculations are estimates.

**Comment BK-2013-0001-0117—Chief Judge Mary P. Gorman (Bankr. C.D. Ill.):** I am troubled by § 5.3. Offering the option to specify a percentage distribution raises concerns under Seventh Circuit case law.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** If this section is intended to state what creditors would get in a chapter 7 liquidation scenario, it should be labeled more clearly.

The section requires calculations that are too complicated.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** A dollar amount should not be listed if another overriding option is being selected.

There will be arithmetic errors and inconsistent calculations. What results when, e.g., the estimated plan payment (§ 2.4) conflicts with the plan payment (§ 2.1).

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Delete “nonpriority” from the liquidation analysis sentence. Liquidation includes priority unsecured claims.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Move the liquidation value paragraph to the beginning of this section. Include a sentence identifying the property from which the liquidation value is derived.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Simplify this section. A liquidation analysis is unnecessary. Unlike chapter 11, there is no requirement that the debtor provide a disclosure statement regarding the plan.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** Delete the language in the first checkbox that states “unless a greater amount is required under another checked option.” Otherwise, there is an implication that other options would operate as caps when multiple boxes are checked.

*Section 5.4 (interest)*

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- Section 5.4 is useful.
- The contents of this section are not required. Why include this but not other optional items?
- Be more specific in requesting the interest on allowed unsecured claims election by reference to solvent estates.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Is this section about paying interest on unsecured claims or about paying present value of the claims? Change this section to a present value calculation and change the word “interest” to “annual discount rate.”

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** This section is not required by the Code. No debtor proposes interest even when the liquidation test would require 100%. Remove this section.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Interest is not generally paid on unsecured claims. This section will create confusion.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:**

This section suggests that interest will be paid in some circumstances but does not discuss § 1322(b)(10).

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** Include another option for “other.”

It is not necessary to estimate the total interest.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** This section should be combined with § 5.3. See comments on § 5.3.

*Part 6: Executory Contracts and Unexpired Leases*

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** I like the presumption that a contract is rejected unless specifically assumed. This keeps the debtor and debtor’s attorney from falling into a trap early in the case.

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** This provision would automatically void all telephone, home rent, and auto rental agreements unless specifically assumed and articulated. Debtors—particularly pro se debtors—may not intend this outcome. Consider reversing the presumption, so that all executory contracts and unexpired leases are assumed unless specifically rejected.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Part 6 does not address the problem of a post-petition arrearage claim that arises before the first plan payment is made.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** Allowing the claim to control in this section will invite feasibility issues after confirmation.

This section also allows the trustee to pay “lease to own” payments through the plan. Pro se debtors may propose to have the trustee cure their rent-to-own furniture through the plan as opposed to getting legal advice to reject the contract for overpriced furniture.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** The default should not be rejection of leases and executory contracts. The form should allow the debtor neither to assume nor reject a lease, as many courts have recognized “ride through” in that situation.

If the debtor does assume, the plan must provide for prompt cure of defaults in addition to current installments.

Part 6 should simply list (i) any executory contracts or leases to be rejected and (ii) any to be assumed, along with the treatment to be given to the assumed contract or lease.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** We prefer our form plan, which opts for the opposite presumption (i.e., executory contracts and unexpired leases are assumed unless rejected). We feared that debtors would unwittingly reject their apartment lease, cell phone lease, automobile lease, gym memberships, etc.

**Comment BK-2013-0001-0053—Judge Meredith Jury (Bankr. C.D. Cal.):** Use “cure” or “prompt cure”—the words of § 365(b)—rather than “arrearage.” Unlike an arrearage, a cure cannot be spread over an entire plan term in most jurisdictions.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Reverse the presumption regarding rejection. In the alternative, leave this section blank.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend stylistic changes.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):** We agree with NACBA’s comments.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** The column for estimated total payments by trustee is unnecessary. The current installment payment and amount of arrearage to be paid should be estimates.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** Clarify that the debtor (and not the trustee) assumes the lease. The automatic stay of §§ 362(a) and 1301 should terminate upon confirmation if the debtor rejects. For assumed leases, the automatic stay should expire upon maturity to allow a secured creditor to take possession.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Permitting cure over time on executory contracts, unless consensual, is contrary to the Code.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA’s comments.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Because Code § 365 requires that, upon assumption, cure of any default must be made “promptly,” this Part should require the debtor to identify how the cure will be effected (e.g., pro rata with priority creditors, monthly payments in a cure class, etc.).

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** We are troubled by the choice of rejection as the default.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** The form does not give debtors the choice of neither assuming nor rejecting unexpired leases or executory contracts.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** As drafted, this Part suggests that lease arrearages may be cured over time, which is contrary to the Code.

**Comment BK-2013-0001-0123—Randall Smith:** Some courts permit a third option for leases and executory contracts: “ride through,” in which debtors keep possession and continue making payments.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:** Add language addressing post-assumption liabilities (e.g., lease-end charges).

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Debtors should not have the option of paying the arrearage cure directly. If only the current payment will be paid directly, then say so.

Remove the estimates.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove this Part. There is a third option in addition to assumption and rejection—“ride through.”

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

Include a provision for the monthly payment on the arrearage claim.

#### *Part 7: Order of Distribution of Trustee Payments*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** This part is big trouble. Debtors should not be allowed to choose the order of payments willy nilly, and that is what will occur. This part will nearly always draw an objection.

**Comment BK-2013-0001-0008—Jon Waage (Chapter 13 Trustee, M.D. Fla.):** Part 7 and Exhibit B will create cases that are impossible to administer. It will create chaos if each debtor controls the order of distributions.

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- This part is a good idea because it lets everyone know where to look for the order of payment.
- This part should be left blank and allow local procedures to determine the order of payment. The Code does not dictate the order of payment in a chapter 13 case, only which creditors must be paid.
- The Code provision requiring secured creditors to be paid in equal monthly payments should not result in those creditors being paid before attorneys get paid. If attorneys are not paid within the first year it would have a negative impact on case filings. Leave this part blank and delete Exhibit B.
- Add the following language: “Local Jurisdictions may have a default order of distributions that controls. If you are not sure, check with your jurisdiction.”
- Allow each district to determine a uniform distribution order and permit the debtor to propose a different order in Part 9.
- My current trustee software program is customized for local procedures. This plan would require a separate database for new cases filed under the plan. My software is not capable of performing monthly disbursements under different distribution schemes. It would require running two different databases over 5 years until my current cases are closed.
- Exhibit B will cause confusion and discrepancies. I anticipate the need to object because it will be wrong.

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Debtors’ attorneys will not practice if they have to wait for all secured creditors to be paid. They will also have an incentive to seek direct payment to secured creditors so that attorney’s fees can be paid earlier. This plan form is extremely trustee averse and the treatment of attorney’s fees will cause the debtor bar to construct plans to serve their own interests and avoid paying trustee



fees in the process. Administrative priority claims should be paid after the trustee's fees but before secured creditors.

If the distribution is monthly, Part 7 should be labeled "*Monthly* Order of Distribution of Trustee Payments." If not, using the word "monthly" to describe secured claim payments is confusing. Either remove the word monthly from § 7.1(b) or add the word monthly to the title of this part.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** This part is troublesome. It will lead to objections, impede the trustee's ability to administer plans efficiently, and delay confirmation.

Exhibit B is not helpful to a trustee's analysis of a plan. The summary will create problems. Because previous parts of the plan call for estimates, there is no value in debtors' further summarizing those estimates. Perhaps this exhibit is intended to serve as a feasibility calculation, but it will create more arithmetic mistakes.

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** Part 7 could be subject to misuse or unlawful ordering of distributions in violation of the Code. This part is also unclear. Is the trustee to pay the first claim listed in full before any funds are disbursed to the second? This part will draw objections from creditors and trustees. Delete this part or replace it with a statement that distributions will be made in accordance with bankruptcy law.

**Comment BK-2013-0001-0025—Robert Martinez (Attorney):** Part 7 lists secured creditors as being paid behind the trustee's administrative claim. Does this payment priority apply to both adequate protection payments and the equal payments required by § 1325(a)(5)(B)(ii)? My concern arises from *In re DeSardi*, 340 B.R. 790 (Bankr. S.D. Tex. 2006), which holds that "equal payments" does not mean equal from the time the plan commences but only once equal payments start to be made. The plan should make clear that § 1325(a)(5)(B)(ii) applies to all payments on secured debt.

**Comment BK-2013-0001-0028—Michael D. Clark (Chapter 13 Trustee, C.D. Ill.):** The order of payments should be determined by the Code and not the debtor.

**Comment BK-2013-0001-0034—Dana Milby (Attorney, Wichita, Kan.):** Part 7 is overcomplicated and does not comply with the priority required by the Code.

**Comment BK-2013-0001-0035—Robert G. Drummond (Chapter 13 Trustee, D. Mont.):** The order of distributions suggests that secured creditors will be paid first. If the debtor's attorney is not paid up front, many attorneys will discontinue their chapter 13 practice.

**Comment BK-2013-0001-0038—William Bonney (Chapter 13 Trustee, E.D. Okla.):** Part 7 should be left blank. In the alternative, the order should be listed as follows:

- a. Trustee's fees.
- b. Monthly post-petition ongoing payments on claims provided for under § 3.1.
- c. Monthly payments on claims provided for under §§ 3.2, 3.3, 3.4, and 6.1.
- d. Monthly post- petition ongoing payments on claims provided for under § 5.1.

- e. Monthly payments on claims provided for under § 5.2.
- f. Monthly payments on the pre-petition arrearage portion of claims provided for under §§ 3.1 and 6.1.
- g. Monthly payments on the post-petition arrearage portion of claims provided for under §§ 3.1, 5.1 and 6.1.
- h. Pro rata payments on the arrearage portion of claims provided for under § 5.1.
- i. Pro rata payments on claims provided for under § 4.3.
- j. Pro rata payments on claims provided for under § 4.4.
- k. Pro rata payments on claims provided for under § 4.5.
- l. Pro rata payments on claims provided for under § 5.3 and any interest thereon under § 5.4.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The trustee distributes funds in accordance with Code § 507(a). Debtors’ attorneys or pro se debtors should not be able to tell the trustee the order in which to distribute funds.

If the debtor were to propose paying a credit card debt first, or if the debtor’s attorney were to propose paying attorney’s fees first, Part 7 will conflict with § 5.3, which provides that unsecured creditors will be paid pro rata.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** Part 7 should not dictate that secured claims are to be paid second. The debtor should be allowed to propose any order of payments permitted by the Code, including, among many other possibilities: (i) payment of administrative expenses, such as attorney’s fees, before other claims, as provided by Code § 1326(b)(1); (ii) payment of domestic support obligations before secured claims; (iii) payment of adequate protection on secured claims; and (iv) payments to cure a default on an assumed unexpired lease.

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** Leave this section blank.

**Comment BK-2013-0001-0049—Anne V. Kealing (Attorney, Edina, MN):** Leave this section blank.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:**  
Delete this section.

The form should include some provision discussing how filing fees are paid (e.g., directly by the debtor in installments, in a lump sum, through the plan, etc.).

**Comment BK-2013-0001-0054—David Kestner:** Part 7’s order of distribution should not delay payments on counsel fees and DSO payments to benefit secured creditors.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Leave this section blank.

**Comment BK-2013-0001-0061—Juliane Lore (Attorney, Mont.):** Remove this section.

**Comment BK-2013-0001-0062—Keith Welch (Attorney, Shreveport, La.):**  
We agree with NACBA's comments.

**Comment BK-2013-0001-0066—Edward Claxton:** The trustee, and not the debtor, should determine these payments.

**Comment BK-2013-0001-0068—Nancy Whaley (Chapter 13 Trustee, N.D. Ga.):**  
Leave this section blank.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):**  
Remove this section.  
It appears to make a conduit plan mandatory.  
Leaving the rest of the order of distribution blank invites mischief.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):**  
Remove this section.  
Payment of all secured claims prior to attorney's fees will harm chapter 13 practice. Code § 1322(b)(4) allows debtors to make payments on unsecured claims such as attorney's fees concurrently with payments on secured claims. The order of distribution should be governed by local practice.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** This section conflicts with the Code.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** The payment order should be more flexible. Claims are often paid concurrently on a pro rata basis.  
The section should specify whether the trustee's fees include solely the trustee's fees (and not administrative and priority claims).

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** Prohibiting distribution of attorney's fees in initial payments by the trustee will discourage representation.  
Domestic support obligation arrearage payments should be first in the priority of distribution.

**Comment BK-2013-0001-0085—Judge Roger Efremsky (Bankr. N.D. Cal.), on behalf of six judges of the bankruptcy court:** This part should not be left for debtors to fill out.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** This part should not be left to debtors to complete.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** Debtors should be permitted to propose the order of payments. The form should not take a position on the order of payment.

**Comment BK-2013-0001-0096—Nik Geranios:** I agree with NACBA's comments.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:**

This part should be more specific. Do not leave it to debtors. Include a default order of distribution that controls absent nonstandard provisions.

**Comment BK-2013-0001-0098—Henry Hildebrand, III (Chapter 13 Trustee, M.D. Tenn.):** Remove this Part. Instruct debtors that distributions will be made by the trustee.

**Comment BK-2013-0001-0099—Chief Judge David S. Kennedy (Bankr. W.D. Tenn.), on behalf of four of five judges of the court:** Debtors should not be able to decide the order of distribution without reference to the Code.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Debtors should not be able to decide the order of distribution. This is governed by the Code.

**Comment BK-2013-0001-0109—Devin Derham-Burk (Chapter 13 Trustee, N.D. Cal. (San Jose Division)):** Debtors should not be able to decide the order of distribution.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** The debtor should propose the order of distribution. Do not designate the trustee's fee as a payment, because it is not a claim.

**Comment BK-2013-0001-0117—Chief Judge Mary P. Gorman (Bankr. C.D. Ill.):** This Part does not account for Code § 1322(b)(4), which permits concurrent payments on secured and unsecured claims.

**Comment BK-2013-0001-0119—Kathleen Horne (Attorney, Savannah, Ga.), on behalf of the Bankruptcy Lawyers Advisory Committee of the Bankruptcy Court for the S.D. Ga.:** This Part will lead to litigation.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** This Part improperly limits the debtor's ability to direct the application of payments. An aggrieved party can always object.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass'n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass'n for the D. Md.:** This Part is unnecessary and will require multiple plan amendments.

**Comment BK-2013-0001-0123—Randall Smith:** This order of payments is not required by the Code and contravenes local practice in my district.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** The Code, and not the debtor, controls the order of distributions.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** The language “monthly payments on secured claims” is confusing. Does it mean payment on arrearages before distributions for administrative expenses? Or does it mean adequate protection payments?

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** This Part should be titled “Order of Distribution of Payments Made by Trustee.”

The form should propose a default order of distributions.

**Comment BK-2013-0001-0137—Phillip Oliver (Attorney, Mont.):** The form appears to provide that attorneys will no longer be paid ahead of other claims. That will be a problem if the debtor fails to complete the plan.

**Comment BK-2013-0001-0139—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** Leave this Part blank for the debtor to complete.

**Comment BK-2013-0001-0140—Penelope Souhrada:** Debtors and trustees should determine the order in which claims are paid.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Remove Part 7. Debtors should not be able to determine their own order of distribution.

The phrase “monthly payments on secured claims” is unclear. Does it include mortgage arrears that are not entitled to priority under § 1325(a)(5)?

Part 7 appears to overrule *In re DeSardi*, 340 B.R. 790 (Bankr. S.D. Tex. 2006), on the question of attorney’s fee payments.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove this part. Distributions should be left to the trustee.

**Comment BK-2013-0001-0146—Greg Arnov:** The order of payment listed in this Part is not required by Code § 1324(b)(4). The debtor should be able to propose concurrent payments of different categories of claims.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** The order of distribution effectively subordinates attorney’s fees.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** The trustee and not the debtor should set the order of distribution.

*Part 8: Vesting of Property of the Estate*

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** Our plan provides for vesting at discharge but gives the debtor the choice to vest at confirmation or some other time. Putting “at confirmation” as the first option will lead debtors to believe it is the best option, even though for most debtors it is not.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Debtors should not be able to choose when property of the estate reverts. It will create confusion. If property does not revert at confirmation, the trustee bears the risk of loss if the property is not insured.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** Debtors should not be able to choose when property of the state reverts. This is contrary to our local rules.

If property reverts at confirmation, debtors may liquidate it without court approval. Upon a conversion to chapter 7, this would prevent a chapter 7 trustee from liquidating assets.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** Do not give debtors the option to retain property in the bankruptcy estate by merely checking a box. Under Code § 1327(b), reversion at confirmation is the default rule, and a court should determine if the debtor has a valid reason for changing the default. We are concerned that debtors will elect to keep property in the bankruptcy estate so that the automatic stay immunizes them from postpetition creditors, including the IRS.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** This part (or the Bankruptcy Rules) should include a default provision for reversion of property of the estate that clarifies what reversion means. Does reversion mean all new wages are the debtor’s money?

**Comment BK-2013-0001-0099—Chief Judge David S. Kennedy (Bankr. W.D. Tenn.), on behalf of four of five judges of the court:** Debtors should not have discretion as to when property of the estate will revert. In our district, property reverts only upon discharge, and our trustees would object to a plan that proposed otherwise.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** The debtor should be able to check more than one box. The debtor may wish to revert certain property upon confirmation and other property upon the close of the case.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** The vesting provisions are a trap for the unwary. It raises questions about the applicability of the automatic stay.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass’n:** Change the revesting language from “closing of the case” to “discharge.” Case closing is an administrative act by the clerk that has nothing to do with vesting.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** The time at which property reverts should be left to local control.

The word “applicable” is misspelled.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Part 8 should be eliminated or made optional. We revest when plan payments are completed. The plan form is contrary to that.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** There should be a preferred, uniform provision for vesting of property of the estate.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** Allow for vesting of property of the estate in an entity other than the debtor, as permitted in Code § 1322(b)(9).

#### *Part 9: Nonstandard Plan Provisions*

**Comment BK-2013-0001-0006—Jan Hamilton (Chapter 13 Trustee, D. Kan.):** In Kansas, we have extensive procedures for dealing with real property mortgages. Would we be able to plug all of our existing form plan language into the non-standard provisions part?

One place for a hodgepodge of non-standard provisions seems counter to the apparent goals of a national plan.

**Comment BK-2013-0001-0049—Anne V. Kealing (Attorney, Edina, MN):** There should be space for non-standard provisions at the end of each part of the plan, as with the Kansas model plan. This approach will avoid ambiguities that occur when all provisions are thrown together in one place.

**Comment BK-2013-0001-0051—Chief Judge Robert E. Nugent (K. Kan.), on behalf of the bankruptcy judges of the District of Kansas:** In our plan, non-standard provisions are included at the end of each discrete part. This is more clear for creditors and other parties in interest. At a minimum, the debtor should indicate which section of the form is being altered.

Also, does Part 9 permit a district to require that all debtors include language regarding conduit mortgage payments?

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend stylistic changes.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** I doubt that failure to check the box in Part 1 will invalidate this section.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** This Part is necessary for counsel to make adjustments and revisions consistent with local practice.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** Neither Part 9 nor proposed Rule 3015 contains any limitation on what may be included as a nonstandard provision. We are concerned that courts or trustees may encourage the use of provisions that undermine the uniformity sought by adoption of an Official Form.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** How many provisions can be added or modified in this section?

#### *Part 10: Signatures*

**Comment BK-2013-0001-0012—Annette Crawford (Chapter 13 Trustee, M.D. La.):** Debtors should have to sign the plan whether or not they have counsel. They can plead ignorance if they do not have to sign. The debtor’s signature also protects the debtor’s attorney.

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** The debtor’s signature should be mandatory. Otherwise, the plan will have no evidentiary value. Signing the plan shows that the debtor has knowledge of the treatment of creditors’ claims. It is also protects the debtor’s counsel.

Where the plan is being used to impair or avoid a lien or to value collateral, there will be no evidence to support the valuation of collateral. Having the debtor sign under penalty of perjury will ensure that the court has the evidence it needs to confirm the plan.

**Comment BK-2013-0001-0035—Robert G. Drummond (Chapter 13 Trustee, D. Mont.):** In addition to the signature lines, it would be helpful to require an email address as well.

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** The debtors should be required to sign the plan.

**Comment BK-2013-0001-0041—Robert E. Hyman (Chapter 13 Trustee, E.D. Va.):** All debtors should be required to sign the plan. When debtors question the amount of their plan payments, I can refer them to their signature on the plan. Most attorneys will want their clients to sign the plan as protection from a debtor’s later denial of knowledge of the plan’s terms.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend using the phrase “attorney for the debtor(s)” rather than “debtor’s attorney” and “debtors’ attorney.” The attorney’s certification should be rephrased to reflect stylistic changes.



**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** The debtors should be required to sign the plan.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** The debtors should be required to sign the plan. The signatures should be under penalty of perjury.

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** The debtors should be required to sign the plan. The signatures should be under penalty of perjury.

The debtor's attorney (or the debtor, if pro se) should certify that any nonstandard provisions do not violate the Code or Bankruptcy Rules.

**Comment BK-2013-0001-0087—Anonymous:** The debtors should be required to sign the plan.

**Comment BK-2013-0001-0090—Nancy Spencer Grigsby (Chapter 13 Trustee, Bankr. D. Md.) on behalf of the standing trustees for the D. Md.:** The debtors should be required to sign the plan. This is required by our local rules.

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** The debtors should be required to sign the plan.

Add a certification in the signature box that the amounts and values listed in the plan are grounded in fact and accurate to the best of the debtor's knowledge.

**Comment BK-2013-0001-0132—Tracy Updike (Attorney, Pa.), on behalf of the M.D. Pa. Bankruptcy Bar Ass'n:** The debtors should be required to sign the plan. They should verify its correctness and their intent to comply with it. Not having their signature deprives the plan of evidentiary value and exposes the attorney to liability.

**Comment BK-2013-0001-0134—Marlene Martel (Attorney), on behalf of Ford Motor Credit Company:** The debtors should be required to sign the plan. The debtors should certify under penalty of perjury that the contents are true and correct.

**Comment BK-2013-0001-0136—Rick A. Yarnall (Chapter 13 Trustee, D. Nev.):** Include space for the signer's address and telephone number as required by Rule 9011(a).

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass'n:** See comments of Cynthia T. Lawson.

#### *Exhibits A and B*

**Comment BK-2013-0001-0039—Cynthia T. Lawson (Attorney, Knoxville, Tenn.):** Exhibit B serves no apparent purpose other than a quick review by an interested party who does not want to review the debtor's entire filing. The numbers and sums in Exhibit B will be estimates, and there are bound to be arithmetic errors. Also, plan payments may be a lot more than the bottom number in Exhibit B (as is the case in the E.D. Tenn.).

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** Lines (c) and (e) of Exhibit A should more closely track the statutory language.

Line (c) should read: “Amount of exemption debtor could claim if there were no liens on the property.”

Line (e) should read: “Value the debtor’s interest in the property would have in the absence of any liens.”

**Comment BK-2013-0001-0047—Keith A. Rodriguez (Chapter 13 Trustee, W.D. La.):** No party in interest needs this information to be laid out in an exhibit. Remove Exhibit B.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

For Exhibit A, it should be made clear that additional pages should be submitted if the debtor seeks to avoid multiple liens. Also, the form does not provide for a single lien on multiple properties. We recommend stylistic changes.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Exhibit B is unnecessary and burdensome. Ongoing payments and arrearage payments on secured claims should not be combined. Allowed secured claims and secured claims not subject to § 506 should be paid at the same level.

**Comment BK-2013-0001-0080—Judge John E. Waites (Bankr. D.S.C.):** Provide for avoidance of multiple liens on the same collateral.

Consider circumstances of nondebtor co-owners’ interests in property subject to judicial lien avoidance.

**Comment BK-2013-0001-0122—Lisa Tancredi (Attorney, Md.), on behalf of Md. State Bar Ass’n, Consumer Bankruptcy Section, and Bankruptcy Bar Ass’n for the D. Md.:** In Exhibit A, part c of the calculation should be replaced with “Value of available or applicable exemptions.” Exemptions do not need to be claimed.

Omit Exhibit B. It is too complicated and unlikely to be completed properly.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** Exhibit B is not necessary or helpful.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Remove both exhibits. They add complexity to the preparation of a plan.

**Comment BK-2013-0001-0149—Cynthia R. Wyrick (Attorney, Tenn.), on behalf of the Tennessee Bar Ass’n:** See comments of Cynthia T. Lawson.

## Comments on the Amended Rules

### *Rule 2002*

**Comment BK-2013-0001-0027—Shmuel Klein (Attorney):** Rule 2002 and Rule 3015(f) should require the same 28-day notice to debtor and debtor’s counsel.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA supports setting a deadline in Rule 2002 for objections to confirmation of a chapter 13 plan. In some districts, objections can be raised for the first time at the confirmation hearing, which causes delay. The proposed deadline allows sufficient time for the debtor to respond to or attempt to resolve objections.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** The judges of the D. Md. believe that 21 days’ notice is sufficient for a hearing on confirmation.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Stylistic suggestion.

**Comment BK-2013-0001-0129—Beverly M. Burden (Chapter 13 Trustee, E.D. Ky.):** See comment under Rule 3015.

### *Rule 3002*

**Comment BK-2013-0001-0004—David Peterson:** The amendment to Rule 3002(a) adds the sentence: “A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.” This is substantive and not procedural. It is an incomplete statement of the law and may create confusion in chapter 11 cases. Under § 1141, a lien can be modified by a plan in chapter 11, the secured debt can be discharged, and the collateral revested in the debtor free and clear of any liens or claims except as stated in the plan or confirmation order. Perhaps the amendment means that the mere failure to file the claim (as opposed to plan confirmation and § 1141) does not void the lien, but the verbiage may create confusion without further elaboration, even though it apparently seeks to restate the substance of § 506(d).

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACTT:**

- Shortening the claims filing period will be helpful, but mortgage servicers will ask for, and probably be granted, additional time to file their claims and attachments.
- The amended rule would give mortgage creditors longer than the filing period under the current rule to file a proof of claim with supporting documents. The rule does not provide for sanctions for non-compliance by mortgage creditors. Delay with respect to supporting documents will mean delay in confirmation and

delay in commencement of payment to creditors. In addition, the trustee will need to check for claims twice as often—once at the bar date, and then again for supporting documents.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** It is important to require secured creditors to file a proof of claim. The 60-day deadline, however, is too optimistic and may be burdensome. A 90-day deadline is more realistic.

**Comment BK-2013-0001-0018—Richard Thompson (Attorney):** Secured creditors should not have to file a proof of claim in order to have an allowed claim as proposed in amended Rule 3002(a). This goes against hundreds of years of bankruptcy practice. It also raises a due process issue, because the secured creditor is placed in an untenable position—either file a claim and submit to the court’s jurisdiction, or risk having the lien stripped or avoided without the opportunity to dispute it.

**Comment BK-2013-0001-0024—Rod Danielson (Chapter 13 Trustee, C.D. Cal.), on behalf of the five chapter 13 trustees of the C.D. Cal.:** The proposed 60-day filing deadline in amended Rule 3002(c) for nongovernmental claims may complicate the scheduling of § 341 meetings in some jurisdictions. The proposed amendment is intended to permit the confirmation hearing to occur after the claims filing period. In jurisdictions where the § 341 meeting is held on the same day as the confirmation hearing, however, that will be difficult to arrange, because Rule 2003(a) requires the § 341 meeting in chapter 13 cases to be held earlier than the proposed bar date (less than 21 and not more than 50 days after the order for relief). Rule 2003(a) should be amended either to allow a later date for the § 341 meeting (e.g., within 75 days of the date the petition is filed) or to retain the current timing for the meeting but include “unless otherwise ordered by the court” or similar words.

**Comment BK-2013-0001-0027—Shmuel Klein (Attorney):** Rule 3002 must identify whether the secured claim will be paid inside or outside the plan. Tax creditors must identify which portion of the claim is secured, general unsecured, or priority, or else the claim will be treated as unsecured. All claims must include actual true copies of supporting documentation and not summaries. There must be some safe-guarding against “robo-signed” proofs of claims.

To allow Rules 3012, 3015, 4003, and 5009 to have real effect, the treatment of the filed claim would shift the presumption of the claim stated in 3002 and allow treatment under the plan different from the amount stated in the claim.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA supports requiring a secured creditor to file a proof of claim. We also support shortening the deadline for filing proofs of claim.

We question why mortgage creditors are given additional time to file supporting documents for the claim. The proof of claim should not be filed unless those documents have been reviewed beforehand.

The last sentence of the Committee Note should be clarified. It could be read to raise a negative implication that objections to proofs of claim other than those covered by subdivision

(c)(7)(B) [the provision for mortgage claims] cannot be filed after confirmation. The Bankruptcy Rules do not contain a deadline for objecting to proofs of claim, and in many cases confirmation does not preclude objections to a proof of claim after confirmation.

**Comment BK-2013-0001-0055—Larry Foyle (Attorney, Tampa, Fla.):** I am concerned about the sea change with respect to secured creditors. Making the filing of a claim mandatory and subject to a 60-day bar date is a new concept. Whatever happened to liens passing through bankruptcy?

**Comment BK-2013-0001-0056—Scott Ford, on behalf of the Bankruptcy Clerks Advisory Group:** The proposed language in Rule 3002(a) regarding liens (“A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim”) should be reworded to state: “The failure of any entity to file a proof of claim does not void a lien that secures a claim against the debtor.”

In Rule 3002(c), the language for measuring the time for filing the proof of claim should be consistent. The first part of Rule 3002(c) measures that time from the “date the petition is filed or the date of the order of conversion,” while Rule 3002(c)(7)(A)-(B) looks to when “the order for relief is entered.” While the language has the same meaning, it should be uniform for clarity.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** Requiring secured creditors to file and shortening the deadline to file claims are improvements. But the language of Rule 3002(c)(7)(B) is a mistake. There is no reason to delay producing the documents supporting the creditors’ claims. All supporting documents should be required within 60 days, or the rule should be kept as it is.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

The NCBJ supports requiring secured creditors to file proofs of claim in Rule 3002(a). But we suggest the deletion of the last sentence (“A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.”). It is a statement of substantive law and has no place in the rules. It also duplicates § 506(d)(2) of the Code and is unnecessary.

We also support the 60-day bar date in amended Rule 3002(c). Some judges have expressed reservations about the shortened bar date, but we do not believe it will be the cause of serious concerns. We note, however, that amended Rule 3002(c) uses inconsistent terminology—referring to the “order for relief” at some places and the “petition” in others. These should be made consistent by using “order for relief.”

Subparagraphs (c)(6)(A) and (B) do not make clear whether they provide the exclusive bases for granting extensions. If so, the word “only” should be added after “granted.” Historically, the grounds for permitting extensions have been limited.

We question why a special exception has been created for mortgage creditors in subparagraph (c)(7). It would be better to set a single, longer filing period for these creditors rather than separate periods for different parts of a single proof of claim.

**Comment BK-2013-0001-0060—Chief Judge Eric Frank (Bankr. E.D. Pa.):** I endorse the NCBJ’s comments, except with respect to Rule 3002. Proposed Rule 3002(c) goes too far. If notice of the § 341 meeting is not sent until the 39th day, the creditor would have 19 days (assuming 2 days for mail) to file a proof of claim. This is a draconian and unnecessary reduction. The 90-day deadline should be retained, or the deadline could be shortened to 60 days or 45 days but continue to run from the § 341 meeting.

**Comment BK-2013-0001-0074—Chief Judge Laura K. Grandy (Bankr. S.D. Ill.):** Rule 3002(c)(7) will be inefficient and confusing, and it will delay confirmation.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** The judges of the D. Md. support this amendment, but would condition it on the debtor’s timely filing of a list of creditors.

**Comment BK-2013-0001-0077—Han Lee (Attorney):** Would the new deadline for filing proofs of claim under Rule 3002(c) apply to all pending cases on the effective date or only cases filed thereafter?

**Comment BK-2013-0001-0078—Sheryl Ith (Attorney, Costa Mesa, Cal.):** Rule 3002(a) refers to the “lien that secures a claim against the debtor.” It should be “against the property of the debtor.”

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** Delete the word “only” in the new sentence in Rule 3002(a). It is unnecessary and implies that a plan can void the lien of a secured creditor that does not file a claim for reasons other than for not filing a claim.

Rule 3002(a) should clarify that a creditor’s right of setoff will also not be void due to the failure to file a claim.

Rule 3002(a) should not be limited to creditors with claims against the debtor. A creditor need only have a claim against the debtor’s property in order to have a claim.

We suggest three changes to Rule 3002(c). First, the “except as follows” clause as written would apply only to involuntary cases and should therefore be corrected. Second, instead of requiring a motion to file an untimely claim, the time to file should be extended automatically when a debtor fails to file the creditor list as required. Third, a new exception (subparagraph (9)) should be added to deal with the problem of untimely notice to creditors in chapter 12 and chapter 13 cases.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States’ Association of Bankruptcy Attorneys:** Rather than separately listing secured and unsecured creditors, the rule should say a “creditor” must file a claim. The new sentence of Rule 3002(a) (“A lien that secures . . .”) should include the following language at the end: “or to file such proof of claim in the time prescribed under these Rules.”

In Rule 3002(c), we are concerned about the shorter bar date. Also, the provision in (c)(6) for extending the date to file claims by 60 days should cover all scenarios—(i) where the debtor fails to file the list; (ii) omits the creditor(s); (iii) lists the creditors(s) with an incorrect address. In addition, how is a court to determine a “reasonable time to file a proof of claim”? A

60-day period should be provided instead, or an excusable neglect standard should be included. In the alternative, chapter 13 could be included in Rule 3003. In any event, the rule should address amending a claim after the bar date.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** The proposed bar date is too short. Subparagraph (c)(6) should be broadened to give courts authority to extend the bar date at the request of any party in interest, after notice a hearing, upon reasonable grounds.

**Comment BK-2013-0001-0111—Judge Elizabeth W. Magner (Bankr., E.D. La.):** I thank the Rules Committee for its work on these proposals.

The shorter bar date is not practical for secured lenders and will result in significant numbers of late-filed claims. These creditors will “ride out” the case rather than attempt to file an untimely claim that will be disallowed.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** Rule 3002(c)(6) does not address the claim of creditors who are not timely scheduled by the debtor. We suggest that the rule provide a bar date that is 60 days from the date the creditor is scheduled. The proposed rule appears to require the court to make factual findings, which will deter parties from agreeing to an extension of time.

**Comment BK-2013-0001-0118—Alberta E. Hultman, on behalf of USFN:** We are an association of law firms and trustee companies specializing in mortgage servicing matters.

The shortened bar date increases burdens on mortgage creditors, who already must comply with requirements imposed by the CFPB and national mortgage settlements.

The bifurcated bar date under Rule 3002(c) creates a conflict. Executing and signing a proof of claim, as the amended rule would permit, without reviewing supporting documentation raises concerns under Rule 9011. The amended rule would also tax trustee staff and debtors’ attorneys by requiring review of claims at two points.

We recommend a bar date of 90-days after the petition date, with no bifurcation.

The proposed rule could be read to require proofs of claim in no-asset chapter 7 cases. This should be clarified.

Rule 3002(a) should be clarified so that, where a secured claim rides through the bankruptcy, the amount set forth in the plan is binding only as to plan distribution and not as to the actual amount owing for lien enforcement purposes at the time of discharge.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** We are the nation’s four largest mortgage servicers and are signatories to the national mortgage settlement. We support the goals of the Advisory Committee.

We do not oppose amended Rule 3002(a). But the rule should be clarified in two respects. First, it is ambiguous as to the effect of a secured creditor’s failure to file a proof of claim on that creditor’s ability to credit bid. Because § 363(k) protects the right to credit bid of a creditor with an “allowed claim,” the amended rule should be clarified so that the right to credit bid is preserved. Second, the rule or the Committee Note should make clear that the obligation

of a secured creditor to file a proof of claim applies even in cases where the debtor intends to surrender the property.

We have three concerns about Rule 3002(c). First, completing Attachment A to the proof of claim form can be time consuming and frequently requires more than 60 days. Bifurcation of the process could give rise to new disputes with respect to proofs of claim, such as the sufficiency of a secured creditor's due diligence with respect to the initial filing. Rule 3001(c)(2)(C) should be amended. Second, the proposed amendment might be read to limit secured creditors' rights to otherwise amend or supplement proofs of claim outside the additional 60 day period. The rule should be clarified to state that it is a safe harbor but does not alter any rights of creditors to amend or supplement thereafter. Third, the shorter bar date applies to chapter 7 cases as well, and we would be required to file proofs of claim promptly even in no asset chapter 7 cases when we do not do so now.

**Comment BK-2013-0001-0133—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** The bifurcated bar date will require parties to check for claims on two dates. Keep one bar date at 90 days.

Section 9 [*sic*] of Rule 3002 will require secured creditors to object to confirmation. The proof of claim should control.

**Comment BK-2013-0001-0140—Penelope Souhrada:** I agree with the comments of NACBA and the NCBJ.

The new sentence in Rule 3002(a) (“A lien that secures a claim against the debtor is not void . . .”) is awkward and should be reworded.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Proposed Rule 3002(c)'s bar date is too short. The new 60-day deadline is also inconsistent with the 90-day notice under Rule 3002(c)(5). Leave the deadline unchanged.

Proposed Rule 3002(c)(6) does not address the creditor whose name and address were not included on the list of creditors or were erroneously listed. It also does not address a creditor who received notice only a short time before the bar date.

**Comment BK-2013-0001-0145—John McMickle, on behalf of eCast:** We are a subsidiary of JPMorgan Chase & Co. that is in the market for purchasing and selling chapter 13 accounts.

The shorter bar date in Rule 3002(c) will make it difficult for some creditors to conduct quality assessments before filing proofs of claim. This will interfere with the market for the transfer of claims.

Instead of a shorter bar date, the Bankruptcy Rules should specify that § 1324(b) permits a court to hold a hearing on confirmation and issue a preliminary and conditional order of confirmation that gives creditors additional time to submit proofs of claim. This would resemble the bifurcated deadline for mortgage claims.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I support the amendments to Rule 3002(a) and Rule 3002(c). There could be mention of the time period for debtors to file proofs of claim for secured creditors who fail to do so as provided by Code § 501(c).



**Comment BK-2013-0001-0151—Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy Trustees:** NABT supports the proposed change to Rule 3002(a). We also support shortening the bar date. But we are concerned that the shorter bar date will conflict with Rule 2002(e) and the provision that proofs of claim in chapter 7 cases need not be filed until such time as the trustee files a notice of assets.

We agree with the comments of the Bankruptcy Clerks Advisory Group regarding the consistency between paragraphs (c) and (c)(7)(A)-(B).

**Comment BK-2013-0001-0153—James M. Davis (Attorney, Nashville, Tenn.):** I support proposed Rule 3002(a), which ratifies existing law. But I suggest that the rule include an authorization for courts to impose sanctions like those under Rules 3001(c)(2)(D) and 3002.1.

Rule 3002(c)(6)(A) is ambiguous when the debtor timely files the list of creditors but omits a creditor. The rule should be reworded to address the debtor's failure to file a timely list of creditors "that complies with Rule 1007(a)."

### *Rule 3007*

**Comment BK-2013-0001-0056—Scott Ford, on behalf of the Bankruptcy Clerks Advisory Group:** The language of the Committee Note ("Subdivision (a) is amended to provide that an objection to a claim is unnecessary if the determination of the amount of the claim is made through a chapter 12 or chapter 13 plan in accordance with Rule 3012") is more clear than the proposed text of the rule itself. The Committee Note's language should be used instead.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** This rule change conflicts with Fourth Circuit law.

**Comment BK-2013-0001-0082—Judge Karen K. Brown (Bankr. S.D. Tex.):** I agree with the comments of the judges of the S.D. Tex. In addition, proposed Rules 3007, 3012, and 3015, together with proposed Official Form 113, violate the Bankruptcy Code and binding precedent. They eliminate the statutory requirement of a claim objection and alter the evidentiary effects and burdens regarding a proof of claim. They also confuse collateral valuation under § 506 with claim allowance and disallowance under § 502.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** The amended rule should settle the conflict over proper service upon the Federal Government by requiring broader service upon officials consistent with Rule 7004.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** The language of Rule 3007(a) should be clarified to say that the determination under Rule 3012 only goes to valuation of the secured portion of a claim. The rule is unclear as to the connection between the objection process and plan confirmation. If the plan does not mention an objection to the claim, would that plan not be binding, and if so, how could a rule override it?

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** We support the changes to Rule 3007 and Rule 3012. They will simplify chapter 13 practice.

But we see no reason for an exception for governmental claims.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** See comment under Rule 3012.

**Comment BK-2013-0001-0129—Beverly M. Burden (Chapter 13 Trustee, E.D. Ky.):** See comment under Rule 3012.

If a request for valuation requires Rule 7004 service, then a claim objection should also require Rule 7004 service.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** See comments under Rule 3012.

**Comment BK-2013-0001-0151—Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy Trustees:** We are concerned about the interplay between Rules 3007 and 3012. In the event of conversion from chapter 12 or 13 to chapter 7, will the trustee be precluded from challenging lien validity?

**Comment BK-2013-0001-0161<sup>2</sup>—Diana D. Herman (Attorney, San Francisco, Cal.), on behalf of Insolvency Law Committee, State Bar of California Business Law Section:**

See comments under Rule 3012 and 3015.

### *Rule 3012*

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA strongly supports the option to include determination of allowed secured claim values as part of the chapter 13 plan confirmation process.

Nevertheless, there is no reason to carve out an exception for governmental units. The determination of property value does not require a proof of claim to be filed, so the extended deadline for government proofs of claim should be irrelevant. The exception for governmental units may delay confirmation (and payments to creditors) in many cases where a governmental unit's allowed secured claim is relevant to feasibility or other plan confirmation standards.

**Comment BK-2013-0001-0043—Dan Melchi (Attorney, Alpharetta, Ga.):** The proposed amendments to Rules 3012 and 3015 are unconstitutional. In combination with § 3.2

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<sup>2</sup> This comment was submitted after the close of the public comment period.

of the plan form, they violate the Fifth Amendment by depriving creditors of due process and by taking their property without compensation. When a creditor files a secured proof of claim, that creditor is presumed to be a secured creditor until proven otherwise by the debtor or another party in interest. *See* Bankruptcy Rule 3001(f). A creditor has the right to know before a confirmation hearing whether it is secured or unsecured—the arguments the creditor may wish to make in the case depend on knowing that status. The Advisory Committee’s proposed changes mean that a secured creditor will not know whether it is secured or unsecured before confirmation. If a debtor wishes to strip a lien, then notice and a separate valuation hearing should be required so that a creditor receives a ruling from the court prior to confirmation.

**Comment BK-2013-0001-0056—Scott Ford, on behalf of the Bankruptcy Clerks Advisory Group:** The proposed amendment to Rule 3012(a) separates the phrase “after notice and a hearing” in a manner that is not typical. Because this phrase is defined in Code § 102, we suggest that the proposed amendment be modified so that the phrase is kept together.

Regarding Rule 3012(b), we concur with the comments [about Rule 3015] of Matthew Loughney on behalf of the Bankruptcy Noticing Working Group. The rules should clarify that the debtor is responsible for determining whether Rule 3012 is applicable and whether service is required.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** More clarification is needed as to whether a wholly unsecured second mortgage lien could be stripped through the plan, because there is no reference to § 1322.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

We support a change in the rule that permits valuation of secured claims to be combine with objections to the claims themselves. We take no position on the proposed amendment, which permits secured claims to be valued as part of the plan confirmation process.

The proposed rule does not adequately address valuation of secured claims in chapter 11 cases. It addressed chapter 12 and chapter 13 cases but is silent as to chapter 11. It should state the proper procedure for valuing secured claims in chapter 11 cases.

We question the portion of subpart (b) authorizing the amount of a priority claim to be determined by motion or claim objection. That sentence should be clarified or deleted.

We support the requirement in subpart (b) that requests for valuation must be served pursuant to Rule 7004. But the Advisory Committee should consider clarifying the requirements for service in Rule 7004, particularly for circumstances when a creditor has participated in the case in some fashion before a request for valuation is made.

To clarify subpart (c), the word “only” should be inserted so that the amended rule describes the exclusive means and time for requesting a determination as to the amount of a secured claim of a governmental unit.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** I oppose the proposed changes to Rules 3012(b) and 4003(d). In order for a court to make a valuation decision, evidence is needed. But a chapter 13 plan is not evidence.

Also, the proposed rules incorporate Rule 7004 for service. That is burdensome and expensive.

**Comment BK-2013-0001-0082—Judge Karen K. Brown (Bankr. S.D. Tex.):** See comments under Rule 3007.

**Comment BK-2013-0001-0089—Scott W. Ford (Clerk, Bankr. N.D. Ala.):** this will place additional burdens on the clerk's office to review a plan for a request to determine the amount of secured and priority claims. The clerk's office may also have to send separate notices for the request in addition to the notice for the confirmation hearing.

**Comment BK-2013-0001-0092—Judge Arthur S. Weissbrodt (Bankr. N.D. Cal.):** I support the option to permit the determination of allowed secured claim values as part of the chapter 13 plan confirmation process. This procedure is accepted in chapter 11 practice. There are no due process issues. The proposal will save significant amounts of time and money by eliminating unnecessary motions. We have used this procedure very successfully in the San Jose Division of the N.D. Cal.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** We commend the provision of Rule 3012 with respect to governmental claims. But the rule does not prohibit a debtor from objecting to priority status for a governmental claim before the claim is filed. The proposed rule should be altered to do so.

Rule 3012 should address setoff rights by making clear that determinations of secured status in a plan cannot expunge setoff rights in light of § 553.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** When are determinations under Rule 3012 to be heard—before, after, or at confirmation? Greater clarification is needed regarding governmental priority claims.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** The exception for governmental units alters current practice and will delay distribution of funds to all creditors.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** See comment under Rule 3007.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** The revisions to Rules 3012, 3015(g), 4003, and 7001 are substantial changes from current law and limit the procedural protections now available in actions to strip off a lien. It is impractical to expect chapter 13 confirmation hearings to include a trial on matters of valuation without delaying the plan confirmation process. We oppose these changes.

If the Advisory Committee proceeds with these changes, however, the amendments to Rules 3007 and 3015 should be modified. They could be read to suggest that a determination under Rule 3012 eliminates the need to file an objection to the total amount of a claim filed by a creditor.

**Comment BK-2013-0001-0125—Judge Rebecca B. Connelly (Bankr. W.D. Va.):** The request to determine the amount of a secured claim under Rule 3012(b) should be served on either the holder of the claim or “the creditor subject to the request.” This change will reduce delays and costs associated with determining the holder of the claim.

**Comment BK-2013-0001-0129—Beverly M. Burden (Chapter 13 Trustee, E.D. Ky.):** I do not object to the national plan form and generally support the rules.

Rule 3012 should be altered to provide that a request for determination of the amount of a secured claim may be made in an objection to confirmation.

Service of the entire plan pursuant to Rule 7004 is not necessary. Rule 2002(g) service is sufficient for most valuation requests. Perhaps a \$0 valuation should require Rule 7004 service.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** I oppose the changes to Rule 3012. A governmental unit should not be treated differently in the confirmation process.

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Rule 3012 should be left unchanged, except for an amendment clarifying that valuation may be pursued by objection to a claim.

If Rule 3012 is not left unchanged, Rules 3007 and 3012(b) need to be changed to permit service of an objection via mail to the address on the proof of claim.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I do not object to requiring Rule 7004 service, but this change will require explanation and perhaps a proof of service form.

**Comment BK-2013-0001-0151—Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy Trustees:** See comments under Rule 3007.

**Comment BK-2013-0001-0154—David S. Yen (Attorney, Chicago, Ill.):** I oppose amended Rule 3012(b). The proposed change will harm priority creditors, especially those who are owed domestic support obligations.

**Comment BK-2013-0001-0161<sup>3</sup>—Diana D. Herman (Attorney, San Francisco, Cal.), on behalf of Insolvency Law Committee, State Bar of California Business Law Section:**

There are due process concerns with pursuing valuation and exemption-impairing-lien avoidance through a chapter 13 plan. The rules governing confirmation hearings in chapter 13 do not address service and notice as well as the rules governing motions and adversary proceedings.

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<sup>3</sup> This comment was submitted after the close of the public comment period.

### *Rules 3015 and 4003*

**Comment BK-2013-0001-0010—Judge Kay Woods (Bankr. N.D. Ohio):** Does Rule 4003(d), when taken together with amended Rule 7001, mean that only judicial liens in chapter 7 and chapter 11 cases can be avoided by motion? If so, then the first part of the first sentence of proposed Rule 4003(d)<sup>4</sup> is overly broad. What is the purpose of requiring Rule 7004 service to avoid a judicial lien with a chapter 12 or chapter 13 plan when a motion governed by Rule 9014 can be used to avoid a judicial lien in a chapter 7 or chapter 11 case?

**Comment BK-2013-0001-0011—Jon Waage (Chapter 13 Trustee, M.D. Fla.), on behalf of the NACCTT:**

The requirement [in Rule 3015(f)] that objections must be filed 7 days before the confirmation hearing presents a problem in jurisdictions where a plan is confirmed without a hearing unless an objection is filed. There would be no real deadline to file an objection to the plan in those jurisdictions. The rule should include an alternative deadline to file an objection if a plan is confirmed, absent objection, without a hearing.

**Comment BK-2013-0001-0013—Matthew T. Loughney (Clerk, M.D. Tenn.), on behalf of the Bankruptcy Noticing Working Group:** We support elimination of the requirement in Rule 3015(d) that the plan “shall be included with each notice of the hearing on confirmation mailed pursuant to Rule 2002.” But amended Rules 3015 and 4003 should be clarified regarding service of notice.

Rule 3015 should state that the responsibility for noticing a plan rests on the debtor, and that the responsibility for noticing a plan modification rests on the proponent of the modification. The proposed amendment to Rule 3015(d) (“the debtor shall serve the plan on the trustee and all creditors when it is filed with the court”) does not make clear if the plan would need to be served under Rule 7004 or otherwise. Proposed amendments to Rule 3012 and 4003 suggest that Rule 7004 service is necessary only when the debtor is seeking to determine the amount of a secured claim or seeking to avoid a lien or other transfer or exempt property under Code § 522(f). Rule 3015(d) should require that the debtor “give notice” of the plan instead of “serve” it, and the debtor should have the burden of determining whether Rules 3012 or Rule 4003 apply. The clerk should not be expected to review plan language to make that determination. Similarly, Rule 3015(h) states that a modification is to be “served . . . in the manner provided for service of the plan” in Rule 3015(d). But Rule 3015(d) does not set out a manner of service. Rule 3015(h)

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<sup>4</sup> The first sentence of proposed Rule 4003(d) provides: “A proceeding by the debtor to avoid a lien or other transfer of property exempt under § 522(f) of the Code shall be commenced by motion in the manner provided for by Rule 9014, or by a chapter 12 or 13 plan served in the manner provided by Rule 7004 for service of a summons and complaint.”

should be clarified to state: “The proponent of the modification shall give notice of the proposed modification, or a summary thereof, to the trustee and all creditors when it is filed with the court.”

The option to send a summary of the plan should be retained in Rule 3015(d). It is much less expensive to mail a summary than a multi-page plan. Perhaps a plan summary form could be developed in conjunction with the full plan form.

Rule 4003 should specify upon whom the plan is to be served, pursuant to Rule 7004, when the debtor is seeking to avoid a lien or other transfer of exempt property under Code § 522(f). Language such as the proposed amendment to Rule 3012 (which provides, “The request shall be served on the holder of the claim and any other entity the court designates in the manner provided for service of a summons and complaint by Rule 7004”) should be included in Rule 4003. This would clarify whether the plan must be served like a summons and complaint on all recipients or only on specified recipients.

**Comment BK-2013-0001-0014—K. Michael Fitzgerald (Chapter 13 Trustee, W.D. Wash.):** The plan allows debtors to fix the value of a secured creditor’s collateral and to avoid liens. The proposed rules require that a plan attempting to do so must be served in accordance with Rule 7004. Allowing the plan to trump a proof of claim causes more problems than the potential benefits. It will generate creditor objections. I question whether plans will be properly served and who will be responsible for monitoring service. That responsibility should not be delegated to the trustee, and judges and clerks do not have the time and resources to ensure service compliance.

**Comment BK-2013-0001-0030—Judge Diane Finkle (Bankr. D.R.I.):** Proper service on secured creditors is important when plans propose to modify a secured claim or avoid a judicial lien. Service on a creditor’s payment address may be ineffective, and Rule 7004(h) service on federal depository institutions may be inadequate because that rule was designed for service of a summons and complaint for litigation. Perhaps a new federal rule could be added to address these issues, or perhaps an additional service requirement can be added by way of an acknowledgment by the debtor in the plan as to the particular service method. [A local rule from D.R.I. that sets forth service requirements for chapter 13 plans is attached to the comment.]

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:**

There are serious problems with the amendment to Rule 3015(d). The changes to this subdivision would increase costs for chapter 13 debtors. First, the word “serve” should not be used, because it could lead courts to require service under Rule 7004. Second, requiring even the mailing of the entire chapter 13 plan to every creditor would impose an additional cost that is not currently required in most districts. Most large institutional creditors receive electronic notice through the Bankruptcy Noticing Center, which should be responsible for sending the plan electronically to all creditors that receive electronic notice. Third, insured depository institutions should be required to provide to the courts the names and addresses to be used for service under Rule 7004(h) in order to end the “gotcha” game of finding the right officer and address for service under that rule.

NACBA supports the changes to subdivisions (f) and (g).

Subdivision (h), which requires that the proposed modifications be served on all creditors if notice of modification does not include the modification, raises the same problems as requiring service of the plan in subdivision (d). The language of the amendment to subdivision (h) should be altered to require that the modification be “sent” (not “served”) with the notice in all cases, and sent electronically by the Bankruptcy Noticing Center when possible. Also, there is no reason to require notice to the trustee and creditors only when the debtor (as opposed to the trustee or an unsecured creditor) seeks a modification.

NACBA supports amending Rule 4003 to permit the option of effectuating lien avoidance under Code § 522(f) as part of the confirmation of a chapter 13 plan. But the rule and the Committee Note should be reworded to make clear that service under Rule 7004 is needed only with respect to the creditors whose liens are being avoided.

**Comment BK-2013-0001-0043—Dan Melchi (Attorney, Alpharetta, Ga.):** The proposed amendments to Rules 3012 and 3015 are unconstitutional. [This comment is described under Rule 3012.]

**Comment BK-2013-0001-0044—Judge Brian D. Lynch (Bankr. W.D. Wash.), on behalf of the bankruptcy judges of the district:** The proposed amendment to Rule 3015(c) (Form of Chapter 13 Plan) should not be adopted. It appears to bar changes to the form, and is too restrictive.

**Comment BK-2013-0001-0056—Scott Ford, on behalf of the Bankruptcy Clerks Advisory Group:** We concur with the comments of Matthew Loughney on behalf of the Bankruptcy Noticing Working Group. Rule 3015(d) should be clarified to state that it is the debtor’s responsibility to give notice of the plan. We also support the recommendation that the option to provide a summary of the plan be returned to the rule.

We also concur that Rule 3015(h) should make clear that the proponent of a modification is responsible for providing notice and for determining whether Rule 3012 or Rule 4003 apply.

We reiterate these concerns with respect to the proposed amendment to Rule 4003(d). Also, Rule 4003(d) does not specify who should be served. We agree with the Noticing Group’s comment that this should be clarified.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** The plan should not be mandatory.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:**

The second sentence of proposed Rule 3015(c) should be deleted. A declaration as to which plan provisions are “effective” is a declaration of substantive law, not procedure. This amendment is inconsistent with Code § 1327(a) and *Espinosa*. As an alternative, the amended rule should be re-written to avoid use of the word “effective.”

Subpart (d) should be altered to discuss explicitly service of an amended plan prior to confirmation.

Subpart (g) should be deleted. It prescribes the “effect” of confirmation and is therefore substantive and not procedural.



The proposed new language in subpart (h) should be deleted. It is unnecessary to amend a rule to impose a service requirement if the current service requirement is disobeyed.

**Comment BK-2013-0001-0063—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** Proposed Rule 3015(f) interferes with a bankruptcy judge’s ability under Code § 102 to issue promptly an order confirming the plan without a hearing when there are no objections filed within a fixed time after filing of the plan. The deadline for objecting to confirmation should not be based on the date of the confirmation hearing. If the hearing is set for a late date, this will cause delay in confirmation. The deadline should be 21 days after the filing of the notice of the time to object unless the court sets a longer deadline. [Alternative language is provided in the comment.]

**Comment BK-2013-0001-0065—Judge Terrence L. Michael (N.D. Okla.):** The proposed revisions to Rule 3015(c) exist solely to make the plan form mandatory and should be discarded in their entirety. The plan form should not be mandatory. I agree with the comments submitted by Judge Lamar W. Davis, Jr., Judge Jeffrey Bohm, the judges of the United States Bankruptcy Court for the District of Kansas, NACBA, and others.

**Comment BK-2013-0001-0071—Judge Dennis Montali (Bankr. N.D. Cal.):** I oppose the proposed changes to Rules 3012(b) and 4003(d). In order for a court to make a valuation decision, evidence is needed. But a chapter 13 plan is not evidence.

Also, the proposed rules incorporate Rule 7004 for service. That is burdensome and expensive.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** The judges of the D. Md. oppose proposed Rule 3015(c). The plan should not be mandatory. Also, Rule 3015(g) conflicts with 4th Circuit law.

With respect to proposed changes to Rule 4003, lien avoidance is better achieved by motion served under Rule 7004.

**Comment BK-2013-0001-0080—Judge John Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments. The language of proposed Rule 3015 regarding provisions deviating from the Official Form should be deleted. Amended plans that do not adversely affect creditors should require service only upon the trustee.

**Comment BK-2013-0001-0082—Judge Karen K. Brown (Bankr. S.D. Tex.):** See comments under Rule 3007.

Proposed Rule 3015(g) violates the Rules Enabling Act. It modifies substantive law because it is contrary to §§ 502(a) and 506.

**Comment BK-2013-0001-0085—Judge Roger Efremsky (Bankr. N.D. Cal.), on behalf of six judges of the bankruptcy court:** For reasons given by Judge Lamar W. Davis, Jr., we oppose Rules 3015(c) and 9009. The form should not be mandatory.

**Comment BK-2013-0001-0089—Scott W. Ford (Clerk, Bankr. N.D. Ala.):** We believe the current one-page plan in our district works well, and we are reluctant to support a national plan.

Rule 3015 should require the debtor and not the court to serve the plan.

Rule 4003 will place more work on the clerk's office to review the plan for a request to avoid a lien or other transfer of exempt property.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** Rule 3015(g) should be clarified so that a plan may not determine the amount of a governmental unit's secured claim in violation of Rule 3012(c). The phrase "Except as provided in Rule 3012(d)" should be added at the start of Rule 3012(g).

Rule 4003, together with § 3.4 of Official Form 113, does not specify what kinds of nonpurchase-money security interests are excluded. We are concerned that debtors may attempt improperly to avoid statutory liens, including tax liens. Clarification should be added to the Committee Note.

**Comment BK-2013-0001-0095—Nik Geranios:** I agree with comments submitted by NACBA regarding Rule 3015.

**Comment BK-2013-0001-0097—James Jacobsen, on behalf of the States' Association of Bankruptcy Attorneys:** Stylistic changes suggested for Rule 3015(a) and (b).

Clarifying language suggested for Rule 3015(c) regarding the effect of a nonstandard provision.

Stylistic changes suggested for Rule 3015(g).

**Comment BK-2013-0001-0100—Byron Meredith (Chapter 13 Trustee, S.D. Ga.):** Eliminating the option to serve a summary of the plan will increase costs. As an alternative, a single-page notice could be provided to parties in interest with a link to the location of the plan on the court's ECF system.

**Comment BK-2013-0001-0102—William Heitkamp (Chapter 13 Trustee, S.D. Tex.):** Proposed Rule 3015 will increase the cost of notice by eliminating the option of serving a summary of the plan.

The national plan form should not be mandatory.

**Comment BK-2013-0001-0120—Chief Judge Robert E. Grant (Bankr. N.D. Ind.):** The rules mandating the chapter 13 plan form cross the line from procedure into substance. The language of § 1325(a) ("the court shall confirm a plan if . . .") raises doubts as to whether rules of procedure can mandate use of a particular form for a chapter 13 plan. *See Petro v. Mishler*, 276 F.3d 375, 378 (7th Cir. 2002). Unlike chapter 11, where Congress has authorized promulgation of a form plan for some aspects of practice, no such authorization is given to promulgate a chapter 13 plan form. No other form is mandatory.

**Comment BK-2013-0001-0121—Peter D. Schneider (Attorney, Philadelphia, Pa.), on behalf of Community Legal Services, Inc., of Philadelphia:** We are concerned about Rule

3015(c), which would mandate use of the chapter 13 plan form. Courts may interpret this rule to prohibit debtors from using non-standard provisions that are fully consistent with the Code.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** See comments under Rule 3012.

Rule 3015(c) should limit what may be included in a plan as a nonstandard provision.

**Comment BK-2013-0001-0125—Judge Rebecca B. Connelly (Bankr. W.D. Va.):** I support the proposed amendments and form. I applaud the efforts of the Advisory Committee.

I agree with the comments of the Bankruptcy Noticing Working Group and the Bankruptcy Clerks Advisory Group regarding this rule (use of the word “serve”).

Add language to Rule 3015(b) to accommodate those creditors who wish to designate an address for notice in bankruptcy cases.

**Comment BK-2013-0001-0127—Chief Judge Susan Barrett (Bankr. S.D. Ga.), on behalf of the judges of the court:** We oppose a mandatory national plan form. It will damage the professionalism of practice in our court and impair the close relationship between consumer debtors and local attorneys.

**Comment BK-2013-0001-0129—Beverly M. Burden (Chapter 13 Trustee, E.D. Ky.):** Rule 3015 should set forth procedures for pre-confirmation modifications. Rule 2002(a)(5) should be amended to exclude modifications of chapter 13 plans. Rule 3015 should permit changes to a plan prior to confirmation without notice to all creditors if those changes do not affect all creditors.

I support Rule 4003. For consistency, the rule should provide that a “request” to “avoid a lien may be made by . . .” rather than stating that “a proceeding . . . shall be commenced.”

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** I agree with the comments of Bankruptcy Judge Terrence L. Michael of the N.D. Okla. A mandatory form is a solution in search of a problem.

**Comment BK-2013-0001-0133—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** I oppose the changes to Rules 3015 and 9009.

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** I oppose the national plan form and oppose Rule 3015(c).

But I support Rule 3015(d).

**Comment BK-2013-0001-0142—Judge S. Martin Teel, Jr. (Bankr. D.D.C.):** The proposed official form should not be mandatory. It should be a director’s form.

If Official Form 113 is adopted as a mandatory form, the form or Rule 3015(c) should be modified to permit use of a plan that omits parts of the form that are not used.

**Comment BK-2013-0001-0145—John McMickle, on behalf of eCast:** The proposed amendment to Rule 3015 should make clear that nothing in Form B10 or the proposed rules overrides § 502 and the debtor’s duty to object to proofs of claim.

In the alternative, the plan form should require debtors to list in Part 9 how each unsecured claim is modified in the plan. Proposed Rule 3015(g) should be altered to permit creditors to object to their treatment post-confirmation if an objection to the proof of claim was not filed.

**Comment BK-2013-0001-0147—Mark Bulovic (Attorney, Savannah, Ga.):** I oppose a national plan form. The system is not broken, and this proposal will lead to the further “dumbing down” of bankruptcy practice.

What is the consequence of a failure to comply with the national plan form? Would it be a bad faith plan? Would it be considered forbidden?

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I support a national plan form. The disparity in plans and procedures creates barriers to entry into bankruptcy practice by young lawyers and increases costs to national creditors. The proposed form will promote more attentive and careful representation of consumer debtors by raising a number of issues that are often overlooked by counsel.

Nevertheless, the form and rules should permit greater local modification of the form. For example, we are a conduit district and require payroll deductions. I would like to be able to retain those practices.

I support the changes to Rule 4003.

**Comment BK-2013-0001-0161<sup>5</sup>—Diana D. Herman (Attorney, San Francisco, Cal.), on behalf of Insolvency Law Committee, State Bar of California Business Law Section:**

The changes to the Bankruptcy Rules will make plan confirmation hearings longer and more elaborate. At the least, courts will have to adjust their calendaring practices.

There appears to be an inconsistency between the proposed changes to Rule 3015 and the plan form. Part 1 of the plan form provides that an objection must be filed at least 7 days before the confirmation hearing “unless otherwise ordered by the Bankruptcy Court.” This is important for districts that confirm plans on negative notice. But it is unclear whether the proposed changes to Rule 3015(f) relating to the 7-day deadline to object to confirmation may be altered by the court.

### ***Rule 5009***

**Comment—BK-2013-0001-0033 Ed Shaw:** I oppose the amendment to Rule 5009. The current rules concerning case closing are adequate, and the new rule would compromise the substantive rights of parties.

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<sup>5</sup> This comment was submitted after the close of the public comment period.

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA supports amending Rule 5009 to allow the debtor to obtain an order that a lien has been satisfied. The amendment to the rule should be further expanded, however, to provide for an order that a lien has been avoided. If a separate motion for lien avoidance will not be required, then there will be no resulting order by which a debtor may show that a lien has been avoided. The amended rule should make clear that a separate order avoiding a lien can be entered if a plan including a lien avoidance provision is confirmed.

**Comment BK-2013-0001-0053—Judge Meredith Jury (Bankr. C.D. Cal.):** The word “satisfied” should not be used in Rule 5009(d). Satisfaction generally requires payment. A better word is “avoided,” “ineffective,” or some other term that makes clear the lien is gone.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** This rule would effectively mandate another motion, prior to case closing, to hold open the case to allow time to confirm satisfaction. This would require notice and a hearing on the motion to hold open and then notice and a hearing on the motion to deem the lien “satisfied.” This is not a simplification.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** We recommend two changes.

The initial subject of subpart (d) as well as the first sentence should reflect that a “claim secured by a lien” is satisfied. Debtors satisfy claims, not liens.

The last sentence of subpart (d) should be deleted. Whether an order is “effective as a release of the lien” is substantive.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** We support this amendment.

**Comment BK-2013-0001-0093—Gary D. Gray (Office of the Chief Counsel, Internal Revenue Service):** We object to proposed Rule 5009(d). An adversary proceeding should be required to determine that a lien was satisfied by plan payments.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** References to lien “satisfaction” should be changed to “release.” Satisfaction requires that the underlying debt has been paid in full, while release does not.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** We oppose Rule 5009(d). No substantive provision of the Bankruptcy Code provides for a bankruptcy court to make such a determination, which would be a matter of private right that cannot be heard and determined by the bankruptcy court under *Stern v. Marshall*.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I support the changes to Rule 5009.

### *Rule 7001*

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** This amendment would bar a district from requiring a motion or adversary proceeding to strip a lien. This raises the difficulties I expressed regarding Rules 3012 and 5009.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** This amendment reflects two mistaken legal assumptions.

First, the determination under Rule 3012 does not involve the determination of the “validity, priority, or extent of a lien.” It involves valuation.

Second, relief under Rule 3012 is sought through motion and is therefore a contested matter under Rule 9014. It is not a “proceeding” as the proposed amendment incorrectly says.

Furthermore, amended Rule 7001 is unnecessary in light of amended Rule 3012(b).

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** We support this amendment.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** See comments under Rule 3012.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** I support the proposed amendment to Rule 7001.

**Comment BK-2013-0001-0151—Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy Trustees:** We agree with the NCBJ’s comments regarding the interplay between Rules 7001 and 3012.

### *Rule 9009*

**Comment—BK-2013-0001-0031 Walter Oney (Attorney, Fitchburg, Mass.):** Proposed Rule 9009(a) is too restrictive and will cause great hardship to software developers. The rule should allow “minor changes in layout and formatting not affecting substance or the order of presenting information.” An alternative would be to allow “changes in the width and orientation of columnar data.”

**Comment BK-2013-0001-0042—Henry Sommer, on behalf of the National Association of Consumer Bankruptcy Attorneys:** NACBA is concerned that amended Rule 9009 would be unduly restrictive. For example, by requiring “substantially similar” font faces, it does not give enough flexibility for a debtor to save printing and mailing costs by reducing the typeface size and using double-sided printing. The current rule language permitting appropriate alterations and rearrangements to permit economies should be maintained. There have been few, if any, situations where courts have found inappropriate alterations under Rule 9009’s current language.

**Comment BK-2013-0001-0044—Judge Brian D. Lynch (Bankr. W.D. Wash.), on behalf of the bankruptcy judges of the district:** The existing language of Rule 9009 is adequate. It allows for flexibility. The proposed amendments to Rule 9009 are an attempt to preempt suggestions by certain chapter 13 trustees that local rules or forms could be incorporated by reference in lieu of the national form plan. The proposed official form may be a worthy model for courts to consider and to adopt as they see fit. If it fulfills all the promises claimed by proponents, the form will become the prevailing approach to processing chapter 13 cases.

**Comment BK-2013-0001-0056—Scott Ford, on behalf of the Bankruptcy Clerks Advisory Group:** The proposed amendments to Rule 9009 are a departure from the current rule. The clerk's office will be tasked with checking that submitted forms comply with the revised rule, and this will generate more work for clerk's offices.

We also endorse the recommendation by the E.D. Missouri bankruptcy court that the Committee Note or the rule text itself should clarify that a party need not submit a proposed order that is part of an Official Form if the court directs that it is not required.

**Comment BK-2013-0001-0058—Michael Gallagher (Attorney, Plymouth Meeting, Pa.):** I oppose this change. The current rule should be retained.

**Comment BK-2013-0001-0059—Judge A. Benjamin Goldgar (Bankr. N.D. Ill.), on behalf of the National Conference of Bankruptcy Judges:** The proposed restriction on the alteration of forms is too drastic. It would be better to require debtors to indicate on each form whether it has been modified and, if so, what portion has been modified.

We also recommend rewriting or deleting subparagraph (a)(5). It is poorly worded and its purpose is not clear. Does it restrict the court's ability to order changes to forms, or does it prohibit the court from using orders in a way that might conflict with the official form or applicable rule? The subparagraph is not necessary, as it does not address a real problem. To the extent it is meant to prevent courts from entering orders that contradict forms or rules, parties have remedies in the form of a motion under Rules 9023 or 9024 or an appeal.

**Comment BK-2013-0001-0065—Judge Terrence L. Michael (N.D. Okla.):** The proposed revisions to Rule 9009 exist solely to make the plan form mandatory and should be discarded in their entirety. There is no sound reason to wrest discretion from each and every bankruptcy judge in the country. I agree with the comments of the Bankruptcy Clerks Advisory Group regarding Rule 9009.

**Comment BK-2013-0001-0067—Dana C. McWay (Clerk, Bankr. E.D. Mo.):** Under the proposed amendment, the clerk's office will receive documents that courts do not want. For example, we do not expect counsel to submit Official Form B3A (filing fee installment). Instead, the CM/ECF system creates an order concerning payment. I suggest clarifying in the Committee Note that such forms are exempted from Rule 9009.

**Comment BK-2013-0001-0075—Mark D. Sammons (Clerk, Bankr. D. Md.):** Other than our opposition to the plan form, we support this rule.

**Comment BK-2013-0001-0080—Judge John Waites (Bankr. D.S.C.):** I agree with the NCBJ’s comments. Subsection (a)(5) should be deleted.

**Comment BK-2013-0001-0085—Judge Roger Efremsky (Bankr. N.D. Cal.), on behalf of six judges of the bankruptcy court:** For reasons given by Judge Lamar W. Davis, Jr., we oppose Rules 3015(c) and 9009. The form should not be mandatory.

We agree with Judge Montali’s comments regarding valuation issues.

**Comment BK-2013-0001-0094—Traci E. Abrams (Clerk, Bankr. N.D. Fla.):** Amended Rule 9009 will interfere with how courts have programmed forms into CM/ECF systems and Autodocketing Interface (ADI). For example, Form B113 is the “Claims Register.” The claims register is now a part of CM/ECF, which uses a very different format.

**Comment BK-2013-0001-0101—Chief Judge James K. Coachys (Bankr. S.D. Ind.):** I agree with the comments of Judge Lamar W. Davis Jr. and the judges of the bankruptcy court for the District of Kansas. The plan form should not be mandatory.

**Comment BK-2013-0001-0109—Devin Derham-Burk (Chapter 13 Trustee, N.D. Cal. (San Jose Division)):** The national plan form should not be mandatory.

**Comment BK-2013-0001-0115—M. Regina Thomas (Clerk, Bankr. N.D. Ga.), on behalf of Bankr. N.D. Ga. Bench and Bar Committee:** The proposed rule is too restrictive.

**Comment BK-2013-0001-0124—Craig Goldblatt (Attorney, Washington, D.C.), on behalf of Bank of America, N.A., et al.:** See comments on Rule 3015.

**Comment BK-2013-0001-0131—Gwendolyn M. Kerney (Chapter 13 Trustee, E.D. Tenn.):** See comments under Rule 3015.

**Comment BK-2013-0001-0133—Ray Hendren (Chapter 13 Trustee, W.D. Tex.):** See comments under 3015.

**Comment BK-2013-0001-0140—Penelope Souhrada:** I oppose a mandatory form. This rule makes no allowance for local laws, rules, practices, and even provisions of the Code. The national plan form does not include provisions such as those required under § 524(i).

**Comment BK-2013-0001-0141—Pam Bassel (Chapter 13 Trustee, N.D. Tex.):** See comments under Rule 3015.

Proposed Rule 9009 is too restrictive. I agree with Judge Terrence Michael’s comments.

**Comment BK-2013-0001-0150—Judge Jennie D. Latta (Bankr. W.D. Tenn.):** See comments under Rule 3015.

**Comment BK-2013-0001-0151—Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy Trustees:** We support the concept of Rule 9009. But we also support the need for greater flexibility. We agree with the comments of the NCBJ.



## Appendix D

### Comment Summary for Comments on Published Forms



## General Comments on Published Individual Forms

**USC-RULES-BK-2013-0001-0029 – David Kingsbury** – The proposed revamped forms will encourage additional pro se filings. As we all know bankruptcy is not about filling in forms - it is about understanding the rules, statutes and case law that dictate and interpret how forms are completed. The proposed forms may be more user friendly but the certain resulting surge in pro se filings will not benefit the system or debtors.

**USC-RULES-BK-2013-0001-0035 – Chapter 13 Trustee Robert G. Drummond** – I want to compliment the committee for its work. Your task is huge.

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, National Association of Consumer Bankruptcy Attorneys (NACBA)** – Although not contained in the proposed rules or forms themselves, The Advisory Committee’s Report to the Standing Committee refers to plans for “the ability to store information on the forms as data so that authorized users can produce customized reports suitable for their needs.” NACBA strongly opposes any form of data-enabled forms or capability to mine the information that bankruptcy debtors report to the courts beyond that which is statutorily required. In this era of government snooping on citizens, further expansion of data gathering is totally unwarranted. It goes far beyond the purpose for which the bankruptcy forms are designed -- to provide information in individual cases. There is no reason that bankruptcy debtors, in court solely because of economic hardships, should be subjected to such intrusive scrutiny.

NACBA also fears the uses to which such data could be put. We have seen politicized government agencies use data for political ends, sometimes contrary to the interests of consumer debtors. We also fear that any system that enables collection of data could be accessed, either with the consent of the courts or illicitly, for illegitimate purposes such as marketing or targeting consumer debtors in various other ways.

**USC-RULES-BK-2013-0001-0046 – Rommel Jairam** – Thank you for heading in this direction. I would encourage the IRS and many other agencies to purpose similar changes in their publications and forms. Many issues with forms and taxpayer delinquencies are due to the lack of understanding from the wording of these documents. I believe that this regulation will benefit many taxpayers and even the employees who must interpret them.

**USC-RULES-BK-2013-0001-0048 – Mike Walters** – This is definitely a step in the right direction.

**USC-RULES-BK-2013-0001-0059 – National Conference of Bankruptcy Judges (NCBJ)** – The NCBJ applauds and endorses the project to revise the bankruptcy forms. As the NCBJ noted in its comments last year, the revised forms are more readable, easier to fill out, and easier to understand than their predecessors.

The current set of proposed revised forms requires further careful review to ensure the prose is clear and grammatical, the format is consistent from form to form, and any statements of law are accurate.

The NCBJ also has serious reservations about the degree to which the revised forms – and particularly the instructions that accompany them – make statements about the law. Presumably, these statements are meant to guide pro se filers. But forms and instructions should not attempt to substitute for actual legal representation because they can never do so adequately. This is especially true in the bankruptcy context because bankruptcy law is riddled with exceptions (and sometimes exceptions to exceptions), making general assertions at best incomplete and at worst misleading. Requesting information from a debtor is one thing, giving legal advice about the information to be provided another. In the NCBJ's view, assertions in the forms about the law should be eliminated except when they are absolutely necessary to instruct the debtor how to complete the form.

**USC-RULES-BK-2013-0001-0100 – O. Byron Meredith III, Chapter 13 Trustee** – Debtors should be allowed to elect to receive notices from the Court electronically. It would reduce costs, assure notices are received timely, and avoid the volume of returned mail when debtors relocate without notifying the Court.

The Rules Committee should consider recommending that 11 U.S.C. § 342 be amended to require all creditors that receive a certain volume of notices from the Court to designate an electronic address for service.

**USC-RULES-BK-2013-0001-0140 – Penelope Souhrada** – I heartily concur with most of the comments made by Henry Sommer of the National Association of Consumer Bankruptcy Attorneys and the very thorough and thoughtful analysis of the revised forms submitted by the National Conference of Bankruptcy Judges. (What better source for comments than the bankruptcy judges, who deal with these issues every day?)

The new forms in general have way too many spaces for additional entries in the same category. We print out hard copies of the petition for clients and unless the forms can shrink to fit the individual case, there will be a terrible waste of paper.

**USC-RULES-BK-2013-0001-0147 – Mark Bulovic** – There seems to be a push to encourage pro se filings by providing rudimentary bankruptcy advice to would-be pro se debtors. The explanation of bankruptcy terms is so dumbed-down as to be grossly misleading. For example, “Exempt Property” is certainly not property which a debtor may necessarily keep. Explaining the significance of exemptions, especially where the debtor has both exempt and non-exempt equity in property, is tough enough now. When the forms start telling clients that they may keep “exempt property” they will think their lawyer is crazy when she tells them the trustee will sell their home and send them a little check.

Before the Rules Committee makes a policy decision that has the effect of encouraging pro se filings, you need to decide whether debtors are generally better-off without lawyers. If so, can bankruptcy judges award fees to debtors' counsel? Do lawyers have an ethical obligation to

decline debtor representation because the debtors would be better-off filing pro se? The answers to these questions seem obvious to me: My unvarying advice to people who ask is that every debtor needs not just a lawyer, but a lawyer who has solid bankruptcy experience and knowledge. If pro se is a bad idea, please don't encourage it.

Also, I believe that turning schedule preparation into a "turbo tax" process is an invitation to bankruptcy fraud, or at least non-disclosure. It is incredible how many debtors will provide a different answer about their debts and assets depending on who asks the question, how many times it's asked, and how the question is phrased. If you haven't interviewed a would-be debtor recently, you may have forgotten how poorly—or selectively—they recall the details of their financial affairs.

## General Comments about Schedules and Instructions

**USC-RULES-BK-2013-0001-0058 – Michael W. Gallagher** – Proposed amended Schedules A/B, C, D, E/F, G, H, and the proposed amended Statement of Financial Affairs: To be blunt, this is an attempt at a cure where there was no disease. In fact, as an attorney whose practice includes a large percentage of individual debtors' cases, I will say that the new proposed forms are a complete mistake. The current forms are comprehensible.

They are a bit intimidating to the pro se filer—but doubling their length and including voluminous instructions is NOT going to increase accuracy or compliance from pro se filers. Many such persons already avoid such things—and you propose to give them more to read, fill out, and follow. This will likely increase the number of pro se filers—but it will also increase the number of grossly inaccurate filings. The additional burden on panel trustees will be significant, as well as the burden on the courts. The new forms are a mistake, period.

I did a rough calculation of the number of pages a simple Chapter 7 filing would take, assuming that the Debtor was above-median income, but had sufficient secured debt deductions to qualify under Chapter 7. The minimum number of pages this would produce, by my count, is 67: the current average is a little over 30. Wonderful for an HP or Lexmark, seeking to sell more laser toner and ink; or for a Weyerhaeuser, seeking to sell more copy paper. For anyone else, however, this is grossly wasteful.

**USC-RULES-BK-2013-0001-0155 – David S. Yen** – The forms are misleading because they limit the property that can be claimed as exempt to property listed on Schedule A/B, even though leases and executory contracts can be claimed as exempt.

Form 106 A/B tells the debtor “On this form, do not list any interests you may have in executory contracts ....”.

Form 106C, Part 1, section 2, says: “For any property you list on Schedule A/B that you claim as exempt, fill in the information below.”

In the booklet of instructions, the instructions for Schedule C, under the heading “Claiming Exemptions”, say: “Using the property and values that you listed on Schedule A/B: Property (Official Form 106 A/B) as your source, list on this form the property that you claim as exempt.”

A debtor who followed the instructions on Form 106C and in the booklet of instructions would not claim any exemption in an executory contract or unexpired lease. However, many exemption regimes allow the debtor to claim unexpired leases as exempt, sometimes under the jurisdiction's homestead exemption. See, e.g., *In re Casserino*, 379 F.3d (9th Cir. 2004). Failure to understand that an unexpired lease is an asset that has value which therefore can be sold or assigned by a trustee, which may or may not be exemptible, can have drastic consequences that a pro se debtor may be unaware of. See “Widow's Bankruptcy Case Poses Risk to Rent-Stabilized Tenants”, *New York Times*, October 13, 2013, [http://www.nytimes.com/2013/10/21/nyregion/widows-bankruptcy-case-poses-risk-to-millions-with-rent-stabilized-leases.html?\\_r=0](http://www.nytimes.com/2013/10/21/nyregion/widows-bankruptcy-case-poses-risk-to-millions-with-rent-stabilized-leases.html?_r=0)

Recommendation: All references in Form 106 C that refer to “Schedule A/B” should refer to “Schedule A/B or G.” Schedule G should have a column for the debtor to list the value, if any, of a lease or executory contract.

Official Form 22A-1

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The language in the box at the upper right hand corner stating that “The presumption of abuse is determined by Form 22A-2” is inconsistent with that in Form 22A-2 and the current form, which recognize that the debtor may disagree with the way the means test is calculated on the forms. The language “according to the calculations required by Form 22A-2” should be added.

The form is also simply inaccurate in stating that it is a calculation of current monthly income. As defined by section 101(10A), current monthly income does not include the income of a nondebtor spouse that is not used for the household expenses of the debtor or the debtor’s dependents.

The form repeats the error in the current form of calculating the section 707(b)(7) exemption from the means test based on an amount that is not current monthly income. As a number of courts have held in the chapter 13 context under section 1325(a)(4), the current monthly income of the “debtor and the debtor’s spouse combined” does not include the income of a nondebtor spouse that is not used for household expenses of the debtor or the debtor’s dependents. *See Collier on Bankruptcy* 1325.11[4][d] and cases cited therein. To the extent the United States trustee or a creditor would want to challenge the reasoning of those decisions, they can do so, but the form should not take a position on an issue of substantive law that has been rejected by virtually every court to consider it. At a minimum, the form should allow the debtor the option of taking the “marital deduction” prior to calculating whether current monthly income is above or below the applicable median income.

As to the Form 22A-1 supplement, if a debtor completes this form, at least if a verification is added to it, why is Form 22A-1 necessary at all?

In addition, NACBA does not believe an exemption from the means test for reservists or National Guard members is only temporary. The means test applies to the date of the petition. Moreover, in general, the law applicable to a case is the law in effect on the petition date. Congress intended those exempted from the means test to be permanently exempted. The current form and the new form take a substantive legal position that this was not the intent of Congress.

**USC-RULES-BK-2013-0001-0056 – Scott Ford, Bankruptcy Clerks Advisory Group (BCAG)** – The BCAG recommends that, in all instances on these forms, the references to “ask for help at the clerk’s office of the bankruptcy court” should be replaced with “consult your attorney.” Employees of the clerk’s office are prohibited from giving legal advice to the public. Suggesting that debtors ask for help from the clerks’ office staff in completing forms may violate 28 U.S.C. § 955, which prohibits clerks, deputies and assistants from practicing law in any court of the United States. Providing legal advice by the clerk’s office may also violate state restrictions on the practice of law.



**USC-RULES-BK-2013-0001-0059 – NCBJ** – Proposed Forms 22A-1 through 22C-2 are the Chapter 7 Statement of Current Monthly Income, Statement of Exemption from Presumption of Abuse, Chapter 7 Means Test Calculation, Chapter 11 Statement of Current Monthly Income, Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period, and Chapter 13 Calculation of Disposable Income. The NCBJ believes these proposed forms represent a substantial improvement over the existing forms. They are considerably easier to read and understand, making them easier for debtors to complete and more transparent to creditors and trustees.

Official Form 22A-2

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – Form 22A-2 continues the error in the current forms of providing no space for a debtor to deduct other expenses permitted by the Internal Revenue Service Expense standards (IRS Manual § 5.15.1.10) that are necessary expenses “to provide for a taxpayer's and his or her family's health and welfare.” These could include such expenses as a security system or household help for an elderly or disabled person unable to perform household chores. At a minimum, the form should allow a debtor to claim “other expenses that I believe I am entitled to deduct”, with an explanation of the statutory provision relied upon. Such a line would flag these expenses for anyone who wished to challenge them.

What is meant by “Do not deduct mortgage payments previously deducted as an operating expense in Line 9”? This language does not appear in the current form. We do not understand what this language means or its purpose. If we don't understand it, no pro se debtor will understand it.

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The BCAG recommends that, in all instances on these forms, the references to "ask for help at the clerk's office of the bankruptcy court" should be replaced with "consult your attorney." Employees of the clerk's office are prohibited from giving legal advice to the public. Suggesting that debtors ask for help from the clerks' office staff in completing forms may violate 28 U.S.C. § 955, which prohibits clerks, deputies and assistants from practicing law in any court of the United States. Providing legal advice by the clerk's office may also violate state restrictions on the practice of law.

Official Form 22B

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – This form contains the same error as Official Form 22A-1. Although labeled as a calculation of current monthly income, it does not take into account the “marital deduction” necessary to calculate the debtor’s current monthly income when there is a nonfiling spouse whose income is listed in Column B. Without that deduction, the calculation simply does not conform to the definition of “current monthly income.”

Official Form 22C-1

**USC-RULES-BK-2013-0001-0024 – Chapter 13 Trustees, Central District, CA** – The revised form 22C perpetuates an error in the current form by permitting debtors to deduct business expenses before the determination of the applicable commitment period (see #5 of part 1 of the revised form), in clear contradiction of the Bankruptcy Code. This conflicts with current law in a large number of jurisdictions, and is an invitation for the unwary (particularly debtors filing in pro se) to make significant errors in the calculation of the plan term. See *In re Weigand*, 386 B.R. 238 (9th Cir. B.A.P. 2008).

**USC-RULES-BK-2013-0001-0035 – Chapter 13 Trustee Robert G. Drummond** – Line 5 of official Form 22C-1 calculates net income from operating a business. That line requires the debtor to list gross receipts and then deduct ordinary and necessary operating expenses. In *Drummond v. Wiegand (In re Wiegand)*, 386 B.R. 238 (9th Cir. BAP. 2008), the Ninth Circuit Bankruptcy Appellate Panel correctly determined that calculation of current monthly income does not allow a deduction for business expenses. Business expenses are appropriately deducted after the calculation of current monthly income when calculating projected disposable income. II U.S.C. § 1325(b)(2)(B) specifically references "disposable income" as being current monthly income less expenditures "necessary for the continuation, preservation, and operation of such business." The proposed form does not follow the statute.

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The language added in Part 3 of the form in response to the *Lanning* decision covers a time period that is far too long. It is neither possible nor appropriate to predict the debtor's financial situation several years into the case based simply on a change in 1 or 2 items of income or expense. By the time the listed change occurs, other elements of the means test calculation will also have changed. For example, it is virtually certain that the Internal Revenue Service expense standards will change every year. Thus, simply changing the debtor's calculated disposable income based on a reduction in one or two items of expense would be comparing apples and oranges. In times of high inflation, it would assume the debtor's other expenses have held constant, when in fact the debtor may be less able to make payments because other expenses have increased. As the Supreme Court held in *Ransom*, the appropriate mechanism for dealing with an anticipated change, such as the debtor's car payments ending, is plan modification, rather than prognostication at the time of confirmation. "If car payments cease during the life of the plan, just as if other financial circumstances change, an unsecured creditor may move to modify the plan to increase the amount the debtor must repay. See 11 U.S.C. § 1329(a)(1)." *Ransom v. FIA Card Servs., N.A.*, 131 S. Ct. 716, 729 (2011).

If language is added to reflect known or virtually certain changes in income and expenses, it should be limited to the 1-year period after the order for relief. That is the most that could possibly be predicted with any accuracy, and after 1 year it is already virtually certain that the Internal Revenue Service expense standards will have changed, making unfair and inaccurate a simple adjustment to 1 or 2 items without considering other elements of the calculation.

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The BCAG recommends that, in all instances on these forms, the references to "ask for help at the clerk's office of the bankruptcy

court" should be replaced with "consult your attorney." Employees of the clerk's office are prohibited from giving legal advice to the public. Suggesting that debtors ask for help from the clerks' office staff in completing forms may violate 28 U.S.C. § 955, which prohibits clerks, deputies and assistants from practicing law in any court of the United States. Providing legal advice by the clerk's office may also violate state restrictions on the practice of law.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The first sentence in the first full paragraph of text at the end of Para 1, part 1 is the same as the comparable sentence in Form 22A-1 and should be revised the same way. The revision would make identical the sentences in Forms 22A-1, 22B, and 22C-1.

The first sentence in the first full paragraph of text at the end of Part 1, Section 1 has an extra word, an extra comma, and one other apparent typographical error. The sentence instructs a debtor to “[f]ill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case.” The comma after “sources” should be deleted, as should the word “derived” which is redundant of “during.” The word “file” should be “filed.” These changes would make the sentence the same as the comparable sentence in Form 22B. Rewritten, the sentence would read: Fill in the average monthly income you received from all sources, derived during the 6 months before you filed this bankruptcy case.”

**USC-RULES-BK-2013-0001-0153 – James M. Davis, attorney** – Line 5 (and possibly line 6). Like the current Form 22C, proposed Form 22C-1 instructs debtors to include only net business income in the calculation of current monthly income. As the committee is no doubt aware, a number of courts have found that this approach is contrary to the Code. In the chapter 13 context, in fact, most reported decisions seem to hold that debtors should use gross business income in calculating current monthly income. See, e.g., *In re Harkins*, 491 B.R. 518, 539 n.20 (Bankr. S.D. Ohio 2013) (compiling cases).

Because courts are split on this question, it may be appropriate to leave an option for a debtor to complete the form using net business income. But, especially for the Form 22C-1, I would suggest revisions to the instructions to provide some notice of the split in authority and to permit debtors to fill out the form under the majority approach. For example, line 5 might be revised to instruct the debtor to deduct ordinary and necessary operating expenses only “if you contend these expenses reduce current monthly income under 11 U.S.C. § 101(10A).” And a new line might be added to Form 22C-2 for ordinary and necessary business operating expenses with an instruction not to include any amounts entered on line 5 of Form 22C-1.

Official Form 22-C2

**USC-RULES-BK-2013-0001-0024 – Chapter 13 Trustees, Central District, CA** – At #13 “vehicle ownership expense” the form continues to tie the vehicle ownership expense to the IRS Local Standards, in violation of 11 U.S.C. 707(b)(2)(A)(ii)(I) which provides: “. . . Notwithstanding any other provision of this clause, the monthly expenses of the debtor [to be determined by reference to the IRS Standards] shall not include any payments for debts.” (emphasis added).

Vehicle payments are “debts”; these and other secured debts are required to be addressed solely under 11 U.S.C. 707(b)(2)(A)(iii)(I): “The debtor’s average monthly payments on account of secured debts shall be calculated as the sum of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; . . .” There is no authority for linking vehicle payments to the IRS standards. The new form’s treatment of vehicle payments creates a phantom exemption that is not permitted under the Code. This analysis follows the Supreme Court’s reasoning and holdings in *In re Ransom*, 131 S.Ct. 716 (U.S. 2011) and *In re Lanning*, 130 S. Ct. 2464 (U.S. 2010). This provision creates a trap for unwary debtors, particularly those filing in pro se.

**USC-RULES-BK-2013-0001-0035 – Chapter 13 Trustee Robert G. Drummond** – Part 2, Line 41 of Form 22C-2 allows the debtor to deduct ongoing retirement plan contributions "as specified in 11 U.S.C. § 541(b)(7)." The Ninth Circuit Bankruptcy Appellate Panel in *Parks v. Drummond (In re Parks)*, 475 B.R. 703 (9th Cir. B.A.P. 2012) held that deductions for a debtor's post-petition voluntary 401(k) contributions are not allowed by Section 541(b)(7) when calculating projected disposable income. The proposed Form 22C-1 incorrectly instructs debtors to deduct voluntary contributions to retirement plans when calculating projected disposable income. See also, *Burden v. Sea/art (In re Sea/art)*, 669 F.3d 662 (6th Cir. 2012).

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The BCAG recommends that, in all instances on these forms, the references to "ask for help at the clerk's office of the bankruptcy court" should be replaced with "consult your attorney." Employees of the clerk's office are prohibited from giving legal advice to the public. Suggesting that debtors ask for help from the clerks' office staff in completing forms may violate 28 U.S.C. § 955, which prohibits clerks, deputies and assistants from practicing law in any court of the United States. Providing legal advice by the clerk's office may also violate state restrictions on the practice of law.

**USC-RULES-BK-2013-0001-0153 – James M. Davis, attorney** – The proposed forms’ distinction between “household size” and the number of people used in determining deductions from income is an excellent revision. I also agree that the number of tax exemptions is a reasonable reference point for establishing the number of people used in determining deductions from income. I would suggest, however, revising the instructions as follows to remove the implications about the proper number, an issue on which courts disagree:

“Fill in the number of people you will use below in determining the deductions from income. If this number differs from the number of exemptions on your most recent tax return, please explain why below:

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This number may be different from the number of people in your household on Line 16b of Form 22C-1.”

Blackline: “Fill in the number of people ~~who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.~~ **you will use below in determining the deductions from income. If this number differs from the number of exemptions on your most recent tax return, please explain why below:**

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This number may be different from the number of people in your household on **Line 16b of Form 22C-1.**”

I would suggest adding check boxes to indicate whether the payments listed on Line 9b includes taxes and insurance. Lines 33d-33f include this information (as does line 47 of the current Form 22C), but payments on Line 9b seem to be the payments for which the information is most relevant.

I think the language in the instruction at line 10 is imprecise. It refers to the possibility that a debtor might claim that the “division of the IRS Local Standard for housing does not accurately compute the amount that applies” to the debtor. This wording implies that the division of the standard “computes” an amount. I think it is more accurate to say that the division affects the computation of the monthly expenses. A suggested revision would be: “If you claim that the U.S. Trustee Program’s division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim.”

Blackline: “If you claim that the U.S. Trustee Program’s division of the IRS Local Standard for housing ~~does not accurately compute the amount that applies to you,~~ **is incorrect and affects the calculation of your monthly expenses,** fill in any additional amount you claim.”

It would be helpful if the form required debtors to show the calculation when estimating taxes using withholding and estimated tax refunds. A suggested revision would be:

Blackline: “The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. ~~You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes.~~ **You may estimate this amount using the following calculation:**

**16a. The monthly amount withheld from your pay for these taxes \$ \_\_\_\_\_**

**16b. Your anticipated tax refund, divided by 12: - \$ \_\_\_\_\_**

16c. Estimated tax expense.

Subtract line 16b from line 16a. \$ \_\_\_\_\_

If your monthly tax withholding has changed or is virtually certain to change from the amount stated on line 16a, indicate the amount of the change on Line 46.

Do not include real estate, sales, or use taxes.”

Note: This instruction does not specify what a debtor should do if the monthly refund exceeds the monthly withholding (whether the debtor should report [sic]

The instructions seem to contain a typo—the final sentence is cut short and may be missing a word. I think it is supposed to say “. . . or any other form of life insurance.”

At line 23, I would suggest mirroring the language of the IRS Collection Financial Standards in the 1<sup>st</sup> sentence of the 2<sup>nd</sup> paragraph (in particular, adding cable television to the list of telecommunications services that should not be included on line 23). I would also suggest changing “and” to “or.” My suggested revision would read: “Do not include payments for residential telephone service, cell phone service, cable television, or internet service.”

Blackline: “Do not include payments for ~~basic home~~ residential telephone service, cell phone service, cable television, or internet service ~~and cell phone service.~~”

The numbering for Lines 33a-33g appears to be incorrect. The numbers show up as Lines 3a-3g. On the lines that should be numbered 33d-33f, the check boxes are missing next to the yes and no options (for whether the payments include taxes or insurance).

I would suggest including an itemization for line 41. It would be helpful, at a minimum, to break out the amount claimed as retirement contributions from the amount claimed as retirement loan payments. The statutory basis for these deductions is different, and some courts have reached different conclusions about the permitted deductions. See, e.g., *Seafort v. Burden* (In re *Seafort*), 669 F.3d 662, 674 n.7 (6th Cir. 2012).

For the retirement loans, moreover, debtors may need to adjust the deduction for the expected completion of loan repayment during the plan. See *id.* at 667-74.

It would be helpful to provide instructions for the proper method of doing so. The easiest method would be to instruct debtors to report average monthly retirement loan payments using the same formula as the average monthly secured debt payments (divide the total payments over 60 months by 60). But the basis for this calculation with respect to retirement loans is probably that the loan payoff is known or virtually certain, which suggests that Line 46 is the proper place to adjust for the anticipated repayment completion. It is harder to provide detailed instructions for the adjustment if it should appear on Line 46, but the instructions for Line 41 could at least refer to Line 46.

The breakout on Line 41 would also be helpful for anyone trying to compare the claimed deductions to the actual deductions on a debtor’s pay checks. For that purpose, it would be even more helpful to instruct debtors to list deductions for each retirement account and each retirement loan.



I would suggest revising Line 46 so that it provides a final calculation of monthly projected disposable income. That could be accomplished by simply adding a line for the number.

As Line 46 is currently drafted, however, the instructions for that calculation might be complicated. Because Line 46 combines changes to the amounts on Form 22C-1 and Form 22C-2, determining whether a given change on Line 46 represents an increase or decrease to the bottom line requires an algorithm with logic, not just addition and subtraction. That makes the manual calculation slower and makes an automated calculation more complex.

I would suggest providing separate sets of lines for reporting changes to Form 22C-1 and Form 22C-2 and instructing debtors to simply report decreases by filling in negative numbers (removing the check boxes indicating whether the change is an increase or decrease). With that format, the calculation of the projected monthly disposable income would be much more straightforward. The changes to Form 22C-1 would be added to Line 45 of Form 22C-2 and the changes to Form 22C-2 would be subtracted.

Comments on Official Form 101

**USC-RULES-BK-2013-0001-#### – Professor Gibson** – Add instruction for attaching small business documents: If you indicate that the debtor is a small business as defined in 11 U.S.C. § 101(51D), you must append the attachments required under 11 U.S.C. § 1116(a)(1).

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The NCBJ is concerned that the explanatory regarding waiver of the filing fee may create unrealistic expectations on the part of debtors about the probability that the fee will be waived. The NCBJ suggests adding additional text so that the explanation will read:

By law, a judge may, **but is not required to**, waive your fee, **and may do so** only if your income is  
....

The explanation of what constitutes a “sole proprietorship” would be more accurate if it referred to a sole proprietorship as a business “operated” by the debtor rather than one “owned” by him. Since a sole proprietorship is indistinguishable from the debtor himself, it is not correct to say the debtor “owns” it. The distinction to be drawn is instead between the debtor doing business under an assumed name and doing business through an artificial business entity. The suggested change is:

A sole proprietorship is a business you ~~own~~ **operate** as an individual, ~~rather than~~ **and is not** a separate legal entity such as a corporation, partnership, or LLC.

The examples under the initial question should be expanded to include an example more common than perishable goods or hungry livestock: a building that urgently needs repairs. The suggested change is:

For example, do you own perishable goods, or livestock that must be fed, **or a building that needs urgent repairs?**

On page 5, the third paragraph under the third checkbox says, “Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you file *this bankruptcy filing package*.” (Emphasis added). The NCBJ objects strongly to the phrase “bankruptcy filing package,” used not only here but elsewhere in the proposed forms. Whether an attempt to be colloquial or informal, the phrase appears nowhere in the Code or the Rules, is inaccurate (debtors file cases, petitions, schedules, statements, and so on but not “packages”), and diminishes the importance of the documents a debtor files with the court. The phrase should be replaced by the words “this bankruptcy case” or perhaps “this bankruptcy petition.” The same change is necessary in the identical paragraph for “Debtor 2.”

In Part 7, the debtor is required to declare that he understand the criminal penalties for making false statements. The phraseology used here appears in other forms where it is sometimes worded as it is in Part 7 and sometimes not. In the interest of both style and consistency, the

language should be modified – and should be modified in every form where it appears – to read as follows:

I understand that if I make a false statement, I could be fined up to \$250,000, or imprisoned up to 5 years, or both.

In the next paragraph, a debtor filing under chapter 7 is obliged to state that he is “aware that I may proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under Chapter 7.”

Although this text appears in the current form, the NCBJ suggests that it be narrowed or deleted. For many debtors, the statement will be untrue: a debtor without regular income, for example, is eligible to file a chapter 7 case but not a case under chapter 13. Pro se debtors, moreover, are unlikely to understand the relief available under other chapters and cannot truthfully make the statement. No purpose is served in forcing them to make it. Also, the statement is redundant. The debtor is required to state that he has obtained and read the section 342(b) notice (which the clerk of the court is obligated to provide). That notice contains a description of the other chapters.

Untitled Page for Pro Se Debtors: Following the signature page, finally, there is an additional, untitled form that pro se debtors must sign. The form is obviously designed to encourage debtors to consider obtaining counsel. The NCBJ supports the use of the form but has a few suggestions:

(1) The form should be titled.

(2) The instruction again refers to a “bankruptcy filing package.” The phrase should be changed to “this bankruptcy case” or “this bankruptcy petition.”

(3) In the 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs, the passive voice should be replaced with the active voice as follows:

For example, your case may be dismissed the court may dismiss your case because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

If you do not list a debt, the court may deny your discharge. The debt may not be discharged.

Proposed Forms 101A and 101B address the debtor’s opportunity under section 362(l) of the Code, 11 U.S.C. § 362(l), to remain in possession of a leased residence when the landlord has obtained a prepetition judgment for possession, notwithstanding section 362(b)(22). Form 101A is intended for a debtor who wishes to remain in the property for 30 days post-petition. Form 101B is intended for a debtor who wishes to remain there beyond the 30 days. Since the forms will typically be used together, they are best discussed together.

The NCBJ believes both proposed forms need changes.

Form 101A should be redesigned to permit the form to perform 2 required functions: (1) provide a place for a debtor to indicate that he has a pre-petition judgment against him, and (2) provide a way for the debtor comply with the requirements for remaining in the property during the first 30 days post-petition. As now drafted, Form 101A only performs the second function. A debtor is instructed to fill out the form “only if” 3 conditions are met. The 3<sup>rd</sup> condition is that “you want to stay in your rented residence after you file your case for bankruptcy.” But section 362(1)(5)(A) of the Code requires a debtor to indicate “on the bankruptcy petition” whether “there was a judgment for possession of the residential real property in which the debtor resides” regardless of whether the debtor wants to remain in the property. Form 101A does not offer the debtor a place to give the required statutory indication.

The NCBJ recommends redesigning Form 101A to divide it into 2 clearly separate portions, one where a debtor can indicate the existence of the judgment and a second where a debtor can make the certifications necessary to remain in the property.

Forms 101A and 101B should also be designated to indicate more plainly – in large, bold type – the different functions of each form.

Second, the wording of the certifications in both Forms 101A and 101B should be changed. The second sentence in each form requires the debtor to certify that he has the right to stay in his residence by paying the landlord “the entire amount I owe.” The phrase is inconsistent with section 362(1) which uses the phrase “entire monetary default.” See 11 U.S.C. § 362(1)(1)(A), (2). The “entire amount a debtor owes” might be misinterpreted to mean the entire amount to be paid under the lease itself, including future amounts not yet due. To avoid misinterpretation and make the provision consistent with the statutory language, the NCBJ suggests replacing the words “I owe” with “in default” as follows:

“Under the state or other nonbankruptcy law that applies to the judgment for possession (eviction judgment), I have the right to stay in my residence by paying my landlord the entire amount I owe in default.

Third, the first line in the text immediately below the signature lines is missing a word. The sentence should be written as follows:

If you checked both boxes above, signed the form to certify that both apply, and served your landlord **with** a copy of this statement....”

Fourth, the NCBJ believes the instructional note in bold below the line at the bottom of Form 101A should be turned into an expression of the debtor’s awareness of what he must do to take advantage of the statute. The note should be reworded to say:

“I am aware that if I wish to stay in my residence ...I must pay the entire amount in default ...and file Official Form 101B ...within the 30 days after the petition.” That statement should be relocated to the certification portion, perhaps above the name of the landlord, and put in its own box with a check box next to it. The debtor would then have to check a box indicating his

awareness of the law's requirements. Even if this change is not made and the instructional note is left where it is, the note has the same faulty phrase identified above: "entire amount I owe." That phrase should be changed to "entire amount in default."

Comments on Official Form 106Sum

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Proposed Form 106Sum is the debtor’s summary of assets and liabilities and certain statistical information. The NCBJ has a single stylistic suggestion. In Part 2, the verb in sections 2 and 3 should be the same. Section 2 currently requires an amount for “Creditors Who Hold Claims Secured By Property.” Section 3 requires an amount for “Creditors Who Have Unsecured Claims.” The verb should either be “hold” in both or “have” in both, whichever is preferred.

## Comments on Official Form 106A/B: Property

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 106A/B requires the debtor to list property. The proposed form consolidates and amends Forms 6A and 6B. The NCBJ believes the proposed form's instructions are confusing. The confusion stems from the different terms the instructions use for what a debtor must list. The form is entitled: "Property." The first sentence in the instructions requires a list of "items" (a term that arguably excludes collections). The next sentence tells a debtor to list "an asset" only once. In the space of a few lines, in other words, a debtor is told to list "property," "items," and "assets." An effort should be made to arrive at a uniform term. Of the possibilities, "property" is preferable since that is the term that appears in section 541(a) of the Code, 11 U.S.C. § 541(a).

The first sentence of the instructions is also inaccurate. A debtor is told to list and describes items "worth more than \$500." The origin of the \$500 threshold is not explained and is inconsistent with section 541(a), which contains no dollar amount in defining the "property" that makes up the bankruptcy estate, as well as with Rules 1007(b)(1)(A) and 1007(h), which also contain no dollar limit. The NCBJ recommends eliminating the \$500 threshold and instructing a debtor simply to list "all legal and equitable interests in property."

**USC-RULES-BK-2013-0001-0089 – William Doyle** – I am writing to comment on proposed Official Bankruptcy Form 106A/B. I am a lawyer in Mobile Alabama and a majority of my practice consists of representing credit unions in chapter 13 proceedings. My issue with Form 106A/B is with Part 2 pertaining to motor vehicles. Typically, debtors tend to undervalue vehicles if there is a chance to strip the lien. From my standpoint, there are two important considerations:

- (1) what is the probable value of the vehicle as of the filing date and,
- (2) what is the probable rate of depreciation of the vehicle (important for adequate protection payment amount computation).

Knowing the vehicle's actual mileage at the time of filing is important for both determinations. If you know the mileage on the vehicle at the time of filing, you can run an accurate NADA estimate of the value for that date of a vehicle in normal condition. You can also subtract the mileage on the vehicle at the time of the issuance of the certificate of title and determine the average miles per month the vehicle has been driven. You can then utilize that information to estimate the mileage on the vehicle at any time in the past - say 12 months prior to filing. You can run a reasonably accurate NADA estimate 12 months prior to filing, subtract it from the date of filing NADA value and divide the result by 12 which gives you a fairly accurate determination of the monthly loss in value over the 12 month period ending with the filing date. Eureka! You now have the information you need to make a reasonable determination of the two values you absolutely must have to properly represent your client.

Form 106A/B, however, only requires the debtor to check a mileage box which is divided in 25,000 mile increments. The problem is that there is a vast difference in value between a vehicle

that has, say 0 miles and one that has 24,999 miles and the same can be said for any of the other 25,000 mile gaps. Therefore, the information is quite useless.

Why not have the form require the entry of the actual mileage? It would require that only one line of data be entered. It would probably result in more accurate value listings by debtors. It would make it easier for creditors' counsel and debtors' counsel to reach agreement on confirmation objections in chapter 13 proceedings and reaffirmation details in chapter 7 proceedings. It would reduce the number of times the Court had to get involved in the issue. It would also allow chapter 7 trustees to know of the probable existence of equity from the date the schedules are filed.

**USC-RULES-BK-2013-0001-0116 – Stanley Kartchner** – I particularly concur with the NCBJ's discussion and recommendations concerning the \$500 asset disclosure threshold stated in the instructions to Form 106A/B (see page 15 of the NCBJ's comment) and the 100% FMV exemption election in Form 106C (see pages 15-17 of the comment).

Additionally, I note that for trustees who are uniquely tasked with reviewing every page of each set of schedules and statements of financial affairs filed in assigned cases, the ease in which that information is accessed is of utmost importance. Therefore, for instance, being able to readily see which assets are affected by liens or exemptions is helpful to the trustee in determining whether an asset can or should be administered for the benefit of creditors.

For this reason, I suggest that for each listed asset there be added two data fields that tie into the information contained in proposed Forms 106C and 106D, either by dollar amount if such is available (which is especially helpful with real property and personal property assets such as vehicles), or at least a check box to indicate that there is a lien or exemption affecting the particular asset.

**USC-RULES-BK-2013-0001-0135 – William Pierce** – I concur with the comments, concerns and recommendations of NCBJ especially the one regarding the \$500 asset disclosure.

It is very important to keep the asset showing a lien on Schedule D tied to Schedule A and B assets that have liens as it is presently. That is a real time saver when reviewing Petitions.

**USC-RULES-BK-2013-0001-0151 – National Association of Bankruptcy Trustees (NABT)** – In the scheduling of real property interests the form has eliminated information regarding both the Nature of the Debtor's Interest, and the Amount of Secured Claim as currently provided in Official Form B6A. The elimination of the nature the property interest and lien information diminishes the expediency with which Chapter 7 Trustees can assess whether there is an asset to administer without reference to other Schedules or independent documents.

NABT also joins the comments by NCBJ relative to the direction to list items "worth more than \$500," and simply list "all legal and equitable interests in property."



**NATURE OF DEBTOR'S INTEREST IN PROPERTY** For instance, in a case of a married individual filer residing in a state that recognizes tenancy by the entirety ownership, if all of the obligations are solely the Debtor's, this information may be dispositive of the case administration of entirety assets. The designation under "Who is the owner of the property?" fails to address the legal nature in which the interest is owned.

**AMOUNT OF SECURED CLAIM** The failure to list secured indebtedness against scheduled real property will require the Trustee, Creditors or other users to refer to proposed Official Form 106D, whereas existing Official Form B6A provides that immediate snapshot of whether there is equity in the property potentially available for administration.

**OTHER INFORMATION YOU WISH TO ADD ABOUT THIS ITEM, SUCH AS LOCAL PROPERTY IDENTIFICATION NUMBER:** The form indicates that a property record card number is not a mandatory item and makes this information only a suggestion. In many areas of the country, an actual deed book and page is necessary in order to determine where the property is located. NABT would suggest that this be made mandatory.

**VALUATION** While Current value is defined in the Instructions as fair market value, it may be helpful to have available space to set out how they determined the current value; namely a block for appraisal, comparative market analysis, personal opinion, etc.

**VALUATION FOR VEHICLES** it may be helpful to have available space to set out how they determined the current value; namely a block for appraisal, NADA, Kelly Blue Book, personal opinion, etc.

In the scheduling of non-vehicle personal property the form has eliminated information regarding who is the owner of the property, which is provided in Part 1 and 2. The failure to define or identify the owner diminishes both the efficiency and expediency which Chapter 7 Trustees can assess whether there is an asset to administer without reference to independent information, and can directly affect exemption analysis. The inclusion of ownership is necessary in a jointly administered case.

**CASH AND DEPOSITS OF MONEY** 16 & 17, start with inquiry of the Debtor(s)' ownership of cash and deposit of money. In this continually changing age of electronic life, NABT would suggest that the proposed Form include under Cash additional language to address electronic or other forms of cryptocurrency or digital currency; namely Bitcoins, Ripple, Litecoin, Zerocoin, etc.

As to the Deposits of Money, in addition to the institutional name it is necessary to have the identifying account number (the last 4 digits) as to insure all bank statements that are provided to the Trustee as part of the Rule 4002, or the corresponding Local Rule requirements are accounted for.

Once again Part 4 fails to provide for declaring ownership as between Debtor 1 and Debtor 2, which needs to be provided.

BONDS, MUTUAL FUNDS, OR PUBLICLY TRADED STOCKS; RETIREMENT OR PENSION ACCOUNTS; ANNUITIES & EDUCATIONAL IRA Questions inquires of the Debtor(s) ownership of Bonds, etc. and Retirement Accounts. Again, in addition to the institutional name it is necessary to have the an identifying account number (the last 4 digits) as to insure all accounts, and statements that are provided to the Trustee as part of the Rule 4002, or the corresponding Local Rule requirements are scheduled.

Further, the number of shares held of publically held stocks would be helpful, when not part of a brokerage account.

INTERESTS IN INSURANCE POLICIES form inquires of the Debtor(s) ownership of Interests in insurance policies. Again, in addition to the institutional name it is necessary to have the an identifying account number (the last 4 digits) to initiate verification or inquiry.

CLAIMS AGAINST THIRD PARTIES, WHETHER OR NOT YOU HAVE FILED A LAWSUIT OR MADE A DEMAND FOR PAYMENT OTHER CONTINGENT AND UNLIQUIDATED CLAIMS OF EVERY NATURE, INCLUDING COUNTERCLAIMS OF THE DEBTOR AND RIGHTS TO SET OFF CLAIMS Questions inquire of the Debtor(s) ownership of claims. The Debtor should be required to provide the name of the counsel handling the claim and that counsel's contact information including address and telephone number. While this can be perceived as solely assisting the Trustee, by requiring this information, Debtor(s)' counsel will have additional impetus to include this in the due diligence inquiry prior to filing, which ultimately will improve the level of both representation and disclosure.

FARM AND FISHING EQUIPMENT AND IMPLEMENTS Question inquires of the Debtor(s) ownership of Farm and Fishing Equipment. While Part 5, Question 40, in the description of business-related property inquires of "machinery, fixtures, equipment, supplied you use in business, and tools of your trade." Question 49 is limited only to "equipment." As to consistency, a similar inquiry should be made of machinery, fixtures, etc. in Question 49.

**USC-RULES-BK-2013-0001-0153 – James M. Davis, attorney** – The committee notes indicate that the committee elected to avoid terms such as "life estate" and "joint tenancy" because debtors often do not fully understand the nature of their ownership interest in real property. This information, however, may be important. I would suggest at least revising the "other information" field to add a prompt for this type of information if known. For example: "Please describe the nature of your ownership interest (such as tenancy by the entirety or life estate), if known."

I would prefer to retain the secured claim information that is required on the current Schedule A. In fact, I think it would also be helpful to carry over exemption information onto Schedule A/B as well, so that the Schedule would provide a straightforward statement of the non-exempt equity the debtor holds in property. Under the current forms (and the proposed revised forms), one must flip between schedules A through D to compile this information.

## Comments on Official Form 106C

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The new language in this Schedule attempting to resolve the issues raised by the Supreme Court’s *Schwab v. Reilly* decision fails to accomplish its goal. The purpose of Rule 4003 is to provide a procedure for exemptions to be finalized at an early date so the debtor can know what property can be dissipated, sold or otherwise used free from any claim of the bankruptcy trustee. In many parts of the country, prior to *Schwab*, it had always been assumed that if the trustee believed the value of the debtor’s interest in an asset was more than the debtor could exempt, the trustee had a duty to object to the claim the asset was exempt. In *Schwab*, the Supreme Court held that there was no duty to object if the claim of exemption was ambiguous, and suggested that a debtor could make clear an intent to exempt the debtor’s entire interest in an asset by adding language stating the debtor exempted 100% of fair market value. There could then be no doubt that the trustee should object if the trustee believed the value of the debtor’s interest exceeded the exemption the debtor could claim. If the trustee did not object, the debtor would have finality on whether the debtor’s interest was exempt.

The new language does not accomplish the purpose intended by the Court or by Rule 4003. By limiting the claim of exemption to “100% of fair market value, up to the statutory limit” the form does exactly the opposite. For every single asset subject to a monetary exemption limit, there is at least a theoretical, and often a real, possibility that a trustee could later claim that a particular asset, or collection of assets, like household goods, exceeded the statutory limit. In asset cases, this possibility would exist until the case was closed, often a year or even several years. During that time, a debtor disposing of or otherwise dissipating an asset would be subject to possible sanctions or even a revocation of discharge if those assets were later claimed by the trustee. There would be no finality on exemptions, thwarting the purpose of an objection deadline. The only way for a debtor to avoid this outcome would be to file a motion for abandonment of the property, completely reversing the burdens of going forward and proof set forth in Rule 4003.

We are aware that trustees do not like having a deadline to object to valuation. They have argued that they will have to object to every exemption, an absurd argument that in no way reflects the experience in districts where there was a long history of a firm deadline for objections on valuation issues. Trustees objected only when there was a reasonable argument that the value of an asset exceeded the exemption limits.

They have also argued that the time limits for objections would cause them to lose assets, but they have control over those time limits. The deadline runs from the conclusion of the meeting of creditors. If a trustee wishes to investigate the value of an asset, the trustee can adjourn the meeting for that purpose, thus delaying the running of the deadline. The trustee also can seek an extension of the deadline from the court, which would routinely be granted for any reasonable cause.

And trustees have argued that debtors would just claim 100% of every asset as exempt, regardless of its value. This argument has no basis in past experience, makes assumptions about debtor honesty that are inconsistent with experience in the vast majority of cases, and ignores the

fact that virtually every debtor with significant assets is represented by attorney bound by Rule 9011. Moreover, if a debtor did fraudulently claim an exemption, Rule 4003(b)(2) already gives the trustee a lengthy extended period to object.

NACBA suggests that the schedule list:

- 1) the value of the debtor's interest in the property on the petition date (see § 522(a)(2))<sup>1</sup>
- 2) the amount of that interest the debtor claims exempt and
- 3) whether the debtor asserts that the value claimed exempt is 100% of the value of the debtor's interest in the asset.

All three of these are necessary because when several items are claimed within a dollar-limited category, such as household goods or a wild card, the trustee should know how that dollar limit has been allocated among the items claimed exempt, and not be required to object to the total of all items in a category if only one item's valuation is being challenged. We also suggest that Rule 4003(b) be amended to specifically provide that objections to exemptions include objections based on valuation of the asset claimed exempt.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Proposed Form 106C amends Form 6C and allows the debtor to claim certain property as exempt.

The most significant changes are designed to respond *Schwab v Reilly*, \_\_\_U.S.\_\_\_, 130 S. Ct. 2652 (2010), in particular the advice the Court offered if a debtor wants to claim 100% of the property's value as exempt.

Part 1, line 2 has a 3<sup>rd</sup> column in which the debtor must state the “[a]mount of the exemption you claim.” There are two check boxes giving the debtor alternatives. Either the debtor can check the first box and provide a dollar amount, or he can check the second box next to which it says: “100% of fair market value, up to any applicable statutory limit.” Other aspects of the proposed form and related instructions are built around those choices.

The NCBJ believes that the proposed form and its instructions conflict. In the NCBJ's view, the instructions better implement the spirit of *Schwab*. *Schwab* adopted a relatively straightforward, “what-you-see-is-what-you-get” approach to a debtor's claimed exemptions. Under that approach, the debtor must express what he wants, leaving no room for interpretation. When a debtor wants to exempt the entire value of an asset, *Schwab* tells the debtor to say so directly with an indication like “full fair market value (FMV) or ‘100% of FMV.’” See *Schwab*, \_\_\_

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<sup>1</sup> The proposed form deviates from the current form by requesting the value set forth in Schedule A/B, which does not take into account liens on the property. The value on the exemption schedule should be the value of the debtor's interest in the property after deduction of liens, so it can more easily be compared to the allowable exemptions. The proposed form would confuse pro se debtors who might believe that a house subject to a mortgage could not be exempted because its total unencumbered value exceeded the homestead exemption.

U.S. at \_\_\_, 130 S. Ct. at 2668. Schwab’s advice accords well with the short deadline for objections to exemptions, the significant consequences of not objecting, and the need to make expeditious and economical decisions about the administration of the bankruptcy estate. If the debtor follows Schwab, the reader can quickly determine whether a claimed exemption is proper without any additional information.

The applicable nonbankruptcy law authorizing the exemption will either contain a dollar limit or not. If it does, the claimed exemption must fit within that limit or be objectionable. An exemption claimed as “100% of FMV” will be readily identifiable as potentially objectionable because it could exceed the dollar limit. If an exemption has no dollar limit, a “100% of FMV” option is useful. If the exemption does have a dollar limit, however, the debtor must give a dollar figure for the claimed exemption so that the exemption claimed can be compared to that limit.

The instructions for Proposed Form 106C (page 16 of the “Instructions for Selected Forms”[p. 214, 2<sup>nd</sup> column, 4<sup>th</sup> para]) are consistent with Schwab. In describing how a debtor should list the amount of each exemption, the instructions state: “Usually a specific dollar amount is claimed as exempt, but in some circumstances, the amount of the exemption claimed might be indicated as 100% of fair market value. For example, a debtor might claim 100% of fair market value for an exemption that is unlimited ....”

The instructions thus suggest that an exemption will usually be claimed in a dollar amount, but if the exemption is unlimited, 100% of FMV may be used.

The instructions in the proposed form (in bold type, preceding Part 1) similarly state that “[s]ome exemptions ... may be unlimited in dollar amounts,” implying that “100% of fair market value” is an option only with exemptions of that kind.

The substance of the proposed form, on the other hand, contradicts this concept. The 2<sup>nd</sup> check box in Part 1, line 2, allows a debtor to claim as the amount of the exemption “100% of fair market value, *up to any applicable statutory limit.*” (Emphasis added). The proviso appears to contemplate some type of hybrid limited/unlimited exemption.

The instructions in the form seem to contemplate the same thing, telling a debtor that if he claims 100% of fair market value under an exemption with a dollar limit and the property turns out to be worth more, the exemption “would be limited to the applicable statutory amount.”

The NCBJ believes this scheme is needlessly confusing and will lead to increased litigation over exemptions. Taken together, the instructions and the 2<sup>nd</sup> check box encourage debtors always to claim the “100% of FMV, up to any applicable statutory limit” option because the only negative consequence will be to scale back an excessive claim. Litigation is particularly likely in jurisdictions that allow people to exempt a broad category of property (such as tangible personal property) and place no dollar limit on specific types of property (such as motor vehicles) within that category.

Take for example a debtor who lives in a state that offers an \$8,000 combined exemption for tangible personal property and non-residential real estate. The debtor owns a car worth \$8,000, furniture and household goods worth \$8,000, and an \$8,000 time share, all of which he wants to

claim as exempt. If he checks the second box for each item – “100% of fair market value, up to any applicable statutory limit” – no individual exemption will be objectionable because none exceeds the statutory cap although taken together they do. When the exemptions are separately proper but collectively improper, it is impossible for a trustee or creditor to say which is objectionable or know which will be limited without obtaining an appraisal of each item claimed as exempt. That will be prohibitively expensive in many cases and will also be difficult to do in the short time for objecting to exemptions.

To avoid these problems, the NCBJ recommends requiring a debtor to state a particular dollar amount for an exemption that has a dollar limit and restricting the 100% of fair market value option to exemptions that are unlimited. After the 2<sup>nd</sup> check box, the phrase “up to any applicable statutory limit” should be deleted and a parenthetical added, as follows:

“ 100% of fair market value, ~~up to any applicable statutory limit~~ (for exemptions unlimited in dollar amount)

The instructions (in bold type, preceding part 1) should also be changed to delete the last sentence:

~~Some exemptions – such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds – may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.~~

**USC-RULES-BK-2013-0001-0106 – Annette Crawford, M.D. Louisiana, National Association of Chapter 13 Trustees (NACTT)** – The proposed Schedule C does not include "totals" information needed in order to complete the required Final Account ( UST Form 101-13 FR-s(4/1/2009) which requires the following information: "total assets exempted". Staff time involved in having to total assets claimed exempt when they currently don't have to because the existing Schedule C includes the required totals and dovetails into the required Final Account.

**USC-RULES-BK-2013-0001-0135 – William Pierce** – I totally disagree to the using 100% FMV on Form 106C. Trustees would be objecting to most if not all exemptions as Debtors and Debtors attorneys do not put the real market value on the schedules most of the time. A lot of assets exceed FMV so Trustees will be in the Court with objections constantly.

**USC-RULES-BK-2013-0001-0140 – Penelope Souhrada** – Part 3 on page 1 asks: Are you claiming a homestead exemption of more than \$155,675? This applies only in jurisdictions which use the federal exemptions. Opt-out states each have different homestead exemptions and using this number in this form will be extremely confusing for debtors.

**USC-RULES-BK-2013-0001-0151 – NABT** – form addresses the Debtor(s)' claim of exempt property. In 2011, NABT strongly opposed the inclusion of the 100% Fair Market Value (FMV) exemption checkbox with the Proposed Schedule C amendment in 2011. (Comment 11-BK-11).

While NABT appreciates the efforts of the Advisory Committee on Bankruptcy Rules and its Subcommittee on Forms and the Forms Modernization to continue to address its concerns arising from the United States Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652, 2668 (2010), NABT believes that many of the same deficiencies with the use of a 100% FMV exemption checkbox as commented upon by NABT in 2011 still exist.

OWNERSHIP AS TO DEBTOR 1 & DEBTOR 2 Proposed Form 106C in the scheduling of exemptions has eliminated information regarding who is the owner of the property, which is provided in Part 1 and 2 of Form 106A/B. The failure to define or identify the owner is diminishes both the efficiency and expediency which Chapter 7 Trustees can assess whether there is a proper exemption without reference to independent information, which directly affects exemption analysis. The inclusion of ownership is necessary in a jointly administered case.

AMOUNT OF THE EXEMPTION YOU CLAIM Form provides two alternatives for the amount claimed as exempt. The 1<sup>st</sup> alternative is a dollar amount (\$ \_\_\_\_\_) while the 2<sup>nd</sup> is for "100% of fair market value, up to any applicable statutory limit."

The form of the 100% FMV checkbox for dollar limited exemptions will only create confusion and increased litigation over exemptions as described in the NCBJ Comment BK-2013-0001-0059 at pages 15-17.

The 30-day time limit in Bankruptcy Rule 4003 only applies to objections based on "three, and only three" entries on a debtor's claim of exemptions in Schedule C: (1) the description of the property claimed as exempt; (2) the Bankruptcy Code provisions governing the exemption claimed; and (3) the amount listed in the column titled "value of claimed exemption." *Schwab v. Reilly*, 130 S. Ct. 2652, 2663 (2010) Where the basis of the objection is on any other entry, such as the fair market value assigned to the exempt property by the debtor, the 30-day time limit does not apply. *Id.* at 2665 n. 15.

As reviewed by Bankruptcy Judge J. Rich Leonard in the case of *In re Gregory*, 487 B.R. 444, 451 (Bkrty.E.D.N.C. March 7, 2013):

The validity of utilizing a designation such as "100% of the FMV," "100% Equity" or comparable language to value exemptions (the value of which are expressly limited to a maximum value by the Bankruptcy Code or applicable state law), has been addressed by several courts following *Schwab*. See, e.g., *In re Orton*, 687 F.3d 612, 618 n. 1 (3d Cir. 2012); *Mwangi v. Wells Fargo Bank, N.A.*, 473 B.R. 802, 810 (D. Nev. 2012); *Hefel v. Schnittjer (In re Hefel)*, No. 11-CV-1010-LRR, 2011 WL 3292929, at \*4-5 (N.D. Iowa July 29, 2011); *Messer v. Maney (In re Messer)*, Nos. AZ-11-1505, 11-3007, 2012 WL762828, at \*3-4 (B.A.P. 9th Cir. Mar. 9, 2012); *Massey v. Pappalardo (In re Massey)*, 465 B.R. 720, 730 (B.A.P. 1st Cir. 2012) (concluding "that there is no legitimate reason for the Debtors to ignore the burdens imposed by the [Bankruptcy] Code, and reiterated by *Schwab*, to state their exemptions accurately and in conformance with statutory limits, by identifying the value of the claimed exemption up to or in a specific dollar amount.");\*\*\*

Unless applicable federal or state law allows debtors to exempt their entire interest in an item itself regardless of value, they have no right to utilize language claiming an exemption equal to 100% of the fair market value. See, e.g., Orton, 687 F.3d at 618 (“[W]here the statutory basis for a debtor’s claim of exemption provides only for an exemption of an interest in certain property up to a specific dollar amount, the ‘value of the claimed exemption’ must be identified as a monetary value.” (citations omitted)); Hefel, 2011 WL 3292929, at \*4 (affirming the bankruptcy court’s order sustaining the objections of the trustee to the debtor’s exemption of certain business interests as “FMV”); Massey, 465 B.R. at 726; Messner, 2012 WL 762828, at \*4; Winchel, 2010 WL 5338054, at \*1–2 (sustaining the trustee’s objection to the debtors’ valuation of the claimed exemption in their residence as “Full FMV” because the value of the residence (\$200,000.00) exceeded the statutory limit set forth in § 522(d)(1) of the Bankruptcy Code).

In 2012, shortly following the testimony provided by NABT to the Advisory Committee in support of its Comment 11-BK-11, the First Circuit bankruptcy Appellate Panel issued its opinion in the case of *In re Massey*, 465 B.R. 720 (B.A.P. 1st Cir. 2012). In *Massey*, the Court in considering the use of “100% of FMV” claim of exemption, stated:

The foregoing interpretations of Schwab are supported by the Supreme Court’s own admonition that “the only burdens [its] conclusion imposes are burdens the Code itself prescribes, specifically, the burdens the Code places on debtors to state their claimed exemptions accurately and to conform such claims to statutory limits.” 130 S. Ct. at 2667 n.17. Even *Moore*, supra, which the Masseys describe in their Amended Brief as having reached a “sensible result,” declined to interpret Schwab as broad license to exempt an asset in-kind where the authorizing statute caps the exemption. Instead, in ruling on an objection to a “100% of FMV” exemption, the court concluded that the trustee was entitled to an evidentiary hearing regarding the value of the debtor’s exemptions. *In re Moore*, 442 B.R. at 868. At such a hearing, the debtor would have the burden of showing a “plausible basis for the claim that ‘100% of FMV’ of an asset falls within the statutory limit on the amount that may be exempted.” *Id.*

NABT requests that, in the event Proposed Official Form 106C, Part 1 and 2 in Column 3 is to provide a 100% FMV checkbox exemption, the Form should require “a debtor to state a particular dollar amount for an exemption that has a dollar limit and restricting the 100% of fair market value option to exemptions that are unlimited. After the second check box, the phrase “up to any applicable statutory limit” should be deleted” as suggested by the NCBJ in Comment BK-2013-0001-0059 at page 17.

Lastly, as noted in NABT’s Comment 11-BK-11, the current Schedule C – Property claimed as exempt form (Official Form 6C) and Proposed Official Form 106C provides only a minimal amount of information. While each version set forth a description of the property, the statutory basis and the amount of the claimed exemption, each fails to provide critical information as to the net value available for administration, and each fails to provide without cross-referencing both liens against such property and property not claimed as exempt. It is NABT’s position that this could be easily remedied by the inclusion of a few additional columns, which would clearly set forth what properties and values are subject to administration.

An example of such modification might be as follows:



Property Description from Schedule A/B	Full market value of the property	Current value of the portion you own	Liens against the full market value	Amount you claim as exempt	Specific laws that allow exemption	Net value to the Estate
2008 Toyota Tacoma	\$ 20,000.00	\$ 20,000.00	\$ 12,000.00	\$ 3,450.00	11 USC 522(d)(2)	\$4,550.00
1995 Chevy Truck	\$ 3,000.00	\$ 1,500.00	\$ -	\$ -	N/A	\$1,500.00

A modified form as suggested above would allow for quick verification, in summary fashion of the property, the exemption and if there is an administrable asset, which would benefit Debtors, their counsel, as well as the Judiciary and Chapter 7 Trustees.

## Comments on Official Form 106D

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Proposed Form 106D requires debtors to list creditors who hold claims secured by property. The NCBJ recommends both substantive and stylistic changes to the proposed form.

Part 1, line 2 requires a debtor to list secured claims in alphabetical order of “the major creditor” who holds each claim. The term “major” requires debtors to determine which creditors are “major” or “minor” and then apparently not disclose the “minor” ones. The word “major” should be deleted so that all creditors must be listed.

The NCBJ notes that in line 2, there is a checkbox on the lower left side that requires a debtor to “check if this is a community claim.” The meaning of the term “community claim” is unclear. The term is not defined in the proposed form, in the Instructions, in the Bankruptcy Code, or in the Bankruptcy Rules. The check box and accompanying text should either be clarified or deleted.

The NCBJ suggests changing the phrase “check all that apply,” a phrase that appears several times, to “check any that apply” and deleting the check box and phrase “none of the above apply.”

The NCBJ recommends adding a check box for “None” at the beginning of Part 2 of the proposed form and revising the instructions at the beginning of Part 2 as follows:

~~Use this page only if you have others to be notified about your bankruptcy for a debt that you already listed in Part 1. For example, if~~ **If** a collection agency **or an attorney** is trying to collect ~~from you on~~ a debt **from you that you** owe to someone else, list the creditor in Part 1, and then list the collection agency **or attorney** here. Similarly, if you have more than one creditor for any of the debts that you listed in Part 1, list the additional creditors here. ~~If there are no you do not have~~ additional persons to be notified for any debts **listed** in Part 1, ~~do not fill out or submit this page~~ check the “None” box at the top of this page.

**USC-RULES-BK-2013-0001-0155 – David S. Yen** – Schedules D and E/F Should Not Require That Creditors Be Listed Alphabetically

The revised forms would instruct debtors to list creditors alphabetically. This will not be a problem for attorneys who use commercial software programs, but it will impose an unjustified burden on pro se debtors. These debtors have a hard enough time preparing their schedules without adding this requirement.

At the pro se help desk we will frequently see debtors who think that they have listed all of their creditors, but who have omitted creditor(s). They may have forgotten that a debt was owed, or mistakenly thought that a creditor did not have to be listed because the debtor does not believe that the debt is owed at all. Other times the debtor has included a debt on Schedule D because it was secured when the debt was incurred, but it is no longer secured because the collateral has

been repossessed. To make the debtor redo the schedules just so that the creditors would appear in alphabetical order is a burden that is not justified by any possible benefit.

#### Schedules D and E/F Should Not Require That Creditors Be Listed Repeatedly – Account Numbers Should be Optional

Schedule E/F part 2, question 4 tells the debtor: “If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is.” Many debtors receive separate bills from hospitals or other medical providers for every visit. Some creditors assign a different account number for each visit, even though they also have a unique patient identifier number. The burden of listing the creditor separately for each account number, and of sending separate notices for each account, is not justified by the benefit to creditors. Many credit reports list partial account numbers by omitting numbers at the end rather than at the beginning. Account number have a limited value for creditors and listing them should be optional.

Comments on Official Form 106E/F

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The instruction paragraph at the top of this schedule uses the word “priority” twice where the word “nonpriority” should be used.

In addition, there is no need to list separate claims of the same creditor separately. The purpose of the schedule is to identify creditors and the amount owed to them. If a debtor has purchased several items from the same creditor, the identity of the creditor and the total debt should be sufficient for all parties. Similarly, if the debtor has three Citibank credit card accounts that have not been assigned, listing the total owed is sufficient for the needs of all parties in the case.

Likewise, the approach of the current forms, which makes account number information optional should be retained. We are unaware of problems caused by lack of an account number for creditors, who can use the debtor’s social security number, which they insisted on receiving in the notice of the creditors meeting, to identify the debtor.

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The BCAG suggests removing the language addressing what is needed for "statistical purposes" because this is an internal requirement for the judiciary, and it might create confusion on the part of the debtor.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 106E/F requires debtors to list creditors with unsecured claims. The proposed form consolidates and amends Forms 6E and 6F. The NCBJ’s comments on and proposed changes to Parts 1 and 3 of the proposed form are identical to the NCBJ’s comments on and proposed changes to Parts 1 and 2 of Proposed Form 106D.

Comments on Official Form 106G

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 106G revises Form 6G requiring the debtor to list executory contracts and unexpired leases. In the NCBJ’s view, the parenthetical examples of possible contracts or leases are confusing, since no one contracts for or leases “rent” or a “vehicle lease.” The examples provided should be parallel, describing an item or premises contracted for or leased. The parenthetical phrase should be changed to: “**an apartment, a car or truck, a cell phone.**”

Comments on Official Form 106H

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 106H requires a debtor to list his co-debtors. The NCBJ believes the proposed form would be clearer if the definition of “co-debtor” were moved from line 3 to become the 1<sup>st</sup> sentence in the form (before “Be as complete and accurate as possible”).

The first sentence of the form should be rewritten as follows: “Co-debtors are people or entities who are also liable for any debts you may have.” The 1<sup>st</sup> sentence in line 3 would then be rewritten simply to say: “**In Column 1, list all of your codebtors.**”

Comments on Official Form 106Dec

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 106Dec is an individual debtor’s declaration that the information in the schedules is true and correct. The 3<sup>rd</sup> sentence in the proposed form misstates the criminal penalties for a false statement, giving the maximum fine as “\$500,000.”

Under 18 U.S.C. § 3571(b)(3), the maximum fine for an individual convicted of a federal criminal offense is \$250,000, not \$500,000. In the interest of consistency, the 3<sup>rd</sup> sentence should also have the same structure as comparable sentences in other forms. The sentence should be rewritten as follows:

If you make a false statement, you could be fined up to ~~\$500,000~~ **\$250,000**, or imprisoned for up to five years, or both.”

Comments on Official Form 107

**USC-RULES-BK-2013-0001-Oral comment to C. Kohn, made by Assistant U.S. Attorney** –

Is “were you a party” to proceedings sufficient, or would it be better to say “were you a plaintiff, defendant, or otherwise a party” to proceedings. She had a bankruptcy fraud referral in which the debtor failed to report that she was the beneficiary of an employment discrimination action prosecuted against her employer by the EEOC. Her suggested language might have provided a better signal to list that action. It might also address class members who are not named plaintiffs in class actions.

It would be clearer to say: “Are you now or, within 1 year before you filed for bankruptcy, were you a party in any lawsuit . . .” rather than “Within 1 year before you filed for bankruptcy, were you a party in any lawsuit . . .”? I realize that we have a check box for “Pending” status which indicates that the question includes current cases, but use of “were” alone seems a little confusing.

**USC-RULES-BK-2013-0001-0035 – Chapter 13 Trustee Robert G. Drummond** – Line 18 requests information regarding transfers to self-settled trusts within the ten years prior to the filing of the bankruptcy case. The Official Form does not request information of property transfers within the last 10 years converting non-exempt property to increase the homestead exemption. The 2005 changes to the Code added 11 U.S.C. § 522(f) which reduces the value of the homestead exemption to the extent that the value is attributable to property disposed by the debtor in the prior 10 years with the intent to hinder, delay, or defraud. An additional question about dispositions that increased equity in the homestead within the prior ten years would be helpful.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 107 is the debtor’s statement of financial affairs and revises Form 7. The NCBJ recommends several changes, most of them stylistic.

Line 3 asks about the debtor’s sources of income. The initial question should be changed to read:

Did you have any income from **employment** ~~being employed~~ or from operating a business ...?  
The 2<sup>nd</sup> sentence of line 3 instructs debtors awkwardly to “Fill in a total amount for the income you received ...” The sentence should be changed to read:  
Fill in **the** a total amount **of** ~~for the~~ income you received . . . .

Form 107 contains 2 check boxes labeled “Yes,” one under the heading “My debts are not primarily consumer debts,” the other under the heading “My debts are primarily consumer debts.” In the text next to each “Yes” check box, the debtor is told to list creditors who have received certain payments. The last sentence instructs: “Also do not include payments to an attorney for this bankruptcy case.” The phrase “for this bankruptcy case” should be deleted and the following substituted: “if the payments are listed in your answer to question 15 in Part 7.”  
Rewritten, the reworded sentence would read:



Also, do not include payments to an attorney for this bankruptcy case **if the payments are listed in your answer to question 15 in Part 7.**

10 poses a question about set-offs by creditors but limits the information a debtor must provide to instances where a set-off has occurred “without your permission.” In the interest of fuller disclosure, this limitation should be removed so that interested parties can evaluate for themselves whether the set off was improper or otherwise avoidable. Rewritten, the question would read:

Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off or otherwise take anything from your accounts ~~without your permission~~ or refuse to make a payment because you owed a debt?

11 asks about property in possession of various parties. The indefinite article “a” should be added before “custodian” and “other” should be changed to “another,” partly to remove the implication that the custodian or official must be “court appointed.” Rewritten, the question should read:

Within 1 year before you filed for bankruptcy, was any of your property in the possession of an assignee for the benefit of creditors, a court-appointed receiver, a custodian, or **another** official?

17 asks whether within 2 years of the bankruptcy filing a debtor transferred property outside the ordinary course of business. The sentence following the question instructs: “Include both outright transfers and transfers made as security.” The NCBJ is concerned that the phrase “made as security” will be unclear to lay people. A parenthetical example would lessen the likelihood of confusion. The sentence should be rewritten as follows:

Include both outright transfers and transfers made as security **(such as the granting of a security interest or mortgage on your property).**

21 requires a debtor to list the location of storage units in which the debtor has stored property within 1 year of the bankruptcy filing. The sentence following the question instructs the debtor:

“Do not include storage units that are part of the building in which you live.”

The reason for the instruction is not clear. Often apartments and condo units have storage rooms located in other parts of the building that will not be obvious during a trustee or appraiser’s visit. In the interest of fuller disclosure, the NCBJ recommends removing the instruction:

Do you store property in a storage unit, or have you stored property in a storage unit within 1 year before you filed for bankruptcy? ~~Do not include storage units that are part of the building in which you live.~~

26 asks a debtor to give details about his business or connections with any business. The NCBJ believes a different structure would make the provision clearer.

The “Yes” check box should be moved to the top and the instruction changed to say “Check any below that apply.” The phrase “None of the above applies” after the “No” check box should be deleted. The indefinite articles “a” or “an” should also be used at the beginning of each example to make the structure uniform. Rewritten, the portion of the paragraph would read as follows:

“ Yes. Check any below that apply and fill in the details for each business.

“ A sole proprietor or self-employed in a trade, . . . .

“ A ~~Member~~ **member** of a limited liability company . . . .

“ An ~~Owner~~ **owner** of at least 5% . . . .

“ No. Go to Part 12.

“ ~~Yes. Check all that apply and fill in the details below for each business.~~

Part 12 requires the debtor’s signature. Other forms calling for the debtor’s signature contain an explicit warning about the consequences of making a false statement. The NCBJ recommends placing the same warning here and making it identical to the warnings in the other forms:

**“If you make a false statement, you could be fined up to \$250,000, imprisoned up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.”**

**USC-RULES-BK-2013-0001-0105 – Annette Crawford, M.D. Louisiana, NACTT** – New

Schedule I left off some very valuable information, marital status. Now proposed SOFA also removes the requirement to give the name of a current or ex-spouse.

It is very important to have the marital status and current or ex spouse's name when investigating the debtor's financial situation. It assists in looking for property settlements, and transfers of assets. It also allows at trustee to discover income that is not being reported and assists in reviewing tax returns which we are required to collect and examine, for erroneous head of household claims.

Expand Question 2 on the Proposed Statement of Financial Affairs to require the debtor to pick a marital status from

- a) married,
- b) married but separated,
- c) divorced and
- d) single (never married),

and require the name of any current or ex-spouse within the past 8 years.

**USC-RULES-BK-2013-0001-0151 – NABT** – ARE EITHER DEBTOR 1’S OR DEBTOR 2’S

DEBTS PRIMARILY CONSUMER DEBTS? line 5 fails to distinguish as between Debtor 1 or Debtor 2 in a jointly administered case, in which the responses could be different. As previously noted, inclusion of ownership or designation as between Debtors is necessary in a jointly administered case.

Within 1 year before you filed for bankruptcy, did you make a payment on a debt you owed anyone who was an insider? 7. Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an insider? lines 6 & 7 as to Insider payments, in addition to the description, should also include the category which the Debtor determines the transferee is an “insider,” by example “Parent,” “Partner,” “Officer,” etc.

## Comments on Official Form 112

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 112 is the statement of intention for individuals filing chapter 7 cases. The NCBJ recommends adding a comma and the word “if” in the first sentence of the instructions at the top of the form. Rewritten, the sentence would read:

If you are an individual filing under Chapter 7 and creditors have claims secured by your property, or **if** you have leased personal property and the lease has not expired, . . .

The NCBJ also recommends changes to the check boxes and text under: “What do you intend to do with the property that secures a debt?” The 1<sup>st</sup> checkbox says “give the property to the creditor.”

The word “give” should be changed to “surrender.” “Surrender” is the term used in the Code, see 11 U.S.C. § 521(a)(2)(A), and courts disagree on what constitutes the “surrender” of property, see, e.g., *In re Pratt*, 462 F.3d 14, 18 (1st Cir. 2006) (noting that “surrender” does not necessarily contemplate physical delivery).

To make the text with the check boxes parallel, the phrase “I will” next to the 3<sup>rd</sup> and 4<sup>th</sup> check boxes should be deleted (so that the text would simply say “Redeem the property” and “Sign a Reaffirmation Agreement”).

**USC-RULES-BK-2013-0001-0078 – Sheryl K. Ith of Cooksey, Toolen, Gage, Duffy & Woog** – The Committee Note to Official Form 112, Statement of Intention for Individuals Filing Under Chapter 7, states that the form was revised to “make it easier to read” and “uses language likely to be understandable to non-lawyers.”

The Note goes on to say that Part 1 “refers to signing a ‘Reaffirmation Agreement’ rather than asking whether the debtor intends to ‘reaffirm the debt.’” CTGDW asserts that if a debtor does not understand what it means to reaffirm a debt, then that same debtor is not likely to understand what it means to sign a “Reaffirmation Agreement.”

Further, the change in the form allowing a debtor to state his intent to “sign a Reaffirmation Agreement” infers that in merely signing the agreement the debtor will have complied with the duties set forth in 11 USC §§521 and 524. However, this is not the case as 521(a)(2)(A) states “that the debtor intends to reaffirm debts secured by such property” and 521(a)(6) provides that debtor shall not retain possession of personal property unless the debtor enters into an agreement which the creditor pursuant to 524(c) with respect to the claim secured by such property.... Sections 524(c) and (d) require the debtor to do much more than simply “sign a Reaffirmation Agreement” to reaffirm a debt.

This committee does a great disservice to the debtor who relies on the forms and allows the debtor to believe that simply signing a Reaffirmation Agreement results in the debt being reaffirmed.

**USC-RULES-BK-2013-0001-0155 – David S. Yen** – The form should use the word “surrender,” not the word “give”.

This form is required by section 521(a)(2) of the Code. That section requires that a debtor who has debts secured by property of the estate state his or her intention with respect to “retention or surrender” of such property.

Surrender of property is not equivalent to physical transfer of property. For tangible personal property, use of the word “give” implies transfer of physical possession of the thing itself, or sometimes a key or other device. Such actions are not required when a debtor is surrendering property. Indeed, if more than one creditor has a lien on a piece of property, the debtor cannot give the property to both. What the debtor can do is surrender the property, and let secured creditors or other interested parties resolve issues of ownership and possession between themselves.

Use of the word “give” may also be misconstrued as requiring the debtor to take affirmative steps and incur expenses in doing so.

Comments on Official Form 119

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The forms omit the sections in each form that are to be signed by a nonattorney bankruptcy petition preparer. Section 110(b)(1) requires each document prepared by a petition preparer to be signed by the preparer, with the preparer’s name, address and corporate information, if any. The statute does not permit these separate signatures to be combined into one form as the proposed forms appear to do.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – 119 is the bankruptcy petition preparer’s notice, declaration, and signature. The NCBJ suggests that the introductory paragraph’s final sentence concerning potential penalties for non-compliance be rewritten (a) to make its structure consistent with the structure of similar sentences in other forms and (b) to be accurate.

The inaccuracy lies in the warning that petition preparers who do not “comply with the provisions” of title 11 or the Bankruptcy Rules may be “fined and imprisoned.” Under 18 U.S.C. § 156(b), however, the offense is committed if a case or related proceeding is “dismissed” because of a petition preparer’s “knowing attempt” to disregard the Bankruptcy Code or Rules, and the penalty is a fine, imprisonment, or both. The sentence should be rewritten as follows:

A bankruptcy petition preparer ~~who does not comply with the provisions of title 11 of the United States Code~~ **whose knowing attempt to disregard the Bankruptcy Code or** the Federal Rules of Bankruptcy Procedure **causes a bankruptcy case to be dismissed** may be fined, ~~and~~ imprisoned, **or both**. 11 U.S.C. § 110; 18 U.S.C. § 156.

## Comments on Official Form 121

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The introduction to this form suggests that the debtor's SSN may appear on multiple notices in a case, raising additional concerns regarding exposure. The BCAG suggests deleting the following sentence: "To help creditors correctly identify a case, full Social Security Numbers may appear on an electronic version of some notices." The only notice that contains the full SSN is the 341 notice. There are two versions of the 341 notice in each case. One version contains the full SSN, which is mailed or transmitted electronically to the specified recipients pursuant to Rule 2002(a)(1). The other version of the 341 notice that appears on the case docket is redacted.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 121 is the statement about the debtor's social security number. The NCBJ suggests rewriting the final sentence in the instruction to make its wording and structure consistent with the wording and structure of similar sentences in other forms and to add the applicable statutory citations. The sentence should be rewritten as follows:

If you ~~do not tell the truth~~ **make a false statement** on this form, you may be fined up to \$250,000, ~~you may be imprisoned for~~ up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.”

**USC-RULES-BK-2013-0001-0089 – Scott W. Ford, Clerk of Court** – The introductory language should be clarified to ensure that this form is filed not in paper but submitted in CM/ECF as a private entry available to internal court users only.

In 2012, the B21 form was revised to include cautionary language not to file the B21 as part of the public case file. Generally, clerks' offices feared this language would increase the numbers of B21 s filed conventionally. This clerk's office has not observed a spike in paper B21 s; nonetheless, we suggest clarifying the introductory language to ensure that this document is submitted electronically and privately and not in paper.

**USC-RULES-BK-2013-0001-0140 – Penelope Souhrada** – The instructions certainly imply that it is normal and legal to use more than one social security number.

## Comments on B318: Order of Discharge

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 318 is the discharge order (currently Form 18). Unlike the other forms, it lacks a heading with the form number. The NCBJ suggests placing the form number at the top so that the format is the same as the format of other forms.

The NCBJ also objects to the revised format for the notices accompanying the discharge order in proposed Form 381. The distinction between information “to the creditors” and “to the debtor” is artificial. The revised format misleadingly suggests that debtors need only read the “Notice to the debtor” and creditors should only read the “Notice to the creditors.” Yet, each constituency would benefit from reading the information contained under the heading intended for the other. The NCBJ recommends retaining the existing format with a single notice.

**USC-RULES-BK-2013-0001-0151 – NABT** – NABT believes that Proposed Form 318 has serious deficiencies as it relates to case administration. The Order of Discharge should explain that the trustee’s administration of the case can extend beyond the discharge date.

Proposed Form 318 should indicate that the issuance of the discharge is not the closing of the case if the trustee is still administering the case.

Debtor’s non-exempt property remains subject to administration of the trustee until the case is closed and debtors are not at liberty to sell or transfer property without a court order while the case remains pending.

Further, the Proposed Form provides “a creditor with a lien may enforce a claim against the debtors’ property subject to that lien.” The Form should, as noted above, warn that property, even with such a lien, remains property of the estate until the case is closed or the property abandoned.



Comments on Form 423: Certification about a Financial Management Course

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The second paragraph to the introductory information to this form includes only a "does not" scenario.

[Original: “After you finish the course, the provider will give you a certificate. The provider may notify the court that you have completed the course. If the provider does not do so, then Debtor 1 and Debtor 2 must each file this form with the certificate number before your debts will be discharged.”]

The BCAG suggests adding a "does" scenario as follows: "The provider may notify the court that you have completed the course. If the provider does, Debtor 1 and Debtor 2 need not file this form. If the provider does not do so, then Debtor 1 and Debtor 2 must each file this form with the certificate number before your debts will be discharged. "

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 423 is the debtor’s certification regarding the financial management course requirement. The NCBJ has stylistic suggestions. The first sentence should be modified to read as follows:

If you are an individual, and **if** you filed for bankruptcy under chapter 7 or 13, **or filed bankruptcy** under chapter 11 and § 1141(d)(3) **does not apply, applies ...”**

Comments on Form 427: Cover Sheet for Reaffirmation Agreement

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The BCAG recommends that the instructions before Part 1 of this form be modified to remove "attach it to the reaffirmation agreement," and instead include "file it as one document with the reaffirmation agreement." The BCAG recommends placing the emphasis on filing the agreement instead of the cover sheet. The BCAG also recommends clarifying which forms (240A and/or 240A/B ALT) require the submission of this cover sheet. Much of the information included on Form 427 duplicates the information required by Form 240A.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Form 427 is the cover sheet for reaffirmation agreements and revises Form 27. The NCBJ recommends changes to line 11.

The question in bold– “Did counsel represent the debtor in negotiating the reaffirmation agreement?” – takes a position on a legal issue about which courts disagree. The relevant Code section requires the debtor’s attorney to sign the certification if the debtor “was represented by an attorney during the negotiation of [the] reaffirmation agreement,” 11 U.S.C. § 524(k)(3)(J)(i). Courts differ on what “during the negotiation” means. Some interpret that phrase to require the attorney’s actual participation in the negotiation; others find it enough merely that the debtor was represented by an attorney in the bankruptcy case at the time. Rather than take a position, line 11 should be revised to use the statutory language. Also, sections 524(k)(3)(J)(i) and (k)(5) require a “declaration” from debtor’s attorney, not a “declaration or an affidavit,” as the proposed form suggests. Again, the statutory language should be used.

NCBJ recommends splitting the inquiry in line 11 into 2 separate questions, one concerning the debtor’s representation by an attorney, the other concerning the attorney’s execution of the declaration. Having 2 questions will simplify the current structure of the paragraph and emphasize the equal importance of each question. Rewritten, the text would read:

11. Counsel’s representation of the debtor

a. Did counsel represent the debtor **during the negotiation of** ~~in negotiating the reaffirmation agreement?~~

“ Yes

“ No

b. Has counsel executed the declaration required by section 524 (k)(5) of the Bankruptcy Code?

“ Yes

“ No

Comments on Instructions – General

**USC-RULES-BK-2013-0001-United States Trustee Program (USTP)** – The United States Trustee Program appreciates the continued opportunity to review and offer comments on the bankruptcy forms drafted by the Forms Modernization Group. Overall, we believe the instructions foster greater understanding, accessibility and accuracy. We like the layout and spacing of the instructions. We appreciate the additional information and detail that is provided. Also, we appreciate having one set of instructions for all individual forms.

Consider adding a warning to debtors to exercise caution with respect to personally identifiable information, and perhaps a brief description of the scope and requirements of Bankruptcy Rule 9037. For example, the following language could be used or adapted: **“Bankruptcy Rule 9037 prohibits the disclosure of certain personal information in documents that are filed with the bankruptcy court. The types of information protected are individuals’ social-security numbers and taxpayer-identification numbers, birth dates, the names of minor children, and financial-account numbers. An individual can waive the protections of Rule 9037 by filing a document containing his or her own personal information that is not redacted and is not filed under seal.”**

Consider amending the following admonition for accuracy, completeness and consistency with the forms: **“If you deliberately make a false statement, you could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571. Making a false statement, concealing property, or obtaining money or property by means of fraud in connection with a bankruptcy case is subject to a fine of up to \$250,000 and imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.”**

On p. 5 for the second bullet, consider amending the following language for accuracy and completeness: “It is important that you file in the correct district within your state. 28 U.S.C. § 1408. To find out. . .”

On p. 6 for the fourth bullet, consider amending the following language for consistency with the forms: “Use these forms if ~~a bankruptcy petition preparer helped~~ **you paid or agreed to pay someone who is not an attorney to help** you fill out your forms.” See Proposed Official Forms 101 and 106Dec.

On p. 7 for the last bullet, consider adding language following the checkbox for payment advices (pay stubs) so that debtors are informed that only the last four digits of a Social Security number should be made known to the general public. See Bankruptcy Rule 9037; General Comments, supra. For example, the following language could be used or adapted: “Bankruptcy Rule 9037 prohibits the disclosure of certain personal information in documents that are filed with the bankruptcy court. The types of information protected include individuals’ social-security numbers and taxpayer-identification numbers. An individual can waive the protections of Rule 9037 by filing a document containing his or her own personal information that is not redacted and is not filed under seal.”

On p. 10 at the top of the second column, consider amending the following language for accuracy and completeness: “the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b)(2) of the Bankruptcy Code. **Additionally, these parties can file a motion to dismiss your case under § 707(b)(3) of the Bankruptcy Code if your bankruptcy petition was filed in bad faith or the totality of the circumstances of your financial situation demonstrates abuse.** If a motion is filed,....”

On p. 12 in the box, consider amending the following language for accuracy: “~~Section 521(a)(1) of the Bankruptcy Code~~ **Bankruptcy Rule 1007** requires that you promptly file detailed information about your creditors. . . .”

In the same box, consider amending the following admonition for accuracy, completeness and consistency with the forms: “~~If you make a false statement, you could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.~~ **Making a false statement, concealing property, or obtaining money or property by means of fraud in connection with a bankruptcy case is subject to a fine of up to \$250,000 and imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.**” See Proposed Official Forms 101, 106Dec, 202, and 205.

On p. 12, consider amending the following language for clarity and internal consistency: “**For debtors in districts outside of Alabama and North Carolina, a list of approved agencies can be found at: [http://www.justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm).** For debtors in districts in Alabama and North Carolina, a list of approved agencies can be found at: **<http://www.uscourts.gov>.** The clerk of the bankruptcy court also has a list of approved agencies.” See Proposed Instructions – Bankruptcy Forms for Individuals, at 5.

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – NACBA supports placing the instructions for the forms in a separate packet so the length of the forms can be reduced. There is also some merit in attempting to provide more simple instructions for pro se debtors. But it must be recognized that any attempt to simplify and generalize must sacrifice the precision of the statute, rules, and case law. **Therefore, it is imperative that the Committee Notes or the form instructions themselves make clear that the instructions are not a statement of the law and should not be relied upon by courts in interpreting the law.**

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – On p. 8 under the chapter 7 box, the references to Forms 108, 109, and 110 should be changed to reference the correct form number. (Numbers 22A-C).

On p. 12, This notice states that "The clerk of the bankruptcy court has a list of approved agencies." The BCAG recommends changing this sentence to accurately reflect that the U.S. Trustee Program and Bankruptcy Administrators keep a list of approved agencies. The notice should be amended as follows:

A list of approved agencies may be found at:  
[http://justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.html](http://justice.gov/ust/eo/bapcpa/ccde/cc_approved.html). In Alabama and North Carolina, go to:

[http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/ ApprovedCreditAndDebtCounselors.aspx](http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/ApprovedCreditAndDebtCounselors.aspx)

The BCAG notes that bankruptcy courts neither have nor maintain these lists; the courts merely provide links from their websites.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The NCBJ recommends a careful examination and substantial revision of the Instructions accompanying the forms before they are promulgated. Close examination of the Instructions reveals several problem, among them:

- The Instructions make statements of the law that are not always accurate.
- Most important, the Instructions purport to give legal advice. Apparently, the Instructions are intended to serve as a kind of a lay person’s guide to bankruptcy law and practice. The NCBJ believes strongly that this effort is misguided, even when the guidance is accompanied by warnings that debtors should always consult an attorney rather than go it alone.

The Instructions should be limited as much as possible to guidance on how to fill out the forms. They should not attempt to distill bankruptcy law into something a lay person can understand, nor should they characterize bankruptcy practice or offer predictions on what is likely or unlikely to happen in a debtor’s case.

The NCBJ offers on the Instructions with the caveat at the beginning that the NCBJ has chosen to focus its attention on the Proposed Rules and Forms. The comments below therefore should be taken only as examples of proposed revisions to the Instructions, not as an exhaustive list.

(beginning “The instructions”), the following sentence should be added:

“These instructions are not intended to provide, and should not be understood to provide, legal advice.”

The warning box should be retitled: “Read These This Important Warnings.”

The paragraphs in the box should be numbered to make them less daunting and so more likely to be read.

The third paragraph should be deleted, since it is inaccurate and unnecessary. If the third paragraph remains, the word “may” should be changed to “should,” and the phrase “complete the bankruptcy” should be deleted. Rewritten, the third paragraph would read as follows:

You **should** ~~may~~ not file bankruptcy if you are not eligible to file or if you do not intend to file the **necessary** documents ~~necessary to complete the bankruptcy~~.

On p. 2, the last paragraph should be revised as follows to be more specific about what petition preparers can and cannot do and to make the structure of the sentence parallel:

Although bankruptcy petition preparers can help you type the bankruptcy forms, they **cannot tell you how to complete the forms**, they cannot file the **forms documents** for you, and they cannot give you legal advice.

On p. 3, The 3<sup>rd</sup> paragraph offers legal advice about the ability of a debtor to keep certain information confidential. The advice, which appears in the third sentence, is not only needless but inaccurate, since the implication is that entry of a protective order is common in the right “circumstances.” In fact, protective orders in consumer bankruptcy cases are so rare as to be virtually unheard of. Rather than give this misimpression, the instructions should stress the point in the opening sentence:

“[A] bankruptcy case is not private.” The NCBJ recommends deleting the 3<sup>rd</sup> sentence altogether and adding to the 2<sup>nd</sup> sentence the phrase “unless the court orders otherwise.” A stylistic change to the 1<sup>st</sup> sentence is also recommended. The revised paragraph would read:

You should understand that filing a bankruptcy case is not private. Anyone has a right to see your bankruptcy forms after you file them, **unless the court orders otherwise**. ~~However, in some circumstances, if a court issues a protective order to keep your address, telephone number, or other information from being disclosed to the public, it may be possible to protect your information under 11 U.S.C. § 107 and Bankruptcy Rule 9037.~~

The NCBJ recommends several changes to page 5.

(the paragraph beginning “Receive a briefing”), the sentence describing the consequences of failing to receive prepetition credit counseling needlessly predicts what is likely to happen in a bankruptcy case. What will happen depends on the practice in the district where the case is pending. If some warning is necessary, the NCBJ believes it is better to take no position on the likelihood of dismissal and replace the phrase “will almost certainly” with the word “may.” Rewritten, the sentence would read:

Failure to do so **may** ~~will almost certainly~~ result in the dismissal of your case.

Asserting that it is “particularly difficult” to succeed in certain bankruptcy cases “without an attorney,” should be deleted. The warning is out of place on this page. The same warning also appears in the right-hand column on page 2 and need not be repeated on page 5.

Several changes to page 6 are necessary.

- a debtor who has received credit counseling but not the certificate is instructed to file the certificate “when you receive it.”

The instruction fails to tell the debtor that the certificate must be filed within 14 days. See Fed. R. Bankr. P. 1007(c). The 14-day deadline should be added.

The last sentence of the first paragraph in the right-hand column should be deleted. The sentence tells debtors: “Waivers [of credit counseling] are rare and if you do not qualify for a waiver, your case will be dismissed.”

No basis is given for this legal advice, and its characterization of bankruptcy practice is not only unnecessary but inaccurate. The categorical declaration that a case “will be dismissed” if the credit counseling requirement has not been waived does not comport with practice in many districts.

The paragraph describing Forms 101A and 101B should be rewritten to distinguish between the forms. The paragraph should make clear that Form 101A is used when a debtor wishes to remain in his leased residence for 30 days post-petition, and Form 101B should be used when a debtor wishes to remain in his leased residence beyond the first 30 days postpetition.

If, as the NCBJ urged earlier, Form 101A is redesigned, the description of the forms on page 6 should be rewritten to match the redesigned forms.

Concerning petition preparers, the instruction that a debtor must use certain forms if a petition preparer “helped you fill out your forms” is incorrect. The phrase “helped you fill out” should be replaced with the word “typed,” as follows:

Use these forms if a bankruptcy petition preparer **typed** ~~helped you fill out~~ your forms.

The NCBJ recommends 2 changes on page 8.

First, the last paragraph in the left-hand column should be deleted. The paragraph consists of a single sentence that says: “If you file under chapter 11, you must also file additional documents.” The sentence is too vague to be helpful and serves no purpose.

Second, the last bullet tells prospective chapter 13 debtors that they must file a “Chapter 13 Plan.” It then informs debtors parenthetically that “[m]any bankruptcy courts require you to use a local form plan” and suggests that debtors consult their court’s local web site.

If Proposed Form 113 is approved and made mandatory, it will be used in all districts nationwide. The NCBJ takes no position on the advisability of the adoption of such a form. If Form 113 is adopted, however, there will no longer be “local form plans.” The content in parentheses would then need to be deleted and replaced with “Official Form 113.”

On p. 9, the first sentence of the second column should be revised. The sentence says that chapter 7 “is for individuals who have financial difficulty and cannot pay their debts.” That broad description, however, is equally true of cases under chapters 11, 12, and 13. The sentence also fails to disclose a critical feature of a chapter 7 case: that a debtor’s non-exempt assets are subject to sale to pay creditors. The NCBJ recommends revising the sentence as follows:

Chapter 7 is for individuals who have financial difficulty, and cannot pay their debts, **and wish to retain their non-exempt property and allow their non-exempt property to be sold to pay their creditors.**

The second sentence is awkward, since it says the primary purpose of a chapter 7 case is “for a debtor . . . to have your debts discharged.” The phrase “a debtor” should be changed to “you.”

The last bullet of the second column describes certain nondischargeable debts. The last such debt is: “certain debts that are not properly listed in your bankruptcy papers.” The word “properly” is unnecessary, is unhelpful, and should be deleted.

The list of potentially nondischargeable debts continues on page 10. The second such debt mentioned is “breach of fiduciary duty.” Section 523(a)(4) of the Code, however, makes nondischargeable only debts arising from “**fraud or defalcation while acting in a fiduciary capacity,**” 11 U.S.C. § 532(a)(4), which is narrower. To be accurate, the statutory phrase should be substituted for the phrase “breach of fiduciary duty.”

(beginning “If you are an individual”), the NCBJ recommends adding this sentence: “**The trustee may sell your property to pay your debts.**”

At the top of the second column on p. 11, the description of potential court action on a proposed chapter 13 plan is misleading, since the phrase “[t]he court must approve your plan” incorrectly implies that the court has no choice but to confirm a plan and cannot deny confirmation. The NCBJ suggests revising the sentence to make it conditional. Rewritten, the sentence would read: **If the court must approves** your plan, **the court will** ~~and may~~ allow you to repay your debts within 3 years or 5 years . . . .

In the same column, the word “**all**” should be added before “the payments” and the words “are generally” deleted before the word “discharged. Another sentence should also be added as a transition. Rewritten, the sentences would read:

After you make **all** the payments under your plan, your **nondischargeable** debts ~~are generally~~ will be discharged. However, **not all debts are dischargeable.** You may still be responsible to pay . . . .

The paragraph goes on to list some debts that are not discharged. As with the comparable phrase on page 9, the word “**properly**” should be deleted in the 5<sup>th</sup> example (“certain debts . . . not properly listed in your bankruptcy papers”).

The NCBJ also suggests adding to the list debts nondischargeable under section 523(a)(2) and (4) of the Code, 11 U.S.C. §§ 532(a)(2), (4), since those debts are no longer discharged in chapter 13 cases, see 11 U.S.C. § 1328(a)(2), and the exceptions are among those most commonly invoked.

The box on p. 12 contains essentially the same warnings as the box on page 2. The NCBJ recommends the same revisions to the warnings on page 12. The additional warning in the box on page 12 should also be revised so that it has the same structure as the other times it appears:

If you make a false statement, you could be fined up to \$250,000, or imprisoned for up to 5 years, or both.



**USC-RULES-BK-2013-0001-0151 – NABT** – Since NABT has elected to focus its attention on the Proposed Rules and Forms, it decided to forego comments on the Instructions as the National Conference of Bankruptcy Judges (“NCBJ”) Comments address many of the same concerns of NABT.

Comments on Instructions – For Voluntary Petition, Official Form 106A/B

**USC-RULES-BK-2013-0001- USTP** – Consider amending the following language for accuracy, completeness and consistency with the forms: “If you fail to list any property, you may lose the property, lose your bankruptcy discharge, be fined up to \$250,000, and be imprisoned for up to 5 20 years. 11 U.S.C. §§ 554, 727; 18 U.S.C. §§ 152, 157, 1519, 3559, 3571, and 3581.” See Proposed Official Forms 101, 106Dec, 202, and 205.

Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The new form omits the information currently required about the nature of the debtor’s interest in real property. Such information as whether the debtor is a tenant by the entireties or owns only a life estate is critical to how the property is treated in the case and should be included.

Health insurance, homeowner’s insurance, and renter’s insurance should not be listed as assets in this schedule. These types of insurance, like auto insurance, are more in the nature of ongoing expenses and are never liquidated by trustees. Moreover, the debtor already provides information about the existence of such insurance on Schedule J.

The definition of “current value” is unhelpful. The 2<sup>nd</sup> sentence gives “fair market value” as a synonym but fails to define “fair market value.”

The 3<sup>rd</sup> sentence then defines “current value” as “how much the property is worth,” a tautology. If “current value” means “fair market value,” the NCBJ recommends adding the common definition of “fair market value” since it is one non-lawyers should understand.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The word “honestly” in the second sentence should be deleted. The adverb “honestly” adds nothing to the requirement that debtors “list everything they own,” and the word does not appear elsewhere.

Comments on Instructions – For Voluntary Petition, Official Form 106C

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Here again, the instructions offer legal advice, twice telling debtors (first in the separate box in the left-hand column and again at the top of the right-hand column) that they may lose property if they do not claim proper exemptions. The NCBJ recommends deleting both statements, leaving the 2<sup>nd</sup> sentence in the box as the only advice: “You are strongly encouraged to hire a qualified attorney to advise you.”

Comments on Instructions – For Voluntary Petition, Official Form 106D

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The NCBJ has 2 stylistic comments on the text of page 17.

(beginning “If your debts”) should be rewritten. The sentence says that if debts are not paid, “creditors” with secured claims may be able to get paid from specific property in which “that creditor” has an interest. Either the initial word “creditors” should be replaced with “**a creditor**,” or the later word “creditor” should be replaced with “the creditors” (and the verb “has” changed to “have”).

The two possible revisions, either of which is acceptable, would read as follows:

If your debts are not paid, **a creditor with a secured claim** may be able to get paid from specific property in which that creditor has an interest . . .

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which ~~that~~ the creditors ~~have~~ **has** an interest . . .

The last paragraph of column 1 introduces the concepts of contingent, unliquidated, and disputed claims. The 1<sup>st</sup> sentence, stating that “many claims” have a specific amount and “you clearly owe them,” should be changed. Debtors owe debts, not “claims.”

The paragraph also properly goes under the heading at the top of the right-hand column, since the introduction belongs with the discussion it introduces. If the paragraph is moved under the heading, the bullet points currently under the heading become redundant and should be deleted.

Last sentence of left-hand column: You must list the claims of all creditors all claims in your schedules, even if the claims are contingent, unliquidated, or disputed.

replace text, so sentence reads:

**You must list the claims of all creditors in your schedules, even if the claims are contingent, unliquidated, or disputed.**

This helps clarify that it's a creditor's claim against the debtor, and that claims of all creditors need to be included

Comments on Instructions – For Voluntary Petition, Official Form 106E/F

**USC-RULES-BK-2013-0001- USTP** – Consider amending the following language for consistency with the forms: “If you owe wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before you ~~open~~ **filed** your bankruptcy ~~case~~ **petition** or ceased business.” See Proposed Form 106E/F.

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – In the last sentence of the first paragraph of instructions to Schedule J, it states: "On your initial filing in Part 2, select 'Initial estimate at the beginning of the case.'" Upon review of Schedule J, Part 2, there does not appear to be an option to select "Initial estimate at the beginning of the case." The BCAG suggests addressing this issue to avoid confusion.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The NCBJ has 3 suggestions.

Last paragraph is the same as the 4<sup>th</sup> full paragraph of the left-hand column on page 17 [p.215] and should be rewritten the same way.

The 1<sup>st</sup> full paragraph in the right-hand column on page 20 introduces the concepts of contingent, unliquidated, and disputed claims, just as the last paragraph in the left-hand column on page 17 does. The text on page 20 should be rewritten the same way.

The left-hand column continues from the preceding page a list of examples of priority unsecured debts. The first definition, “deposits by individuals,” should be rewritten to replace the word “took” before the word “money,” since the connotation – theft – is unintended and unfortunate.

The NCBJ suggests rewriting the sentence this way:

If you received ~~took~~ money from someone for the ~~who planned to~~ purchase, lease, or rental of your property or ~~use~~ **the** use of your services but you never delivered or performed.

The 4<sup>th</sup> example is not parallel to the others. All of the other examples both on pages 21 and 22 are phrased in the conditional, beginning with “if.”

If the last example is retained, it should have the same structure. Since the example is limited to debtors who own or operate grain storage, fish produce storage, or fish processing facilities, a very small number of people, the example might simply be deleted.

Comments on Instructions – For Voluntary Petition, Official Form 112

**USC-RULES-BK-2013-0001-0042 – Henry Sommer, NACBA** – The instructions to the Chapter 7 Statement of intention are substantively inaccurate. They describe “surrender” as “You may give the property to the creditor.” Numerous courts have held that this is not required by the statute. *See In re Pratt*, 462 F.3d 14, 18-19 (1<sup>st</sup> Cir. 2006). To *surrender property* means to make the property available to the creditor. *See Collier on Bankruptcy* ¶ 521.14[3] and cases cited therein.

The instructions also diverge substantively from the language of section 365(p) regarding personal property leases. It is not at all clear that a lessor has the option of refusing assumption of the lease, as opposed to setting certain conditions for assumption.

It also not clear that the conditions can include cure of a default “before” the lease is assumed. The instructions should track the statute and say something like: “The lessor may respond that it agrees you may assume the lease and may require you to pay any past due amounts. If the lessor does respond to your request to assume the lease, you must write to the lessor within 30 days stating that you assume the lease.”

Comments on Instructions – For Voluntary Petition, Official Form 106H

**USC-RULES-BK-2013-0001-0059 – NCBJ** – Column 2 below the box lists examples of co-debtors. The last example has a phrase set off with dashes – “even if not the spouse a cosigner” – that is unintelligible. If the NCBJ interprets the underlying intent correctly, the phrase should be rewritten as follows:

Nonfiling spouse – even if ~~not~~ the spouse **is not** a cosigner – where the debt is for necessities ...

Comments on Instructions – For Voluntary Petition, Official Form 106I

**USC-RULES-BK-2013-0001- USTP** – Consider deleting the following language as unnecessary given prior language on this page discussing marriage and living situations: “In Part 1, line 1, fill in employment information for you and, ~~if appropriate,~~ for a non-filing spouse.”



Comments on Instructions – For Voluntary Petition, Official Form 106J

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The 1<sup>st</sup> sentence of the form is missing the word “of”: Schedule J: Your Expenses (Official Form 106J) provides an estimate of the monthly expenses . . . .

Comments on Instructions – Official Forms 108, 109, and 110

**USC-RULES-BK-2013-0001 – USTP** – Consider deleting the following language as unnecessary: “A presumption of abuse ~~does not mean you are actually trying to abuse the bankruptcy system. Rather, the~~ simply means that you are presumed to have enough income that you should not be granted relief under chapter 7.”

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – These instructions reference Forms 108, 109, and 110. The BCAG recommends changing these references to the correct form numbers (22A-C).

Comments on Instructions – Official Forms 110-1 and 110-2

**USC-RULES-BK-2013-0001 – USTP** – Consider deleting the following language as unnecessary: “You must file 110–1, the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110–1) if ~~you are an individual~~ and you are filing under chapter 13.” See 11 U.S.C. § 109(e).

**USC-RULES-BK-2013-0001-0059 – NCBJ** – At the beginning of the 2<sup>nd</sup> full paragraph in the left-hand column, and again at the beginning of the first full paragraph in the right-hand column, the text refers simply to “110-1” and “110-2” without the word “Form.” The word “**Form**” should be inserted before the form number in both places.

In the 3<sup>rd</sup> paragraph of the right-hand column, the word “on” should be substituted for the word “for” in the second sentence:

In those cases, the form has instructions ~~on for~~ where to find the information you need.

Comments on Instructions – Official Form 112

**USC-RULES-BK-2013-0001 – USTP** – On p. 35 in the fourth paragraph, consider amending the following language for consistency: “11 U.S.C. § 522(f)”.

On p. 36, consider deleting the following language as redundant: “The creditor may, at its option, notify you that it is willing to have you assume the lease and may condition the assumption on cure of any outstanding default, ~~respond by telling you whether it agrees that you may assume the lease and may require you to pay any past due amounts before you can do so.~~”

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The NCBJ has several stylistic suggestions.

The initial sentence in the first full paragraph of the left-hand column on page 34 should be rewritten as follows:

You must fill out the *Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112) if you are an individual filing under chapter 7, or if your case has been converted to chapter 7 and creditors have claims secured by your property, or **if** you have any unexpired leases of personal property.

The initial sentence of the second paragraph of the second column should be rewritten to avoid the split infinitive, replace the word “give” with the word “surrender,” and remove the needless comma:

You may choose to either to ~~give~~ surrender the property to the creditor, or keep the property.

The third paragraph of the second column should be revised in several respects. The word “surrender” should replace the word “give” in the initial sentence in bold type. The italicized parenthetical about surrender in the middle of the second sentence is unnecessary and should be deleted. The word “give” in the undeleted portion of the sentence should be replaced with the word “surrender.” The remainder of the 2<sup>nd</sup> sentence does not mention a sale of the property and so does not explain how a “deficiency” might arise. The sentence should be rewritten as follows:

You may **give surrender** the property to the creditor. If you **give surrender** the property to the creditor (~~you surrender the property~~), your bankruptcy discharge will protect you from any claim **for the difference between what you owe the creditor and what the creditor receives from a sale of the property** a deficiency if the property is worth less than what you owe the creditor, unless the court determines that the debt is nondischargeable.

A comma should be inserted between the word “creditor” and the word “and” in the last sentence beginning in the right-hand column on page 34 and continuing on page 35:

You may seek to reaffirm the debt if you sign a Reaffirmation Agreement, which is a contract between you and a creditor, and you follow the proper procedure . . . .

The 1st sentence of the last paragraph on p. 35 should be revised as follows:

To obtain court authorization to redeem your property, you must file a motion with the court ~~to~~  
~~redeem.~~

Comments on Instructions – Official Form 103A

**USC-RULES-BK-2013-0001 – USTP** – Consider amending the following language for consistency with the forms: “~~If a bankruptcy petition preparer helped~~ **you paid or agreed to pay someone who is not an attorney to help** you complete this form . . . .” See Proposed Official Forms 101 and 106Dec.

Comments on Instructions – Official Form 104

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The first sentence in the third full paragraph in the left hand column of page 38 (below the bullet points, beginning “If your debts are not paid”) has the same problems as the last paragraph in the left-hand column on page 20 and the 4<sup>th</sup> full paragraph of the left-hand column on page 17 and should be rewritten the same way. The last 2 sentences of the paragraph are confusing and appear to be missing words. They should be rewritten as follows:

If a creditor has a security **interest** in your property, but the value of the **property security** available to pay the creditor is less than the amount you owe the creditor, the creditor has both a secured and **an** unsecured claim against you. The amount of the unsecured claim is the total claim minus the value of the **property security** that is available to pay the creditor.

## Comments on Instructions – Glossary

**USC-RULES-BK-2013-0001 – USTP** – Consider adding a definition for the term “meeting of creditors” in the Glossary as it constitutes an important term used in the forms. See Proposed Official Forms 112 and 423. For example, the following language could be used or adapted: “Meeting of creditors — A meeting that the debtor is required to attend where creditors, any trustee or examiner in the case, and the United States Trustee may examine the debtor under oath.”

Consider rewording the definition of “exempt property.” Debtors do not always get to keep the property. Sometimes, for example in the case of real property, the property is sold, and the debtor merely retains a right to a portion of the proceeds of that sale, not necessarily the property itself. For example, the following language could be used: “Property, or proceeds from the sale of property, that the law permits you to keep.”

**USC-RULES-BK-2013-0001-0056 – Scott Ford, BCAG** – The Committee has added a Glossary with definitions of terms that appear throughout the forms. The BCAG suggests that the Committee consider including the following terms:

"publicly traded stock" (106A/B)

"accounts receivable" (106NB)

"tangible property" and "intangible property" (106A/B Instructions)

"exempt property" (better define) (106C)

"homestead exemption" (106C)

"community debt" (1060)

"judgment lien" (1060)

"statutory lien" (1060)

"garnishment" (1060)

"deed of trust" (1060)

"community claim" (106EIF)

"cosigner" (106H)

"guarantor" (106H)

"former spouse" (106H)

"unmarried partner" (I 06H)

"joint contractor" (106H Instructions)

"fair market value" (106C) - also defined in instructions for Schedule A1B – currently grouped under "current value" but perhaps should have a separate entry in the Glossary.

**USC-RULES-BK-2013-0001-0059 – NCBJ** – The Advisory Committee may want to consider whether it is helpful to provide a glossary. The glossary is presumably intended to assist pro se filers, the same intention behind many of the statements in the proposed forms about which the NCBJ has commented above. As the glossary currently stands, however, its definitions tend to be more intimidating than helpful.

And intimidating as they can be, the definitions often actually oversimplify complex concepts, leading to potential confusion. Many of what purport to be definitions also cross the line and shade into legal advice. In the NCBJ’s view, only so much can be done to make bankruptcy, a



complex area of law, understandable to people who have chosen to proceed without lawyers. At a certain point, the effort does more harm than good.

If the Advisory Committee decides to retain the glossary, the NCBJ recommends that it be subjected to a thorough examination – so thorough that the Advisory Committee might consider whether the glossary can be made ready in time to be promulgated with the rest of the Instructions. The definitions should be reviewed carefully

- (1) to ensure their structure and format are consistent (each definition currently appears to have had a different author or been drawn from a different source);
- (2) to ensure that the information they contain is accurate (some of the definitions are incorrect); and
- (3) to eliminate any legal advice.

The following [items listed separately] are examples of problems with the glossary. These examples are offered with the NCBJ's earlier caveat. NCBJ has focused its attention on the Proposed Rules and Forms. The examples therefore are not intended as an exhaustive list of proposed revisions.

The title at the top of the page should be changed to add the phrase “of Terms” after the word “Definitions” so that the title makes clear the glossary is providing “Definitions of Terms” used in the forms. The terms are used in the forms, not the definitions themselves.

In the first sentence of the introductory paragraph, the word “of” should also replace the word “for”:

Here are definitions ~~of~~ **for** some of the important terms used in the forms . . . .

In addition, the NCBJ recommends adding the following sentences, perhaps in bold type, at the end of the introductory paragraph:

**“These definitions are intended only to provide guidance. They are not a substitute for legal advice.”**

The indefinite article “a” should replace the definite article “the” wherever it appears before a defined noun and should be added wherever it is absent. So, for example, the definition of “Creditor” should begin, “A person or organization,” not “The person or organization.” The definition of “Creditor with secured claims” similarly should begin “A creditor” (and “creditor” should be singular, not plural, since the term defined is singular).

The definition of “Dependent” does not require the introductory phrase, “The term dependent generally means,” and since the term defined is singular, the definition should also be phrased as singular. The first sentence should be rewritten to read: **“Generally, someone who is**

economically dependent on the debtor regardless of whether the person can be claimed as a dependent....” The subject and verb in the next sentence disagree; the error should be fixed.

The definition of “Disputed claim” should be changed from the conditional “If you disagree about whether you owe a debt,” a structure most of the other definitions lack, to: “A debt you do not agree you owe.”

The definition of “Eviction judgment” should be changed to make its structure consistent with the structure of the other definitions: “A judgment for possession your landlord has obtained ....”

The definition of “Executory contract” is incorrect as a matter of law, since it fails to acknowledge that a contract is not executory if payment is the only contractual obligation left unfulfilled. See, e.g., Johnson v. Smith (In re Johnson), 501 F.3d 1163, 1174 (10th Cir.2007). The definition of “Exempt property” is also incorrect. “Exempt property” is not simply property that “the law permits you to keep,” a definition that, all other things being equal, applies to any property belonging to a person. The definition also fails to mention that a debtor in bankruptcy has certain obligations he must satisfy before property can be “exempt.”

The definition of “Legal equivalent of a spouse” contains a grammatical error. Because “person” is the subject of the verb “having” and the phrase “applicable nonfederal law recognizes” merely modifies “person,” the definition should begin “A person who,” not “A person whom.” To avoid any grammatical questions, as well as to make the style more graceful, the word between “person” and “applicable” might be eliminated altogether. The definition would begin: “A person applicable nonfederal law recognizes as having . . . .”

The definition of “Non-individual debtor” – “You are filing for bankruptcy on behalf of a non-individual” – has a structure inconsistent with the structure of the other definitions and is not legally correct. The definition also encourages the unauthorized practice of law: only a lawyer can file bankruptcy (not “for bankruptcy,” the phrase that appears many times in the Proposed Forms and Instructions) “on behalf of” an artificial entity. A better definition of “non-individual debtor,” one lacking these problems, would be: “A debtor that is not a human being – for example, an artificial entity such as a corporation, partnership, or limited liability company.”

The definition of “Sole proprietorship” is confusing. Rewritten to be clearer (and to avoid addressing the reader as “you”), the definition would read:

A business that a person you own operates as an individual and is not rather than a separate legal entity such as a corporation, partnership, or LLC.

The definition of “Unliquidated claim” begins with a conditional phrase, the same problem as the definition of “Disputed claim” discussed earlier. Rewritten to make the structure consistent with the structure of other definitions, the definition would begin:

If the A debt with an amount of a debt that cannot be readily determined...

## Other Miscellaneous Comments

### Schedules I+J

**USC-RULES-BK-2013-0001-0031 – Walter Oney** – Commenter attached samples of Schedule I and J that he redesigned.

My sch I has less vertical space in part 1 than the official form; my sch I uses grid lines rather than underlines to delineate the dollar amounts and spreads out the table to use more of the horizontal width of the page. Given this, my sch I doesn't put a box around the subtotals on lines 4, 9, and 10; my sch I centers the dollar amounts on lines 10-12 below the two column display for lines 2-9. This is why I could spread out the two-column display -- I did not need to waste a wide margin just so lines 10-12 could stand alone at the right-hand side of the columnar display; my schedules use an initial capital on the word "Page" appearing in the page footers; my sch J uses grid lines throughout rather than boxes around individual dollar amounts.

### Form 201 – Voluntary Petition

**USC-RULES-BK-2013-0001 – Professor Gibson** – Add instruction at line 8 for attaching small business documents statement:

If you indicate that the debtor is a small business as defined in 11 U.S.C. § 101(51D), you must append the attachments required under 11 U.S.C. § 1116(a)(1).

### Rule 9009 and Form 103A Application and Order to Pay Filing Fees in Installments

**USC-RULES-BK-2013-0001-0067 – Dana C. McWay, Clerk of Court** – Proposed Rule 9009 requires parties to use the Official Forms prescribed by the Judicial Conference without alteration, with limited exceptions. It is my view that members of the practicing bar who abide by this provision will submit to bankruptcy courts documents that the courts do not want to receive and will cause additional work for Bankruptcy Clerk's Offices. Courts do not want to receive and will cause additional work for Bankruptcy Clerk's Offices.

Official Form B3A (to be renumbered B103A) Application and Order to Pay Filing Fee in Installments illustrates this unintended consequence clearly. Official Form B3A consists of 2 pages: 1 for applying to pay the filing fee in installments and 1 to submit as a proposed order to the court. Our court, and many others across the nation, no longer expects counsel or parties to submit the second page as a proposed order. Instead, the court leverages the CM/ECF system to create the order concerning payment of the filing fee in installments.

The content of the court's order complies with the content of the 2<sup>nd</sup> page of Official Form B3A and is created and entered at the direction of the judge to whom the case has been assigned in our court. No proposed order is submitted by counsel or a party that the court must route and

subsequently docket. In fact, the court specifically instructs counsel and parties not to submit proposed orders with installment payment applications.

If counsel or parties abide by proposed Rule 9009, I believe our court, and other courts, will see submission of these proposed orders for installment payments. This will cause deputy clerks to spend time identifying which of the proposed orders received by the court are the ones that should be submitted and which ones should not be submitted and determining what to do with those proposed orders that should not be submitted. The time of deputy clerks would be better spent not parsing through stacks of proposed orders that should not be received by the court in the first place, but attending to the remainder of their work.