Pro Bono
Course Handbook Series

Bankruptcy Basics for Low-Income Clients 2018

Chair
Sally J. Elkington
Bankruptcy Basics for Low-Income Clients 2018

Chair
Sally J. Elkington
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Senior Pro Bono Program Attorney: Christina Thompson
Program Schedule
AGENDA

9:00
Opening Remarks
Sally J. Elkington

9:15
Overview – Chapter 7 Bankruptcy
- Sources of bankruptcy law
- The participants
- Debt relief agency
- Presentation of the bankruptcy case to be analyzed
Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little

10:15
Duties of the Attorney in a Bankruptcy Case
- Interviewing the client and evaluating the case – Role playing
  o Due diligence
  o Reviewing for jurisdiction, eligibility and venue
  o Reviewing alternatives to filing for bankruptcy
  o Evaluating the bankruptcy process: Chapter 7 vs. Chapter 13
  o Secured, priority, unsecured debts
  o Debts not generally discharged
  o Bankruptcy planning
Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little

11:15 Networking Break
11:30

Section 707(b) – Means Test Overview and Filing a Chapter 7 Bankruptcy Case
- Means Test Overview
  - Who must take the means test
  - Calculating Debtor’s Current Monthly Income (CMI)
  - Application of §707(b)(7) exclusion
  - Presumption of abuse
- Filing a Chapter 7 Bankruptcy Case
  - Credit Counseling
  - Petition and schedules – new forms
  - Reaffirmation, Surrender, Redemption
  - Amending the Chapter 7 schedules
  - Financial Management Certificate

Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little

12:30 Lunch

1:45

Bankruptcy Estate and Exemptions
- Property of the bankruptcy estate
- Domiciliary requirements for exemptions
- State exemptions – System 1 and 2
- Federal exemptions
- Homestead exemptions
- Lien avoidance under 522(f)

Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little

2:45

The Automatic Stay and Discharge of Debts in Bankruptcy Cases
- Section § 362 – Automatic Stay
  - Violation of the automatic stay
  - Limitations of the automatic stay
  - Termination and lifting of the stay
- Debts that may be challenged by the creditor
- §707 actions by the trustee or creditor

Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little

3:45 Networking Break
4:00
The 341(a) Hearing aka Meeting of Creditors and After the Filing of the Chapter 7 Bankruptcy
- The 341(a) hearing aka Meeting of Creditors
  - Preparing the client for the 341(a) meeting
  - Attorney preparation for the 341(a) meeting
    - §521 documents
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  - The 341(a) hearing – Role playing
  - 2004 Exam
- After the Filing of the Chapter 7 Bankruptcy
  - After the 341(a) hearing
    - Transfers that the trustee may avoid
  - Closing the case
  - Questions and answers

*Sally J. Elkington, Carl R. Gustafson, Sarah Lampi Little*

5:00 Adjourn
Faculty:

Chair:

Sally J. Elkington  
Bankruptcy Practitioner  
Partner – Elkington Shepherd LLP  
Oakland, California

Carl R. Gustafson  
Bankruptcy Practitioner  
Managing Partner - Lincoln Law  
Pleasant Hill, California

Sarah Lampi Little  
Bankruptcy Practitioner and Chapter 7 Trustee  
Attorney, Shareholder - Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.  
Oakland, California

Senior Pro Bono Program Attorney: Christina Thompson
Faculty Bios
Sally J. Elkington  
Elkington Shepherd LLP

Sally J. Elkington is a partner in the firm of Elkington Shepherd LLP. Ms. Elkington has been practicing law for almost 30 years, and specifically consumer bankruptcy law for over twenty years. Elkington Shepherd LLP represents debtors and creditors in Chapters 7, 13 and 11 and files in all divisions of the Northern District of California, as well as the Eastern District of California.

Ms. Elkington served a three-year term as a Commissioner for the California State Bar Judicial Nomination and Evaluation Commission (JNE) and is a Past President of the board of the Alameda County Bar Association (ACBA) and served on the board for five years. She has served as both chair and board liaison to the Bankruptcy and Consumer Law Section Executive Committees, and chair of the Lawyer Referral Governing Committee. She currently supervises the monthly Low Income Bankruptcy Clinic for Volunteer Legal Services of the ACBA.

She was selected by the Northern District Bankruptcy Judges to be a member of the Northern District of California Bankruptcy Bench Bar Committee and completed her term.

In 2013 Ms. Elkington was chosen as Attorney of the Year for the California State Bar Solo and Small Firm section and received the Myer J. Sankary Award. In 2015 she received the Pro Bono Leadership Award from the ACBA Volunteer Legal Services Corporation.

Ms. Elkington is a member of the National Association of Consumer Bankruptcy Attorneys (NACBA), the National Association of Chapter 13 Trustees (NACTT) and has served on the Northern District Credit Abuse Resistance Education (CARE) Program development committee.

She has been a speaker on numerous panels and symposiums in the area of Bankruptcy Law for various organizations including Bankruptcy and Commercial Law section of the Alameda County Bar Association, the Bar Association of San Francisco, Sacramento Bankruptcy Forum, Bay Area Bankruptcy Forum, National Association of Chapter Thirteen Trustees, Northern District of Chapter 7 Trustees, National Association of Bankruptcy Trustees, Practising Law Institute, and the Law Review Continuing Legal Education (CLE).
Ms. Elkington received her law degree from New College of Law of California, and earned a Bachelor of Science in Speech and Communication Studies, from San Francisco State University.

Ms. Elkington has been Chairing the Bankruptcy Basics for Low Income Clients webinar since 2012.
Carl R. Gustafson is a partner at Lincoln Law, LLP in Pleasant Hill, CA. His practice focuses exclusively on consumer representation in bankruptcy and litigation.

Mr. Gustafson graduated from UCLA Magna Cum Laude with a B.A. in History and received his J.D. from the University of California, Berkeley School of Law in 2007. In 2013, Mr. Gustafson was recognized as a California Bankruptcy Certified Specialist by The State Bar of California Board of Legal Specialization.

Before entering bankruptcy practice Mr. Gustafson was a legal intern for Global Justice in Rio de Janeiro, Brazil, where he drafted sections of human rights situation reports and submitted them to the United Nations and other international bodies. He speaks Portuguese and Spanish and translates legalese for his client in all three languages regularly.

Mr. Gustafson is the very proud father of three young girls.
Sarah Little received her law degree from University of California, Hastings College of the Law in 2001 with a tax concentration, and has a Bachelor's of Science in Business/Finance from California State University, Hayward.

Ms. Little has worked for Ernst and Young, LLP in their State and Local Tax consulting group, and as a consultant for Bankruptcy Management Corporation, which specializes in large scale Chapter 11 administration services. She has been running her own consumer bankruptcy practice for over 12 years representing debtors in chapter 7 and chapter 13 cases, and is also a Chapter 7 Panel Trustee for the Northern District of California, Oakland Division. Sarah is currently a shareholder at the firm Kornfield, Nyberg, Bendes, Kuhner & Little, PC in Oakland, California. The firm specializes in all chapters of bankruptcy, representation of trustees, creditors and commercial litigation and real estate transactions.

Ms. Little has served as chair of the Bankruptcy Section of the Alameda County Bar Association, is a member of the National Association of Consumer Bankruptcy Attorneys (NACBA), an associate member of the National Association of Chapter 13 Trustees (NACTT) and a member of the National Association of Bankruptcy Trustees (NABT). She has been a panelist at several NACTT conferences and presenter for the Alameda County Bar association. This is Ms. Little’s fifth year as a presenter in this program.
Part I: Overview of Bankruptcy Law

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART I: OVERVIEW OF BANKRUPTCY LAW

SOURCES, JURISDICTION, PARTIES & DEBT RELIEF AGENCY

OVERVIEW

Purpose(s):
Provide debtor with a fresh start
Equitably distribute the debtor’s non-exempt assets among the competing creditors

Working Definition:
Chapter 7: Sometimes called “straight bankruptcy” because it is the simplest form of bankruptcy. In a Chapter 7, most or all of a debtor’s debts are cancelled. A debtor is allowed to keep certain assets that are exempted by state law or in some cases federal law. Nonexempt assets are available to the Chapter 7 Trustee, who can liquidate the assets to pay the debtor’s creditors. Most Chapter 7 cases are “no asset” cases and such cases are the most common type of bankruptcy filed.

SOURCES OF BANKRUPTCY LAW

Substantive bankruptcy law


- Case Law: The Supreme Court, U.S. Court of Appeals, Bankruptcy Appellate Panels (BAP), United States District Courts and United States Bankruptcy Courts

Nonsubstantive bankruptcy law:

  http://www.law.cornell.edu/uscode/html/uscode15/usc_sup_01_15.html
  http://www.law.cornell.edu/uscode/html/uscode18/usc_sup_01_18.html

Nonbankruptcy Law:

- In most cases, when the Code is silent and no uniform bankruptcy rule is required, the parties’ rights are controlled by applicable state law.
Procedural Rules:
- Federal Rules of Civil Procedure (the F.R.C.P.) apply to bankruptcy court proceedings as provided by the F.R.B.P.
- Local Bankruptcy Rules: Go to local bankruptcy court website to obtain rules specific to your district and division.
- Judge’s Procedures should be reviewed to understand the judge’s procedures in handling cases in her/his courtroom.

Official U.S. Bankruptcy Forms:
- The U.S. Judicial Conference has established Official Forms for use in bankruptcy cases. These forms are mandatory. These can be found at: [http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx](http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx)

Local bankruptcy court forms:
- Districts often create modified versions of the Official Forms. Modified forms can be used in any district and districts may require use of a specific form.

No bankruptcy rule or local rule:
- For situations where no bankruptcy rule or local rule applies the bankruptcy court may regulate practice before it in any manner not inconsistent with federal law, the Official Forms, the FRBP or local rules.

THE PARTICIPANTS

Trustee
- Appointed as the representative of the debtor’s bankruptcy estate
- Primary duty: To liquidate debtor’s nonexempt assets in a manner that maximizes a return to the debtor’s unsecured creditors
- Reviews debtor’s petition and schedules for possible fraud or abuse
- Conducts 341(a) hearing 20-40 days after the case is filed with the bankruptcy court for the purpose of verifying that the debtor is eligible to file a Chapter 7 case and to determine if there are nonexempt assets that should be administered
- Avoiding Powers: Trustee may exercise avoiding powers to recover money or property. This includes the power to set aside preferential transfers made to creditors within 90 days before the filing, undo security interests and other pre-petition transfers of property that were not property perfected under non-bankruptcy law at the time of the filing, and pursue non-
bankruptcy claims such as fraudulent conveyances and other remedies available under state laws. 11 U.S.C.§541 et seq.
- If the debtor is a business, the bankruptcy court may authorize the trustee to operate the business for a limited time, if such action would benefit creditors and enhance the liquidation of the estate. 11 U.S.C. 721
- Earns commission on value of liquidated assets

Bankruptcy Judge
- Assigned to handle the case and will usually only be involved in the typical Chapter 7 consumer case if there is a motion or adversary proceeding in the case.
- Debtor will rarely see the judge, unless there is a reaffirmation hearing and debtor wants to reaffirm a debt.
- In Chapter 13 cases, the judge plays a more central role in the case as the judge must issue an Order confirming the Chapter 13 plan.

Debtor Attorney
- Represents the debtor in the bankruptcy case and advises the client throughout their case.
- The scope of the representation should be clearly delineated in the retainer agreement and the Limited Scope of Appearance that will be filed in the case.

Creditor Attorney
- In some cases, usually where there are assets available to creditors, a creditor will hire an attorney to review the case and assert any rights of the creditor.
- If a creditor attorney appears in a non-asset case, the creditor may believe that there is a dischargeability issue or an exemption issue.
- Generally, a creditor’s attorney will contact the debtor’s attorney to make an inquiry prior to filing an action in Court.
  - It is important that the debtor attorney return inquiry calls to find out in advance if there are issues that can be resolved with the filing of an adversary action within the bankruptcy case.
  - If an adversary is filed, representation in such a matter generally would be outside the scope of the debtor attorney’s employment agreement and the debtor would have to hire other counsel to represent them in such a case.

DEBT RELIEF AGENCY
- Any person who provides bankruptcy assistance to an assisted person in return for money or other valuable consideration is a debt relief agency
  - Assisted person is any person whose debts consist primarily of consumer debts and the value of whose non-exempt property is less than $192,450
  - Pro bono attorney is not a debt relief agency.
• Restrictions
  o Fail to perform services attorney said they would perform
  o Advise assisted person to make a statement that is untrue or misleading
  o Fail or misrepresent services that are to be provided
  o Fail to explain the benefits and risks of filing bankruptcy
  o Advise an assisted person to incur more debt prior to filing bankruptcy

• Disclosures
  o Must provide written notice as required under §342(b)(i) and §527(b)
    ➢ Not later than 3 days after the date attorney offers to provide bankruptcy assistance
Chapter 7, Liquidation Under the Bankruptcy Code

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
CHAPTER 7

Liquidation Under the Bankruptcy Code

The chapter of the Bankruptcy Code providing for "liquidation," (i.e., the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.)

Alternatives to Chapter 7

Debtors should be aware that there are several alternatives to chapter 7 relief. For example, debtors who are engaged in business, including corporations, partnerships, and sole proprietorships, may prefer to remain in business and avoid liquidation. Such debtors should consider filing a petition under chapter 11 of the Bankruptcy Code. Under chapter 11, the debtor may seek an adjustment of debts, either by reducing the debt or by extending the time for repayment, or may seek a more comprehensive reorganization. Sole proprietorships may also be eligible for relief under chapter 13 of the Bankruptcy Code.

In addition, individual debtors who have regular income may seek an adjustment of debts under chapter 13 of the Bankruptcy Code. A particular advantage of chapter 13 is that it provides individual debtors with an opportunity to save their homes from foreclosure by allowing them to "catch up" past due payments through a payment plan. Moreover, the court may dismiss a chapter 7 case filed by an individual whose debts are primarily consumer rather than business debts if the court finds that the granting of relief would be an abuse of chapter 7. 11 U.S.C. § 707(b).

If the debtor's "current monthly income" (1) is more than the state median, the Bankruptcy Code requires application of a "means test" to determine whether the chapter 7 filing is presumptively abusive. Abuse is presumed if the debtor's aggregate current monthly income over 5 years, net of certain statutorily allowed expenses, is more than (i) $12,475, or (ii) 25% of the debtor's nonpriority unsecured debt, as long as that amount is at least $7,025. (2) The debtor may rebut a presumption of abuse only by a showing of special circumstances that justify additional expenses or adjustments of current monthly income. Unless the debtor overcomes the presumption of abuse, the case will generally be converted to chapter 13 (with the debtor's consent) or will be dismissed. 11 U.S.C. § 707(b)(1).

Debtors should also be aware that out-of-court agreements with creditors or debt counseling services may provide an alternative to a bankruptcy filing.

Background

A chapter 7 bankruptcy case does not involve the filing of a plan of repayment as in chapter 13. Instead, the bankruptcy trustee gathers and sells the debtor's nonexempt assets and uses the proceeds of such assets to pay holders of claims (creditors) in accordance with the provisions of the Bankruptcy Code. Part of the debtor's property may be subject to liens and mortgages that pledge the property to other creditors. In addition, the Bankruptcy Code will allow the debtor to keep certain "exempt" property; but a trustee will liquidate the debtor's remaining assets. Accordingly, potential debtors should realize that the filing of a petition under chapter 7 may result in the loss of property.

Chapter 7 Eligibility

To qualify for relief under chapter 7 of the Bankruptcy Code, the debtor may be an individual, a partnership, or a corporation or other business entity. 11 U.S.C. §§ 101(41), 109(b). Subject to the means test described above for individual debtors, relief is available under chapter 7 irrespective of the amount of the debtor's debts or whether the debtor is solvent or insolvent. An individual cannot file under chapter 7 or any other chapter; however, if during the preceding 180 days a prior bankruptcy petition was dismissed due to the debtor's willful failure to appear before the court or comply with orders of the court, or the debtor voluntarily dismissed the previous case after creditors sought relief from the bankruptcy court to recover property upon which they hold liens. 11 U.S.C. §§ 109(g), 362(d) and (e). In addition, no individual may be a debtor under chapter 7 or any chapter of the Bankruptcy Code unless he or she has, within 180 days before filing, received credit counseling from an approved credit counseling agency either in an individual or group briefing. 11 U.S.C. §§ 109, 111.
There are exceptions in emergency situations or where the U.S. trustee (or bankruptcy administrator) has determined that there are insufficient approved agencies to provide the required counseling. If a debt management plan is developed during required credit counseling, it must be filed with the court.

One of the primary purposes of bankruptcy is to discharge certain debts to give an honest individual debtor a "fresh start." The debtor has no liability for discharged debts. In a chapter 7 case, however, a discharge is only available to individual debtors, not to partnerships or corporations. 11 U.S.C. § 727(a)(1). Although an individual chapter 7 case usually results in a discharge of debts, the right to a discharge is not absolute, and some types of debts are not discharged. Moreover, a bankruptcy discharge does not extinguish a lien on property.

How Chapter 7 Works

A chapter 7 case begins with the debtor filing a petition with the bankruptcy court serving the area where the individual lives or where the business debtor is organized or has its principal place of business or principal assets. (3) In addition to the petition, the debtor must also file with the court: (1) schedules of assets and liabilities; (2) a schedule of current income and expenditures; (3) a statement of financial affairs; and (4) a schedule of executory contracts and unexpired leases. Fed. R. Bankr. P. 1007(b). Debtors must also provide the assigned case trustee with a copy of the tax return or transcripts for the most recent tax year as well as tax returns filed during the case (including tax returns for prior years that had not been filed when the case began). 11 U.S.C. § 521. Individual debtors with primarily consumer debts have additional document filing requirements. They must file: a certificate of credit counseling and a copy of any debt repayment plan developed through credit counseling; evidence of payment from employers, if any, received 60 days before filing; a statement of monthly net income and any anticipated increase in income or expenses after filing; and a record of any interest the debtor has in federal or state qualified education or tuition accounts. Id. A husband and wife may file a joint petition or individual petitions. 11 U.S.C. § 302(a). Even if filing jointly, a husband and wife are subject to all the document filing requirements of individual debtors. (The Official Forms may be purchased at legal stationery stores or downloaded from the internet at www.uscourts.gov/bkforms/index.html. They are not available from the court.)

The courts must charge a $245 case filing fee, a $75 miscellaneous administrative fee, and a $15 trustee surcharge. Normally, the fees must be paid to the clerk of the court upon filing. With the court's permission, however, individual debtors may pay in installments. 28 U.S.C. § 1930(a); Fed. R. Bankr. P. 1006(b); Bankruptcy Court Miscellaneous Fee Schedule, Item 8. The number of installments is limited to four, and the debtor must make the final installment no later than 120 days after filing the petition. Fed. R. Bankr. P. 1006. For cause shown, the court may extend the time of any installment, provided that the last installment is paid not later than 180 days after filing the petition. Id. The debtor may also pay the $75 administrative fee and the $15 trustee surcharge in installments. If a joint petition is filed, only one filing fee, one administrative fee, and one trustee surcharge are charged. Debtors should be aware that failure to pay these fees may result in dismissal of the case. 11 U.S.C. § 707(a).

If the debtor's income is less than 150% of the poverty level (as defined in the Bankruptcy Code), and the debtor is unable to pay the chapter 7 fees even in installments, the court may waive the requirement that the fees be paid. 28 U.S.C. § 1930(f).

In order to complete the Official Bankruptcy Forms that make up the petition, statement of financial affairs, and schedules, the debtor must provide the following information:

1. A list of all creditors and the amount and nature of their claims;
2. The source, amount, and frequency of the debtor's income;
3. A list of all of the debtor's property; and
4. A detailed list of the debtor's monthly living expenses, i.e., food, clothing, shelter, utilities, taxes, transportation, medicine, etc.

Married individuals must gather this information for their spouse regardless of whether they are filing a joint petition, separate individual petitions, or even if only one spouse is filing. In a situation where only one spouse files, the income and expenses of the non-filing spouse are required so that the court, the trustee and
creditors can evaluate the household's financial position.

Among the schedules that an individual debtor will file is a schedule of "exempt" property. The Bankruptcy Code allows an individual debtor (4) to protect some property from the claims of creditors because it is exempt under federal bankruptcy law or under the laws of the debtor's home state. 11 U.S.C. § 522(b). Many states have taken advantage of a provision in the Bankruptcy Code that permits each state to adopt its own exemption law in place of the federal exemptions. In other jurisdictions, the individual debtor has the option of choosing between a federal package of exemptions or the exemptions available under state law. Thus, whether certain property is exempt and may be kept by the debtor is often a question of state law. The debtor should consult an attorney to determine the exemptions available in the state where the debtor lives.

Filing a petition under chapter 7 "automatically stays" (stops) most collection actions against the debtor or the debtor's property. 11 U.S.C. § 362. But filing the petition does not stay certain types of actions listed under 11 U.S.C. § 362(b), and the stay may be effective only for a short time in some situations. The stay arises by operation of law and requires no judicial action. As long as the stay is in effect, creditors generally may not initiate or continue lawsuits, wage garnishments, or even telephone calls demanding payments. The bankruptcy clerk gives notice of the bankruptcy case to all creditors whose names and addresses are provided by the debtor.

Between 21 and 40 days after the petition is filed, the case trustee (described below) will hold a meeting of creditors. If the U.S. trustee or bankruptcy administrator staffs the meeting at a place that does not have regular U.S. trustee or bankruptcy administrator staffing, the meeting may be held no more than 60 days after the order for relief. Fed. R. Bankr. P. 2003(a). During this meeting, the trustee puts the debtor under oath, and both the trustee and creditors may ask questions. The debtor must attend the meeting and answer questions regarding the debtor's financial affairs and property. 11 U.S.C. § 343. If a husband and wife have filed a joint petition, they both must attend the creditors' meeting and answer questions. Within 10 days of the creditors' meeting, the U.S. trustee will report to the court whether the case should be presumed to be an abuse under the means test described in 11 U.S.C. § 704(b).

It is important for the debtor to cooperate with the trustee and to provide any financial records or documents that the trustee requests. The Bankruptcy Code requires the trustee to ask the debtor questions at the meeting of creditors to ensure that the debtor is aware of the potential consequences of seeking a discharge in bankruptcy such as the effect on credit history, the ability to file a petition under a different chapter, the effect of receiving a discharge, and the effect of reaffirming a debt. Some trustees provide written information on these topics at or before the meeting to ensure that the debtor is aware of this information. In order to preserve their independent judgment, bankruptcy judges are prohibited from attending the meeting of creditors. 11 U.S.C. § 341(c).

In order to accord the debtor complete relief, the Bankruptcy Code allows the debtor to convert a chapter 7 case to a case under chapter 11, 12, or 13 (6) as long as the debtor is eligible to be a debtor under the new chapter. However, a condition of the debtor's voluntary conversion is that the case has not previously been converted to chapter 7 from another chapter. 11 U.S.C. § 706(a). Thus, the debtor will not be permitted to convert the case repeatedly from one chapter to another.

Role of the Case Trustee

When a chapter 7 petition is filed, the U.S. trustee (or the bankruptcy court in Alabama and North Carolina) appoints an impartial case trustee to administer the case and liquidate the debtor's nonexempt assets. 11 U.S.C. §§ 701, 704. If all the debtor's assets are exempt or subject to valid liens, the trustee will normally file a "no asset" report with the court, and there will be no distribution to unsecured creditors. Most chapter 7 cases involving individual debtors are no asset cases. But if the case appears to be an "asset" case at the outset, unsecured creditors (7) must file their claims with the court within 90 days after the first date set for the meeting of creditors. Fed. R. Bankr. P. 3002(c). A governmental unit, however, has 180 days from the date the case is filed to file a claim. 11 U.S.C. § 502(b)(9). In the typical no asset chapter 7 case, there is no need for creditors to file proofs of claim because there will be no distribution. If the trustee later recovers assets for distribution to unsecured creditors, the Bankruptcy Court will provide notice to creditors and will allow additional time to file proofs of claim. Although a secured creditor does not need to file a proof of claim in a chapter 7 case to preserve its security interest or lien, there may be other reasons to file a claim. A creditor in a chapter 7 case who has a lien on the debtor's property should consult an attorney for advice.

Commencement of a bankruptcy case creates an "estate." The estate technically becomes the temporary legal owner of all the debtor's property. It consists of all legal or equitable interests of the debtor in property as of the commencement of the case, including property owned or held by another person if the debtor has an interest in the property. Generally speaking, the debtor's creditors are paid from nonexempt property of the estate.

The primary role of a chapter 7 trustee in an asset case is to liquidate the debtor's nonexempt assets in a manner that maximizes the return to the debtor's unsecured creditors. The trustee accomplishes this by selling the debtor's property if it is free and clear of liens (as long as the property is not exempt) or if it is worth more than any security interest or lien attached to the property and any exemption that the debtor holds in the property. The trustee may also attempt to recover money or property under the trustee's "avoiding powers." The trustee's avoiding powers include the power to: set aside preferential transfers made to creditors within 90 days before the petition; undo security interests and other prepetition transfers of property that were not properly perfected under nonbankruptcy law at the time of the petition; and pursue nonbankruptcy claims such as fraudulent conveyance and bulk transfer remedies available under state law. In addition, if the debtor is a business, the bankruptcy court may authorize the trustee to operate the business for a limited period of time, if such operation will benefit creditors and enhance the liquidation of the estate. 11 U.S.C. § 721.

Section 726 of the Bankruptcy Code governs the distribution of the property of the estate. Under § 726, there are six classes of claims; and each class must be paid in full before the next lower class is paid anything. The debtor is only paid if all other classes of claims have been paid in full. Accordingly, the debtor is not particularly interested in the trustee's disposition of the estate assets, except with respect to the payment of those debts which for some reason are not dischargeable in the bankruptcy case. The individual debtor's primary concerns in a chapter 7 case are to retain exempt property and to receive a discharge that covers as many debts as possible.

The Chapter 7 Discharge

A discharge releases individual debtors from personal liability for most debts and prevents the creditors owed those debts from taking any collection actions against the debtor. Because a chapter 7 discharge is subject to many exceptions, debtors should consult competent legal counsel before filing to discuss the scope of the discharge. Generally, excluding cases that are dismissed or converted, individual debtors receive a discharge in more than 99 percent of chapter 7 cases. In most cases, unless a party in interest files a complaint objecting to the discharge or a motion to extend the time to object, the bankruptcy court will issue a discharge order relatively early in the case – generally, 60 to 90 days after the date first set for the meeting of creditors. Fed. R. Bankr. P. 4004(c).

The grounds for denying an individual debtor a discharge in a chapter 7 case are narrow and are construed against the moving party. Among other reasons, the court may deny the debtor a discharge if it finds that the debtor: failed to keep or produce adequate books or financial records; failed to explain satisfactorily any loss of assets; committed a bankruptcy crime such as perjury; failed to obey a lawful order of the bankruptcy court; fraudulently transferred, concealed, or destroyed property that would have become property of the estate; or failed to complete an approved instructional course concerning financial management. 11 U.S.C. § 727; Fed. R. Bankr. P. 4005.

Secured creditors may retain some rights to seize property securing an underlying debt even after a discharge is granted. Depending on individual circumstances, if a debtor wishes to keep certain secured property (such as an automobile), he or she may decide to "reaffirm" the debt. A reaffirmation is an agreement between the debtor and the creditor that the debtor will remain liable and will pay all or a portion of the money owed, even though the debt would otherwise be discharged in the bankruptcy. In return, the creditor promises that it will not repossess or take back the automobile or other property so long as the debtor continues to pay the debt.

If the debtor decides to reaffirm a debt, he or she must do so before the discharge is entered. The debtor must sign a written reaffirmation agreement and file it with the court. 11 U.S.C. § 524(c). The Bankruptcy Code requires that reaffirmation agreements contain an extensive set of disclosures described in 11 U.S.C. § 524(k). Among other things, the disclosures must advise the debtor of the amount of the debt being reaffirmed and how it is calculated and that reaffirmation means that the debtor's personal liability for that debt will not be discharged in the bankruptcy. The disclosures also require the debtor to sign and file a statement of his or her
current income and expenses which shows that the balance of income paying expenses is sufficient to pay
the reaffirmed debt. If the balance is not enough to pay the debt to be reaffirmed, there is a presumption of
undue hardship, and the court may decide not to approve the reaffirmation agreement. Unless the debtor is
represented by an attorney, the bankruptcy judge must approve the reaffirmation agreement.

If the debtor was represented by an attorney in connection with the reaffirmation agreement, the attorney
must certify in writing that he or she advised the debtor of the legal effect and consequences of the
agreement, including a default under the agreement. The attorney must also certify that the debtor was fully
informed and voluntarily made the agreement and that reaffirmation of the debt will not create an undue
hardship for the debtor or the debtor’s dependants. 11 U.S.C. § 524(k). The Bankruptcy Code requires a
reaffirmation hearing if the debtor has not been represented by an attorney during the negotiating of the
agreement, or if the court disapproves the reaffirmation agreement. 11 U.S.C. § 524(d) and (m). The debtor
may repay any debt voluntarily, however, whether or not a reaffirmation agreement exists. 11 U.S.C. § 524(f).

An individual receives a discharge for most of his or her debts in a chapter 7 bankruptcy case. A creditor may
no longer initiate or continue any legal or other action against the debtor to collect a discharged debt. But not
all of an individual's debts are discharged in chapter 7. Debts not discharged include debts for alimony and
child support, certain taxes, debts for certain educational benefit overpayments or loans made or guaranteed
by a governmental unit, debts for willful and malicious injury by the debtor to another entity or to the property
of another entity, debts for death or personal injury caused by the debtor's operation of a motor vehicle while
the debtor was intoxicated from alcohol or other substances, and debts for certain criminal restitution orders.
11 U.S.C. § 523(a). The debtor will continue to be liable for these types of debts to the extent that they are not
paid in the chapter 7 case. Debts for money or property obtained by false pretenses, debts for fraud or
defalcation while acting in a fiduciary capacity, and debts for willful and malicious injury by the debtor to
another entity or to the property of another entity will be discharged unless a creditor timely files and prevails
in an action to have such debts declared nondischargeable. 11 U.S.C. § 523(c); Fed. R. Bankr. P. 4007(c).

The court may revoke a chapter 7 discharge on the request of the trustee, a creditor, or the U.S. trustee if the
discharge was obtained through fraud by the debtor, if the debtor acquired property that is property of the
estate and knowingly and fraudulently failed to report the acquisition of such property or to surrender the
property to the trustee, or if the debtor (without a satisfactory explanation) makes a material misstatement or
fails to provide documents or other information in connection with an audit of the debtor's case. 11 U.S.C. §
727(d).

NOTES

1. The "current monthly income" received by the debtor is a defined term in the Bankruptcy Code and means
the average monthly income received over the six calendar months before commencement of the bankruptcy
case, including regular contributions to household expenses from nondebtors and including income from the
debtor's spouse if the petition is a joint petition, but not including social security income or certain payments
made because the debtor is the victim of certain crimes. 11 U.S.C. § 101(10A).

2. To determine whether a presumption of abuse arises, all individual debtors with primarily consumer debts
who file a chapter 7 case must complete Official Bankruptcy Form B22A, entitled "Statement of Current
Monthly Income and Means Test Calculation - For Use in Chapter 7." (The Official Forms may be purchased
at legal stationery stores or downloaded from the internet at www.uscourts.gov/bkforms/index.html. They are
not available from the court.)

3. An involuntary chapter 7 case may be commenced under certain circumstances by a petition filed by
creditors holding claims against the debtor. 11 U.S.C. § 303.

4. Each debtor in a joint case (both husband and wife) can claim exemptions under the federal bankruptcy laws.

5. In North Carolina and Alabama, bankruptcy administrators perform similar functions that U.S. trustees
perform in the remaining 48 states. These duties include establishing a panel of private trustees to serve as
trustees in chapter 7 cases and supervising the administration of cases and trustees in cases under chapters
7, 11, 12, and 13 of the Bankruptcy Code. The bankruptcy administrator program is administered by the
Administrative Office of the United States Courts, while the U.S. trustee program is administered by the
Department of Justice. For purposes of this publication, references to U.S. trustees are also applicable to

bankruptcy administrators.

6. A fee is charged for converting, on request of the debtor, a case under chapter 7 to a case under chapter 11. The fee charged is the difference between the filing fee for a chapter 7 and the filing fee for a chapter 11. 28 U.S.C. § 1930(a). Currently, the difference is $922. Id. There is no fee for converting from chapter 7 to chapter 13.

7. Unsecured debts generally may be defined as those for which the extension of credit was based purely upon an evaluation by the creditor of the debtor’s ability to pay, as opposed to secured debts, for which the extension of credit was based upon the creditor’s right to seize collateral on default, in addition to the debtor’s ability to pay.
Main Duties of a Chapter 7 Trustee

Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
MAIN DUTIES OF A CHAPTER 7 TRUSTEE

- Review the Bankruptcy Petition and Documents Filed by the Debtor

- Verify the Information and Calculations Using Debtor’s Financial Documents And Other Independent Sources.

- Examine the Debtor Under Oath
  ✓ 341(a) meeting of creditors. The bankruptcy trustee conducts the hearing and asks the debtor questions under oath about the information contained in the bankruptcy documents.

- Liquidate Nonexempt Assets
  ✓ The Trustee has the power to sell the nonexempt assets of the bankruptcy debtor.
    ★ The trustee determines the value of property to see if there are any nonexempt assets that should be sold to pay the creditors.
    ★ If there are no nonexempt assets, the trustee will prepare a report stating there will be no distribution to creditors. But if the trustee finds any nonexempt assets, he or she must liquidate and sell them in a way that gives the maximum amount of return to the creditors.

- Avoid Certain Transfers or Security Interests
  ✓ The trustee has certain powers to avoid any preferential transfers or improperly executed security interests.
    ★ If the debtor transferred property to someone else or paid back certain creditors over others (such as family members) before filing bankruptcy, the trustee may be able to avoid these and get the money or property back to distribute it among all creditors.
    ★ If a creditor (such as a car company) did not properly create a lien or security interest on debtor’s property, the trustee can avoid that as well and sell the property free and clear of the lien.
Stern v. Marshall, No. 10-179,
Supreme Court of the United States
(Slip Opinion) (2011)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
Article III, §1, of the Constitution mandates that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish,” and provides that the judges of those constitutional courts “shall hold their Offices during good Behaviour” and “receive for their Services[ ] a Compensation[ ] [that] shall not be diminished” during their tenure. The questions presented in this case are whether a bankruptcy court judge who did not enjoy such tenure and salary protections had the authority under 28 U. S. C. §157 and Article III to enter final judgment on a counterclaim filed by Vickie Lynn Marshall (whose estate is the petitioner) against Pierce Marshall (whose estate is the respondent) in Vickie’s bankruptcy proceedings.

Vickie married J. Howard Marshall II, Pierce’s father, approximately a year before his death. Shortly before J. Howard died, Vickie filed a suit against Pierce in Texas state court, asserting that J. Howard meant to provide for Vickie through a trust, and Pierce tortiously interfered with that gift. After J. Howard died, Vickie filed for bankruptcy in federal court. Pierce filed a proof of claim in that proceeding, asserting that he should be able to recover damages from Vickie’s bankruptcy estate because Vickie had defamed him by inducing her lawyers to tell the press that he had engaged in fraud in controlling his father’s assets. Vickie responded by filing a counterclaim for tortious interference with the gift she expected from J. Howard.

The Bankruptcy Court granted Vickie summary judgment on the defamation claim and eventually awarded her hundreds of millions of dollars in damages on her counterclaim. Pierce objected that the
Bankruptcy Court lacked jurisdiction to enter a final judgment on that counterclaim because it was not a “core proceeding” as defined by 28 U. S. C. §157(b)(2)(C). As set forth in §157(a), Congress has divided bankruptcy proceedings into three categories: those that “aris[e] under title 11”; those that “aris[e] in” a Title 11 case; and those that are “related to a case under title 11.” District courts may refer all such proceedings to the bankruptcy judges of their district, and bankruptcy courts may enter final judgments in “all core proceedings arising under title 11, or arising in a case under title 11.” §§157(a), (b)(1). In non-core proceedings, by contrast, a bankruptcy judge may only “submit proposed findings of fact and conclusions of law to the district court.” §157(c)(1). Section 157(b)(2) lists 16 categories of core proceedings, including “counterclaims by the estate against persons filing claims against the estate.” §157(b)(2)(C).

The Bankruptcy Court concluded that Vickie’s counterclaim was a core proceeding. The District Court reversed, reading this Court’s precedent in *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50, to “suggest[ ] that it would be unconstitutional to hold that any and all counterclaims are core.” The court held that Vickie’s counterclaim was not core because it was only somewhat related to Pierce’s claim, and it accordingly treated the Bankruptcy Court’s judgment as proposed, not final. Although the Texas state court had by that time conducted a jury trial on the merits of the parties’ dispute and entered a judgment in Pierce’s favor, the District Court went on to decide the matter itself, in Vickie’s favor. The Court of Appeals ultimately reversed. It held that the Bankruptcy Court lacked authority to enter final judgment on Vickie’s counterclaim because the claim was not “so closely related to [Pierce’s] proof of claim that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself.” Because that holding made the Texas probate court’s judgment the earliest final judgment on matters relevant to the case, the Court of Appeals held that the District Court should have given the state judgment preclusive effect.

**Held:** Although the Bankruptcy Court had the statutory authority to enter judgment on Vickie’s counterclaim, it lacked the constitutional authority to do so. Pp. 6–38.

1. Section 157(b) authorized the Bankruptcy Court to enter final judgment on Vickie’s counterclaim. Pp. 8–16.

   (a) The Bankruptcy Court had the statutory authority to enter final judgment on Vickie’s counterclaim as a core proceeding under §157(b)(2)(C). Pierce argues that §157(b) authorizes bankruptcy courts to enter final judgments only in those proceedings that are both core and either arise in a Title 11 case or arise under Title 11 it-
self. But that reading necessarily assumes that there is a category of core proceedings that do not arise in a bankruptcy case or under bankruptcy law, and the structure of §157 makes clear that no such category exists. Pp. 8–11.

(b) In the alternative, Pierce argues that the Bankruptcy Court lacked jurisdiction to resolve Vickie’s counterclaim because his defamation claim is a “personal injury tort” that the Bankruptcy Court lacked jurisdiction to hear under §157(b)(5). The Court agrees with Vickie that §157(b)(5) is not jurisdictional, and Pierce consented to the Bankruptcy Court’s resolution of the defamation claim. The Court is not inclined to interpret statutes as creating a jurisdictional bar when they are not framed as such. See generally Henderson v. Shinseki, 562 U. S. ___; Arbaugh v. Y & H Corp., 546 U. S. 500. Section 157(b)(5) does not have the hallmarks of a jurisdictional decree, and the statutory context belies Pierce’s claim that it is jurisdictional. Pierce consented to the Bankruptcy Court’s resolution of the defamation claim by repeatedly advising that court that he was happy to litigate his claim there. Pp. 12–16.

2. Although §157 allowed the Bankruptcy Court to enter final judgment on Vickie’s counterclaim, Article III of the Constitution did not. Pp. 16–38.

(a) Article III is “an inseparable element of the constitutional system of checks and balances” that “both defines the power and protects the independence of the Judicial Branch.” Northern Pipeline, 458 U. S., at 58 (plurality opinion). Article III protects liberty not only through its role in implementing the separation of powers, but also by specifying the defining characteristics of Article III judges to protect the integrity of judicial decisionmaking.

This is not the first time the Court has faced an Article III challenge to a bankruptcy court’s resolution of a debtor’s suit. In Northern Pipeline, the Court considered whether bankruptcy judges serving under the Bankruptcy Act of 1978—who also lacked the tenure and salary guarantees of Article III—could “constitutionally be vested with jurisdiction to decide [a] state-law contract claim” against an entity that was not otherwise part of the bankruptcy proceedings. Id., at 53, 87, n. 40 (plurality opinion). The plurality in Northern Pipeline recognized that there was a category of cases involving “public rights” that Congress could constitutionally assign to “legislative” courts for resolution. A full majority of the Court, while not agreeing on the scope of that exception, concluded that the doctrine did not encompass adjudication of the state law claim at issue in that case, and rejected the debtor’s argument that the Bankruptcy Court’s exercise of jurisdiction was constitutional because the bankruptcy judge was acting merely as an adjunct of the district court or court of appeals.
**Stern v. Marshall**

**Syllabus**

*Id.*, at 69–72; see *id.*, at 90–91 (Rehnquist, J., concurring in judgment). After the decision in *Northern Pipeline*, Congress revised the statutes governing bankruptcy jurisdiction and bankruptcy judges. With respect to the “core” proceedings listed in §157(b)(2), however, the bankruptcy courts under the Bankruptcy Amendments and Federal Judgeship Act of 1984 exercise the same powers they wielded under the 1978 Act. The authority exercised by the newly constituted courts over a counterclaim such as Vickie’s exceeds the bounds of Article III. Pp. 16–22.

(b) Vickie’s counterclaim does not fall within the public rights exception, however defined. The Court has long recognized that, in general, Congress may not “withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.” *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272, 284. The Court has also recognized that “[a]t the same time there are matters, involving public rights, . . . which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.” *Ibid.* Several previous decisions have contrasted cases within the reach of the public rights exception—those arising “between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments”—and those that are instead matters “of private right, that is, of the liability of one individual to another under the law as defined.” *Crowell v. Benson*, 285 U. S. 22, 50, 51.

Shortly after *Northern Pipeline*, the Court rejected the limitation of the public rights exception to actions involving the Government as a party. The Court has continued, however, to limit the exception to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert Government agency is deemed essential to a limited regulatory objective within the agency’s authority. In other words, it is still the case that what makes a right “public” rather than private is that the right is integrally related to particular Federal Government action. See *United States v. Jicarilla Apache Nation*, 564 U. S. ___, ___–___ (slip op., at 10–11); *Thomas v. Union Carbide Agricultural Products Co.*, 473 U. S. 568, 584; *Commodity Futures Trading Commission v. Schor*, 478 U. S. 833, 844, 856.

In *Granfinanciera, S. A. v. Nordberg*, 492 U. S. 33, the most recent case considering the public rights exception, the Court rejected a bankruptcy trustee’s argument that a fraudulent conveyance action filed on behalf of a bankruptcy estate against a noncreditor in a bankruptcy proceeding fell within the exception. Vickie’s counter-
claim is similar. It is not a matter that can be pursued only by grace of the other branches, as in Murray’s Lessee, 18 How., at 284; it does not flow from a federal statutory scheme, as in Thomas, 473 U. S., at 584–585; and it is not “completely dependent upon” adjudication of a claim created by federal law, as in Schor, 478 U. S., at 856. This case involves the most prototypical exercise of judicial power: the entry of a final, binding judgment by a court with broad substantive jurisdiction, on a common law cause of action, when the action neither derives from nor depends upon any agency regulatory regime. If such an exercise of judicial power may nonetheless be taken from the Article III Judiciary simply by deeming it part of some amorphous “public right,” then Article III would be transformed from the guardian of individual liberty and separation of powers the Court has long recognized into mere wishful thinking. Pp. 22–29.

(c) The fact that Pierce filed a proof of claim in the bankruptcy proceedings did not give the Bankruptcy Court the authority to adjudicate Vickie’s counterclaim. Initially, Pierce’s defamation claim does not affect the nature of Vickie’s tortious interference counterclaim as one at common law that simply attempts to augment the bankruptcy estate—the type of claim that, under Northern Pipeline and Granfinanciera, must be decided by an Article III court. The cases on which Vickie relies, Katchen v. Landy, 382 U. S. 323, and Langenkamp v. Culp, 498 U. S. 42 (per curiam), are inapposite. Katchen permitted a bankruptcy referee to exercise jurisdiction over a trustee’s voidable preference claim against a creditor only where there was no question that the referee was required to decide whether there had been a voidable preference in determining whether and to what extent to allow the creditor’s claim. The Katchen Court “intimate[d] no opinion concerning whether” the bankruptcy referee would have had “summary jurisdiction to adjudicate a demand by the [bankruptcy] trustee for affirmative relief, all of the substantial factual and legal bases for which ha[d] not been disposed of in passing on objections to the [creditor’s proof of] claim.” 382 U. S., at 333, n. 9. The per curiam opinion in Langenkamp is to the same effect. In this case, by contrast, the Bankruptcy Court—in order to resolve Vickie’s counterclaim—was required to and did make several factual and legal determinations that were not “disposed of in passing on objections” to Pierce’s proof of claim. In both Katchen and Langenkamp, moreover, the trustee bringing the preference action was asserting a right of recovery created by federal bankruptcy law. Vickie’s claim is instead a state tort action that exists without regard to any bankruptcy proceeding. Pp. 29–34.

(d) The bankruptcy courts under the 1984 Act are not “adjuncts” of the district courts. The new bankruptcy courts, like the courts
considered in *Northern Pipeline*, do not “ma[k]e only specialized, narrowly confined factual determinations regarding a particularized area of law” or engage in “statutorily channeled factfinding functions.” 458 U. S., at 85 (plurality opinion). Whereas the adjunct agency in *Crowell v. Benson* “possessed only a limited power to issue compensation orders . . . [that] could be enforced only by order of the district court,” *ibid.*, a bankruptcy court resolving a counterclaim under §157(b)(2)(C) has the power to enter “appropriate orders and judgments”—including final judgments—subject to review only if a party chooses to appeal, see §§157(b)(1), 158(a)–(b). Such a court is an adjunct of no one. Pp. 34–36.

(e) Finally, Vickie and her *amici* predict that restrictions on a bankruptcy court’s ability to hear and finally resolve compulsory counterclaims will create significant delays and impose additional costs on the bankruptcy process. It goes without saying that “the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution.” *INS v. Chadha*, 462 U. S. 919, 944. In addition, the Court is not convinced that the practical consequences of such limitations are as significant as Vickie suggests. The framework Congress adopted in the 1984 Act already contemplates that certain state law matters in bankruptcy cases will be resolved by state courts and district courts, see §§157(c), 1334(c), and the Court does not think the removal of counterclaims such as Vickie’s from core bankruptcy jurisdiction meaningfully changes the division of labor in the statute. Pp. 36–38.

600 F. 3d 1037, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, and ALITO, JJ., joined. SCALIA, J., filed a concurring opinion. BREYER, J., filed a dissenting opinion, in which GINSBURG, SOTOMAYOR, and KAGAN, JJ., joined.
Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 10–179

HOWARD K. STERN, EXECUTOR OF THE ESTATE OF VICKIE LYNN MARSHALL, PETITIONER v. ELAINE T. MARSHALL, EXECUTRIX OF THE ESTATE OF E. PIERCE MARSHALL

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 23, 2011]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

This “suit has, in course of time, become so complicated, that . . . no two . . . lawyers can talk about it for five minutes, without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause: innumerable young people have married into it;” and, sadly, the original parties “have died out of it.” A “long procession of [judges] has come in and gone out” during that time, and still the suit “drags its weary length before the Court.”

Those words were not written about this case, see C. Dickens, Bleak House, in 1 Works of Charles Dickens 4–5 (1891), but they could have been. This is the second time we have had occasion to weigh in on this long-running dispute between Vickie Lynn Marshall and E. Pierce Marshall over the fortune of J. Howard Marshall II, a man believed to have been one of the richest people in Texas. The Marshalls’ litigation has worked its way...
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through state and federal courts in Louisiana, Texas, and California, and two of those courts—a Texas state probate court and the Bankruptcy Court for the Central District of California—have reached contrary decisions on its merits. The Court of Appeals below held that the Texas state decision controlled, after concluding that the Bankruptcy Court lacked the authority to enter final judgment on a counterclaim that Vickie brought against Pierce in her bankruptcy proceeding.1 To determine whether the Court of Appeals was correct in that regard, we must resolve two issues: (1) whether the Bankruptcy Court had the statutory authority under 28 U. S. C. §157(b) to issue a final judgment on Vickie’s counterclaim; and (2) if so, whether conferring that authority on the Bankruptcy Court is constitutional.

Although the history of this litigation is complicated, its resolution ultimately turns on very basic principles. Article III, §1, of the Constitution commands that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” That Article further provides that the judges of those courts shall hold their offices during good behavior, without diminution of salary. Ibid. Those requirements of Article III were not honored here. The Bankruptcy Court in this case exercised the judicial power of the United States by entering final judgment on a common law tort claim, even though the judges of such courts enjoy neither tenure during good behavior nor salary protection. We conclude that, although the Bankruptcy Court had the statutory authority to enter judgment on Vickie’s counterclaim, it lacked the constitutional authority to do so.

1 Because both Vickie and Pierce passed away during this litigation, the parties in this case are Vickie’s estate and Pierce’s estate. We continue to refer to them as “Vickie” and “Pierce.”
Because we have already recounted the facts and procedural history of this case in detail, see *Marshall v. Marshall*, 547 U. S. 293, 300–305 (2006), we do not repeat them in full here. Of current relevance are two claims Vickie filed in an attempt to secure half of J. Howard’s fortune. Known to the public as Anna Nicole Smith, Vickie was J. Howard’s third wife and married him about a year before his death. *Id.*, at 300; see *In re Marshall*, 392 F. 3d 1118, 1122 (CA9 2004). Although J. Howard bestowed on Vickie many monetary and other gifts during their courtship and marriage, he did not include her in his will. 547 U. S., at 300. Before J. Howard passed away, Vickie filed suit in Texas state probate court, asserting that Pierce—J. Howard’s younger son—fraudulently induced J. Howard to sign a living trust that did not include her, even though J. Howard meant to give her half his property. Pierce denied any fraudulent activity and defended the validity of J. Howard’s trust and, eventually, his will. 392 F. 3d, at 1122–1123, 1125.

After J. Howard’s death, Vickie filed a petition for bankruptcy in the Central District of California. Pierce filed a complaint in that bankruptcy proceeding, contending that Vickie had defamed him by inducing her lawyers to tell members of the press that he had engaged in fraud to gain control of his father’s assets. 547 U. S., at 300–301; *In re Marshall*, 600 F. 3d 1037, 1043–1044 (CA9 2010). The complaint sought a declaration that Pierce’s defamation claim was not dischargeable in the bankruptcy proceedings. *Ibid.*; see 11 U. S. C. §523(a). Pierce subsequently filed a proof of claim for the defamation action, meaning that he sought to recover damages for it from Vickie’s bankruptcy estate. See §501(a). Vickie responded to Pierce’s initial complaint by asserting truth as a defense to the alleged defamation and by filing a counterclaim for tortious interference with the gift she expected from J.
Howard. As she had in state court, Vickie alleged that Pierce had wrongfully prevented J. Howard from taking the legal steps necessary to provide her with half his property. 547 U. S., at 301.

On November 5, 1999, the Bankruptcy Court issued an order granting Vickie summary judgment on Pierce’s claim for defamation. On September 27, 2000, after a bench trial, the Bankruptcy Court issued a judgment on Vickie’s counterclaim in her favor. The court later awarded Vickie over $400 million in compensatory damages and $25 million in punitive damages. 600 F. 3d, at 1045; see 253 B. R. 550, 561–562 (Bkrtcy. Ct. CD Cal. 2000); 257 B. R. 35, 39–40 (Bkrtcy. Ct. CD Cal. 2000).

In post-trial proceedings, Pierce argued that the Bankruptcy Court lacked jurisdiction over Vickie’s counterclaim. In particular, Pierce renewed a claim he had made earlier in the litigation, asserting that the Bankruptcy Court’s authority over the counterclaim was limited because Vickie’s counterclaim was not a “core proceeding” under 28 U. S. C. §157(b)(2)(C). See 257 B. R., at 39. As explained below, bankruptcy courts may hear and enter final judgments in “core proceedings” in a bankruptcy case. In non-core proceedings, the bankruptcy courts instead submit proposed findings of fact and conclusions of law to the district court, for that court’s review and issuance of final judgment. The Bankruptcy Court in this case concluded that Vickie’s counterclaim was “a core proceeding” under §157(b)(2)(C), and the court therefore had the “power to enter judgment” on the counterclaim under §157(b)(1). Id., at 40.

The District Court disagreed. It recognized that “Vickie’s counterclaim for tortious interference falls within the literal language” of the statute designating certain proceedings as “core,” see §157(b)(2)(C), but understood this Court’s precedent to “suggest[] that it would be unconstitutional to hold that any and all counterclaims are
core.” 264 B. R. 609, 629–630 (CD Cal. 2001) (citing Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U. S. 50, 79, n. 31 (1982) (plurality opinion)). The District Court accordingly concluded that a “counterclaim should not be characterized as core” when it “is only somewhat related to the claim against which it is asserted, and when the unique characteristics and context of the counterclaim place it outside of the normal type of set-off or other counterclaims that customarily arise.” 264 B. R., at 632.

Because the District Court concluded that Vickie’s counterclaim was not core, the court determined that it was required to treat the Bankruptcy Court’s judgment as “proposed[,] rather than final,” and engage in an “independent review” of the record. Id., at 633; see 28 U. S. C. §157(c)(1). Although the Texas state court had by that time conducted a jury trial on the merits of the parties’ dispute and entered a judgment in Pierce’s favor, the District Court declined to give that judgment preclusive effect and went on to decide the matter itself. 271 B. R. 858, 862–867 (CD Cal. 2001); see 275 B. R. 5, 56–58 (CD Cal. 2002). Like the Bankruptcy Court, the District Court found that Pierce had tortiously interfered with Vickie’s expectancy of a gift from J. Howard. The District Court awarded Vickie compensatory and punitive damages, each in the amount of $44,292,767.33. Id., at 58.

The Court of Appeals reversed the District Court on a different ground, 392 F. 3d, at 1137, and we—in the first visit of the case to this Court—reversed the Court of Appeals on that issue. 547 U. S., at 314–315. On remand from this Court, the Court of Appeals held that §157 mandated “a two-step approach” under which a bankruptcy judge may issue a final judgment in a proceeding only if the matter both “meets Congress’ definition of a core proceeding and arises under or arises in title 11,” the Bankruptcy Code. 600 F. 3d, at 1055. The court also
reasoned that allowing a bankruptcy judge to enter final judgments on all counterclaims raised in bankruptcy proceedings “would certainly run afoul” of this Court’s decision in *Northern Pipeline*. 600 F. 3d, at 1057. With those concerns in mind, the court concluded that “a counterclaim under §157(b)(2)(C) is properly a ‘core’ proceeding ‘arising in a case under’ the [Bankruptcy] Code only if the counterclaim is so closely related to [a creditor’s] proof of claim that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself.” *Id.*, at 1058 (internal quotation marks omitted; second brackets added). The court ruled that Vickie’s counterclaim did not meet that test. *Id.*, at 1059. That holding made “the Texas probate court’s judgment . . . the earliest final judgment entered on matters relevant to this proceeding,” and therefore the Court of Appeals concluded that the District Court should have “afford[ed] preclusive effect” to the Texas “court’s determination of relevant legal and factual issues.” *Id.*, at 1064–1065.\(^2\)

We again granted certiorari. 561 U. S. ___ (2010).

II

A

With certain exceptions not relevant here, the district courts of the United States have “original and exclusive jurisdiction of all cases under title 11.” 28 U. S. C. §1334(a). Congress has divided bankruptcy proceedings into three categories: those that “aris[e] under title 11”; those that “aris[e] in” a Title 11 case; and those that are

\(^2\)One judge wrote a separate concurring opinion. He concluded that “Vickie’s counterclaim . . . [wa]s not a core proceeding, so the Texas probate court judgment preceded the district court judgment and controls.” 600 F. 3d, at 1065 (Kleinfeld, J.). The concurring judge also “offer[ed] additional grounds” that he believed required judgment in Pierce’s favor. *Ibid.* Pierce presses only one of those additional grounds here; it is discussed below, in Part II–C.
“related to a case under title 11.” §157(a). District courts may refer any or all such proceedings to the bankruptcy judges of their district, ibid., which is how the Bankruptcy Court in this case came to preside over Vickie’s bankruptcy proceedings. District courts also may withdraw a case or proceeding referred to the bankruptcy court “for cause shown.” §157(d). Since Congress enacted the Bankruptcy Amendments and Federal Judgeship Act of 1984 (the 1984 Act), bankruptcy judges for each district have been appointed to 14-year terms by the courts of appeals for the circuits in which their district is located. §152(a)(1).

The manner in which a bankruptcy judge may act on a referred matter depends on the type of proceeding involved. Bankruptcy judges may hear and enter final judgments in “all core proceedings arising under title 11, or arising in a case under title 11.” §157(b)(1). “Core proceedings include, but are not limited to” 16 different types of matters, including “counterclaims by [a debtor’s] estate against persons filing claims against the estate.” §157(b)(2)(C). Parties may appeal final judgments of a

3 In full, §§157(b)(1)–(2) provides:
“(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.
“(2) Core proceedings include, but are not limited to—
“(A) matters concerning the administration of the estate;
“(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;
“(C) counterclaims by the estate against persons filing claims against the estate;
“(D) orders in respect to obtaining credit;
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bankruptcy court in core proceedings to the district court, which reviews them under traditional appellate standards. See §158(a); Fed. Rule Bkrtcy. Proc. 8013.

When a bankruptcy judge determines that a referred “proceeding . . . is not a core proceeding but . . . is otherwise related to a case under title 11,” the judge may only “submit proposed findings of fact and conclusions of law to the district court.” §157(c)(1). It is the district court that enters final judgment in such cases after reviewing de novo any matter to which a party objects. Ibid.

B

Vickie’s counterclaim against Pierce for tortious interference is a “core proceeding” under the plain text of §157(b)(2)(C). That provision specifies that core proceedings include “counterclaims by the estate against persons filing claims against the estate.” In past cases, we have suggested that a proceeding’s “core” status alone authorizes a bankruptcy judge, as a statutory matter, to enter

“(E) orders to turn over property of the estate;
“(F) proceedings to determine, avoid, or recover preferences;
“(G) motions to terminate, annul, or modify the automatic stay;
“(H) proceedings to determine, avoid, or recover fraudulent conveyances;
“(I) determinations as to the dischargeability of particular debts;
“(J) objections to discharges;
“(K) determinations of the validity, extent, or priority of liens;
“(L) confirmations of plans;
“(M) orders approving the use or lease of property, including the use of cash collateral;
“(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate;
“(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims; and
“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”
final judgment in the proceeding. See, e.g., Granfinanciera, S. A. v. Nordberg, 492 U. S. 33, 50 (1989) (explaining that Congress had designated certain actions as “‘core proceedings,’ which bankruptcy judges may adjudicate and in which they may issue final judgments, if a district court has referred the matter to them” (citations omitted)). We have not directly addressed the question, however, and Pierce argues that a bankruptcy judge may enter final judgment on a core proceeding only if that proceeding also “aris[es] in” a Title 11 case or “aris[es] under” Title 11 itself. Brief for Respondent 51 (internal quotation marks omitted).

Section 157(b)(1) authorizes bankruptcy courts to “hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11.” As written, §157(b)(1) is ambiguous. The “arising under” and “arising in” phrases might, as Pierce suggests, be read as referring to a limited category of those core proceedings that are addressed in that section. On the other hand, the phrases might be read as simply describing what core proceedings are: matters arising under Title 11 or in a Title 11 case. In this case the structure and context of §157 contradict Pierce’s interpretation of §157(b)(1).

As an initial matter, Pierce’s reading of the statute necessarily assumes that there is a category of core proceedings that neither arise under Title 11 nor arise in a Title 11 case. The manner in which the statute delineates the bankruptcy courts’ authority, however, makes plain that no such category exists. Section 157(b)(1) authorizes bankruptcy judges to enter final judgments in “core proceedings arising under title 11, or arising in a case under title 11.” Section 157(c)(1) instructs bankruptcy judges to instead submit proposed findings in “a proceeding that is not a core proceeding but that is otherwise related to a case under title 11.” Nowhere does §157 specify what
bankruptcy courts are to do with respect to the category of matters that Pierce posits—core proceedings that do not arise under Title 11 or in a Title 11 case. To the contrary, §157(b)(3) only instructs a bankruptcy judge to “determine, on the judge’s own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11.” Two options. The statute does not suggest that any other distinctions need be made.

Under our reading of the statute, core proceedings are those that arise in a bankruptcy case or under Title 11. The detailed list of core proceedings in §157(b)(2) provides courts with ready examples of such matters. Pierce’s reading of §157, in contrast, supposes that some core proceedings will arise in a Title 11 case or under Title 11 and some will not. Under that reading, the statute provides no guidance on how to tell which are which.

We think it significant that Congress failed to provide any framework for identifying or adjudicating the asserted category of core but not “arising” proceedings, given the otherwise detailed provisions governing bankruptcy court authority. It is hard to believe that Congress would go to the trouble of cataloging 16 different types of proceedings that should receive “core” treatment, but then fail to specify how to determine whether those matters arise under Title 11 or in a bankruptcy case if—as Pierce asserts—the latter inquiry is determinative of the bankruptcy court’s authority.

Pierce argues that we should treat core matters that arise neither under Title 11 nor in a Title 11 case as proceedings “related to” a Title 11 case. Brief for Respondent 60 (internal quotation marks omitted). We think that a contradiction in terms. It does not make sense to describe a “core” bankruptcy proceeding as merely “related to” the bankruptcy case; oxymoron is not a typical feature of congressional drafting. See Northern Pipeline, 458 U. S.,
at 71 (plurality opinion) (distinguishing “the restructuring of debtor-creditor relations, which is at the core of the federal bankruptcy power, . . . from the adjudication of state-created private rights”); Collier on Bankruptcy ¶3.02[2], p. 3–26, n. 5 (16th ed. 2010) (“The terms ‘non-core’ and ‘related’ are synonymous”); see also id., at 3–26, (“The phraseology of section 157 leads to the conclusion that there is no such thing as a core matter that is ‘related to’ a case under title 11. Core proceedings are, at most, those that arise in title 11 cases or arise under title 11” (footnote omitted)). And, as already discussed, the statute simply does not provide for a proceeding that is simultaneously core and yet only related to the bankruptcy case. See §157(c)(1) (providing only for “a proceeding that is not a core proceeding but that is otherwise related to a case under title 11”).

As we explain in Part III, we agree with Pierce that designating all counterclaims as “core” proceedings raises serious constitutional concerns. Pierce is also correct that we will, where possible, construe federal statutes so as “to avoid serious doubt of their constitutionality.” Commodity Futures Trading Comm’n v. Schor, 478 U. S. 833, 841 (1986) (internal quotation marks omitted). But that “canon of construction does not give [us] the prerogative to ignore the legislative will in order to avoid constitutional adjudication.” Ibid. In this case, we do not think the plain text of §157(b)(2)(C) leaves any room for the canon of avoidance. We would have to “rewrit[e]” the statute, not interpret it, to bypass the constitutional issue §157(b)(2)(C) presents. Id., at 841 (internal quotation marks omitted). That we may not do. We agree with Vickie that §157(b)(2)(C) permits the bankruptcy court to enter a final judgment on her tortious interference counterclaim.
Pierce argues, as another alternative to reaching the constitutional question, that the Bankruptcy Court lacked jurisdiction to enter final judgment on his defamation claim. Section 157(b)(5) provides that “[t]he district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose.” Pierce asserts that his defamation claim is a “personal injury tort,” that the Bankruptcy Court therefore had no jurisdiction over that claim, and that the court therefore necessarily lacked jurisdiction over Vickie’s counterclaim as well. Brief for Respondent 65–66.

Vickie objects to Pierce’s statutory analysis across the board. To begin, Vickie contends that §157(b)(5) does not address subject matter jurisdiction at all, but simply specifies the venue in which “personal injury tort and wrongful death claims” should be tried. See Reply Brief for Petitioner 16–17, 19; see also Tr. of Oral Arg. 23 (Deputy Solicitor General) (Section “157(b)(5) is in [the United States’] view not jurisdictional”). Given the limited scope of that provision, Vickie argues, a party may waive or forfeit any objections under §157(b)(5), in the same way that a party may waive or forfeit an objection to the bankruptcy court finally resolving a non-core claim. Reply Brief for Petitioner 17–20; see §157(c)(2) (authorizing the district court, “with the consent of all the parties to the proceeding,” to refer a “related to” matter to the bankruptcy court for final judgment). Vickie asserts that in this case Pierce consented to the Bankruptcy Court’s adjudication of his defamation claim, and forfeited any argument to the contrary, by failing to seek withdrawal of the claim until he had litigated it before the Bankruptcy Court for 27 months. Id., at 20–23. On the merits, Vickie contends that the statutory phrase “personal injury tort
and wrongful death claims” does not include non-physical torts such as defamation. \textit{Id.}, at 25–26.

We need not determine what constitutes a “personal injury tort” in this case because we agree with Vickie that §157(b)(5) is not jurisdictional, and that Pierce consented to the Bankruptcy Court’s resolution of his defamation claim.\textsuperscript{4} Because “[b]randing a rule as going to a court’s subject-matter jurisdiction alters the normal operation of our adversarial system,” \textit{Henderson v. Shinseki}, 562 U. S. \_, \_, \_, \_, (2011) (slip op., at 4–5), we are not inclined to interpret statutes as creating a jurisdictional bar when they are not framed as such. See generally \textit{Arbaugh v. Y & H Corp.}, 546 U. S. 500, 516 (2006) (“when Congress does not rank a statutory limitation on coverage as jurisdictional, courts should treat the restriction as nonjurisdictional in character”).

\textsuperscript{4}Although Pierce suggests that consideration of “the 157(b)(5) issue” would facilitate an “easy” resolution of the case, Tr. of Oral Arg. 47–48, he is mistaken. Had Pierce preserved his argument under that provision, we would have been confronted with several questions on which there is little consensus or precedent. Those issues include: (1) the scope of the phrase “personal injury tort”—a question over which there is at least a three-way divide, see \textit{In re Arnold}, 407 B. R. 849, 851–853 (Bkrtcy. Ct. MDNC 2009); (2) whether, as Vickie argued in the Court of Appeals, the requirement that a personal injury tort claim be “tried” in the district court nonetheless permits the bankruptcy court to resolve the claim short of trial, see Appellee’s/Cross-Appellant’s Supplemental Brief in No. 02–56002 etc. (CA9), p. 24; see also \textit{In re Dow Corning Corp.}, 215 B. R. 346, 349–351 (Bkrtcy. Ct. ED Mich. 1997) (noting divide over whether, and on what grounds, a bankruptcy court may resolve a claim pretrial); and (3) even if Pierce’s defamation claim could be considered only by the District Court, whether the Bankruptcy Court might retain jurisdiction over the counterclaim, cf. \textit{Arbaugh v. Y & H Corp.}, 546 U. S. 500, 514 (2006) (“when a court grants a motion to dismiss for failure to state a federal claim, the court generally retains discretion to exercise supplemental jurisdiction, pursuant to 28 U. S. C. §1367, over pendent state-law claims”). We express no opinion on any of these issues and simply note that the §157(b)(5) question is not as straightforward as Pierce would have it.
Section 157(b)(5) does not have the hallmarks of a jurisdictional decree. To begin, the statutory text does not refer to either district court or bankruptcy court “jurisdiction,” instead addressing only where personal injury tort claims “shall be tried.”

The statutory context also belies Pierce’s jurisdictional claim. Section 157 allocates the authority to enter final judgment between the bankruptcy court and the district court. See §§157(b)(1), (c)(1). That allocation does not implicate questions of subject matter jurisdiction. See §157(c)(2) (parties may consent to entry of final judgment by bankruptcy judge in non-core case). By the same token, §157(b)(5) simply specifies where a particular category of cases should be tried. Pierce does not explain why that statutory limitation may not be similarly waived.

We agree with Vickie that Pierce not only could but did consent to the Bankruptcy Court’s resolution of his defamation claim. Before the Bankruptcy Court, Vickie objected to Pierce’s proof of claim for defamation, arguing that Pierce’s claim was unenforceable and that Pierce should not receive any amount for it. See 29 Court of Appeals Supplemental Excerpts of Record 6031, 6035 (hereinafter Supplemental Record). Vickie also noted that the Bankruptcy Court could defer ruling on her objection, given the litigation posture of Pierce’s claim before the Bankruptcy Court. See id., at 6031. Vickie’s filing prompted Pierce to advise the Bankruptcy Court that “[a]ll parties are in agreement that the amount of the contingent Proof of Claim filed by [Pierce] shall be determined by the adversary proceedings” that had been commenced in the Bankruptcy Court. 31 Supplemental Record 6801. Pierce asserted that Vickie’s objection should be overruled or, alternatively, that any ruling on the objection “should be continued until the resolution of the pending adversary proceeding litigation.” Ibid. Pierce identifies no point in the record where he argued to the Bankruptcy Court that
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it lacked the authority to adjudicate his proof of claim because the claim sought recompense for a personal injury tort.

Indeed, Pierce apparently did not object to any court that §157(b)(5) prohibited the Bankruptcy Court from resolving his defamation claim until over two years—and several adverse discovery rulings—after he filed that claim in June 1996. The first filing Pierce cites as raising that objection is his September 22, 1998 motion to the District Court to withdraw the reference of the case to the Bankruptcy Court. See Brief for Respondent 26–27. The District Court did initially withdraw the reference as requested, but it then returned the proceeding to the Bankruptcy Court, observing that Pierce “implicated the jurisdiction of that bankruptcy court. He chose to be a party to that litigation.” App. 129. Although Pierce had objected in July 1996 to the Bankruptcy Court’s exercise of jurisdiction over Vickie’s counterclaim, he advised the court at that time that he was “happy to litigate [his] claim” there. 29 Supplemental Record 6101. Counsel stated that even though Pierce thought it was “probably cheaper for th[e] estate if [Pierce’s claim] were sent back or joined back with the State Court litigation,” Pierce “did choose” the Bankruptcy Court forum and “would be more than pleased to do it [t]here.” Id., at 6101–6102; see also App. to Pet. for Cert. 266, n. 17 (District Court referring to these statements).

Given Pierce’s course of conduct before the Bankruptcy Court, we conclude that he consented to that court’s resolution of his defamation claim (and forfeited any argument to the contrary). We have recognized “the value of waiver and forfeiture rules” in “complex” cases, *Exxon Shipping Co. v. Baker*, 554 U. S. 471, 487–488, n. 6 (2008), and this case is no exception. In such cases, as here, the consequences of “a litigant . . . ‘sandbagging’ the court—remaining silent about his objection and belatedly raising the error only if the case does not conclude in his favor,”
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Puckett v. United States, 556 U. S. ___ (2009) (slip op., at 5) (some internal quotation marks omitted)—can be particularly severe. If Pierce believed that the Bankruptcy Court lacked the authority to decide his claim for defamation, then he should have said so—and said so promptly. See United States v. Olano, 507 U. S. 725, 731 (1993) (“‘No procedural principle is more familiar to this Court than that a constitutional right,’ or a right of any other sort, ‘may be forfeited . . . by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it’” (quoting Yakus v. United States, 321 U. S. 414, 444 (1944))). Instead, Pierce repeatedly stated to the Bankruptcy Court that he was happy to litigate there. We will not consider his claim to the contrary, now that he is sad.

III

Although we conclude that §157(b)(2)(C) permits the Bankruptcy Court to enter final judgment on Vickie’s counterclaim, Article III of the Constitution does not.

A

Article III, §1, of the Constitution mandates that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” The same section provides that the judges of those constitutional courts “shall hold their Offices during good Behaviour” and “receive for their Services[] a Compensation[] that shall not be diminished” during their tenure.

As its text and our precedent confirm, Article III is “an inseparable element of the constitutional system of checks and balances” that “both defines the power and protects the independence of the Judicial Branch.” Northern Pipeline, 458 U. S., at 58 (plurality opinion). Under “the basic concept of separation of powers . . . that flow[s] from the
scheme of a tripartite government” adopted in the Constitution, “the ‘judicial Power of the United States’ . . . can no more be shared” with another branch than “the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a Presidential veto.” *United States v. Nixon*, 418 U. S. 683, 704 (1974) (quoting U. S. Const., Art. III, §1).

In establishing the system of divided power in the Constitution, the Framers considered it essential that “the judiciary remain[] truly distinct from both the legislature and the executive.” The Federalist No. 78, p. 466 (C. Rossiter ed. 1961) (A. Hamilton). As Hamilton put it, quoting Montesquieu, “‘there is no liberty if the power of judging be not separated from the legislative and executive powers.’” *Ibid.* (quoting 1 Montesquieu, Spirit of Laws 181).

We have recognized that the three branches are not hermetically sealed from one another, see *Nixon v. Administrator of General Services*, 433 U. S. 425, 443 (1977), but it remains true that Article III imposes some basic limitations that the other branches may not transgress. Those limitations serve two related purposes. “Separation-of-powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic between and among the branches is not the only object of the Constitution’s concern. The structural principles secured by the separation of powers protect the individual as well.” *Bond v. United States*, 564 U. S. ___, ___ (2011) (slip op., at 10).

Article III protects liberty not only through its role in implementing the separation of powers, but also by specifying the defining characteristics of Article III judges. The colonists had been subjected to judicial abuses at the hand of the Crown, and the Framers knew the main reasons why: because the King of Great Britain “made Judges
dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.” The Declaration of Independence ¶11. The Framers undertook in Article III to protect citizens subject to the judicial power of the new Federal Government from a repeat of those abuses. By appointing judges to serve without term limits, and restricting the ability of the other branches to remove judges or diminish their salaries, the Framers sought to ensure that each judicial decision would be rendered, not with an eye toward currying favor with Congress or the Executive, but rather with the “[c]lear heads . . . and honest hearts” deemed “essential to good judges.” 1 Works of James Wilson 363 (J. Andrews ed. 1896).

Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government could confer the Government’s “judicial Power” on entities outside Article III. That is why we have long recognized that, in general, Congress may not “withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.” Murray’s Lessee v. Hoboken Land & Improvement Co., 18 How. 272, 284 (1856). When a suit is made of “the stuff of the traditional actions at common law tried by the courts at Westminster in 1789,” Northern Pipeline, 458 U. S., at 90 (Rehnquist, J., concurring in judgment), and is brought within the bounds of federal jurisdiction, the responsibility for deciding that suit rests with Article III judges in Article III courts. The Constitution assigns that job—resolution of “the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law”—to the Judiciary. Id., at 86–87, n. 39 (plurality opinion).
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B

This is not the first time we have faced an Article III challenge to a bankruptcy court’s resolution of a debtor’s suit. In *Northern Pipeline*, we considered whether bankruptcy judges serving under the Bankruptcy Act of 1978—appointed by the President and confirmed by the Senate, but lacking the tenure and salary guarantees of Article III—could “constitutionally be vested with jurisdiction to decide [a] state-law contract claim” against an entity that was not otherwise part of the bankruptcy proceedings. 458 U. S., at 53, 87, n. 40 (plurality opinion); see *id.*, at 89–92 (Rehnquist, J., concurring in judgment). The Court concluded that assignment of such state law claims for resolution by those judges “violates Art. III of the Constitution.” *Id.*, at 52, 87 (plurality opinion); *id.*, at 91 (Rehnquist, J., concurring in judgment).

The plurality in *Northern Pipeline* recognized that there was a category of cases involving “public rights” that Congress could constitutionally assign to “legislative” courts for resolution. That opinion concluded that this “public rights” exception extended “only to matters arising between” individuals and the Government “in connection with the performance of the constitutional functions of the executive or legislative departments . . . that historically could have been determined exclusively by those” branches. *Id.*, at 67–68 (internal quotation marks omitted). A full majority of the Court, while not agreeing on the scope of the exception, concluded that the doctrine did not encompass adjudication of the state law claim at issue in that case. *Id.*, at 69–72; see *id.*, at 90–91 (Rehnquist, J., concurring in judgment) (“None of the [previous cases addressing Article III power] has gone so far as to sanction the type of adjudication to which Marathon will be subjected . . . . To whatever extent different powers granted under [the 1978] Act might be sustained under the ‘public rights’ doctrine of *Murray’s Lessee* . . . and succeeding
A full majority of Justices in *Northern Pipeline* also rejected the debtor’s argument that the bankruptcy court’s exercise of jurisdiction was constitutional because the bankruptcy judge was acting merely as an adjunct of the district court or court of appeals. *Id.*, at 71–72, 81–86 (plurality opinion); *id.*, at 91 (Rehnquist, J., concurring in judgment) (“the bankruptcy court is not an ‘adjunct’ of either the district court or the court of appeals”).

After our decision in *Northern Pipeline*, Congress revised the statutes governing bankruptcy jurisdiction and bankruptcy judges. In the 1984 Act, Congress provided that the judges of the new bankruptcy courts would be appointed by the courts of appeals for the circuits in which their districts are located. 28 U. S. C. §152(a). And, as we have explained, Congress permitted the newly constituted bankruptcy courts to enter final judgments only in “core” proceedings. See *supra*, at 7–8.

With respect to such “core” matters, however, the bankruptcy courts under the 1984 Act exercise the same powers they wielded under the Bankruptcy Act of 1978 (1978 Act), 92 Stat. 2549. As in *Northern Pipeline*, for example, the newly constituted bankruptcy courts are charged under §157(b)(2)(C) with resolving “[a]ll matters of fact and law in whatever domains of the law to which” a counterclaim may lead. 458 U. S., at 91 (Rehnquist, J., concurring in judgment); see, e.g., 275 B. R., at 50–51 (noting that Vickie’s counterclaim required the bankruptcy court to determine whether Texas recognized a cause of action for tortious interference with an *inter vivos* gift—something the Supreme Court of Texas had yet to do). As

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5 The dissent is thus wrong in suggesting that less than a full Court agreed on the points pertinent to this case. *Post*, at 2 (opinion of Breyer, J.).
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in Northern Pipeline, the new courts in core proceedings “issue final judgments, which are binding and enforceable even in the absence of an appeal.” 458 U. S., at 85–86 (plurality opinion). And, as in Northern Pipeline, the district courts review the judgments of the bankruptcy courts in core proceedings only under the usual limited appellate standards. That requires marked deference to, among other things, the bankruptcy judges’ findings of fact. See §158(a); Fed. Rule Bkrtcy. Proc. 8013 (findings of fact “shall not be set aside unless clearly erroneous”).

C

Vickie and the dissent argue that the Bankruptcy Court’s entry of final judgment on her state common law counterclaim was constitutional, despite the similarities between the bankruptcy courts under the 1978 Act and those exercising core jurisdiction under the 1984 Act. We disagree. It is clear that the Bankruptcy Court in this case exercised the “judicial Power of the United States” in purporting to resolve and enter final judgment on a state common law claim, just as the court did in Northern Pipeline. No “public right” exception excuses the failure to comply with Article III in doing so, any more than in Northern Pipeline. Vickie argues that this case is different because the defendant is a creditor in the bankruptcy. But the debtors’ claims in the cases on which she relies were themselves federal claims under bankruptcy law, which would be completely resolved in the bankruptcy process of allowing or disallowing claims. Here Vickie’s claim is a state law action independent of the federal bankruptcy law and not necessarily resolvable by a ruling on the creditor’s proof of claim in bankruptcy. Northern Pipeline and our subsequent decision in Granfinancieria, 492 U. S. 33, rejected the application of the “public rights” exception in such cases.

Nor can the bankruptcy courts under the 1984 Act be
dismissed as mere adjuncts of Article III courts, any more than could the bankruptcy courts under the 1978 Act. The judicial powers the courts exercise in cases such as this remain the same, and a court exercising such broad powers is no mere adjunct of anyone.

1

Vickie’s counterclaim cannot be deemed a matter of “public right” that can be decided outside the Judicial Branch. As explained above, in *Northern Pipeline* we rejected the argument that the public rights doctrine permitted a bankruptcy court to adjudicate a state law suit brought by a debtor against a company that had not filed a claim against the estate. See 458 U. S., at 69–72 (plurality opinion); *id.*, at 90–91 (Rehnquist, J., concurring in judgment). Although our discussion of the public rights exception since that time has not been entirely consistent, and the exception has been the subject of some debate, this case does not fall within any of the various formulations of the concept that appear in this Court’s opinions.

We first recognized the category of public rights in *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272 (1856). That case involved the Treasury Department’s sale of property belonging to a customs collector who had failed to transfer payments to the Federal Government that he had collected on its behalf. *Id.*, at 274, 275. The plaintiff, who claimed title to the same land through a different transfer, objected that the Treasury Department’s calculation of the deficiency and sale of the property was void, because it was a judicial act that could not be assigned to the Executive under Article III. *Id.*, at 274–275, 282–283.

“To avoid misconstruction upon so grave a subject,” the Court laid out the principles guiding its analysis. *Id.*, at 284. It confirmed that Congress cannot “withdraw from judicial cognizance any matter which, from its nature, is
the subject of a suit at the common law, or in equity, or admiralty.” Ibid. The Court also recognized that “[a]t the same time there are matters, involving public rights, which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.” Ibid.

As an example of such matters, the Court referred to “[e]quitable claims to land by the inhabitants of ceded territories” and cited cases in which land issues were conclusively resolved by Executive Branch officials. Ibid. (citing Foley v. Harrison, 15 How. 433 (1854); Burgess v. Gray, 16 How. 48 (1854)). In those cases “it depends upon the will of congress whether a remedy in the courts shall be allowed at all,” so Congress could limit the extent to which a judicial forum was available. Murray’s Lessee, 18 How., at 284. The challenge in Murray’s Lessee to the Treasury Department’s sale of the collector’s land likewise fell within the “public rights” category of cases, because it could only be brought if the Federal Government chose to allow it by waiving sovereign immunity. Id., at 283–284. The point of Murray’s Lessee was simply that Congress may set the terms of adjudicating a suit when the suit could not otherwise proceed at all.

Subsequent decisions from this Court contrasted cases within the reach of the public rights exception—those arising “between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments”—and those that were instead matters “of private right, that is, of the liability of one individual to another under the law as defined.” Crowell v. Benson, 285 U. S. 22, 50, 51 (1932). See Atlas Roofing Co. v. Occupa-

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6 Although the Court in Crowell went on to decide that the facts of the
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tional Safety and Health Review Comm'n, 430 U. S. 442, 458 (1977) (Exception extends to cases “where the Government is involved in its sovereign capacity under . . . [a] statute creating enforceable public rights,” while “[w]holly private tort, contract, and property cases, as well as a vast range of other cases . . . are not at all implicated”); Ex parte Bakelite Corp., 279 U. S. 438, 451–452 (1929). See also Northern Pipeline, supra, at 68 (plurality opinion) (citing Ex parte Bakelite Corp. for the proposition that the doctrine extended “only to matters that historically could have been determined exclusively by” the Executive and Legislative Branches).

Shortly after Northern Pipeline, the Court rejected the

private dispute before it could be determined by a non-Article III tribunal in the first instance, subject to judicial review, the Court did so only after observing that the administrative adjudicator had only limited authority to make specialized, narrowly confined factual determinations regarding a particularized area of law and to issue orders that could be enforced only by action of the District Court. 285 U. S., at 38, 44–45, 54; see Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U. S. 50, 78 (1982) (plurality opinion). In other words, the agency in Crowell functioned as a true “adjunct” of the District Court. That is not the case here. See infra, at 34–36.

Although the dissent suggests that we understate the import of Crowell in this regard, the dissent itself recognizes—repeatedly—that Crowell by its terms addresses the determination of facts outside Article III. See post, at 4 (Crowell “upheld Congress’ delegation of primary factfinding authority to the agency”); post, at 12 (quoting Crowell, 285 U. S., at 51, for the proposition that “‘there is no requirement that, in order to maintain the essential attributes of the judicial power, all determinations of fact in constitutional courts shall be made by judges’”). Crowell may well have additional significance in the context of expert administrative agencies that oversee particular substantive federal regimes, but we have no occasion to and do not address those issues today. See infra, at 29. The United States apparently agrees that any broader significance of Crowell is not pertinent in this case, citing to Crowell in its brief only once, in the last footnote, again for the limited proposition discussed above. Brief for United States as Amicus Curiae 32, n. 5.
limitation of the public rights exception to actions involving the Government as a party. The Court has continued, however, to limit the exception to cases in which the claim at issue derives from a federal regulatory scheme, or in which resolution of the claim by an expert government agency is deemed essential to a limited regulatory objective within the agency’s authority. In other words, it is still the case that what makes a right “public” rather than private is that the right is integrally related to particular federal government action. See *United States v. Jicarilla Apache Nation*, 564 U. S. ___, ___–___ (2011) (slip op., at 10–11) (“The distinction between ‘public rights’ against the Government and ‘private rights’ between private parties is well established,” citing *Murray’s Lessee* and *Crowell*).

Our decision in *Thomas v. Union Carbide Agricultural Products Co.*, for example, involved a data-sharing arrangement between companies under a federal statute providing that disputes about compensation between the companies would be decided by binding arbitration. 473 U. S. 568, 571–575 (1985). This Court held that the scheme did not violate Article III, explaining that “[a]ny right to compensation . . . results from [the statute] and does not depend on or replace a right to such compensation under state law.” *Id.*, at 584.

*Commodity Futures Trading Commission v. Schor* concerned a statutory scheme that created a procedure for customers injured by a broker’s violation of the federal commodities law to seek reparations from the broker before the Commodity Futures Trading Commission (CFTC). 478 U. S. 833, 836 (1986). A customer filed such a claim to recover a debit balance in his account, while the broker filed a lawsuit in Federal District Court to recover the same amount as lawfully due from the customer. The broker later submitted its claim to the CFTC, but after that agency ruled against the customer, the customer
argued that agency jurisdiction over the broker’s counter-claim violated Article III. *Id.*, at 837–838. This Court disagreed, but only after observing that (1) the claim and the counterclaim concerned a “single dispute”—the same account balance; (2) the CFTC’s assertion of authority involved only “a narrow class of common law claims” in a “particularized area of law”; (3) the area of law in question was governed by “a specific and limited federal regulatory scheme” as to which the agency had “obvious expertise”; (4) the parties had freely elected to resolve their differences before the CFTC; and (5) CFTC orders were “enforceable only by order of the district court.” *Id.*, at 844, 852–855 (quoting *Northern Pipeline*, 458 U. S., at 85); see 478 U. S., at 843–844; 849–857. Most significantly, given that the customer’s reparations claim before the agency and the broker’s counterclaim were competing claims to the same amount, the Court repeatedly emphasized that it was “necessary” to allow the agency to exercise jurisdiction over the broker’s claim, or else “the reparations procedure would have been confounded.” *Id.*, at 856.

The most recent case in which we considered application of the public rights exception—and the only case in which we have considered that doctrine in the bankruptcy context since *Northern Pipeline*—is *Granfinanciera, S. A. v. Nordberg*, 492 U. S. 33 (1989). In *Granfinanciera* we rejected a bankruptcy trustee’s argument that a fraudulent conveyance action filed on behalf of a bankruptcy estate against a noncreditor in a bankruptcy proceeding fell within the “public rights” exception. We explained that, “[i]f a statutory right is not closely intertwined with a federal regulatory program Congress has power to enact, and if that right neither belongs to nor exists against the Federal Government, then it must be adjudicated by an Article III court.” *Id.*, at 54–55. We reasoned that fraudulent conveyance suits were “quintessentially suits at com-
mon law that more nearly resemble state law contract claims brought by a bankrupt corporation to augment the bankruptcy estate than they do creditors’ hierarchically ordered claims to a pro rata share of the bankruptcy res.” Id., at 56. As a consequence, we concluded that fraudulent conveyance actions were “more accurately characterized as a private rather than a public right as we have used those terms in our Article III decisions.” Id., at 55.7

Vickie’s counterclaim—like the fraudulent conveyance claim at issue in Granfinanciera—does not fall within any of the varied formulations of the public rights exception in this Court’s cases. It is not a matter that can be pursued only by grace of the other branches, as in Murray’s Lessee, 18 How., at 284, or one that “historically could have been determined exclusively by” those branches, Northern Pipeline, supra, at 68 (citing Ex parte Bakelite Corp., 279 U. S., at 458). The claim is instead one under state common law between two private parties. It does not “depend[] on the will of congress,” Murray’s Lessee, supra, at 284; Congress has nothing to do with it.

In addition, Vickie’s claimed right to relief does not flow from a federal statutory scheme, as in Thomas, 473 U. S., at 584–585, or Atlas Roofing, 430 U. S., at 458. It is not “completely dependent upon” adjudication of a claim created by federal law, as in Schor, 478 U. S., at 856. And in contrast to the objecting party in Schor, id., at 855–856, Pierce did not truly consent to resolution of Vickie’s claim in the bankruptcy court proceedings. He had nowhere else to go if he wished to recover from Vickie’s estate. See

7 We noted that we did not mean to “suggest that the restructuring of debtor-creditor relations is in fact a public right.” 492 U. S., at 56, n. 11. Our conclusion was that, “even if one accepts this thesis,” Congress could not constitutionally assign resolution of the fraudulent conveyance action to a non-Article III court. Ibid. Because neither party asks us to reconsider the public rights framework for bankruptcy, we follow the same approach here.
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Granfinanciera, supra, at 59, n. 14 (noting that “[p]arallel reasoning [to Schor] is unavailable in the context of bankruptcy proceedings, because creditors lack an alternative forum to the bankruptcy court in which to pursue their claims”).

Furthermore, the asserted authority to decide Vickie’s claim is not limited to a “particularized area of the law,” as in Crowell, Thomas, and Schor. Northern Pipeline, 458 U. S., at 85 (plurality opinion). We deal here not with an agency but with a court, with substantive jurisdiction reaching any area of the corpus juris. See ibid.; id., at 91 (Rehnquist, J., concurring in judgment). This is not a situation in which Congress devised an “expert and inexpensive method for dealing with a class of questions of fact which are particularly suited to examination and determination by an administrative agency specially assigned to that task.” Crowell, 285 U. S., at 46; see Schor, supra, at 855–856. The “experts” in the federal system at resolving common law counterclaims such as Vickie’s are the Article III courts, and it is with those courts that her claim must stay.

The dissent reads our cases differently, and in particular contends that more recent cases view Northern Pipeline as “‘establish[ing] only that Congress may not vest in a non-Article III court the power to adjudicate, render final judgment, and issue binding orders in a traditional contract action arising under state law, without consent of

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8 Contrary to the claims of the dissent, see post, at 12–13, Pierce did not have another forum in which to pursue his claim to recover from Vickie’s pre-bankruptcy assets, rather than take his chances with whatever funds might remain after the Title 11 proceedings. Creditors who possess claims that do not satisfy the requirements for nondischargeability under 11 U. S. C. §523 have no choice but to file their claims in bankruptcy proceedings if they want to pursue the claims at all. That is why, as we recognized in Granfinanciera, the notion of “consent” does not apply in bankruptcy proceedings as it might in other contexts.
the litigants, and subject only to ordinary appellate review.” Post, at 6 (quoting Thomas, supra, at 584). Just so: Substitute “tort” for “contract,” and that statement directly covers this case.

We recognize that there may be instances in which the distinction between public and private rights—at least as framed by some of our recent cases—fails to provide concrete guidance as to whether, for example, a particular agency can adjudicate legal issues under a substantive regulatory scheme. Given the extent to which this case is so markedly distinct from the agency cases discussing the public rights exception in the context of such a regime, however, we do not in this opinion express any view on how the doctrine might apply in that different context.

What is plain here is that this case involves the most prototypical exercise of judicial power: the entry of a final, binding judgment by a court with broad substantive jurisdiction, on a common law cause of action, when the action neither derives from nor depends upon any agency regulatory regime. If such an exercise of judicial power may nonetheless be taken from the Article III Judiciary simply by deeming it part of some amorphous “public right,” then Article III would be transformed from the guardian of individual liberty and separation of powers we have long recognized into mere wishful thinking.

Vickie and the dissent next attempt to distinguish Northern Pipeline and Granfinanciera on the ground that Pierce, unlike the defendants in those cases, had filed a proof of claim in the bankruptcy proceedings. Given Pierce’s participation in those proceedings, Vickie argues, the Bankruptcy Court had the authority to adjudicate her counterclaim under our decisions in Katchen v. Landy, 382 U. S. 323 (1966), and Langenkamp v. Culp, 498 U. S. 42 (1990) (per curiam).
We do not agree. As an initial matter, it is hard to see why Pierce’s decision to file a claim should make any difference with respect to the characterization of Vickie’s counterclaim. “‘[P]roperty interests are created and defined by state law,’ and ‘[u]nless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding.’” *Travelers Casualty & Surety Co. of America v. Pacific Gas & Elec. Co.*, 549 U. S. 443, 451 (2007) (quoting *Butner v. United States*, 440 U. S. 48, 55 (1979)). Pierce’s claim for defamation in no way affects the nature of Vickie’s counterclaim for tortious interference as one at common law that simply attempts to augment the bankruptcy estate—the very type of claim that we held in *Northern Pipeline* and *Granfinanciera* must be decided by an Article III court.

Contrary to Vickie’s contention, moreover, our decisions in *Katchen* and *Langenkamp* do not suggest a different result. *Katchen* permitted a bankruptcy referee acting under the Bankruptcy Acts of 1898 and 1938 (akin to a bankruptcy court today) to exercise what was known as “summary jurisdiction” over a voidable preference claim brought by the bankruptcy trustee against a creditor who had filed a proof of claim in the bankruptcy proceeding. See 382 U. S., at 325, 327–328. A voidable preference claim asserts that a debtor made a payment to a particular creditor in anticipation of bankruptcy, to in effect increase that creditor’s proportionate share of the estate. The preferred creditor’s claim in bankruptcy can be disallowed as a result of the preference, and the amounts paid to that creditor can be recovered by the trustee. See id., at 330; see also 11 U. S. C. §§502(d), 547(b).

Although the creditor in *Katchen* objected that the preference issue should be resolved through a “plenary suit” in an Article III court, this Court concluded that summary adjudication in bankruptcy was appropriate,
because it was not possible for the referee to rule on the creditor’s proof of claim without first resolving the voidable preference issue. 382 U. S., at 329–330, 332–333, and n. 9, 334. There was no question that the bankruptcy referee could decide whether there had been a voidable preference in determining whether and to what extent to allow the creditor’s claim. Once the referee did that, “nothing remains for adjudication in a plenary suit”; such a suit “would be a meaningless gesture.” Id., at 334. The plenary proceeding the creditor sought could be brought into the bankruptcy court because “the same issue [arose] as part of the process of allowance and disallowance of claims.” Id., at 336.

It was in that sense that the Court stated that “he who invokes the aid of the bankruptcy court by offering a proof of claim and demanding its allowance must abide the consequences of that procedure.” Id., at 333, n. 9. In *Katchen*, one of those consequences was resolution of the preference issue as part of the process of allowing or disallowing claims, and accordingly there was no basis for the creditor to insist that the issue be resolved in an Article III court. See id., at 334. Indeed, the *Katchen* Court expressly noted that it “intimate[d] no opinion concerning whether” the bankruptcy referee would have had “summary jurisdiction to adjudicate a demand by the [bankruptcy] trustee for affirmative relief, all of the substantial factual and legal bases for which ha[d] not been disposed of in passing on objections to the [creditor’s proof of] claim.” Id., at 333, n. 9.

Our *per curiam* opinion in *Langenkamp* is to the same effect. We explained there that a preferential transfer claim can be heard in bankruptcy when the allegedly favored creditor has filed a claim, because then “the ensuing preference action by the trustee become[s] integral to the restructuring of the debtor-creditor relationship.” 498 U. S., at 44. If, in contrast, the creditor has not filed a
proof of claim, the trustee’s preference action does not “become[] part of the claims-allowance process” subject to resolution by the bankruptcy court. Ibid.; see id., at 45.

In ruling on Vickie’s counterclaim, the Bankruptcy Court was required to and did make several factual and legal determinations that were not “disposed of in passing on objections” to Pierce’s proof of claim for defamation, which the court had denied almost a year earlier. Katchen, supra, at 332, n. 9. There was some overlap between Vickie’s counterclaim and Pierce’s defamation claim that led the courts below to conclude that the counterclaim was compulsory, 600 F. 3d, at 1057, or at least in an “attenuated” sense related to Pierce’s claim, 264 B. R., at 631. But there was never any reason to believe that the process of adjudicating Pierce’s proof of claim would necessarily resolve Vickie’s counterclaim. See id., at 631, 632 (explaining that “the primary facts at issue on Pierce’s claim were the relationship between Vickie and her attorneys and her knowledge or approval of their statements,” and “the counterclaim raises issues of law entirely different from those raise[d] on the defamation claim”). The United States acknowledges the point. See Brief for United States as Amicus Curiae, p. (I) (question presented concerns authority of a bankruptcy court to enter final judgment on a compulsory counterclaim “when adjudication of the counterclaim requires resolution of issues that are not implicated by the claim against the estate”); id., at 26.

The only overlap between the two claims in this case was the question whether Pierce had in fact tortiously taken control of his father’s estate in the manner alleged by Vickie in her counterclaim and described in the allegedly defamatory statements. From the outset, it was clear that, even assuming the Bankruptcy Court would (as it did) rule in Vickie’s favor on that question, the court could not enter judgment for Vickie unless the court additionally
ruled on the questions whether Texas recognized tortious interference with an expected gift as a valid cause of action, what the elements of that action were, and whether those elements were met in this case. 275 B. R., at 50–53. Assuming Texas accepted the elements adopted by other jurisdictions, that meant Vickie would need to prove, above and beyond Pierce’s tortious interference, (1) the existence of an expectancy of a gift; (2) a reasonable certainty that the expectancy would have been realized but for the interference; and (3) damages. Id., at 51; see 253 B. R., at 558–561. Also, because Vickie sought punitive damages in connection with her counterclaim, the Bankruptcy Court could not finally dispose of the case in Vickie’s favor without determining whether to subject Pierce to the sort of “retribution,” “punishment[,] and deterrence,” Exxon Shipping Co., 554 U. S., at 492, 504 (internal quotation marks omitted), those damages are designed to impose. There thus was never reason to believe that the process of ruling on Pierce’s proof of claim would necessarily result in the resolution of Vickie’s counterclaim.

In both Katchen and Langenkamp, moreover, the trustee bringing the preference action was asserting a right of recovery created by federal bankruptcy law. In Langenkamp, we noted that “the trustee instituted adversary proceedings under 11 U. S. C. §547(b) to recover, as avoidable preferences,” payments respondents received from the debtor before the bankruptcy filings. 498 U. S., at 43; see, e.g., §547(b)(1) (“the trustee may avoid any transfer of an interest of the debtor in property—to or for the benefit of a creditor”). In Katchen, “[t]he Trustee . . . [asserted] that the payments made [to the creditor] were preferences inhibited by Section 60a of the Bankruptcy Act.” Memorandum Opinion (Feb. 8, 1963), Tr. of Record in O. T. 1965, No. 28, p. 3; see 382 U. S., at 334 (considering impact of the claims allowance process on “action by the
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trustee under §60 to recover the preference’’); 11 U. S. C. §96(b) (1964 ed.) (§60(b) of the then-applicable Bankruptcy Act) (‘‘preference may be avoided by the trustee if the creditor receiving it or to be benefited thereby . . . has, at the time when the transfer is made, reasonable cause to believe that the debtor is insolvent’’). Vickie’s claim, in contrast, is in no way derived from or dependent upon bankruptcy law; it is a state tort action that exists without regard to any bankruptcy proceeding.

In light of all the foregoing, we disagree with the dissent that there are no ‘‘relevant distinction[s]’’ between Pierce’s claim in this case and the claim at issue in Langenkamp. Post, at 14. We see no reason to treat Vickie’s counterclaim any differently from the fraudulent conveyance action in Granfinanciera. 492 U. S., at 56. Granfinanciera’s distinction between actions that seek ‘‘to augment the bankruptcy estate’’ and those that seek ‘‘a pro rata share of the bankruptcy res,’’ ibid., reaffirms that Congress may not bypass Article III simply because a proceeding may have some bearing on a bankruptcy case; the question is whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claims allowance process. Vickie has failed to demonstrate that her counterclaim falls within one of the ‘‘limited circumstances’’ covered by the public rights exception, particularly given our conclusion that, ‘‘even with respect to matters that arguably fall within the scope of the ‘public rights’ doctrine, the presumption is in favor of Art. III courts.’’ Northern Pipeline, 458 U. S., at 69, n. 23, 77, n. 29 (plurality opinion).

3

Vickie additionally argues that the Bankruptcy Court’s final judgment was constitutional because bankruptcy courts under the 1984 Act are properly deemed ‘‘adjuncts’’ of the district courts. Brief for Petitioner 61–64. We
rejected a similar argument in *Northern Pipeline*, see 458 U. S., at 84–86 (plurality opinion); *id.*, at 91 (Rehnquist, J., concurring in judgment), and our reasoning there holds true today.

To begin, as explained above, it is still the bankruptcy court itself that exercises the essential attributes of judicial power over a matter such as Vickie’s counterclaim. See *supra*, at 20. The new bankruptcy courts, like the old, do not “ma[k]e only specialized, narrowly confined factual determinations regarding a particularized area of law” or engage in “statutorily channeled factfinding functions.” *Northern Pipeline*, 458 U. S., at 85 (plurality opinion). Instead, bankruptcy courts under the 1984 Act resolve “[a]ll matters of fact and law in whatever domains of the law to which” the parties’ counterclaims might lead. *Id.*, at 91 (Rehnquist, J., concurring in judgment).

In addition, whereas the adjunct agency in *Crowell v. Benson* “possessed only a limited power to issue compensation orders . . . [that] could be enforced only by order of the district court,” *Northern Pipeline, supra*, at 85, a bankruptcy court resolving a counterclaim under 28 U. S. C. §157(b)(2)(C) has the power to enter “appropriate orders and judgments”—including final judgments—subject to review only if a party chooses to appeal, see §§157(b)(1), 158(a)–(b). It is thus no less the case here than it was in *Northern Pipeline* that “[t]he authority—and the responsibility—to make an informed, final determination . . . remains with” the bankruptcy judge, not the district court. 458 U. S., at 81 (plurality opinion) (internal quotation marks omitted). Given that authority, a bankruptcy court can no more be deemed a mere “adjunct” of the district court than a district court can be deemed such an “adjunct” of the court of appeals. We certainly cannot accept the dissent’s notion that judges who have the power to enter final, binding orders are the “functional[]” equivalent of “law clerks[] and the Judiciary’s administrative
officials.” Post, at 11. And even were we wrong in this regard, that would only confirm that such judges should not be in the business of entering final judgments in the first place.

It does not affect our analysis that, as Vickie notes, bankruptcy judges under the current Act are appointed by the Article III courts, rather than the President. See Brief for Petitioner 59. If—as we have concluded—the bankruptcy court itself exercises “the essential attributes of judicial power [that] are reserved to Article III courts,” Schor, 478 U. S., at 851 (internal quotation marks omitted), it does not matter who appointed the bankruptcy judge or authorized the judge to render final judgments in such proceedings. The constitutional bar remains. See The Federalist No. 78, at 471 (“Periodical appointments, however regulated, or by whomsoever made, would, in some way or other, be fatal to [a judge’s] necessary independence”).

D

Finally, Vickie and her amici predict as a practical matter that restrictions on a bankruptcy court’s ability to hear and finally resolve compulsory counterclaims will create significant delays and impose additional costs on the bankruptcy process. See, e.g., Brief for Petitioner 34–36, 57–58; Brief for United States as Amicus Curiae 29–30. It goes without saying that “the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution.” INS v. Chadha, 462 U. S. 919, 944 (1983).

In addition, we are not convinced that the practical consequences of such limitations on the authority of bankruptcy courts to enter final judgments are as significant as Vickie and the dissent suggest. See post, at 16–17. The dissent asserts that it is important that counterclaims such as Vickie’s be resolved “in a bankruptcy court,” and
that, “to be effective, a single tribunal must have broad authority to restructure [debtor-creditor] relations.” Post, at 14, 15 (emphasis deleted). But the framework Congress adopted in the 1984 Act already contemplates that certain state law matters in bankruptcy cases will be resolved by judges other than those of the bankruptcy courts. Section 1334(c)(2), for example, requires that bankruptcy courts abstain from hearing specified non-core, state law claims that “can be timely adjudicated[] in a State forum of appropriate jurisdiction.” Section 1334(c)(1) similarly provides that bankruptcy courts may abstain from hearing any proceeding, including core matters, “in the interest of comity with State courts or respect for State law.”

As described above, the current bankruptcy system also requires the district court to review de novo and enter final judgment on any matters that are “related to” the bankruptcy proceedings, §157(c)(1), and permits the district court to withdraw from the bankruptcy court any referred case, proceeding, or part thereof, §157(d). Pierce has not argued that the bankruptcy courts “are barred from ‘hearing’ all counterclaims” or proposing findings of fact and conclusions of law on those matters, but rather that it must be the district court that “finally decide[s]” them. Brief for Respondent 61. We do not think the removal of counterclaims such as Vickie’s from core bankruptcy jurisdiction meaningfully changes the division of labor in the current statute; we agree with the United States that the question presented here is a “narrow” one. Brief for United States as Amicus Curiae 23.

If our decision today does not change all that much, then why the fuss? Is there really a threat to the separation of powers where Congress has conferred the judicial power outside Article III only over certain counterclaims in bankruptcy? The short but emphatic answer is yes. A statute may no more lawfully chip away at the authority of the Judicial Branch than it may eliminate it entirely.
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“Slight encroachments create new boundaries from which legions of power can seek new territory to capture.” Reid v. Covert, 354 U. S. 1, 39 (1957) (plurality opinion). Although “[i]t may be that it is the obnoxious thing in its mildest and least repulsive form,” we cannot overlook the intrusion: “illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure.” Boyd v. United States, 116 U. S. 616, 635 (1886). We cannot compromise the integrity of the system of separated powers and the role of the Judiciary in that system, even with respect to challenges that may seem innocuous at first blush.

* * *

Article III of the Constitution provides that the judicial power of the United States may be vested only in courts whose judges enjoy the protections set forth in that Article. We conclude today that Congress, in one isolated respect, exceeded that limitation in the Bankruptcy Act of 1984. The Bankruptcy Court below lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor’s proof of claim. Accordingly, the judgment of the Court of Appeals is affirmed.

It is so ordered.
JUSTICE SCALIA, concurring.

I agree with the Court’s interpretation of our Article III precedents, and I accordingly join its opinion. I adhere to my view, however, that—our contrary precedents notwithstanding—“a matter of public rights . . . must at a minimum arise between the government and others,” Granfinanciera, S. A. v. Nordberg, 492 U. S. 33, 65 (1989) (SCALIA, J., concurring in part and concurring in judgment) (internal quotation marks omitted).

The sheer surfeit of factors that the Court was required to consider in this case should arouse the suspicion that something is seriously amiss with our jurisprudence in this area. I count at least seven different reasons given in the Court’s opinion for concluding that an Article III judge was required to adjudicate this lawsuit: that it was one “under state common law” which was “not a matter that can be pursued only by grace of the other branches,” ante, at 27; that it was “not ‘completely dependent upon’ adjudication of a claim created by federal law,” ibid.; that “Pierce did not truly consent to resolution of Vickie’s claim in the bankruptcy court proceedings,” ibid.; that “the asserted authority to decide Vickie’s claim is not limited to a ‘particularized area of the law,’” ante, at 28; that “there was
never any reason to believe that the process of adjudicating Pierce’s proof of claim would necessarily resolve Vickie’s counterclaim,” ante, at 32; that the trustee was not “asserting a right of recovery created by federal bankruptcy law,” ante, at 33; and that the Bankruptcy Judge “had the power to enter ‘appropriate orders and judgments’—including final judgments—subject to review only if a party chooses to appeal,” ante, at 35.

Apart from their sheer numerosity, the more fundamental flaw in the many tests suggested by our jurisprudence is that they have nothing to do with the text or tradition of Article III. For example, Article III gives no indication that state-law claims have preferential entitlement to an Article III judge; nor does it make pertinent the extent to which the area of the law is “particularized.” The multifactors relied upon today seem to have entered our jurisprudence almost randomly.

Leaving aside certain adjudications by federal administrative agencies, which are governed (for better or worse) by our landmark decision in Crowell v. Benson, 285 U. S. 22 (1932), in my view an Article III judge is required in all federal adjudications, unless there is a firmly established historical practice to the contrary. For that reason—and not because of some intuitive balancing of benefits and harms—I agree that Article III judges are not required in the context of territorial courts, courts-martial, or true “public rights” cases. See Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U. S. 50, 71 (1982) (plurality opinion). Perhaps historical practice permits non-Article III judges to process claims against the bankruptcy estate, see, e.g., Plank, Why Bankruptcy Judges Need Not and Should Not Be Article III Judges, 72 Am. Bankr. L. J. 567, 607–609 (1998); the subject has not been briefed, and so I state no position on the matter. But Vickie points to no historical practice that authorizes a non-Article III judge to adjudicate a counterclaim of the sort at issue here.
Pierce Marshall filed a claim in Federal Bankruptcy Court against the estate of Vickie Marshall. His claim asserted that Vickie Marshall had, through her lawyers, accused him of trying to prevent her from obtaining money that his father had wanted her to have; that her accusations violated state defamation law; and that she consequently owed Pierce Marshall damages. Vickie Marshall filed a compulsory counterclaim in which she asserted that Pierce Marshall had unlawfully interfered with her husband’s efforts to grant her an inter vivos gift and that he consequently owed her damages.

The Bankruptcy Court adjudicated the claim and the counterclaim. In doing so, the court followed statutory procedures applicable to “core” bankruptcy proceedings. See 28 U. S. C. §157(b). And ultimately the Bankruptcy Court entered judgment in favor of Vickie Marshall. The question before us is whether the Bankruptcy Court possessed jurisdiction to adjudicate Vickie Marshall’s counterclaim. I agree with the Court that the bankruptcy statute, §157(b)(2)(C), authorizes a bankruptcy court to adjudicate the counterclaim. But I do not agree with the
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majority about the statute’s constitutionality. I believe the statute is consistent with the Constitution’s delegation of the “judicial Power of the United States” to the Judicial Branch of Government. Art. III, §1. Consequently, it is constitutional.

I

My disagreement with the majority’s conclusion stems in part from my disagreement about the way in which it interprets, or at least emphasizes, certain precedents. In my view, the majority overstates the current relevance of statements this Court made in an 1856 case, Murray’s Lessee v. Hoboken Land & Improvement Co., 18 How. 272 (1856), and it overstates the importance of an analysis that did not command a Court majority in Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U. S. 50 (1982), and that was subsequently disavowed. At the same time, I fear the Court understates the importance of a watershed opinion widely thought to demonstrate the constitutional basis for the current authority of administrative agencies to adjudicate private disputes, namely, Crowell v. Benson, 285 U. S. 22 (1932). And it fails to follow the analysis that this Court more recently has held applicable to the evaluation of claims of a kind before us here, namely, claims that a congressional delegation of adjudicatory authority violates separation-of-powers principles derived from Article III. See Thomas v. Union Carbide Agricultural Products Co., 473 U. S. 568 (1985); Commodity Futures Trading Comm’n v. Schor, 478 U. S. 833 (1986).

I shall describe these cases in some detail in order to explain why I believe we should put less weight than does the majority upon the statement in Murray’s Lessee and the analysis followed by the Northern Pipeline plurality and instead should apply the approach this Court has applied in Crowell, Thomas, and Schor.
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A

In *Murray's Lessee*, the Court held that the Constitution permitted an executive official, through summary, nonjudicial proceedings, to attach the assets of a customs collector whose account was deficient. The Court found evidence in common law of “summary method[s] for the recovery of debts due to the crown, and especially those due from receivers of the revenues,” 18 How., at 277, and it analogized the Government’s summary attachment process to the kind of self-help remedies available to private parties, *id.*, at 283. In the course of its opinion, the Court wrote:

“[W]e do not consider congress can either withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty; nor, on the other hand, can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination. At the same time there are matters, involving public rights, which may be presented in such form that the judicial power is capable of acting on them, and which are susceptible of judicial determination, but which congress may or may not bring within the cognizance of the courts of the United States, as it may deem proper.” *Id.*, at 284.

The majority reads the first part of the statement’s first sentence as authoritatively defining the boundaries of Article III. *Ante*, at 18. I would read the statement in a less absolute way. For one thing, the statement is in effect dictum. For another, it is the remainder of the statement, announcing a distinction between “public rights” and “private rights,” that has had the more lasting impact. Later Courts have seized on that distinction when *upholding* non-Article III adjudication, not when striking it down. See *Ex parte Bakelite Corp.*, 279 U. S. 438, 451–452
The one exception is *Northern Pipeline*, where the Court struck down the Bankruptcy Act of 1978. But in that case there was no majority. And a plurality, not a majority, read the statement roughly in the way the Court does today. See 458 U. S., at 67–70.

**B**

At the same time, I believe the majority places insufficient weight on *Crowell*, a seminal case that clarified the scope of the dictum in *Murray’s Lessee*. In that case, the Court considered whether Congress could grant to an Article I administrative agency the power to adjudicate an employee’s workers’ compensation claim against his employer. The Court assumed that an Article III court would review the agency’s decision *de novo* in respect to questions of law but it would conduct a less searching review (looking to see only if the agency’s award was “supported by evidence in the record”) in respect to questions of fact. *Crowell*, 285 U. S., at 48–50. The Court pointed out that the case involved a dispute between private persons (a matter of “private rights”) and (with one exception not relevant here) it upheld Congress’ delegation of primary factfinding authority to the agency.

Justice Brandeis, dissenting (from a here-irrelevant portion of the Court’s holding), wrote that the adjudicatory scheme raised only a due process question: When does due process require decision by an Article III judge? He answered that question by finding constitutional the statute’s delegation of adjudicatory authority to an agency. *Id.*., at 87.

*Crowell* has been hailed as “the greatest of the cases validating administrative adjudication.” Bator, The Constitution as Architecture: Legislative and Administrative Courts Under Article III, 65 Ind. L. J. 233, 251 (1990).
Yet, in a footnote, the majority distinguishes *Crowell* as a case in which the Court upheld the delegation of adjudicatory authority to an administrative agency simply because the agency’s power to make the “specialized, narrowly confined factual determinations” at issue arising in a “particularized area of law,” made the agency a “true ‘adjunct’ of the District Court.” *Ante*, at 23, n. 6. Were *Crowell*’s holding as narrow as the majority suggests, one could question the validity of Congress’ delegation of authority to adjudicate disputes among private parties to other agencies such as the National Labor Relations Board, the Commodity Futures Trading Commission, the Surface Transportation Board, and the Department of Housing and Urban Development, thereby resurrecting important legal questions previously thought to have been decided. See 29 U. S. C. §160; 7 U. S. C. §18; 49 U. S. C. §10704; 42 U. S. C. §3612(b).

C

The majority, in my view, overemphasizes the precedential effect of the plurality opinion in *Northern Pipeline*. *Ante*, at 19–21. There, the Court held unconstitutional the jurisdictional provisions of the Bankruptcy Act of 1978 granting adjudicatory authority to bankruptcy judges who lack the protections of tenure and compensation that Article III provides. Four Members of the Court wrote that Congress could grant adjudicatory authority to a non-Article III judge only where (1) the judge sits on a “territorial cour[t]” (2) the judge conducts a “courts-martial,” or (3) the case involves a “public right,” namely, a “matter” that “at a minimum arise[s] ‘between the government and others.’” 458 U. S., at 64–70 (plurality opinion) (quoting *Ex parte Bakelite Corp.*, supra, at 451). Two other Members of the Court, without accepting these limitations, agreed with the result because the case involved a breach-of-contract claim brought by the bankruptcy trustee on
behavior of the bankruptcy estate against a third party who
was not part of the bankruptcy proceeding, and none of
the Court’s preceding cases (which, the two Members
wrote, “do not admit of easy synthesis”) had “gone so far as
to sanction th[is] type of adjudication.” 458 U. S., at 90–91
(Rehnquist, J. concurring in judgment).

Three years later, the Court held that *Northern Pipeline*
“establishes only that Congress may not vest in a non-
Article III court the power to adjudicate, render final
judgment, and issue binding orders in a traditional
contract action arising under state law, without con-
sent of the litigants, and subject only to ordinary ap-

D

Rather than leaning so heavily on the approach taken
by the plurality in *Northern Pipeline*, I would look to this
Court’s more recent Article III cases *Thomas* and *Schor*—
cases that commanded a clear majority. In both cases
the Court took a more pragmatic approach to the constitu-
tional question. It sought to determine whether, in the
particular instance, the challenged delegation of adjudica-
tory authority posed a genuine and serious threat that one
branch of Government sought to aggrandize its own con-
stitutionally delegated authority by encroaching upon a
field of authority that the Constitution assigns exclusively
to another branch.

1

In *Thomas*, the Court focused directly upon the nature
of the Article III problem, illustrating how the Court
should determine whether a delegation of adjudicatory
authority to a non-Article III judge violates the Constitu-
tion. The statute in question required pesticide manufac-
turers to submit to binding arbitration claims for compen-
sation owed for the use by one manufacturer of the data of
another to support its federal pesticide registration. After describing *Northern Pipeline*’s holding in the language I have set forth above, *supra*, at 6, the Court stated that “practical attention to substance rather than doctrinaire reliance on formal categories should inform application of Article III.” *Thomas*, 473 U. S., at 587 (emphasis added). It indicated that Article III’s requirements could not be “determined” by “the identity of the parties alone,” *ibid.*., or by the “private rights”/“public rights” distinction, *id.*, at 585–586. And it upheld the arbitration provision of the statute.

The Court pointed out that the right in question was created by a federal statute, it “represent[s] a pragmatic solution to the difficult problem of spreading [certain] costs,” and the statute “does not preclude review of the arbitration proceeding by an Article III court.” *Id.*, at 589–592. The Court concluded:

“Given the nature of the right at issue and the concerns motivating the Legislature, we do not think this system threatens the independent role of the Judiciary in our constitutional scheme.” *Id.*, at 590.

2

Most recently, in *Schor*, the Court described in greater detail how this Court should analyze this kind of Article III question. The question at issue in *Schor* involved a delegation of authority to an agency to adjudicate a counterclaim. A customer brought before the Commodity Futures Trading Commission (CFTC) a claim for reparations against his commodity futures broker. The customer noted that his brokerage account showed that he owed the broker money, but he said that the broker’s unlawful actions had produced that debit balance, and he sought damages. The broker brought a counterclaim seeking the money that the account showed the customer owed. This Court had to decide whether agency adjudication of such a
counterclaim is consistent with Article III.

In doing so, the Court expressly “declined to adopt formalistic and unbending rules.” *Schor*, 478 U. S., at 851. Rather, it “weighed a number of factors, none of which has been deemed determinative, with an eye to the practical effect that the congressional action will have on the constitutionally assigned role of the federal judiciary.” *Ibid.* Those relevant factors include (1) “the origins and importance of the right to be adjudicated”; (2) “the extent to which the non-Article III forum exercises the range of jurisdiction and powers normally vested only in Article III courts”; (3) the extent to which the delegation nonetheless reserves judicial power for exercise by Article III courts; (4) the presence or “absence of consent to an initial adjudication before a non-Article III tribunal”; and (5) “the concerns that drove Congress to depart from” adjudication in an Article III court. *Id.*, at 849, 851.

The Court added that where “private rights,” rather than “public rights” are involved, the “danger of encroaching on the judicial powers” is greater. *Id.*, at 853–854 (internal quotation marks omitted). Thus, while non-Article III adjudication of “private rights” is not necessarily unconstitutional, the Court’s constitutional “examination” of such a scheme must be more “searching.” *Ibid.*

Applying this analysis, the Court upheld the agency’s authority to adjudicate the counterclaim. The Court conceded that the adjudication might be of a kind traditionally decided by a court and that the rights at issue were “private,” not “public.” *Id.*, at 853. But, the Court said, the CFTC deals only with a “‘particularized area of law’”; the decision to invoke the CFTC forum is “left entirely to the parties”; Article III courts can review the agency’s findings of fact under “the same ‘weight of the evidence’ standard sustained in *Crowell*” and review its “legal determinations . . . *de novo*”; and the agency’s “counterclaim jurisdiction” was necessary to make “workable” a
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“reparations procedure,” which constitutes an important part of a congressionally enacted “regulatory scheme.” Id., at 852–856. The Court concluded that for these and other reasons “the magnitude of any intrusion on the Judicial Branch can only be termed *de minimis.*” Id., at 856.

II

A

This case law, as applied in *Thomas* and *Schor*, requires us to determine pragmatically whether a congressional delegation of adjudicatory authority to a non-Article III judge violates the separation-of-powers principles inherent in Article III. That is to say, we must determine through an examination of certain relevant factors whether that delegation constitutes a significant encroachment by the Legislative or Executive Branches of Government upon the realm of authority that Article III reserves for exercise by the Judicial Branch of Government. Those factors include (1) the nature of the claim to be adjudicated; (2) the nature of the non-Article III tribunal; (3) the extent to which Article III courts exercise control over the proceeding; (4) the presence or absence of the parties’ consent; and (5) the nature and importance of the legislative purpose served by the grant of adjudicatory authority to a tribunal with judges who lack Article III’s tenure and compensation protections. The presence of “private rights” does not automatically determine the outcome of the question but requires a more “searching” examination of the relevant factors. *Schor*, *supra*, at 854.

Insofar as the majority would apply more formal standards, it simply disregards recent, controlling precedent. *Thomas*, *supra*, at 587 (“[P]ractical attention to substance rather than doctrinaire reliance on formal categories should inform application of Article III”); *Schor*, *supra*, at 851 (“[T]he Court has declined to adopt formalistic and unbending rules” for deciding Article III cases).

107
Applying Schor’s approach here, I conclude that the delegation of adjudicatory authority before us is constitutional. A grant of authority to a bankruptcy court to adjudicate compulsory counterclaims does not violate any constitutional separation-of-powers principle related to Article III.

First, I concede that the nature of the claim to be adjudicated argues against my conclusion. Vickie Marshall’s counterclaim—a kind of tort suit—resembles “a suit at the common law.” Murray’s Lessee, 18 How., at 284. Although not determinative of the question, see Schor, 478 U. S., at 853, a delegation of authority to a non-Article III judge to adjudicate a claim of that kind poses a heightened risk of encroachment on the Federal Judiciary, id., at 854.

At the same time the significance of this factor is mitigated here by the fact that bankruptcy courts often decide claims that similarly resemble various common-law actions. Suppose, for example, that ownership of 40 acres of land in the bankruptcy debtor’s possession is disputed by a creditor. If that creditor brings a claim in the bankruptcy court, resolution of that dispute requires the bankruptcy court to apply the same state property law that would govern in a state court proceeding. This kind of dispute arises with regularity in bankruptcy proceedings.

Of course, in this instance the state-law question is embedded in a debtor’s counterclaim, not a creditor’s claim. But the counterclaim is “compulsory.” It “arises out of the transaction or occurrence that is the subject matter of the opposing party’s claim.” Fed. Rule Civ. Proc. 13(a); Fed. Rule Bkrtcy. Proc. 7013. Thus, resolution of the counterclaim will often turn on facts identical to, or at least related to, those at issue in a creditor’s claim that is undisputedly proper for the bankruptcy court to decide.

Second, the nature of the non-Article III tribunal argues in favor of constitutionality. That is because the tribunal
Breyer, J., dissenting

is made up of judges who enjoy considerable protection from improper political influence. Unlike the 1978 Act which provided for the appointment of bankruptcy judges by the President with the advice and consent of the Senate, 28 U. S. C. §152 (1976 ed., Supp. IV), current law provides that the federal courts of appeals appoint federal bankruptcy judges, §152(a)(1) (2006 ed.). Bankruptcy judges are removable by the circuit judicial counsel (made up of federal court of appeals and district court judges) and only for cause. §152(e). Their salaries are pegged to those of federal district court judges, §153(a), and the cost of their courthouses and other work-related expenses are paid by the Judiciary, §156. Thus, although Congress technically exercised its Article I power when it created bankruptcy courts, functionally, bankruptcy judges can be compared to magistrate judges, law clerks, and the Judiciary’s administrative officials, whose lack of Article III tenure and compensation protections do not endanger the independence of the Judicial Branch.

Third, the control exercised by Article III judges over bankruptcy proceedings argues in favor of constitutional-ity. Article III judges control and supervise the bankruptcy court’s determinations—at least to the same degree that Article III judges supervised the agency’s determinations in Crowell, if not more so. Any party may appeal those determinations to the federal district court, where the federal judge will review all determinations of fact for clear error and will review all determinations of law de novo. Fed. Rule Bkrtcy. Proc. 8013; 10 Collier on Bankruptcy ¶8013.04 (16th ed. 2011). But for the here-irrelevant matter of what Crowell considered to be special “constitutional” facts, the standard of review for factual findings here (“clearly erroneous”) is more stringent than the standard at issue in Crowell (whether the agency’s factfinding was “supported by evidence in the record”). 285 U. S., at 48; see Dickinson v. Zurko, 527 U. S. 150,
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152, 153 (1999) ("unsupported by substantial evidence" more deferential than "clearly erroneous" (internal quotation marks omitted)). And, as Crowell noted, "there is no requirement that, in order to maintain the essential attributes of the judicial power, all determinations of fact in constitutional courts shall be made by judges." 285 U. S., at 51.

Moreover, in one important respect Article III judges maintain greater control over the bankruptcy court proceedings at issue here than they did over the relevant proceedings in any of the previous cases in which this Court has upheld a delegation of adjudicatory power. The District Court here may "withdraw, in whole or in part, any case or proceeding referred [to the Bankruptcy Court] ... on its own motion or on timely motion of any party, for cause shown." 28 U. S. C. §157(d); cf. Northern Pipeline, 458 U. S., at 80, n. 31 (plurality opinion) (contrasting pre-1978 law where "power to withdraw the case from the [bankruptcy] referee" gave district courts "control" over case with the unconstitutional 1978 statute, which provided no such district court authority).

Fourth, the fact that the parties have consented to Bankruptcy Court jurisdiction argues in favor of constitutionality, and strongly so. Pierce Marshall, the counterclaim defendant, is not a stranger to the litigation, forced to appear in Bankruptcy Court against his will. Cf. id., at 91 (Rehnquist, J., concurring in judgment) (suit was litigated in Bankruptcy Court "over [the defendant's] objection"). Rather, he appeared voluntarily in Bankruptcy Court as one of Vickie Marshall's creditors, seeking a favorable resolution of his claim against Vickie Marshall to the detriment of her other creditors. He need not have filed a claim, perhaps not even at the cost of bringing it in the future, for he says his claim is "nondischargeable," in which case he could have litigated it in a state or federal court after distribution. See 11 U. S. C. §523(a)(6). Thus,

The Court has held, in a highly analogous context, that this type of consent argues strongly in favor of using ordinary bankruptcy court proceedings. In *Granfinanciera*, the Court held that when a bankruptcy trustee seeks to void a transfer of assets from the debtor to an individual on the ground that the transfer to that individual constitutes an unlawful “preference,” the question of whether the individual has a right to a jury trial “depends upon whether the creditor has submitted a claim against the estate.” *Id.*, at 58. The following year, in *Langenkamp v. Culp*, 498 U. S. 42 (1990) (*per curiam*), the Court emphasized that when the individual files a claim against the estate, that individual has

“trigger[ed] the process of ‘allowance and disallowance of claims,’ thereby subjecting himself to the bankruptcy court’s equitable power. If the creditor is met, in turn, with a preference action from the trustee, that action becomes part of the claims-allowance process which is triable only in equity. In other words, the creditor’s claim and the ensuing preference action by the trustee become integral to the restructuring of the debtor-creditor relationship through the bankruptcy court’s *equity jurisdiction*.” *Id.*, at 44 (quoting *Granfinanciera*, 492 U. S., at 58; citations omitted).

As we have recognized, the jury trial question and the Article III question are highly analogous. See *id.*, at 52–53. And to that extent, *Granfinanciera’s* and *Langenkamp’s* basic reasoning and conclusion apply here: Even when private rights are at issue, non-Article III adjudication may be appropriate when both parties consent. Cf. *Northern Pipeline*, *supra*, at 80, n. 31 (plurality opinion)
(noting the importance of consent to bankruptcy jurisdiction). See also Schor, 478 U. S., at 849 ("[A]bsence of consent to an initial adjudication before a non-Article III tribunal was relied on [in Northern Pipeline] as a significant factor in determining that Article III forbade such adjudication"). The majority argues that Pierce Marshall "did not truly consent" to bankruptcy jurisdiction, ante, at 27–28, but filing a proof of claim was sufficient in Langenkamp and Granfinanciera, and there is no relevant distinction between the claims filed in those cases and the claim filed here.

Fifth, the nature and importance of the legislative purpose served by the grant of adjudicatory authority to bankruptcy tribunals argues strongly in favor of constitutionality. Congress’ delegation of adjudicatory powers over counterclaims asserted against bankruptcy claimants constitutes an important means of securing a constitutionally authorized end. Article I, §8, of the Constitution explicitly grants Congress the "Power To . . . establish . . . uniform Laws on the subject of Bankruptcies throughout the United States." James Madison wrote in the Federalist Papers that the

"power of establishing uniform laws of bankruptcy is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different States, that the expediency of it seems not likely to be drawn into question." The Federalist No. 42, p. 271 (C. Rossiter ed. 1961).

Congress established the first Bankruptcy Act in 1800. 2 Stat. 19. From the beginning, the “core” of federal bankruptcy proceedings has been “the restructuring of debtor-creditor relations.” Northern Pipeline, supra, at 71 (plurality opinion). And, to be effective, a single tribunal must have broad authority to restructure those relations, “hav-
ing jurisdiction of the parties to controversies brought before them,” “decid[ing] all matters in dispute,” and “decree[ing] complete relief.” *Katchen v. Landy*, 382 U. S. 323, 335 (1966) (internal quotation marks omitted).

The restructuring process requires a creditor to file a proof of claim in the bankruptcy court. 11 U. S. C. §501; Fed. Rule Bkrtcy. Proc. 3002(a). In doing so, the creditor “triggers the process of ‘allowance and disallowance of claims,’ thereby subjecting himself to the bankruptcy court’s equitable power.” *Langenkamp*, supra, at 44 (quoting *Granfinanciera*, supra, at 58). By filing a proof of claim, the creditor agrees to the bankruptcy court’s resolution of that claim, and if the creditor wins, the creditor will receive a share of the distribution of the bankruptcy estate. When the bankruptcy estate has a related claim against that creditor, that counterclaim may offset the creditor’s claim, or even yield additional damages that augment the estate and may be distributed to the other creditors.

The consequent importance to the total bankruptcy scheme of permitting the trustee in bankruptcy to assert counterclaims against claimants, *and resolving those counterclaims in a bankruptcy court*, is reflected in the fact that Congress included “counterclaims by the estate against persons filing claims against the estate” on its list of “[c]ore proceedings.” 28 U. S. C. §157(b)(2)(C). And it explains the difference, reflected in this Court’s opinions, between a claimant’s and a nonclaimant’s constitutional right to a jury trial. Compare *Granfinanciera*, supra, at 58–59 (“Because petitioners ... have not filed claims against the estate” they retain “their Seventh Amendment right to a trial by jury”), with *Langenkamp*, supra, at 45 (“Respondents filed claims against the bankruptcy estate” and “[c]onsequently, they were not entitled to a jury trial”).

Consequently a bankruptcy court’s determination of
such matters has more than “some bearing on a bankruptcy case.” *Ante*, at 34 (emphasis deleted). It plays a critical role in Congress’ constitutionally based effort to create an efficient, effective federal bankruptcy system. At the least, that is what Congress concluded. We owe deference to that determination, which shows the absence of any legislative or executive motive, intent, purpose, or desire to encroach upon areas that Article III reserves to judges to whom it grants tenure and compensation protections.

Considering these factors together, I conclude that, as in *Schor*, “the magnitude of any intrusion on the Judicial Branch can only be termed *de minimis*.” 478 U. S., at 856. I would similarly find the statute before us constitutional.

III

The majority predicts that as a “practical matter” today’s decision “does not change all that much.” *Ante*, at 36–37. But I doubt that is so. Consider a typical case: A tenant files for bankruptcy. The landlord files a claim for unpaid rent. The tenant asserts a counterclaim for damages suffered by the landlord’s (1) failing to fulfill his obligations as lessor, and (2) improperly recovering possession of the premises by misrepresenting the facts in housing court. (These are close to the facts presented in *In re Beugen*, 81 B. R. 994 (Bkrtcy. Ct. ND Cal. 1988).) This state-law counterclaim does not “ste[m] from the bankruptcy itself,” *ante*, at 34, it would not “necessarily be resolved in the claims allowance process,” *ibid*., and it would require the debtor to prove damages suffered by the lessor’s failures, the extent to which the landlord’s representations to the housing court were untrue, and damages suffered by improper recovery of possession of the premises, *cf. ante*, at 33-33. Thus, under the majority’s holding, the federal district judge, not the bankruptcy judge, would have to hear and resolve the counterclaim.
Why is that a problem? Because these types of disputes arise in bankruptcy court with some frequency. See, e.g., In re CBI Holding Co., 529 F. 3d 432 (CA2 2008) (state-law claims and counterclaims); In re Winstar Communications, Inc., 348 B. R. 234 (Bkrtcy. Ct. Del. 2005) (same); In re Ascher, 128 B. R. 639 (Bkrtcy. Ct. ND Ill. 1991) (same); In re Sun West Distributors, Inc., 69 B. R. 861 (Bkrtcy. Ct. SD Cal. 1987) (same). Because the volume of bankruptcy cases is staggering, involving almost 1.6 million filings last year, compared to a federal district court docket of around 280,000 civil cases and 78,000 criminal cases. Administrative Office of the United States Courts, J. Duff, Judicial Business of the United States Courts: Annual Report of the Director 14 (2010). Because unlike the “related” non-core state law claims that bankruptcy courts must abstain from hearing, see ante, at 36, compulsory counterclaims involve the same factual disputes as the claims that may be finally adjudicated by the bankruptcy courts. Because under these circumstances, a constitutionally required game of jurisdictional ping-pong between courts would lead to inefficiency, increased cost, delay, and needless additional suffering among those faced with bankruptcy.

For these reasons, with respect, I dissent.
Wellness International Network, Ltd. v. Sharif,
No. 13-935, Supreme Court of
the United States (Slip Opinion) (2015)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

SYLLABUS

WELLNESS INTERNATIONAL NETWORK, LTD., ET AL.
v. SHARIF

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT


Respondent Richard Sharif tried to discharge a debt he owed petitioners, Wellness International Network, Ltd., and its owners (collectively Wellness), in his Chapter 7 bankruptcy. Wellness sought, inter alia, a declaratory judgment from the Bankruptcy Court, contending that a trust Sharif claimed to administer was in fact Sharif's alter-ego, and that its assets were his personal property and part of his bankruptcy estate. The Bankruptcy Court eventually entered a default judgment against Sharif. While Sharif's appeal was pending in District Court, but before briefing concluded, this Court held that Article III forbids bankruptcy courts to enter a final judgment on claims that seek only to “augment” the bankruptcy estate and would otherwise “exist without regard to any bankruptcy proceeding.” Stern v. Marshall, 564 U. S. ___, ___. After briefing closed, Sharif sought permission to file a supplemental brief raising a Stern objection. The District Court denied the motion, finding it untimely, and affirmed the Bankruptcy Court’s judgment. As relevant here, the Seventh Circuit determined that Sharif’s Stern objection could not be waived because it implicated structural interests and reversed on the alter-ego claim, holding that the Bankruptcy Court lacked constitutional authority to enter final judgment on that claim.

Held:

1. Article III permits bankruptcy judges to adjudicate Stern claims with the parties’ knowing and voluntary consent. Pp. 8–17.

(a) The foundational case supporting the adjudication of legal disputes by non-Article III judges with the consent of the parties is Commodity Futures Trading Comm’n v. Schor, 478 U. S. 833. There, the Court held that the right to adjudication before an Article III
court is “personal” and therefore “subject to waiver.” Id., at 848. The Court also recognized that if Article III’s structural interests as “an inseparable element of the constitutional system of checks and balances” are implicated, “the parties cannot by consent cure the constitutional difficulty.” Id., at 850–851. The importance of consent was reiterated in two later cases involving the Federal Magistrates Act’s assignment of non-Article III magistrate judges to supervise voir dire in felony trials. In Gomez v. United States, 490 U. S. 858, the Court held that a magistrate judge was not permitted to select a jury without the defendant’s consent, id., at 864. But in Peretz v. United States, 501 U. S. 923, the Court stated that “the defendant’s consent significantly changes the constitutional analysis,” id., at 932. Because an Article III court retained supervisory authority over the process, the Court found “no structural protections . . . implicated” and upheld the Magistrate Judge’s action. Id., at 937. Pp. 8–12.

(b) The question whether allowing bankruptcy courts to decide Stern claims by consent would “impermissibly threate[n] the institutional integrity of the Judicial Branch,” Schor, 478 U. S., at 851, must be decided “with an eye to the practical effect that the” practice “will have on the constitutionally assigned role of the federal judiciary,” ibid. For several reasons, this practice does not usurp the constitutional prerogatives of Article III courts. Bankruptcy judges are appointed and may be removed by Article III judges, see 28 U. S. C. §§152(a)(1), (e); “serve as judicial officers of the United States district court,” §151; and collectively “constitute a unit of the district court” for the district in which they serve, §152(a)(1). Bankruptcy courts hear matters solely on a district court’s reference, §157(a), and possess no free-floating authority to decide claims traditionally heard by Article III courts, see Schor, 478 U. S., at 854, 856. “[T]he decision to invoke” the bankruptcy court’s authority “is left entirely to the parties,” id., at 855, and “the power of the federal judiciary to take jurisdiction” remains in place, ibid. Finally, there is no indication that Congress gave bankruptcy courts the ability to decide Stern claims in an effort to aggrandize itself or humble the Judiciary. See, e.g., Peretz, 501 U. S., at 937. Pp. 12–15.

(c) Stern does not compel a different result. It turned on the fact that the litigant “did not truly consent to” resolution of the claim against it in a non-Article III forum, 564 U. S., at ___, and thus, does not govern the question whether litigants may validly consent to adjudication by a bankruptcy court. Moreover, expanding Stern to hold that a litigant may not waive the right to an Article III court through consent would be inconsistent with that opinion’s own description of its holding as “a ‘narrow’ one” that did “not change all that much” about the division of labor between district and bankruptcy courts.
Syllabus

Id., at ___. Pp. 15–17.

2. Consent to adjudication by a bankruptcy court need not be express, but must be knowing and voluntary. Neither the Constitution nor the relevant statute—which requires “the consent of all parties to the proceeding” to hear a Stern claim, §157(c)(2)—mandates express consent. Such a requirement would be in great tension with this Court’s holding that substantially similar language in §636(c)—which authorizes magistrate judges to conduct proceedings “[u]pon consent of the parties”—permits waiver based on “actions rather than words,” Roell v. Withrow, 538 U. S. 580, 589. Roell’s implied consent standard supplies the appropriate rule for bankruptcy court adjudications and makes clear that a litigant’s consent—whether express or implied—must be knowing and voluntary. Pp. 18–19.

3. The Seventh Circuit should decide on remand whether Sharif’s actions evinced the requisite knowing and voluntary consent and whether Sharif forfeited his Stern argument below. P. 20.

727 F. 3d 751, reversed and remanded.

SOTOMAYOR, J., delivered the opinion of the Court, in which KENNEDY, GINSBURG, BREYER, and KAGAN, JJ., joined, and in which ALITO, J., joined in part. ALITO, J., filed an opinion concurring in part and concurring in the judgment. ROBERTS, C. J., filed a dissenting opinion, in which SCALIA, J., joined, and in which THOMAS, J., joined as to Part I. THOMAS, J., filed a dissenting opinion.
JUSTICE SOTOMAYOR delivered the opinion of the Court.

Article III, §1, of the Constitution provides that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” Congress has in turn established 94 District Courts and 13 Courts of Appeals, composed of judges who enjoy the protections of Article III: life tenure and pay that cannot be diminished. Because these protections help to ensure the integrity and independence of the Judiciary, “we have long recognized that, in general, Congress may not withdraw from” the Article III courts “any matter which, from its nature, is the subject of a suit at the common law, or in equity, or in admiralty.” Stern v. Marshall, 564 U. S. ___, ___ (2011) (slip op., at 18) (internal quotation marks omitted).

Congress has also authorized the appointment of bankruptcy and magistrate judges, who do not enjoy the protections of Article III, to assist Article III courts in their work. The number of magistrate and bankruptcy judgeships exceeds the number of circuit and district judge-
Opinion of the Court

ships. And it is no exaggeration to say that without the distinguished service of these judicial colleagues, the work of the federal court system would grind nearly to a halt.

Congress’ efforts to align the responsibilities of non-Article III judges with the boundaries set by the Constitution have not always been successful. In *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50 (1982) (plurality opinion), and more recently in *Stern*, this Court held that Congress violated Article III by authorizing bankruptcy judges to decide certain claims for which litigants are constitutionally entitled to an Article III adjudication. This case presents the question whether Article III allows bankruptcy judges to adjudicate such claims with the parties’ consent. We hold that Article III is not violated when the parties knowingly and voluntarily consent to adjudication by a bankruptcy judge.

I

A

Before 1978, district courts typically delegated bankruptcy proceedings to “referees.” *Executive Benefits Ins.*


Agency v. Arkison, 573 U. S. ___, ___ (2014) (slip op., at 4). Under the Bankruptcy Act of 1898, bankruptcy referees had “[s]ummary jurisdiction” over “claims involving ‘property in the actual or constructive possession of the bankruptcy court’”—that is, over the apportionment of the bankruptcy estate among creditors. Ibid. (alteration omitted). They could preside over other proceedings—matters implicating the court’s “plenary jurisdiction”—by consent. Id., at ___ (slip op., at 5); see also MacDonald v. Plymouth County Trust Co., 286 U. S. 263, 266–267 (1932).

In 1978, Congress enacted the Bankruptcy Reform Act, which repealed the 1898 Act and gave the newly created bankruptcy courts power “much broader than that exercised under the former referee system.” Northern Pipeline, 458 U. S., at 54. The Act “[e]liminat[ed] the distinction between ‘summary’ and ‘plenary’ jurisdiction” and enabled bankruptcy courts to decide “all ‘civil proceedings arising under title 11 [the Bankruptcy title] or arising in or related to cases under title 11.’” Ibid. (emphasis deleted). Congress thus vested bankruptcy judges with most of the “‘powers of a court of equity, law, and admiralty,’” id., at 55, without affording them the benefits of Article III. This Court therefore held parts of the system unconstitutional in Northern Pipeline.

Congress responded by enacting the Bankruptcy Amendments and Federal Judgeship Act of 1984. Under that Act, district courts have original jurisdiction over bankruptcy cases and related proceedings. 28 U. S. C. §§1334(a), (b). But “[e]ach district court may provide that any or all” bankruptcy cases and related proceedings “shall be referred to the bankruptcy judges for the district.” §157(a). Bankruptcy judges are “judicial officers of the United States district court,” appointed to 14-year terms by the courts of appeals, and subject to removal for cause. §§152(a)(1), (e). “The district court may withdraw”
a reference to the bankruptcy court “on its own motion or on timely motion of any party, for cause shown.” §157(d).

When a district court refers a case to a bankruptcy judge, that judge’s statutory authority depends on whether Congress has classified the matter as a “[c]ore proceeding” or a “[n]on-core proceeding,” §§157(b)(2), (4)—much as the authority of bankruptcy referees, before the 1978 Act, depended on whether the proceeding was “summary” or “plenary.” Congress identified as “[c]ore” a nonexclusive list of 16 types of proceedings, §157(b)(2), in which it thought bankruptcy courts could constitutionally enter judgment.3 Congress gave bankruptcy courts the power to “hear and determine” core proceedings and to “enter appropriate orders and judgments,” subject to appellate review by the district court. §157(b)(1); see §158. But it gave bankruptcy courts more limited authority in non-core proceedings: They may “hear and determine” such proceedings, and “enter appropriate orders and judgments,” only “with the consent of all the parties to the proceeding.” §157(c)(2). Absent consent, bankruptcy courts in non-core proceedings may only “submit proposed findings of fact and conclusions of law,” which the district courts review de novo. §157(c)(1).

B

Petitioner Wellness International Network is a manufacturer of health and nutrition products.4 Wellness and respondent Sharif entered into a contract under which Sharif would distribute Wellness’ products. The relationship quickly soured, and in 2005, Sharif sued Wellness in

3 Congress appears to have drawn the term “core” from Northern Pipeline’s description of “the restructuring of debtor-creditor relations” as “the core of the federal bankruptcy power.” Northern Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U. S., 50, 71 (1982).

4 Individual petitioners Ralph and Cathy Oats are Wellness’ founders. This opinion refers to all petitioners collectively as “Wellness.”
the United States District Court for the Northern District of Texas. Sharif repeatedly ignored Wellness’ discovery requests and other litigation obligations, resulting in an entry of default judgment for Wellness. The District Court eventually sanctioned Sharif by awarding Wellness over $650,000 in attorney’s fees. This case arises from Wellness’ long-running—and so far unsuccessful—efforts to collect on that judgment.

In February 2009, Sharif filed for Chapter 7 bankruptcy in the Northern District of Illinois. The bankruptcy petition listed Wellness as a creditor. Wellness requested documents concerning Sharif’s assets, which Sharif did not provide. Wellness later obtained a loan application Sharif had filed in 2002, listing more than $5 million in assets. When confronted, Sharif informed Wellness and the Chapter 7 trustee that he had lied on the loan application. The listed assets, Sharif claimed, were actually owned by the Soad Wattar Living Trust (Trust), an entity Sharif said he administered on behalf of his mother, and for the benefit of his sister. Wellness pressed Sharif for information on the Trust, but Sharif again failed to respond.

Wellness filed a five-count adversary complaint against Sharif in the Bankruptcy Court. See App. 5–22. Counts I–IV of the complaint objected to the discharge of Sharif’s debts because, among other reasons, Sharif had concealed property by claiming that it was owned by the Trust. Count V of the complaint sought a declaratory judgment that the Trust was Sharif’s alter ego and that its assets should therefore be treated as part of Sharif’s bankruptcy estate. Id., at 21. In his answer, Sharif admitted that the adversary proceeding was a “core proceeding” under 28 U. S. C. §157(b)—i.e., a proceeding in which the Bankruptcy Court could enter final judgment subject to appeal. See §§157(b)(1), (2)(J); App. 24. Indeed, Sharif requested judgment in his favor on all counts of Wellness’ complaint
and urged the Bankruptcy Court to “find that the Soad Wattar Living Trust is not property of the [bankruptcy] estate.” Id., at 44.

A familiar pattern of discovery evasion ensued. Wellness responded by filing a motion for sanctions, or, in the alternative, to compel discovery. Granting the motion to compel, the Bankruptcy Court warned Sharif that if he did not respond to Wellness’ discovery requests a default judgment would be entered against him. Sharif eventually complied with some discovery obligations, but did not produce any documents related to the Trust.

In July 2010, the Bankruptcy Court issued a ruling finding that Sharif had violated the court’s discovery order. See App. to Pet. for Cert. 92a–120a. It accordingly denied Sharif’s request to discharge his debts and entered a default judgment against him in the adversary proceeding. And it declared, as requested by count V of Wellness’ complaint, that the assets supposedly held by the Trust were in fact property of Sharif’s bankruptcy estate because Sharif “treats [the Trust’s] assets as his own property.” Id., at 119a.

Sharif appealed to the District Court. Six weeks before Sharif filed his opening brief in the District Court, this Court decided Stern. In Stern, the Court held that Article III prevents bankruptcy courts from entering final judgment on claims that seek only to “augment” the bankruptcy estate and would otherwise “exis[t] without regard to any bankruptcy proceeding.” 564 U. S., at __, ___ (slip op., at 27, 34). Sharif did not cite Stern in his opening brief. Rather, after the close of briefing, Sharif moved for leave to file a supplemental brief, arguing that in light of In re Ortiz, 665 F. 3d 906 (CA7 2011)—a recently issued decision interpreting Stern—“the bankruptcy court’s order should only be treated as a report and recommendation.” App. 145. The District Court denied Sharif’s motion for supplemental briefing as untimely and affirmed the Bank-
The Court of Appeals for the Seventh Circuit affirmed in part and reversed in part. 727 F. 3d 751 (2013). The Seventh Circuit acknowledged that ordinarily Sharif’s Stern objection would “not [be] preserved because he waited too long to assert it.” 727 F. 3d, at 767. But the court determined that the ordinary rule did not apply because Sharif’s argument concerned “the allocation of authority between bankruptcy courts and district courts” under Article III, and thus “implicate[d] structural interests.” Id., at 771. Based on those separation-of-powers considerations, the court held that “a litigant may not waive” a Stern objection. Id., at 773. Turning to the merits of Sharif’s contentions, the Seventh Circuit agreed with the Bankruptcy Court’s resolution of counts I–IV of Wellness’ adversary complaint. It further concluded, however, that count V of the complaint alleged a so-called “Stern claim,” that is, “a claim designated for final adjudication in the bankruptcy court as a statutory matter, but prohibited from proceeding in that way as a constitutional matter.” Executive Benefits, 573 U. S., at ___ (slip op., at 4). The Seventh Circuit therefore ruled that the Bankruptcy Court lacked constitutional authority to enter final judgment on count V.6

5 Although the Seventh Circuit referred to Sharif’s failure to raise his Stern argument in a timely manner as a waiver, that court has since clarified that its decision rested on forfeiture. See Peterson v. Somers Dublin Ltd., 729 F. 3d 741, 747 (2013) (“The issue in Wellness International Network was forfeiture rather than waiver”).

6 The Seventh Circuit concluded its opinion by considering the remedy for the Bankruptcy Court’s purportedly unconstitutional issuance of a final judgment. The court determined that if count V of Wellness’ complaint raised a core claim, the only statutorily authorized remedy would be for the District Court to withdraw the reference to the Bankruptcy Court and set a new discovery schedule. The Seventh Circuit’s reasoning on this point was rejected by our decision last Term in Executive Benefits, which held that district courts may treat Stern
We granted certiorari, 573 U. S. ___ (2014), and now reverse the judgment of the Seventh Circuit.7

II

Our precedents make clear that litigants may validly consent to adjudication by bankruptcy courts.

A

Adjudication by consent is nothing new. Indeed, “[d]uring the early years of the Republic, federal courts, with the consent of the litigants, regularly referred adjudication of entire disputes to non-Article III referees, masters, or arbitrators, for entry of final judgment in accordance with the referee’s report.” Brubaker, The Constitutionality of Litigant Consent to Non-Article III Bankruptcy Adjudications, 32 Bkrtcy. L. Letter No. 12, p. 6 (Dec. 2012); see, e.g., Thornton v. Carson, 7 Cranch 596, 597 (1813) (affirming damages awards in two actions that “were referred, by consent under a rule of Court to arbitrators”); Heckers v. Fowler, 2 Wall. 123, 131 (1865) (observing that the “[p]ractice of referring pending actions under a rule of court, by consent of parties, was well known at common law,” and “is now universally regarded . . . as the proper foundation of judgment”); Newcomb v. Wood, 97 U. S. 581, 583 (1878) (recognizing “[t]he power of a court of justice, with the consent of the parties, to appoint arbitrators and refer a case pending before it”).

The foundational case in the modern era is Commodity Futures Trading Comm’n v. Schor, 478 U. S. 833 (1986).

7Because the Court concludes that the Bankruptcy Court could validly enter judgment on Wellness’ claim with the parties’ consent, this opinion does not address, and expresses no view on, Wellness’ alternative contention that the Seventh Circuit erred in concluding the claim in count V of its complaint was a Stern claim.
The Commodity Futures Trading Commission (CFTC), which Congress had authorized to hear customer complaints against commodities brokers, issued a regulation allowing itself to hear state-law counterclaims as well. William Schor filed a complaint with the CFTC against his broker, and the broker, which had previously filed claims against Schor in federal court, refiled them as counterclaims in the CFTC proceeding. The CFTC ruled against Schor on the counterclaims. This Court upheld that ruling against both statutory and constitutional challenges.

On the constitutional question (the one relevant here) the Court began by holding that Schor had “waived any right he may have possessed to the full trial of [the broker’s] counterclaim before an Article III court.” *Id.*, at 849. The Court then explained why this waiver legitimated the CFTC’s exercise of authority: “[A]s a personal right, Article III’s guarantee of an impartial and independent federal adjudication is subject to waiver, just as are other personal constitutional rights”—such as the right to a jury—“that dictate the procedures by which civil and criminal matters must be tried.” *Id.*, at 848–849.

The Court went on to state that a litigant’s waiver of his “personal right” to an Article III court is not always dispositive because Article III “not only preserves to litigants their interest in an impartial and independent federal adjudication of claims . . . , but also serves as ‘an inseparable element of the constitutional system of checks and balances.’ . . . To the extent that this structural principle is implicated in a given case”—but only to that extent—“the parties cannot by consent cure the constitutional difficulty . . . .” *Id.*, at 850–851.

Leaning heavily on the importance of Schor’s consent, the Court found no structural concern implicated by the CFTC’s adjudication of the counterclaims against him. While “Congress gave the CFTC the authority to adjudicate such matters,” the Court wrote,
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“the decision to invoke this forum is left entirely to the parties and the power of the federal judiciary to take jurisdiction of these matters is unaffected. In such circumstances, separation of powers concerns are diminished, for it seems self-evident that just as Congress may encourage parties to settle a dispute out of court or resort to arbitration without impermissible incursions on the separation of powers, Congress may make available a quasi-judicial mechanism through which willing parties may, at their option, elect to resolve their differences.” Id., at 855.

The option for parties to submit their disputes to a non-Article III adjudicator was at most a “de minimis” infringement on the prerogative of the federal courts. Id., at 856.

A few years after Schor, the Court decided a pair of cases—Gomez v. United States, 490 U. S. 858 (1989), and Peretz v. United States, 501 U. S. 923 (1991)—that reiterated the importance of consent to the constitutional analysis. Both cases concerned whether the Federal Magistrates Act authorized magistrate judges to preside over jury selection in a felony trial: the difference was that Peretz consented to the practice while Gomez did not. That difference was dispositive.

In Gomez, the Court interpreted the statute as not allowing magistrate judges to supervise voir dire without consent, emphasizing the constitutional concerns that might otherwise arise. See 490 U. S., at 864. In Peretz, the Court upheld the Magistrate Judge’s action, stating that “the defendant’s consent significantly changes the constitutional analysis.” 501 U. S., at 932. The Court

8In relevant part, the Act provides that district courts may assign magistrate judges certain enumerated duties as well as “such additional duties as are not inconsistent with the Constitution and the laws of the United States.” 28 U. S. C. §636(b)(3).
Opinion of the Court

concluded that allowing a magistrate judge to supervise jury selection—with consent—does not violate Article III, explaining that “litigants may waive their personal right to have an Article III judge preside over a civil trial,” id., at 936 (citing Schor, 478 U. S., at 848), and that “[t]he most basic rights of criminal defendants are similarly subject to waiver,” 501 U. S., at 936. And “[e]ven assuming that a litigant may not waive structural protections provided by Article III,” the Court found “no such structural protections . . . implicated by” a magistrate judge’s supervision of voir dire:

“Magistrates are appointed and subject to removal by Article III judges. The ‘ultimate decision’ whether to invoke the magistrate’s assistance is made by the district court, subject to veto by the parties. The decision whether to empanel the jury whose selection a magistrate has supervised also remains entirely with the district court. Because ‘the entire process takes place under the district court’s total control and jurisdiction,’ there is no danger that use of the magistrate involves a ‘congressional attemp[t] “to transfer jurisdiction [to non-Article III tribunals] for the purpose of emasculating” constitutional courts.’” Id., at 937 (citations omitted; alteration in original).9

The lesson of Schor, Peretz, and the history that preceded them is plain: The entitlement to an Article III adjudicator is “a personal right” and thus ordinarily “subject to

9Discounting the relevance of Gomez and Peretz, the principal dissent emphasizes that neither case concerned the entry of final judgment by a non-Article III actor. See post, at 16 (opinion of ROBERTS, C. J.). Here again, the principal dissent’s insistence on formalism leads it astray. As we explained in Peretz, the “responsibility and importance [of] presiding over voir dire at a felony trial” is equivalent to the “supervision of entire civil and misdemeanor trials,” 501 U. S., at 933, tasks in which magistrate judges may “order the entry of judgment” with the parties' consent, §636(c)(1).
waiver,” *Schor*, 478 U. S., at 848. Article III also serves a structural purpose, “barring congressional attempts ‘to transfer jurisdiction [to non-Article III tribunals] for the purpose of emasculating’ constitutional courts and thereby prevent[ing] ‘the encroachment or aggrandizement of one branch at the expense of the other.’” *Id.*, at 850 (citations omitted). But allowing Article I adjudicators to decide claims submitted to them by consent does not offend the separation of powers so long as Article III courts retain supervisory authority over the process.

**B**

The question here, then, is whether allowing bankruptcy courts to decide *Stern* claims by consent would “impermissibly threate[n] the institutional integrity of the Judicial Branch.” *Schor*, 478 U. S., at 851. And that question must be decided not by “formalistic and unbending rules,” but “with an eye to the practical effect that the” practice “will have on the constitutionally assigned role of the federal judiciary.” *Ibid.*; see *Thomas v. Union Carbide Agricultural Products Co.*, 473 U. S. 568, 587 (1985) (“[P]ractical attention to substance rather than doctrinaire reliance on formal categories should inform application of Article III”). The Court must weigh

“the extent to which the essential attributes of judicial power are reserved to Article III courts, and, conversely, the extent to which the non-Article III forum exercises the range of jurisdiction and powers normally vested only in Article III courts, the origins and importance of the right to be adjudicated, and the concerns that drove Congress to depart from the requirements of Article III.” *Schor*, 478 U. S., at 851 (internal quotation marks omitted).

Applying these factors, we conclude that allowing bankruptcy litigants to waive the right to Article III adjudica-
tion of *Stern* claims does not usurp the constitutional prerogatives of Article III courts. Bankruptcy judges, like magistrate judges, “are appointed and subject to removal by Article III judges,” *Peretz*, 501 U. S., at 937; see 28 U. S. C. §§152(a)(1), (e). They “serve as judicial officers of the United States district court,” §151, and collectively “constitute a unit of the district court” for that district, §152(a)(1). Just as “[t]he ‘ultimate decision’ whether to invoke [a] magistrate [judge]’s assistance is made by the district court,” *Peretz*, 501 U. S., at 937, bankruptcy courts hear matters solely on a district court’s reference, §157(a), which the district court may withdraw *sua sponte* or at the request of a party, §157(d). “[S]eparation of powers concerns are diminished” when, as here, “the decision to invoke [a non-Article III] forum is left entirely to the parties and the power of the federal judiciary to take jurisdiction” remains in place. *Schor*, 478 U. S., at 855.

Furthermore, like the CFTC in *Schor*, bankruptcy courts possess no free-floating authority to decide claims traditionally heard by Article III courts. Their ability to resolve such matters is limited to “a narrow class of common law claims as an incident to the [bankruptcy courts’] primary, and unchallenged, adjudicative function.” *Id.*, at 854. “In such circumstances, the magnitude of any intrusion on the Judicial Branch can only be termed *de minimis.*” *Id.*, at 856.

Finally, there is no indication that Congress gave bankruptcy courts the ability to decide *Stern* claims in an effort to aggrandize itself or humble the Judiciary. As in *Peretz*, “[b]ecause ‘the entire process takes place under the district court’s total control and jurisdiction,’ there is no danger that use of the [bankruptcy court] involves a ‘congressional attempt[t] “to transfer jurisdiction [to non-Article III tribunals] for the purpose of emasculating” constitutional courts.”’ 501 U. S., at 937 (citation omitted); see also *Schor*, 478 U. S., at 855 (allowing CFTC’s adjudication of
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counterclaims because of “the degree of judicial control saved to the federal courts, as well as the congressional purpose behind the jurisdictional delegation, the demonstrated need for the delegation, and the limited nature of the delegation” (citation omitted)); Pacemaker Diagnostic Clinic of America, Inc. v. Instromedix, Inc., 725 F. 2d 537, 544 (CA9 1984) (en banc) (Kennedy, J.) (magistrate judges may adjudicate civil cases by consent because the Federal Magistrates Act “invests the Article III judiciary with extensive administrative control over the management, composition, and operation of the magistrate system”).10

Congress could choose to rest the full share of the Judiciary’s labor on the shoulders of Article III judges. But doing so would require a substantial increase in the number of district judgeships. Instead, Congress has supplemented the capacity of district courts through the able

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10 The principal dissent accuses us of making Sharif’s consent “‘dispositive’ in curing [a] structural separation of powers violation,” contrary to the holding of Schor. Post, at 16. That argument misapprehends both Schor and the nature of our analysis. What Schor forbids is using consent to excuse an actual violation of Article III. See 478 U. S., at 850–851 (“To the extent that the structural principle [protected by Article III] is implicated in a given case, the parties cannot by consent cure the constitutional difficulty . . .” (emphasis added)). But Schor confirms that consent remains highly relevant when determining, as we do here, whether a particular adjudication in fact raises constitutional concerns. See id., at 855 (“separation of powers concerns are diminished” when “the decision to invoke [a non-Article III] forum is left entirely to the parties”). Thus, we do not rely on Sharif’s consent to “cure[e]” a violation of Article III. His consent shows, in part, why no such violation has occurred. Cf. Meltzer, Legislative Courts, Legislative Power, and the Constitution, 65 Ind. L. J. 291, 303 (1990) (“[C]onsent provides, if not complete, at least very considerable reason to doubt that the tribunal poses a serious threat to the ideal of federal adjudicatory independence”); Fallon, Of Legislative Courts, Administrative Agencies, and Article III, 101 Harv. L. Rev. 915, 992 (1988) (when the parties consent, “there is substantial assurance that the agency is not generally behaving arbitrarily or otherwise offending separation-of-powers values. Judicial integrity is not at risk”).
assistance of bankruptcy judges. So long as those judges are subject to control by the Article III courts, their work poses no threat to the separation of powers.

C

Our recent decision in Stern, on which Sharif and the principal dissent rely heavily, does not compel a different result. That is because Stern—like its predecessor, Northern Pipeline—turned on the fact that the litigant “did not truly consent to” resolution of the claim against it in a non-Article III forum. 564 U. S., at ___ (slip op., at 27).

To understand Stern, it is necessary to first understand Northern Pipeline. There, the Court considered whether bankruptcy judges “could ‘constitutionally be vested with jurisdiction to decide [a] state-law contract claim’ against an entity that was not otherwise part of the bankruptcy proceedings.” 564 U. S., at ___ (slip op., at 19). In answering that question in the negative, both the plurality and then-Justice Rehnquist, concurring in the judgment, noted that the entity in question did not consent to the bankruptcy court’s adjudication of the claim. See 458 U. S., at 80, n. 31 (plurality opinion); id., at 91 (opinion of Rehnquist, J.). The Court confirmed in two later cases that Northern Pipeline turned on the lack of consent. See Schor, 478 U. S., at 849 (“[I]n Northern Pipeline, . . . the absence of consent to an initial adjudication before a non-Article III tribunal was relied on as a significant factor in determining that Article III forbade such adjudication”); Thomas, 473 U. S., at 584.

Stern presented the same scenario. The majority cited the dissent’s observation that Northern Pipeline “establish[ed] only that Congress may not vest in a non-Article III court the power to adjudicate, render final judgment, and issue binding orders in a traditional contract action arising under state law, without consent of the litigants, and subject only to ordinary appellate review,” 564 U. S.,
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at ___ (slip op., at 28–29) (emphasis added; internal quotation marks omitted). To which the majority responded, “Just so: Substitute ‘tort’ for ‘contract,’ and that statement directly covers this case.” Id., at ___ (slip op., at 29); see also id., at ___ (slip op., at 27) (defendant litigated in the Bankruptcy Court because he “had nowhere else to go” to pursue his claim). Because Stern was premised on non-consent to adjudication by the Bankruptcy Court, the “constitutional bar” it announced, see post, at 14 (ROBERTS, C. J., dissenting), simply does not govern the question whether litigants may validly consent to adjudication by a bankruptcy court.

An expansive reading of Stern, moreover, would be inconsistent with the opinion’s own description of its holding. The Court in Stern took pains to note that the question before it was “a ‘narrow’ one,” and that its answer did “not change all that much” about the division of labor between district courts and bankruptcy courts. Id., at ___ (slip op., at 37); see also id., at ___ (slip op., at 38) (stating that Congress had exceeded the limitations of Article III “in one isolated respect”). That could not have been a fair characterization of the decision if it meant that bankruptcy judges could no longer exercise their longstanding authority to resolve claims submitted to them by consent. Interpreting Stern to bar consensual adjudications by bankruptcy courts would “meaningfully chang[e] the division of labor” in our judicial system, contra, id., at ___ (slip op., at 37).

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In advancing its restrictive view of Stern, the principal dissent ignores the sweeping jurisprudential implications of its position. If, as the principal dissent suggests, consent is irrelevant to the Article III analysis, it is difficult to see how Schor and Peretz were not wrongly decided. But those decisions obviously remain good law. It is the principal dissent’s position that breaks with our precedents. See Plaut v. Spendthrift Farm, Inc., 514 U. S. 211, 231 (1995) (“[T]he proposition that legal defenses based upon doctrines central to the courts’ struc-
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In sum, the cases in which this Court has found a violation of a litigant’s right to an Article III decisionmaker have involved an objecting defendant forced to litigate involuntarily before a non-Article III court. The Court has never done what Sharif and the principal dissent would have us do—hold that a litigant who has the right to an Article III court may not waive that right through his consent.

D

The principal dissent warns darkly of the consequences of today’s decision. See post, at 17–20. To hear the principal dissent tell it, the world will end not in fire, or ice, but in a bankruptcy court. The response to these ominous predictions is the same now as it was when Justice Brennan, dissenting in Schor, first made them nearly 30 years ago:

“This is not to say, of course, that if Congress created a phalanx of non-Article III tribunals equipped to handle the entire business of the Article III courts without any Article III supervision or control and without evidence of valid and specific legislative necessities, the fact that the parties had the election to proceed in their forum of choice would necessarily save the scheme from constitutional attack. But this case obviously bears no resemblance to such a scenario . . . .” 478 U. S., at 855 (citations omitted).

Adjudication based on litigant consent has been a consistent feature of the federal court system since its inception. Reaffirming that unremarkable fact, we are confident, poses no great threat to anyone’s birthrights, constitutional or otherwise.

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!=(tural independence can never be waived simply does not accord with our cases).
Sharif contends that to the extent litigants may validly consent to adjudication by a bankruptcy court, such consent must be express. We disagree.

Nothing in the Constitution requires that consent to adjudication by a bankruptcy court be express. Nor does the relevant statute, 28 U. S. C. §157, mandate express consent; it states only that a bankruptcy court must obtain "the consent"—consent *simpliciter*—"of all parties to the proceeding" before hearing and determining a non-core claim. §157(c)(2). And a requirement of express consent would be in great tension with our decision in *Roell v. Withrow*, 538 U. S. 580 (2003). That case concerned the interpretation of §636(c), which authorizes magistrate judges to "conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case," with "the consent of the parties." 12 The specific question in *Roell* was whether, as a statutory matter, the "consent" required by §636(c) had to be express. The dissent argued that "[r]eading §636(c)(1) to require express consent not only is more consistent with the text of

the statute, but also” avoids constitutional concerns by “ensur[ing] that the parties knowingly and voluntarily waive their right to an Article III judge.” 538 U. S., at 595 (opinion of THOMAS, J.). But the majority—thus placed on notice of the constitutional concern—was untroubled by it, opining that “the Article III right is substantially honored” by permitting waiver based on “actions rather than words.” Id., at 589, 590.

The implied consent standard articulated in Roell supplies the appropriate rule for adjudications by bankruptcy courts under §157. Applied in the bankruptcy context, that standard possesses the same pragmatic virtues—increasing judicial efficiency and checking gamesmanship—that motivated our adoption of it for consent-based adjudications by magistrate judges. See id., at 590. It bears emphasizing, however, that a litigant’s consent—whether express or implied—must still be knowing and voluntary. Roell makes clear that the key inquiry is whether “the litigant or counsel was made aware of the need for consent and the right to refuse it, and still voluntarily appeared to try the case” before the non-Article III adjudicator. Ibid.; see also id., at 588, n. 5 (“notification of the right to refuse” adjudication by a non-Article III court “is a prerequisite to any inference of consent”).

Even though the Constitution does not require that consent be express, it is good practice for courts to seek express statements of consent or nonconsent, both to ensure irrefutably that any waiver of the right to Article III adjudication is knowing and voluntary and to limit subsequent litigation over the consent issue. Statutes or judicial rules may require express consent where the Constitution does not. Indeed, the Federal Rules of Bankruptcy Procedure already require that pleadings in adversary proceedings before a bankruptcy court “contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.” Fed. Rule Bkrtcy. Proc. 7008 (opening pleadings); see Fed. Rule Bkrtcy. Proc. 7012 (responsive pleadings). The Bankruptcy Court and the parties followed that
It would be possible to resolve this case by determining whether Sharif in fact consented to the Bankruptcy Court’s adjudication of count V of Wellness’ adversary complaint. But reaching that determination would require a deeply factbound analysis of the procedural history unique to this protracted litigation. Our resolution of the consent question—unlike the antecedent constitutional question—would provide little guidance to litigants or the lower courts. Thus, consistent with our role as “a court of review, not of first view,” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U. S. ___, ___ (2014) (slip op., at 14) (internal quotation marks omitted), we leave it to the Seventh Circuit to decide on remand whether Sharif’s actions evinced the requisite knowing and voluntary consent, and also whether, as Wellness contends, Sharif forfeited his *Stern* argument below.

* * *

The Court holds that Article III permits bankruptcy courts to decide *Stern* claims submitted to them by consent. The judgment of the United States Court of Appeals for the Seventh Circuit is therefore reversed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

procedure in this case. See App. 6, 24; *supra*, at 5–6.
Opinion of ALITO, J.

SUPREME COURT OF THE UNITED STATES

No. 13–935

WELLNESS INTERNATIONAL NETWORK, LIMITED, ET AL, PETITIONERS v. RICHARD SHARIF

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[May 26, 2015]

JUSTICE ALITO, concurring in part and concurring in the judgment.

I join the opinion of the Court insofar as it holds that a bankruptcy judge’s resolution of a “Stern claim”* with the consent of the parties does not violate Article III of the Constitution. The Court faithfully applies Commodity Futures Trading Comm’n v. Schor, 478 U. S. 833 (1986). No one believes that an arbitrator exercises “[t]he judicial Power of the United States,” Art. III, §1, in an ordinary, run-of-the mill arbitration. And whatever differences there may be between an arbitrator’s “decision” and a bankruptcy court’s “judgment,” those differences would seem to fall within the Court’s previous rejection of “formalistic and unbending rules.” Schor, supra, at 851. Whatever one thinks of Schor, it is still the law of this Court, and the parties do not ask us to revisit it.

Unlike the Court, however, I would not decide whether consent may be implied. While the Bankruptcy Act just speaks of “consent,” 28 U. S. C. §157(c)(2), the Federal Rules of Bankruptcy Procedure provide that “[i]n non-core proceedings final orders and judgments shall not be en-

tered on the bankruptcy judge’s order except with the express consent of the parties,” Rule 7012(b). When this Rule was promulgated, no one was thinking about a *Stern* claim. But now, assuming that Rule 7012(b) represents a permissible interpretation of §157, the question arises whether a *Stern* claim should be treated as a non-core or core claim for purposes of the bankruptcy rules. See *Executive Benefits Ins. Agency v. Arkison*, 573 U. S. ___, ___–___ (2014) (slip op., at 9–10) (holding that, for reasons of severability, a bankruptcy court should treat a *Stern* claim as a non-core claim).

There is no need to decide that question here. In this case, respondent forfeited any *Stern* objection by failing to present that argument properly in the courts below. *Stern* vindicates Article III, but that does not mean that *Stern* arguments are exempt from ordinary principles of appellate procedure. See *B&B Hardware, Inc. v. Hargis Industries, Inc.*, ante, at 11.
The Bankruptcy Court in this case granted judgment to Wellness on its claim that Sharif’s bankruptcy estate contained assets he purportedly held in a trust. Provided that no third party asserted a substantial adverse claim to those assets, the Bankruptcy Court’s adjudication “stems from the bankruptcy itself” rather than from “the stuff of the traditional actions at common law tried by the courts at Westminster in 1789.” *Stern v. Marshall*, 564 U. S. ___, ___ (2011) (slip op., at 18, 34) (internal quotation marks omitted). Article III poses no barrier to such a decision. That is enough to resolve this case.

Unfortunately, the Court brushes aside this narrow basis for decision and proceeds to the serious constitutional question whether private parties may consent to an Article III violation. In my view, they cannot. By reserving the judicial power to judges with life tenure and salary protection, Article III constitutes “an inseparable element of the constitutional system of checks and balances”—a structural safeguard that must “be jealously guarded.” *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50, 58, 60 (1982) (plurality opinion).

Today the Court lets down its guard. Despite our prece-
dent directing that “parties cannot by consent cure” an Article III violation implicating the structural separation of powers. *Commodity Futures Trading Comm’n v. Schor*, 478 U. S. 833, 850–851 (1986), the majority authorizes litigants to do just that. The Court justifies its decision largely on pragmatic grounds. I would not yield so fully to functionalism. The Framers adopted the formal protections of Article III for good reasons, and “the fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution.” *INS v. Chadha*, 462 U. S. 919, 944 (1983).

The impact of today’s decision may seem limited, but the Court’s acceptance of an Article III violation is not likely to go unnoticed. The next time Congress takes judicial power from Article III courts, the encroachment may not be so modest—and we will no longer hold the high ground of principle. The majority’s acquiescence in the erosion of our constitutional power sets a precedent that I fear we will regret. I respectfully dissent.

I

The Court granted certiorari on two questions in this case. The first is whether the Bankruptcy Court’s entry of final judgment on Wellness’s claim violated Article III based on *Stern*. The second is whether an Article III violation of the kind recognized in *Stern* can be cured by consent. Because the first question can be resolved on narrower grounds, I would answer it alone.

A

The Framers of the Constitution “lived among the ruins of a system of intermingled legislative and judicial powers.” *Plaut v. Spendthrift Farm, Inc.*, 514 U. S. 211, 219 (1995). Under British rule, the King “made Judges dependent on his Will alone, for the tenure of their offices,
ROBERTS, C. J., dissenting

and the amount and payment of their salaries.” The Declaration of Independence ¶11. Between the Revolution and the Constitutional Convention, state legislatures routinely interfered with judgments of the courts. This history created the “sense of a sharp necessity to separate the legislative from the judicial power.” *Plaut*, 514 U. S., at 221; see *Perez v. Mortgage Bankers Assn.*, 575 U. S. ___, ___–___ (2015) (THOMAS, J., concurring in judgment) (slip op., at 5–8). The result was Article III, which established a judiciary “truly distinct from both the legislature and the executive.” The Federalist No. 78, p. 466 (C. Rossiter ed. 1961) (A. Hamilton).

Article III vests the “judicial Power of the United States” in “one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” Art. III, §1. The judges of those courts are entitled to hold their offices “during good Behaviour” and to receive compensation “which shall not be diminished” during their tenure. *Ibid.* The judicial power extends “to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties” and to other enumerated matters. Art. III, §2. Taken together, these provisions define the constitutional birthright of Article III judges: to “render dispositive judgments” in cases or controversies within the bounds of federal jurisdiction. *Plaut*, 514 U. S., at 219 (internal quotation marks omitted).

With narrow exceptions, Congress may not confer power to decide federal cases and controversies upon judges who do not comply with the structural safeguards of Article III. Those narrow exceptions permit Congress to establish non-Article III courts to exercise general jurisdiction in the territories and the District of Columbia, to serve as military tribunals, and to adjudicate disputes over “public rights” such as veterans’ benefits. *Northern Pipeline*, 458 U. S., at 64–70 (plurality opinion).

Our precedents have also recognized an exception to the
requirements of Article III for certain bankruptcy proceedings. When the Framers gathered to draft the Constitution, English statutes had long empowered nonjudicial bankruptcy “commissioners” to collect a debtor’s property, resolve claims by creditors, order the distribution of assets in the estate, and ultimately discharge the debts. See 2 W. Blackstone, Commentaries *471–488. This historical practice, combined with Congress’s constitutional authority to enact bankruptcy laws, confirms that Congress may assign to non-Article III courts adjudications involving “the restructuring of debtor-creditor relations, which is at the core of the federal bankruptcy power.” *Northern Pipeline*, 458 U. S., at 71 (plurality opinion).

Although Congress may assign some bankruptcy proceedings to non-Article III courts, there are limits on that power. In *Northern Pipeline*, the Court invalidated statutory provisions that permitted a bankruptcy court to enter final judgment on a creditor’s state law claim for breach of contract. Because that claim arose not from the bankruptcy but from independent common law sources, a majority of the Court determined that Article III required an adjudicator with life tenure and salary protection. See *id.*, at 84; *id.*, at 90–91 (Rehnquist, J., concurring in judgment).

Congress responded to *Northern Pipeline* by allowing bankruptcy courts to render final judgments only in “core” bankruptcy proceedings. 28 U. S. C. §157(b). Those judgments may be appealed to district courts and reviewed under deferential standards. §158(a). In non-core proceedings, bankruptcy judges may submit proposed findings of fact and conclusions of law, which the district court must review *de novo* before entering final judgment. §157(c)(1).

In *Stern*, we faced the question whether a bankruptcy court could enter final judgment on an action defined by Congress as a “core” proceeding—an estate’s counterclaim against a creditor based on state tort law. §157(b)(2)(C).
We said no. Because the tort claim neither “stem[med] from the bankruptcy itself” nor would “necessarily be resolved in the claims allowance process,” it fell outside the recognized exceptions to Article III. 564 U. S., at ___ (slip op., at 34). Like the contract claim in Northern Pipeline, the tort claim in Stern involved “the stuff of the traditional actions at common law tried by the courts at Westminster in 1789.” Id., at ___ (slip op., at 18) (quoting Northern Pipeline, 458 U. S., at 90 (Rehnquist, J., concurring in judgment)). Congress had no power under the Constitution to assign the resolution of such a claim to a judge who lacked the structural protections of Article III.

B

The question here is whether the claim Wellness submitted to the Bankruptcy Court is a “Stern claim” that requires final adjudication by an Article III court. See Executive Benefits Ins. Agency v. Arkison, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (assuming without deciding that a fraudulent conveyance action is a “Stern claim”). As the Court recounts, Wellness alleged that Sharif had concealed about $5 million of assets by claiming that they were owned by a trust. Wellness sought a declaratory judgment that the trust was in fact Sharif’s alter ego and that its assets should accordingly be part of his bankruptcy estate. The Bankruptcy Court granted final judgment (based on Sharif’s default) to Wellness, declaring that the trust assets were part of Sharif’s estate because he had treated them as his own property. Ante, at 5–6.

In my view, Article III likely poses no barrier to the Bankruptcy Court’s resolution of Wellness’s claim. At its most basic level, bankruptcy is “an adjudication of interests claimed in a res.” Katchen v. Landy, 382 U. S. 323, 329 (1966) (internal quotation marks omitted). Wellness asked the Bankruptcy Court to declare that assets held by Sharif are part of that res. Defining what constitutes the
Roberts, C. J., dissenting

estate is the necessary starting point of every bankruptcy; a court cannot divide up the estate without first knowing what’s in it. See 11 U. S. C. §541(a). As the Solicitor General explains, “Identifying the property of the estate is therefore inescapably central to the restructuring of the debtor-creditor relationship.” Brief for United States as Amicus Curiae 14.

Identifying property that constitutes the estate has long been a central feature of bankruptcy adjudication. English bankruptcy commissioners had authority not only to collect property in the debtor’s possession, but also to “cause any house or tenement of the bankrupt to be broken open,” in order to uncover and seize property the debtor had concealed. 2 W. Blackstone, Commentaries *485. America’s first bankruptcy statute, enacted by Congress in 1800, similarly gave commissioners “power to take into their possession, all the estate, real and personal, of every nature and description to which the [debtor] may be entitled, either in law or equity, in any manner whatsoever.” §5, 2 Stat. 23. That is peculiarly a bankruptcy power.

The Bankruptcy Act of 1898 provides further support for Wellness’s position. Under that Act, bankruptcy referees had authority to exercise “summary” jurisdiction over certain claims, while other claims could only be adjudicated in “plenary” proceedings before an Article III district court. See Arkison, 573 U. S., at ___—___ (slip op., at 4–5). This Court interpreted the 1898 Act to permit bankruptcy referees to exercise summary jurisdiction to determine whether property in the actual or constructive possession of a debtor should come within the estate, at least when no third party asserted more than a “merely colorable” claim to the property. Mueller v. Nugent, 184 U. S. 1, 15 (1902). In the legal parlance of the times, a “merely colorable” claim was one that existed “in appearance only, and not in reality.” Black’s Law Dictionary 223 (1891). So a bank-
ruptcy referee could exercise summary jurisdiction over property in the debtor’s possession as long as no third party asserted a “substantial adverse” claim. Taubel-Scott-Kitzmiller Co. v. Fox, 264 U. S. 426, 431–433 (1924).

Here, Sharif does not contest that he held legal title to the assets in the trust. Assuming that no third party asserted a substantial adverse claim to those assets—an inquiry for the Bankruptcy Court on remand—Wellness’s alter ego claim fits comfortably into the category of cases that bankruptcy referees could have decided by themselves under the 1898 Act.

In Mueller, for example, this Court held that a bankruptcy referee could exercise summary jurisdiction over property in the possession of a third party acting as the debtor’s agent. 184 U. S., at 14–17; see Black’s Law Dictionary 302 (10th ed. 2014) (example of a merely “colorable” claim is “one made by a person holding property as an agent or bailee of the bankrupt”). Similarly, this Court held that a bankruptcy referee could exercise summary jurisdiction over a creditor’s claim that the debtor had concealed assets under the veil of a corporate entity that was “nothing but a sham and a cloak.” Sampsell v. Imperial Paper & Color Corp., 313 U. S. 215, 216–217 (1941) (internal quotation marks omitted), rev’g 114 F. 2d 49, 52 (CA9 1940) (describing creditor’s claim that corporation was debtor’s “alter ego”). As the Court explained in Sampsell, the “legal existence of the affiliated corporation” did not automatically require a plenary proceeding, because “[m]ere legal paraphernalia will not suffice to transform into a substantial adverse claimant a corporation whose affairs are so closely assimilated to the affairs of the dominant stockholder that in substance it is little more than his corporate pocket.” 313 U. S., at 218. Just as the bankruptcy referee in that case had authority to decide whether assets allegedly concealed behind the corporate veil belonged to the bankruptcy estate, the Bankruptcy
Court here had authority to decide whether the assets allegedly concealed in the trust belonged to Sharif’s estate.

Sharif contends that Wellness’s alter ego claim is more like an allegation of a fraudulent conveyance, which this Court has implied must be adjudicated by an Article III court. See Granfinanciera, S. A. v. Nordberg, 492 U. S. 33, 56 (1989); Arkison, 573 U. S., at ___–___ (slip op., at 8–9). Although both actions aim to remedy a debtor’s deception, they differ in a critical respect. A fraudulent conveyance claim seeks assets in the hands of a third party, while an alter ego claim targets only the debtor’s “second self.” Webster’s New International Dictionary 76 (2d ed. 1954). That distinction is significant given bankruptcy’s historic domain over property within the actual or constructive “possession [of] the bankrupt at the time of the filing of the petition.” Thompson v. Magnolia Petroleum Co., 309 U. S. 478, 481 (1940). Through a fraudulent conveyance, a dishonest debtor relinquishes possession of assets before filing for bankruptcy. Reclaiming those assets for the estate requires depriving third parties of property within their otherwise lawful possession and control, an action that “quintessentially” required a suit at common law. Granfinanciera, 492 U. S., at 56. By contrast, a debtor’s possession of property provided “an adequate basis” for a bankruptcy referee to adjudicate a dispute over title in a summary proceeding. Thompson, 309 U. S., at 482; see Mueller, 184 U. S., at 15–16 (distinguishing claim to property in possession of debtor’s agent from fraudulent conveyance claim in determining that bankruptcy referee could exercise summary jurisdiction).

In sum, unlike the fraudulent conveyance claim in Granfinanciera, Wellness’s alter ego claim alleges that assets within Sharif’s actual or constructive possession belong to his estate. And unlike the breach of contract and tort claims at issue in Northern Pipeline and Stern,
Wellness’s claim stems not from any independent source of law but “from the bankruptcy itself.” *Stern*, 564 U. S., at ___ (slip op., at 34). Provided that no third party asserted a substantial adverse claim to the trust assets, Wellness’s claim therefore falls within the narrow historical exception that permits a non-Article III adjudicator in certain bankruptcy proceedings. I would reverse the contrary holding by the Court of Appeals and end our inquiry there, rather than deciding a broader question that may not be necessary to the disposition of this case.

II

The Court “expresses no view” on whether Wellness’s claim was a *Stern* claim. *Ante*, at 8, n. 7. Instead, the Court concludes that the Bankruptcy Court had constitutional authority to enter final judgment on Wellness’s claim either way. The majority rests its decision on Sharif’s purported consent to the Bankruptcy Court’s adjudication. But Sharif has no authority to compromise the structural separation of powers or agree to an exercise of judicial power outside Article III. His consent therefore cannot cure a constitutional violation.

A

“[I]f there is a principle in our Constitution . . . more sacred than another,” James Madison said on the floor of the First Congress, “it is that which separates the Legislative, Executive, and Judicial powers.” 1 Annals of Cong. 581 (1789). A strong word, “sacred.” Madison was the principal drafter of the Constitution, and he knew what he was talking about. By diffusing federal powers among three different branches, and by protecting each branch against incursions from the others, the Framers devised a structure of government that promotes both liberty and accountability. See *Bond* v. *United States*, 564 U. S. ___, ___–____ (2011) (slip op., at 10–11); *Free Enterprise Fund* v.

Preserving the separation of powers is one of this Court’s most weighty responsibilities. In performing that duty, we have not hesitated to enforce the Constitution’s mandate “that one branch of the Government may not intrude upon the central prerogatives of another.” Loving v. United States, 517 U. S. 748, 757 (1996). We have accordingly invalidated executive actions that encroach upon the power of the Legislature, see NLRB v. Noel Canning, 573 U. S. ___ (2014); Youngstown, 343 U. S. 579; legislative actions that invade the province of the Executive, see PCAOB, 561 U. S. 477; Bowsher v. Synar, 478 U. S. 714 (1986); Chadha, 462 U. S. 919; Myers v. United States, 272 U. S. 52 (1926); and actions by either branch that trench upon the territory of the Judiciary, see Stern, 564 U. S. ___; Plaut, 514 U. S. 211; United States v. Will, 449 U. S. 200 (1980); United States v. Klein, 13 Wall. 128 (1872); Hayburn’s Case, 2 Dall. 409 (1792).

In these and other cases, we have emphasized that the values of liberty and accountability protected by the separation of powers belong not to any branch of the Government but to the Nation as a whole. See Bowsher, 478 U. S., at 722. A branch’s consent to a diminution of its constitutional powers therefore does not mitigate the harm or cure the wrong. “Liberty is always at stake when one or more of the branches seek to transgress the separation of powers.” Clinton v. City of New York, 524 U. S. 417, 450 (1998) (KENNEDY, J., concurring). When the Executive and the Legislature agreed to bypass the Article I, §7, requirements of bicameralism and presentment by creating a Presidential line-item veto—a very pragmatic proposal—the Court held that the arrangement violated the Constitution notwithstanding the voluntary participa-
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tion of both branches. *Id.*, at 421 (majority opinion). Likewise, the Court struck down a one-House “legislative veto” that violated Article I, §7, even though Presidents and Congresses had agreed to include similar provisions in hundreds of laws for more than 50 years. *Chadha*, 462 U. S., at 944–945.

In neither of these cases did the branches’ willing embrace of a separation of powers violation weaken the Court’s scrutiny. To the contrary, the branches’ “enthusiasm” for the offending arrangements “‘sharpened rather than blunted’ our review.” *Noel Canning*, 573 U. S., at ___ (SCALIA, J., concurring in judgment) (slip op., at 4) (quoting *Chadha*, 462 U. S., at 944). In short, because the structural provisions of the Constitution protect liberty and not just government entities, “the separation of powers does not depend on . . . whether ‘the encroached-upon branch approves the encroachment.’” *PCAOB*, 561 U. S., at 497 (quoting *New York v. United States*, 505 U. S. 144, 182 (1992)).

B

If a branch of the Federal Government may not consent to a violation of the separation of powers, surely a private litigant may not do so. Just as a branch of Government may not consent away the individual liberty interest protected by the separation of powers, so too an individual may not consent away the institutional interest protected by the separation of powers. To be sure, a private litigant may consensually relinquish *individual* constitutional rights. A federal criminal defendant, for example, may knowingly and voluntarily waive his Sixth Amendment right to a jury trial by pleading guilty to a charged offense. See *Brady v. United States*, 397 U. S. 742, 748 (1970). But that same defendant may not agree to stand trial on federal charges before a state court, a foreign court, or a moot court, because those courts have no constitutional author-
ity to exercise judicial power over his case, and he has no power to confer it. A “lack of federal jurisdiction cannot be waived or be overcome by an agreement of the parties.” *Mitchell v. Maurer*, 293 U. S. 237, 244 (1934).

As the majority recognizes, the Court’s most extensive discussion of litigant consent in a separation of powers case occurred in *Commodity Futures Trading Comm’n v. Schor*, 478 U. S. 833 (1986). There the Court held that Article III confers both a “personal right” that can be waived through consent and a structural component that “safeguards the role of the Judicial Branch in our tripartite system.” *Id.*, at 848, 850. “To the extent that this structural principle is implicated in a given case, the parties cannot by consent cure the constitutional difficulty for the same reason that the parties by consent cannot confer on federal courts subject-matter jurisdiction beyond the limitations imposed by Article III.” *Id.*, at 850–851. Thus, when “Article III limitations are at issue, notions of consent and waiver cannot be dispositive because the limitations serve institutional interests that the parties cannot be expected to protect.” *Id.*, at 851.

*Schor*’s holding that a private litigant can consent to an Article III violation that affects only his “personal right” has been vigorously contested. See *id.*, at 867 (Brennan, J., dissenting) (“Because the individual and structural interests served by Article III are coextensive, I do not believe that a litigant may ever waive his right to an Article III tribunal where one is constitutionally required”); *Granfinanciera*, 492 U. S., at 70 (Scalia, J., concurring in part and concurring in judgment). But whatever the merits of that position, nobody disputes that *Schor* forbids a litigant from consenting to a constitutional violation when the structural component of Article III “is implicated.” 478 U. S., at 850–851. Thus, the key inquiry in this case—as the majority puts it—is “whether allowing bankruptcy courts to decide *Stern* claims by consent would
‘impermissibly threaten the institutional integrity of the Judicial Branch.’” *Ante*, at 12 (quoting *Schor*, 478 U. S., at 851; alteration omitted).

One need not search far to find the answer. In *Stern*, this Court applied the analysis from *Schor* to bankruptcy courts and concluded that they lack Article III authority to enter final judgments on matters now known as *Stern* claims. The Court noted that bankruptcy courts, unlike the administrative agency in *Schor*, were endowed by Congress with “substantive jurisdiction reaching any area of the corpus juris,” power to render final judgments enforceable without any action by Article III courts, and authority to adjudicate counterclaims entirely independent of the bankruptcy itself. 564 U. S., at ___–___ (slip op., at 25–29). The Court concluded that allowing Congress to bestow such authority on non-Article III courts would “compromise the integrity of the system of separated powers and the role of the Judiciary in that system.” *Id.*, at ___ (slip op., at 38). If there was any room for doubt about the basis for its holding, the Court dispelled it by asking a question: “Is there really a threat to the separation of powers where Congress has conferred the judicial power outside Article III only over certain counterclaims in bankruptcy?” *Id.*, at ___ (slip op., at 37). “The short but emphatic answer is yes.” *Ibid*.

In other words, allowing bankruptcy courts to decide *Stern* claims by consent would “impermissibly threaten the institutional integrity of the Judicial Branch.” *Ante*, at 12 (internal quotation marks and alteration omitted). It is little wonder that the Court of Appeals felt itself bound by *Stern* and *Schor* to hold that Sharif’s consent could not cure the *Stern* violation. 727 F. 3d 751, 771 (CA7 2013). Other Courts of Appeals have adopted the same reading. See *In re BP RE, L. P.*, 735 F. 3d 279, 287 (CA5 2013); *Waldman v. Stone*, 698 F. 3d 910, 917–918 (CA6 2012).

The majority attempts to avoid this conclusion through
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an imaginative reconstruction of *Stern*. As the majority sees it, *Stern* “turned on the fact that the litigant ‘did not truly consent to’ resolution of the claim” against him in the Bankruptcy Court. *Ante*, at 15 (quoting 564 U. S., at ___ (slip op., at 27)). That is not a proper reading of the decision. The constitutional analysis in *Stern*, spanning 22 pages, contained exactly one affirmative reference to the lack of consent. See *ibid*. That reference came amid a long list of factors distinguishing the proceeding in *Stern* from the proceedings in *Schor* and other “public rights” cases. 564 U. S., at ___–___ (slip op., at 27–29). *Stern*’s subsequent sentences made clear that the notions of consent relied upon by the Court in *Schor* did not apply in bankruptcy because “creditors lack an alternative forum to the bankruptcy court in which to pursue their claims.” 564 U. S., at ___ (slip op., at 28) (quoting *Granfinanciera*, 492 U. S., at 59, n. 14). Put simply, the litigant in *Stern* did not consent because he could not consent given the nature of bankruptcy.

There was an opinion in *Stern* that turned heavily on consent: the dissent. 564 U. S., at ___–___ (opinion of BREYER, J.) (slip op., at 12–14). The *Stern* majority responded to the dissent with a counterfactual: *Even if* consent were relevant to the analysis, that factor would not change the result because the litigant did not truly consent. *Id.*, at ___–___ (slip op., at 28–29). Moreover, *Stern* held that “it does not matter who” authorizes a bankruptcy judge to render final judgments on *Stern* claims, because the “constitutional bar remains.” *Id.*, at ___ (slip op., at 36). That holding is incompatible with the majority’s conclusion today that two litigants can authorize a bankruptcy judge to render final judgments on *Stern* claims, despite the constitutional bar that remains.

The majority also relies heavily on the supervision and control that Article III courts exercise over bankruptcy courts. *Ante*, at 12–15. As the majority notes, court of
appeals judges appoint bankruptcy judges, and bankruptcy judges receive cases only on referral from district courts (although every district court in the country has adopted a standing rule automatically referring all bankruptcy filings to bankruptcy judges, see 1 Collier on Bankruptcy ¶3.02[1], p. 3–26 (16th ed. 2014)). The problem is that Congress has also given bankruptcy courts authority to enter final judgments subject only to deferential appellate review, and Article III precludes those judgments when they involve *Stern* claims. The fact that Article III judges played a role in the Article III violation does not remedy the constitutional harm. We have already explained why.


In any event, the majority’s arguments about supervision and control are not new. They were considered and rejected in *Stern*. See 564 U. S., at ___ (slip op., at 36) (“it does not matter who appointed the bankruptcy judge or authorized the judge to render final judgments”); see also
Northern Pipeline, 458 U. S., at 84–86 (plurality opinion); id., at 91 (Rehnquist, J., concurring in judgment). The majority points to no differences between the bankruptcy proceeding in Stern and the bankruptcy proceeding here, except for Sharif’s purported consent. The majority thus treats consent as “dispositive” in curing the structural separation of powers violation—precisely what Schor said consent could not do. 478 U. S., at 851.

C

Eager to change the subject from Stern, the majority devotes considerable attention to defending the authority of magistrate judges, who may conduct certain proceedings with the consent of the parties under 28 U. S. C. §636. No one here challenges the constitutionality of magistrate judges or disputes that they, like bankruptcy judges, may issue reports and recommendations that are reviewed de novo by Article III judges. The cases about magistrate judges cited by the majority therefore have little bearing on this case, because none of them involved a constitutional challenge to the entry of final judgment by a non-Article III actor. See Roell v. Withrow, 538 U. S. 580 (2003) (statutory challenge only); Peretz v. United States, 501 U. S. 923 (1991) (challenge to a magistrate judge’s conduct of voir dire in a felony trial); Gomez v. United States, 490 U. S. 858 (1989) (same).

The majority also points to 19th-century cases in which courts referred disputes to non-Article III referees, masters, or arbitrators. Ante, at 8. In those cases, however, it was the Article III court that ultimately entered final judgment. E.g., Thornton v. Carson, 7 Cranch 596, 600 (1813) (“the Court was right in entering the judgment for the sums awarded”). Article III courts do refer matters to non-Article III actors for assistance from time to time. This Court does so regularly in original jurisdiction cases. See, e.g., Kansas v. Nebraska, 574 U. S. ___, ___ (2015)
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(slip op., at 1). But under the Constitution, the “ultimate responsibility for deciding” the case must remain with the Article III court. *Id.*, at ___ (slip op., at 6) (quoting *Colorado v. New Mexico*, 467 U. S. 310, 317 (1984)).

The concurrence’s comparison of bankruptcy judges to arbitrators is similarly inapt. *Ante*, at 1 (opinion of ALITO, J.). Arbitration is “a matter of contract” by which parties agree to resolve their disputes in a private forum. *Rent-A-Center, West, Inc. v. Jackson*, 561 U. S. 63, 67 (2010). Such an arrangement does not implicate Article III any more than does an agreement between two business partners to submit a difference of opinion to a mutually trusted friend. Arbitration agreements, like most private contracts, can be enforced in court. And Congress, pursuant to its Commerce Clause power, has authorized district courts to enter judgments enforcing arbitration awards under certain circumstances. See 9 U. S. C. §9. But this ordinary scheme of contract enforcement creates no constitutional concern. As the concurrence acknowledges, only Article III judges—not arbitrators—may enter final judgments enforcing arbitration awards. *Ante*, at 1.

The discussion of magistrate judges, masters, arbitrators, and the like fits with the majority’s focus on the supposedly dire consequences that would follow a decision that parties cannot consent to the final adjudication of *Stern* claims in bankruptcy courts. Of course, it “goes without saying” that practical considerations of efficiency and convenience cannot trump the structural protections of the Constitution. *Stern*, 564 U. S., at ___ (slip op., at 36); see *Perez*, 575 U. S., at ___ (THOMAS, J., concurring in judgment) (slip op., at 20) (“Even in the face of perceived necessity, the Constitution protects us from ourselves.”). And I find it hard to believe that the Framers in Philadelphia, who took great care to ensure that the Judiciary was “truly distinct” from the Legislature, would have been comforted to know that Congress’s incursion here could
“only be termed *de minimis.*” *Ante,* at 13 (quoting *Schor,* 478 U. S., at 856).

In any event, the majority overstates the consequences of enforcing the requirements of Article III in this case. As explained in Part I, Wellness’s claim may not be a *Stern* claim, in which case the bankruptcy statute would apply precisely as Congress wrote it. Even if Wellness’s claim were a *Stern* claim, the District Court would not need to start from scratch. As this Court held in *Arkison,* the District Court could treat the bankruptcy judge’s decision as a recommendation and enter judgment after performing *de novo* review. 573 U. S., at ___ (slip op., at 4).

In *Stern,* the Court cautioned that Congress “may no more lawfully chip away at the authority of the Judicial Branch than it may eliminate it entirely.” 564 U. S., at ___ (slip op., at 37). The majority sees no reason to fret, however, so long as two private parties consent. *Ante,* at 14, n. 10. But such parties are unlikely to carefully weigh the long-term structural independence of the Article III judiciary against their own short-term priorities. Perhaps the majority’s acquiescence in this diminution of constitutional authority will escape notice. Far more likely, however, it will amount to the kind of “blueprint for extensive expansion of the legislative power” that we have resisted in the past. *PCAOB,* 561 U. S., at 500 (quoting *Metropolitan Washington Airports Authority v. Citizens for Abatement of Aircraft Noise, Inc.*, 501 U. S. 252, 277 (1991)).

The encroachment at issue here may seem benign enough. Bankruptcy judges are devoted professionals who strive to be fair to all sides, and litigants can be trusted to protect their own interests when deciding whether to consent. But the fact remains that Congress controls the salary and tenure of bankruptcy judges, and the Legislature’s present solicitude provides no guarantee of its future restraint. See *Glidden Co. v. Zdanok,* 370 U. S. 530, 534 (1962) (plurality opinion). Once Congress knows that
it can assign federal claims to judges outside Article III with the parties’ consent, nothing would limit its exercise of that power to bankruptcy. Congress may consider it advantageous to allow claims to be heard before judges subject to greater legislative control in any number of areas of federal concern. As for the requirement of consent, Congress can find ways to “encourage” consent, say by requiring it as a condition of federal benefits. That has worked to expand Congress’s power before. See, e.g., College Savings Bank v. Florida Prepaid Postsecondary Ed. Expense Bd., 527 U. S. 666, 686 (1999) (“Congress may, in the exercise of its spending power, condition its grant of funds to the States upon their taking certain actions that Congress could not require them to take”); South Dakota v. Dole, 483 U. S. 203, 207 (1987) (same).

Legislative designs of this kind would not displace the Article III judiciary overnight. But steady erosion of Article III authority, no less than a brazen usurpation, violates the constitutional separation of powers. In a Federal Government of limited powers, one branch’s loss is another branch’s gain, see PCAOB, 561 U. S., at 500, so whether a branch aims to “arrogate power to itself” or to “impair another in the performance of its constitutional duties,” the Constitution forbids the transgression all the same. Loving, 517 U. S., at 757. As we have cautioned, “[s]light encroachments create new boundaries from which legions of power can seek new territory to capture.” Stern, 564 U. S., at ___ (slip op., at 38) (internal quotation marks omitted).

The Framers understood this danger. They warned that the Legislature would inevitably seek to draw greater power into its “impetuous vortex,” The Federalist No. 48, at 309 (J. Madison), and that “power over a man’s subsistence amounts to a power over his will,” id., No. 79, at 472 (A. Hamilton) (emphasis deleted). In response, the Framers adopted the structural protections of Article III, “es-
establishing high walls and clear distinctions because low walls and vague distinctions will not be judicially defensible in the heat of interbranch conflict.” *Plaut*, 514 U. S., at 239. As this Court once put it, invoking Frost, “Good fences make good neighbors.” *Id.*, at 240.

Ultimately, however, the structural protections of Article III are only as strong as this Court’s will to enforce them. In Madison’s words, the “great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.” The Federalist No. 51, at 321–322 (J. Madison). The Court today declines to resist encroachment by the Legislature. Instead it holds that a single federal judge, for reasons adequate to him, may assign away our hard-won constitutional birthright so long as two private parties agree. I hope I will be wrong about the consequences of this decision for the independence of the Judicial Branch. But for now, another literary passage comes to mind: It profits the Court nothing to give its soul for the whole world . . . but to avoid *Stern* claims?

I respectfully dissent.
THOMAS, J., dissenting.

SUPREME COURT OF THE UNITED STATES

No. 13–935

WELLNESS INTERNATIONAL NETWORK, LIMITED, ET AL, PETITIONERS v. RICHARD SHARIF

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[May 26, 2015]

JUSTICE THOMAS, dissenting.

Like THE CHIEF JUSTICE, I would have remanded this case to the lower courts to determine, under the proper standard, whether Wellness’ alter-ego claim is a Stern claim. See Stern v. Marshall, 564 U. S. ___ (2011). I write separately to highlight a few questions touching on the consent issue that merit closer attention than either the Court or THE CHIEF JUSTICE gives them.

I agree with THE CHIEF JUSTICE that individuals cannot consent to violations of the Constitution, but this principle has nothing to do with whose interest the violated provision protects. Anytime the Federal Government acts in a manner inconsistent with the separation of powers, it acts in excess of its constitutional authority. That authority is carefully defined by the Constitution, and, except through Article V’s amendment process, that document does not permit individuals to bestow additional power upon the Government.

The majority today authorizes non-Article III courts to adjudicate, with consent, claims that we have held to require an exercise of the judicial power based on its assessment that few “structural interests” are implicated by consent to the adjudication of Stern claims. See ante, at 7, 12. That reasoning is flawed. It matters not whether we think the particular violation threatens the structure of
our Government. Our duty is to enforce the Constitution as written, not as revised by private consent, innocuous or otherwise. Worse, amidst the tempest over whether “structural interests” are implicated when an individual consents to adjudication of *Stern* claims by a non-Article III court, both the majority and THE CHIEF JUSTICE fail to grapple with the antecedent question: whether a violation of the Constitution has actually occurred. That question is a difficult one, and the majority makes a grave mistake by skipping over it in its quest to answer the question whether consent can authorize a constitutional violation. Because I would resolve this case on narrower grounds, I need not decide that question here. I nevertheless write separately to highlight the complexity of the issues the majority simply brushes past.

I

A

“The principle, that [the Federal Government] can exercise only the powers granted to it, . . . is now universally admitted.” *McCulloch v. Maryland*, 4 Wheat. 316, 405 (1819). A corollary to this principle is that each branch of the Government is limited to the exercise of those powers granted to it. Every violation of the separation of powers thus involves an exercise of power in excess of the Constitution. And because the only authorities capable of granting power are the Constitution itself, and the people acting through the amendment process, individual consent cannot authorize the Government to exceed constitutional boundaries.

This does not mean, however, that consent is invariably irrelevant to the constitutional inquiry. Although it may not authorize a constitutional violation, consent may prevent one from occurring in the first place. This concept is perhaps best understood with the example on which the majority and THE CHIEF JUSTICE both rely: the right to a
consent to the adjudication of *Stern* claims by bankruptcy courts is a far more complex matter than waiver of a jury trial. Two potential violations of the separation of powers occur whenever bankruptcy courts adjudicate *Stern* claims. First, the bankruptcy courts purport to exercise power that the Constitution vests exclusively in the judiciary, even though they are not Article III courts because bankruptcy judges do not enjoy the tenure and salary protections required by Article III. See Art. III, §1. Second, the bankruptcy courts act pursuant to statutory authorization that is itself invalid. For even when acting pursuant to an enumerated power, such as the bankruptcy
power, Congress exceeds its authority when it purports to authorize a person or entity to perform a function that requires the exercise of a power vested elsewhere by the Constitution. See *Whitman v. American Trucking Assns.*, *Inc.*, 531 U. S. 457, 472 (2001).

Rather than attempt to grapple with these problems, the majority seizes on some statements from *Commodity Futures Trading Comm’n v. Schor*, 478 U. S. 833 (1986), to resolve the difficult constitutional issue before us. See ante, at 9–12. But to the extent *Schor* suggests that individual consent could authorize non-Article III courts to exercise the judicial power, 478 U. S., at 850–851, it was wrongly decided and should be abandoned. Consent to adjudication by non-Article III judges may waive whatever individual right to impartial adjudication Article III implies, thereby lifting that affirmative barrier on Government action. But non-Article III courts must still act within the bounds of their constitutional authority. That is, they must act through a power properly delegated to the Federal Government and not vested by the Constitution in a different governmental actor. Because the judicial power is vested exclusively in Article III courts, non-Article III courts may not exercise it.

*Schor’s* justification for authorizing such a transgression was that it judged the “practical effect [the allocation would] have on the constitutionally assigned role of the federal judiciary” not to be too great. Id., at 851. But we “can[not] preserve a system of separation of powers on the basis of such intuitive judgments regarding ‘practical effects.’” *Granfinanciera, S. A. v. Nordberg*, 492 U. S. 33, 70 (1989) (SCALIA, J., concurring in part and concurring in judgment). Put more starkly, “[t]o uphold” a violation of the Constitution because one perceives “the infraction assailed [a]s unimportant when compared with similar but more serious infractions which might be conceived . . . is not to interpret that instrument, but to disregard it.”
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Patton, supra, at 292. Our Constitution is not a matter of convenience, to be invoked when we feel uncomfortable with some Government action and cast aside when we do not. See Perez v. Mortgage Bankers Assn., ante, at 5 (THOMAS, J., concurring in judgment).

II

Properly understood, then, the answer to the consent question in this case depends on whether bankruptcy courts act within the bounds of their constitutional authority when they adjudicate Stern claims with the consent of the parties. In order to answer that question, we must consider what form of governmental power that type of adjudication requires and whether bankruptcy courts are qualified to exercise that power. Department of Transportation v. Association of American Railroads, ante, at 24 (THOMAS, J., concurring in judgment).

Many Government functions “may be performed by two or more branches without either exceeding its enumerated powers under the Constitution.” Ante, at 4. Certain core functions, however, demand the exercise of legislative, executive, or judicial power, and their allocation is controlled by the Vesting Clauses contained in the first three articles of the Constitution. Ibid. We have already held that adjudicating Stern claims, at least without consent of the parties, requires an exercise of the judicial power vested exclusively in Article III courts. Stern, 564 U. S., at ___–___ (slip op., at 28–29). The difficult question presented by this case, which the Court glosses over, is whether the parties’ consent somehow transforms the nature of the power exercised.

A

As the concepts were understood at the time of the
founders, the legislative, executive, and judicial powers played different roles in the resolution of cases and controversies. In this context, the judicial power is the power “to determine all differences according to the established law”; the legislative power is the power to make that “established law”; and the executive power is the power “to back and support the sentence, and to give it due execution.” J. Locke, Second Treatise of Civil Government §§124–126, pp. 62–63 (J. Gough ed. 1947) (Locke); see also Wayman v. Southard, 10 Wheat. 1, 46 (1825).

It should be immediately apparent that consent does not transform the adjudication of Stern claims into a function that requires the exercise of legislative or executive power. Parties by their consent do not transform the function of adjudicating controversies into the functions of creating rules or enforcing judgments.

The more difficult question is whether consent somehow eliminates the need for an exercise of the judicial power. Our precedents reveal that the resolution of certain cases or controversies requires the exercise of that power, but that others “may or may not” be brought “within the cognizance of [Article III courts], as [Congress] deem[s] proper.” Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272, 284 (1856). The distinction generally has to do with the types of rights at issue. Disposition of private rights to life, liberty, and property falls within the core of the judicial power, whereas disposition of public rights does not. From that core of the judicial power, we have identified two narrow historical exceptions. Those exceptions, along with the treatment of cases or controversies not falling within that core, provide useful guidance for understanding whether bankruptcy courts’ adjudication of Stern claims with the consent of the parties requires the exercise of Article III judicial power.
THOMAS, J., dissenting

1

Under our precedents, the three categories of cases that may be adjudicated by Article III courts but that do not demand the exercise of the judicial power are those arising in the territories, those arising in the Armed Forces, and those involving public-rights disputes. *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50, 63–67 (1982) (plurality opinion).

The first two represent unique historical exceptions that tell us little about the overall scope of the judicial power. From an early date, this Court has long upheld laws authorizing the adjudication of cases arising in the territories in non-Article III “territorial courts” on the ground that such courts exercise power “conferred by Congress, in the execution of those general powers which [Congress] possesses over the territories of the United States.” *American Ins. Co. v. 356 Bales of Cotton*, 1 Pet. 511, 546 (1828) (Canter).2 And the Court has upheld laws authorizing the

2Chief Justice Marshall’s explanation in *Canter* has come under attack on the ground that it fails to clarify the precise constitutional status of the power exercised by the territorial courts. Lawson, Territorial Governments and the Limits of Formalism, 78 Cal. L. Rev. 853, 892 (1990) (criticizing it as “fatuous” dictum). On the one hand, some early evidence suggests that the courts were thought to be dealing primarily with local matters that lie beyond federal judicial cognizance. Pfander, Article I Tribunals, Article III Courts, and the Judicial Power of the United States, 118 Harv. L. Rev. 643, 706–711 (2004). Yet *Canter* involved a controversy indisputably capable of adjudication by Article III courts, because it both arose in admiralty and fell within the Supreme Court’s appellate jurisdiction. Pfander, *supra*, at 713–714, n. 314. The best explanation for this apparent tension is that territorial courts adjudicate matters that Congress may or may not assign to Article III courts, as it wishes. Nelson, Adjudication in the Political Branches, 107 Colum. L. Rev. 559, 575–576 (2007). To recognize Congress’ discretion requires no distortion of the meaning of judicial power because Chief Justice Marshall’s reasoning has nothing to do with the intrinsic qualities of the adjudication itself—e.g., whether it involves “the stuff of the traditional actions at common law tried by the
adjudication of cases arising in the Armed Forces in non-
Article III courts-martial, inferring from a constellation of
constitutional provisions that Congress has the power to
provide for the adjudication of disputes among the Armed
Forces it creates and that Article III extends only to civil-
ian judicial power. *Dynes v. Hoover*, 20 How. 65, 78–79
(1858). Whatever their historical validity, these prece-
dents exempt cases arising in the territories and in the
land and naval forces from Article III because of other
provisions of the Constitution, not because of the defini-
tion of judicial power in Article III itself. See Nelson,
Adjudication in the Political Branches, 107 Colum. L. Rev.
559, 576 (2007) (noting that both exceptions enjoy “special
textual rationales that d[o] not spill over into other
areas”).

The third category consists of so-called “public rights”
cases. Unlike the other two categories, which reflect
carve-outs from the core of the judicial power, this cate-
gory describes cases outside of that core and therefore has
more to tell us about the scope of the judicial power.

The distinction between disputes involving “public
rights” and those involving “private rights” is longstand-
ing, but the contours of the “public rights” doctrine have
been the source of much confusion and controversy. See
generally *Granfinanciera*, 492 U. S., at 66–70 (opinion of
SCALIA, J.) (tracing the evolution of the doctrine). Our
cases attribute the doctrine to this Court’s mid-19th cen-
tury decision, *Murray’s Lessee*, supra. In that case, the
Court observed that there are certain cases addressing
“public rights, which may be presented in such form that
the judicial power is capable of acting on them, and which
are susceptible of judicial determination, but which con-
gress may or may not bring within the cognizance of the

(2011) (slip op., at 18) (internal quotation marks omitted).
Historically, “public rights” were understood as “rights belonging to the people at large,” as distinguished from “the private unalienable rights of each individual.” *Lansing v. Smith*, 4 Wend. 9, 21 (N.Y. 1829) (Walworth, C.). This distinction is significant to our understanding of Article III, for while the legislative and executive branches may dispose of public rights at will—including through non-Article III adjudications—an exercise of the judicial power is required “when the government want[s] to act authoritatively upon core private rights that had vested in a particular individual.” *Nelson*, supra, at 569; see *B&B Hardware, Inc. v. Hargis Industries, Inc.*, ante, at 11 (THOMAS, J., dissenting).

The distinction was well known at the time of the founding. In the tradition of John Locke, William Blackstone in his Commentaries identified the private rights to life, liberty, and property as the three “absolute” rights—so called because they “appertain[ed] and belong[ed] to particular men . . . merely as individuals,” not “to them as members of society [or] standing in various relations to each other”—that is, not dependent upon the will of the government. 1 W. Blackstone, Commentaries on the Laws of England 119 (1765) (Commentaries); see also *Nelson*, supra, at 567. Public rights, by contrast, belonged to “the whole community, considered as a community, in its social aggregate capacity.” 4 Commentaries 5 (1769); see also *Nelson*, supra, at 567. As the modern doctrine of the

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3 The protection of private rights in the Anglo-American tradition goes back to at least Magna Carta. The original 1215 charter is replete with restrictions on the King’s ability to proceed against private rights, including most notably the provision that “[n]o free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, . . . except by the lawful judgment of his peers and by the law of the land.” A. Howard, Magna Carta: Text and Commentary 43 (1964).
separation of powers emerged, “the courts became identified with the enforcement of private right, and administrative agencies with the execution of public policy.” Jaffe, The Right to Judicial Review I, 71 Harv. L. Rev. 401, 413 (1958).

The Founders carried this idea forward into the Vesting Clauses of our Constitution. Those Clauses were understood to play a role in ensuring that the federal courts alone could act to deprive individuals of private rights because the power to act conclusively against those rights was the core of the judicial power. As one early treatise explained, the judiciary is “that department of the government to whom the protection of the rights of the individual is by the constitution especially confided.” 1 St. George Tucker, Blackstone’s Commentaries, App. 357 (1803). If “public rights” were not thought to fall within the core of the judicial power, then that could explain why Congress would be able to perform or authorize non-Article III adjudications of public rights without transgressing Article III’s Vesting Clause.

Nineteenth-century American jurisprudence confirms that an exercise of the judicial power was thought to be necessary for the disposition of private, but not public, rights.4 See B&B Hardware, ante, at 12. The treatment of

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4Contemporary state-court decisions provide even more explication of the distinction between public and private rights, and many expressly tie the distinction to the separation of powers. See, e.g., Newland v. Marsh, 19 Ill. 376, 383 (1857) (“The legislative power . . . cannot directly reach the property or vested rights of the citizen, by providing for their forfeiture or transfer to another, without trial and judgment in the courts; for to do so, would be the exercise of a power which belongs to another branch of the government, and is forbidden to the legislature”); see also Gaines v. Gaines, 48 Ky. 295, 301 (1848) (describing the judiciary as “the tribunal appointed by the Constitution and the law, for the ascertainment of private rights and the redress of private wrongs”); State ex rel. Atty. Gen. v. Hawkins, 44 Ohio St. 98, 109, 5 N. E. 228, 232 (1886) (“[P]ower to hear and determine rights of property and
THOMAS, J., dissenting

land patents illustrates the point well: Although Congress could authorize executive agencies to dispose of public rights in land—often by means of adjudicating a claimant’s qualifications for a land grant under a statute—the United States had to go to the courts if it wished to revoke a patent. See generally Nelson, 107 Colum. L. Rev., at 577–578 (discussing land patents). That differential treatment reflected the fact that, once “legal title passed out of the United States,” the patent “[u]ndoubtedly” constituted “a vested right” and consequently could “only be divested according to law.” Johnson v. Towsley, 13 Wall. 72, 84–85 (1871). By contrast, a party who sought to protect only a “public right” in the land had no such vested right and could not invoke the intervention of Article III courts. See Smelting Co. v. Kemp, 104 U. S. 636, 647 (1882) (“It does not lie in the mouth of a stranger to the title to complain of the act of the government with respect to it”); see also Bagnell v. Broderick, 13 Pet. 436, 450 (1839) (refusing to examine the propriety of a land patent on the ground that “Congress has the sole power to declare the dignity and effect of titles emanating from the United States”).

Over time, the line between public and private rights has blurred, along with the Court’s treatment of the judicial power. See B&B Hardware, ante, at 9–10, 12. The source of the confusion may be Murray’s Lessee—the putative source of the public rights doctrine itself. Dictum in the case muddles the distinction between private and public rights, and the decision is perhaps better read as an expression of the principle of sovereign immunity. Granfinanciera, 492 U. S., at 68–69 (opinion of

of person between private parties is judicial, and can only be conferred on the courts”); see generally T. Cooley, Constitutional Limitations 175 (1868) (explaining that only the judicial power was thought capable of disposing of private rights).
SCALIA, J. 5 Some cases appear to have done just that, thus reading Murray’s Lessee to apply only in disputes arising between the Government and others. See, e.g., Crowell v. Benson, 285 U. S. 22, 50 (1932).

Another strain of cases has confused the distinction between private and public rights, with some cases treating public rights as the equivalent of private rights entitled to full judicial review, American School of Magnetic Healing v. McAnnulty, 187 U. S. 94, 108 (1902), and others treating what appear to be private rights as public rights on which executive action could be conclusive, see, e.g., Sunshine Anthracite Coal Co. v. Adkins, 310 U. S. 381, 401–404 (1940); see also B&B Hardware, ante, at 12 (observing that Sunshine Anthracite may reflect a unique historical exception for tax cases). Cf. Northern Pipeline, 458 U. S., at 84–85 (plurality opinion) (discussing other cases that appear to reflect the historical distinction between private rights and rights created by Congress). Perhaps this confusion explains why the Court has more recently expanded the concept of public rights to include any right “so closely integrated into a public regulatory scheme as to be a matter appropriate for agency resolution with limited involvement by the Article III judiciary.” Thomas v. Union Carbide Agricultural Products Co., 473 U. S. 568, 593–594 (1985). A return to the

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5 Another potential explanation is that Murray’s Lessee v. Hoboken Land & Improvement Co., 18 How. 272 (1856), recognized yet another special exception to Article III’s allocation of judicial power, applicable whenever the Government exercises its power of taxation. Nelson, Adjudication in the Political Branches, 107 Colum. L. Rev. 559, 588–589 (2007); see also B&B Hardware, Inc. v. Hargis Industries, Inc., ante, at 12 (THOMAS, J., dissenting) (discussing other decisions that appear to rest on this exception). To the extent that Murray’s Lessee purported to recognize such an exception, how-ever, it did so only in dictum after noting that the statute provided a mechanism for judicial review of the accounting decision on which the distress warrant was based. 18 How., at 280–281.
historical understanding of “public rights,” however, would lead to the conclusion that the inalienable core of the judicial power vested by Article III in the federal courts is the power to adjudicate private rights disputes.

Although Congress did not enact a permanent federal bankruptcy law until the late 19th century, it has assigned the adjudication of certain bankruptcy disputes to non-Article III actors since as early as 1800. Plank, Why Bankruptcy Judges Need Not and Should Not Be Article III Judges, 72 Am. Bankr. L. J. 567, 608 (1998) (describing the bankruptcy powers vested by Congress in non-Article III judges). Modern bankruptcy courts, however, adjudicate a far broader array of disputes than their earliest historical counterparts. And this Court has remained carefully noncommittal about the source of their authority to do so. See Northern Pipeline, 458 U. S., at 71 (plurality opinion).

Applying the historical categories of cases discussed above, one can understand why. Bankruptcy courts clearly do not qualify as territorial courts or courts-martial, but they are not an easy fit in the “public rights” category, either. No doubt certain aspects of bankruptcy involve rights lying outside the core of the judicial power. The most obvious of these is the right to discharge, which a party may obtain if he satisfies certain statutory criteria. Ibid. Discharge is not itself a private right, but, together with the claims allowance process that precedes it, it can act conclusively on the core private rights of the debtor’s creditors. We have nevertheless implicitly recognized that the claims allowance process may proceed in a bankruptcy court, as can any matter that would necessarily be resolved by that process, even one that affects core private rights. Stern, 564 U. S., at ___–___ (slip op., at 30–31). For this reason, bankruptcy courts and their prede-
cessors more likely enjoy a unique, textually based exception, much like territorial courts and courts-martial do. See id., at ___ (SCALIA, J., concurring) (slip op., at 2). That is, Article I’s Bankruptcy Clause serves to carve cases and controversies traditionally subject to resolution by bankruptcy commissioners out of Article III, giving Congress the discretion, within those historical boundaries, to provide for their resolution outside of Article III courts.

3

Because Stern claims by definition fall outside of the historical boundaries of the bankruptcy carve-out, they are subject to Article III. This means that, if their adjudication requires the exercise of the judicial power, then only Article III courts may perform it.

Although Stern claims indisputably involve private rights, the “public rights” doctrine suggests a way in which party consent may transform the function of adjudicating Stern claims into one that does not require the exercise of the judicial power. The premise of the “public rights” doctrine, as described above, is not that public rights affirmatively require adjudication by some other governmental power, but that the Government has a freer hand when private rights are not at issue. Accordingly, this premise may not require the presence of a public right at all, but may apply equally to any situation in which private rights are not asserted.

Party consent, in turn, may have the effect of lifting that “private rights” bar, much in the way that waiver lifts the bar imposed by the right to a jury trial. Individuals may dispose of their own private rights freely, without judicial intervention. A party who consents to adjudication of a Stern claim by a bankruptcy court is merely making a conditional surrender of whatever private right he has on the line, contingent on some future event—namely, that
the bankruptcy court rules against him. Indeed, it is on this logic that the law has long encouraged and permitted private settlement of disputes, including through the action of an arbitrator not vested with the judicial power. See ante, at 1 (ALITO, J., concurring in part and concurring in judgment); T. Cooley, Constitutional Limitations 399 (1868). Perhaps for this reason, decisions discussing the relationship between private rights and the judicial power have emphasized the “involuntary divestiture” of a private right. Newland v. Marsh, 19 Ill. 376, 382–383 (1857) (emphasis added).

But all of this does not necessarily mean that the majority has wound up in the right place by the wrong path. Even if consent could lift the private-rights barrier to non-judicial Government action, it would not necessarily follow that consent removes the Stern adjudication from the core of the judicial power. There may be other aspects of the adjudication that demand the exercise of the judicial power, such as entry of a final judgment enforceable without any further action by an Article III court. We have recognized that judgments entered by Article III courts bear unique qualities that spring from the exercise of the judicial power, Plaut v. Spendthrift Farm, Inc., 514 U. S. 211, 218–219 (1995), and it may be that the entry of a final judgment bearing these qualities—irrespective of the subject matter of the dispute—is a quintessential judicial function. See ante, at 16–17 (ROBERTS, C. J., dissenting). See generally Northern Pipeline, supra, at 85–86, and n. 38 (plurality opinion) (distinguishing the agency orders at issue in Crowell from bankruptcy court orders on this ground). As Thomas Cooley explained in his influential treatise, “If the judges should sit to hear . . . controversies [beyond their cognizance], they would not sit as a court; at the most they would be arbitrators only, and their . . . decision could not be binding as a judgment, but only as
an award.” Cooley, supra, at 399.6

Ultimately, this case implicates difficult questions about the nature of bankruptcy procedure, judicial power, and remedies. In particular, if we were to determine that current practice accords bankruptcy court judgments a feature that demands the exercise of the judicial power, would that mean that all bankruptcy judgments resolving Stern claims are void, or only that courts may not give effect to that single feature that triggers Article III? The parties have briefed none of these issues, so I do not resolve them. But the number and magnitude of these important questions—questions implicated by thousands of bankruptcy and magistrate judge decisions each year—merit closer attention than the majority has given them.

6Numerous 19th-century State Supreme Courts held unconstitutional laws authorizing individuals to consent to have their cases heard by an individual not qualified as a judge under provisions of State Constitutions similar to Article III, §1. See, e.g., Winchester v. Ayres, 4 Iowa 104 (1853); Haverly Invincible Mining Co. v. Howcutt, 6 Colo. 574, 575–576 (1883); Ex parte Alabama State Bar Assn., 92 Ala. 113, 8 So. 768 (1891); see also Cooley, Constitutional Limitations, at 399. Acknowledging the similarity between the practices under review and the legitimate practice of private arbitration, many of these decisions premised their finding of unconstitutionality on the issuance of a judgment or other writ that only judges may issue. See, e.g., Bishop v. Nelson, 83 Ill. 601 (1876) (per curiam) (“This was not an arbitration . . . but it was an attempt to confer upon [Mr. Wood] the power of a judge, to decide the pending case, and he did decide it, the court carrying out his decision by entering the judgment he had reached, and not [its] own judgment”); Van Slyke v. Trempealeau Cty. Farmers’ Mut. Fire Ins. Co., 39 Wis. 390, 393 (1876) (“We cannot look into the bill of exceptions or consider the order denying a new trial, because both are unofficial and devoid of judicial authority”); see also id., at 395–396 (tracing this rule back to English understandings of judicial power). These decisions treat the rule as a corollary to the rule that parties may not, by consent, confer jurisdiction. See, e.g., Higby v. Ayres, 14 Kan. 331, 334 (1875); Hoagland v. Creed, 81 Ill. 506, 507–508 (1876); see also Cooley, supra, at 399.
THOMAS, J., dissenting

B

Even assuming we were to decide that adjudication of Stern claims with the consent of the parties does not require the exercise of the judicial power, that decision would not end the constitutional inquiry. As instrumentailities of the Federal Government, the bankruptcy courts must act pursuant to some constitutional grant of authority. Even if the functions bankruptcy courts perform do not require an exercise of legislative, executive, or judicial power, we would need to identify the source of Congress’ authority to establish them and to authorize them to act.

The historical carve-outs for territorial courts and courts-martial might provide some guidance. The Court has anchored Congress’ authority to create territorial courts in “the general right of sovereignty which exists in the government, or in virtue of that clause which enables Congress to make all needful rules and regulations, respecting the territory belonging to the United States.” Canter, 1 Pet., at 546. And it has anchored Congress’ authority to create courts-martial in Congress’ Article I powers concerning the Army and Navy, understood alongside the Sixth Amendment’s exception of “‘cases arising in the land or naval forces,’” from the grand jury requirement, and Article II’s requirement that the President serve as commander in chief. Dynes, 20 How., at 78–79.

Although our cases examining the constitutionality of statutes allocating the power to the bankruptcy courts have not considered the source of Congress’ authority to establish them, the obvious textual basis is the fourth clause of Article I, §8, which empowers Congress to “establish ... uniform Laws on the subject of Bankruptcies throughout the United States.”\(^7\) But as with the other two

\(^7\)In Northern Pipeline, the plurality rejected the argument that “Congress’ constitutional authority to establish ‘uniform Laws on the subject of Bankruptcies throughout the United States’ carries with it an
historical carve-outs, Congress’ power to establish tribunals within that grant is informed by historical understandings of the bankruptcy power.\(^8\) We have suggested that, under this historical understanding, Congress has the power to establish bankruptcy courts that exercise jurisdiction akin to that of bankruptcy commissioners in England, subject to review traditionally had in England. \textit{Ante}, at 3–4 (ROBERTS, C. J., dissenting). Although \textit{Stern} claims, by definition, lie outside those historical boundaries, a historical practice of allowing broader adjudication by bankruptcy commissioners acting with the consent of the parties could alter the analysis. The parties once again do not brief these questions, but they merit closer attention by this Court.

* * *

Whether parties may consent to bankruptcy court adjudication of \textit{Stern} claims is a difficult constitutional question. It turns on issues that are not adequately considered by the Court or briefed by the parties. And it cannot—and should not—be resolved through a cursory reading of \textit{Schor}, which itself is hardly a model of careful constitutional interpretation. For these reasons, I would resolve

\(^8\)I would be wary of concluding that every grant of lawmaking authority to Congress includes the power to establish “legislative courts” as part of its legislative scheme. Some have suggested that Congress’ authority to establish tribunals pursuant to substantive grants of authority is informed and limited by its Article I power to “constitute Tribunals inferior to the supreme Court,” U. S. Const., Art. I, §8 cl. 9. See Pfander, 118 Harv. L. Rev., at 671–697.
the case on the narrow grounds set forth in Part I of THE CHIEF JUSTICE’s opinion. I respectfully dissent.
11 U.S.C. §101—Definition of Debt
Relief Agency

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
DEFINITION OF DEBT RELIEF AGENCY

11 U.S.C. §101

(12A) The term "debt relief agency" means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include - (A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer; (B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; (C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor; (D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or (E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.
11 U.S.C. §526—Restrictions on Debt Relief Agencies

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
11 U.S.C. §526 - RESTRICTIONS ON DEBT RELIEF AGENCIES

(a) A debt relief agency shall not—
  1. (1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;
  (2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;
  (3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—
    (A) the services that such agency will provide to such person; or
    (B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or
  (4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer a fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

(c)
  (1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.
  (2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys’ fees and costs if such agency is found, after notice and a hearing, to have—
    (A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;
    (B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency’s intentional or negligent failure to file any required document including those specified in section 521; or
    (C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.
  (3) In addition to such other remedies as are provided under State law, whenever the
chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys’ fees as determined by the court.

(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

(A) enjoin the violation of such section; or

(B) impose an appropriate civil penalty against such person.

(d) No provision of this section, section 527, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

(2) be deemed to limit or curtail the authority or ability—

(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.
11 U.S.C. §528—Requirements for Debt Relief Agencies

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
(a) A debt relief agency shall -

(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously

(A) the services such agency will provide to such assisted person; and

(B) the fees or charges for such services, and the terms of payment;

(2) provide the assisted person with a copy of the fully executed and completed contract;

(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

(4) clearly and conspicuously use the following statement in such advertisement: "We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code." or a substantially similar statement.

(b)

(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes

(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

(B) statements such as "federally supervised repayment plan" or "Federal debt restructuring help" or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall

(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

(B) include the following statement: "We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code." or a substantially similar statement.
Initial Consultation Agreement and Required Notices—Elkington Shepherd

Sally J. Elkington

Elkington Shepherd LLP
INITIAL CONSULTATION AGREEMENT AND REQUIRED NOTICES (Revised 10-25-11)

Please Note: These documents and disclosures are required by legislation adopted by Congress in 2005, after intense lobbying by the credit industry. In my opinion, they are designed to scare and intimidate good people who have had bad things happen to them, and need debt relief. These Notices are based on the false assumption that all people who consider bankruptcy relief are dishonest. Please rest assured—so long as you are honest and meet the requirements set out under the law, you are entitled to debt relief. I can guide you through all the requirements of filing for bankruptcy, so long as you provide me accurate and complete information.

Today, I had an initial consultation with Sally J. Elkington (the “Attorney”) from the Elkington Law Office. I was advised that the Elkington Law Office is a debt relief agency as defined in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), and that it helps people file for relief under the bankruptcy code.

There is no charge for the initial consultation. The Attorney provides the following services at the initial consultation:

- A description of the relief available, the benefits and the risks of filing for bankruptcy under sections 7, 11, 12 and 13 of the Bankruptcy Code.

- An analysis, based on the information and documents provided by me, if any, of my income, expenses, assets and liabilities. This analysis is only preliminary, since the Attorney does not have all of the information and documents that will be required to fully evaluate my situation.

- If it has appeared from this analysis that bankruptcy may be an appropriate remedy for me, a discussion of the information and documents I will need to provide the Attorney. If it has appeared from today’s analysis that bankruptcy may not be an appropriate remedy for me, a discussion of other possible alternatives.

I have been informed and agree that the Attorney will not provide any services or bankruptcy assistance to me at this time, but I may hire the attorney to provide such services under a separate agreement. It is understood that the Attorney will not provide any other legal services to me and will not file bankruptcy for me unless and until an Attorney-Client Agreement is signed by both parties (not this form), the Bankruptcy Questionnaire has been completed, all documents and information requested have been provided, and I have received a certification and budget analysis from an approved credit counseling agency. Should I wish the Attorney to provide additional services, including the filing of bankruptcy, I will sign a separate retainer agreement detailing such services and their cost.
PURPOSES, BENEFITS AND COSTS OF BANKRUPTCY

This discussion is intended only as a brief overview of the types of bankruptcy. You should not decide whether or not to file for bankruptcy relief solely on this information. Bankruptcy law is complex, and there are many considerations that must be taken into account in making the determination whether or not to file. Anyone considering bankruptcy is encouraged to make a decision only after seeking the advice and assistance of an experienced bankruptcy attorney.

To put it bluntly, bankruptcy is a legal way to avoid paying people what you owe them. In many situations bankruptcy may be the only way that you can keep your home from foreclosure, your car from repossession, your possessions from auction and creditors from making your life miserable.

When a person is discharged in bankruptcy, he or she is relieved from liability for most debts incurred before the bankruptcy was filed and protected from future collection of those debts. The purpose of bankruptcy is to give you a “fresh start,” and the bankruptcy code is interpreted by the Courts to give effect to these words.

Types of Bankruptcy

The Bankruptcy Code is divided into chapters. The chapters that usually apply to consumers are Chapter 7, where most or all of your debt is wiped out, and Chapter 13, which involves a repayment plan.

In most cases, once you file your case, the “Automatic Stay” immediately goes into effect. The Automatic Stay means that a bankruptcy filing automatically stops, or stays, and brings to a halt most lawsuits, repossessions, foreclosures, evictions, garnishments, attachments, utility shut-offs, and debt collection harassment. Generally, creditors cannot take any further action against you or your property without permission from the Bankruptcy Court.

Chapter 7. Chapter 7 is designed for people who are having financial difficulties and are not able to re-pay their debts.

Under the changes to the Bankruptcy Code that took effect October 17, 2005, you can usually qualify for a Chapter 7 if your average gross monthly income for the last six months is below your state’s Median Income, your gross income less certain expenses is below your state’s Median Income, or you can show “special circumstances” that would allow you to qualify for Chapter 7. The filing fee for a Chapter 7 is $335.00.

Under Chapter 7, you can usually exempt, or keep, most or all of your assets under California law, or, if you have not lived in California for the past two years, under the state’s exemption law that applies to your case. Most retirement accounts and pensions are also exempt. Secured property, normally your car and house, may not have any net equity, in which case you can keep it as well. The Trustee liquidates most non-exempt property and uses the proceeds to pay your creditors according to priorities of the Bankruptcy Code.

Once your Chapter 7 case is over, you receive a Discharge. The discharge prevents your creditors from taking any steps to try to collect their unsecured debt. They cannot call you, write you, sue you, or take any steps that could be considered an attempt to collect its debt. If you want to keep property that has a lien on it, you must keep your payments current, and may be required to reaffirm your debt. Some debts cannot be discharged. Typical examples are child support, alimony, and other domestic support obligations, some taxes, student loans, criminal restitution, and debts for death or personal injury caused by operating vehicles while intoxicated with alcohol or drugs.

Chapter 13. Chapter 13 is a valuable tool that lets you catch up overdue mortgage or car payments, taxes and domestic support obligations. It also applies where you have the ability to repay some or all of your debts over time. You must have less than $383,175 in unsecured debt (such as credit cards and doctor's bills) and less than $1,149,525 in secured debt (such as mortgages and car loans) to qualify for Chapter 13. The filing fee for a Chapter 13 is $310.

Under Chapter 13, you keep all of your property, both exempt and non-exempt, as long as you resume making your regular payments on secured debt and keep current under the repayment plan that you propose. A repayment plan can
last for up to five years. After finishing your payments, whatever unsecured debt was not included in the plan will be discharged.

Chapter 11. Chapter 11 is designed primarily for business reorganization, but is also available to consumer debtors. Its provisions are quite complex. In the vast majority of cases, Chapter 11 is unnecessary and too expensive for most consumer debtors. The filing fee for Chapter 11 is $1,717.00.

Chapter 12. Chapter 12 lets family farmers repay their debts over a period of time, and is in many ways similar to a Chapter 13. The filing fee for a Chapter 12 is $275.00.

Credit Counseling. Reputable credit counselors can advise you on managing your money and your debts. They may also be able to develop a plan to repay your debts. Unfortunately, many credit counselors are not reputable and charge high fees and contributions that will cause you to fall deeper into debt and damage your credit rating. Furthermore, many misrepresent their non-profit status and/or their affiliations with religious or charitable organizations, and are little more than collection agents for the credit card companies.

Under the changes to the Bankruptcy Code that took effect October 17, 2005, you are required to take two short credit counseling courses, one before you file bankruptcy, and one after you have filed. I will refer you to a reputable credit counselor who has been approved by the United States Trustee Department for these courses. If you file a Chapter 13 bankruptcy and reside in Alameda or Contra Costa County, you will only be required to pay for the pre-filing counseling course. The post-filing course is offered free of charge by the Chapter 13 trustee in that district.

BAPCPA REQUIRED NOTICE NO. 2 (§ 527(a)(2) of the Bankruptcy Code)
NOTICE OF MANDATORY DISCLOSURE TO CONSUMERS WHO CONTEMPLATE FILING BANKRUPTCY

Please Note: These Notices are required by legislation adopted by Congress in 2005, after intense lobbying by the credit industry. In our opinion, these notices are designed to scare and intimidate good people who have had bad things happen to them, and need debt relief. These Notices are based on the false assumption that all people who consider bankruptcy relief are dishonest. Please rest assured—so long as you are honest and meet the requirements set out under the law, you are entitled to debt relief. We can guide you through all the requirements of filing bankruptcy, so long as you provide us accurate and complete information.

1. All information that the assisted person is required to provide with a petition thereafter during a case under this title is required to be complete, accurate and truthful.
2. All assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value.
3. Current monthly income, the amounts specified in section 707(b)(2) and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and
4. Information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

BAPCPA REQUIRED NOTICE NO. 3 (§ 342(b)(2) of the Bankruptcy Code)
FRAUD & CONCEALMENT PROHIBITED

If you decide to file bankruptcy, it is important that you understand the following:

1. Some or all of the information you provide in connection with your bankruptcy will be filed with the bankruptcy court on forms or documents that you will be required to sign and declare as true under penalty of perjury.
2. A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both.
3. All information you provide in connection with your bankruptcy case is subject to examination by the Attorney
BAPCPA REQUIRED NOTICE NO. 4 (§ 527(b) of the Bankruptcy Code)
IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES

Please Note: These Notices are required by legislation adopted by Congress in 2005, after intense lobbying by the credit industry. In our opinion, these notices are designed to scare and intimidate good people who have had bad things happen to them, and need debt relief. These Notices are based on the false assumption that all people who consider bankruptcy relief are dishonest. Please rest assured—so long as you are honest and meet the requirements set out under the law, you are entitled to debt relief. We can guide you through all the requirements of filing bankruptcy, so long as you provide us accurate and complete information.

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine. An attorney can help guide you through this intricate process, making it easier and less stressful for you.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you will be questioned by a court official called a “trustee” and, much more rarely, by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts. It may not be in your best interest to reaffirm a debt.

If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which, if held, will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief. However, please be advised that in most cases, you will only be concerned with chapter 7 and chapter 13.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.
ACKNOWLEDGMENT OF RECEIPT

I acknowledge that I have received from the ELKINGTON LAW office a copy of all of the following documents:

1. Consultation Agreement
2. Notice Mandated By Section 342(b)(1) and 527(a)(1) of the Bankruptcy Code
3. Notice Mandated By Section 527(a)(2) of the Bankruptcy Code
4. Notice Mandated By Section 527(b) of the Bankruptcy Code
5. Notice Mandated By Section 342(b)(2) of the Bankruptcy Code

If my spouse was not present when I received a copy of these notices, I hereby also acknowledge receipt of said notices on behalf of my spouse, and promise to provide my spouse with either a copy of these notices or the opportunity to read and review the copy I received.

Dated: ____________________________

Prospective Client

________________________________

Prospective Co-Client (if present)
Milavetz v. United States of America, No. 08-1119, Brief for the United States, Supreme Court of the United States (2009)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
In the Supreme Court of the United States

MILAVETZ, GALLOP & MILAVETZ, P.A., ET AL.,
petitioners

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES

ELENA KAGAN
Solicitor General
Counsel of Record

TONY WEST
Assistant Attorney General

MARK B. STERN
MARK R. FREEMAN
Attorneys

Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217
QUESTIONS PRESENTED

Section 101(12A) of Title 11 of the United States Code defines the term “debt relief agency” as “any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110,” with five enumerated exceptions. Section 528 of Title 11 requires any “debt relief agency” to include certain disclaimers in any public advertising that promotes specified bankruptcy-related services. The questions presented are as follows:

1. Whether an attorney who provides bankruptcy assistance to an assisted person in return for valuable consideration, and who does not fall within one of the five exceptions, is a “debt relief agency” for purposes of 11 U.S.C. 526-528.

2. Whether 11 U.S.C. 528 violates the First Amendment to the Constitution.
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In the Supreme Court of the United States

No. 08-1119

MILAVETZ, GALLOP & MILAVETZ, P.A., ET AL.,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW


JURISDICTION

The judgment of the court of appeals was entered on September 4, 2008. A petition for rehearing was denied on December 5, 2008 (Pet. App. A89). The petition for a writ of certiorari was filed on March 5, 2009. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).
STATEMENT

This case involves provisions of the Bankruptcy Code that Congress enacted in 2005 to regulate paid bankruptcy advice. One of those provisions, 11 U.S.C. 528, requires that certain professionals who charge consumer debtors for bankruptcy assistance, defined as “debt relief agencies,” give notice to their clients and potential clients about the nature and terms of the services the debt relief agencies provide. Debt relief agencies must include those notices both in contracts with clients and in advertising directed to the general public. Attorneys and others who fall within the statutory definition of “debt relief agency” are also subject to other restrictions on solicitation and representation in bankruptcy matters. The district court concluded both that attorneys cannot be “debt relief agencies” under the statute and that Section 528’s disclaimer requirements violate the First Amendment as applied to attorney advertising. Pet. App. A9-A15. The court of appeals reversed, holding that attorneys may be debt relief agencies and that Section 528 is constitutional. Id. at A32-A39.

measures intended to curb a variety of abusive practices that Congress concluded had come to pervade the bankruptcy system.

After extensive hearings, Congress determined that misleading and abusive practices by bankruptcy professionals, including attorneys, had become a substantial cause of unnecessary bankruptcy petitions. For example, Congress heard evidence that a civil enforcement initiative undertaken by the United States Trustee Program had “consistently identified * * * misconduct by attorneys and other professionals” as among the sources of abuse in the bankruptcy system. House Report 5 (citation omitted). The legislative record documented a recurring problem with “increasingly aggressive lawyer advertising” that offered to make consumers’ debts “disappear,” yet concealed from prospective clients the fact that pursuing debt relief would involve a bankruptcy filing, which has significant consequences for the debtor’s ability to obtain credit in the future. Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, and the Need for Bankruptcy Reform: Hearing on H.R. 975 Before the Subcomm. on Commercial and Administrative Law of the House Comm. on the Judiciary, 108th Cong., 1st Sess. 55 (2003) (statement of Dean Sheaffer, National Retail Federation); see, e.g., Bankruptcy Reform Act of 1999: Hearing on H.R. 833 Before the Subcomm. on Commercial and Administrative Law of the House Comm. on the Judiciary, 106th Cong., 1st Sess. Pt. II, at 123 (1999).

The BAPCPA added or strengthened several restrictions on bankruptcy professionals’ conduct. Those restrictions are intended to protect the clients and prospective clients of bankruptcy professionals, the creditors of clients who do enter bankruptcy, and the bank-
An "assisted person" is "any person whose debts consist primarily of consumer debts" and whose nonexempt property is worth less than a specified, inflation-adjusted amount, currently $164,250. 11 U.S.C. 101(3); see 11 U.S.C. 104(a); 72 Fed. Reg. 7082 (2007).

Sections 526, 527, and 528 all include restrictions on a broad class of bankruptcy professionals, collectively termed “debt relief agencies.” 11 U.S.C. 101(12A); see 11 U.S.C. 526, 527, 528. The term “debt relief agency” is defined to include “any person who provides any bankruptcy assistance to an assisted person,” i.e., a consumer debtor, for valuable consideration. 11 U.S.C. 101(12A). The term also includes any “bankruptcy petition preparer under” 11 U.S.C. 110. The Bankruptcy Code establishes five exceptions (none relevant here) to the definition of “debt relief agency,” for in-house preparers, tax-exempt nonprofits, creditors, banks, and copyright owners. 11 U.S.C. 101(12A)(A)-(E). The term “bankruptcy assistance,” on which the definition of “debt relief agency” relies, is defined in turn to include providing an “assisted person” with advice, counsel (including “legal representation”), or document preparation or filing assistance “with respect to a case or proceeding under” the Bankruptcy Code. 11 U.S.C. 101(4A).

Section 528 includes several disclosure requirements that apply when a debt relief agency advertises its services to the general public. First, advertisements that

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1 An “assisted person” is “any person whose debts consist primarily of consumer debts” and whose nonexempt property is worth less than a specified, inflation-adjusted amount, currently $164,250. 11 U.S.C. 101(3); see 11 U.S.C. 104(a); 72 Fed. Reg. 7082 (2007).
promote either “bankruptcy assistance services” or “the benefits of bankruptcy” must make clear that the services or benefits “are with respect to bankruptcy relief under [the Bankruptcy Code].” 11 U.S.C. 528(a)(3); see 11 U.S.C. 528(b)(1) (defining what advertisements are covered). Second, advertisements that promote “assistance with respect to” certain consumer debt or credit problems must disclose that the assistance “may involve” filing for bankruptcy relief. 11 U.S.C. 528(b)(2)(A). Third, advertisements in either of the aforementioned two categories must also include either a specified disclaimer—“We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.”—“or a substantially similar statement.” 11 U.S.C. 528(a)(4) and (b)(2)(B). 2

Section 528 is enforceable in two principal ways. First, any contract with an assisted person that does not comply with the disclosure requirement is void. 11 U.S.C. 526(c)(1). Second, if a debt relief agency intentionally or negligently fails to comply with Section 528, an assisted person may bring a civil action to recover his own “actual damages,” as well as any fees already paid. 11 U.S.C. 526(c)(2).

2. Petitioners are a law firm that advises debtors, two of the firm’s attorneys, and two prospective clients. Pet. App. A18-A19. 3 They filed this action against the

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2 Section 528 also requires disclosure to a client once a debt relief agency begins to provide “bankruptcy assistance services” to any “assisted person.” The debt relief agency must execute a written contract with the client that explains what services the debt relief agency will provide and what fees the client will have to pay. 11 U.S.C. 528(a)(1) and (2).

3 The district court denied the prospective clients leave to proceed pseudonymously, Pet. App. A3-A4, and they disclosed their identities
United States, seeking a declaratory judgment that the attorney petitioners are not obligated to comply with several of the BAPCPA's provisions regulating debt relief agencies’ professional conduct, including the disclaimer requirements in Section 528(a)(4) and (b)(2). Petitioners contended that licensed attorneys are not “debt relief agencies” within the meaning of the statute. They also claimed that, to the extent the statute encompasses licensed attorneys, Section 528's disclaimer requirements and other provisions of the BAPCPA violate the First Amendment. Id. at A19.


The court first held that Subsections (a)(4) and (b)(2) violate the First Amendment “[a]s applied to attorneys.” Pet. App. A13. The court concluded that those provisions regulate truthful commercial speech, not deceptive advertising, and therefore are subject to intermediate scrutiny. Id. at A10 (citing Central Hudson Gas & Elec. Corp. v. Public Serv. Comm’n, 447 U.S. 557, 566 (1980)). The court held that the disclaimer requirements cannot satisfy that test because they are not “narrowly drawn.” Id. at A11. The court also struck down a separate regulation of debt relief agencies, 11 U.S.C. 526(a)(4), on different First Amendment grounds. Id. at A5-A9.

The court then held, apparently in the alternative, that attorneys are categorically excluded from the definition of “debt relief agency” and therefore not covered by Sections 526-528. Pet. App. A13-A15. The court acknowledged the government’s argument that a “debt
relief agency” is defined as a provider of “bankruptcy assistance,” and that the term “bankruptcy assistance” is defined to include providing “counsel” or “legal representation.” *Id.* at A13-A14 (quoting 11 U.S.C. 101(4A) and (12A)). “At first glance,” the court observed, “this language might include attorneys.” *Id.* at A14. But the court relied on another provision of the Bankruptcy Code to reach a contrary conclusion. Section 526(d)(2)(A) provides that nothing in Sections 526-528 displaces States’ authority to set “qualifications for the practice of law.” The district court concluded that treating attorneys as “debt relief agencies” would “infring[e] on” States’ power to regulate attorneys and thus was precluded by Section 526(d)(2)(A). Pet. App. A14-A15. The court also stated that, because the application of Sections 526-528 to attorneys would violate the First Amendment, the “doctrine of constitutional avoidance” supported a construction of the term “debt relief agency” that did not encompass lawyers. *Id.* at A15.


a. The court of appeals first concluded that attorneys may fall within the definition of “debt relief agency.” The court noted that Congress had specifically defined both “debt relief agency” and several terms used in the definition of “debt relief agency.” Those definitions “sweep[] broadly,” the court concluded, “and clearly cover[] the legal services provided by attorneys to debtors in bankruptcy unless excluded by another provision.” Pet. App. A26. In holding that no such exclusion applied, the court noted that Congress had adopted five specific exceptions to the definition of “debt relief agency,” none of which benefitted petitioners. *Ibid.* The
court of appeals also concluded that constitutional-avoidance considerations could not justify petitioners’ reading of the term “debt relief agency” because that reading was foreclosed by the statute’s plain language. See id. at A25.

b. The court of appeals also rejected petitioners’ constitutional challenge to Section 528’s disclaimer requirements. Pet. App. A32-A39. The court concluded that, because Section 528 regulates potentially misleading commercial advertising, it is subject to rational-basis review rather than to any form of heightened scrutiny. Id. at A36 (citing Zauderer v. Office of Disciplinary Counsel of the Supreme Court, 471 U.S. 626, 651 n.14 (1985)). Under that standard, the court held, Section 528 is a valid regulation that is “directed precisely at the problem targeted by Congress: ensuring that persons who advertise bankruptcy-related services to the general public make clear that their services do in fact involve filing for bankruptcy.” Ibid. The court noted that the required disclaimer consists only of “factually correct statements,” because attorneys subject to the requirement are debt relief agencies as the Code uses that term. Id. at A37. The court of appeals also observed that, because the statute permits the substitution of a “substantially similar” disclaimer, any attorney who does not actually assist with bankruptcy filings can “tailor” the disclosure statement to assuage any concern about its accuracy. Id. at A38 n.12.

c. The court of appeals also held, over Judge Colloton’s dissent, that Section 526(a)(4) violates the First Amendment. Pet. App. A27-A32; see id. at A39-A46 (Colloton, J., concurring in part and dissenting in part). The government filed a petition for rehearing en banc on that issue, which the court of appeals denied by a vote of
The issue has been raised in a number of other cases pending in the courts of appeals. See Connecticut Bar Ass’n v. United States, No. 08-4797 (2d Cir.) (argument not yet scheduled); see also Olsen v. Holder, No. 07-35616 (9th Cir.) (argument not yet scheduled) (issue raised by amicus curiae); Zelotes v. Adams, No. 07-1853 (2d Cir. argued Oct. 10, 2008) (issue raised by amici curiae).

DISCUSSION

1. Petitioners seek review of the question whether an attorney can be a “debt relief agency” under Section 101(12A). Because there is no circuit conflict on that issue, plenary review is not warranted. Although the constitutional-avoidance considerations on which petitioners rely could have some relevance to the issue raised in the government’s certiorari petition, which seeks review of a different aspect of the court of appeals’ decision, the Court can properly consider the definition of “debt relief agency” in that case without separately granting review in this case.

a. The decision below was the first appellate ruling to construe the BAPCPA term “debt relief agency.” The Fifth Circuit subsequently agreed with the decision below and held that attorneys are encompassed by that term under the applicable statutory definition. Hersh v. United States ex rel. Mukasey, 553 F.3d 743, 749-752 (2008), petition for cert. pending, No. 08-1174 (filed Mar. 18, 2009). No court of appeals has held to the contrary.4

Invoking decisions of district courts and bankruptcy courts (Pet. 9-12), petitioners contend that the lower courts are “divided” on the question whether attorneys can qualify as debt relief agencies. Pet. 9 (capitalization

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4 The issue has been raised in a number of other cases pending in the courts of appeals. See Connecticut Bar Ass’n v. United States, No. 08-4797 (2d Cir.) (argument not yet scheduled); see also Olsen v. Holder, No. 07-35616 (9th Cir.) (argument not yet scheduled) (issue raised by amicus curiae); Zelotes v. Adams, No. 07-1853 (2d Cir. argued Oct. 10, 2008) (issue raised by amici curiae).
and boldface omitted). But of the decisions petitioners cite that address the issue, all reject their position, except for a single opinion of the Bankruptcy Court for the Southern District of Georgia, In re Attorneys at Law & Debt Relief Agencies, 332 B.R. 66 (2005). One bankruptcy court’s outlier interpretation is an inadequate basis to justify review by this Court.

b. The court of appeals correctly interpreted the BAPCPA term “debt relief agency.” Because the statute defines the term, petitioners’ attempts to parse the three-word term instead of its explicit and detailed definition (Pet. 13-15) are unavailing. “Statutory definitions control the meaning of statutory words . . . in the usual case.” Burgess v. United States, 128 S. Ct. 1572, 1577 (2008) (quoting Lawson v. Suwannee Fruit & S.S. Co., 336 U.S. 198, 201 (1949)). Under the plain terms of the BAPCPA definition, a person who provides specified services to specified recipients for specified consideration is a “debt relief agency,” regardless of his professional credentials.

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5 One decision concerns only pro bono legal representation, which is not bankruptcy assistance rendered for valuable consideration and thus not restricted by Sections 526, 527, or 528. In re Reyes, No. 07-CV-20689, 2007 WL 6082567, at *6-*7 (S.D. Fla. Dec. 19, 2007), aff’g in part and rev’g in part 361 B.R. 276 (Bankr. S.D. Fla. 2007).

6 The bankruptcy court issued that ruling sua sponte on the day the BAPCPA took effect and outside the context of any pending case. The United States Trustee sought to appeal the ruling, but the district court concluded that the Trustee could not appeal until the statute was interpreted in an actual case or proceeding. See In re Attorneys at Law & Debt Relief Agencies, 353 B.R. 318, 320, 322-323 (S.D. Ga. 2006). Thus, even in that district court, the issue remains open if the United States Trustee or a state law enforcement official seeks to enforce a professional-conduct restriction against an attorney in the future, see 11 U.S.C. 526(c)(3), (4) and (5).
In addition, although the BAPCPA definition of "debt relief agency" does not incorporate the separately defined term "attorney," 11 U.S.C. 101(4), the statute expressly recognizes that an individual can become a "debt relief agency" by providing legal representation. A person may become a debt relief agency by providing "bankruptcy assistance," 11 U.S.C. 101(12A), and the term "bankruptcy assistance" includes both "providing legal representation with respect to a case or proceeding under [the Bankruptcy Code] and "appearing in a case or proceeding on behalf of another," 11 U.S.C. 101(4A) (emphases added). Thus, the statute contemplates that providers of legal services will be debt relief agencies if the legal representation concerns a bankruptcy proceeding, the client is a consumer debtor, and the work is performed for a fee.\(^7\)

Finally, Section 101(12A) exempts five distinct categories of persons from the definition of "debt relief agency." That Congress carefully assembled this list of exceptions without making an exception for attorneys is further reason not to infer such an exception. Pet. App. A26; Hersh, 553 F.3d at 751.


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\(^7\) Petitioners contend (Pet. 16-17) that excluding only unpaid representation is "illogical," and that all legal representation should therefore be excluded from the definition. Congress plainly chose to exempt donated services from the rules that apply to compensated services, and that decision is neither illogical nor unprecedented. In any event, petitioners’ solution would not cure the perceived problem: work by non-attorney professionals would still be exempt if performed for free, but covered if performed for pay. See 11 U.S.C. 101(12A); see also 11 U.S.C. 110(a)(1) (defining the term “bankruptcy petition preparer” to mean “a person * * * who prepares for compensation a document for filing”) (emphasis added).
that Sections 526, 527, and 528 shall not “be deemed to limit or curtail the authority or ability * * * of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State.” But Section 526(d)(2)(A) pertains only to qualifications for the practice of law, such as requirements for admission to the bar. The companion provision illustrates as much. See 11 U.S.C. 526(d)(2)(B) (recognizing that each federal court has similar authority to “to determine and enforce the qualifications for the practice of law before that court”). Nothing in Section 526(d)(2) disavows a federal role in regulating the conduct of bankruptcy professionals practicing in federal bankruptcy court. To the extent that state law is consistent with the federal rule, the two complement each other.8 “[T]o the extent that [state] law is inconsistent with [Sections 526, 527, and 528],” however, federal law expressly provides that the state law is preempted. 11 U.S.C. 526(d)(1).

c. Petitioners contend that the doctrine of constitutional avoidance requires that the term “debt relief agency” be construed not to apply to attorneys. Although petitioners are correct that a reasonable interpretation of a federal statute that avoids a substantial constitutional question is to be preferred (Pet. 21), that undisputed principle provides no sound basis for granting review in this case.

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8 Indeed, some of the conduct covered by Section 526 is also prohibited by state law, although Section 526 provides valuable new federal means of enforcing those rules and deterring violations. Compare, e.g., 11 U.S.C. 526(a)(4), with Attorney Grievance Comm’n v. Culver, 849 A.2d 423, 443-444 (Md. 2004) (disciplining an attorney for advising and assisting a client to load up on debt before declaring bankruptcy).
The government has filed its own petition for a writ of certiorari seeking review of the court of appeals’ invalidation of Section 526(a)(4). That provision restricts debt relief agencies from advising clients to take on more debt “in contemplation of [bankruptcy].” The government’s petition contends that the term “in contemplation of [bankruptcy]” should be construed with due regard for the principle of constitutional avoidance and that, so construed, Section 526(a)(4) is not unconstitutionally overbroad. The courts of appeals have divided on those related questions, and the government’s petition explains why those issues warrant this Court’s review.

By contrast, the avoidance doctrine does not counsel in favor of petitioners’ purported narrowing construction of the term “debt relief agency.” First, the text of Section 101(12A) will not bear that interpretation. See, e.g., Department of HUD v. Rucker, 535 U.S. 125, 134-135 (2002) (avoidance doctrine does not apply where the statute unambiguously forecloses the proffered saving construction). Second, while the debate over the constitutionality of Section 526(a)(4) may justify reading that provision narrowly (as the government has argued), petitioners’ narrowing construction would necessarily also narrow numerous other provisions that depend on the definition of “debt relief agency” and that are indisputably constitutional, even as applied to attorneys. See, e.g., 11 U.S.C. 526(a)(1) (debt relief agencies may not fail to perform services they promised to undertake); 11 U.S.C. 527(a)(2) (debt relief agencies must provide their clients with certain admonitions about the requirements of the bankruptcy process).

Third, and most significantly, petitioners’ proposed narrowing construction would not actually solve the
problem that the court of appeals identified in Section 526(a)(4). To be sure, accepting that construction would moot petitioners’ constitutional challenge to that provision, because the statute would no longer apply to petitioners (nor would any other provision in Sections 526, 527, and 528). But non-attorneys who fall within the statutory definition of “debt relief agency” could still bring the same First Amendment challenges to Section 526(a)(4) that petitioners have pursued in this litigation. And although the court of appeals stated only that it was invalidating Section 526(a)(4) “as applied to attorneys,” Pet. App. A32, nothing in its reasoning suggests that it would reach a different conclusion if an identical challenge were brought by a non-attorney debt relief agency, such as a bankruptcy petition preparer.\footnote{Petitioners appeared to argue below that attorney speech enjoys special First Amendment status, see Pet. C.A. Br. 28-29, 38-39 (citing Legal Servs. Corp. v. Velasquez, 531 U.S. 533 (2001)), but the court of appeals did not adopt that rationale.}

Accordingly, the question whether an attorney may be a BAPCPA “debt relief agency” does not warrant review in its own right. Nonetheless, if the Court grants the government’s petition in No. 08-1225, and if (despite the defects noted above) petitioners wish to urge their construction of the term “debt relief agency” as an alternative ground for defending the court of appeals’ determination that Section 526(a)(4) cannot be applied to their own conduct, they can do so. The Court need not grant the petition in this case to give petitioners that opportunity. See, e.g., Rumsfeld v. FAIR, 547 U.S. 47, 56 (2006) (“[G]ranting certiorari to determine whether a statute is constitutional fairly includes the question of what that statute says.”). For that reason, it is appropriate to hold the petition in this case if the govern-
ment’s petition is granted. But because so many constitutionally unproblematic statutory restrictions depend on the definition of “debt relief agency,” and because the lower courts have reached consistent interpretations of that term, this Court should not reach out to construe it unnecessarily by granting plenary review here.

2. The court of appeals’ decision upholding Section 528 against petitioners’ First Amendment challenge is correct and does not conflict with any decision of another court of appeals. Further review is not warranted.

a. The decision of the court of appeals does not implicate any circuit conflict. The Fifth Circuit in *Hersh* considered a similar challenge to the disclosure requirements of 11 U.S.C. 527(b), which it determined was “essentially parallel” to petitioners’ challenge to the disclosure requirements of Section 528. 553 F.3d at 768. The Fifth Circuit agreed with the Eighth Circuit’s analysis in this case, *ibid.*, and held that the BAPCPA’s disclosure requirements are supported by sufficiently weighty governmental interests in “ensuring that those who enter bankruptcy know what it entails.” *Id.* at 766. No court of appeals has reached a contrary conclusion. In the absence of a circuit conflict on this challenge to a four-year-old statute, further review is not warranted.

b. The court of appeals’ decision was a straightforward application of this Court’s decision in *Zauderer v.*

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10 Petitioner also suggests (Pet. ii, 9) that the statute violates the Due Process Clause of the Fifth Amendment. That contention was not pressed in or passed on by the court of appeals, see Pet. C.A. Br. 19, 41-50, and is not properly presented here.

11 The issue is currently pending before the Second and Ninth Circuits. See *Connecticut Bar Ass’n v. United States*, *supra*; *Olsen v. Holder*, *supra*.
Office of Disciplinary Counsel of the Supreme Court, 471 U.S. 626 (1985). In Zauderer, this Court held that disclosure requirements in professional advertising need only be “reasonably related to the State’s interest in preventing deception of consumers.” Id. at 651; accord id. at 656 (Brennan, J., concurring in part, concurring in the judgment in part, and dissenting in part) (agreeing, “[w]ith some qualifications,” that “a State may impose commercial-advertising disclosure requirements” that satisfy that reasonable-relationship standard); see also Florida Bar v. Went for It, Inc., 515 U.S. 618, 634-635 (1995) (the First Amendment requires only “limit[ed] * * * scrutiny” of regulations on “pure commercial advertising” by lawyers). The court of appeals here, like the Fifth Circuit in Hersh, concluded that the BAPCPA’s disclosure requirements meet that reasonable-relationship standard. That context-specific conclusion does not warrant further review.

Citing another portion of Zauderer, petitioners contend (Pet. 24-25), that the correct standard of review is the intermediate-scrutiny framework set out in Central Hudson Gas & Electric Corp. v. Public Service Commission, 447 U.S. 557 (1980). But the portion of Zauderer that petitioners discuss involved actual restrictions on the content of advertising. See 471 U.S. at 632-633, 639. The aspect of Zauderer that is controlling here, on which the court of appeals correctly relied, is the discussion of disclosure requirements. See id. at 650-653. In that section of its opinion, this Court explained that there are “material differences between disclosure requirements and outright prohibitions on speech,” and it rejected the attorney advertiser’s contention that First Amendment challenges to those two different forms of regulation entailed “precisely the same inquiry.” Id. at
as the court of appeals explained, at least one court has concluded that section 528 would pass muster even under the more searching Central Hudson standard. Pet. App. A37 n.11 (citing Olsen v. Gonzales, 350 B.R. 906, 920 (D. Or. 2006), appeal pending, No. 07-35616 (9th Cir. filed July 24, 2007)). Thus, even if Zauderer left the applicable standard of scrutiny unsettled, petitioners might not prevail in their challenge even under their preferred standard. In particular, the disclosure requirement at issue here “targets a concrete, nonspeculative harm.” Went for It, 515 U.S. at 629.

Petitioners do not dispute the existence of the problem that Congress addressed in Section 528, i.e., misleading lawyer advertising that touts debt relief without making clear that a bankruptcy filing would be involved. See p. 3, supra (summarizing the legislative record). Rather, petitioners contend only (Pet. 27) that Congress lacks a valid interest in regulating that problem because it should be left to the States and the courts. That contention lacks merit. Bankruptcy is a subject of particular federal concern, see U.S. Const. Art. I, § 8, Cl. 4, and Congress has the power to address attorney misconduct that specifically affects the bankruptcy area. Section 528 responds to the valid concern over misleading attorney advertising in the bankruptcy context, and the court

As the court of appeals explained, at least one court has concluded that Section 528 would pass muster even under the more searching Central Hudson standard. Pet. App. A37 n.11 (citing Olsen v. Gonzales, 350 B.R. 906, 920 (D. Or. 2006), appeal pending, No. 07-35616 (9th Cir. filed July 24, 2007)). Thus, even if Zauderer left the applicable standard of scrutiny unsettled, petitioners might not prevail in their challenge even under their preferred standard. In particular, the disclosure requirement at issue here “targets a concrete, nonspeculative harm.” Went for It, 515 U.S. at 629.
of appeals correctly concluded that it satisfies the reasonable-relationship standard set out in *Zauderer*.

Petitioners also assert (Pet. 27-30) that the disclaimer requirements cover too many advertisements and that the disclaimers will themselves be misleading. Petitioners misread the statute in both respects. The disclaimer requirements apply only to advertising that is "directed to the general public," 11 U.S.C. 528(a)(3) and (b)(2), and that actually promotes defined forms of bankruptcy assistance or debt relief, 11 U.S.C. 528(b)(1) and (2). Petitioners' hypotheticals (Pet. 28-29 & n.4) focus on whether an attorney *provides* bankruptcy assistance and so may be a debt relief agency; the relevant question is whether the attorney also *advertises* bankruptcy assistance services and so must include disclaimers in those advertisements (but not others). As for petitioners' contentions that using the statutory term "debt relief agency" in the disclaimer will be confusing, petitioners are "free to expand upon and clarify for [their] clients" the "generalizations" made by the statute," *Hersh*, 553 F.3d at 767, such as by making clear that they are attorneys (unlike some other debt relief agencies). Pet. App. A37. They may even modify the disclaimers as they see fit, so long as their disclaimers are "substantially similar" to the model disclaimer set forth in the statute. 11 U.S.C. 528(a)(4) and (b)(2)(B); see Pet. App. A38 n.12.

Accordingly, none of petitioners’ generalized complaints about Section 528’s scope or burden provides any basis for further review.
CONCLUSION

With respect to the first question presented, the Court should hold the petition for a writ of certiorari in this case pending its disposition of the petition for a writ of certiorari in United States v. Milavetz, Gallop & Milavetz, P.A., No. 08-1225 (filed Apr. 3, 2008), and then dispose of this case accordingly. In all other respects, the petition for a writ of certiorari should be denied.

Respectfully submitted.

ELENA KAGAN
Solicitor General

TONY WEST
Assistant Attorney General

MARK B. STERN
MARK R. FREEMAN
Attorneys

MAY 2009
11

11 U.S.C. §527—Disclosures

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
11 U.S.C. §527 - DISCLOSURES

(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

(1) the written notice required under section 342 (b)(1); and

(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

(C) current monthly income, the amounts specified in section 707 (b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707 (b)(2)), are required to be stated after reasonable inquiry; and

(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

“IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

“If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

“The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.
“Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules, and Statement of Financial Affairs, and in some cases a Statement of Intention, need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ‘trustee’ and by creditors.

“If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

“If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

“If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

“Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.”.

(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707 (b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707 (b)(2) and related calculations;

(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.
Hypothetical: The Debtors, Penelope and Richard Denton (Penny and Rich)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
2018 PLI Hypothetical

The Debtors, Penelope and Richard Denton (“Penny and Rich”)

A. Homeowners

a. Have a house in Oakland, CA that they have owned since 2005 but they have only lived in it for 6 weeks. They moved back to CA from Kansas, where they lived with their daughter for past 5 years. Before they moved back in, they were renting out the house to their nephew who was just paying the mortgage for them. They didn’t make any money from it.

b. The Debtors are very afraid of losing their house!

c. The house next door just sold for $460,000, but their house isn’t as nice. The fence is falling over. The paint, the yard... Upon further questioning, there is nothing really wrong with the house, the neighbor just gardens better and the house was staged with nice furniture, the bad fence is on the side shared with the house that sold, etc.

d. They have a mortgage with Wells Fargo that has a balance of $300,000.

e. They got sued a while back based on a dental bill for serious dental work for Wife that their insurance didn’t cover. But there is a judgment lien recorded on their home. It got recorded in the County Records about 60 days ago.

f. They also own a Timeshare! They love it. They haven’t been in the last 3 years because they can’t afford to fly to Florida, especially now that they live in California, and they are only a little behind on the maintenance fees.

B. Other assets

a. Wife wears a diamond ring and several other rings. They were inherited. She doesn’t know the value, but the one ring is her grandmother’s wedding band and she couldn’t bear to lose it.

b. Husband collects golf balls from PGA tours and has a collection of novelty shot glasses.

c. They own a 2015 Chevy Camaro Convertible
d. They cut down to just one car in retirement, so they gave their second car, a Yukon to their daughter when they left Topeka.

e. IRA account for $14,000 that they are old enough to withdraw from and have been regularly to keep things afloat

f. A little cash in the bank accts

i. He receives SSI and pension. Wife has part time job

g. He has health aids for sleep apnea.

h. Crafting supplies worth $150

C. Exemptions:

KS doesn’t allow fed exemptions, only state, but limits state to residents. So fed exemptions are allowed because as non-residents they can’t use state. If they were to file currently, they would have to use fed exemptions. If they wait until 2 years in CA, they can use 704. We can use full $175K if they can show that 6 weeks in house allows homestead, but point out fed cap if they had only owned the home for 6 weeks. With full 175K they can avoid lien.

D. Timing

a. They really want to file quickly because they are stressed out by the phone calls.

E. Debts

a. Possible lawsuit by ex business partner

b. Judgment lien for dental bills

c. Fingerhut

d. All the other older people accounts

e. A personal loan for $2K at 129% interest

f. A car loan on the Camaro—up to date

g. $8K in credit cards that are current

h. Parent plus loan for their daughter in deferment for $55,000.
i. EDD overpayment for $1500

j. Tax debt from 2014 $5000. Haven’t filed 2017 taxes yet. They are on extension.

k. Owe the county for this year’s property tax. $4k

l. Owe for furniture they bought when they moved back in. $1400.

F. Income

a. Wife works P/T doing sales support at a car dealership. Makes $22 per hour.

b. She worked F/T as a saleswoman at a women’s fashion boutique in Palm Springs making $14/hr plus commission of about $850 per month.

c. She also sells mod-podge mason jar candle votives on ETSY. She tries to sell to atty. She has no profit right now, because she spends most of her earnings in online advertising. Her dba is “Penny’s sCents”.

d. Husband was a salesman and then a sales consultant in his partnership before it broke up.

e. He has a Pension for $1750/mo.

f. SSI for $2100/mo. $180 withheld for medical.

e. He is currently looking for work.
Hypothetical—Completed Bankruptcy Forms (Penny and Rich)

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
**Official Form 101**

**Voluntary Petition for Individuals Filing for Bankruptcy**

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

<table>
<thead>
<tr>
<th></th>
<th>About Debtor 1:</th>
<th>About Debtor 2 (Spouse Only in a Joint Case):</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Your full name</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Richard</td>
<td>Penelope</td>
</tr>
<tr>
<td></td>
<td>First name</td>
<td>First name</td>
</tr>
<tr>
<td></td>
<td>Farnsworth</td>
<td>Moonsong</td>
</tr>
<tr>
<td></td>
<td>Middle name</td>
<td>Middle name</td>
</tr>
<tr>
<td></td>
<td>Denton</td>
<td>Denton</td>
</tr>
<tr>
<td></td>
<td>Last name and Suffix (Sr., Jr., II, III)</td>
<td>Last name and Suffix (Sr., Jr., II, III)</td>
</tr>
<tr>
<td>2. All other names you</td>
<td></td>
<td></td>
</tr>
<tr>
<td>have used in the last 8</td>
<td>Rich Denton</td>
<td></td>
</tr>
<tr>
<td>years: Include your</td>
<td></td>
<td></td>
</tr>
<tr>
<td>married or maiden names</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)</td>
<td>xxx-xx-5555</td>
<td>xxx-xx-7777</td>
</tr>
</tbody>
</table>

United States Bankruptcy Court for the: 

NORTHERN DISTRICT OF CALIFORNIA

Case number (if known) 

Chapter you are filing under: 

- [ ] Chapter 7  
- [ ] Chapter 11  
- [ ] Chapter 12  
- [ ] Chapter 13  

[ ] Check if this an amended filing
### About Debtor 1:

- **Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**
  - I have not used any business name or EINs.

- **Employer Identification Numbers (EINs)**
  - EINs

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

- **Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**
  - I have not used any business name or EINs.

- **Employer Identification Numbers (EINs)**
  - EINs

### Where you live

- **1440 Broadway Terrace**
  - Oakland, CA 94609

- **Alameda**

- **County**

- **Number, P.O. Box, Street, City, State & ZIP Code**

- **Number, Street, City, State & ZIP Code**

### Why you are choosing this district to file for bankruptcy

- **Check one:**
  - Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.
  - I have another reason. Explain. (See 28 U.S.C. § 1408.)
Debtor 1: Richard Farnsworth Denton
Debtor 2: Penelope Moonsong Denton
Case number (if known) __________________________

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 2010)). 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 The 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 __________________________
      District __________________________ When __________________________ Case number __________________________
      District __________________________ When __________________________ Case number __________________________

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 __________________________
      Debtor __________________________ Relationship to you __________________________
      District __________________________ When __________________________ Case number, if known __________________________

11. Do you rent your residence?
    - [ ] No. Go to line 12.
    - [ ] Yes. Has your landlord obtained an eviction judgment against you?
      - [ ] No. Go to line 12.
      - [ ] Yes. Fill out Initial Statement About an Eviction Judgment Against You (Form 101A) and file it as part of 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.

See Attachment
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

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?

If immediate attention is needed, why is it needed?

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

Where is the property?

Number, Street, City, State & ZIP Code
**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.

- 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 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.

- 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.
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

18. How many Creditors do you estimate that you owe?

- 1-49
- 50-99
- 100-199
- 200-999

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

- $0 - $50,000
- $50,001 - $100,000
- $100,001 - $500,000
- $500,001 - $1 million
- $1,000,001 - $10 million
- $10,000,001 - $50 million
- $50,000,001 - $100 million
- $100,000,001 - $500 million
- $500,000,001 - $1 billion
- $1,000,000,001 - $10 billion
- $10,000,000,001 - $50 billion
- More than $50 billion

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

- $0 - $50,000
- $50,001 - $100,000
- $100,001 - $500,000
- $500,001 - $1 million
- $1,000,001 - $10 million
- $10,000,001 - $50 million
- $50,000,001 - $100 million
- $100,000,001 - $500 million
- $500,000,001 - $1 billion
- $1,000,000,001 - $10 billion
- $10,000,000,001 - $50 billion
- 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.

/s/ Richard Farnsworth Denton
Signature of Debtor 1

/s/ Penelope Moonsong Denton
Signature of Debtor 2

Richard Farnsworth Denton
Executed on 9/28/2018
MM/DD/YYYY

Penelope Moonsong Denton
Executed on 9/28/2018
MM/DD/YYYY
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.

/s/ Sarah Little Date 9/28/2018

Signature of Attorney for Debtor

Sarah Little 215635

Printed name

Kornfield, Nyberg, Bendes, Kuhner & Little P.C.

Printed name

1970 Broadway, Ste 225
Oakland, CA 94612

Address

510-763-1000 Email address

215635 CA Bar number & State
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

Fill in this information to identify your case:

United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA

Penny's sCents
Name of business, if any
1440 Broadway Terrace
Oakland, CA 94609

Denton & Rover LLP
Name of business, if any
3930 Main Street
Topeka, KS 66601

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

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

<table>
<thead>
<tr>
<th>Your assets</th>
<th>Value of what you own</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Schedule A/B: Property (Official Form 106A/B)</td>
<td></td>
</tr>
<tr>
<td>1a. Copy line 55, Total real estate, from Schedule A/B</td>
<td>$ 450,000.00</td>
</tr>
<tr>
<td>1b. Copy line 62, Total personal property, from Schedule A/B</td>
<td>$ 40,850.00</td>
</tr>
<tr>
<td>1c. Copy line 63, Total of all property on Schedule A/B</td>
<td>$ 490,850.00</td>
</tr>
</tbody>
</table>

Part 2: Summarize Your Liabilities

<table>
<thead>
<tr>
<th>Your liabilities</th>
<th>Amount you owe</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D)</td>
<td></td>
</tr>
<tr>
<td>2a. Copy the total you listed in Column A, Amount of claim, at the bottom of the last page of Part 1 of Schedule D</td>
<td>$ 330,000.00</td>
</tr>
<tr>
<td>3. Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)</td>
<td></td>
</tr>
<tr>
<td>3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of Schedule E/F</td>
<td>$ 5,000.00</td>
</tr>
<tr>
<td>3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of Schedule E/F</td>
<td>$ 70,996.56</td>
</tr>
</tbody>
</table>

Total liabilities $ 405,996.56

Part 3: Summarize Your Income and Expenses

<table>
<thead>
<tr>
<th>Your income</th>
<th>$ 5,400.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Schedule I: Your Income (Official Form 106I)</td>
<td></td>
</tr>
<tr>
<td>Copy your combined monthly income from line 12 of Schedule I</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Your expenses</th>
<th>$ 4,993.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Schedule J: Your Expenses (Official Form 106J)</td>
<td></td>
</tr>
<tr>
<td>Copy your monthly expenses from line 22c of Schedule J</td>
<td></td>
</tr>
</tbody>
</table>

Part 4: Answer These Questions for Administrative and Statistical Records

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.

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 8-9g 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: Copy your total current monthly income from Official Form 122A-1 Line 11; OR, Form 122B Line 11; OR, Form 122C-1 Line 14.

$ 6,976.00

9. Copy the following special categories of claims from Part 4, line 6 of Schedule E/F:

<table>
<thead>
<tr>
<th>From Part 4 on Schedule E/F, copy the following:</th>
<th>Total claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>9a. Domestic support obligations (Copy line 6a.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9b. Taxes and certain other debts you owe the government. (Copy line 6b.)</td>
<td>$ 5,000.00</td>
</tr>
<tr>
<td>9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9d. Student loans. (Copy line 6f.)</td>
<td>$ 55,000.00</td>
</tr>
<tr>
<td>9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)</td>
<td>+$ 0.00</td>
</tr>
</tbody>
</table>

9g. Total. Add lines 9a through 9f.

$ 60,000.00
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 1440 Broadway Terrace
       *Street address, if available, or other description

       Oakland CA 94609-0000
       City State ZIP Code

       Alameda 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 has an interest in 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 Have Claims Secured by Property.

       Current value of entire property: $450,000.00
       Current value of portion you own: $450,000.00

       Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.
       fee simple

       Check if this is community property (see instructions)
If you own or have more than one, list here:

<table>
<thead>
<tr>
<th>1,2</th>
<th>What is the property? Check all that apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orlando, FL</td>
<td>Single-family home</td>
</tr>
<tr>
<td></td>
<td>Duplex or multi-unit building</td>
</tr>
<tr>
<td></td>
<td>Condominium or cooperative</td>
</tr>
<tr>
<td></td>
<td>Manufactured or mobile home</td>
</tr>
<tr>
<td></td>
<td>Land</td>
</tr>
<tr>
<td></td>
<td>Investment property</td>
</tr>
<tr>
<td></td>
<td>Timeshare</td>
</tr>
<tr>
<td></td>
<td>Other</td>
</tr>
</tbody>
</table>

City State ZIP Code

Who has an interest in 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:

UR Timeshare, Inc. 1 week

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. => $450,000.00

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

- Make: Chevrolet
- Model: Camaro
- Year: 2015

Approximate mileage: 82000

Other information:

Who has an interest in 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

- Yes

Current value of the entire property: $16,000.00

Current value of the portion you own? $16,000.00

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

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. => $16,000.00

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?
- Current value of the entire property?

- Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

<table>
<thead>
<tr>
<th></th>
<th>Current value of the entire property</th>
<th>Current value of the portion you own?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

- 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)

Official Form 106A/B Schedule A/B: Property page 2
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6. Household goods and furnishings
   Examples: Major appliances, furniture, linens, china, kitchenware
   ☐ No
   ■ Yes. Describe...

   | Furniture and furnishings, at est. liquidation value | $1,000.00 |

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...

   | cell phones, radios, speakers, ipad | $400.00 |

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...

   | Baseballs, PGA golf balls, novelty shot glasses | $2,500.00 |

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...

   | Golf clubs | $500.00 |

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.....

   | Jewelry at est. liquidation value | $5,000.00 |

13. Non-farm animals
    Examples: Dogs, cats, birds, horses
    ☐ No
    ■ Yes. Describe.....

   | 1 rescue cat, 1 dog, lab, 14 years old | $0.00 |

14. Any other personal and household items you did not already list, including any health aids you did not list
    ☐ No
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

Yes. Give specific information:...

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>cpap machine for sleep apnea</td>
<td>$400.00</td>
</tr>
</tbody>
</table>

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 ................................................................. $9,800.00

Part 4: Describe Your Financial Assets

Do you own or have any legal or equitable interest in any of the following?

<table>
<thead>
<tr>
<th>Description</th>
<th>Current value of the portion you own?</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Cash</td>
<td></td>
</tr>
<tr>
<td>Examples: Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes.</td>
<td></td>
</tr>
<tr>
<td>17. Deposits of money</td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes.</td>
<td></td>
</tr>
<tr>
<td>Institution name:</td>
<td></td>
</tr>
<tr>
<td>17.1. Checking 5643</td>
<td>Wells Fargo</td>
</tr>
<tr>
<td>Institution name:</td>
<td>$370.00</td>
</tr>
<tr>
<td>17.2. Savings</td>
<td>Wells Fargo 4373</td>
</tr>
<tr>
<td>Institution name:</td>
<td>$530.00</td>
</tr>
<tr>
<td>18. Bonds, mutual funds, or publicly traded stocks</td>
<td></td>
</tr>
<tr>
<td>Examples: Bond funds, investment accounts with brokerage firms, money market accounts</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes.</td>
<td></td>
</tr>
<tr>
<td>Institution or issuer name:</td>
<td></td>
</tr>
<tr>
<td>19. Non-publicly traded stock and interests in incorporated and unincorporated businesses, including an interest in an LLC, partnership, and joint venture</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes. Give specific information about them...........................................</td>
<td>% of ownership:</td>
</tr>
<tr>
<td>Name of entity:</td>
<td></td>
</tr>
<tr>
<td>20. Government and corporate bonds and other negotiable and non-negotiable instruments</td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes. Give specific information about them</td>
<td></td>
</tr>
<tr>
<td>Issuer name:</td>
<td></td>
</tr>
<tr>
<td>21. Retirement or pension accounts</td>
<td></td>
</tr>
<tr>
<td>Examples: Interests in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Yes. List each account separately.</td>
<td></td>
</tr>
<tr>
<td>Type of account:</td>
<td>Institution name:</td>
</tr>
<tr>
<td>Pension</td>
<td>Pension through Teamsters local 71</td>
</tr>
<tr>
<td>Institution name:</td>
<td>$0.00</td>
</tr>
<tr>
<td>IRA</td>
<td>IRA through First American</td>
</tr>
<tr>
<td>Institution name:</td>
<td>$14,000.00</td>
</tr>
</tbody>
</table>

Official Form 106A/B Schedule A/B: Property page 4

Software Copyright (c) 1996-2018 Best Case, LLC - www.bestcase.com
Best Case Bankruptcy
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
   No
   Yes. ................. Institution name or individual:

23. Annuities (A contract for a periodic payment of money to you, either for life or for a number of years)
   No
   Yes. ................. Issuer name and description.

24. Interests in an education IRA, in an account in a qualified ABLE program, or under a qualified state tuition program.
   26 U.S.C. §§ 530(b)(1), 529A(b), and 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?

<table>
<thead>
<tr>
<th>Current value of the portion you own?</th>
</tr>
</thead>
</table>

28. Tax refunds owed to you
   No
   Yes. Give specific information about them, including whether you already filed the returns and the tax years.....

29. Family support
   Examples: Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement
   No
   Yes. Give specific information.....

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.

<table>
<thead>
<tr>
<th>Company name:</th>
<th>Beneficiary:</th>
<th>Surrender or refund value:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro Life 54556</td>
<td>Penny Denton</td>
<td>$0.00</td>
</tr>
</tbody>
</table>
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

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..................................................................................................................... $14,900.00

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.

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.

craft supplies used for business, wax, wicks, scents, modge podge

$150.00

Official Form 106A/B Schedule A/B: Property page 6
Software Copyright (c) 1996-2018 Best Case, LLC - www.bestcase.com Best Case Bankruptcy
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton  
Case number (if known)  

42. Interests in partnerships or joint ventures  
■ No  
☐ Yes. Give specific information about them:  
Name of entity:  
% of ownership:  

43. Customer lists, mailing lists, or other compilations  
■ No  
☐ 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: $150.00  

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.  

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: $0.00  

Part 8: List the Totals of Each Part of this Form  
55. Part 1: Total real estate, line 2: $450,000.00  
56. Part 2: Total vehicles, line 5: $16,000.00  
57. Part 3: Total personal and household items, line 15: $9,800.00  
58. Part 4: Total financial assets, line 36: $14,900.00  
59. Part 5: Total business-related property, line 45: $150.00  
60. Part 6: Total farm- and fishing-related property, line 52: $0.00  
61. Part 7: Total other property not listed, line 54: $0.00  
62. Total personal property. Add lines 56 through 61: $40,850.00  
   Copy personal property total: $40,850.00  
63. Total of all property on Schedule A/B. Add line 55 + line 62: $490,850.00
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?
- [ ] You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
- [x] 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.

<table>
<thead>
<tr>
<th>Brief description of the property and line on Schedule A/B that lists this property</th>
<th>Current value of the portion you own</th>
<th>Amount of the exemption you claim</th>
<th>Specific laws that allow exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1440 Broadway Terrace Oakland, CA 94609 Alameda County Line from Schedule A/B: 1.1</td>
<td>$450,000.00</td>
<td>$47,350.00</td>
<td>11 U.S.C. § 522(d)(1) [100% of fair market value, up to any applicable statutory limit]</td>
</tr>
<tr>
<td>2015 Chevrolet Camaro 82000 miles Line from Schedule A/B: 3.1</td>
<td>$16,000.00</td>
<td>$0.00</td>
<td>11 U.S.C. § 522(d)(2) [100% of fair market value, up to any applicable statutory limit]</td>
</tr>
<tr>
<td>Furniture and furnishings, at est. liquidation value Line from Schedule A/B: 6.1</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
<td>11 U.S.C. § 522(d)(3) [100% of fair market value, up to any applicable statutory limit]</td>
</tr>
<tr>
<td>cell phones, radios, speakers, ipad Line from Schedule A/B: 7.1</td>
<td>$400.00</td>
<td>$400.00</td>
<td>11 U.S.C. § 522(d)(3) [100% of fair market value, up to any applicable statutory limit]</td>
</tr>
<tr>
<td>Baseballs, PGA golf balls, novelty shot glasses Line from Schedule A/B: 8.1</td>
<td>$2,500.00</td>
<td>$1,000.00</td>
<td>11 U.S.C. § 522(d)(5) [100% of fair market value, up to any applicable statutory limit]</td>
</tr>
<tr>
<td>Brief description of the property and line on Schedule A/B that lists this property</td>
<td>Current value of the portion you own</td>
<td>Amount of the exemption you claim</td>
<td>Specific laws that allow exemption</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Golf clubs</td>
<td>$500.00</td>
<td>$500.00</td>
<td>11 U.S.C. § 522(d)(6) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>Jewelry at est. liquidation value</td>
<td>$5,000.00</td>
<td>$3,200.00</td>
<td>11 U.S.C. § 522(d)(4) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>Jewelry at est. liquidation value</td>
<td>$5,000.00</td>
<td>$600.00</td>
<td>11 U.S.C. § 522(d)(5) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>cpap machine for sleep apnea</td>
<td>$400.00</td>
<td>$400.00</td>
<td>11 U.S.C. § 522(d)(9) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>checking 5643: Wells Fargo</td>
<td>$370.00</td>
<td>$370.00</td>
<td>11 U.S.C. § 522(d)(5) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>Savings: Wells Fargo 4373</td>
<td>$530.00</td>
<td>$530.00</td>
<td>11 U.S.C. § 522(d)(5) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>Pension: Pension through Teamsters local 71</td>
<td>$0.00</td>
<td>$0.00</td>
<td>11 U.S.C. § 522(d)(12) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>IRA: IRA through First American</td>
<td>$14,000.00</td>
<td>$14,000.00</td>
<td>11 U.S.C. § 522(d)(12) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
<tr>
<td>Metro Life 54556 Term policy, face value $100,000 Beneficiary: Penny Denton</td>
<td>$0.00</td>
<td>100%</td>
<td>11 U.S.C. § 522(d)(7) 100% of fair market value, up to any applicable statutory limit</td>
</tr>
</tbody>
</table>

3. Are you claiming a homestead exemption of more than $160,375? (Subject to adjustment on 4/01/19 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
**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**

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
<th>Column C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of claim</td>
<td>Value of collateral that supports this claim</td>
<td>Unsecured portion of this claim</td>
</tr>
</tbody>
</table>

| 2.1 | Alameda County Tax Collector | $4,000.00 | $450,000.00 | $0.00 |

- **Creditor's Name:** Donald R. White
- **Number, Street, City, State & Zip Code:** 1440 Broadway Terrace, Oakland, CA 94609
- **Nature of lien:** Statutory lien (such as tax lien, mechanic's lien)
- **Who owes 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 relates to a community debt**
- **Date debt was incurred:** 2016/2017
- **Last 4 digits of account number:**

| 2.2 | Max Cars | $23,000.00 | $16,000.00 | $7,000.00 |

- **Creditor's Name:**
- **Number, Street, City, State & Zip Code:** 1290 Fruit Tree Lane, Topeka, KS 66603
- **Nature of lien:** Statutory lien (such as tax lien, mechanic's lien)
- **Who owes 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 relates to a community debt**
- **Date debt was incurred:** 2015
- **Last 4 digits of account number:** 4938
<table>
<thead>
<tr>
<th>Creditor's Name</th>
<th>Describe the property that secures the claim:</th>
<th>As of the date you file, the claim is:</th>
<th>Nature of lien: Check all that apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.3 Wells Fargo Home Mortgage</td>
<td>$300,000.00</td>
<td>$450,000.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>PO Box 10335 Des Moines, IA 50306</td>
<td>1440 Broadway Terrace Oakland, CA 94609 Alameda County</td>
<td></td>
<td>Contingent</td>
</tr>
<tr>
<td></td>
<td>Number, Street, City, State &amp; Zip Code</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Who owes the debt? Check one.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 1 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 2 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 1 and Debtor 2 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At least one of the debtors and another</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Check if this claim relates to a community debt</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date debt was incurred</td>
<td>2005</td>
<td>Last 4 digits of account number</td>
<td>3450</td>
</tr>
<tr>
<td>2.4 Your Furniture Store</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3432 Johnson Street Oakland, CA 94612</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number, Street, City, State &amp; Zip Code</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Who owes the debt? Check one.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 1 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 2 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debtor 1 and Debtor 2 only</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>At least one of the debtors and another</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Check if this claim relates to a community debt</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date debt was incurred</td>
<td>8/2016</td>
<td>Last 4 digits of account number</td>
<td>3429</td>
</tr>
</tbody>
</table>

Add the dollar value of your entries in Column A on this page. Write that number here: $330,000.00
If this is the last page of your form, add the dollar value totals from all pages.
Write that number here: $330,000.00

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.
Fill in this information to identify your case:

Debtor 1
Richard Farnsworth Denton
First Name Middle Name Last Name

Debtor 2
Penelope Moonsong Denton
First Name Middle Name Last Name
(Spouse if filing)

United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA

Case number

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 106AB) 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 Have 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.)

<table>
<thead>
<tr>
<th>Total claim</th>
<th>Priority amount</th>
<th>Nonpriority amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal Revenue Service</td>
<td>Last 4 digits of account number</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Special Procedures Branch Bankruptcy Section/Mail Code</td>
<td>When was the debt incurred?</td>
<td>2014</td>
</tr>
<tr>
<td>1400 S 1301 Clay St. Oakland, CA 94612-5210</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oakland, CA 94612-5210</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number Street City State Zip Code</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Who incurred the debt? Check one.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Debtor 1 only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Debtor 2 only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Debtor 1 and Debtor 2 only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] At least one of the debtors and another</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Check if this claim is for a community debt</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the claim subject to offset?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[ ] Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   As of the date you file, the claim is: Check all that apply
   - [ ] Contingent
   - [ ] Unliquidated
   - [ ] Disputed

   Type of PRIORITY unsecured claim:
   - [ ] Domestic support obligations
   - [ ] Taxes and certain other debts you owe the government
   - [ ] Claims for death or personal injury while you were intoxicated
   - [ ] Other. Specify

   Income taxes

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 nonpriority 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 three nonpriority unsecured claims fill out the Continuation Page of Part 2.

   Total claim
<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Richard Farnsworth Denton</th>
<th>Debtor 2</th>
<th>Penelope Moonsong Denton</th>
</tr>
</thead>
</table>

### 4.1 1800 Loan Mart

- **Nonpriority Creditor's Name**: 15430 Ventura Blvd. Encino, CA
- **Last 4 digits of account number**: $500.00
- **When was the debt incurred?**: 2017
- **As of the date you file, the claim is**: Check all that apply
  - Contingent
  - Unliquidated
  - 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**: Pay day loan

### 4.2 Alliance One

- **Nonpriority Creditor's Name**: 4850 Street Rd, Ste 300 Feasterville Trevose, PA 19053
- **Last 4 digits of account number**: 5898 $1,335.00
- **When was the debt incurred?**: 2016 to 2017
- **As of the date you file, the claim is**: Check all that apply
  - Contingent
  - Unliquidated
  - 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**: Food, clothing, misc consumer goods

### 4.3 Bank of America

- **Nonpriority Creditor's Name**: PO Box 15284 Wilmington, DE 19850
- **Last 4 digits of account number**: $3,334.00
- **When was the debt incurred?**: 2012 - 2017
- **As of the date you file, the claim is**: Check all that apply
  - Contingent
  - Unliquidated
  - 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**: Food, clothing, misc consumer goods
| Debtor 1 | Richard Farnsworth Denton  |
| Debtor 2 | Penelope Moonsong Denton |

| 4.4 | Cars R Us |
| Nonpriority Creditor's Name | 6748 Rockway Dr Concord, CA 94521 |
| 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 | $4,000.00 |
| When was the debt incurred? | 2015 |
| As of the date you file, the claim is: Check all that apply |  |
| ☐ Contingent |  |
| ☐ Unliquidated |  |
| ☐ 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 Car loan, repossession |  |

| 4.5 | Darla White |
| Nonpriority Creditor's Name | 1220 Apple Street Topeka, KS 66601 |
| 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 | $600.00 |
| When was the debt incurred? | 2017 |
| As of the date you file, the claim is: Check all that apply |  |
| ☐ Contingent |  |
| ☐ Unliquidated |  |
| ☐ 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 Loan |  |

<p>| 4.6 | Department of Education |
| Nonpriority Creditor's Name | 12333 Lincoln Ave Washington, DC |
| 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 | $55,000.00 |
| When was the debt incurred? | 2013 - 2017 |
| As of the date you file, the claim is: Check all that apply |  |
| ☐ Contingent |  |
| ☐ Unliquidated |  |
| ☐ 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 student loan for child, parent plus |  |</p>
<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Richard Farnsworth Denton</th>
<th>Debtor 2</th>
<th>Penelope Moonsong Denton</th>
<th>Case number (if known)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.7</strong></td>
<td>Dr. Winslow</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonpriority Creditor's Name</td>
<td>1312 North Way</td>
<td>Topeka, KS 66620-1000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number Street City State Zip Code</td>
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<tr>
<td>Who incurred the debt? Check one.</td>
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<tr>
<td>Debtor 1 only</td>
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<tr>
<td>Debtor 2 only</td>
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<td>Debtor 1 and Debtor 2 only</td>
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<tr>
<td>At least one of the debtors and another</td>
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<tr>
<td>Check if this claim is for a community debt</td>
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<tr>
<td>Is the claim subject to offset?</td>
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<tr>
<td>No</td>
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<td>Yes</td>
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<tr>
<td><strong>Last 4 digits of account number</strong></td>
<td>$700.00</td>
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</tr>
<tr>
<td>When was the debt incurred?</td>
<td>2016</td>
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<tr>
<td>As of the date you file, the claim is: Check all that apply</td>
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<tr>
<td>Contingent</td>
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<td>Unliquidated</td>
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<td>Disputed</td>
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<tr>
<td>Type of NONPRIORITY unsecured claim:</td>
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<tr>
<td>Student loans</td>
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<tr>
<td>Obligations arising out of a separation agreement or divorce that you did not report as priority claims</td>
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<tr>
<td>Debts to pension or profit-sharing plans, and other similar debts</td>
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<tr>
<td>Other. Specify Dental service</td>
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<tr>
<td><strong>4.8</strong></td>
<td>Employment Development Dept</td>
<td></td>
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</tr>
<tr>
<td>Nonpriority Creditor's Name</td>
<td>MIC 92E</td>
<td>PO Box 826880</td>
<td>Sacramento, CA 94280-0001</td>
<td></td>
</tr>
<tr>
<td>Number Street City State Zip Code</td>
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<tr>
<td>Who incurred the debt? Check one.</td>
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<tr>
<td>Debtor 1 only</td>
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<td>Debtor 2 only</td>
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<tr>
<td>At least one of the debtors and another</td>
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<tr>
<td>Is the claim subject to offset?</td>
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<td>Yes</td>
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<tr>
<td><strong>Last 4 digits of account number</strong></td>
<td>$1,500.00</td>
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<tr>
<td>When was the debt incurred?</td>
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<td>Disputed</td>
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<td>Type of NONPRIORITY unsecured claim:</td>
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<tr>
<td>Other. Specify benefit overpayment</td>
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<tr>
<td><strong>4.9</strong></td>
<td>Fingerhut</td>
<td></td>
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</tr>
<tr>
<td>Nonpriority Creditor's Name</td>
<td>130 Thumb Dr.</td>
<td>Camden Wyoming, DE 19934</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number Street City State Zip Code</td>
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<td>Who incurred the debt? Check one.</td>
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<td>Yes</td>
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</tr>
<tr>
<td><strong>Last 4 digits of account number</strong></td>
<td>4935</td>
<td></td>
<td></td>
<td>$635.00</td>
</tr>
<tr>
<td>When was the debt incurred?</td>
<td>2005</td>
<td></td>
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<tr>
<td>As of the date you file, the claim is: Check all that apply</td>
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</tr>
<tr>
<td>Contingent</td>
<td></td>
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<tr>
<td>Unliquidated</td>
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<tr>
<td>Disputed</td>
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<tr>
<td>Type of NONPRIORITY unsecured claim:</td>
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<td></td>
</tr>
<tr>
<td>Student loans</td>
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<tr>
<td>Obligations arising out of a separation agreement or divorce that you did not report as priority claims</td>
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<tr>
<td>Debts to pension or profit-sharing plans, and other similar debts</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other. Specify Food, clothing, misc consumer goods</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

4.1  Quick Cash

<table>
<thead>
<tr>
<th>Nonpriority Creditor's Name</th>
<th>Last 4 digits of account number</th>
<th>When the debt incurred?</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 Light Street</td>
<td>4861</td>
<td>2016 - 2017</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who incurred the debt? Check one.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtor 1 only</td>
</tr>
<tr>
<td>Debtor 2 only</td>
</tr>
<tr>
<td>Debtor 1 and Debtor 2 only</td>
</tr>
<tr>
<td>At least one of the debtors and another</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is the claim subject to offset?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>

4.1  Rolland Rover

<table>
<thead>
<tr>
<th>Nonpriority Creditor's Name</th>
<th>Last 4 digits of account number</th>
<th>When the debt incurred?</th>
</tr>
</thead>
<tbody>
<tr>
<td>3933 Suspcion Ave</td>
<td>Unknown</td>
<td>2015</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who incurred the debt? Check one.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtor 1 only</td>
</tr>
<tr>
<td>Debtor 2 only</td>
</tr>
<tr>
<td>Debtor 1 and Debtor 2 only</td>
</tr>
<tr>
<td>At least one of the debtors and another</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is the claim subject to offset?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>

4.1  Sears

<table>
<thead>
<tr>
<th>Nonpriority Creditor's Name</th>
<th>Last 4 digits of account number</th>
<th>When the debt incurred?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1600 Roadway</td>
<td>5948</td>
<td>1998 - 2017</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who incurred the debt? Check one.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtor 1 only</td>
</tr>
<tr>
<td>Debtor 2 only</td>
</tr>
<tr>
<td>Debtor 1 and Debtor 2 only</td>
</tr>
<tr>
<td>At least one of the debtors and another</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is the claim subject to offset?</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>
Debtor 1: Richard Farnsworth Denton
Debtor 2: Penelope Moonsong Denton

4.1 Walmart

- **Debtor’s Name:** 760 Wally Dr
- **Address:** Encino, CA
- **When was the debt incurred?** 2003 - 2017
- **Account Number:** 0348
- **Amount Due:** $357.56

- **Who incurred the debt?**
  - ✔ 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

- **Nonpriority Creditor’s Name:**
  - **Address:** 760 Wally Dr
  - **City:** Encino
  - **State:** CA

- **When was the debt incurred?** 2003 - 2017

- **As of the date you file, the claim is:**
  - ✔ Contingent
  - ✔ Unliquidated
  - ✔ 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: Food, clothing, misc consumer goods

- **Last 4 digits of account number:** 0348

4.4 We’ll Solve Your Debts

- **Debtor’s Name:** 9460 Martin Street
- **Address:** Cleveland, OH
- **When was the debt incurred?**
- **Account Number:**
- **Amount Due:**

- **Who incurred the debt?**
  - ✔ 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

- **Nonpriority Creditor’s Name:**
  - **Address:** 9460 Martin Street
  - **City:** Cleveland
  - **State:** OH

- **When was the debt incurred?**

- **As of the date you file, the claim is:**
  - ✔ Contingent
  - ✔ Unliquidated
  - ✔ 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: Debt consolidation fees

- **Last 4 digits of account number:**

---

5. **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 and Address:** Well Gotcha
  - **Address:** 4312 Tomkins Park Way
  - **City:** Topeka
  - **State:** KS

- **Amount:**
  - **Last 4 digits of account number:**

---

6. **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
  - 6b. Taxes and certain other debts you owe the government
  - 6c. Claims for death or personal injury while you were intoxicated
  - 6d. Other. Add all other priority unsecured claims. Write that amount here.
  - 6e. Total Priority. Add lines 6a through 6d.

- **Total Claim**

  - 6a. $ 0.00
  - 6b. $ 5,000.00
  - 6c. $ 0.00
  - 6d. $ 0.00
  - 6e. $ 5,000.00
<table>
<thead>
<tr>
<th>From Part 2</th>
<th>6f.</th>
<th>6g.</th>
<th>6h.</th>
<th>6i.</th>
<th>6j.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total claims</td>
<td>$55,000.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$15,996.56</td>
<td>$70,996.56</td>
</tr>
</tbody>
</table>

- **6f.** Student loans: $55,000.00
- **6g.** Obligations arising out of a separation agreement or divorce: $0.00
- **6h.** Debts to pension or profit-sharing plans: $0.00
- **6i.** Other nonpriority unsecured claims: $15,996.56
- **6j.** Total Nonpriority: $70,996.56
Fill in this information to identify your case:

Debtor 1: Richard Farnsworth Denton
First Name Middle Name Last Name
Debtor 2: Penelope Moonsong Denton
(Spouse if filing) First Name Middle Name Last Name
United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA
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 contacts of leases are listed on Schedule A/B:Property (Official Form 106 A/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.**

<table>
<thead>
<tr>
<th>Person or company with whom you have the contract or lease</th>
<th>State what the contract or lease is for</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 Name</td>
<td>Number Street</td>
</tr>
<tr>
<td>2.2 Name</td>
<td>Number Street</td>
</tr>
<tr>
<td>2.3 Name</td>
<td>Number Street</td>
</tr>
<tr>
<td>2.4 Name</td>
<td>Number Street</td>
</tr>
<tr>
<td>2.5 Name</td>
<td>Number Street</td>
</tr>
</tbody>
</table>
# Official Form 106H
## Schedule H: Your Codebtors

**Debtor 1**
- Name: Richard Farnsworth Denton
- First Name: Richard
- Middle Name: Farnsworth
- Last Name: Denton

**Debtor 2**
- Name: Penelope Moonsong Denton
- First Name: Penelope
- Middle Name: Moonsong
- Last Name: Denton

**United States Bankruptcy Court for the:**
- NORTHERN DISTRICT OF CALIFORNIA

**Case number** (if known)
- ________________________

**Check if this is an amended filing**
- □ Yes
- ■ No

### Codebtor Information

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?

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.**

<table>
<thead>
<tr>
<th>Column 1: Your codebtor</th>
<th>Column 2: The creditor to whom you owe the debt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name, Number, Street, City, State and ZIP Code</td>
<td>Check all schedules that apply:</td>
</tr>
<tr>
<td>Name</td>
<td>□ Schedule D, line __________</td>
</tr>
<tr>
<td></td>
<td>□ Schedule E/F, line __________</td>
</tr>
<tr>
<td></td>
<td>□ Schedule G, line __________</td>
</tr>
<tr>
<td>Number Street City State ZIP Code</td>
<td></td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Official Form 106H**

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Best Case Bankruptcy
### Official Form 106I

**Schedule I: Your Income**

**12/15**

**Be as complete and accurate as possible. If two married people are filing together (Debtor 1 and Debtor 2), both are equally responsible for supplying correct information. If you are married and not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse. 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 Employment

1. Fill in your employment information.

   - **Debtor 1**
     - Employment status: **Employed**
     - Occupation: Support Staff
     - Employer's name: Honest Cars
     - Employer's address: 4335 Samuel Way, Oakland, CA 94609
     - How long employed there?: 4 weeks

   - **Debtor 2 or non-filing spouse**
     - Employment status: **Not employed**

#### Part 2: Give Details About Monthly Income

Estimate monthly income as of the date you file this form. If you have nothing to report for any line, write $0 in the space. Include your non-filing spouse unless you are separated.

If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

- **List monthly gross wages, salary, and commissions (before all payroll deductions). If not paid monthly, calculate what the monthly wage would be.**
  - **For Debtor 1**: $0.00
  - **For Debtor 2 or non-filing spouse**: $1,760.00

- **Estimate and list monthly overtime pay.**
  - **For Debtor 1**: $0.00
  - **For Debtor 2 or non-filing spouse**: $0.00

- **Calculate gross income. Add line 2 + line 3.**
  - **For Debtor 1**: $0.00
  - **For Debtor 2 or non-filing spouse**: $1,760.00
Debtor 1: Richard Farnsworth Denton  
Debtor 2: Penelope Moonsong Denton  
Case number (if known) ________________

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>For Debtor 1</th>
<th>For Debtor 2 or non-filing spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Copy line 4 here</td>
<td>$ 0.00</td>
<td>$ 1,760.00</td>
</tr>
<tr>
<td>5.</td>
<td>List all payroll deductions:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5a.</td>
<td>Tax, Medicare, and Social Security deductions</td>
<td>$ 0.00</td>
<td>$ 150.00</td>
</tr>
<tr>
<td>5b.</td>
<td>Mandatory contributions for retirement plans</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5c.</td>
<td>Voluntary contributions for retirement plans</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5d.</td>
<td>Required repayments of retirement fund loans</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5e.</td>
<td>Insurance</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5f.</td>
<td>Domestic support obligations</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5g.</td>
<td>Union dues</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5h.</td>
<td>Other deductions. Specify:</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6.</td>
<td>Add the payroll deductions. Add lines 5a+5b+5c+5d+5e+5f+5g+5h.</td>
<td>$ 0.00</td>
<td>$ 150.00</td>
</tr>
<tr>
<td>7.</td>
<td>Calculate total monthly take-home pay. Subtract line 6 from line 4.</td>
<td>$ 0.00</td>
<td>$ 1,610.00</td>
</tr>
<tr>
<td>8.</td>
<td>List all other income regularly received:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8a.</td>
<td>Net income from rental property and from operating a business, profession,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>or farm</td>
<td>$ 0.00</td>
<td>$ 120.00</td>
</tr>
<tr>
<td>8b.</td>
<td>Interest and dividends</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>8c.</td>
<td>Family support payments that you, a non-filing spouse, or a dependent</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>regularly receive</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Attach a statement for each property and business showing gross receipts,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ordinary and necessary business expenses, and the total monthly net income.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8d.</td>
<td>Unemployment compensation</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>8e.</td>
<td>Social Security</td>
<td>$ 1,920.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>8f.</td>
<td>Other government assistance that you regularly receive</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Include cash assistance and the value (if known) of any non-cash assistance</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>that you receive, such as food stamps (benefits under the Supplemental</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nutrition Assistance Program) or housing subsidies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Specify:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8g.</td>
<td>Pension or retirement income</td>
<td>$ 1,750.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>8h.</td>
<td>Other monthly income. Specify:</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9.</td>
<td>Add all other income. Add lines 8a+8b+8c+8d+8e+8f+8g+8h.</td>
<td>$ 3,670.00</td>
<td>$ 120.00</td>
</tr>
<tr>
<td>10.</td>
<td>Calculate monthly income. Add line 7 + line 9.</td>
<td>$ 3,670.00</td>
<td>$ 1,730.00</td>
</tr>
<tr>
<td></td>
<td>Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.</td>
<td>$ 5,400.00</td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>State all other regular contributions to the expenses that you list in</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Schedule J.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Include contributions from an unmarried partner, members of your household,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>your dependents, your roommates, and other friends or relatives.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Do not include any amounts already included in lines 2-10 or amounts that</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>are not available to pay expenses listed in Schedule J.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Specify:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Add the amount in the last column of line 10 to the amount in line 11.</td>
<td>$ 5,400.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The result is the combined monthly income. Write that amount on the</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Summary of Schedules and Statistical Summary of Certain Liabilities and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Related Data, if it applies</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13. Do you expect an increase or decrease within the year after you file this form?  
   □ No  
   ☐ Yes. Explain: ________________________________

Official Form 106  
Schedule I: Your Income  
page 2
### Part 1: Describe Your Household

1. Is this a joint case?  
   - [ ] No. Go to line 2.  
   - [x] Yes. Does Debtor 2 live in a separate household?  
     - [ ] No  

2. Do you have dependents?  
   - [ ] No  
   - [x] 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?  
         - [ ] No  
         - [ ] Yes

3. Do your expenses include expenses of people other than yourself and your dependents?  
   - [ ] No  
   - [x] 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 106I).

#### Your expenses

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.</td>
<td>$1,430.00</td>
</tr>
</tbody>
</table>

If not included in line 4:

1. Real estate taxes                                                                                     | $0.00 |
2. Property, homeowner’s, or renter’s insurance                                                        | $0.00 |
3. Home maintenance, repair, and upkeep expenses                                                      | $100.00 |
4. Homeowner’s association or condominium dues                                                         | $0.00 |
5. Additional mortgage payments for your residence, such as home equity loans                         | $0.00 |
Debtor 1  Richard Farnsworth Denton  
Debtor 2  Penelope Moonsong Denton  

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
6b. Water, sewer, garbage collection: $222.00  
6c. Telephone, cell phone, internet, satellite, and cable services: $395.00  
6d. Other: $0.00  
| 7. Food and housekeeping supplies: | $700.00  
| 8. Childcare and children’s education costs: | $0.00  
| 9. Clothing, laundry, and dry cleaning: | $100.00  
| 10. Personal care products and services: | $50.00  
| 11. Medical and dental expenses: | $30.00  
| 12. Transportation: | Include gas, maintenance, bus or train fare.  
Do not include car payments.  
| 13. Entertainment, clubs, recreation, newspapers, magazines, and books: | $100.00  
| 14. Charitable contributions and religious donations: | $250.00  
| 15. Insurance: | Do not include insurance deducted from your pay or included in lines 4 or 20.  
15a. Life insurance: $80.00  
15b. Health insurance: $120.00  
15c. Vehicle insurance: $130.00  
15d. Other insurance: Specify. | $0.00  
| 16. Taxes: | Do not include taxes deducted from your pay or included in lines 4 or 20.  
Specify. | $0.00  
| 17. Installment or lease payments: |  
17a. Car payments for Vehicle 1: $476.50  
17b. Car payments for Vehicle 2: $0.00  
17c. Other: Specify: time share | $200.00  
17d. Other: Specify. | $0.00  
| 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): | $0.00  
| 19. Other payments you make to support others who do not live with you: | $0.00  
| 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: $0.00  
20b. Real estate taxes: $0.00  
20c. Property, homeowner’s, or renter’s insurance: $0.00  
20d. Maintenance, repair, and upkeep expenses: $0.00  
20e. Homeowner’s association or condominium dues: | $0.00  
| 21. Other: Specify: | $0.00  
| 22. Calculate your monthly expenses: |  
22a. Add lines 4 through 21. | $4,993.50  
22b. Copy line 22 (monthly expenses for Debtor 2), if any, from Official Form 106J-2 |  
22c. Add line 22a and 22b. The result is your monthly expenses. | $4,993.50  
| 23. Calculate your monthly net income: |  
23a. Copy line 12 (your combined monthly income) from Schedule I. | $5,400.00  
23b. Copy your monthly expenses from line 22c above. | $4,993.50  
23c. Subtract your monthly expenses from your monthly income.  
The result is your monthly net income. | $406.50  
| 24. Do you expect an increase or decrease in your expenses within the year after you file this form? |  
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  Richard Farnsworth Denton  First Name Middle Name Last Name
Debtor 2  Penelope Moonsong Denton  First Name Middle Name Last Name
(Spouse if filing)
United States Bankruptcy Court for the:  NORTHERN DISTRICT OF CALIFORNIA
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 /s/ Richard Farnsworth Denton  X /s/ Penelope Moonsong Denton
Richard Farnsworth Denton  Penelope Moonsong Denton
Signature of Debtor 1  Signature of Debtor 2

Date  9/28/2018  Date  9/28/2018
Official Form 107
Statement of Financial Affairs for Individuals Filing for Bankruptcy 4/16

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 Prior Address:**
   
   - **1200 Apple Street**
   - **Topeka, KS 66601**
   - **From-To:** August 2013 - August 2018
   - **Dates Debtor 1 lived there:**

   **Debtor 2 Prior Address:**
   
   - **Same as Debtor 1**
   - **Dates Debtor 2 lived there:**

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?
   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 Sources of income (before deductions and exclusions):**
   - **Wages, commissions, bonuses, tips:**
   - **Operating a business:**
   - **Gross income:** $12,300.00

   **Debtor 2 Sources of income (before deductions and exclusions):**
   - **Wages, commissions, bonuses, tips:**
   - **Operating a business:**
   - **Gross income:** $7,710.00

Official Form 107
Statement of Financial Affairs for Individuals Filing for Bankruptcy 4/16

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Best Case Bankruptcy
Debtor 1 Richard Farnsworth Denton
Debtor 2 Penelope Moonsong Denton

Case number (if known)

<table>
<thead>
<tr>
<th>Sources of income</th>
<th>Debtor 1</th>
<th>Gross income (before deductions and exclusions)</th>
<th>Sources of income</th>
<th>Debtor 2</th>
<th>Gross income (before deductions and exclusions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages, commissions, bonuses, tips</td>
<td>$0.00</td>
<td>$0.00</td>
<td>Wages, commissions, bonuses, tips</td>
<td>$60.00</td>
<td>$60.00</td>
</tr>
<tr>
<td>Operating a business</td>
<td></td>
<td></td>
<td>Operating a business</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For last calendar year: (January 1 to December 31, 2017)
- Wages, commissions, bonuses, tips $19,350.00
- Operating a business $60.00

For the calendar year before that: (January 1 to December 31, 2016)
- Wages, commissions, bonuses, tips $10,200.00
- Operating a business $120.00

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.

<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Sources of income</th>
<th>Gross income from each source (before deductions and exclusions)</th>
<th>Debtor 2</th>
<th>Sources of income</th>
<th>Gross income (before deductions and exclusions)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SSI Benefits</td>
<td>$13,600.00</td>
<td></td>
<td>SSI Benefits</td>
<td>$26,000.00</td>
</tr>
<tr>
<td></td>
<td>IRA</td>
<td>$300.00</td>
<td></td>
<td>IRA</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

Consulting fees

Withholding taxes

Rental income

Dividends

Interest

Social Security benefits

Unemployment compensation

Alimony

Child support

Annuity

Royalties

Other income

Total sources of income

$30,000.00

$29,200.00

1. Did you pay any administrators, attorneys, or others for services related to the bankruptcy filing of the debtor or the bankruptcy case?

Yes.

No.

1. No.

2. Yes. Fill in the details.

Insurance

Retirement plans

Property

Savings accounts

Investments

Other assets

Total assets

$30,000.00

$29,200.00

Official Form 107 Statement of Financial Affairs for Individuals Filing for Bankruptcy page 2
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292
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

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.”
   ✩ 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 $6,425* or more?

   During the 90 days before you filed for bankruptcy, did you pay any creditor a total of $6,425* or more?
   ✩ No. Go to line 7.
   ‡ Yes  List below each creditor to whom you paid a total of $6,425* 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 4/01/19 and every 3 years after that for cases filed on or after the date of adjustment.

<table>
<thead>
<tr>
<th>Creditor's Name and Address</th>
<th>Dates of payment</th>
<th>Total amount paid</th>
<th>Amount you still owe</th>
<th>Reason for this payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wells Fargo Attn: Bankruptcy Dept PO Box 659558 San Antonio, TX 78265</td>
<td>6/1/18, 7/1/18, 8/1/18</td>
<td>$1,430.00</td>
<td>$300,000.00</td>
<td>Mortgage</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Car</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Credit Card</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Loan Repayment</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Suppliers or vendors</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Other</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Insider's Name and Address</th>
<th>Dates of payment</th>
<th>Total amount paid</th>
<th>Amount you still owe</th>
<th>Reason for this payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darla Denton White 1220 Apple Street Topeka, KS 66601</td>
<td>12/17</td>
<td>$300.00</td>
<td>$600.00</td>
<td>Personal loan</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 to an insider

<table>
<thead>
<tr>
<th>Insider's Name and Address</th>
<th>Dates of payment</th>
<th>Total amount paid</th>
<th>Amount you still owe</th>
<th>Reason for this payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Official Form 107  Statement of Financial Affairs for Individuals Filing for Bankruptcy page 3
Software Copyright (c) 1996-2018 Best Case, LLC - www.bestcase.com
Best Case Bankruptcy
Debtor 1  Richard Farnsworth Denton  
Debtor 2  Penelope Moonsong Denton  

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>
<thead>
<tr>
<th>Case title</th>
<th>Nature of the case</th>
<th>Court or agency</th>
<th>Status of the case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winslow v. Denton 15-94367</td>
<td>Money owed</td>
<td>Kansas District Court, Third District 200 SE 7th Street Topeka, KS 66603</td>
<td></td>
</tr>
</tbody>
</table>

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>
<thead>
<tr>
<th>Creditor Name and Address</th>
<th>Describe the Property</th>
<th>Date</th>
<th>Value of the property</th>
</tr>
</thead>
</table>

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.

<table>
<thead>
<tr>
<th>Creditor Name and Address</th>
<th>Describe the action the creditor took</th>
<th>Date action was taken</th>
<th>Amount</th>
</tr>
</thead>
</table>

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.

<table>
<thead>
<tr>
<th>Gifts with a total value of more than $600 per person</th>
<th>Describe the gifts</th>
<th>Dates you gave the gifts</th>
<th>Value</th>
</tr>
</thead>
</table>

Person to Whom You Gave the Gift and Address:

Darla Denton White  
1220 Apple Street  
Topeka, KS 66601

Person's relationship to you: Daughter

1999 GMC Yukon  
10/2015  
$2,000.00

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.

<table>
<thead>
<tr>
<th>Gifts or contributions to charities that total more than $600</th>
<th>Describe what you contributed</th>
<th>Dates you contributed</th>
<th>Value</th>
</tr>
</thead>
</table>
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

<table>
<thead>
<tr>
<th>Charity's Name</th>
<th>Address (Number, Street, City, State and ZIP Code)</th>
<th>Describe what you contributed</th>
<th>Dates you contributed</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Jude</td>
<td>Money - tithings</td>
<td>various</td>
<td></td>
<td>$3,100.00</td>
</tr>
</tbody>
</table>

**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.

<table>
<thead>
<tr>
<th>Property Lost</th>
<th>How the Loss Occurred</th>
<th>Insurance Coverage</th>
<th>Date of Loss</th>
<th>Value of Property Lost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money - gambling</td>
<td>various, past 1 year</td>
<td>no insurance coverage</td>
<td></td>
<td>$4,000.00</td>
</tr>
</tbody>
</table>

**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?

[ ] No

[ ] Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Person Who Was Paid</th>
<th>Address</th>
<th>Description and value of any property transferred</th>
<th>Date payment or transfer was made</th>
<th>Amount of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kornfield Nyberg Bendes Kuhner &amp; Little</td>
<td>1970 Broadway Suite 225 Oakland, CA 94612</td>
<td>$1800.00 cash</td>
<td>8/29/2018</td>
<td>$1,800.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Person Who Was Paid</th>
<th>Address</th>
<th>Description and value of any property transferred</th>
<th>Date payment or transfer was made</th>
<th>Amount of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>We'll Solve Your Debts</td>
<td>123 Baker Street Fawnskin, CA 92333</td>
<td>$700 monthly</td>
<td>1/18, 2/18, 3/18, 4/18</td>
<td>$2,800.00</td>
</tr>
</tbody>
</table>

[ ] No

[ ] Yes. Fill in the details.
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?
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Person Who Received Transfer</th>
<th>Description and value of property transferred</th>
<th>Date transfer was made</th>
</tr>
</thead>
</table>

Person's relationship to you

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.)
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Name of trust</th>
<th>Description and value of the property transferred</th>
<th>Date Transfer was made</th>
</tr>
</thead>
</table>

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?
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Name of Financial Institution and Address</th>
<th>Last 4 digits of account number</th>
<th>Type of account or instrument</th>
<th>Date account was closed, sold, moved, or transferred</th>
<th>Last balance before closing or transfer</th>
</tr>
</thead>
</table>

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?
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Name of Storage Facility</th>
<th>Who else has or had access to it?</th>
<th>Describe the contents</th>
<th>Do you still have it?</th>
</tr>
</thead>
</table>

22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Name of Storage Facility</th>
<th>Who else has or had access to it?</th>
<th>Describe the contents</th>
<th>Do you still have it?</th>
</tr>
</thead>
</table>

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.
   - Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Owner's Name and Address</th>
<th>Where is the property?</th>
<th>Describe the property</th>
<th>Value</th>
</tr>
</thead>
</table>
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?

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Fill in the details.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name of site Address (Number, Street, City, State and ZIP Code)</td>
</tr>
</tbody>
</table>

25. Have you notified any governmental unit of any release of hazardous material?

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Fill in the details.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name of site Address (Number, Street, City, State and ZIP Code)</td>
</tr>
</tbody>
</table>

26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Fill in the details.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Case Title Case Number</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>No. None of the above applies. Go to Part 12.</th>
<th>Yes. Check all that apply above and fill in the details below for each business.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Name Address (Number, Street, City and State and ZIP Code)</td>
<td>Employer Identification number Do not include Social Security number or ITIN.</td>
</tr>
<tr>
<td>Penny's sCents 1445 Broadway Terrace Oakland, CA 94609</td>
<td>Candle crafts Name of accountant or bookkeeper</td>
</tr>
</tbody>
</table>
### Part 1: Business Information

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Address</th>
<th>Name of accountant or bookkeeper</th>
<th>Employer Identification number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denton &amp; Rover LLP</td>
<td>3930 Main Street, Topeka, KS 66601</td>
<td>Karl Krafty</td>
<td>93-426183</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dates business existed</th>
<th>EIN:</th>
</tr>
</thead>
<tbody>
<tr>
<td>From-To</td>
<td>12/2012 - 10/2017</td>
</tr>
</tbody>
</table>

### Part 2: Financial Affairs

28. Within 2 years before you filed for bankruptcy, did you give a financial statement to anyone about your business? Include all financial institutions, creditors, or other parties.

- [□] No
- [☑] Yes. Fill in the details below.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Date Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Part 12: Sign Below

I have read the answers on this Statement of Financial Affairs and any attachments, and I declare under penalty of perjury that the answers are true and correct. I understand that 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.


/s/ Richard Farnsworth Denton  
Signature of Debtor 1  
Date: 9/28/2018

/s/ Penelope Moonsong Denton  
Signature of Debtor 2  
Date: 9/28/2018

Did you attach additional pages to Your Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)?

- [□] No
- [☑] Yes

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 the Bankruptcy Petition Preparer’s Notice, Declaration, and Signature (Official Form 119).
Official Form 108
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:

1. creditors have claims secured by your property, or
2. 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 Have Secured Claims

1. For any creditors that you listed in Part 1 of Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D), fill in the information below.

<table>
<thead>
<tr>
<th>Creditor's name:</th>
<th>Alameda County Tax Collector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of property securing debt:</td>
<td>1440 Broadway Terrace Oakland, CA 94609 Alameda County</td>
</tr>
<tr>
<td>What do you intend to do with the property that secures a debt?</td>
<td>☐ Surrender the property. □ Retain the property and redeem it. □ Retain the property and enter into a Reaffirmation Agreement. □ Retain the property and [explain]: will pay to bring current</td>
</tr>
<tr>
<td>Did you claim the property as exempt on Schedule C?</td>
<td>☐ No □ Yes</td>
</tr>
</tbody>
</table>

2. For any creditors that you listed in Part 1 of Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D), fill in the information below.

<table>
<thead>
<tr>
<th>Creditor's name:</th>
<th>Max Cars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of property securing debt:</td>
<td>2015 Chevrolet Camaro 82000 miles</td>
</tr>
<tr>
<td>What do you intend to do with the property that secures a debt?</td>
<td>☐ Surrender the property. □ Retain the property and redeem it. □ Retain the property and enter into a Reaffirmation Agreement. □ Retain the property and [explain]:</td>
</tr>
<tr>
<td>Did you claim the property as exempt on Schedule C?</td>
<td>☐ No □ Yes</td>
</tr>
</tbody>
</table>

3. For any creditors that you listed in Part 1 of Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D), fill in the information below.

<table>
<thead>
<tr>
<th>Creditor's name:</th>
<th>Wells Fargo Home Mortgage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of property</td>
<td>1440 Broadway Terrace Oakland, CA 94609 Alameda County</td>
</tr>
<tr>
<td>What do you intend to do with the property that secures a debt?</td>
<td>☐ Surrender the property. □ Retain the property and redeem it. □ Retain the property and enter into a Reaffirmation Agreement. □ Retain the property and [explain]:</td>
</tr>
<tr>
<td>Did you claim the property as exempt on Schedule C?</td>
<td>☐ No □ Yes</td>
</tr>
</tbody>
</table>
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton
Case number (if known)  

securing debt: 

### 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).

<table>
<thead>
<tr>
<th>Description of leased Property</th>
<th>Will the lease be assumed?</th>
<th>Lessor's name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
<td>†</td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td>†</td>
</tr>
</tbody>
</table>

### 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.

<table>
<thead>
<tr>
<th>/s/ Richard Farnsworth Denton</th>
<th>/s/ Penelope Moonsong Denton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Richard Farnsworth Denton</td>
<td>Penelope Moonsong Denton</td>
</tr>
<tr>
<td>Signature of Debtor 1</td>
<td>Signature of Debtor 2</td>
</tr>
</tbody>
</table>

Date 9/28/2018

Official Form 108  Statement of Intention for Individuals Filing Under Chapter 7  page 2

Software Copyright (c) 1996-2018 Best Case, LLC - www.bestcase.com  Best Case Bankruptcy
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 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.

<table>
<thead>
<tr>
<th>Chapter 7: Liquidation</th>
</tr>
</thead>
<tbody>
<tr>
<td>$245 filing fee</td>
</tr>
<tr>
<td>$75 administrative fee</td>
</tr>
<tr>
<td>+ $15 trustee surcharge</td>
</tr>
<tr>
<td>$335 total fee</td>
</tr>
</tbody>
</table>

Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their nonexempt 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 122A–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 122A–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 122A–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.

### Chapter 11: Reorganization

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing fee</td>
<td>$1,167</td>
</tr>
<tr>
<td>Administrative fee</td>
<td>$550</td>
</tr>
<tr>
<td>Total fee</td>
<td>$1,717</td>
</tr>
</tbody>
</table>

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.

Chapter 12: Repayment plan for family farmers or fishermen

- $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.

Chapter 13: Repayment plan for individuals with regular income

- $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.

$200 filing fee
+ $75 administrative fee
$275 total fee

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Best Case Bankruptcy
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.

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/ee/apcpa/code/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.
CREDITOR MATRIX COVER SHEET

I declare that the attached Creditor Mailing Matrix, consisting of 3 sheets, contains the correct, complete and current names and addresses of all priority, secured and unsecured creditors listed in debtor's filing and that this matrix conforms with the Clerk's promulgated requirements.

DATED: 9/28/2018

/s/ Sarah Little

Signature of Debtor’s Attorney or Pro Per Debtor
1800 Loan Mart
15430 Ventura Blvd.
Encino, CA

Alameda County Tax Collector
Donald R. White
1221 Oak St, Rm 13
Oakland, CA 94612

Alliance One
4850 Street Rd, Ste 300
Feasterville Trevose, PA 19053

Bank of America
PO Box 15284
Wilmington, DE 19850

Cars R Us
6748 Rockway Dr
Concord, CA 94521

Darla White
1220 Apple Street
Topeka, KS 66601

Department of Education
12333 Lincoln Ave.
Washington, DC

Dr. Winslow
1312 North Way
Topeka, KS 66620-1000
Employment Development Dept  
MIC 92E  
PO Box 826880  
Sacramento, CA 94280-0001

Fingerhut  
130 Thumb Dr.  
Camden Wyoming, DE 19934

Internal Revenue Service  
Special Procedures Branch  
Bankruptcy Section/Mail Code 1400S  
1301 Clay St.  
Oakland, CA 94612-5210

Max Cars  
1290 Fruit Tree Lane  
Topeka, KS 66603

Quick Cash  
16 Light Street  
Oakland, CA 94605

Rolland Rover  
3933 Suspicion Ave  
Berkeley, CA

Sears  
1600 Roadway  
Dallas, TX

Walmart  
760 Wally Dr  
Encino, CA
We'll Solve Your Debts
9460 Martin Street
Cleveland, OH

Well Gotcha
4312 Tomkins Park Way
Topeka, KS 66620-1000

Wells Fargo Home Mortgage
PO Box 10335
Des Moines, IA 50306

Your Furniture Store
3432 Johnson Street
Oakland, CA 94612
Hypothetical—Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1) (Penny and Rich)

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
Fill in this information to identify your case:

Debtor 1: Richard Farnsworth Denton
Debtor 2: Penelope Moonsong Denton
United States Bankruptcy Court for the: Northern District of California

Check one box only as directed in this form and in Form 122A-1Supp:

- 1. There is no presumption of abuse
- 2. The calculation to determine if a presumption of abuse applies will be made under Chapter 7 Means Test Calculation (Official Form 122A-2).
- 3. The Means Test does not apply now because of qualified military service but it could apply later.

Debtor 2 or non-filing spouse

Check if this is an amended filing

---

### Official Form 122A - 1

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

**12/15**

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 122A-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 living apart for reasons that do not include evading the Means Test requirements. 11 U.S.C § 707(b)(7)(B).

2. **Your gross wages, salary, tips, bonuses, overtime, and commissions (before all payroll deductions).**
   - Column A: $1,800.00
   - Column B: $3,276.00

3. **Alimony and maintenance payments.** Do not include payments from a spouse if Column B is filled in.
   - Column A: $0.00
   - Column B: $0.00

4. **All amounts from which regular payments for household expenses of you or your dependents, including child support.** 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.
   - Column A: $0.00
   - Column B: $0.00

5. **Net income from operating a business, profession, or farm**
   - Gross receipts (before all deductions): $0.00
   - Ordinary and necessary operating expenses: $0.00
   - Net monthly income from a business, profession, or farm: $150.00
   - Column A: $0.00
   - Column B: $150.00

6. **Net income from rental and other real property**
   - Gross receipts (before all deductions): $0.00
   - Ordinary and necessary operating expenses: $0.00
   - Net monthly income from rental or other real property: $0.00
   - Column A: $0.00
   - Column B: $0.00

7. **Interest, dividends, and royalties**
   - Column A: $0.00
   - Column B: $0.00

---

Official Form 122A-1
Chapter 7 Statement of Your Current Monthly Income

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Best Case Bankruptcy
### 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:

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtor 1</td>
<td>$0.00</td>
</tr>
<tr>
<td>Debtor 2</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

### Pension or Retirement Income

Do not include any amount received that was a benefit under the Social Security Act.

<table>
<thead>
<tr>
<th>Amount for Debtor 1</th>
<th>Amount for Spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,750.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

### Other Income

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 below.

<table>
<thead>
<tr>
<th>From Different Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00</td>
</tr>
<tr>
<td>$0.00</td>
</tr>
<tr>
<td>$0.00</td>
</tr>
<tr>
<td>$0.00</td>
</tr>
</tbody>
</table>

Total amounts from separate pages, if any.

### 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.

<table>
<thead>
<tr>
<th>Amount for Debtor 1</th>
<th>Amount for Spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3,550.00</td>
<td>$3,426.00</td>
</tr>
</tbody>
</table>

Total current monthly income:

$6,976.00

### 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: $6,976.00

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

$83,712.00

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

Fill in the state in which you live: CA

Fill in the number of people in your household: 2

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.

13. $73,162.00

### 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 122A-2. Go to Part 3 and fill out Form 122A-2.

### 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 /s/ Richard Farnsworth Denton

X /s/ Penelope Moonsong Denton

Richard Farnsworth Denton

Penelope Moonsong Denton

Signature of Debtor 1

Signature of Debtor 2

Date 9/28/2018

Date 9/28/2018

MM/DD/YYYY

MM/DD/YYYY

If you checked line 14a, do NOT fill out or file Form 122A-2.

If you checked line 14b, fill out Form 122A-2 and file it with this form.
Fill in this information to identify your case:

Debtor 1: Richard Farnsworth Denton
Debtor 2: Penelope Moonsong Denton (Spouse, if filing)

United States Bankruptcy Court for the: Northern District of California
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

---

Part 1: Determine Your Adjusted Income

1. Copy your total current monthly income. Copy line 11 from Official Form 122A-1 here⇒
   $ 6,976.00

2. Did you fill out Column B in Part 1 of Form 122A-1?
   ☐ No. Fill in $0 for the total on line 3.
   ☐ Yes. Is your spouse Filing with you?
     ☐ No. Go to line 3.
     ☐ Yes. Fill in $0 for the total on line 3.

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 122A–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 for the total on line 3.
     ☐ Yes. Fill in the information below:

   State each purpose for which the income was used
   Fill in the amount you are subtracting from your spouse’s income

   $  
   $  
   $  
   Total. $ 0.00

   Copy total here⇒ - $ 0.00

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

   $ 6,976.00
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 122A-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 122A-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.

<table>
<thead>
<tr>
<th>People who are under 65 years of age</th>
<th>People who are 65 years of age or older</th>
</tr>
</thead>
<tbody>
<tr>
<td>7a. Out-of-pocket health care allowance per person</td>
<td>$52</td>
</tr>
<tr>
<td>7b. Number of people who are under 65</td>
<td>$</td>
</tr>
<tr>
<td>X</td>
<td>2</td>
</tr>
<tr>
<td>7c. Subtotal. Multiply line 7a by line 7b.</td>
<td>$104.00</td>
</tr>
<tr>
<td>Copy here=&gt;</td>
<td>$104.00</td>
</tr>
<tr>
<td>7g. Total. Add line 7c and line 7f.</td>
<td>$104.00</td>
</tr>
</tbody>
</table>
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. ........................................... $ 552.00

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. $ 2,341.00

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
   Alameda County Tax Collector | $ 266.67
   Wells Fargo Home Mortgage | $ 1,430.00

   Total average monthly payment $ 1,696.67

   Copy here=/> $ 1,696.67
   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 expenses). If this amount is less than $0, enter $0. $ 644.33

   Copy here=/> $ 644.33

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. $ 0.00

   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. $ 235.00
### Vehicle 1: 2015 Chevrolet Camaro 82000 miles

13a. Ownership or leasing costs using IRS Local Standard........................................ $ 497.00

13b. Average monthly payment for all debts secured by Vehicle 1.

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>
<thead>
<tr>
<th>Name of each creditor for Vehicle 1</th>
<th>Average monthly payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max Cars</td>
<td>$ 285.96</td>
</tr>
</tbody>
</table>

Total Average Monthly Payment $ 285.96

Copy here => -$ 285.96

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.

$ 211.04

Copy net Vehicle 1 expense here => $ 211.04

### Vehicle 2

13d. Ownership or leasing costs using IRS Local Standard........................................ $ 0.00

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

<table>
<thead>
<tr>
<th>Name of each creditor for Vehicle 2</th>
<th>Average monthly payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

Total Average Monthly Payment $ 0.00

Copy here => -$ 0.00

Repeat this amount on line 33c.

13f. Net Vehicle 2 ownership or lease expense

Subtract line 13e from line 13d. if this amount is less than $0, enter $0.

$ 0.00

Copy net Vehicle 2 expense here => $ 0.00

### Public Transportation Expense

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.

$ 0.00

### Additional Public Transportation Expense

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.

$ 0.00
### Other Necessary Expenses

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

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Taxes:</td>
<td>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.</td>
<td>$700.00</td>
</tr>
<tr>
<td>17. Involuntary deductions:</td>
<td>The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs.</td>
<td>$0.00</td>
</tr>
<tr>
<td>18. Life Insurance:</td>
<td>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.</td>
<td>$80.00</td>
</tr>
<tr>
<td>19. Court-ordered payments:</td>
<td>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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>20. Education:</td>
<td>The total monthly amount that you pay for education that is either required:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>as a condition for your job, or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>for your physically or mentally challenged dependent child if no public education is available for similar services.</td>
<td>$0.00</td>
</tr>
<tr>
<td>21. Childcare:</td>
<td>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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>22. Additional health care expenses, excluding insurance costs:</td>
<td>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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>23. Optional telephone and telephone services:</td>
<td>The total monthly amount that you pay for telecommunication services for you and your dependents, such as pagers, call waiting, caller identification, special long distance, 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 5 of Official Form 122A-1, or any amount you previously deducted.</td>
<td>$100.00</td>
</tr>
<tr>
<td>24. Add all of the expenses allowed under the IRS expense allowances.</td>
<td>Add lines 6 through 23.</td>
<td>$3,828.37</td>
</tr>
</tbody>
</table>
### Additional Expense Deductions

These are additional deductions allowed by the Means Test.

Note: Do not include any expense allowances listed in lines 6-24.

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.</td>
<td>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.</td>
<td>Health insurance $120.00, Disability insurance $0.00, Health savings account $0.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$120.00</td>
</tr>
</tbody>
</table>

Do you actually spend this total amount?

- [x] No. How much do you actually spend? $0.00

- [ ] Yes

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.</td>
<td>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. These expenses may include contributions to an account of a qualified ABLE program. 26 U.S.C. § 529A(b).</td>
<td>$0.00</td>
</tr>
<tr>
<td>27.</td>
<td>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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>28.</td>
<td>Additional home energy costs. Your home energy costs are included in your insurance and operating expenses on line 8. If you believe that you have home energy costs that are more than the home energy costs included in expenses on line 8, 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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>29.</td>
<td>Education expenses for dependent children who are younger than 18. The monthly expenses (not more than $160.42* 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.</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>* Subject to adjustment on 4/01/19, and every 3 years after that for cases begun on or after the date of adjustment.</td>
<td>$0.00</td>
</tr>
<tr>
<td>30.</td>
<td>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.</td>
<td>$0.00</td>
</tr>
<tr>
<td>31.</td>
<td>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).</td>
<td>$0.00</td>
</tr>
<tr>
<td></td>
<td>+$</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

32. Add all of the additional expense deductions. Add lines 25 through 31. $120.00
### 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 33e. 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.

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>33a.</td>
<td>Copy line 9b here</td>
<td>$1,696.67</td>
</tr>
<tr>
<td>33b.</td>
<td>Copy line 13b here</td>
<td>$285.96</td>
</tr>
<tr>
<td>33c.</td>
<td>Copy line 13e here</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

33d. List other secured debts:

<table>
<thead>
<tr>
<th>Name of each creditor for other secured debt</th>
<th>Identify property that secures the debt</th>
<th>Does payment include taxes or insurance?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your Furniture Store</td>
<td>Furniture and furnishings, at est. liquidation value</td>
<td>No $83.33</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes $83.33</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No $0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes $0.00</td>
</tr>
</tbody>
</table>

33e. Total average monthly payment. Add lines 33a through 33d

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,065.96</td>
</tr>
</tbody>
</table>

Copy total here $2,065.96

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 33, to keep possession of your property (called the cure amount). Next, divide by 60 and fill in the information below.

<table>
<thead>
<tr>
<th>Name of the creditor</th>
<th>Identify property that secures the debt</th>
<th>Total cure amount</th>
<th>Monthly cure amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>-NONE-</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total $0.00

Copy total here $0.00

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 $5,000.00 + 60 = $83.33
Debtor 1  Richard Farnsworth Denton
Debtor 2  Penelope Moonsong Denton

   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
   Average monthly administrative expense if you were filing under Chapter 13 $________

37. Add all of the deductions for debt payment.
   Add lines 33e 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  $3,828.37
   Copy line 32, All of the additional expense deductions  $120.00
   Copy line 37, All of the deductions for debt payment +$2,149.29
   Total deductions $6,097.66

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 $6,976.00
   39b. Copy line 38, Total deductions -$6,097.66
       Subtract line 39b from line 39a $878.34
   39d. Total. Multiply line 39c by 60 $52,700.40

For the next 60 months (5 years) x 60

40. Find out whether there is a presumption of abuse. Check the box that applies:
   ☐ The line 39d is less than $7,700*. 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 $12,850*. 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. Go to Part 5.
   ☐ The line 39d is at least $7,700*, but not more than $12,850*. Go to line 41.

   *Subject to adjustment on 4/01/19, 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 106Sum), you may refer to line 3b on that form. $ x .25
   41b. 25% or your total nonpriority unsecured debt. 11 U.S.C. § 707(b)(2)(A)(i)(I) Multiply line 41a by 0.25. $ Copy here=> $ 

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.

Give a detailed explanation of the special circumstances

Average monthly expense or income adjustment

$ 
$ 
$ 
$ 

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.

☐ /s/ Richard Farnsworth Denton  ☐ /s/ Penelope Moonsong Denton
Richard Farnsworth Denton  Penelope Moonsong Denton
Signature of Debtor 1  Signature of Debtor 2
Date 9/28/2018  Date 9/28/2018
MM/DD/YYYY  MM/DD/YYYY
Hypothetical—Statement About Your Social Security Numbers (Official Form 121)
(Penny and Rich)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
# Official Form 121
## Statement About Your Social Security Numbers

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

<table>
<thead>
<tr>
<th>For Debtor 1:</th>
<th>For Debtor 2 (Only if Spouse is Filing:)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First name</td>
<td>First name</td>
</tr>
<tr>
<td>Middle name</td>
<td>Middle name</td>
</tr>
<tr>
<td>Last name</td>
<td>Last name</td>
</tr>
</tbody>
</table>

For Debtor 1:
- First name: Richard
- Middle name: Farnsworth
- Last name: Denton

For Debtor 2 (Only if Spouse is Filing):
- First name: Penelope
- Middle name: Moonsong
- Last name: Denton

### Part 2: Tell the Court About all of Your Social Security or Federal Individual Taxpayer Identification Numbers

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. All Social Security Numbers you have used</td>
<td>3. All federal Individual Taxpayer Identification Numbers (ITIN) you have used</td>
</tr>
<tr>
<td>555-55-5555</td>
<td>☐ You do not have a Social Security Number</td>
</tr>
<tr>
<td>☐ You do not have a Social Security Number</td>
<td>☐ You do not have an ITIN.</td>
</tr>
</tbody>
</table>

### Part 3: Sign Below

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

X /s/ Richard Farnsworth Denton  
Signature of Debtor 1  
Date 9/28/2018

X /s/ Penelope Moonsong Denton  
Signature of Debtor 2  
Date 9/28/2018
NOTES
Part I: Overview of Bankruptcy Law:
Sources, Jurisdiction, Parties, & Debt Relief
Agency (PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
Purpose:

- Provide debtor with a fresh start
- Equitably distribute the debtor’s assets among the competing creditors
Working Definition:

- Chapter 7 “straight bankruptcy” because it is the simplest form of bankruptcy.
- In a Chapter 7, most or all of a debtor’s debts are cancelled.
- A debtor is allowed to keep certain assets that are exempted by state law.
- Nonexempt assets are available to the Chapter 7 Trustee, who can liquidate the assets to pay the debtor’s creditors.
- Most Chapter 7 cases are “no asset” cases and such cases are the most common type of bankruptcy filed.
Sources of Bankruptcy Law

● Substantive bankruptcy law:

  - Case Law: The Supreme Court, U.S. Court of Appeals, Bankruptcy Appellate Panels (BAP), United States District Courts and United States Bankruptcy Courts
Sources of Bankruptcy Law

- Nonsubstantive bankruptcy law:

- Nonbankruptcy Law:
  - When Code is silent and no uniform bankruptcy rule required, parties’ rights are controlled by applicable state law.
Sources of Bankruptcy Law

- Procedural Rules:
  - Federal Rules of Bankruptcy Procedure (the “F.R.B.P.” or “Bankruptcy Rules”): provides specific rules and procedures unique to bankruptcy practice.
  - Federal Rules of Civil Procedure (the F.R.C.P.) apply to bankruptcy court proceedings as provided by the F.R.B.P.
  - Federal Rules of Evidence (F.R.E.) apply to bankruptcy cases and proceedings.
  - Local Bankruptcy Rules: Go to local bankruptcy court website to obtain rules specific to your district and division.
  - Judge’s Procedures should be reviewed to understand the procedures in handling cases in her/his courtroom.
Sources of Bankruptcy Law

- **Official U.S. Bankruptcy Forms:**
  - The U.S. Judicial Conference has established Official Forms for use in bankruptcy cases. These forms are mandatory. These can be found at:

- **Local bankruptcy court forms:**
  - Districts often create modified versions of the Official Forms. Modified forms can be used in any district and districts may require use of a specific form.

- **No bankruptcy rule or local rule:**
  - For situations not where no bankruptcy rule or local rule applies the bankruptcy court may regulate practice before it in any manner not inconsistent with federal law, the Official Forms, the FRBP or local rules.
The Participants

Trustee

- Appointed as the representative of the debtor’s bankruptcy estate
- Primary duty: To liquidate debtor’s nonexempt assets in a manner that maximizes a return to the debtor’s unsecured creditors
- Reviews debtor’s petition and schedules for possible fraud or abuse
The Participants

Trustee

- Conducts 341(a) hearing 20-40 days after the case is filed with the bankruptcy court for the purpose of verifying that the debtor is eligible to file a Chapter 7 case and to determine if there are nonexempt assets that should be administered.

- Avoiding Powers: Trustee may exercise avoiding powers to recover money or property.

- If the debtor is a business, the bankruptcy court may authorize the trustee to operate the business for a limited time, if such action would benefit creditors and enhance the liquidation of the estate. 11 U.S.C. 721

- Earns commission on value of liquidated assets
The Participants

Bankruptcy Judge

- Assigned to handle the case and will usually only be involved in the typical Chapter 7 consumer case if there is a motion or adversary proceeding in the case.
- Debtor will rarely see the judge, unless there is a reaffirmation hearing and debtor wants to reaffirm a debt.
- In Chapter 13 cases, the judge plays a more central role in the case as the judge must issue an Order confirming the Chapter 13 plan.
The Participants

*Debtor Attorney*

- Represents the debtor in the bankruptcy case and advises the client throughout their case. The scope of the representation should be clearly delineated in the retainer agreement and the Limited Scope of Appearance that will be filed in the case.
The Participants

Creditor Attorney

- In some cases, usually where there are assets available to creditors, a creditor will hire an attorney to review the case and assert any rights of the creditor. If a creditor attorney appears in a non-asset case, the creditor may believe that there is a dischargeability issue or an exemption issue. Generally a creditor’s attorney will contact the debtor’s attorney to make an inquiry prior to filing an action in Court. It is important that the debtor attorney return inquiry calls to find out in advance if there are issues that can be resolved with the filing of an adversary action within the bankruptcy case. If an adversary is filed, representation in such a matter generally would be outside the scope of the debtor attorney’s employment agreement and the debtor would have to hire other counsel to represent them in such a case.
DEBT RELIEF AGENCY (DRA)

- What is a debt relief agency?
  - 11 U.S.C. §101
- If an attorney is a debt relief agency, what are the restrictions?
- What does the attorney have to disclose?
  - 11 U.S.C. §527
- Are pro bono attorneys debt relief agencies?
Part II: Attorney Duties

Sally J. Elkington
_Elkington Shepherd LLP_

Carl R. Gustafson
_Lincoln Law_

Sarah Lampi Little
_Kornfield, Nyberg, Bendes, Kuhner & Little, P.C._
PART II: ATTORNEY DUTIES

I. THE INITIAL INTERVIEW

The initial interview with the client should obtain the most accurate and complete information regarding the individual debtor's situation, explain the different bankruptcy chapters/options, and advise him/her regarding the benefits, consequences and alternatives to filing for bankruptcy.

CONDUCTING YOUR DUE DILIGENCE 11 USC SECTION 707(b)(4)(D)

This section provides that the signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

BEST PRACTICE IN CONDUCTING DUE DILIGENCE

As a general rule, the more complex your client's situation the more due diligence may be required of the attorney.

A Chapter 7 bankruptcy case includes a petition, schedules, statement of financial affairs, statement of intention, means test, mailing list and credit counseling certificate. In conducting your due diligence, you should have the following:

Documentation you should collect includes [COPIES ONLY, NEVER RETAIN ORIGINALS]:

- pay stubs
- bank account statements
- billing statements
- lawsuits
  - judgments
- federal income tax returns for last 2 years
- co-debtor information
- real property information
- vehicle information
- leases
- divorce decrees & settlement agreements
- garnishment
- levy and liens
- repossession information

Attorney-Client Retainer Agreement: This can be a valuable tool to advise clients of their responsibility to provide truthful and accurate information.
ADVISING THE CLIENT

ALTERNATIVES TO FILING BANKRUPTCY

DOING NOTHING: WHEN IS THIS A REALISTIC OPTION?

Statute of Limitations: Important to determine when the statute of limitations will expire for your client's debt. (i.e. In California, creditors have a 4 year Statute of Limitations to collect on most debts and it is important to advise a client that she/he may not need to file bankruptcy.)

Judgment Proof: Your client may be "judgment proof." When a person is judgment proof the debtor's income may be exempt and they may not have any assets that can be reached by a creditor.

Debts not dischargeable in bankruptcy: Some debts, such as child support, most student loans, recent taxes and certain other debts, may not be discharged by filing for bankruptcy.

Creditor Harassment: Your client may be experiencing extreme financial distress because creditors keep calling them. Clients have federal and state protections available to them to stop the harassment. This should not be the sole reason someone should file for bankruptcy.


REPAYMENT PLAN: WHAT TO ADVISE CLIENTS CONSIDERING THIS OPTION:

- Examine feasibility of doing repayment plan with creditors.
- Beware of rip-off repayment plan for profit services.
- Contact local non-profit agencies for referrals to reputable non-profit debt negotiation settlement agencies.
- Advise clients to have everything in writing before sending a payment and clearly understand terms of payment plan.
- Advise clients to have payment plan that is feasible.

Alternate repayment plans often report negatively on credit reports

RETAINING THE CLIENT IN A CHAPTER 7 CASE If a client decides to retain you for representation in a Chapter 7 case, you should have a retainer agreement that clearly delineates the fees, scope of services, charges for additional fees.

Once the client has retained you, now have the task of obtaining a complete and accurate listing of the debtor’s assets and liabilities. I also recommend having the client fill out a questionnaire that lists all of their assets and debts that they sign and provide
you to ensure that they have provided you with the most complete and accurate information.

Credit Report(s): Obtain copies of all three credit reporting agencies. Individuals can obtain a free copy of their credit reports at annualcreditreport.com.

County Recorder Index search: Review County Recorder Indexes for real property transactions that your client didn’t tell you about or doesn’t know about (e.g. deed transfers, abstracts of judgment, tax liens)

PACER Search: You should sign up to get an account with PACER account to be able to search for prior bankruptcy cases the client may have filed.

COMMUNICATE WITH YOUR CLIENT. Communicate with your client! The number one reason clients complain to the State Bar or Office of the United States Trustee is for the attorney’s failure to communicate.

EVALUATING THE CLIENT DURING THE INTAKE PROCESS

MEETING WITH THE CLIENT: Clients will most likely be facing one or more of the following issues: pending lawsuit, wage garnishment, foreclosure, harassment by creditors, job loss, divorce, loan modification or eviction.

EMOTIONS OF CLIENT: Clients often feel a tremendous amount of pressure and will be coming to you feeling anxious, overwhelmed, stressed, depressed, embarrassed, ashamed and/or angry.

ESTABLISHING RAPPORT AND LISTEN TO THE CLIENT’S GOALS: This component is VITAL so that you obtain the most accurate and complete information. If the client will not or refuses to give you complete information, you will be unable to properly advise them about their options. You also may be taking a case that will get more complicated than you anticipated.

CONTROL THE INTERVIEW PROCESS:

RED FLAGS:

Is client being truthful with me?
Is the client providing me complete information?
Does client's situation make sense?
Are goals of the client unrealistic?

INITIAL INTAKE FORM: Most attorneys have some type of intake form, anywhere from 1-5 pages. This is a useful tool because it will enable you to guide the client through
their financial situation and prompt them to give you the most complete and accurate information regarding their debts, assets, and income information.

If possible, you may want to volunteer at a pro bono organization or ask more experienced attorneys if they would not mind you sitting in on some consultations they have with clients. This will be useful in obtaining hands-on experience in handling clients.

JURISDICTION

- Federal district courts have original and exclusive jurisdiction of all cases filed under Title 11 of the United States Code (all bankruptcy cases), and have original, but not exclusive, jurisdiction of all civil proceedings arising under Title 11, or arising in or related to cases under Title 11. (29 USC §1334(a) and (b))

- The district court in which a case under Title 11 is filed has exclusive jurisdiction of all the property of the debtor and of the estates, wherever it is located. 28 USC §1334(e)(1)

- Federal courts have no power to issue divorce, alimony or child custody decrees (domestic relations exception) in diversity cases and may not probate a will, administer a decedent’s estate or hear any action that would interfere with pending state court probate proceedings (probate exception)

- *Stern v. Marshall* 131 S.Ct 2594 (2011) – Held that Bankruptcy Court has no constitutional authority to issue final rulings over certain state law claims, even some listed as core proceedings

- *Wellness* 575 US ____- Parties can consent to cases being decided by Bankruptcy Court in initial pleadings. Consent does not have to be express

WHO CAN BE A DEBTOR?

ELIGIBILITY TO FILE

- Generally, any “person” who “resides or has a domicile, a place of business, or property in the United States” is eligible to file a voluntary bankruptcy petition. (11 USC § 109(a))
  - Person includes an individual, partnership, and corporation, but not a governmental unit, estate or trust.
    - Individual
    - Spouses may file bankruptcy separately or jointly
      - Same-sex spouses may now file jointly, no matter what state in which they reside.
✓ Unmarried persons living together are not “spouses” and may not file a joint petition.
  ➢ Common law marriage is NOT recognized in most states and in those states with common law marriage, common law spouses may not file jointly.
✓ Undocumented persons permanently residing in the U.S. and domiciled are eligible to file bankruptcy.
✓ Minors and/or incompetents are eligible to file bankruptcy through a duly-appointed representative, such as a guardian or conservator, or if no representative has been appointed, through a next friend or guardian ad litem.
  ➢ Courts are split on whether a power of attorney authorizes the holder to file a bankruptcy petition on behalf of the incompetent person.
✓ Partnerships are eligible for relief under Chapter 7, 11 or 12
  ➢ The Code does not define a partnership; therefore, Courts look to state law to determine whether an entity is a partnership for the purposes of bankruptcy eligibility.
✓ Corporations may be debtors under Chapter 7, 11 or 12
  ➢ May only file through a licensed attorney as officers cannot represent the corporation.
  ➢ Not eligible for a discharge

INELIGIBILITY TO FILE

• Abusive Filing: If the debtor is able to pay creditors and therefore a Chapter 7 filing would be an “abusive filing” (Generally a Means Test Issue):
  ➢ Section 707 of the Bankruptcy Code (means test) is the primary method to determine if the filing of a Chapter 7 bankruptcy establishes substantial abuse.
   ▪ If a debtor does not “pass” the means test, either in prong one (current monthly income (CMI) is below the median income level) or prong two (the disposable monthly income (DMI) is within the acceptable amount) then the debtor should not file a Chapter 7 bankruptcy.
   ▪ Even if the debtor “passes” the means test, but has a change of circumstance that allows him/her to pay his debts could also be an abusive filing.
• **180 day bar to refiling**
  - Applies where a case was dismissed based on “willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case” 11 USC 109(g)(1)
  - Prior dismissal by debtor after creditor filed for relief from stay 11 USC 109(g)(2)

• **8-year Rule: CHAPTER 7 TO CHAPTER 7:** Debtor cannot have received a discharge in a Chapter 7 case commenced (filed) within 8 years before the filing of a new Chapter 7 case. 11 USC 727(a)(8)
  - No discharge available in new Chapter 7 case.

• **6-year Rule: CHAPTER 13 TO CHAPTER 7:** Debtor cannot have received a discharge in a Chapter 13 case filed less than 6 years of the filing date of the new Chapter 7 case. 11 USC 727(a)(9)
  - No discharge available unless:
    - the debtor paid all “allowed unsecured” claims in the earlier case, in full, or;
    - the debtor made payments under the plan in the earlier case totaling at least 70 percent of the allowed unsecured claims and the debtor’s plan was proposed in good faith and the payments represented the debtors best efforts.

• **4-year Rule: CHAPTER 7 TO CHAPTER 13:** A debtor is ineligible for discharge under a Chapter 13 if he or she received a prior discharge in a Chapter 7, 11, or 12 case that was filed less than four years before the new Chapter 13.

• **2-year Rule: CHAPTER 13 TO CHAPTER 13:** A debtor is ineligible for a discharge under a Chapter 13, if he or she received a prior discharge in a Chapter 13 case filed less than two before the filing date of the new Chapter 13.

**State Law:** (ie. California Rosenthal Fair Debt Collection Practices Act, Calif. Civil Code Section 1788, et seq. Look to your state for state-specific protections).

**VENUE**

• A bankruptcy petition must be filed in the proper division (and within the proper location of that district that has multiple locations) that lies in the federal district for the district in which the debtor had either domicile, residence, principal place of business in the U.S. or principal assets in the U.S. during the longest portion of the 180-day period preceding filing of the case.
  - **Domicile:**
✓ Generally defined as the individual’s residence with intent to remain there or return when absent.

  o Residence
  ✓ An individual may have more than one “residence” at a time. For bankruptcy venue purposes, residence means “a permanent residence, as in the individual’s home, as distinguished from a mere “stopping place” for the transaction of business or pleasure.

  o Principal place of business
  ✓ Where entity has its “principal place of business” or principal assets.

  • 180-day requirement
    o The petition should be filed in whichever district the individual has resided longer, even if the debtor no longer resides there

---

**EVALUATING THE BANKRUPTCY PROCESS**

The two types of consumer bankruptcy relief: Chapter 7 & Chapter 13 bankruptcy and sometimes Chapter 11 (not to be discussed in this presentation.

**Chapter 7 vs. Chapter 13 bankruptcy**

Chapter 7 is also referred to a liquidation bankruptcy or straight bankruptcy and most debtors will be able to:
  o Discharge most or all of their unsecured debts
  o Protect a certain amount of personal and/or real property
  o Obtain a fresh start in about 5-6 months

Chapter 13 is often referred to as a re-organization bankruptcy and most debtors will be able to:
  o Discharge a portion of their unsecured debts
  o Propose a payment plan to creditors, usually to catch up on arrears of mortgage payments or pay off a car loan
  o File a motion or adversary proceeding to eliminate a second mortgage

** Bankruptcy will be on your credit for ten (10) years**

If the client is not a homeowner, has low wages and few assets, most of the time, a Chapter 7 bankruptcy will offer him/her the greatest relief provided they pass the means test. (The means test will be covered later in this program, but briefly it compares the
debtor's household income with the state's median income. If their household income is under state median income there is no presumption of abuse under the means test).

The information you want to obtain from clients who own a home that will help you assess whether a chapter 7 filing or Chapter 13 filing is appropriate include:

**Homeowner considering bankruptcy**

- Do they own a home? If yes, how many?
- Is there equity on their home or any of the properties they own?
  - Equity = Home fair market value – Secured mortgage debts
- Does their home have additional mortgages, such as a second mortgage, or an equity line of credit (many debtors don’t know that this is a mortgage on their property?)
- Is there a foreclosure pending on any of their properties?
- Can client afford the home?
- Does the client want to keep the home?
- Does the client have any other income coming into the household?

**Can a homeowner file a Chapter 7 Bankruptcy?** YES

For example, Jenny Jacobs owns a home with only a first mortgage and the property has no equity. The home is worth $200,000 and the loan is $220,000. In this situation, Ms. Jacobs could potentially qualify to file for Chapter 7 bankruptcy relief and still keep her home if she is current on the payments.

In a Chapter 13 bankruptcy, there are some advantages not available in a Chapter 7 filing. It is vital to stress to clients that Chapter 13 bankruptcy was not created to stop a foreclosure sale. You will probably see many clients coming to you who want to file a Chapter 13 even when they have no realistic means of proposing a feasible repayment plan.

It is also important to stress to clients that this relief will only be temporary and that, in the end, if they cannot afford the home, the creditor still has the ability to foreclose if the client cannot become current on their payments by filing a motion for relief from the automatic stay.

**What are other benefits to homeowners filing a Chapter 13 bankruptcy?**

If a client is behind on their payments, a Chapter 13 filing could be a great tool because it can enable home-owners to propose 3-5 year repayment plan to catch-up on arrears from their house payments to avoid a foreclosure of their home.
If the client has a second mortgage, the debtor may be able to eliminate the second unsecured mortgage upon approval from the court (via motion or adversary proceeding). This is not available in a Chapter 7 filing.

**TYPES OF DEBTS**

- **Secured debts** – Debt backed or secured by collateral to reduce the risk associated with lending, such as a mortgage or auto loan. If the debtor defaults on the loan, the house can be foreclosed upon or the auto can be repossessed.

- **Unsecured debts** – A debt that does not have specific property like a house or car, serving as collateral for payment of the debt. If a debtor fails to make payments on an unsecured debt, the creditor cannot take any of your property without first suing you and getting a court judgment.
  - Levy
  - Liens

- **Priority debts** – Debts that are nondischargeable unsecured debts that receive special treatment in a bankruptcy. The most common priority debt are certain tax debts. Priority debts are paid before general unsecured debts
  - alimony and child support

**DEBTS NOT DISCHARGED**

- Generally, taxes
  - Issue of filing too soon so that what could be an unsecured debt remains a priority debt.
  - Requirements:
    - Taxes are income-based
    - Tax return was due at least three years ago
    - Return was filed at least two years ago
    - Taxes were assessed at least 240 days ago
    - No fraud or willful evasion

**BANKRUPTCY PLANNING**

- Timing of the filing
- Reducing non-exempt assets
- Transfer of property
- Insider payments
• Dischargeable taxes
• Recent use of credit
• Employment
• Inheritance
• Divorce
Guidelines for Legal Services to be Provided by Debtors’ Attorneys in Chapter 7 Cases, United States Bankruptcy Court for the Northern District of California

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GUIDELINES FOR LEGAL SERVICES TO BE PROVIDED
BY DEBTORS’ ATTORNEYS IN CHAPTER 7 CASES

To assist individuals who are chapter 7 debtors and their attorneys in arriving at a mutual understanding of the services that will be included in the process of filing and concluding a chapter 7 bankruptcy case, a description of the standard services provided by an attorney in the District is set forth below. Use of the term “the attorney” means an attorney in the law firm representing the debtor, who is admitted to practice law before the U.S. District Court for the Northern District of California. Inherent in these Guidelines is the concept that due to the complexities and unpredictable aspects of most such cases, it is not appropriate to set a minimum or maximum attorneys’ fee for chapter 7 cases. The following services to be provided by the attorney assume that the debtor has fully, accurately and honestly disclosed all assets, debts, and all other financial information requested by the attorney or required by the United States Trustee, the chapter 7 trustee, the official bankruptcy forms or by law. In addition, the performance of these services by the attorney is understood to be completely dependent upon the continued timely cooperation of the debtor with regard to paying required court fees, providing information and documentation, and executing documents necessitated by the unfolding legal process and the requirements of the attorney in representing the debtor effectively. If the debtor fails to perform any of the debtor’s obligations under these Guidelines, including the fulfillment of financial commitments made to the attorney, the attorney may move to withdraw from the case. If the attorney fails to perform the legal services described herein, which are not intended as an exclusive list, the debtor may bring the omission to the attention of the court or pursue other available remedies.

A. Services Always Included in the Pre-Petition Fee

1. The attorney provides a copy of these Guidelines to the debtor.
2. The attorney meets personally with the debtor and explains the options available under both chapter 7 and chapter 13 before the debtor selects the chapter to be filed.
3. The attorney reviews the final petition, schedules, statement of financial affairs, and statement of social security number, prior to having them filed with the court.
4. The attorney, with staff assistance, reviews the debtor’s proof of identification and social security number and advises the debtor to provide documentation thereof or a written statement that such documentation does not exist, at the § 341 meeting.
5. The attorney personally attends the § 341 meeting. However, if the attorney is unable to attend the meeting, he/she may arrange for another attorney to appear, subject to the provisions of ¶ 6.
6. The attorney provides an “outside contract services attorney” representing the debtor at legal proceedings (such as § 341 meetings and other meetings, depositions and court appearances) with all of the information necessary to fully and competently represent the debtor. The attorney must also take precautions to assure that the information imparted to the outside contract services attorney is held in confidence. Where use of an outside contract services attorney is anticipated at the time of retention, the attorney must obtain the debtor’s consent to the employment of an outside contract services attorney in a written agreement that names the outside contract services attorney or a list of possible outside contract services attorneys, and must fully disclose the compensation for services to be performed. Where the use of an outside contract services attorney is unanticipated at the time of retention but becomes necessary, the outside contract services attorney may be employed, provided that all of the following circumstances have been met: a) the attorney informs the client of the name, address and telephone number of the outside contract services attorney and obtains the prior written consent to use of an outside contract services attorney whenever possible; b) the attorney fully discloses the compensation for services to be performed by the outside contract services attorney; and, c) the attorney has attempted to obtain a continuance of the matter without success, unless it is in the debtor’s best interests to proceed with the matter.

Effective 3/15/05
7. The attorney explains to the debtor with secured debts all of the following rights:
   a. to retain the security with continued ongoing payments in accordance with applicable case law;
   b. to redeem the security by motion or negotiation;
   c. to reaffirm the underlying debt, along with the risks of incurring future deficiency claims; and
   d. to surrender the security.
8. The attorney files changes of the debtor’s mailing address, as necessary.
10. The attorney, with staff assistance, informs the debtor of all chapter 7 trustee and U.S. Trustee requests for documents or other information and assists the debtor in transmitting available information to the requesting trustee. However, the debtor is solely responsible for locating such documentation and providing it to the attorney on a timely basis.
11. The attorney, with staff assistance, responds to reasonable creditor inquiries to confirm the case filing.
12. The attorney, with staff assistance, assists the debtor in:
   a. ensuring that creditors, collection agents, and attorneys provided by the debtor are notified of the case filing; and
   b. notifying levying officers or agencies in order to stop evictions, foreclosures, wage garnishments, bank levies, and other asset seizures in effect on the petition filing date, as appropriate.

B. Services Always Included, But Additional Fee May Be Charged Pre- or Post-Petition, as Mutually Agreed

13. The attorney, as appropriate and necessary, where requested by the debtor:
   a. negotiates with a secured creditor to confirm the enforceability of the security interest and the redemption value of said security;
   b. files a motion to set the value and redeem said security; or
   c. negotiates a reaffirmation agreement having fully advised the debtor of the legal effect and consequences of the agreement and any default thereunder, including the possibility of a future deficiency claim against the debtor, and being persuaded that such agreement represents a fully informed and voluntary agreement by the debtor and does not impose an undue hardship on the debtor or a dependent of the debtor.
14. The attorney, based upon new information provided by the debtor or confirmed by the debtor, files signed amendments to the petition, schedules, statement of financial affairs, or statement of social security number.
15. The attorney reviews motions for relief from the automatic stay, with staff assistance communicates with the debtor regarding them, responds to such motions where necessary, and appears in court on behalf of the debtor where necessary.
16. The attorney represents the debtor with regard to objections to claims of exemption.
17. The attorney represents the debtor in matters brought under 11 U.S.C. § 707(b), as well as related Rule 2004 examinations.

C. Optional Services Not Included in the Pre-Petition Fee – Subject To Separate Agreement, If Any

18. The attorney files motions for abandonment of estate property.
19. The attorney files motions to avoid judicial liens on real property and other liens that impair exemptions.
20. The attorney files or defends, on behalf of the debtor, any dischargeability complaints.
22. The attorney files or defends, on behalf of the debtor, other adversary proceedings including ancillary matters such as Rule 2004 examinations and document requests.
23. The attorney files, prosecutes, or defends appeals on behalf of the debtor.
24. The attorney moves to re-open the debtor’s closed case.

Effective 3/15/05
NOTES
Sally J. Elkington

*Elkington Shepherd LLP*
Thank you for contacting our office regarding your financial situation. Attached is an Initial Client Questionnaire. This questionnaire asks for the basic information I will need in order to analyze your particular financial situation, advise you of your options, and help you decide which options would be most beneficial to you. Once we have made that decision, I will give you a more detailed Questionnaire specific to your situation. I am requesting that you complete the attached intake sheet so that we will be able to use our time together efficiently.

Let me provide you with some basic information regarding the two major types of bankruptcy filings available to individuals. A Chapter 7 is what most people think of when they hear the term “bankruptcy.” In a Chapter 7, a petition and schedules would be prepared on your behalf based on information that you provide to me. You would sign the petition and schedules after they are prepared. You would have to attend a brief Meeting of Creditors. This meeting is with the Chapter 7 Trustee that is assigned to your case, and any creditors that wish to attend (they are not required to do so). I will attend with you and answer any technical questions the Trustee might have. Creditors seldom attend these meetings. In order to “qualify” for a Chapter 7 bankruptcy, your income and expenses must fall below the “means” in the area in which you live. There is a “means test” that we will have to prepare in order to ascertain if you qualify for a Chapter 7 bankruptcy. The “means test” is based on the last six months of your income. A Chapter 7 bankruptcy will not protect your assets such as a house or a car, if you are not current with those creditors. Further, in order to file a Chapter 7 you should not have a lot of equity (value) in your property or you may lose the property. A Chapter 7 bankruptcy is not designed to assist you in keeping property that you owe money on (notes) and have fallen behind in the payments on the note. It is designed primarily for situations where the debt you have is primarily unsecured debt (no notes securing property).

In approximately ninety days after filing the Chapter 7 bankruptcy, any debts that are dischargeable would be discharged (go away in bankruptcy). Any debts that are “non-dischargeable” (don’t go away in a bankruptcy), such as student loans and recent taxes) would be not be discharged. Some debts, such as vehicle loans can be reaffirmed. If you reaffirm a debt, you are choosing to retain possession of property (a computer, furniture) and to continue paying for that property. A “consumer Chapter 7” means that your debts were incurred as a consumer, not on behalf of a business you own. If you own your own business, we would need to discuss and analyze the complexity of your business.

A Chapter 13 is sometimes referred to as a “reorganization”. You are given between three years and five years to repay some or all of the debts you owe. A Chapter 13 Plan is prepared by you and me, showing your debts and the items related to those debts, the amounts you owe for each item, and the actual value of each item. In some cases if the debt is over 2-1/2 years old, you might only have to pay the value of the item, if that value is less than what you owe. For example, if you owe $10,000.00 for an automobile that is only worth $5,000.00, you may be able to reduce the amount you pay for that automobile to the actual value, plus interest (often reduced). Sometimes creditors dispute the valuation you place on an item, and it does take some time and effort to prepare a plan acceptable to all the creditors. But once a plan is confirmed, you are able to pay off your debts without harassment from your creditors. In a Chapter 13 bankruptcy, you may not have to pay your unsecured creditors, such as credit cards, medical bills, old taxes (there are specific rules about whether old taxes are dischargeable), etc. Or you may only have to pay them a partial amount of what you owe them. In order for me to be able to tell you what you would have to pay, I will have to fully analyze your financial situation and evaluate your assets (things you own). There is also a Meeting of Creditors with the Chapter 13 Trustee and any creditors that wish to attend. Again, creditors seldom attend the Meeting of Creditors and I will attend with you.

Upon the filing of the petition in either a Chapter 7 or a Chapter 13, where a previous bankruptcy has not been filed in the last two years, the “Automatic Stay” of the Bankruptcy applies to all your creditors. What this means is that your creditors cannot contact you, or take any further action to collect the debts. If a foreclosure action has begun on your house, it must stop. If a repossession action has begun on your car, it must stop. If your wages are being garnished, it must stop. If creditors are calling you or writing you letters, they must stop. The “Automatic Stay” is very powerful and allows you to regain your peace of mind and to begin your financial recovery.

Please answer the attached questionnaire very completely and honestly. I cannot evaluate your situation if you do not disclose all of the necessary information. Leaving out information may cause me to give you incorrect advice that could cause you to lose your property or money. The information that you provide in the questionnaire and the information that you tell me in our appointment is protected by attorney-client privilege. It is very important that you do not leave out any facts or information in our consultation.
CLIENT INTAKE SHEET

Today's Date: ___________________________ How did you find out about my office? ___________________________

Your Name: ______________________________________________________________________________ Date of Birth __________________ __

Address: ______________________________________________________ City________________ State_______ Zip Code _______________

Phones: (h) __________________________________ (w) _______________________________ (c) __________________________________

Check which applies:  Single  □ Married  □ Separated  □ Divorced  □ Widowed  □ Registered Domestic Partner  □

IF YOU HAVE A LEGAL SPOUSE OR REGISTERED DOMESTIC PARTNER, FILL OUT BELOW:

Spouse/Partner’s Name: ________________________________________________________________________ Spouse/Partner’s Date of Birth ______________

Do you live with this person?  YES □ NO □ Do you share expenses? YES □ NO □ Date of Marriage or Registration: __________

LIVING SITUATION

Check one:  □ Rent  □ Own  □ Live with relative or other and pay no rent  □ Other Living arrangement

How many minor children living with you? ________ Ages: __________ Do you or your spouse pay alimony or child support for any children YES □ NO □

How many years have you lived continuously in California: __________

If you have lived anywhere out of California for the last 24 months, where did you live ____________________________ For how long? __________

YOUR ASSETS (WHAT YOU OWN)

1. Do you own or are you buying a house? YES □ NO □

2. Do your own or are you buying more than one house: YES □ NO □

   If yes, how many? __________

3. Do you own or are you buying any other type of land or building? YES □ NO □

4. Do you own a timeshare? YES □ NO □

5. Do you own any expensive jewelry or furs? YES □ NO □

6. Are you on title or are you a co-signor for anything not in your possession, i.e. real estate, a car. YES □ NO □

7. Do you have any personal property not asked about above, that is of high value (over $1000)? YES □ NO □

8. Own anything else that has any value including, stocks, retirement interests, redeemable (you can cash in) life insurance policies, etc.? YES □ NO □

FOR ATTORNEY USE
# YOUR LIABILITIES (WHAT YOU OWE)

## DEBT:

<table>
<thead>
<tr>
<th>Question</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have a mortgage or mortgages?</td>
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<tr>
<td>Do you have a loan on a vehicle or vehicles:</td>
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</tr>
<tr>
<td>Do you have Credit Card Debt?</td>
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<tr>
<td>Do you have Student Loans?</td>
<td></td>
<td></td>
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<tr>
<td>Do you owe any back income or state taxes:</td>
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<tr>
<td>Do you own any other type of taxes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you have any unpaid medical bills?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you have any personal Loans? (Not car loans)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are any of these personal loans secured by any property?</td>
<td></td>
<td></td>
</tr>
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<td></td>
</tr>
<tr>
<td>Do you have any unpaid medical bills?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are you a co-signor on ANY debts?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you own any other debts, not stated above?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## GENERAL QUESTIONS

<table>
<thead>
<tr>
<th>Question</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you ever filed bankruptcy before?</td>
<td></td>
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<tr>
<td>Have you used any credit cards in the last 90 days for any non-essential living expenses of any kind:</td>
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<tr>
<td>Have you used any credit cards in the last 90 days for any cash advances or balance transfers:</td>
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<tr>
<td>Are you current with payments on your credit cards?</td>
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<tr>
<td>Have you transferred or sold any real estate or other property in the last ten years?</td>
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<tr>
<td>Are you going to inherit any money or property soon?</td>
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<tr>
<td>Entered into any loans or contracts in the last 2-1/2 years?</td>
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</tr>
<tr>
<td>Why have you decided that you may want to file bankruptcy?</td>
<td></td>
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</tr>
</tbody>
</table>

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
INCOME INFORMATION

YOUR EMPLOYMENT INFORMATION:

WHERE DO YOU WORK? ___________________________________________

HOW OFTEN DO YOU GET PAID: ____________________________________

WHAT IS YOUR INCOME PER PAYCHECK BEFORE DEDUCTIONS? _________

WHAT IS YOUR INCOME PER PAYCHECK AFTER DEDUCTIONS? ____________

IS YOUR PAYCHECK BEING GARNISHED? YES □ NO □

OTHER POSSIBLE SOURCES OF INCOME FOR YOU:

CHECK EACH THAT APPLIES TO YOU:

I RECEIVE UNEMPLOYMENT: YES □ NO □

I RECEIVE A PENSION OR RETIREMENT: YES □ NO □

I RECEIVE DISABILITY PAYMENTS: YES □ NO □

I RECEIVE WORKER’S COMP PAYMENTS: YES □ NO □

I RECEIVE CHILD SUPPORT: YES □ NO □

I RECEIVE RENT FROM TENANT(S): YES □ NO □

I RECEIVE OTHER SOURCE OF INCOME: YES □ NO □

Do you have more than one job? YES □ NO □

SPOUSE OR DOMESTIC PARTNER INFORMATION:

WHERE DOES YOUR SPOUSE/PARTNER WORK? _____________________

HOW OFTEN DOES YOUR SPOUSE GET PAID: _______________________

INCOME PER PAYCHECK BEFORE DEDUCTIONS? ___________

INCOME PER PAYCHECK AFTER DEDUCTIONS? ______________

IS YOUR SPOUSE’S PAYCHECK BEING GARNISHED? YES □ NO □

OTHER POSSIBLE SOURCES OF INCOME FOR YOUR SPOUSE:

CHECK EACH THAT APPLIES TO YOUR SPOUSE:

MY SPOUSE RECEIVES UNEMPLOYMENT: YES □ NO □

MY SPOUSE RECEIVES A PENSION OR RETIREMENT: YES □ NO □

MY SPOUSE RECEIVES DISABILITY PAYMENTS: YES □ NO □

MY SPOUSE RECEIVES WORKER’S COMP PAYMENTS: YES □ NO □

MY SPOUSE RECEIVES CHILD SUPPORT: YES □ NO □

MY SPOUSE RECEIVES RENT FROM A TENANT: YES □ NO □

MY SPOUSE RECEIVES OTHER SOURCE OF INCOME: YES □ NO □

Does your spouse have more than one job? YES □ NO □
VEHICLE INFORMATION
1. How many vehicles are in your name? ___________________________
   How many of these vehicles have loans on them? ________________
2. Do you own any other vehicles like boats, airplanes, or motorcycles or other cars?
   YES □ NO □
3. Are you a co-signor on a vehicle?
   YES □ NO □

REAL ESTATE INFORMATION
1. Kind of Real Estate YOU OWN OR ARE BUYING:
   Home □ Condo □ Bare Land □ Other ________________________
2. Do you own more than one piece of real estate (including bare land) YES □ NO □
   IF YOU OWN MORE THAN ONE PIECE OF PROPERTY. ANSWER THE FOLLOWING
   QUESTIONS FOR EACH PIECE OF PROPERTY
   PROPERTY 1 ADDRESS: _______________________________________
   A. Estimate how much your property would sell for today? ___________
   B. How many loans do you have on this property, including lines of credit ______
   C. Are you current with your payments? YES □ NO □
   D. If NOT current, have you received a Notice of Default? YES □ NO □
      Have you received a Notice of Sale? YES □ NO □
   E. Are you behind in your property taxes? YES □ NO □
   F. Are you behind in Home Owner’s Dues YES □ NO □
   If you have other pieces of property, answer the same questions on the back of this page.
### AVERAGE MONTHLY EXPENSES

TELL ME ABOUT YOUR EXPENSES: THESE ARE YOUR LIVING EXPENSES...DO NOT INCLUDE CREDIT CARD PAYMENTS, OUTSTANDING MEDICAL BILLS OR PERSONAL LOAN DEBITS. APPROXIMATE IF NECESSARY, THESE ARE MONTHLY AVERAGES. SOME EXPENSES DO NOT OCCUR EVERY MONTH SO ESTIMATE WHAT YOU SPEND FOR THAT EXPENSE IN ONE YEAR AND DIVIDE BY 12. I WILL HELP YOU WITH THIS SECTION AT OUR MEETING AS WELL, SO FILL IT OUT TO THE BEST OF YOUR ABILITY.

**MONTHLY**

- Rent or home mortgage payment (include lot rented for mobile home and all mortgages and HOA dues) $__________
- Are real estate taxes included in your payment? If you own. Yes___ No____ If no, what are your taxes monthly $__________
- Is property insurance included in your payment? If you own. Yes___ No____ If no, what is your insurance monthly $__________

#### UTILITIES EXPENSES:
- Electricity.................................................. $__________
- Water.......................................................... $__________
- Telephone.................................................. $__________
- Garbage..................................................... $__________
- Cable.......................................................... $__________
- Internet...................................................... $__________
- Home Maintenance (Repairs and upkeep).................................................. $__________
- Food including eating out (Include paper products and toiletries)........................ $__________
- Clothing...................................................... $__________
- Laundry and dry cleaning.................................................. $__________
- Medical and dental expenses.................................................. $__________
- Transportation (Do not include car payments) (Include gas, oil, tune ups, DMV in monthly average)................ $__________
- Recreation, clubs and entertainment, newspapers, magazines, etc........................ $__________
- Charitable contributions .................................................. $__________

**INSURANCE (NOT DEDUCTED FROM WAGES OR INCLUDED IN HOME MORTGAGE PAYMENTS):**
- Life Insurance.................................................. $__________
- Health Insurance.................................................. $__________
- Auto Insurance.................................................. $__________
- Other Insurance (Describe) .................................................. $__________

**TAX PAYMENTS (NOT DEDUCTED FROM WAGES OR INCLUDED IN HOME MORTGAGE PAYMENTS):**
(Specify type, i.e., IRS, EDD, State, etc.) $__________

**INSTALLMENT PAYMENTS:**
- Auto Payment.................................................. $__________
- Other Installment Payment (describe) .................................................. $__________
- Other Installment Payment (describe) .................................................. $__________

- Alimony, maintenance, and support paid to others.................................................. $__________
- Payments for support of additional dependents not living at your home.................................................. $__________
- Regular expenses from operation of business, profession, or farm (attach detailed statement)........................ $__________
- Childcare expense.................................................. $__________
- Other expenses (describe) .................................................. $__________
- Other expenses (describe) .................................................. $__________

**PLEASE TOTAL ALL OF YOUR EXPENSES** $__________

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10/06/2010 M/Form/InQ Questionnaire/CLIENT INTAKE SHEET-20-10.docx
Bankruptcy Client Questionnaire—Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.

Sarah Lampi Little

*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
Please read the following carefully

Please complete entire packet before you call to scheduling your preparation appointment. Please review and answer every question as truthfully, completely and accurately as possible. This information will be used to prepare your bankruptcy petition, which will be signed by you under penalty of perjury. Failure to accurately disclose the information requested in your bankruptcy petition can have significant negative consequences, including losing property, losing your bankruptcy discharge, as well as potential criminal prosecution.

Failure to provide complete information will delay the preparation of your case.

Failure to disclose an asset can result in your losing that asset.

You MUST disclose all the property that you own or have an interest in as of the date of filing. This includes both real and personal property, whether you own it outright or are financing it. Make sure you disclose all of your property, and don’t forget to include sometimes overlooked assets such as bank accounts that are open but aren’t used, retirement accounts, ownership interests in businesses whether the business is active or not, property you presently are entitled to inherit, tax refunds that you have not yet received, etc. If you own an asset that is not covered by a specific question in this packet, you should include the item under “other property” and we can discuss it at the preparation appointment.

You MUST disclose all creditors that you owe money to, whether you plan on paying them after filing bankruptcy or not. This includes personal loans from friends and family members, as well as debts for which you acted as a cosigner, but you are not the one actually making the payments. You must fill out all sections of the creditor information pages, including the date or date range when the debt was incurred and what the debt was incurred for. Many creditors have several addresses on their statements; when choosing an address for the creditor, first look at the bill for an address where the creditor wants bankruptcy notices sent to; this is the address that you should provide. If no bankruptcy notice address is indicated, use the address where the creditor wants general correspondence sent. If there is no general correspondence address, use your best judgment to pick an address where the bankruptcy notice should be sent.

For married people: If you are married and live in California, whether or not you are currently separated, you are required to disclose all community assets and debts in your bankruptcy petition and schedules. This is required whether or not you both are filing for bankruptcy relief. If only one spouse is filing, it is very important that you make a complete disclosure of any and all assets that either of you own, whether you characterize that asset or debt as community or not. The attorney will discuss with you the characterization, logistics and necessity of disclosure, but failure to provide this information to your attorney before your case is filed could result in a loss of assets, a loss of discharge, as well as potential criminal prosecution. It is not sufficient to say that your non-filing spouse doesn’t want anything to do with your bankruptcy – if you are married, there may be consequences to that spouse whether they agree to provide information or not. It’s our job as your counsel to make sure you know what your rights and obligations are before your case is filed and assist you in protecting your interests.
DOCUMENTS TO PROVIDE

YOU MUST MAKE COPIES PRIOR TO YOUR APPOINTMENT. DO NOT LEAVE ORIGINALS, AS THEY WILL LIKELY NOT BE RETURNED TO YOU!

- Last year and the previous year’s federal tax returns (the complete return)
- All pay stubs received in the past 6 months
- Copies of the most recent statement you’ve received from each of your creditors
- Copies of the most recent statement from all open bank and retirement accounts
- If you are self employed, profit and loss statements by month for the past 6 months
- Copies of car purchase contract(s)
- Copies of any lawsuits you’ve received or are involved in
- Copies of any wage garnishments/levies that are pending
- Copies of any Abstracts of Judgments recorded against you
- Copy of closing statement for any refinance completed within past 2 years
- Copy of divorce judgment and property settlement agreement if divorced in past 5 years
- Copies of any commercial leases
- Copies of any loan papers where the creditor claims your furniture or other personal property as security or collateral (i.e. car loan – please provide the car purchase contract)
- Copies of any foreclosure notices; Notice of Default or Notice of Trustee Sale

For CHAPTER 13 CLIENTS: if your case involves a lien strip of your junior mortgage lien on real estate:

Proof of the current value of the real estate: any of the following
- Printout from www.zillow.com
- Real estate comparables
- Broker’s Price Opinion
- Current Appraisal

Proof of the debts against this property
- Most recent statement from the 1st deed of trust holder
- Most recent statement from the 2nd deed of trust holder
- Current printout from the property tax collector showing whether the property taxes are current
- Most recent Homeowners Association statement

Title documents
- Grant deed
- Copies of all deeds of trust
- If you have refinanced, a copy of the former lender’s re-conveyance

If you cannot obtain title documents, my office can obtain them for a document fee of $75.00 ________ initial to indicate you consent to this additional fee.
KORNFIELD, NYBERG, BENDES, KUHNER, & LITTLE P.C.

FILER 1 INFORMATION (IF SPOUSES ARE FILING JOINTLY COMPLETE FILER 2 INFORMATION)

FULL NAME __________________________________________________________________________________________

ALL OTHER NAMES USED IN PAST 6 YEARS  _________________________________________________________________

RESIDENCE ADDRESS_____________________________________________________________________________________

CITY, STATE ZIP  ______________________________________________________________________________________

LENGTH OF TIME AT CURRENT RESIDENCE _________________________________________________________________

MAILING ADDRESS (if different) __________________________________________________________________________

CITY, STATE ZIP  ______________________________________________________________________________________

HOME PHONE __________________ WORK PHONE ____________________ CELL PHONE __________________________

EMAIL ADDRESS ______________________________________________________________________________________

BEST WAY TO CONTACT:  □ HOME PHONE  □ CELL PHONE  □ WORK PHONE  □ EMAIL

SOCIAL SECURITY NUMBER_________________________ DATE OF BIRTH ______________________________________

STATUS:

□ SINGLE (NEVER MARRIED)    □ DIVORCED – Date final ______________

□ MARRIED LIVING TOGETHER    □ WIDOWED

□ MARRIED LIVING APART

HAVE YOU LIVED IN ALAMEDA OR CONTRA COSTA COUNTIES FOR THE PAST THREE MONTHS OR MORE? □ YES □ NO

HAVE YOU LIVED IN CALIFORNIA FOR THE PAST 2 YEARS? □ YES □ NO

IF NO, WHAT STATE DID YOU MOVE FROM AND DATE MOVED? ________________________________________________

HAVE YOU EVER FILED BANKRUPTCY BEFORE? □ YES □ NO

FILED A BANKRUPTCY WITHIN THE PAST 8 YEARS? □ YES □ NO

IF YES:

YOUR NAME AT TIME OF FILING ____________________________________________________________________________________

DATE FILED _____________________________ CASE NUMBER ____________________________  □ CHAPTER 7 □ CHAPTER 13

LIST ALL PEOPLE LIVING IN YOUR HOUSEHOLD

NAME                                                                 AGE                 RELATIONSHIP                    EMPLOYED?

_________________________________________     _______        _________________    □ YES □ NO

_________________________________________     _______        _________________    □ YES □ NO

_________________________________________     _______        _________________    □ YES □ NO

_________________________________________     _______        _________________    □ YES □ NO

IMPORTANT EMERGENCY CONTACT NAME AND NUMBER ___________________________________________

PERSONAL INFORMATION PAGE Page 1 of 2
FILER 2 INFORMATION

FULL NAME __________________________________________________________________________________________

ALL OTHER NAMES USED IN PAST 6 YEARS ___________________________________________________________________________

RESIDENCE ADDRESS __________________________________________________________________________________________

CITY, STATE ZIP __________________________________________________________________________________________

LENGTH OF TIME AT CURRENT RESIDENCE __________________________________________________________________________

MAILING ADDRESS (if different) ________________________________________________________________________________

CITY, STATE ZIP __________________________________________________________________________________________

HOME PHONE __________________ WORK PHONE __________________ CELL PHONE __________________________

EMAIL ADDRESS __________________________________________________________________________________________

BEST WAY TO CONTACT: [ ] HOME PHONE [ ] CELL PHONE [ ] WORK PHONE [ ] EMAIL

SOCIAL SECURITY NUMBER_________________________ DATE OF BIRTH _______________________

STATUS:

[ ] SINGLE (NEVER MARRIED) [ ] DIVORCED – Date final ______________

[ ] MARRIED LIVING TOGETHER [ ] WIDOWED

[ ] MARRIED LIVING APART

HAVE YOU LIVED IN ALAMEDA OR CONTRA COSTA COUNTIES FOR THE PAST THREE MONTHS OR MORE? [ ] YES [ ] NO

HAVE YOU LIVED IN CALIFORNIA FOR THE PAST 2 YEARS? [ ] YES [ ] NO

IF NO, WHAT STATE DID YOU MOVE FROM? ________________________________________________________________

HAVE YOU EVER FILED BANKRUPTCY BEFORE? [ ] YES [ ] NO

IF YES:

YOUR NAME AT TIME OF FILING ___________________________________________________________________________________

DATE FILED _____________________________ CASE NUMBER ____________________________ [ ] CHAPTER 7 [ ] CHAPTER 13

LIST ALL PEOPLE LIVING IN YOUR HOUSEHOLD (skip if information is same as filer 1)

NAME __________________________________________________________________________ AGE __________ RELATIONSHIP __________ EMPLOYED?

[ ] YES [ ] NO

NAME __________________________________________________________________________ AGE __________ RELATIONSHIP __________ EMPLOYED?

[ ] YES [ ] NO

NAME __________________________________________________________________________ AGE __________ RELATIONSHIP __________ EMPLOYED?

[ ] YES [ ] NO

NAME __________________________________________________________________________ AGE __________ RELATIONSHIP __________ EMPLOYED?

[ ] YES [ ] NO

IMPORTANT EMERGENCY CONTACT NAME AND NUMBER ____________________________________________

PERSONAL INFORMATION PAGE Page 2 of 2
PLEASE ANSWER ALL QUESTIONS AND INCLUDE AS MUCH DETAIL AS POSSIBLE. IF YOU NEED ADDITIONAL SPACE, ATTACH A SEPARATE SHEET OF PAPER AND INDICATE THE QUESTION YOU ARE ANSWERING BY IT'S NUMBER.

1) **INCOME** – Please state how much income you received from any and all sources in the current year and previous 2 years. For the current year, provide the amount you've earned up to the current date.

<table>
<thead>
<tr>
<th></th>
<th>FILER 1</th>
<th>CURRENT YEAR</th>
<th>LAST YEAR</th>
<th>PREVIOUS YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Wages</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Self Employed Earnings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alimony or child support</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disability Insurance</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Worker’s Compensation</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Pension/Retirement distributions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unemployment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gambling winnings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sale of Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (state source)</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>FILER 2</th>
<th>CURRENT YEAR</th>
<th>LAST YEAR</th>
<th>PREVIOUS YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Wages</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Self Employed Earnings</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Alimony or child support</td>
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</tr>
<tr>
<td>Social Security</td>
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</tr>
<tr>
<td>Disability Insurance</td>
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</tr>
<tr>
<td>Worker’s Compensation</td>
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<tr>
<td>Pension/Retirement distributions</td>
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<tr>
<td>Unemployment</td>
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</tr>
<tr>
<td>Gambling winnings</td>
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</tr>
<tr>
<td>Sale of Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (state source)</td>
<td></td>
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</tr>
</tbody>
</table>
2) Have you repaid **any loans, in full or in part, to relatives** within the past 12 months?  

<p>| | | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>yes</td>
<td>no</td>
<td></td>
</tr>
</tbody>
</table>

If yes state the person’s name, address, date(s) of payments and amounts of payments made in the past 12 months.

<table>
<thead>
<tr>
<th>NAME &amp; ADDRESS</th>
<th>DATES(S) OF PAYMENTS</th>
<th>AMOUNT(S) OF PAYMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td></td>
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</tbody>
</table>

3) Have you repaid **more than $1,000 (in aggregate) to any one creditor** not a relative within the past 90 days?  

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>yes</td>
<td>no</td>
<td></td>
</tr>
</tbody>
</table>

(Include secured debt payments such as mortgage loan payments and car loan payments):

<table>
<thead>
<tr>
<th>NAME &amp; ADDRESS OF CREDITOR</th>
<th>DATES(S) OF PAYMENTS</th>
<th>AMOUNT(S) OF PAYMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
4) Has anyone sued you or have you been involved in a lawsuit within the past year? (This includes lawsuits by your creditors) □ yes □ no
   If yes, give particulars (case name, case number, court, location, status; this includes family law cases)

<table>
<thead>
<tr>
<th>CASE NAME</th>
<th>CASE NUMBER</th>
<th>COURT &amp; LOCATION</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

5) Has ANY of your property or wages been attached, garnished or seized during the past year by any creditor?
   □ yes □ no If yes, give particulars (date(s) of seizure, property/amount seized):

<table>
<thead>
<tr>
<th>NAME OF CREDITOR</th>
<th>DATE(S) AND AMOUNTS ATTACHED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6) Has ANY of your property been repossessed, returned or foreclosed on during the past year? □ yes □ no
   If yes, give particulars;

<table>
<thead>
<tr>
<th>NAME OF CREDITOR</th>
<th>DESCRIPTION OF PROPERTY (property address, if real property)</th>
<th>DATE REPOSESSED OR FORECLOSED</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

7) Have any creditors obtained a judgment against you? □ yes □ no If yes, give particulars, creditor name, date of judgment: ______________________________________

QUESTIONS, Page 3 of 9
8) Have any creditors recorded any judgment liens against you? ☐ yes ☐ no If yes, give particulars, creditor, amount of judgment, date lien recorded. Please provide copies recorded judgment: ________________________________

9) Have you made any gifts during the past year that total $200.00 or more in value per recipient or charitable contributions of more than $100.00 per recipient? (This includes tithings to your church) ☐ yes ☐ no If yes, give particulars, name, relationship, date of gift, description and value of gift:

<table>
<thead>
<tr>
<th>NAME OF RECIPIENT</th>
<th>RELATIONSHIP</th>
<th>DATE(S) OF GIFT</th>
<th>DESCRIPTION AND VALUE OF GIFT</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

10) Please list your prior addresses and the dates you lived there for the past three years, do not include your current address:

<table>
<thead>
<tr>
<th>ADDRESS</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITY</td>
<td>CITY</td>
</tr>
<tr>
<td>STATE &amp; ZIP</td>
<td>STATE &amp; ZIP</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATES OF OCCUPANCY</th>
<th>DATES OF OCCUPANCY</th>
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</thead>
<tbody>
<tr>
<td>FROM:</td>
<td>TO:</td>
</tr>
</tbody>
</table>

11) Any losses from fire, theft, casualty or gambling during the year before filing this petition? ☐ yes ☐ no

If yes, give particulars, description and value of property, date of loss, amount of any insurance coverage: ________________________________
12) Other than your present bankruptcy attorney, have you paid any attorneys or other persons or companies for assistance with debt problems during the past year? (such as debt consolidation companies) □ yes □ no  If yes, give particulars, including company name, date(s) of payments and amount(s) paid:

<table>
<thead>
<tr>
<th>COMPANY NAME AND ADDRESS</th>
<th>AMOUNT(S) PAID</th>
<th>DATE(S) OF PAYMENT(S)</th>
</tr>
</thead>
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</table>

13) Have you sold or transferred any property (this includes real estate) or assets to anyone during the past two years before this bankruptcy (even as collateral)? □ yes □ no  If yes, give particulars, including name of transferee, date, description of property and value received:

<table>
<thead>
<tr>
<th>NAME OF RECIPIENT</th>
<th>DATE OF TRANSFER</th>
<th>DESCRIPTION OF PROPERTY TRANSFERRED</th>
</tr>
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<tbody>
<tr>
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</table>

14) Have you refinanced any real estate in the past two years? □ yes □ no  If yes, please provide a copy of the closing statement and state the date of refinance how much cash you received from the refinance

Date__________________________ Cash received $__________________

15) Have you transferred any property to any trust within the past 10 years to which you are a beneficiary? □ yes □ no  If yes, give particulars including name of trust, description of property and date transferred: ____________________________

_________________________________________________________________________________________
16) Have you **closed any bank or other financial accounts** during the past year? □ yes □ no  If yes, give name and location of bank, type of account, date closed, names on account, amount and disposition of funds withdrawn:

<table>
<thead>
<tr>
<th>NAME OF BANK AND ACCOUNT NUMBER</th>
<th>TYPE OF ACCOUNT(S)</th>
<th>DATE CLOSED</th>
<th>BALANCE AT CLOSING</th>
</tr>
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<tbody>
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</table>

17) Have you **closed any safe deposit boxes** during the past year? □ yes □ no  If yes, give name and location of bank, date closed, names on box, description of contents removed: ________________________________

________________________________________________________________________________________

18) Are you **holding any property or assets in your name as a trustee for someone**? □ yes □ no  If yes, give particulars including name of beneficial owner, description and value of property, reason your name is on it or general terms of the trust relationship:

<table>
<thead>
<tr>
<th>NAME OF OWNER</th>
<th>DESCRIPTION AND VALUE OF PROPERTY</th>
<th>RELATIONSHIP</th>
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</table>

QUESTIONS, Page 6 of 9
19) Have you co-signed for anyone else or are there other persons who have cosigned for you or might or could be held liable on any of the debts listed in your bankruptcy schedules? ☐ yes ☐ no If yes, please list their names and addresses, and the names of the creditors for which they might be liable:

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF COSINGER</th>
<th>NAME AND ADDRESS OF CREDITOR</th>
</tr>
</thead>
<tbody>
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</table>

20) Do you provide any financial support to anyone not living in your home? ☐ yes ☐ no If yes, give particulars, name, relationship, how much monthly support you give:

<table>
<thead>
<tr>
<th>NAME OF RECIPIENT</th>
<th>RELATIONSHIP</th>
<th>AMOUNT OF MONTHLY SUPPORT</th>
</tr>
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</table>

BUSINESSES

Have you owned and/or operated a business within the past 10 years? ☐ yes ☐ no (if no, skip remaining questions)

If yes, what is/was the name of the business? ____________________________________________________________

Business address: ________________________________________________________________________________

Date business started: _____________________________ Still operating? ☐ yes ☐ no

If no, date business ended: _________________________

Federal tax ID number ____________________________
What type of business is this? ________________________________________________________________

Is it: [ ] sole proprietorship [ ] LLC [ ] S Corporation [ ] C Corporation [ ] Partnership [ ] other ______

Provide names of all other owners and their % interest _____________________________________________

_________________________________________________________________________________________

Does the business have employees? [ ] yes [ ] no If no, did it ever? [ ] yes [ ] no

Does the business lease any equipment? [ ] yes [ ] no If yes, provide name and address of lessor. Provide copy of lease.

_________________________________________________________________________________________

Does the business lease a commercial real property? [ ] yes [ ] no If yes, provide name and address of landlord:

_________________________________________________________________________________________

Provide name and address for all bookkeepers used in past 5 years:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Dates used</th>
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<tbody>
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</tbody>
</table>

Provide names and addresses for all tax return preparers for the past 6 years.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Dates used</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
Please indicate types of financial records kept:

☐ Balance sheet  ☐ Profit and Loss  ☐ Written inventory  ☐ General Ledger

Does the business have an inventory?  ☐ yes  ☐ no  
If yes, provide description of inventory and it’s liquidation value:

_________________________________________________________________________________________

_________________________________________________________________________________________
REAL ESTATE – complete this form for each property you have an interest in:

<table>
<thead>
<tr>
<th>ADDRESS OF REAL ESTATE</th>
<th>PRIMARY RESIDENCE</th>
<th>SECONDARY RESIDENCE</th>
<th>RENTAL PROPERTY</th>
<th>OTHER</th>
</tr>
</thead>
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<tr>
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<table>
<thead>
<tr>
<th>DATE PURCHASED</th>
<th>PURCHASE PRICE $</th>
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<tr>
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</table>

<table>
<thead>
<tr>
<th>DO YOU WANT TO KEEP PROPERTY?</th>
<th>YES</th>
<th>NO</th>
<th>DATE OF LAST REFINANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>AMOUNT OF CASH TAKEN OUT AT LAST REFINANCE $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>IF MORE THAN 1 PERSON OWNS THIS PROPERTY, HOW IS TITLE HELD?</th>
<th>JOINT TENANCY</th>
<th>COMMUNITY PROPERTY</th>
<th>TENANCY IN COMMON</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>NAME(S) ON THE TITLE?</th>
<th>________________________________________________________________________________________</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>ARE THERE ANY JUDGMENT LIENS RECORDED AGAINST THIS PROPERTY?</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>CURRENT MARKET VALUE $</th>
<th>Value based on:</th>
<th>recent sales in neighborhood</th>
<th>comparables</th>
<th>internet site</th>
<th>appraisal</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

**DEED OF TRUST/MORTGAGE**

<table>
<thead>
<tr>
<th>CREDITOR NAME</th>
<th>ACCOUNT NUMBER</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>FIXED RATE LOAN</th>
<th>VARIABLE RATE LOAN</th>
<th>next rate adjust will be on</th>
<th>CURRENT INTEREST RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE LOAN OBTAINED</th>
<th>CURRENT LOAN BALANCE $</th>
<th>MONTHLY PAYMENT $</th>
<th>AMOUNT PAST DUE $ as of date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

Are real estate taxes included in payment? | YES | NO |
|------------------------------------------|-----|----|

**2ND DEED OF TRUST/MORTGAGE**

<table>
<thead>
<tr>
<th>CREDITOR NAME</th>
<th>ACCOUNT NUMBER</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE LOAN OBTAINED</th>
<th>CURRENT LOAN BALANCE $</th>
<th>INTEREST RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MONTHLY PAYMENT $</th>
<th>AMOUNT PAST DUE $ as of date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

**3RD DEED OF TRUST/MORTGAGE**

<table>
<thead>
<tr>
<th>CREDITOR NAME</th>
<th>ACCOUNT NUMBER</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE LOAN OBTAINED</th>
<th>CURRENT LOAN BALANCE $</th>
<th>INTEREST RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>MONTHLY PAYMENT $</th>
<th>AMOUNT PAST DUE $ as of date</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

**PROPERTY TAXES** – ARE THE PROPERTY TAXES PAST DUE? | YES | NO |
<table>
<thead>
<tr>
<th></th>
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<tbody>
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</table>

If YES, How much owed? $ |
<table>
<thead>
<tr>
<th></th>
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</table>

<table>
<thead>
<tr>
<th>NAME AND ADDRESS OF TAX COLLECTOR IF PROPERTY NOT LOCATED IN ALAMEDA OR CONTRA COSTA COUNTY:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>PARCEL #:</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>
1) OPEN FINANCIAL ACCOUNTS – List all open financial accounts, including checking, savings, certificates of deposit, brokerage accounts, and any other non-retirement financial accounts. Make sure to include ANY accounts that your name is on, even if it's not your money in the account and/or someone else’s name is also on the account. If you need more room, attach additional sheets. If you don’t list the account, you may lose the money in that account.

<table>
<thead>
<tr>
<th>INSTITUTION/BANK</th>
<th>TYPE OF ACCOUNT &amp; ACCOUNT NUMBER</th>
<th>ADDRESS WHERE ACCOUNT OPENED</th>
<th>CURRENT BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
2) **LIFE INSURANCE** - Do you have life insurance through your employer?  □ yes  □ no
   (Husband or single filer employer) If yes, state face value of policy $______________
   (Wife’s employer) If yes, state face value of policy $______________

   Are there any supplemental policies for yourself or family members?
   Policy 1 face amount $______________ through □ husband’s employer  □ wife’s employer
   Policy 2 face amount $______________ through □ husband’s employer  □ wife’s employer

Do you have private life insurance policies?  □ yes  □ no
   The type of life insurance you have will either be Term, Whole Life, Variable Whole life or Universal Variable Life. Term policies do not have cash surrender value, all other policies do. The face value is the amount the policy would pay on death.

<table>
<thead>
<tr>
<th>INSURANCE COMPANY AND POLICY NUMBER</th>
<th>TYPE OF POLICY</th>
<th>FACE VALUE</th>
<th>CASH SURRENDER VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
CAR 1
Make _______________ Model _______________ Year ________ VIN#_______________________________

# of doors ____________ ☐ Auto transmission ☐ Manual trans. Is this car a lease? ☐ yes ☐ no

Options: check all that apply

☐ Air conditioning ☐ Tilt wheel ☐ Cruise control ☐ CD Player ☐ other ________________
☐ Power steering ☐ ABS ☐ Premium sound ☐ Premium wheels ☐ other ________________
☐ Power windows ☐ Leather ☐ Sun/moon roof ☐ Power locks ☐ other ________________

Whose name(s) is/are on title? ______________________________________________________________________

Mileage _____________________ Condition: ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Date Purchased _______________ Is the car paid for? ☐ yes ☐ no, If no provide a copy of the purchase contract

Did you trade another car in for this one? ☐ yes ☐ no Ever refinanced this car? ☐ yes ☐ no

Length of loan _________ months # of months left _____ Monthly payment $__________ Interest rate __________

Lender Name____________________________________ Address ____________________________________________

Account number ________________________________ Balance owing on loan $________________________

Est. value of vehicle (use private party Kelly Blue Book at www.kbb.com) $___________ Want to keep it? ☐ yes ☐ no

(Copy and attach copy of Kelly Blue Book print out)

CAR 2
Make _______________ Model _______________ Year ________ VIN#_______________________________

# of doors ____________ ☐ Auto transmission ☐ Manual trans. Is this car a lease? ☐ yes ☐ no

Options: check all that apply

☐ Air conditioning ☐ Tilt wheel ☐ Cruise control ☐ CD Player ☐ other ________________
☐ Power steering ☐ ABS ☐ Premium sound ☐ Premium wheels ☐ other ________________
☐ Power windows ☐ Leather ☐ Sun/moon roof ☐ Power locks ☐ other ________________

Name on title? __________________________________________________________________________________

Mileage _____________________ Condition: ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Date Purchased _______________ Is the car paid for? ☐ yes ☐ no, If no provide a copy of the purchase contract

Did you trade another car in for this one? ☐ yes ☐ no Ever refinanced this car? ☐ yes ☐ no

Length of loan _________ mo. # of months left _____ Monthly payment $__________ Interest rate __________

Lender Name____________________________________ Address ____________________________________________

Account number ________________________________ Balance owing on loan $________________________

Est. value of vehicle (use private party Kelly Blue Book at www.kbb.com) $___________ Want to keep it? ☐ yes ☐ no

(Personal Property Page 3 of 7)
CAR 3
Make ______________ Model ______________ Year ________ VIN#________________________________

# of doors __________ Auto transmission ☐ Manual trans. ☐  Is this car a lease? ☐ yes ☐ no

Options: check all that apply
☐ Air conditioning ☐ Tilt wheel ☐ Cruise control ☐ CD Player ☐ other ______________
☐ Power steering ☐ ABS ☐ Premium sound ☐ Premium wheels ☐ other ______________
☐ Power windows ☐ Leather ☐ Sun/moon roof ☐ Power locks ☐ other ______________

Name on title? ______________________________________________________________________________________

Mileage _____________________ Condition: ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Date Purchased ________________ Is the car paid for? ☐ yes ☐ no, If no provide a copy of the purchase contract

Did you trade another car in for this one? ☐ yes ☐ no

Length of loan ________mo. # of months left ________ Monthly payment $__________ Interest rate __________

Lender Name ______________________________ Address _________________________________________________

Account number ___________________________________ Balance owing on loan $________________________

Est. value of vehicle (use private party Kelly Blue Book at www.kbb.com) $__________ Want to keep it? ☐ yes ☐ no
(print and attach copy of Kelly Blue Book print out)

CAR 4
Make ______________ Model ______________ Year ________ VIN#________________________________

# of doors __________ Auto transmission ☐ Manual trans. ☐  Is this car a lease? ☐ yes ☐ no

Options: check all that apply
☐ Air conditioning ☐ Tilt wheel ☐ Cruise control ☐ CD Player ☐ other ______________
☐ Power steering ☐ ABS ☐ Premium sound ☐ Premium wheels ☐ other ______________
☐ Power windows ☐ Leather ☐ Sun/moon roof ☐ Power locks ☐ other ______________

Name on title? ______________________________________________________________________________________

Mileage _____________________ Condition: ☐ Excellent ☐ Good ☐ Fair ☐ Poor

Date Purchased ________________ Is the car paid for? ☐ yes ☐ no, If no provide a copy of the purchase contract

Did you trade another car in for this one? ☐ yes ☐ no

Length of loan ________mo. # of months left ________ Monthly payment $__________ Interest rate __________

Lender Name ______________________________ Address _________________________________________________

Account number ___________________________________ Balance owing on loan $________________________

Est. value of vehicle (use private party Kelly Blue Book at www.kbb.com) $__________ Want to keep it? ☐ yes ☐ no
(print and attach copy of Kelly Blue Book print out)

PERSONAL PROPERTY Page 4 of 7
4) Do you have a security deposit with a landlord?  □ yes □ no, if yes, how much? $ ________________

5) On an average day, how much cash do you carry or have at your house? $ ________________

6) Do you have a safe deposit box? □ yes □ no  If yes, provide bank, address, names on box and contents

<table>
<thead>
<tr>
<th>BANK NAME AND ADDRESS</th>
<th>DESCRIPTION OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7) Household furnishings/Clothing/Jewelry: For the valuations, assume you had to leave town in two weeks, and would have to sell all of your belongings for cash (no credit, if you don’t sell it, you lose it.)  How much do you think you’d get for your

Furniture and furnishings? $________________
Clothing $________________
Jewelry $________________

8) Do you have any firearms, sporting or photography equipment or other hobby equipment of exceptional value?  □ yes □ no.  If yes,

Describe:______________________________________________________________________________ value:______________
Describe:______________________________________________________________________________ value:______________
Describe:______________________________________________________________________________ value:______________

9) Do you have paintings, art objects, books, compact discs, or collectibles of exceptional value?  □ yes □ no
If yes – Describe:______________________________________________________________________ value:______________
Describe:______________________________________________________________________________ value:______________
Describe:______________________________________________________________________________ value:______________

10) Do you belong to a Union?  Filer 1: □ yes □ no  Filer 2: □ yes □ no
Name of Union(s) and Local Number:_________________________________________________________________

11) Do you have retirement, pension or profit sharing plans through your employment (i.e. 401k, 403b, annuity etc.)? Provide your latest statement.  If you have more than 1 plan, please attach additional sheets

<table>
<thead>
<tr>
<th>Filer 1:</th>
<th>□ yes □ no</th>
<th>Filer 2:</th>
<th>□ yes □ no</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of plan:</td>
<td>Type of plan:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you borrowed against the plan? □ yes □ no</td>
<td>Have you borrowed against the plan? □ yes □ no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amnt borrowed$</td>
<td>Amnt borrowed$</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
12) **IRAs – Roth & Traditional**

Do you have traditional or Roth IRA account?  □ yes  □ no  
If yes, state balance in account $____________________
Institution account held at __________________________________________________________________________

Do you have a Self Employed Person’s retirement plan (SEP IRA)?  □ yes  □ no  
If yes, state balance in account $____________________
Institution account held at __________________________________________________________________________

13) Do you own any **stocks, bonds or saving bonds not included in your retirement accounts**?  □ yes  □ no

Name of stock/bond _______________________________  # of shares ____________Value: $___________________
Name of stock/bond _______________________________  # of shares ____________Value: $___________________

14) Does anyone **owe you** child support or spousal support?  □ yes  □ no

Name:___________________________________________________________  Amount owing: $_________________
Name:___________________________________________________________  Amount owing: $_________________

15) Did you **receive federal and/or state income tax refunds** for the tax year prior to this year?  □ yes  □ no  
If yes, state amount received: $____________________________ and date received: ___________________________

Will you be entitled to **federal and/or state income tax refunds** for the current year?  □ yes  □ no  
If yes, estimate the approximate amount: $____________________________

16) **Has anyone died recently** from whom you might inherit from or be beneficiary of life insurance?  □ yes  □ no  
If yes, name of deceased: __________________________________________________________________________
Date of death:_____________________________________
Description of inheritance:____________________________________________________________________________

17) Are you aware of **anyone who, because of illness or age, might die in the next 6 months** immediately following your bankruptcy filing and leaving you anything?  □ yes  □ no  
If yes, give particulars:____________________________
__________________________________________________________________________________________________

18) Do you have any **claims or lawsuits for money or property against anyone** (i.e. personal injury claims, workers’ comp claims, discrimination claims, contract claims etc)?  **This includes any and all potential claims or lawsuits** that you might file in the future.  □ yes  □ no  
If yes, please give particulars (type of suit, attorney representing etc.):
__________________________________________________________________________________________________
__________________________________________________________________________________________________

19) Have you been injured at work or elsewhere in the past 3 years?  □ yes  □ no

20) Have you been terminated from your employment for any reason in the past 3 years?  □ yes  □ no
21) Please estimate the total amount of accrued but unpaid wages owing to you (or to both filers) on an average day: $___________________

Please state how often you receive paychecks:

<table>
<thead>
<tr>
<th>Filer 1</th>
<th>Once a month</th>
<th>Twice a month</th>
<th>Every two weeks</th>
<th>Every week</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Filer 2</th>
<th>Once a month</th>
<th>Twice a month</th>
<th>Every two weeks</th>
<th>Every week</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

22) Have creditors attached and withheld any money from your wages during the past 90 days? ☐ yes ☐ no

Creditors:

<table>
<thead>
<tr>
<th>Creditor:</th>
<th>Amount: $______________</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

23) Do you own any boats, motors, accessories, or aircraft? ☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

24) Own any tools, equipment or vehicles that are used during your employment and necessary to your employment?

☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

25) Own any office equipment (i.e. computer) for your business or office furnishings?

☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

26) Own any business inventory?

☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

27) Own any accounts receivable?

☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

28) Does anyone owe you money?

☐ yes ☐ no

If yes, name person and amount you are owed:

<table>
<thead>
<tr>
<th>Person:</th>
<th>Amount owing: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

29) Own any animals?

☐ yes ☐ no

If yes, describe:


30) Do you own any other property, asset or claim of any significant value which is not disclosed in the previous questions?

☐ yes ☐ no

If yes, describe and value:

<table>
<thead>
<tr>
<th>Description:</th>
<th>Value: $_______________</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

31) Do you have any leases or timeshares?

☐ yes ☐ no

If yes, give particulars including name and address of creditor, terms of lease or timeshare and description of property:

<table>
<thead>
<tr>
<th>Creditor Name:</th>
<th>Creditor Address:</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

| Description of Property: | | Account No.: | Terms: |
|--------------------------| |-------------|--------|
|                         | |             |        |

PERSONAL PROPERTY Page 7 of 7
**INCOME**

**FILER 1**
- Name of Employer
- Address
- Occupation
- How long employed?
- Attach additional pages if you have more than 1 employer
- Gross monthly wage $ 
- Monthly tax deduction $ 
- 401K deduction $ 
- Health ins. ded. $ 
- Union dues $ 
- Other ded. $ 
- Net take home pay $ 

- How often do you get paid? 
  - Weekly ___ 
  - Every two weeks ___ 
  - Twice a month ___ 
  - Once a month ___ 
  - Other: ________________

**Other Income**
- Business income $ 
- Rental income $ 
- Child/Spouse support $ 
- Social Security $ 
- Retirement/pension $ 
- Other income $ 

**TOTAL NET AND OTHER INCOME**
$ ____________________

**FILER 2**
- Name of Employer
- Address
- Occupation
- How long employed?
- Attach additional pages if you have more than 1 employer
- Gross monthly wage $ 
- Monthly tax deduction $ 
- 401K deduction $ 
- Health ins. ded. $ 
- Union dues $ 
- Other ded. $ 
- Net take home pay $ 

- How often do you get paid? 
  - Weekly ___ 
  - Every two weeks ___ 
  - Twice a month ___ 
  - Once a month ___ 
  - Other: ________________

**Other Income**
- Business income $ 
- Rental income $ 
- Child/Spouse support $ 
- Social Security $ 
- Retirement/pension $ 
- Other income $ 

**TOTAL NET AND OTHER INCOME**
$ ____________________

Please list the full names, ages and relationships of all dependents living with you:
- Name ____________________ Age ________ Relationship ____________________
- Name ____________________ Age ________ Relationship ____________________
- Name ____________________ Age ________ Relationship ____________________

Do you anticipate any increase or decrease of net income over the next year? ☐ yes ☐ no
If yes, please explain: ____________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Amount and source of other contributions to household expenses: _______________________
______________________________________________________________________________
EXPENSES

Estimate your average monthly expenses for what your needs are, not what you have available. Do not include payments on debts that you expect to be discharged in your bankruptcy proceeding. Do include payments for debts you will continue paying after Chapter 7.

Rent or 1st Mortgage Payment $________
Real estate tax included? __ yes __ no if no, list amount $________
Property insurance included? __ yes __ no if no, list amount $________
2nd Mortgage payment $________
3rd Mortgage payment or HOA Dues, if applicable $________
Electricity & Heating Fuel $________
Water & Sewer $________
Telephone (land line) $________
Internet $________
Cell phone $________
Garbage $________
Cable television $________
Home Maintenance (repairs and upkeep) $________
Food (groceries and dining out) $________
Clothing $________
Laundry and dry cleaning $________
Medical & Dental expenses (do not include insurance premium) $________
Transportation (gas) $________
Transportation (maintenance and registration) $________
Transportation (Public transportation costs) $________
Recreation (clubs, magazines, entertainment) $________
Charitable Contributions $________
Homeowners/renters insurance $________
Life Insurance $________
Health Insurance $________
Auto Insurance $________
Other $________
Taxes (not deducted from wages or included in mortgage payment) $________
Work lunches $________
Automobile payment $________
Other Installment Payments: $________

Spousal Support $________
Child Support $________
Child Care $________
School Tuition $________
School expenses $________
Other Expenses (Payments) $________

TOTAL EXPENSES $________

Do you expect any major changes in expenses in the next year? □ yes □ no If yes, describe:

________________________________________

________________________________________
CREDITOR LIST

INSTRUCTIONS

Please make sure to list all creditors, even ones you plan to pay.

Secured Creditors: List all creditors you believe claim particular property of yours as collateral for your debt to them, e.g. a deed of trust holder on your home, the company financing your car, a furniture dealer, a jeweler, an appliance dealer, or anyone you think may have a judgment lien on property of yours, or anyone you think may claim a lien on your personal possessions, whether or not you plan to pay that creditor. When describing collateral, include a detailed description which includes make, model and brand. Note: you do not need to list auto finance companies and your mortgage lenders, as you already provided that information under the ASSET section of this packet.

Unsecured Creditors: List every creditor that you owe, including those you plan to pay, such as student loans, child or spousal support obligations, taxes and loans from family and friends. List creditors for debts that you’ve acted as a cosigner for. List any person, i.e. an ex-spouse, who might be held liable for the debts and seek to recover from you. List anyone you can think of who might have a claim against you for something, even though you may not know the amount; e.g. auto accidents, etc. If in doubt, list the creditor. If a creditor is listed, his claim is extinguished. If a creditor is not listed, you still owe the debt, at least until it is listed.

Disputed: If you are in agreement with the creditor that you do in fact owe the creditor money, then the debt is not disputed. A debt is disputed if you have some defense to the creditor’s assertion that you owe that creditor money, and you believe you do not owe the debt, or if you have reason to believe you owe the creditor significantly less than the creditor asserts.

Dates and Purchases: Make sure to provide dates and date ranges for each debt and a description of the consideration you received when incurring the debt; e.g. food, clothing, fuel, restaurants, entertainment, misc. household items, travel, balance transfers, cash advances, education expenses . . . For each debt, state in as few words as possible what you received in exchange for the debt. For revolving credit accounts (Visa, Mastercard, etc.) provide a date range that includes the time period when most of the charging was done; i.e. 12/00 to 1/04.

SAMPLE:

<table>
<thead>
<tr>
<th>CREDITOR</th>
<th>AMOUNT</th>
<th>COLLECTION AGENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITIBANK</td>
<td>$2,718.34</td>
<td>CBSJ</td>
</tr>
<tr>
<td>Address P.O. BOX 6000</td>
<td>Address P.O. BOX 299</td>
<td>San Jose, CA 94512</td>
</tr>
<tr>
<td>LAS VEGAS, NV 89164</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acct # 4223-1143-3255-6309</td>
<td>This debt incurred by: Husband</td>
<td>Wife</td>
</tr>
<tr>
<td>What did you purchase? Food, clothing, cash advances, travel</td>
<td>Please also note balance transfers and cash advances.</td>
<td></td>
</tr>
<tr>
<td>Date range during which you incurred debt 3/2001 to 4/2005</td>
<td>Charges or cash advances on this account within past 90 days? yes no</td>
<td>if yes, how much? $</td>
</tr>
</tbody>
</table>

405
TAXES

Have you filed your federal and state tax returns for the past 5 years?  yes  no
If no, which years have you not filed a return? ____________________________

Do you owe money to the Internal Revenue Service or the Franchise Tax Board?  yes  no
If yes, list tax year and amount:

<table>
<thead>
<tr>
<th>IRS</th>
<th>FRANCHISE TAX BOARD</th>
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Do you owe any other taxing authorities? (CA State Board of Equalization, Employment Development Department (EDD) etc.)  yes  no, if yes provide agency, address, taxpayer ID, amount owing, type of tax.

<table>
<thead>
<tr>
<th>Name of Agency</th>
<th>Tax payer ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Tax year(s)/qtr(s) owing</td>
</tr>
<tr>
<td>City, State Zip</td>
<td>Balance owing $</td>
</tr>
</tbody>
</table>

DOMESTIC SUPPORT OBLIGATIONS (Child and/or Spousal support)

Are you currently obligated to pay child support or spousal support?  yes  no
Name of person receiving the support ____________________________
How much are your monthly payments? $ __________________
Do you owe support arrears?  yes  no, if yes, how much? $ __________
List person or agency you make your support payments to (YOU MUST PROVIDE COMPLETE INFORMATION):
Name ____________________________  Case number ____________________________
Address ____________________________
____________________________________________________________________
____________________________________________________________________

(if you are making payments to a county agency, please provide a copy of the most recent statement you have received from that agency)
**SECREED CREDITORS** - list debts where a creditor has property as collateral for it's debt. **Do not include auto loans or real estate loans, as that information has already been provided.**

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<tr>
<td>Address</td>
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<td>Address:</td>
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<tr>
<td>Account #</td>
<td></td>
<td>Debt incurred by: ☐ Filer 1 ☐ Filer 2 ☐ Jointly</td>
</tr>
<tr>
<td>Description of collateral:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date purchased:</td>
<td>Current value $</td>
<td>Amount delinquent? $</td>
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## KORNFIELD, NYBERG, BENDES, KUHNER, & LITTLE P.C.

### UNSECURED CREDITORS

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</table>
Bankruptcy Client Questionnaire—
Elkington Shepherd

Sally J. Elkington

Elkington Shepherd LLP
STOP!!!!

READ BEFORE YOU FILL OUT THIS QUESTIONNAIRE

EVERYTHING THAT CREATES YOUR BANKRUPTCY FILING COMES FROM THIS QUESTIONNAIRE. IF IT IS NOT IN THIS QUESTIONNAIRE, IT WILL NEVER MAKE IT INTO YOUR BANKRUPTCY. THEREFORE, IF YOU DON’T FILL OUT THIS QUESTIONNAIRE IN FULL AND COMPLETELY WE WILL NOT BE ABLE TO START PREPARING YOUR BANKRUPTCY.

WE ARE A PAPER LESS OFFICE. THEREFORE, ALL THE DOCUMENTS WE HAVE Requested MUST BE COPIES AND NOT ORIGINALES. ORIGINAL DOCUMENTS WILL NOT SCAN PROPERLY. EVEN IF YOU DON’T WANT THE ORIGINAL DOCUMENT ANYMORE, WE DON’T EITHER. WE WANT A COPY SO THAT WE CAN SCAN IT INTO YOUR ELECTRONIC FILE AND THEN SHRED IT.

BE OVER INCLUSIVE, RATHER THAN UNDER INCLUSIVE. IF YOU GIVE US INFORMATION THAT WE DON’T NEED, WE JUST WON’T USE IT. IF YOU DON’T GIVE US INFORMATION THAT WE NEED, WE WON’T BE ABLE TO INCLUDE IT.

BE ACCURATE! YOU ARE GOING TO SIGN UNDER PENALTY OF LAW THAT THE INFORMATION IN YOUR BANKRUPTCY IS TRUE AND CORRECT. THE FEDERAL BANKRUPTCY COURT TAKES YOUR SIGNATURE VERY SERIOUSLY.

FILL OUT THE QUESTIONNAIRE IN BLACK INK, SO THAT IT WILL SCAN CLEARLY. BE NEAT AND LEGIBLE. WHAT WE CAN’T READ, WE CAN’T INCLUDE.

WE DO NOT TAKE ANY PERSONAL CHECKS FOR ANYTHING. CASH, MONEY ORDER OR CASHIER’S CHECK!!!!

TAKE YOUR TIME. I KNOW THAT THIS MAY BE DIFFICULT FOR SOME OF YOU. FILING BANKRUPTCY IS THE LAST THING YOU EVER THOUGHT YOU WOULD DO AND GATHERING THIS INFORMATION CAN ACTUALLY BE PAINFUL. GIVE YOURSELF A BREAK AND TAKE YOUR TIME.
CLIENT NAMES (S) ____________________________ DATE __________________

☐ CHAPTER 7 FEE: ____________ (TOTAL ATTORNEY FEE MUST BE PAID PRIOR TO FILING)

IN A CHAPTER 7 BANKRUPTCY, ALL ATTORNEY FEES MUST BE PAID PRIOR TO THE FILING OF THE BANKRUPTCY. IF THOSE FEES ARE NOT PAID, THEY MUST BE LISTED AS A DEBT AND ARE DISCHARGED IN THE BANKRUPTCY. ELKINGTON SHEPHERD LLC WILL NOT LIST THEIR FEES AS A DEBT.

COURT FILING FEES ARE DUE ON THE DATE YOU SIGN YOUR BANKRUPTCY:
☐ COURT FILING FEE FOR A CHAPTER 7 IS $335

☐ CHAPTER 13 ATTORNEY FEE: ____________ CHAPTER 13 RETAINER

ATTORNEY FEE AMOUNT TO BE PAID THROUGH YOUR CHAPTER 13 PLAN.

IN A CHAPTER 13, A RETAINER IS PAID TO PREPARE YOUR BANKRUPTCY, WITH THE REMAINDER OF THE ATTORNEY FEE PAID IN THE CHAPTER 13 PLAN. FOR FURTHER CLARIFICATION, PLEASE REVIEW YOUR ATTORNEY CLIENT AGREEMENT OR FEEL FREE TO ASK ME TO EXPLAIN THE FEES AGAIN.

CHAPTER 13 FEE STATED ABOVE INCLUDES:
☐ MOTION TO VALUE COLLATERAL (TO STRIP A JUNIOR LIEN) - $1500
☐ MOTION TO AVOID LIEN (GENERALLY A JUDICIAL LIEN) - $1500
☐ VEHICLE VALUE CRAMDOWN - $1500
☐ OTHER _______________ $______________

COURT FILING FEES ARE DUE ON THE DATE YOU SIGN YOUR BANKRUPTCY:
☐ COURT FILING FEE FOR A CHAPTER 13 IS $310

FEES MUST BE PAID BY CASH, MONEY ORDER, CASHIER CHECK, DEBIT CARD OR A CREDIT CARD FROM A THIRD PARTY. WE DO NOT ACCEPT PERSONAL CHECKS. THERE IS A CONVENIENCE FEE ON DEBIT CARD AND THIRD PARTY CREDIT CARDS.

YOUR NEXT APPOINTMENT WILL BE TO BRING BACK THE COMPLETED QUESTIONNAIRE AND THE REQUESTED COPIES OF THE DOCUMENTS REQUESTED IN THIS PACKET. WE CALL THAT MEETING A TURN IN DOCUMENTS MEETING (TID) YOU WILL NEED TO BRING THE RETAINER FEE OF ____________ TO THAT MEETING.

THIS IS AN HOUR APPOINTMENT SO PLEASE PLAN FOR THAT TIME. YOU WILL MEET WITH THE PARALEGAL FIRST TO ALLOW HER TO ORGANIZE AND DO A CURSORY REVIEW OF THE PACKET YOU ARE RETURNING. YOU WILL THEN MEET WITH THE ATTORNEY FOR A REVIEW OF THE QUESTIONNAIRE AND DOCUMENTS AND TO EXPLAIN THE PROCESS FROM THIS POINT FORWARD, AND AS WELL, TO ANSWER ANY QUESTIONS YOU MAY HAVE.
CLIENT WILL CALL OFFICE FOR DOCUMENT TURN IN APPOINTMENT

DOCUMENT TURN IN APPOINTMENT: __________________________

DO NOT BRING ORIGINAL DOCUMENTS EXCEPT FOR THE QUESTIONNAIRE AND THE ATTORNEY CLIENT AGREEMENT. ALL OTHER DOCUMENTS MUST BE COPIES. WE DO NOT ACCEPT ORIGINALS AND WILL SEND YOU BACK TO MAKE COPIES.

Please read this entire packet carefully. Information you provide should be complete and accurate. We use the information you provide in this packet to prepare your petition and schedules, which documents will be signed by you under penalty of perjury. Therefore, you must provide truthful and complete information. If you are not sure how to answer a question, provide as much information as you can and we will discuss and clarify everything at your next appointment.

WE DO NOT TAKE INFORMATION FROM THE DOCUMENTS THAT YOU PROVIDE, WE TAKE IT FROM THE QUESTIONNAIRE INFORMATION YOU WRITE DOWN. IF IT IS NOT WRITTEN ON THE QUESTIONNAIRE, THE INFORMATION WILL NOT BE IN YOUR BANKRUPTCY FILING. DOCUMENTS PROVIDED ARE FOR BACK UP INFORMATION ONLY!!!!!

One of the most important pieces of information requested is your creditor list. Please include full names and complete addresses of all the creditors to whom you owe money, whether you plan to pay them or not. If you have two addresses for a creditor, give me both. Complete information and correct addresses for your creditors is absolutely necessary so order your credit report before beginning this section and use the credit report to complete this section. Account numbers, dates and amounts are important as well. You cannot leave off any creditors you owe money to, including family and friends.

Your creditors have no grounds to object to your filing bankruptcy if you charged your debts in the ordinary course of living your life. They do have grounds to object if it looks like you charged things while planning to file bankruptcy, or got credit by giving fraudulent information to the creditor or sold or gave away any personal property paid for or not, just prior to filing bankruptcy. Also, you cannot transfer any property out of your name just prior to filing bankruptcy. Think about these things and mention anything you can recall of this nature when we meet to go over this paperwork. Knowing about such situations in advance means we can be particularly careful with the information we provide in the bankruptcy petition which, in the long run, may help you significantly with respect to that debt.

I am required to get your paycheck stubs for the last seven months prior to filing your bankruptcy. If you do not have these, contact your employer and get a copy of them or a copy of a statement showing the same information that was on your paycheck. I need both gross income and each individual deduction per paycheck. It can take approximately one week to ten days after your appointment to complete preparation of your petition and schedules. When it is ready, we will call you to come in, review the bankruptcy and sign it. We will file the bankruptcy with the Bankruptcy Court, only after you sign it.

I have read this document and fully understand it:

CLIENT

Date: __________________________

CLIENT

Date: __________________________

Page 2 of 2
QUESTIONNAIRE PARTS

Please fill out all the information requested in each form. If the question or section does NOT apply to you, write “N/A” or check the NONE box provided. If you do not complete the form in full, your bankruptcy will be delayed in completion as we are required to return the questionnaire to you and request that you complete it IN FULL.

Remember, after returning the questionnaire and your retainer fee, you STILL must come back into the office to sign your bankruptcy. Your bankruptcy cannot be filed without your review and signature.

☐ INFORMATIONAL LETTER, MANDATORY DOCUMENTS LIST
☐ BASIC INFORMATION
☐ REAL ESTATE OWNERSHIP NUMBER OF PROPERTIES: _____
☐ VEHICLE OWNERSHIP NUMBER OF VEHICLES: _____
☐ PERSONAL AND HOUSEHOLD ITEMS OWNERSHIP
☐ BUSINESS RELATED ASSETS
☐ FARM AND COMMERCIAL FISHING ASSETS
☐ MISCELLANEOUS ASSETS
☐ MORTGAGE, HOA LIENS, SECURED JUDGMENTS
☐ VEHICLES LOANS
☐ OTHER SECURED LOAN
☐ CREDIT CARD DEBT
☒ CASH ADVANCES
☐ MEDICAL BILLS
☐ TAX DEBT
☐ STUDENT LOAN DEBT
☐ LAWSUITS
☐ OTHER DEBTS
☐ LEASES AND CONTRACTS
☐ CURRENT INCOME DEBTOR
☐ CURRENT INCOME JOINT DEBTOR
☐ CURRENT EXPENSES
☐ STATEMENT OF FINANCIAL AFFAIRS
☐ BUSINESS/SELF-EMPLOYMENT INCOME & EXPENSES

M:\Bankruptcy Files\Bankruptcy Questionnaires\Questionnaire Parts.wpd
READ THIS PAGE

MANDATORY DOCUMENTS

The documents that are indicated with a check mark are **required** documents. You must provide them with the completion of this questionnaire. We cannot complete your bankruptcy without the documents.

Give yourself enough time to order the documents from a 3rd Party if necessary, such as a bank, or your payroll department.

If you do not provide the documents as requested, either we may not be able to complete your bankruptcy, or the Court may dismiss the bankruptcy due to an incomplete filing.
MANDATORY DOCUMENT CHECKLIST - COPIES ONLY

THE FOLLOWING IS A LIST OF DOCUMENTS ARE ARE REQUIRED FOR US TO COMPLETE YOUR BANKRUPTCY. BRING COPIES ONLY. IF YOU BRING ORIGINALS WE WILL NOT BE ABLE TO ACCEPT THEM AND WILL HAVE TO RESCHEDULE YOUR APPOINTMENT. IN PREPARING YOUR BANKRUPTCY, THIS INFORMATION WILL BE USED ONLY TO CLARIFY THE INFORMATION IN YOUR QUESTIONNAIRE, SO YOU MUST LIST AND DISCLOSE EVERYTHING IN THE QUESTIONNAIRE OR IT WILL NOT BE PUT INTO YOUR BANKRUPTCY FILING.

INCOME

☐ Last three (3) years of filed Federal Tax Returns or transcripts from the IRS, including Schedule C if self-employed. ___

☐ Last three (3) years of W-2's or 1099's for each job you or your spouse had in the last three (3) years

☐ Seven months of Payroll Stubs for each employed person including a non-filing spouse or registered domestic partner FOR EACH JOB from __________________________ through the last check you received prior to the "turn in documents" meeting.

☐ Seven months of statement or stubs showing gross income received for any pension, disability, social security payment, or any other form of income that is not employment for EACH SOURCE OF INCOME from _______________ through the last check you received prior to the "turn in documents" meeting.

☐ If self employed, profit and loss statement by month for the month starting ___________ and ending ___________.

☐ Documentation of income from any other household member who contributes to the household income.

☐ Income Property: A copy of the rental agreements or leases you have with any tenants.

☐ Social Security Award Letter

☐

REAL ESTATE (INCLUDING MOBILE HOMES AND BOATS THAT YOU LIVE IN AND TIMEShaRES)

☐ Current Mortgage Statement for each mortgage you have including lines of credit

☐ Most recent Property Tax Statement/Bill and all Past due property tax bills

☐ Most recent Homeowner's Association Statement

☐ Promissory Note for ______________________ Mortgage

☐ Deed of Trust for ______________________ Mortgage

☐ Copy of the closing statement for any property you have sold within the last 2 years

☐ Grant Deed for property fully owned or on which you have a loan inside or outside of the United States.

☐ Copy of Default Notice if property is in foreclosure

☐ Copy of Notice of Sale if property is in foreclosure

☐ Appraisal of each property - Attorney to provide information regarding appraisers

☐ Timeshare statement or purchase documents for each timeshare owned

☐ Renters: A copy of your rental agreement or lease.

☐ Income Property: A copy of the rental agreements or leases you have with any tenants.

☐
VEHICLES: Cars, boats, quads, motorcycles, motor homes, trailers etc.

- Last statement for each Vehicle not fully paid. Number of Vehicles
- Kelly Blue Book (www.kbb.com) or N.A.D.A. (www.nada.com) printout on value of all vehicles owned by any member of your family, living with you, whether they are being paid in a loan or fully paid for. Number of total Vehicles
- Both Sale by owner value and Retail value
- Notice or letter stating the amount owed in deficiency of any repossessed car.

FINANCIAL AFFAIRS/DEBTS

- Last months three (3) statement for each credit card and outstanding unsecured loans and/or correspondence from any collection agency - ONLY MOST CURRENT FOR EACH DEBT
- Last three (3) months Statements for each Financial Account and Bank Account where money is or was held for you or your dependents, including accounts you have closed.
- Last statement issued for any IRA, 401(k) or retirement or retirement savings plan or pension plan.
- Copy of any lawsuit and/or judgements filed against you or your spouse. Number of lawsuits
- Copy of Life Insurance Policy Disclosure page: Number of policies
- Copy of any liens (abstracts), levies or garnishments filed against you or your spouse: Number of liens, levies or garnishments
- Copy of any checks or bank statement showing payments on any debts to any friend or relative made within the last one (1) year.

CORPORATIONS, PARTNERSHIPS OR SOLE BUSINESS

- Copy of articles of incorporation for any corporation you have been involved in, within the last six (6) years.
- Copies or any trademarks, patents or copyrights that you own or have owned with the last (6) years.

DIVORCE, SEPARATION, CHILD SUPPORT

- Statements of current and/or child support arrears OWED to you or your current spouse
- Statement of any child support arrears you owe to anyone.
- Marital Settlement Agreement

OTHER

- Copy of Current Credit Report for each debtor (current within 3 months)
- Copy of Credit Counseling Certificate (current within 6 months)
- Attorney-Client Agreement - ORIGINAL

ALL PAYSTUBS OR OTHER FORM OF INCOME MUST BE EITHER EMAILED, FAXED OR MAILED TO OUR OFFICE FROM TODAY UP TO AND INCLUDING THE DATE WE FILE YOUR BANKRUPTCY.
Basic Information
ELKINGTON SHEPHERD LLP
409 13th Street, 10th Floor
Oakland, CA 94612
(510) 465-0404

Client Questionnaire

Part A. Name and Address

Name: ________________________________
Have you used any other names in the past eight years? □ No □ Yes
If yes, please list other names used:

Have you used any business names or Employer Identification Numbers (EIN) in the last 8 years?
If yes, please list business names and/or EINs used:

Telephone Numbers/Email address:
Home: ______________________________
Work: ______________________________
Cell: ______________________________
Email: ______________________________

Social Security Number: ___________________________ Expiration Date: ____________ State: ____________

Driver’s License Number: __________________________

Date of Birth: __________________________

Address: __________________________________________
City: __________________________ State: ____________ Zip: ____________ County: ____________

Have you lived at this address for at least 180 days? □ No □ Yes
Have you lived at this address for at least 730 days (2 years)? □ No □ Yes
If you answered no to either of the questions above, please list your previous address:
Address:
City: __________________________ State: ____________ Zip: ____________ County: ____________

If you have a different mailing address, please list:
Mailing Address: __________________________
City: __________________________ State: ____________ Zip: ____________ County: ____________

Marital Status: □ Never Married □ Married and living together □ Widowed
□ Married and living apart □ Divorced

Part B. Name and Address of Spouse

If you are filing jointly with your spouse, fill in the following information about your spouse:
Name: ________________________________
Has your spouse used any other names in the past 8 years? □ No □ Yes
If yes, please list other names used:

Has your spouse used any business names or Employer Identification Numbers (EIN) in the last 8 years?
If yes, please list business names and/or EINs used:
Telephone Numbers/Email address:
Home: 
Work: 
Cell: 
Email: 

Social Security Number: ____________________________ Expiration Date: __________ State: ______

Date of Birth: __________________________

If your spouse lives at a different address, please list:
Address: __________________________ State: ______ Zip: ______ County: ______

Has your spouse lived at this address for at least 180 days? ☐ No ☐ Yes

Has your spouse lived at this address for at least 730 days (2 years)? ☐ No ☐ Yes

If you answered no to either of the questions above, please list your spouse's previous address:
Address: __________________________ State: ______ Zip: ______ County: ______

If your spouse has a different mailing address, please list:
Mailing Address: __________________________
City: __________________________ State: ______ Zip: ______ County: ______

Part C. Prior and/or Pending Bankruptcy Cases

Have you filed a bankruptcy case in the last 8 years? ☐ No ☐ Yes

If yes, in which district of which state was the case filed?
Case Number: __________________________
Date Filed: __________________________
Date Discharged: __________________________
Was the case dismissed (you did not complete the bankruptcy)? ☐ No ☐ Yes
If so, what date was it dismissed? __________________________

Are any bankruptcy cases pending or being filed by your spouse, a business partner, or an affiliate? ☐ No ☐ Yes

If yes, name of debtor: __________________________
Relationship to you: __________________________
Case Number: __________________________
Date Filed: __________________________
District (If known): __________________________

Part D. Debtors Who Reside as Tenants of Residential Property

Do you have an eviction pending against you? ☐ No ☐ Yes

If yes, please provide your landlord's name and address:
Name: __________________________
Address: __________________________
City: __________________________ State: ______ Zip: ______
Part E. Business Owned as a Sole Proprietor

Are you the sole proprietor of a full- or part-time business?
If yes, please provide the name and location of the business:
Name of business: __________________________
Address: __________________________
City: __________________________ State: _______ Zip: _______
Description of business: __________________________

Part F. Hazardous Property or Property That Needs Immediate Attention

Do you own or have any property that needs immediate attention or that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? ☐ No ☐ Yes
If yes, please describe the hazard:
If immediate attention is needed, why is it needed?
Where is the property? Address: __________________________
City: __________________________ State: _______ Zip: _______
Real Estate Ownership
Section 2 - Property
Separately list and describe assets in each category below. 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. If more space is needed, attach a separate page to this questionnaire.

Part A. Residence, Building, Land, Other Real Estate

<table>
<thead>
<tr>
<th>Address and Description of Property</th>
<th>List all mortgages, home equity loans and other liens against the property: Please provide details requested below.</th>
<th>Estimated Value of Property</th>
<th>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</th>
<th>If you are not the only owner: Please enter the % of the property you own.</th>
<th>Office Use Only Exemptions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Who is your mortgage, lien or loan with? (Name and Address)</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td></td>
<td>What is the amount of the mortgage, lien or loan?</td>
<td></td>
<td>☐ Other</td>
<td></td>
<td>☐ Other:</td>
</tr>
<tr>
<td></td>
<td>What is your current interest rate on the loan?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>What is your monthly payment?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Does payment include taxes and/or insurance? ☐ No ☐ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>How much are you behind in your payments?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Address:                           | Who is your mortgage, lien or loan with? (Name and Address)                                                     |                             | ☐ You                                                                                           | ☐ Spouse                                                      | ☐ Joint                                                                 |
|                                    | What is the amount of the mortgage, lien or loan?                                                                |                             | ☐ Other                                                                                         |                                                                | ☐ Other:                                                             |
|                                    | What is your current interest rate on the loan?                                                                  |                             |                                                                                                 |                                                                |                                                                       |
|                                    | What is your monthly payment?                                                                                   |                             |                                                                                                 |                                                                |                                                                       |
|                                    | Does payment include taxes and/or insurance? ☐ No ☐ Yes                                                        |                             |                                                                                                 |                                                                |                                                                       |
|                                    | How much are you behind in your payments?                                                                        |                             |                                                                                                 |                                                                |                                                                       |
Vehicle Ownership
### SECTION 2

**Part B. Cars, Vans, Trucks, Tractors, SUVs, Motorcycles, RVs, Watercraft, Aircraft, Motor Homes, ATVs, Other Vehicles**

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Do you own this type of property?</th>
<th>Description</th>
<th>Value of Property</th>
<th>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse, Office Use Only Exemptions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle #1</td>
<td>□ No</td>
<td>Year: ____________ Make: ____________________________ Model: ____________ Mileage: ____________ Is this the initial loan on the vehicle? How much do you still owe on the vehicle?</td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicle #2</td>
<td>□ No</td>
<td>Year: ____________ Make: ____________________________ Model: ____________ Mileage: ____________ Is this the initial loan on the vehicle? Other Information:</td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicle #3</td>
<td>□ No</td>
<td>Year: ____________ Make: ____________________________ Model: ____________ Mileage: ____________ Is this the initial loan on the vehicle? Other Information:</td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Watercraft/Aircraft/Motor Homes/ATVs/Other (list year, make, and model)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Personal and Household Items Ownership
## SECTION 2

### Part C. Personal and Household Items

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Do you own this type of property?</th>
<th>Description</th>
<th>Value of Property</th>
<th>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</th>
<th>Office Use Only Exemptions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Household Goods and Furnishings (Major appliances, furniture, linens, china, kitchenware, etc.)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
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<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electronics (TVs, stereos, computers, game consoles, tablets, iPods, mobile phones, etc.)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Collectibles of value (art, paintings, prints, memorabilia, antiques, stamp/coin/card collections, etc.)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sports, photo, exercise, and other hobby equipment; musical instruments</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
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<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Firearms, ammunition, and related equipment</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clothing (everyday clothes, furs, leather coats, designer wear, shoes, accessories)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jewelry</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pets/non-farm animals</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Property</td>
<td>Do you own this type of property?</td>
<td>Description</td>
<td>Value of Property</td>
<td>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</td>
<td>Office Use Only Exemptions?</td>
</tr>
<tr>
<td>---------------------------</td>
<td>------------------------------------</td>
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<td>-------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Health aids and all other household items not listed</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
</tbody>
</table>
### Part D. Financial Assets

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Do you own this type of property?</th>
<th>Description</th>
<th>Value of Property</th>
<th>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</th>
<th>Office Use Only Exemptions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash (spare change/money in your purse or wallet, cash not in accounts)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Checking account #1 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Checking account #2 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Savings account #1 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Savings account #2 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certificate of deposit (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other financial account #1 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other financial account #2 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Property</td>
<td>Do you own this type of property?</td>
<td>Description</td>
<td>Value of Property</td>
<td>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</td>
<td>Office Use Only Exemptions?</td>
</tr>
<tr>
<td>------------------------------------------------------</td>
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<td>----------------------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Other financial account #3 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Other financial account #4 (list name(s) on account, bank name, and account number)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Bonds, mutual funds, and publicly traded stocks</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Non-publicly traded stocks and interests in businesses, corporations, LLCs, partnerships, and joint ventures (list % of ownership)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Government and corporate bonds and instruments (including U.S. Savings Bonds)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Retirement, pension, or profit-sharing plan #1 (IRA, 401(k), 403(b), thrift savings account, or other pension or profit-sharing plan) (list type of plan and where the account is held)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Retirement, pension, or profit-sharing plan #2 (IRA, 401(k), 403(b), thrift savings account, or other pension or profit-sharing plan) (list type of plan and where the account is held)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Retirement, pension, or profit-sharing plan #3 (IRA, 401(k), 403(b), thrift savings account, or other pension or profit-sharing plan) (list type of plan and where the account is held)</td>
<td>☐ No</td>
<td></td>
<td>☐ You</td>
<td>☐ Spouse, ☐ Joint, ☐ Other:</td>
<td></td>
</tr>
<tr>
<td>Type of Property</td>
<td>Do you own this type of property?</td>
<td>Description</td>
<td>Value of Property</td>
<td>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</td>
<td>Office Use Only Exemptions?</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>-----------------------------------</td>
<td>-------------</td>
<td>-------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Security deposits (typically with landlord or utility) (list holder)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayments (prepaid rent, layaway, gift cards, etc.)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annuities (list company)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education IRA, Sec. 529 or Sec. 530 account, state tuition plan</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trusts, life estates, future, and equitable interests in property or assets</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patents, copyrights, trademarks, trade secrets, and other intellectual property</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Licenses, franchises, and other general intangibles</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax refunds owed to you (last years due)</td>
<td>□ No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Property</td>
<td>Do you own this type of property?</td>
<td>Description</td>
<td>Value of Property</td>
<td>Owned by: You, your spouse, both you and your spouse, you and at least one person other than your spouse.</td>
<td>Office Use Only Exemptions?</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>------------------------------------</td>
<td>-------------</td>
<td>-------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Alimony and child support</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other amounts someone owes you (unpaid wages, disability benefits, sick pay,</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td>vacation pay, workers' compensation, unpaid loans made by you, etc.)</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash value of insurance policies (whole or universal life, health, disability,</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td>HSA, etc.) (life insurance company and beneficiary)</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inheritances, estate distributions, and death benefits</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal injury claims or awards</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawsuits or claims against anyone for anything</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other claims or rights to sue someone</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any other financial asset not listed</td>
<td>No</td>
<td></td>
<td></td>
<td>□ You □ Spouse □ Joint □ Other:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Business Related Assets
### SECTION 2

**Part E. Business-Related Assets**

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Do you own this type of property?</th>
<th>Description</th>
<th>Value of Property</th>
<th>Owned by:</th>
<th>Office Use Only Exemptions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts receivable or commissions earned (list)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Office equipment, furnishings, and supplies (list)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Machinery, fixtures, equipment, business supplies, and tools of your trade (list)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Business inventory (list)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Interests in partnerships or joint ventures (name and type of business, % interest)</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Customer and mailing lists</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
<tr>
<td>Other business-related property not already listed</td>
<td>☐ No</td>
<td>☐ Yes</td>
<td>☐ You</td>
<td>☐ Spouse</td>
<td>☐ Joint</td>
</tr>
</tbody>
</table>
Miscellaneous Assets
**SECTION 2**

**Part G. Miscellaneous**

| Type of Property | Do you own this type of property? | Description | Value of Property | Owned by: 
You, your spouse, both you and your spouse, you and at least one person other than your spouse. | Office Use Only Exemptions? |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>All other property of any kind not previously listed</td>
<td>□ No</td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

m: Bankruptcy Texas Bankruptcy questionnaire worksheet sherrod bankruptcy questionnaire 6-20-16
Mortgages
HOA Liens
Judgments
## Section 3 - Debts

### Part A. Debts Secured by Property

Please list below all debts that you owe OR that creditors claim you owe that are secured by property.

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information</th>
<th>Property Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home loan and/or mortgage</td>
<td>1. Amount Owed (amount of claim):</td>
<td>1. Describe property:</td>
<td>Who owes the debt?</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>2. Monthly payment amount:</td>
<td>☐ Self</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td>☐ Spouse</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When was the loan taken out?</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td>☐ Joint</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td>If yes, please provide name and address:</td>
<td>☐ Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Home loan and/or mortgage</td>
<td>1. Amount Owed (amount of claim):</td>
<td>1. Describe property:</td>
<td>Who owes the debt?</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>2. Monthly payment amount:</td>
<td>☐ Self</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td>☐ Spouse</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When was the loan taken out?</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td>☐ Joint</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td>If yes, please provide name and address:</td>
<td>☐ Other</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information</th>
<th>Property Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>HOA LIEN OR PAST DUE AMOUNT</td>
<td>1. Amount Owed (amount of claim):</td>
<td>1. Describe property:</td>
<td>Who owes the debt?</td>
<td>□ No</td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td>2. Monthly payment amount:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When was debt incurred?</td>
<td></td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td></td>
<td>□ No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>JUDGMENT LIENS FROM LAWSUITS OR IRS OR STATE TAXING AUTHORITY</td>
<td>1. Amount Owed (amount of claim):</td>
<td>1. Describe type of lien:</td>
<td>Who owes the debt?</td>
<td>□ No</td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When the loan taken out?</td>
<td></td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td></td>
<td>□ No</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If yes, please provide name and address.
Vehicle Loans
### SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Car loans</th>
<th>1. Amount Owed (amount of claim):</th>
<th>1. Describe property:</th>
<th>Who owes the debt?</th>
<th>□ No</th>
<th>□ Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Self</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Spouse</td>
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<td></td>
<td></td>
<td></td>
<td>Joint</td>
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<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Other:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>2. Monthly payment amount:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Amount you are behind:</td>
<td>If yes, please provide name and address:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When was the loan taken out?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Car loans</th>
<th>1. Amount Owed (amount of claim):</th>
<th>1. Describe property:</th>
<th>Who owes the debt?</th>
<th>□ No</th>
<th>□ Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Self</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Spouse</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>Joint</td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Other:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>2. Monthly payment amount:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Amount you are behind:</td>
<td>If yes, please provide name and address:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. When was the loan taken out?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td></td>
<td></td>
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</tbody>
</table>
### SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Car loans</th>
<th>1. Amount Owed (amount of claim):</th>
<th>1. Describe property:</th>
<th>Who owes the debt?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td>□ Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>□ Spouse</td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td>2. Monthly payment amount:</td>
<td>□ Joint</td>
</tr>
<tr>
<td></td>
<td>4. When was loan taken out?</td>
<td>3. Amount you are behind:</td>
<td>□ Other:</td>
</tr>
<tr>
<td></td>
<td>5. Contact person’s name and address if different from above:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ No</td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Yes</td>
<td></td>
</tr>
<tr>
<td>Other property loans</td>
<td>1. Amount Owed (amount of claim):</td>
<td>1. Describe property:</td>
<td>Who owes the debt?</td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td>□ Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>□ Spouse</td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td>2. Monthly payment amount:</td>
<td>□ Joint</td>
</tr>
<tr>
<td></td>
<td>4. When was loan taken out?</td>
<td>3. Amount you are behind:</td>
<td>□ Other:</td>
</tr>
<tr>
<td></td>
<td>5. Contact person’s name and address if different from above:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ No</td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Yes</td>
<td></td>
</tr>
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Other Secured Loans
## SECTION 3 - DEBTS

<table>
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<tr>
<th>Other property loans</th>
<th>1. Amount Owed (amount of claim):</th>
<th>1. Describe property:</th>
<th>Who owes the debt?</th>
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<td>2. Creditor Name and Address:</td>
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<td>3. Account Number, if any:</td>
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<td>□ Spouse</td>
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<td>4. When was loan taken out?</td>
<td>amount:</td>
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</tr>
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<td></td>
<td>5. Contact person's name and address if different from above:</td>
<td>3. Amount you are behind:</td>
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Credit Card Debt
**SECTION 3 - DEBTS**

**Part B. Credit Card Debts**

Please list below all credit card debts that you owe OR that creditors claim you owe.

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
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<tbody>
<tr>
<td>Major credit card debts (Visa, American Express, Master Card, Discover)</td>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
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<td>2. Creditor Name and Address:</td>
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<td>3. Account Number, if any:</td>
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<tr>
<td></td>
<td>4. Date range of dates when debt was incurred:</td>
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<td>□ Joint</td>
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<th>Major credit card debts (Visa, American Express, Master Card, Discover)</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who Incurred the debt?</th>
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<tr>
<td>3. Account Number, if any:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
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<td>4. Date/Range of dates when debt was incurred:</td>
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<td>[ ] Self</td>
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<td>[ ] Spouse</td>
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*Page 24*
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Cash Advances
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<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Medical Bills
### SECTION 3 - DEBTS

**Part C. Medical Debts**

Please list below all unpaid medical bill debts that you owe OR that creditors claim you owe.

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unpaid medical bills</td>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date range of dates when debt was incurred:</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td>If yes, please provide name and address:</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

---

Page 28

Page 483
## SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Unpaid medical bills</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who incurred the debt?</th>
<th>☐ No</th>
<th>☐ Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>☐ Self</td>
<td>☐ Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Spouse</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Joint</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>☐ Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td>☐ No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>If yes, please provide name and address:</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unpaid medical bills</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who incurred the debt?</th>
<th>☐ No</th>
<th>☐ Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>☐ Self</td>
<td>☐ Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Spouse</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>☐ Joint</td>
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<td></td>
<td></td>
<td>☐ Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td>☐ No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>☐ Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>If yes, please provide name and address:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Tax Debt
# SECTION 3 - DEBTS

### Part D. Tax Debts

Please list below all unpaid tax debts that you owe OR that creditors claim you owe.

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unpaid taxes</td>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unpaid taxes</td>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Unpaid taxes</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who incurred the debt?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>□ Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Spouse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Joint</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Other:</td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/range of dates when debt was incurred:</td>
<td>□ No</td>
</tr>
</tbody>
</table>
|              |                                  | □ Yes  
|              |                                  | If yes, please provide name and address: |
|              | 5. Contact person's name and address if different: | □ No |
|              |                                  | □ Yes  
|              |                                  | If yes, please provide name and address: |
|              | 6. Any additional information about the debt: | □ No |
|              |                                  | □ Yes  
|              |                                  | If yes, please provide name and address: |
Student Loan Debt
## Part E. Student Loan Debts

Please list below all Student Loan debts that you owe OR that creditors claim you owe.

<table>
<thead>
<tr>
<th>Type of Debt</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student loan</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Student loan |                       |                               |                          |                 |
|              | 1. Amount Owed (amount of claim): | Who incurred the debt? |                          |                 |
|              | 2. Creditor Name and Address: |                               |                          |                 |
|              | 3. Account Number, if any: |                               |                          |                 |
|              | 4. Date/Range of dates when debt was incurred: | Is there a codebtor or cosigner on this loan? |     |                 |
|              | 5. Contact person's name and address if different: | |                          |                 |
|              | 6. Any additional information about the debt: | |                          |                 |
### SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Student loan</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who incurred the debt?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>□ Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Spouse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Joint</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Other:</td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td>If yes, please provide name and address:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Student loan</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who incurred the debt?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Creditor Name and Address:</td>
<td>□ Self</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Spouse</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Joint</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Other:</td>
</tr>
<tr>
<td></td>
<td>3. Account Number, if any:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Date/Range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Yes</td>
</tr>
<tr>
<td></td>
<td>5. Contact person's name and address if different:</td>
<td>If yes, please provide name and address:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Any additional information about the debt:</td>
<td></td>
</tr>
</tbody>
</table>
Lawsuits
## SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Please Describe the Type of Debt LAWSUITS AGAINST YOU</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Describe:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Amount Owed (amount of claim):</td>
<td>Who incurred the debt?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Creditor Name and Address:</td>
<td>✓ Self</td>
<td></td>
<td>✓ Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>✓ Spouse</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>✓ Joint</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Account Number, if any:</td>
<td>✓ Other:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Date/range of dates when debt was incurred:</td>
<td>Is there a codebtor or cosigner on this loan?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contact person's name and address if different:</td>
<td>✓ No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>✓ Yes if yes, please provide name and address:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Any additional information about the debt:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Describe:                                           |                        |                               |                           |                |
| 1. Amount Owed (amount of claim):                   | Who incurred the debt? |                               |                           |                |
| 2. Creditor Name and Address:                       | ✓ Self                 |                               | ✓ Yes                     |                |
|                                                     | ✓ Spouse                |                               |                           |                |
|                                                     | ✓ Joint                 |                               |                           |                |
| 3. Account Number, if any:                          | ✓ Other:                |                               |                           |                |
| 4. Date/range of dates when debt was incurred:      | Is there a codebtor or cosigner on this loan? |                           |                           |                |
| 5. Contact person's name and address if different:  | ✓ No                   |                               |                           |                |
|                                                     | ✓ Yes if yes, please provide name and address: |                           |                           |                |
| 6. Any additional information about the debt:       |                        |                               |                           |                |
Other Debts
### SECTION 3 - DEBTS

**Part F. Other Debts**

Please list below all debts not listed above that you owe OR that creditors claim you owe.

<table>
<thead>
<tr>
<th>Please Describe the Type of Debt (e.g. unpaid rent, alimony or child support, service fees, other bank loans, or personal loans.)</th>
<th>Creditor Information:</th>
<th>Person(s) Responsible/Codebtor</th>
<th>Do you dispute the debt?</th>
<th>Office Use Only</th>
</tr>
</thead>
</table>

**Describe:**

1. Amount Owed (amount of claim):
2. Creditor Name and Address:
3. Account Number, if any:
4. Date/Range of dates when debt was incurred:
5. Contact person's name and address if different:
6. Any additional information about the debt:

<table>
<thead>
<tr>
<th>Who incurred the debt?</th>
<th>Who incurred the debt?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self</td>
<td>No</td>
</tr>
<tr>
<td>Spouse</td>
<td>Yes</td>
</tr>
<tr>
<td>Joint</td>
<td></td>
</tr>
<tr>
<td>Other:</td>
<td></td>
</tr>
</tbody>
</table>

Is there a codebtor or cosigner on this loan?

1. No
2. Yes

If yes, please provide name and address:

---

Another row in the table follows the same structure, with similar questions and options for answering.

---

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## SECTION 3 - DEBTS

<table>
<thead>
<tr>
<th>Describe:</th>
<th>1. Amount Owed (amount of claim):</th>
<th>Who Incurred the debt?</th>
<th>2. Creditor Name and Address:</th>
<th>3. Account Number, if any:</th>
<th>4. Date/Range of dates when debt was incurred:</th>
<th>5. Contact person's name and address if different:</th>
<th>6. Any additional information about the debt:</th>
<th>7. Is there a co-debtor or cosigner on this loan?</th>
<th>8. If yes, please provide name and address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>□ No</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Leases
and
Contracts
Section 4 - Unexpired Leases and Contracts (Schedule G)
List below any leases or contracts that are still current and to which you are a party. Include residential, car and business leases, and service or business contracts.

<table>
<thead>
<tr>
<th>Description of Lease or Contract</th>
<th>Name and Address of Other Party or Parties</th>
<th>Date Contract Expires</th>
<th>Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
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<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
Current Income Debtor
Section 5 - Current Income

Part A. Debtor's Employer Information

Name and Address of your employer:

_________________________________________________________

_________________________________________________________

How long have you been employed at this job: ________________
Occupation (please state job title or provide brief description): ________________

Second employer (if applicable):
Name and Address of your Second employer:

_________________________________________________________

_________________________________________________________

How long have you been employed at this second job: ________________
Occupation (please state job title or provide brief description): ________________
Notes: __________________________________________________

Part B. Joint Debtor's (Spouse's) Employer Information

Name and Address of your spouse's employer:

_________________________________________________________

_________________________________________________________

How long has spouse been employed at this job: ________________
Occupation (please state job title or provide brief description): ________________

Second employer (if applicable):
Name and Address of your spouse's Second employer:

_________________________________________________________

_________________________________________________________

How long has spouse been employed at this second job: ________________
Occupation (please state job title or provide brief description): ________________
Notes: __________________________________________________
Part C. Debtor's Wage Information

What is the gross amount of your paycheck, before taxes/other deductions are taken out?  

How often do you get paid? □ once a week □ every two weeks □ twice a month □ once a month □ other

What is your estimated overtime pay per month?  

How much is taken out of each paycheck for taxes, Medicare, and social security? (combined total)

How much is taken out of each paycheck for Mandatory Contributions to Retirement?

How much is taken out of each paycheck for Voluntary Contributions to Retirement?

How much is taken out of each paycheck for Required Repayments of Retirement fund Loans?

How much is automatically deducted for insurance?

How much is taken out for Domestic Support Obligations?

How much is deducted for union dues?

Other Deduction (describe):  

Other Deduction (describe):  

Other Deduction (describe):

Do you receive income from business operations outside of your regular paycheck listed above?  

□ No □ Yes

If yes, how much do you receive per month?

Do you receive income from interest or dividends outside of your regular paycheck listed above?  

□ No □ Yes

If yes, how much do you receive per month?

Do you receive income from alimony or family support payments for your use or for the care of your dependents?  

□ No □ Yes

If yes, how much do you receive per month?

Do you receive income from Unemployment?  

□ No □ Yes

If yes, how much do you receive per month?

Do you receive Income from Social Security?  

□ No □ Yes

If yes, how much do you receive per month?

Do you receive monetary government assistance?  

□ No □ Yes

If yes, please describe:  

How much do you receive per month?

Do you receive retirement or pension money?  

□ No □ Yes

If yes, how much do you receive per month?

Do you have any other source of income not listed?  

□ No □ Yes

If yes, please describe:  

How much do you receive per month?

Are you expecting any increase or decrease in salary next year?  

□ No □ Yes

If yes, please describe:  
### Part E. Debtor's Current Monthly Income Calculation

Fill in your monthly income for the categories below in the column labeled 'Month 1.' If your income for one of the below categories varies from month to month, complete the below chart by entering in your income for all six months.

<table>
<thead>
<tr>
<th>Category</th>
<th>Month 1 (last month)</th>
<th>Month 2 (2 months ago)</th>
<th>Month 3</th>
<th>Month 4</th>
<th>Month 5</th>
<th>Month 6</th>
<th>For Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross wages, salary, tips, bonuses, overtime, commissions.</td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Business Income:</td>
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</tr>
<tr>
<td>a. Gross Income</td>
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</tr>
<tr>
<td>b. Expenses</td>
<td></td>
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<tr>
<td>Net Income</td>
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<tr>
<td>Rent and other real property income:</td>
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<tr>
<td>a. Gross Income</td>
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<td></td>
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<tr>
<td>b. Expenses</td>
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<tr>
<td>Interest, dividends, and royalties.</td>
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<tr>
<td>Pension and retirement income (NOT Social Security).</td>
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<tr>
<td>Regular contributions from others to the household expenses, including child support.</td>
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<tr>
<td>Unemployment Compensation</td>
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<tr>
<td>Social Security income</td>
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<tr>
<td>Other sources not already mentioned. Describe:</td>
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</tbody>
</table>
Current Income
Joint Debtor
Part D. Joint Debtor's (Spouse's) Wage Information

What is the gross amount of your paycheck, before taxes/other deductions are taken out? ____________________________

How often do you get paid? [ ] once a week [ ] every two weeks [ ] twice a month [ ] once a month [ ] other ____________________________

What is your estimated overtime pay per month? ____________________________

How much is taken out of each paycheck for taxes, Medicare, and social security? (combined total) ____________________________

How much is taken out of each paycheck for Mandatory Contributions to Retirement? ____________________________

How much is taken out of each paycheck for Voluntary Contributions to Retirement? ____________________________

How much is taken out of each paycheck for Required Repayments of Retirement fund Loans? ____________________________

How much is automatically deducted for insurance? ____________________________

How much is taken out for alimony or family support for the care of your dependents? ____________________________

How much is deducted for union dues? ____________________________

Other Deduction (describe): ____________________________

Other Deduction (describe): ____________________________

Other Deduction (describe): ____________________________

Do you receive income from business operations outside of your regular paycheck listed above? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you receive income from interest or dividends outside of your regular paycheck listed above? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you receive income from alimony or family support payments for your use or for the care of your dependents? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you receive income from Unemployment? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you receive income from Social Security? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you receive monetary government assistance? [ ] No [ ] Yes

If yes, please describe: ____________________________

How much do you receive per month? ____________________________

Do you receive retirement or pension money? [ ] No [ ] Yes

If yes, how much do you receive per month? ____________________________

Do you have any other source of income not listed? [ ] No [ ] Yes

If yes, please describe: ____________________________

How much do you receive per month? ____________________________

Are you expecting any increase or decrease in salary next year? [ ] No [ ] Yes

If yes, please describe: ____________________________
Part F. Joint Debtor's (Spouse's) Current Monthly Income Calculation

Fill in your monthly income for the categories below in the column labeled "Month 1." If your income for one of the below categories varies from month to month, complete the below chart by entering in your income for all six months.

<table>
<thead>
<tr>
<th>Month 1</th>
<th>Month 2</th>
<th>Month 3</th>
<th>Month 4</th>
<th>Month 5</th>
<th>Month 6</th>
<th>For Office Use Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>(last month)</td>
<td>(2 months ago)</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>/</td>
</tr>
</tbody>
</table>

Gross wages, salary, tips, bonuses, overtime, commissions.

Business income:
- Gross Income
- Expenses
- Net Income

Rent and other real property income:
- Gross Income
- Expenses
- Net Income

Interest, dividends, and royalties.

Pension and retirement income (NOT Social Security).

Regular contributions from others to the household expenses, including child support.

Unemployment Compensation.

Social Security income.

Other sources not already mentioned. Describe:
Current Expenses
Section 6 - Current Expenses (Schedule J)

1. Is this a Joint Filing with your Spouse?
   □ No □ Yes

2. Please list all dependents of you and your spouse with their age and relationship to you (if applicable).
   
<table>
<thead>
<tr>
<th>Relationship</th>
<th>Age</th>
<th>Who does the dependent live with?</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
</tr>
</tbody>
</table>

Do you and your spouse live separately and maintain separate households? □ No □ Yes. If yes, please let your attorney know and they will have to provide you with an additional copy of this section to detail the expenses for the completely separate household.

The following questions ask for your expenses each month. If you are unsure of the amount you pay each month, but know the amount for a different period (per week, per day, every 2 months, etc.), write in the amount and the frequency that you pay the amount.

3. Do your expenses include another person’s expenses other than yourself and your dependents?
   □ No □ Yes

Indicate how much you pay for each item each month:

4. Primary Rent □ or Home Mortgage □: $________
   Does that amount include real estate taxes?
   □ No □ Yes
   If NO, how much do you pay? $________
   Does that amount include property, homeowner’s, or renter’s insurance?
   □ No □ Yes
   If NO, how much do you pay? $________
   Does that amount include any Home maintenance, repair, or upkeep expenses?
   □ No □ Yes
   If yes, how much do you pay? $________
   Does that amount include any Homeowner’s association or condominium dues?
   □ No □ Yes
   If yes, how much do you pay? $________

5. Are there Additional Mortgage payments?
   □ No □ Yes
   If yes, how much do you pay? $________

6. Utilities:
   a. Electricity and heating fuel: $________
   b. Water and sewer: $________
   c. Telephone service/local distance: $________
   d. Do you have any other utility bills? If yes, describe and enter monthly amount below:
      $________
      $________
      $________

7. Food and housekeeping supplies: $________
8. Childcare and Children Education Costs: $  
9. Clothing, laundry, and dry cleaning: $  
10. Personal care products and services: $  
11. Medical and dental expenses: $  
12. Transportation (do NOT include car payments): $  
13. Recreation, entertainment, newspapers, magazines, and books: $  
14. Charitable contributions and religious donations: $  
15. Insurance NOT deducted from wages or included in home mortgage payments or other real estate property expenses: (Do not include amounts entered in Line 4 or Line 20)  
   a. Life insurance: $  
   b. Health insurance: $  
   c. Auto insurance: $  
   d. Other insurance (describe and list monthly amount): $  
16. Tax bills NOT deducted from wages or included in home mortgage payments or other real estate property expenses: $  
17. Installment payments for car, furniture, etc. (Describe): $  
18. Alimony, maintenance and support paid to others: $  
19. Payments for support of additional dependents not living at your home: $  
20. Other Real Estate Property expenses NOT included with Rent or Home Mortgage Property (Do not include amounts entered in Line 4 or Line 5)  
   a. Mortgage payment on other Real Estate Property $  
   b. Taxes on other Real Estate Property $  
   c. Other Real Property, Homeowner's, or Renter's Insurance payments $  
   d. Home maintenance (including repairs and upkeep) $  
   e. Homeowner's association or condominium dues $  
21. Other expenses (Describe): (please see "Additional Expenses" below before putting anything here) $  

m/knownty/file/knownty questionnaires/allington shepherd bankruptcy questionnaire/5-20-16
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518
Describe any increase or decrease in expenses you expect to occur within the next year?

Due to the nature of the Federal Bankruptcy forms there is a special separate category of expenses that needs to be filled out with some unusual numbering. Please ignore the numbering and fill out everything that you can below:

**Additional Expenses (707(b) Expenses for Form 122)**

17. Mandatory payroll deductions not already listed: $  
   $  
   $

19. Court ordered payments not already listed: $  
   $  
   $  

20. Education for employment or for a physically or mentally challenged child: $  
21. Child care (baby sitting, day care, nursery & preschool, etc.): $  
25. Disability Insurance (If not listed above): $  
26. Health Savings Account: $  
27. Protection from family violence: $  
29. Education expense for your children under 18: $  
41. (c13a) Non-mandatory contributions to retirement accounts (including loan repayments): $  
   $  
   $  

m/bankruptcy file/bankruptcy questionnaire/edington shepherd bankruptcy questionnaire/5-20-16
Statement of Financial Affairs
Section 7 - Statement of Financial Affairs (Form 107)

If you are filing jointly with your spouse, include information about both you and your spouse.

1. List every address where you have lived other than where you live now during the last 3 years.
   □ NONE

   Previous Address(es)        From       To

2. If you lived with a spouse or domestic partner in a community property state or territory (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin) within the last 8 years, list the state or territory where you lived and the name and current address of your spouse or domestic partner.
   □ NONE

   Community Property State or Territory   Name and Address of Spouse or Domestic Partner

3. List the total amount of income that you received from all jobs and all businesses, including part-time activities, during this year and the two previous calendar years.
   □ NONE

   **Debtor**

<table>
<thead>
<tr>
<th>Period</th>
<th>Source of Income</th>
<th>Gross income (before deductions and exclusions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1 of this year through TODAY'S DATE</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
<tr>
<td>Last year (January 1 - December 31)</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
<tr>
<td>The year before last (January 1 - December 31)</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
</tbody>
</table>

   **Spouse (If applicable)**

<table>
<thead>
<tr>
<th>Period</th>
<th>Source of Income</th>
<th>Gross income (before deductions and exclusions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1 of this year through TODAY'S DATE</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
<tr>
<td>Last year (January 1 - December 31)</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
<tr>
<td>The year before last (January 1 - December 31)</td>
<td>□ Wages, commissions, bonuses, tips</td>
<td></td>
</tr>
<tr>
<td></td>
<td>□ Operating a business</td>
<td></td>
</tr>
</tbody>
</table>
4. List any other income that you received during this year and the two previous calendar years.

☐ NONE

<table>
<thead>
<tr>
<th>Debit</th>
<th>Source of income (describe)</th>
<th>Gross income (before deductions and exclusions)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Spouse (if applicable)</th>
<th>Source of income</th>
<th>Gross income (before deductions and exclusions)</th>
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<tbody>
<tr>
<td></td>
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</tbody>
</table>

5. If your debts are primarily consumer debts (i.e. non-business), list each creditor to whom you paid a total of $600 or more within the last 90 days. Do not include payments for domestic support obligations, such as child support and alimony.

☐ NONE

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Dates of Payment</th>
<th>Total Amount Paid</th>
<th>Amount Still Owed</th>
<th>Was this payment for ...</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Mortgage</td>
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<td>Loan repayment</td>
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<td>Suppliers or vendor</td>
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<td>Other</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Dates of Payment</th>
<th>Total Amount Paid</th>
<th>Amount Still Owed</th>
<th>Was this payment for ...</th>
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<td>Mortgage</td>
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<td>Suppliers or vendor</td>
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</table>

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Dates of Payment</th>
<th>Total Amount Paid</th>
<th>Amount Still Owed</th>
<th>Was this payment for ...</th>
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<td>Suppliers or vendor</td>
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<td>Other</td>
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</tbody>
</table>
6. If your debts are primarily non-consumer debts (i.e., business), list each creditor to whom you paid a total of $6,425 or more in one or more payments within the last 90 days. Do not include payments for domestic support obligations, such as child support and alimony.

| Name and Address of Creditor | Dates of Payment | Total Amount Paid | Amount Still Owed | Was this payment for ...
<table>
<thead>
<tr>
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<td>Suppliers or vendor</td>
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| Name and Address of Creditor | Dates of Payment | Total Amount Paid | Amount Still Owed | Was this payment for ...
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</table>

| Name and Address of Creditor | Dates of Payment | Total Amount Paid | Amount Still Owed | Was this payment for ...
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<td>Suppliers or vendor</td>
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<td>Other</td>
</tr>
</tbody>
</table>

7. List all payments that you made within the past 1 year to any "insider." ("Insiders" include your relatives, your business partners and their relatives, your corporations, or your affiliates.)

<table>
<thead>
<tr>
<th>Name and Address of Insider</th>
<th>Dates of Payment</th>
<th>Total Amount Paid</th>
<th>Amount Still Owed</th>
<th>Reason for payment</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

In bankruptcy/bankruptcy questionnaires/eliminating-shepherd-bankruptcy-questionnaire-6-2016
8. List all payments or transfers of property that you made within the past 1 year that benefitted an "insider."

- **NONE**

<table>
<thead>
<tr>
<th>Name and Address of Insider</th>
<th>Dates of Payment</th>
<th>Total Amount Paid</th>
<th>Amount Still Owed</th>
<th>Reason for payment (include the creditor's name)</th>
</tr>
</thead>
</table>

9. List any lawsuits, court actions, or administrative proceedings to which you are or were a party within the past 1 year.

- **NONE**

<table>
<thead>
<tr>
<th>Case Title and Case Number</th>
<th>Nature of the Case</th>
<th>Court or Agency and Location</th>
<th>Status or Disposition</th>
</tr>
</thead>
</table>

10. Describe all property that has been repossessed, foreclosed, garnished, attached, seized, or levied within the past 1 year.

- **NONE**

<table>
<thead>
<tr>
<th>Creditor's Name and Address</th>
<th>Description and Value of Property</th>
<th>Date</th>
<th>Explain what happened</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Creditor's Name and Address</th>
<th>Description and Value of Property</th>
<th>Date</th>
<th>Explain what happened</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
11. List all setoffs made by any creditor, including a bank or financial institution, against a debt or deposit within 90 days before the filing of this case. Include any refusals by a creditor to make a payment because you owed a debt.

<table>
<thead>
<tr>
<th>Creditor's Name and Address</th>
<th>Description of action taken by creditor</th>
<th>Date Action Taken</th>
<th>Setoff Amount and Last 4 Digits of Account Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12. Within the past 1 year, 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

13. List any gifts that you made within the past 2 years that have a total value of more than $600 per person.

<table>
<thead>
<tr>
<th>Name and Address of Recipient</th>
<th>Relationship to You</th>
<th>Description of Gifts</th>
<th>Dates Gifts Given</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

14. List any gifts or contributions that you made to a charity within the past 2 years that have a total value of more than $600.

<table>
<thead>
<tr>
<th>Name and Address of Charity</th>
<th>Description of Contribution</th>
<th>Contribution Date</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

15. List all losses from fire, theft, or other disaster, or gambling within the past 1 year or since the filing of this case.

<table>
<thead>
<tr>
<th>Description of Property and How Loss Occurred</th>
<th>Description of any Insurance Coverage (include the amount that insurance has paid)</th>
<th>Date of Loss</th>
<th>Value of Property Lost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
16. List all payments made or property transferred by you or by someone acting on your behalf to anyone you consulted about filing for bankruptcy or preparing a bankruptcy petition within the past 1 year. Include any attorneys, bankruptcy petition preparers, or credit counselling agencies.

<table>
<thead>
<tr>
<th>Name and Address of Person Paid</th>
<th>Name of Person Who Made the Payment, If Not You</th>
<th>Description and Value of Any Property Transferred</th>
<th>Date of Payment or Transfer</th>
<th>Amount of Payment</th>
</tr>
</thead>
</table>

17. List all payments made or property transferred by you or by someone acting on your behalf within the past 1 year to anyone who promised to help you deal with your creditors or to make payments to your creditors.

<table>
<thead>
<tr>
<th>Name and Address of Person Paid</th>
<th>Name of Person Who Made the Payment, If Not You</th>
<th>Description and Value of Any Property Transferred</th>
<th>Date of Payment or Transfer</th>
<th>Amount of Payment</th>
</tr>
</thead>
</table>

18. List all property, other than property transferred in the ordinary course of your business or financial affairs, that you sold, traded, or transferred either absolutely or as a security within the past 2 years.

<table>
<thead>
<tr>
<th>Name and Address of Person Who Received the Transfer Relationship to You</th>
<th>Description and Value of Property Transferred</th>
<th>Describe Any Property or Payments Received or Debts Paid in Exchange</th>
<th>Date of Transfer</th>
</tr>
</thead>
</table>

19. List all property you transferred within the past 10 years to a self-settled trust or a similar device of which you are a beneficiary.

<table>
<thead>
<tr>
<th>Name of Trust</th>
<th>Description and Value of Property Transferred</th>
<th>Date of Transfer</th>
</tr>
</thead>
</table>
20. List all financial accounts and instruments held in your name or for your benefit that were closed, sold, moved, or transferred within the past 1 year.

<table>
<thead>
<tr>
<th>Name and Address of Institution</th>
<th>Last 4 Digits of Account Number</th>
<th>Type of Account or Instrument</th>
<th>Date Account Was Closed, Sold, Moved, or Transferred</th>
<th>Last Balance Before Closing or Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Checking
- Savings
- Money Market
- Brokerage
- Other

21. List each safe deposit box or other depository for securities, cash, or other valuables that you have had within the past 1 year.

<table>
<thead>
<tr>
<th>Name and Address of Financial Institution</th>
<th>Name and Address of Anyone With Access to Box or Depository</th>
<th>Description of Contents</th>
<th>Do You Still Have It?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- No
- Yes

22. List any storage unit or place other than your home in which you have stored property within the past 1 year.

<table>
<thead>
<tr>
<th>Name and Address of Storage Facility</th>
<th>Name and Address of Anyone With Access to Box or Depository</th>
<th>Description of Contents</th>
<th>Do You Still Have It?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- No
- Yes
23. List all property that you hold or control that is owned by someone else.

<table>
<thead>
<tr>
<th>Name and Address of Owner</th>
<th>Location of Property</th>
<th>Description of Property</th>
<th>Value</th>
</tr>
</thead>
</table>

24. List every site for which you received notice by a governmental unit that you may be liable under or in violation of an environmental law. Include the name and address of the governmental unit, the date of the notice, and, if known, the environmental law.

Environmental law means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil surface water, ground water, 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 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, or contaminant or similar term.

<table>
<thead>
<tr>
<th>Site Name and Address</th>
<th>Name and Address of Governmental Unit</th>
<th>Environmental Law, If You Know It</th>
<th>Date of Notice</th>
</tr>
</thead>
</table>

25. List the name and address of every site for which you have notified a governmental unit of a hazardous material release. Include the name and address of the governmental unit to which the notice was sent, the date of the notice, and, if known, the environmental law.

<table>
<thead>
<tr>
<th>Site Name and Address</th>
<th>Name and Address of Governmental Unit</th>
<th>Date of Notice</th>
<th>Environmental Law</th>
</tr>
</thead>
</table>

26. List all judicial or administrative proceedings, including settlements and orders, under any environmental law to which you have been a party. Include the case title and the case number, the court or agency, the nature of the case, and the status.

<table>
<thead>
<tr>
<th>Case Title and Case Number</th>
<th>Name and Address of Court or Agency</th>
<th>Nature of the Case</th>
<th>Status of the Case</th>
</tr>
</thead>
</table>

- Pending
- On Appeal
- Concluded
27. List the name and address, nature of business, name of accountant or bookkeeper, Employer Identification Number (EIN), and dates of operation of every business you owned or with which you had any of the following connections within the past 4 years.

- 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

<table>
<thead>
<tr>
<th>Business Name and Address</th>
<th>Nature of Business</th>
<th>Name of Accountant or Bookkeeper</th>
<th>Employer Identification Number (EIN)</th>
<th>Beginning and End Dates of Operation</th>
</tr>
</thead>
</table>

28. List all financial institutions, creditors, or other parties to which you gave a financial statement about your business within the past 2 years.

- NONE

| Name and Address | Date Issued |
Business
Self-Employed
Income
&
Expenses
MONTHLY INCOME/EXPENSES FOR SELF EMPLOYED DEBTOR OR DEBTOR'S SELF EMPLOYED SPOUSE OR DP FOR SIX (6) MONTHS PRIOR TO FILING MUST BE COMPLETED FOR SPOUSE OR DP, EVEN IF NOT FILING WITH DEBTOR

Fill in the categories below in the columns below beginning with the most current calendar month just completed. THESE SHOULD BE EXACT NUMBERS NOT GUESSES. USE RECEIPTS, BANK STATEMENTS OR WHATEVER OTHER INFORMATION THAT IS AVAILABLE TO COMPLETE THIS SECTION COMPLETELY AND ACCURATELY

<table>
<thead>
<tr>
<th>INCOME/EXPENSE BUSINESS INFORMATION FOR SELF EMPLOYMENT</th>
<th>MONTH 1 (LAST FULL MONTH)</th>
<th>MONTH 2 (2 MOS AGO)</th>
<th>MONTH 3 (3 MOS AGO)</th>
<th>MONTH 4 (4 MOS AGO)</th>
<th>MONTH 5 (5 MOS AGO)</th>
<th>MONTH 6 (6 MOS AGO)</th>
</tr>
</thead>
</table>

NAME OF BUSINESS:  
ACTUAL GROSS INCOME RECEIVED - BEFORE YOU DEDUCT EXPENSES

LIST ALL ACTUAL EXPENSES BELOW FOR BUSINESS FOR EACH MONTH INDICATED

EXPENSE: RENT OF SPACE FOR OPERATION OF BUSINESS (DO NOT INCLUDE WHERE YOU LIVE)
EXPENSE: UTILITIES, INCLUDING TELEPHONE, INTERNET
EXPENSE: PAYROLL (BEFORE PAYMENT OF BENEFITS)
EXPENSE: PAYROLL TAXES PAID
EXPENSE: TOTAL OF EMPLOYEE BENEFITS PAID
EXPENSE: ACTUAL ADVERTISING PAID OUT
EXPENSE: ACTUAL PAYMENT FOR REPAIRS OF EQUIPMENT
EXPENSE: ACTUAL PAYMENT FOR COSTS OF GOODS
EXPENSE: ACTUAL SALES TAX PAID
EXPENSE: ACTUAL OFFICE SUPPLIES PAID
EXPENSE: PURCHASE OF EQUIPMENT (PROVIDE RECEIPTS)
EXPENSE: ACTUAL COSTS OF TRANSPORTATION FOR BUSINESS (NOT PERSONAL TRANSPORTATION COSTS)
EXPENSE: ACTUAL PAYMENT FOR LICENSES, ETC.
EXPENSE: ACTUAL WEBSITE COSTS

EXPENSE:  
EXPENSE:  
EXPENSE:  
EXPENSE:  
EXPENSE:  
EXPENSE:  
EXPENSE:  
EXPENSE:  

TOTAL ALL EXPENSES FOR EACH MONTH ON THIS LINE
# Business Income and Expenses

**United States Bankruptcy Court**  
Northern District of California

## Financial Review of the Debtor's Business

(Note: Only include information directly related to the business operation.)

### Part A - Gross Business Income for Previous 12 Months:

1. Gross Income for 12 Months Prior to Filing: $ __________

### Part B - Estimated Average Future Gross Monthly Income:

2. Gross Monthly Income $ __________

### Part C - Estimated Future Monthly Expenses:

3. Net Employee Payroll (Other Than Debtor) $ __________
4. Payroll Taxes
5. Unemployment Taxes
6. Worker's Compensation
7. Other Taxes
8. Inventory Purchases (Including raw materials)
9. Purchase of Feed/Fertilizer/Seed/Spray
10. Rent (Other than debtor's principal residence)
11. Utilities
12. Office Expenses and Supplies
13. Repairs and Maintenance
14. Vehicle Expenses
15. Travel and Entertainment
16. Equipment Rental and Leases
17. Legal/Accounting/Other Professional Fees
18. Insurance
19. Employee Benefits (e.g., pension, medical, etc.)
20. Payments to Be Made Directly By Debtor to Secured Creditors For Pre-Petition Business Debt (Specify):
   
   **Description**
   
   a.
   
   b.
   
   c.
   
   d.
   
   e.

21. Other (Specify):
   
   **Description**
   
   a.
   
   b.
   
   c.
   
   d.
   
   e.

22. Total Monthly Expenses (Add items 3-21): $ __________

### Part D - Estimated Average Net Monthly Income:

23. Average Net Monthly Income (Subtract item 22 from item 2) $ __________
Bankruptcy Client Questionnaire—
Lincoln Law

Carl R. Gustafson
Lincoln Law
Filing Schedule and Payment Outline

<table>
<thead>
<tr>
<th>Date of each appointment</th>
<th>Amount due at appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retainer:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>Payment Drop:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>(if desired before the Bring Back appointment)</td>
<td></td>
</tr>
<tr>
<td>Bring Back:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>Document Drop:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>(If needed this appointment will be scheduled during the Bring Back)</td>
<td></td>
</tr>
<tr>
<td>Final Payment:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>(Balance due at least 3 days before signing. Remember to bring all paystubs received since the last appointment)</td>
<td></td>
</tr>
<tr>
<td>Final Signing:</td>
<td>Amount Due: $_____________</td>
</tr>
<tr>
<td>(Our representation ends three months after the retainer appointment unless the case is signed:)</td>
<td></td>
</tr>
</tbody>
</table>

Your case will be filed within a week after the Final Signing appointment unless other arrangements are made. Creditors will be notified of your case filing within 3-5 days after your case is filed. Thank you for letting us work with you through this process.
Client Questionnaire Instructions

Welcome to Lincoln Law. We understand that this is a stressful time and we are dedicated to prepare your case quickly, efficiently and thoroughly. By this time you should have spoken with a representative from our office and signed a Retainer Agreement. If you have not signed a Retainer Agreement, please contact our office to set up a retainer appointment.

Remember that the Bankruptcy Code is federal law and it requires you to list everything you own or have a legal interest in. It also requires you list everyone to whom you owe money. You cannot legally “leave anything out” by not disclosing it. Deliberately leaving out assets, creditors, or other required information may prevent you from getting a discharge and may result in fines, penalties or even imprisonment. You will be asked under penalty of perjury at your meeting of creditors if the information you have provided is complete and accurate. Please make sure now that your answer is yes.

DOCUMENTS NECESSARY TO PREPARE YOUR BANKRUPTCY FILING

The following documents, where applicable, are necessary to prepare and complete your bankruptcy filing. We cannot prepare your case and we cannot completely determine your eligibility to file a Chapter 7 or a Chapter 13 bankruptcy without these documents.

1. Social Security card and US photo ID.
2. 6 months of Paystubs or payroll record for each of your employers and employers of all those in your household, non-filers. Please continue to save paystubs as you receive them and bring them in at each meeting.
   a. If receiving Social Security please provide a current statement monthly OR yearly statement
   b. If self-employed or business owner bring profit/loss statements for the last 6 months (Templates can be provided by Lincoln Law if necessary), business tax returns for last 2 years, tax ID numbers and list of inventory and value of each item.
   c. If receiving any additional type of regular income (Retirement, State Child Care, Food Stamps, etc) please bring 6 months of these statements to Lincoln Law
3. Federal Tax Returns
   a. W-2 form for each debtor filing
   b. If Chapter 7: 2011 and 2012 tax returns (or latest filed if none filed in last two years)
   c. If Chapter 13: 2009-2012 tax returns
4. Lawsuits (summons and complaints) and judgments (Notice of Entry of Judgment, Motion in Supplemental Proceedings, Writs of Continuing Garnishments, etc.) against you if applicable
5. Current monthly mortgage statement, if you are a home owner
6. Quarterly retirement statements (401K, Pension, IRA, etc)
7. The most recent life insurance policy statement for all policies.

Again, please answer all the questions to the best of your ability. If you have a question or do not understand a particular portion, please answer it as fully as possible and then circle it. Too much information is better than too little. The purpose of the next meeting is to review this information with you and answer your questions, but we do need as much of this questionnaire completed as possible!

In addition to this packet, you will also need to complete a credit counseling class. This should be done before you arrive at your next meeting. Please see more detailed instructions on the next page. If you need your course completed faster or do not have access to the internet, we can arrange for an alternate course. In any case, please have the counseling agency send a copy of the certificate to Lincoln Law at help@lincolnlaw.com.

We look forward to reviewing this information with you and answering your questions at the next meeting.

1 of 31
Voluntary Petition – Part 1

**Debtor's Name:**

<table>
<thead>
<tr>
<th>Last</th>
<th>First</th>
<th>Middle</th>
</tr>
</thead>
</table>

Have you used any other names in the past eight (8) years?  Circle your answer:  YES  NO

If you answered YES, please list other names (nicknames, maiden names, DBA's etc.):

**Other Names:**

<table>
<thead>
<tr>
<th>Social Security Number:</th>
<th>Date of Birth:</th>
</tr>
</thead>
</table>

**Telephone:**

<table>
<thead>
<tr>
<th>Home</th>
<th>Cell</th>
<th>Other</th>
</tr>
</thead>
</table>

**Email:**

Do you prefer to receive email communication from Lincoln Law? (If yes, sign paperless communication terms and conditions on pg 31)  YES  NO

**Physical Address:**

**Mailing Address:**

Have you lived at the above address for at least 180 days?  Circle:  YES  NO

Have you lived at this address for at least 3 years?  Circle:  YES  NO

**Joint Debtor's Name:**

<table>
<thead>
<tr>
<th>Last</th>
<th>First</th>
<th>Middle</th>
</tr>
</thead>
</table>

Have you used any other names in the past eight (8) years?  Circle your answer:  YES  NO

If you answered YES, please list other names (nicknames, maiden names, DBA's etc.):

**Other Names:**

<table>
<thead>
<tr>
<th>Social Security Number:</th>
<th>Date of Birth:</th>
</tr>
</thead>
</table>

**Telephone:**

<table>
<thead>
<tr>
<th>Home</th>
<th>Cell</th>
<th>Other</th>
</tr>
</thead>
</table>

**Email:**

Physical Address:

Have you lived at the above address for at least 180 days?  Circle your answer:  YES  NO

Have you lived at this address for at least 3 years?  Circle your answer:  YES  NO
Prior or Pending Bankruptcy Cases

If you have filed for bankruptcy in the previous 8 years please indicate below. If you have been issued a discharge in a chapter 13 case filed in the last 4 years or in a chapter 7 case filed in the last 8 years, you may or may not qualify for a discharge again.

<table>
<thead>
<tr>
<th>Have you filed bankruptcy (or has one been filed against you) in the last 8 years?</th>
<th>Circle your answer: YES NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>If you answered YES, please fill out the remaining information for each case filed. If you answered NO, skip this section.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location Filed:</th>
<th>State</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Number:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date Filed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Result (circle one): DISCHARGED DISMISSED STILL OPEN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Date of Dismissal/Discharge:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Pending Bankruptcy Cases

Are there currently any bankruptcy cases pending against you or your business? Circle your answer: YES NO

| Name of Debtor: | |
| Relationship to You: | |
| Case Number: | |
| Date Filed: | |
| Judge: | |
| Location (State and District): | |

Harmful Property and Landlord Judgments

Question 1: Do you own (or have possession) of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? Circle your answer: YES NO

If you answered YES please describe the property:

| Question 2: If you rent your home, does a landlord hold a judgment against you? Circle your answer: YES NO |
| --- | --- |
| If you answered YES please fill out the following information. If you answered NO, skip this question. |
| Name of Landlord: | |
| Address of Landlord: | |
Do you own (wholly or jointly) any real estate, timeshare or land (list even if you have a mortgage)?

| Circle: YES | NO |
---|---|

If you answered **YES** please fill out the following information.

### First Property

<table>
<thead>
<tr>
<th>Type of Property (circle one):</th>
<th>Personal Residence/Homestead</th>
<th>Rental Property</th>
<th>Timeshare</th>
<th>Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address of Property:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nature of Interest (circle one):</td>
<td>Equitable Interest</td>
<td>Fee Simple</td>
<td>Future Interest</td>
<td>Joint Tenant</td>
</tr>
</tbody>
</table>

*(Unless you purchased your home through an auction, or received your home as an inheritance, you most likely have a “fee simple” interest)*

| Names on Deed (% Owned): |
| Market Value: $ | Basis for Valuation (circle one): Tax Valuation | Appraisal | Internet |
| Mortgage Amount(s) (if any): |
| 1st Mortgage Bank: |
| 2nd Mortgage Bank: |
| 3rd Mortgage Bank or HELOC: |
| Judicial Liens: |
| Home Owners Association (HOA): |

### Second Property

<table>
<thead>
<tr>
<th>Type of Property (circle one):</th>
<th>Personal Residence/Homestead</th>
<th>Rental Property</th>
<th>Timeshare</th>
<th>Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address of Property:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nature of Interest (circle one):</td>
<td>Equitable Interest</td>
<td>Fee Simple</td>
<td>Future Interest</td>
<td>Joint Tenant</td>
</tr>
</tbody>
</table>

*(Unless you purchased your home through an auction, or received your home as an inheritance, you most likely have a “fee simple” interest)*

| Names on Deed (% Owned): |
| Market Value: $ | Basis for Valuation (circle one): Tax Valuation | Appraisal | Internet |
| Mortgage Amount(s) (if any): |
| 1st Mortgage Bank: |
| 2nd Mortgage Bank: |
| 3rd Mortgage Bank or HELOC: |
| Judicial Liens: |
| Home Owners Association (HOA): |

Note: Please attach additional sheets if necessary.
**Part 3 – Personal Property (Schedule B)**

This section asks you to disclose any and all personal property that you have. This includes your clothing, BBQ grill, automobile, lawnmower, bank accounts, retirement accounts, everything you own. Please fill out the information correctly and honestly. It is always in your best interest to be honest with your attorneys and the Bankruptcy Court. Most of these items are either not considered part of the “bankruptcy estate” or are “exempted” (i.e., protected) under California State law – meaning, you shouldn’t worry about losing these items. But you still have to list them. If you have a specific concern please include it on this list and we will discuss it with you at your meeting.

For each type of property listed below, indicate if you own any property of that category, and, if you do, fill in the remaining information. If you do not own that property circle “N.” List the replacement value of each item. Replacement value is the price someone would pay for your property at a garage sale or pawn shop considering its age and condition. **DO NOT** list purchase price value.

<table>
<thead>
<tr>
<th>Type of Property</th>
<th>Y/N (Circle)</th>
<th>Description of Property</th>
<th>Value $</th>
<th>Ownership (Husband, Wife, Joint, etc.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cash</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Bank Accounts (include all checking or savings; certificates of deposit accounts; include account numbers)</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank Account #2</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank Account #3</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
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<td></td>
<td>Acct. Type:</td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank Account #4</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
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<td></td>
<td></td>
<td>Acct. Type:</td>
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<td>Last 4 digits of Acct#:</td>
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</tr>
<tr>
<td>Bank Account #5</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Security Deposits</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Household Goods (furniture, appliances, computer equipment, etc.)</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Books, Pictures, Art, Records, CDs, DVDs, collectibles</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Clothing</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Furs and Jewelry (including wedding rings)</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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<td></td>
<td></td>
<td>Last 4 digits of Acct#:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Sports, Photographic, Hobby equipment, Firearms</td>
<td>Y</td>
<td>Bank Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acct. Type:</td>
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</tr>
<tr>
<td>9.</td>
<td>Interest in insurance policies. (i.e. life insurance)</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>*Please provide a current statement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Annuities</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>*Please provide a current statement</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>11.</td>
<td>Retirement Accounts: *Please provide a current statement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Interests in an education IRA, as defined in 26 USC § 530(b)(1)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>12.</td>
<td>Interests in pension or profit sharing plans</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Stock and interests in incorporated/unincorporated business</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>*Please provide a current statement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Interests in partnerships/joint ventures</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15.</td>
<td>Bonds</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16.</td>
<td>Accounts Receivable (money owed to you)</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17.</td>
<td>Alimony/Family Support (owed to you)</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18.</td>
<td>Other Liquidated Debts owed to you (including tax refunds)</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19.</td>
<td>Equitable or Future interests or life estates</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.</td>
<td>Interests in estate of decedent or trust</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>Other contingent/unliquidated claims, including tax refunds</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22.</td>
<td>Patents, copyrights, other intellectual prop.</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23.</td>
<td>Licenses, Franchises</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24.</td>
<td>Customer List or other compilation</td>
<td>Y N</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>*attach list if necessary</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of Property</td>
<td>Y / N (Circle)</td>
<td>Description of Property</td>
<td>$Value</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td><strong>25. Automobiles, Trucks, Trailers, Motorcycles and accessories.</strong></td>
<td></td>
<td>Year:</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Y N</td>
<td>Make:</td>
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<td>Model:</td>
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<td>Condition:</td>
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<td></td>
<td></td>
<td>Mileage:</td>
<td></td>
<td></td>
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<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td>Year:</td>
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<td>Make:</td>
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<td>Mileage:</td>
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<tr>
<td><strong>Vehicle #2</strong></td>
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<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td>Year:</td>
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<td></td>
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<td>Make:</td>
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<td>Condition:</td>
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<td>Mileage:</td>
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<tr>
<td><strong>Vehicle #4</strong></td>
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<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td>Year:</td>
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<td>Make:</td>
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<td>Condition:</td>
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<td>Mileage:</td>
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</tr>
<tr>
<td><strong>26. Boats, motors, and accessories</strong></td>
<td></td>
<td>Year:</td>
<td></td>
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<td></td>
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<td>Make:</td>
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<tr>
<td></td>
<td></td>
<td>Mileage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>27. Aircraft and accessories</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>28. Office equipment, supplies</strong></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
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</tr>
<tr>
<td><strong>29. Machinery, fixtures etc. for business</strong></td>
<td></td>
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<td></td>
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<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>30. Inventory</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>31. Animals</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>32. Crops-growing or harvested</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>33. Farming equipment</strong></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>34. Farm supplies, chemicals, feed</strong></td>
<td></td>
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</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>35. Other personal property of any kind not listed.</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are you making payments on the vehicle?</td>
<td>Y N</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Part 4 – Your Debts**

There are four (4) different categories of debt. If you do not know which section to place a creditor, make a guess and we can help place it correctly. It is important that you gather all your billing statements and make sure you list all of your creditors. Be sure to list any collection agencies as well. Write the address where each creditor has requested payments to be sent in the most recent two statements.

We will pull a credit report for you – however, some creditors will not be on the report. For this reason, it is important that you list all of your debts. When you sign your bankruptcy paperwork you will be promising under penalty of perjury that you have listed all of your debts. This includes debts to family members, family physicians, etc. You cannot pick and choose which creditors to list – you must list ALL of your creditors. Failure to list ALL of your creditors may result in those debts not getting “discharged” (meaning you would still owe that debt after bankruptcy), and failure to fully disclose could lead to certain criminal penalties under 18 U.S.C. §§151-155, including substantial fines and even jail time.

**Category No. 1 – “Secured Creditors” (Schedule D)**

*Examples*: mortgage loan, car loan, furniture purchasing agreement, Dell and Best Buy purchases, timeshares, property taxes due, Home Owners Association past due payments, loans on retirement accounts, etc.

<table>
<thead>
<tr>
<th>Creditor Name:</th>
<th>Creditor Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account No.</td>
<td>Account No.</td>
</tr>
<tr>
<td>Amount Owed:</td>
<td>Amount Owed:</td>
</tr>
<tr>
<td>Date Incurred:</td>
<td>Date Incurred:</td>
</tr>
<tr>
<td>Nature of Debt:</td>
<td>Nature of Debt:</td>
</tr>
<tr>
<td>Co-Signers:</td>
<td>Co-Signers:</td>
</tr>
</tbody>
</table>

**Do you care if creditor pursues these co-signers?**

<table>
<thead>
<tr>
<th>Co-Signer Address</th>
<th>Co-Signer Address</th>
</tr>
</thead>
</table>

**Collection Agency:**

<table>
<thead>
<tr>
<th>Address</th>
</tr>
</thead>
</table>

**Property Secured:**

<table>
<thead>
<tr>
<th>Arrears:</th>
</tr>
</thead>
</table>

**Monthly Payment:**

<table>
<thead>
<tr>
<th>Interest Rate:</th>
</tr>
</thead>
</table>

**Does payment include taxes and insurance?**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Has foreclosure or repossession been attempted?**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

**Do you want to keep the secured property?**

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

8 of 31
### Secured Creditors (cont.)

<table>
<thead>
<tr>
<th>Creditor Name:</th>
<th>Creditor Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creditor Address:</td>
<td>Creditor Address:</td>
</tr>
<tr>
<td>Account No.:</td>
<td>Account No.:</td>
</tr>
<tr>
<td>Amount Owed: $</td>
<td>Amount Owed: $</td>
</tr>
<tr>
<td>Date Incurred:</td>
<td>Date Incurred:</td>
</tr>
<tr>
<td>Nature of Debt: □ Mortgage □ Car Loan □ Other</td>
<td>Nature of Debt: □ Mortgage □ Car Loan □ Other</td>
</tr>
<tr>
<td>Co-Signers: Y / N</td>
<td>Co-Signers: Y / N</td>
</tr>
<tr>
<td>Do you care if creditor pursues these co-signers?</td>
<td>Do you care if creditor pursues these co-signers?</td>
</tr>
<tr>
<td>Co-Signer Address</td>
<td>Co-Signer Address</td>
</tr>
<tr>
<td>Collection Agency:</td>
<td>Collection Agency:</td>
</tr>
<tr>
<td>Collection Agency Address</td>
<td>Collection Agency Address</td>
</tr>
<tr>
<td>Property Secured:</td>
<td>Property Secured:</td>
</tr>
<tr>
<td>Arrears:</td>
<td>Arrears:</td>
</tr>
<tr>
<td>Monthly Payment:</td>
<td>Monthly Payment:</td>
</tr>
<tr>
<td>Interest Rate:</td>
<td>Interest Rate:</td>
</tr>
<tr>
<td>Do you want to keep the secured property? YES NO</td>
<td>Do you want to keep the secured property? YES NO</td>
</tr>
<tr>
<td>Does payment include taxes and insurance? YES NO</td>
<td>Does payment include taxes and insurance? YES NO</td>
</tr>
</tbody>
</table>

*Attach other sheets as needed.*
Category No. 2 – “Priority Creditors” (Schedule E)

Priority creditors are certain unsecured debts (in most cases) that either cannot be discharged or are given priority over other types of unsecured debts. We have listed the most common types of “Priority Creditors.” If you need more pages than have been provided, attach a sheet to this portion, or we can provide you more copies.

Examples: taxes, domestic support obligations (DSO), State or governmental fines (including traffic tickets), etc.

<table>
<thead>
<tr>
<th>Taxes</th>
<th>□ NONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Taxes</td>
<td>Y / N</td>
</tr>
<tr>
<td>Tax Years (List all years owing)</td>
<td></td>
</tr>
<tr>
<td>Amount Owed per year:</td>
<td></td>
</tr>
<tr>
<td>Does the taxing agency have a lien on your property?</td>
<td>Y / N</td>
</tr>
</tbody>
</table>

Other Priority

| Creditor Name: | Creditor Name: |
| Address: | Address: |
| Account No.: | Account No.: |
| Amount Owed: | Amount Owed: |
| Date Incurred: | Date Incurred: |
| Nature of Debt: □ DSO □ Fine □ Other | Nature of Debt: □ DSO □ Fine □ Other |
| Co-Signers: | Co-Signers: |
| | |
| Collection Agency: | Collection Agency: |
| | |
| Have you been sued regarding this debt? YES NO | Have you been sued regarding this debt? YES NO |
| Does creditor have a lien against your property? YES NO | Does creditor have a lien against your property? YES NO |

Attach additional sheets as necessary.
Category No. 3 – “Unsecured Creditors” (Schedule F)

If you owe someone money and have not listed them yet, most likely, this is where they belong. Unsecured creditors include medical debts, family debts, credit cards, store credit, payday loans, personal loans, student loans, etc.

<table>
<thead>
<tr>
<th>Creditor Name</th>
<th>Creditor Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Address:</td>
</tr>
<tr>
<td>Account No.:</td>
<td>Account No.:</td>
</tr>
<tr>
<td>Amount Owed:</td>
<td>Amount Owed:</td>
</tr>
<tr>
<td>Date Incurred:</td>
<td>Date Incurred:</td>
</tr>
<tr>
<td>Nature of Debt:</td>
<td>Nature of Debt:</td>
</tr>
<tr>
<td>Co-Signers:</td>
<td>Co-Signers:</td>
</tr>
<tr>
<td>Collection Agency:</td>
<td>Collection Agency:</td>
</tr>
<tr>
<td>Address:</td>
<td>Address:</td>
</tr>
<tr>
<td>Have you been sued regarding this debt? YES NO</td>
<td>Have you been sued regarding this debt? YES NO</td>
</tr>
<tr>
<td>Does creditor have a lien against your property? YES NO</td>
<td>Does creditor have a lien against your property? YES NO</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Creditor Name</th>
<th>Creditor Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
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</tr>
<tr>
<td>Account No.:</td>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
<td>Co-Signers:</td>
<td>Co-Signers:</td>
</tr>
<tr>
<td>Collection Agency:</td>
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</tr>
<tr>
<td>Address:</td>
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</tr>
<tr>
<td>Have you been sued regarding this debt? YES NO</td>
<td>Have you been sued regarding this debt? YES NO</td>
</tr>
<tr>
<td>Does creditor have a lien against your property? YES NO</td>
<td>Does creditor have a lien against your property? YES NO</td>
</tr>
</tbody>
</table>
## Unsecured Creditors (cont.)

<table>
<thead>
<tr>
<th>Creditor Name:</th>
<th>Creditor Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
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</tr>
<tr>
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</tr>
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</tr>
<tr>
<td>Collection Agency:</td>
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</tr>
</tbody>
</table>

Have you been sued regarding this debt? YES NO
Does creditor have a lien against your property? YES NO
Have you been sued regarding this debt? YES NO
Does creditor have a lien against your property? YES NO

12 of 31
<table>
<thead>
<tr>
<th>Creditor Name:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
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</tbody>
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</tr>
</tbody>
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## Unsecured Creditors (cont.)

<table>
<thead>
<tr>
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<tr>
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<th>NO</th>
</tr>
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<td>YES</td>
<td>NO</td>
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<th>Have you been sued regarding this debt?</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does creditor have a lien against your property?</td>
<td>YES</td>
<td>NO</td>
</tr>
</tbody>
</table>

Attach additional sheets as needed.
Category No. 4 – “Executory Contracts and Unexpired Leases” (Schedule G)

The final creditor section is for contracts or leases that have not expired, i.e. that one of the parties in the contract or lease still must perform (pay, provide service, etc.) on the agreement. **Examples**: vehicle lease agreements, cell phone contracts, gym memberships, etc.

If you want to get rid of this contract, and any debt associated with it, you can choose to “reject” the contract or lease and any remaining balance(s) will be discharged along with your other debts. You may also choose to keep or “assume” the contract. Your intention to either “reject” or “assume” is important so that the bankruptcy court can notify these parties that you desire to continue with your contract.

<table>
<thead>
<tr>
<th>Who is the contract with?</th>
<th>Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of Contract or Lease:</td>
<td></td>
</tr>
<tr>
<td>Co-Signer:</td>
<td></td>
</tr>
<tr>
<td>Date of Termination:</td>
<td></td>
</tr>
<tr>
<td>Do you want to <strong>keep</strong> (&quot;Assume&quot;) or <strong>get rid of</strong> (&quot;Reject&quot;) this contract or lease?</td>
<td>Circle your answer: ASSUME REJECT</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who is the contract with?</th>
<th>Address:</th>
</tr>
</thead>
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</tr>
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</table>

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<tbody>
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<td>Description of Contract or Lease:</td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
<tr>
<td>Date of Termination:</td>
<td></td>
</tr>
<tr>
<td>Do you want to <strong>keep</strong> (&quot;Assume&quot;) or <strong>get rid of</strong> (&quot;Reject&quot;) this contract or lease?</td>
<td>Circle your answer: ASSUME REJECT</td>
</tr>
</tbody>
</table>

Attach additional sheets as needed.
**Part 5 – Income and Expenses**

*Current Income (Schedule I)*

Documents for this Section that You Will Need to Bring to our Office: **6 Months of Documented Income Proof** (Paystubs, Profit & Loss Statements, Social Security Benefits, WIC, Royalties, Rental Income, Family Contributions, Gambling Winnings, Retirement Cashouts, etc.)

The purpose of this section is to calculate your "household" income. If you are married but filing without your spouse we still need that spouse’s income information.

**Marital Status:**
- Married
- Single
- Divorced
- Separated
- Widowed

**Dependents – Please list any dependents below:**

<table>
<thead>
<tr>
<th>Age</th>
<th>Relationship</th>
<th>Income Sources in last 6 months (estimate income from each):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>□ Employment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Please provide 6 months of Paystubs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Unemployment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Business</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Please provide 6 months of Profit/Loss</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Rental Income</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Social Security</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Government Assist.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Retirement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Domestic Support</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>□ Other</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$_________/mo.</td>
</tr>
</tbody>
</table>

**EMPLOYMENT**

Debtor | Joint Debtor (spouse)

- **Employer's Name:**
- **Employer's Address:**
- **Occupation:**
- **How long have you been employed at this job?:**
- **How often do you get paid?:**
  - □ Monthly
  - □ Weekly
  - □ Every 2 Weeks
  - □ Twice a Month
- **Do you have a 2nd job?:**
  - □ YES
  - □ NO
  - **If YES, please list:**

**OTHER INCOME**

Debtor | Joint Debtor (spouse)

- **Source or Type:**
- **Address:**
- **How long have you received this type of income?:**
- **How often do you receive it?:**
  - □ Monthly
  - □ Every 2 Weeks
  - □ Twice a Month
- **Do you or your spouse expect any changes in salary over the next year? If YES, please explain:**
Current Expenses (Schedule J)

If you are filing with your spouse, but maintain separate households, please fill out an expense sheet for each household. The following questions cover possible expenses. You may estimate if you are unsure about exact amounts. Please let us know if you have any questions.

<table>
<thead>
<tr>
<th>Expense</th>
<th>Amount Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rent or Mortgage(s)</td>
<td>$</td>
</tr>
<tr>
<td>Does this amount include:</td>
<td></td>
</tr>
<tr>
<td>⮕ Real Estate Taxes?</td>
<td></td>
</tr>
<tr>
<td>⮕ Property Insurance?</td>
<td></td>
</tr>
<tr>
<td>2. Utilities</td>
<td>$</td>
</tr>
<tr>
<td>Electricity and Heating</td>
<td>$</td>
</tr>
<tr>
<td>Water and Sewage</td>
<td>$</td>
</tr>
<tr>
<td>Telephone (Landline)</td>
<td>$</td>
</tr>
<tr>
<td>Cable TV</td>
<td>$</td>
</tr>
<tr>
<td>Internet</td>
<td>$</td>
</tr>
<tr>
<td>Cell Phone</td>
<td>$</td>
</tr>
<tr>
<td>3. Home Maintenance (repairs and general upkeep)</td>
<td>$</td>
</tr>
<tr>
<td>4. Food</td>
<td>$</td>
</tr>
<tr>
<td>5. Clothing</td>
<td>$</td>
</tr>
<tr>
<td>6. Laundry and Dry Cleaning</td>
<td>$</td>
</tr>
<tr>
<td>7. Medical and Dental Expenses</td>
<td>$</td>
</tr>
<tr>
<td>8. Transportation (do not include car payments) i.e. gas, maintenance, registration etc.</td>
<td>$</td>
</tr>
<tr>
<td>9. Entertainment, Recreation, Newspapers, Magazines</td>
<td>$</td>
</tr>
<tr>
<td>10. Charitable Contributions</td>
<td>$</td>
</tr>
<tr>
<td>11. Insurance NOT Deducted from Paycheck</td>
<td>$</td>
</tr>
<tr>
<td>Homeowner’s or Renter’s Insurance</td>
<td>$</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>$</td>
</tr>
<tr>
<td>Health Insurance</td>
<td>$</td>
</tr>
<tr>
<td>Auto Insurance</td>
<td>$</td>
</tr>
<tr>
<td>12. Taxes NOT Deducted from Paycheck (property tax, etc.)</td>
<td>$</td>
</tr>
<tr>
<td>13. Installment Payments (car loan, furniture loan, etc.)</td>
<td>$</td>
</tr>
<tr>
<td>Car Loan</td>
<td>$</td>
</tr>
<tr>
<td>Other</td>
<td>$</td>
</tr>
<tr>
<td>14. Alimony/Child Support or Other Court Ordered Payments</td>
<td>$</td>
</tr>
<tr>
<td>15. Payments for support of additional dependants NOT living with you</td>
<td>$</td>
</tr>
<tr>
<td>16. Childcare (daycare, nanny, school care)</td>
<td>$</td>
</tr>
</tbody>
</table>

Other: (HOA, Garbage, Personal Hygiene, Tuition, etc.)
**Part 6 – Final Questions**  
*(Statement of Financial Affairs)*

You are almost done! If you do not understand a question, please indicate below, and we will review it with you at your meeting. Please read each question carefully. If it does not pertain to you, please check the box marked "NONE."

### 1. Income from Employment or Operation of Business

<table>
<thead>
<tr>
<th></th>
<th>Debtor</th>
<th>Joint Debtor (spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before taxes (or other deductions) how much have you earned from your job or business?</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2013?</strong> (so far this year, year-to-date total)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2012?</strong> (please refer to your tax returns)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2011?</strong> (please refer to your tax returns)</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

### 2. Income From Other Sources

<table>
<thead>
<tr>
<th></th>
<th>Debtor</th>
<th>Joint Debtor (spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you received income from any other sources?</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2013?</strong> (so far this year, year-to-date total)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2012?</strong></td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td><strong>In 2011?</strong></td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>


### 3. Payments to Creditors

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. &amp; B. Creditors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have you paid any creditors (not including utility bills) in the last 90 days?</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Name of Creditor</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Amount(s) Paid</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Date(s) Paid</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Name of Creditor</strong>:</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>Date(s) Paid</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Insiders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If you owe relatives or friends, have you paid them more than $200 in the last year?</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td><strong>Name of Creditor</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Amount(s) Paid</strong>:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Date(s) Paid</strong>:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. Suits, Executions, Garnishments and Attachments

A. Lawsuits
List all lawsuits or administrative proceedings in which you are or were a party within 1 year before this case.

<table>
<thead>
<tr>
<th>Caption and Case No.</th>
<th>Nature of Proceeding</th>
<th>Court Location</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tip: List lawsuits in which you sued someone or in which you were sued (i.e. foreclosure, garnishment, divorce, debt collection, etc.)

B. Attached, Garnished, and Seized Property
Describe all property that has been garnished, seized, or attached under any legal or equitable process within 1 year of this case.

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Date of Seizure</th>
<th>Description and Value of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Repossessions and Foreclosures

A. Repossessions
List property that has been repossessed in the last 12 months.

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Date of Repossession</th>
<th>Description and Value of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Foreclosures
List any home or land that was foreclosed in the last 12 months.

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Date of Repossession</th>
<th>Description and Value of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. Assignments and Receiverships

If you have been involved in anything called an “assignment for benefit of creditor” in the last 120 days – OR – if your property has been in the hands of a court appointed official in the last 12 months please fill out the following information.

<table>
<thead>
<tr>
<th>Name and Address of Assignee</th>
<th>Date of Assignment</th>
<th>Terms of Assignment/Settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 7. Gifts

List all gifts or charitable contributions (religious or otherwise) made within 1 year before this case. Do not include gifts to family members that are less than $200 and charitable contributions which are less than $100.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Relationship to You (if any)</th>
<th>Date of Gift</th>
<th>Description &amp; Value of Gift</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 8. Losses

List all losses from fire, theft, gambling or other casualty within 1 year before this case or since the commencement of this case.

<table>
<thead>
<tr>
<th>Description and Value of Property</th>
<th>Circumstances &amp; Amount Covered by Insurance (if any)</th>
<th>Date of Loss</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 9. Payments Related to Debt Counseling or Bankruptcy

List all payments you have made (or if someone else made them) regarding your debt or bankruptcy within 1 year before this case. This includes fees paid toward your bankruptcy attorney, credit counseling, and credit report.

<table>
<thead>
<tr>
<th>Who Did You Pay?</th>
<th>Date of Payment</th>
<th>Who Paid? (if not you)</th>
<th>Amount Paid or Value and Description of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lincoln Law</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 10. Other Transfers

List all property you transferred or sold within the last 2 years. Include homes, vehicles, or mortgages placed on your property (e.g. refinancing a home loan). If you are in a business do not list property transferred or sold in the ordinary course of business.

<table>
<thead>
<tr>
<th>Name and Address of Person Who Received and Relationship to You</th>
<th>Date of Transfer</th>
<th>Description of Property Transferred and Value Received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

Have you transferred any property, within the last 10 years, into a trust or similar device for which you are a beneficiary?

If YES, please explain:
11. Closed Financial Accounts

List any financial accounts (bank accounts, etc.) you closed, sold, or otherwise transferred within 1 year before this case.

<table>
<thead>
<tr>
<th>Name and Address of Bank</th>
<th>Account Type, No., &amp; Final Balance</th>
<th>Amount and Date of Sale or Closing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

12. Safe Deposit Boxes

List each safe deposit box in which you have or have had securities, cash, or other valuables within 1 year before this case.

<table>
<thead>
<tr>
<th>Name and Address of Bank</th>
<th>Who Has Access to Box?</th>
<th>Description of Contents</th>
<th>Date of Transfer (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

13. Setoffs

If a bank has taken money out of your account to pay a debt with that bank (i.e. a “setoff”) in the last 90 days please list it below.

<table>
<thead>
<tr>
<th>Name and Address of Creditor</th>
<th>Date of Setoff</th>
<th>Amount of Setoff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

14. Property Held for Another Person

List all property that you hold or control that is owned by another person. For example, do you have property in your possession that really belongs to someone else? Or, is your name listed on the title to any property or account that really belongs to someone else?

<table>
<thead>
<tr>
<th>Name and Address of Owner</th>
<th>Description and Value of Property</th>
<th>Location of Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 15. Prior Address

Have you lived anywhere else in the last 3 years? If so, list all addresses used during that time.

<table>
<thead>
<tr>
<th>Address</th>
<th>Your Name at the Time</th>
<th>Dates of Occupancy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **NONE**

### 16. Spouses and Former Spouses

If you have been married **AT ANY POINT** in the last 8 years, and if you or your spouse (or former spouse) lived within that period of time in **Alaska**, **Arizona**, **California**, **Idaho**, **Louisiana**, **Nevada**, **New Mexico**, **Puerto Rico**, **Texas**, **Washington**, or **Wisconsin**, list the name of your spouse or former spouse who resides or resided with you in those states.

<table>
<thead>
<tr>
<th>Name(s)</th>
<th>State(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

- **NONE**

### 17. Environmental Information

Have you ever been notified by the government (federal or state) unit that you were violating or possibly violating an environmental law for property you owned? Have you ever served notice on a governmental unit regarding the release of a hazardous material? Were you ever involved in an official proceeding concerning an environmental law?

If **NO**, please skip this question. If **YES**, please fill out the following:

What is an **Environmental Law**? This could be any federal, state, or local law covering pollution, contamination, and release of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium.

<table>
<thead>
<tr>
<th>Site Name and Address</th>
<th>Name and Address of Governmental Unit</th>
<th>Date of Notice</th>
<th>Environmental Law</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

**STOP!! – IMPORTANT NOTICE**

Fill out the remaining questions (18-25) **ONLY** if in the last 6 years you were **self-employed**, ran a **business**, if you were an **officer**, **partner**, or managing **executive officer** of a **corporation**, **partnership**, or **sole proprietorship**, or **franchise**.

If the following questions do not apply to you please skip the business questions.
### BUSINESS QUESTIONS

**For Debtors Involved In Any Business At Any Time Within The Last 6 Years**

#### 18. Nature and Location of Business

List the following information to the best of your knowledge.

<table>
<thead>
<tr>
<th>Name</th>
<th>Taxpayer ID No. (EIN)</th>
<th>Address</th>
<th>Nature of Business</th>
<th>Beginning and End Dates of Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>From:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>To:</td>
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<tr>
<td></td>
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<td></td>
<td>From:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>To:</td>
</tr>
</tbody>
</table>

If business (in response to #18) is a "single asset real estate" business [as defined in 11 U.S.C. § 101] please list name and address.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>


List all bookkeepers and accountants who, within the prior 2 years, kept or supervised the keeping of books, account or records.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Dates of Services Rendered</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
</tbody>
</table>

List all firms or individuals who, within the last 2 years, audited books, accounts, records, or prepared a financial statement for you.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Dates Services Rendered</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

List all firms or individuals who are in possession of your books of account and records. If the records are not available, explain.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

List all financial institutions, creditors and other parties, to whom a financial statement was issued by you within the last 2 years.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Date Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
20. Inventories

List the dates of the last 2 inventories, name of the person who supervised inventory, and the amount and basis of the inventory.

<table>
<thead>
<tr>
<th>Date of Inventory</th>
<th>Inventory Supervisor</th>
<th>Dollar Amount of Inventory</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$ cost market other</td>
</tr>
<tr>
<td></td>
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<td>$ cost market other</td>
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<tr>
<td></td>
<td></td>
<td>$ cost market other</td>
</tr>
</tbody>
</table>

List the name and address of the person possessing the records of each of the 2 inventories reported above.

<table>
<thead>
<tr>
<th>Date of Inventory</th>
<th>Name and Address of Custodian of Inventory Records</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
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<td></td>
</tr>
</tbody>
</table>

21. Current Partners, Officers, Directors & Shareholders

If your business is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Nature of Interest, % of Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

If your business is a corporation, list the officers, the directors, and the stockholders who own, control, or hold 5 % or more of the voting securities.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Title</th>
<th>Nature and % of Stock Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

22. Former Partners, Officers, Directors & Shareholders

If your business is a partnership, list each member who withdrew from the partnership within 1 year before this case.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Date of Withdrawal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

If your business is a corporation, list all officers or directors whose relationship with the corporation ended within the last 1 year.

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Title</th>
<th>Date of Termination</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
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</tr>
</tbody>
</table>
23. Withdrawals or Distributions

If a partnership or corporation, list all withdrawals or distributions credited or given to an insider, (i.e. compensation in any form), during 1 year before this case.

<table>
<thead>
<tr>
<th>Name and Address of and Relationship to You</th>
<th>Date and Purpose of Withdrawal and Value of Property</th>
<th>Amount of Money or Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

24. Tax Consolidation Group

If you are a corporation, list the name and federal taxpayer ID number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the 6-year period before this case.

<table>
<thead>
<tr>
<th>Name of Parent Corporation</th>
<th>Taxpayer ID Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

25. Pension Funds

If you are not an individual, list the name and federal taxpayer ID number of any pension fund to which you, as an employer, have been responsible for contributing at any time within the 6-year period before this case.

<table>
<thead>
<tr>
<th>Name of Pension Fund</th>
<th>Taxpayer ID Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

--- End of Questionnaire ---

Please Sign Disclosure Statements on Following Pages
Consumer Request & Agreement for Consumer Liability Report (CLR)

Name____________________________________________________SS# ________-______-_________
Spouse’s Name (if joint)_____________________________________SS# ________-______-________
Address________________________________City______________________State____Zip__________

This writing constitutes my written instructions to Lincoln Law, LLP to obtain my credit files and compile a list of all accounts with a balance owing. The completed results in the form of a creditor liability report is to be delivered on-line or via Fax to Lincoln Law, LLP. Data elements from this request may also be utilized for downloading into the Agents automated bankruptcy filing system.

TERMS OF SALE
The undersigned (hereinafter referred to as Consumer(s)) contracts with Lincoln Law, LLP for the use of its services under the terms, conditions, and agreements outlined below. The Fair Credit Reporting Act “FCRA” (Public Law 91-508) provides in section (Sec. 604) Permissible purposes of reports: that any consumer reporting agency may provide a report (Sec. 604) (2) In accordance with the written instructions of the consumer to whom it relates The FCRA also provides (Sec. 619) that anyone who knowingly and willfully obtains information under false pretenses shall be fined under Title 18, or imprisoned not more than one year, or both. Having been made aware of these provisions of the law, the Consumer(s) agree to the following. They are the person(s) on whom they are requesting the report be prepared, and they have presented positive identifying information to prove so. They are requesting this report under the right granted them in (Sec. 604) (2) of the FCRA as disclosed above.

The Consumer(s) agree that the sole purpose and obligation of Lincoln Law, LLP in this transaction is to provide a means by which they may obtain a report consisting of the data from national credit files at their written instructions. The FCRA places no restrictions on how Consumer(s) may utilize or share a report that is ordered at their written instructions. Consumer(s) acknowledges and agree that after a report is delivered to their possession Lincoln Law, LLP and its sources of information can in no way be held responsible or liable for its use.

Lincoln Law, LLP agrees that it will provide the Consumer with a report in a Creditor liability summary or schedule format showing all Creditors listed with balances owing. Lincoln Law, LLP shall provide, when available the names, address, and direct phone numbers of information furnishers (Credit Grantors or Public Records sources) within the file. No additional information from the files shall be included in this report. Consumer(s) agree to pay in advance the fee for this report to the participating referral agent.

Signature ____________________________________  Date____________________
Spouse’s (if Joint)___________________________  Date____________________

Prior to accessing the CLR Report this Consumer request, a photocopy of proper picture identification must be made available to Lincoln Law, LLP by: Fax:800-584-6826 or e-mail: help@lincolnlaw.com, alternatively it may be scanned.
Terms and conditions of E-mail communication with Lincoln Law Clients

By registering to receive your communication with Lincoln Law using email:

- You may elect to cancel receiving email communications with Lincoln Law if you notify our office.
- You will be able to communicate questions, concerns, comments with us directly through email.
- You will be able to attach documents that you would like Lincoln Law to review, and will promptly receive answers and comments concerning your documents.

Invalid email addresses

Subscribers are required to use the email feature provided that they keep their forwarding address up-to-date.

If a subscriber's email address becomes invalid so that forwarded messages are bounced back to our mail servers, Lincoln Law reserves the right to suspend email communication and reject messages thereafter. Messages will be answered in according order received and may take 2-3 business days to receive an answer.

Spam

Lincoln Law will not review messages identified as spam; these messages will be discarded, and there will be a possibility of losing genuine messages.

Disclosure

Lincoln Law will use the email account you provided from time to time to contact you if necessary.

Lincoln Law will not share email addresses with any third party.

Discontinuation or withdrawal

Lincoln Law reserves the right to withdraw email communications with client subscribers with or without warning for any reason Lincoln Law considers it expedient to suspend or withdraw a client’s email communication arrangement.

Limitation of responsibility

Lincoln Law’s responsibility for clients’ email ends as soon as their bankruptcy representation is completed and the client’s case is closed.

Lincoln Law is not responsible for the content, size or frequency of the messages that it sends or for any damage, inconvenience or distress caused by messages.

Anyone registering themselves for the email communication service shall be deemed to have consented to these terms, which may be varied from time to time.
General Information and Instructions in Chapter 13 Cases Only

Please read each of the items and PLACE YOUR INITIALS in front of each (indicating that you have read and agree to each item). In a joint case, each of you must initial each item. When all items have been initialed, sign at the bottom of this form.

____ATTORNEY'S FEES, PERSONAL CHECKS. I understand and agree that if I use a personal check in paying my attorney's fees and that there are insufficient funds to cover the check, I will be charged a $35 bounced check fee by Lincoln Law.

____ATTORNEY'S FEES, TRUSTEE REFUND CHECK. I understand and agree that if I file a chapter 13 case and a refund check is received from the Chapter 13 trustee (because, for example, my case is converted to a Chapter 13 plan being approved by the bankruptcy judge), any portion of the Chapter 13 basic attorney's fees (attorney's fees through confirmation of my Chapter 13 Plan) owed to my attorney for work already done will be paid to my attorney from the refund check.

____CHILD SUPPORT AND ALIMONY PAYMENTS. I understand and agree that only past due child support and/or alimony payments may be paid through a Chapter 13 Plan, and that I must begin or continue to make child support and alimony payments as they come due after my case is filed. I understand that child support and alimony debts are not dischargeable in bankruptcy, but that I must nevertheless list these debts in the worksheets. I understand that my Chapter 13 case may not be confirmed and/or that my bankruptcy discharge may not be granted if I am not current on all child support and/or alimony payments which come due after my bankruptcy case is filed.

____CO-SIGNERS. In a Chapter 13 case, I understand that my co-signers will be liable to pay whatever portion of the debt that is not proposed to be paid in the Chapter 13 Plan and approved for such payment by the bankruptcy court.

____CREDIT REPORTING. I understand that Lincoln Law is not responsible for any incorrect credit entries regarding bankruptcy or any other credit issue that may be created on any credit report either during or following my bankruptcy. I understand that it is my responsibility to dispute or take necessary steps to correct such entries.

____CRIMINAL PENALTIES. I understand that there is a $500,000 fine and/or a five-year jail sentence that can be imposed if I have deliberately given false or incomplete information about my assets and/or liabilities, and that the same penalties may be imposed if I lie under oath. I understand that I will sign all documents to be filed in my case under penalty of perjury, and will be placed under oath when answering questions before the court or bankruptcy trustee.

____DOCUMENTS. I will not bring documents or any other information to Lincoln Law without an appointment or express prior approval by the legal assistants. Whenever possible, I will mail, fax or email any missing information documents directly to the legal assistants. I will obtain and retain receipts to all documents provided by me to Lincoln Law.

____HEARINGS (ATTENDANCE). I understand and agree that I must attend the Meeting of Creditors and other hearings, if any, which the court or my attorney direct me to attend, including, but not limited to, the Confirmation Hearing in a Chapter 13 case. I understand that if I do not attend such hearings, my bankruptcy case is subject to dismissal at my expense, without further notice to me.

____INSURANCE. I understand and agree that I must maintain full coverage insurance on all vehicles and real property (house or land) I retain, with a deductible acceptable to the lender, that I must have proof of insurance delivered to each creditor financing retained vehicles and real property, and that the insurance policy must name each financing party as a “loss payee.”

____LIENS. I understand and agree that it is my sole responsibility to find out if there are any judgments or liens against me or my property and to disclose all such judgments and/or liens to my attorney. I further understand that in certain circumstances certain liens and/or judgments may not be removed in bankruptcy.

____LIST ALL CREDITORS. I understand and agree that I must list EVERY person, company or governmental agency to whom I owe money, including those to whom I believe I do not owe money but to whom claim or might claim that I do. This includes friends, family members, and business associates, even if I intend to repay them or I would prefer that they not be aware that I am filing bankruptcy. I understand that I cannot “leave someone out” of my bankruptcy by not listing them. I understand that if I am divorced I must list my ex-spouse as a creditor. If the debt on my home is a Veterans Administration loan, I understand and agree that I must list both the mortgage holder and the
Veterans Administration as creditors. I have not intentionally omitted any person, governmental agency to whom I owe money or who claims that I owe them money.

**MORTGAGE PAYMENTS.** I understand and agree that only mortgage payments which are past due when my case is filed can be paid through a Chapter 13 plan, and that I must make the next payment due after the date my case is filed (and all subsequent payments) directly to the mortgage holder. I understand and agree that I must resume making mortgage payments after the filing of my bankruptcy case, unless I am surrendering the property. I understand that if I do not make these mortgage payments on time, the result may be foreclosure of the property.

**PLAN PAYMENTS.** In Chapter 13, I understand that my first plan payment to the trustee is due ONE MONTH AFTER FILING and that the payment must be made in cashiers check or money order only and must be payable only as follows: “Office of Chapter 13 Trustee.” I understand that cash and personal checks are not acceptable. I understand that if my payment is not properly and timely made by the day of the Meeting of Creditors, my case will be dismissed at my expense. Payments in the Oakland Division should be sent to:

Martha G. Bronitsky  
Chapter 13 Trustee  
PO Box 341  
Memphis, TN 38101-0341

**PURCHASES/FINANCING.** I understand and agree that I must not incur more debt while in a Chapter 13. I further understand that it may be possible to obtain a special court order allowing me to incur debt, but I must first consult with Lincoln Law before signing any purchase or finance contracts.

**REVIEW AND SIGNING OF DOCUMENTS.** I understand and agree that I must review and sign all initial documents in my case (Petition, Statement of Affairs, Schedules, Amendments, etc.) and pay all fees due in my case before my case is filed with the bankruptcy court. I understand that completing the information packet by itself is not enough to have my case filed.

**SETOFFS BY CREDITORS.** I understand that if I owe any money to a creditor (such as a bank or credit union) where I maintain any type of checking, savings, certificate of deposit, etc., account, the creditor may take the balance in such accounts as of the date my bankruptcy is filed. I therefore understand that it would be in my best interest to close all such accounts and/or to minimize the amount of money actually in such accounts at the time my bankruptcy case is filed.

**SURRENDER OF COLLATERAL.** I understand and agree that I will be required to surrender collateral for debts if I do not either (1) reaffirm the debt, (2) redeem the collateral, (3) avoid a lien on the collateral, (4) make arrangements with the lender to “retain” the collateral, or (5) provide for payment on the debt in a Chapter 13 plan.

**TAX DEBTS.** I understand and agree that it is my sole responsibility to find out when tax debts were assessed by taxing authorities and when I actually filed all tax returns, and to timely transmit that information to my attorney if I intend to discharge tax debts in appropriate circumstances. I also understand that most tax debts are not dischargeable in most cases. I hereby authorize my attorney, in his discretion, to file a proof of claim for taxing authorities if they do not file a proof of claim for themselves.

**TAX RETURNS.** I understand that in Chapter 13 the bankruptcy trustee will require and direct me to file all tax returns not later than 30 days after the meeting of the creditors in my case, and to keep all tax filings current while my bankruptcy case is pending. I understand and agree that the returns must be filed at the following addresses:

<table>
<thead>
<tr>
<th>Franchise Tax Board</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bankruptcy Unit</td>
</tr>
<tr>
<td>P.O. Box 2952</td>
</tr>
<tr>
<td>Sacramento, CA 95812</td>
</tr>
<tr>
<td>2952</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal Revenue Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Procedures Section</td>
</tr>
<tr>
<td>1301 Clay Street, Stop</td>
</tr>
<tr>
<td>1406S</td>
</tr>
<tr>
<td>Oakland, CA 94612-5210</td>
</tr>
</tbody>
</table>

**UTILITY DEPOSITS.** I understand and agree that if utility debts (including, but not limited to, gas, power, water, sewer, telephone debts) are listed in my bankruptcy case, I may be required to pay a deposit to the utility company, and if such deposit is required, it must be paid within 20 days after my case is filed with the court. Under such circumstances, I understand and agree that it is my responsibility to contact the utility companies to arrange for such deposits.

I have read and understand all of the foregoing information and instructions and have indicated by placing my initials before each item. I agree to abide by the information therein.

____________________       _________  
Signature        Date

____________________       _________  
Signature        Date

573
General Information and Instructions in Chapter 7 Cases

Please read each of the items and PLACE YOUR INITIALS in front of each (indicating that you have read and agree to each item). In a joint case, each of you must initial each item. When all items have been initialed, sign at the bottom of this form.

____AMENDMENTS AND CHANGES. I understand and agree that if I ask to add creditors after my case is prepared for filing with the court there will be an extra charge of $230.00 each time a creditor or creditors is/are added after signing the paperwork since a significant amount of work is involved in adding a creditor or creditors. I understand that every request by me to list or add creditors must be in writing and that oral requests will not be accepted or acted upon.

____ATTORNEY’S FEES, PERSONAL CHECKS. I understand and agree that if I use a personal check in paying my attorney’s fees and that there are insufficient funds to cover the check, I will be charged a $35 bounced check fee by Lincoln Law.

____CO-SIGNERS. In a Chapter 7 case, I understand that my co-signers are still legally liable to pay on the co-signed debts.

____CREDIT REPORTING. I understand that Lincoln Law is not responsible for any incorrect credit entries regarding bankruptcy or any other credit issue that may be created on any credit report either during or following my bankruptcy. I understand that it is my responsibility to dispute or take necessary steps to correct such entries.

____CRIMINAL PENALTIES. I understand that there is a $500,000 fine and/or a five-year jail sentence that can be imposed if I have deliberately given false or incomplete information about my assets and/or liabilities, and that the same penalties may be imposed if I lie under oath. I understand that I will sign all documents to be filed in my case under penalty of perjury, and will be placed under oath when answering questions before the court or bankruptcy trustee.

____DOCUMENTS. I will not bring documents or any other information to Lincoln Law without an appointment or express prior approval by the legal assistants. Whenever possible, I will mail, fax or email any missing information documents directly to the legal assistants. I will obtain and retain receipts to all documents provided by me to Lincoln Law.

____GARNISHMENTS. I understand that filing for bankruptcy will stop garnishments served after the filing date, but will not stop those served before the filing date.

____HEARINGS (ATTENDANCE). I understand and agree that I must attend the Meeting of Creditors and other hearings, if any, which the court or my attorney direct me to attend, including, but not limited to, the Confirmation Hearing in a Chapter 13 case, I understand that if I do not attend such hearings, my bankruptcy case is subject to dismissal at my expense, without further notice to me.

____INSURANCE. I understand and agree that I must maintain full coverage insurance on all vehicles and real property (house or land) I retain, with a deductible acceptable to the lender, that I must have proof of insurance delivered to each creditor financing retained vehicles and real property, and that the insurance policy must name each financing party as a “loss payee.”

____LIENS. I understand and agree that it is my sole responsibility to find out if there are any judgments or liens against me or my property and to disclose all such judgments and/or liens to my attorney. I further understand that in certain circumstances certain liens and/or judgments may not be removed in bankruptcy. There will be a $20.00 charge for each lien obtained by Lincoln Law.

____LIST ALL CREDITORs. I understand and agree that I must list EVERY person, company or governmental agency to whom I owe money, including those to whom I believe I do not owe money but to who claim or might claim that I do. This includes friends, family members, and business associates, even if I intend to repay them or I would prefer that they not be aware that I am filing bankruptcy. I understand that if I am divorced I must list my ex-spouse as a creditor. If the debt on my home is a Veterans Administration loan, I understand and agree that I must list both the mortgage holder and the Veterans Administration as creditors. I have not intentionally omitted any person, governmental agency to whom I owe money or who claims that I owe them money.
REDEMPTION. I understand that when a creditor holds my property as collateral for a debt, I can “redeem” (buy and keep) the property if it is personal property used for personal, family or household purposes, has been exempted or abandoned by the bankruptcy trustee, and if I pay in one lump-sum cash payment the full amount of the actual fair market value of the property (as agreed by the creditor or ordered by the court) within the time limits defined in the bankruptcy laws (usually, 45 days after the bankruptcy case is filed). The attorney fee to file a motion to redeem is $600.

RETAINING PROPERTY. I understand that if I do not wish to reaffirm a debt secured by collateral (such as a car loan) but I nevertheless want to purchase and keep the collateral without reaffirming the debt, that the bankruptcy code requires me to surrender the property within 30 days of my bankruptcy filing date. I understand that some lenders may allow me to retain and continue making payments secured by the collateral, but this may be done solely at the lender’s discretion. I understand that it is my duty to attempt to negotiate this kind of arrangement with the lender and that if I do not do so, the lender may repossess the collateral at any time without notice and whether or not my payments are current.

REVIEW AND SIGNING OF DOCUMENTS. I understand and agree that I must review and sign all initial documents in my case (Petition, Statement of Affairs, Schedules, Amendments, etc.) and pay all fees due in my case before my case is filed with the bankruptcy court. I understand that completing the information packet by itself is not enough to have my case filed.

SETOFFS BY CREDITORS. I understand that if I owe any money to a creditor (such as a bank or credit union) where I maintain any type of checking, savings, certificate of deposit, etc., account, the creditor may take the balance in such accounts as of the date my bankruptcy is filed. I therefore understand that it would be in my best interest to close all such accounts and/or to minimize the amount of money actually in such accounts at the time my bankruptcy case is filed.

SURRENDER OF COLLATERAL. I understand and agree that I will be required to surrender collateral for debts if I do not either (1) reaffirm the debt, (2) redeem the collateral, (3) avoid a lien on the collateral, (4) make arrangements with the lender to “retain” the collateral, or (5) provide for payment on the debt in a Chapter 13 plan.

TAX DEBTS. I understand and agree that it is my sole responsibility to find out when tax debts were assessed by taxing authorities (IRS, CA Franchise Tax Board, etc.) and when I actually filed all tax returns, and to timely transmit that information to my attorney if I intend to discharge tax debts in appropriate circumstances. I also understand that most tax debts are not dischargeable in most cases. I hereby authorize my attorney, in his discretion, to file a proof of claim for taxing authorities if they do not file a proof of claim for themselves.

TAX REFUNDS. I understand that any tax refunds I am entitled to receive at the time my bankruptcy case is filed (even if the tax returns have not yet been filed) must be listed with my property and may be taken by the Chapter 7 trustee, or set off by the taxing authorities if I owe taxes.

UTILITY DEPOSITS. I understand and agree that if utility debts (including, but not limited to, gas, power, water, sewer, telephone debts) are listed in my bankruptcy case, I may be required to pay a deposit to the utility company, and, if such deposit is required, it must be paid within 20 days after my case is filed with the court. Under such circumstances, I understand and agree that it is my responsibility to contact the utility companies to arrange for such deposits.

I have read and understand all of the foregoing information and instructions and have indicated by placing my initials before each item. I agree to abide by the information therein.

Signature Date
Signature Date
Guidelines for Legal Services to be Provided by Debtors' Attorney in Chapter 7 Cases

To assist individuals who are chapter 7 debtors and their attorneys in arriving at a mutual understanding of the services that will be included in the process of filing and concluding a chapter 7 bankruptcy case, a description of the standard services provided by an attorney in the District is set forth below.

Use of the term “the attorney” means an attorney in the law firm representing the debtor, who is admitted to practice law before the U.S. District Court for the Northern District of California. Inherent in these Guidelines is the concept that due to the complexities and unpredictable aspects of most such cases, it is not appropriate to set a minimum or maximum attorneys’ fee for chapter 7 cases.

The following services to be provided by the attorney assume that the debtor has fully, accurately and honestly disclosed all assets, debts, and all other financial information requested by the attorney or required by the United States Trustee, the chapter 7 trustee, the official bankruptcy forms or by law. In addition, the performance of these services by the attorney is understood to be completely dependent upon the continued timely cooperation of the debtor with regard to paying required court fees, providing information and documentation, and executing documents necessitated by the unfolding legal process and the requirements of the attorney in representing the debtor effectively.

If the debtor fails to perform any of the debtor’s obligations under these Guidelines, including the fulfillment of financial commitments made to the attorney, the attorney may move to withdraw from the case. If the attorney fails to perform the legal services described herein, which are not intended as an exclusive list, the debtor may bring the omission to the attention of the court or pursue other available remedies.

A. Services Always Included in the Pre-Petition Fee

1. The attorney provides a copy of these Guidelines to the debtor.

2. The attorney meets personally with the debtor and explains the options available under both chapter 7 and chapter 13 before the debtor selects the chapter to be filed.

3. The attorney reviews the final petition, schedules, statement of financial affairs, and statement of social security number, prior to having them filed with the court.

4. The attorney, with staff assistance, reviews the debtor’s proof of identification and social security number and advises the debtor to provide documentation thereof or a written statement that such documentation does not exist, at the § 341 meeting.

5. The attorney personally attends the § 341 meeting. However, if the attorney is unable to attend the meeting, he/she may arrange for another attorney to appear, subject to the provisions of 6.

6. The attorney provides an “outside contract services attorney” representing the debtor at legal proceedings (such as § 341 meetings and other meetings, depositions and court appearances) with all of the information necessary to fully and competently represent the debtor. The attorney must also take precautions to assure that the information imparted to the outside contract services attorney is held in confidence. Where use of an outside contract services attorney is anticipated at the time of retention, the attorney must obtain the debtor’s consent to the employment of an outside contract services attorney in a written agreement that names the outside contract services attorney or a list of possible outside contract services attorneys, and must fully disclose the compensation for services to be performed.

Where the use of an outside contract services attorney is unanticipated at the time of retention but becomes necessary, the outside contract services attorney may be employed, provided that all of the following circumstances
have been met: a) the attorney informs the client of the name, address and telephone number of the outside contract
services attorney and obtains the prior written consent to use of an outside contract services attorney whenever
possible; b) the attorney fully discloses the compensation for services to be performed by the outside contract
services attorney; and, c) the attorney has attempted to obtain a continuance of the matter without success, unless it
is in the debtor’s best interests to proceed with the matter.

7. The attorney explains to the debtor with secured debts all of the following rights:
   i. to retain the security with continued ongoing payments in accordance with applicable case law;
   l. to redeem the security by motion or negotiation;
   c. to reaffirm the underlying debt, along with the risks of incurring future deficiency claims; and
   c. to surrender the security.

8. The attorney files changes of the debtor’s mailing address, as necessary.


10. The attorney, with staff assistance, informs the debtor of all chapter 7 trustee and U.S. Trustee requests for
documents or other information and assists the debtor in transmitting available information to the requesting trustee.
However, the debtor is solely responsible for locating such documentation and providing it to the attorney on a
timely basis.

11. The attorney, with staff assistance, responds to reasonable creditor inquiries to confirm the case filing.

12. The attorney, with staff assistance, assists the debtor in:
   i. ensuring that creditors, collection agents, and attorneys provided by the debtor are notified of the case filing;
   and
   l. notifying levying officers or agencies in order to stop evictions, foreclosures, wage garnishments, bank
   levies, and other asset seizures in effect on the petition filing date, as appropriate.

B. Services Always Included, But Additional Fee May Be Charged Pre- or Post-Petition, as Mutually
Agreed **

13. The attorney, as appropriate and necessary, where requested by the debtor:
   i. negotiates with a secured creditor to confirm the enforceability of the security interest and the redemption
   value of said security;
   l. files a motion to set the value and redeem said security; or
   c. negotiates a reaffirmation agreement having fully advised the debtor of the legal effect and consequences of
   the agreement and any default thereunder, including the possibility of a future deficiency claim against the
   debtor, and being persuaded that such agreement represents a fully informed and voluntary agreement by
   the debtor and does not impose an undue hardship on the debtor or a dependent of the debtor.

14. The attorney, based upon new information provided by the debtor or confirmed by the debtor, files signed
amendments to the petition, schedules, statement of financial affairs, or statement of social security number.

15. The attorney reviews motions for relief from the automatic stay, with staff assistance communicates with the
debtor regarding them, responds to such motions where necessary, and appears in court on behalf of the debtor
where necessary.

16. The attorney represents the debtor with regard to objections to claims of exemption.

17. The attorney represents the debtor in matters brought under 11 U.S.C. § 707(b), as well as related Rule 2004 examinations.

C. Optional Services Not Included in the Pre-Petition Fee—Subject To Separate Agreement, If Any **

18. The attorney files motions for abandonment of estate property.

19. The attorney files motions to avoid judicial liens on real property and other liens that impair exemptions.

20. The attorney files or defends, on behalf of the debtor, any dischargeability complaints.


22. The attorney files or defends, on behalf of the debtor, other adversary proceedings including ancillary matters such as Rule 2004 examinations and document requests.

23. The attorney files, prosecutes, or defends appeals on behalf of the debtor.

24. The attorney moves to re-open the debtor’s closed case.

Effective 3/15/2005

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**STANDARD FEES FOR ADDITIONAL SERVICES—LINCOLN LAW ADDENDUM

Lincoln Law charges additional fees for non-standard services as allowed in the above Guidelines. Fees are earned whether the client’s desired result is achieved or not. Fees are due prior to service. The standard rate for additional services are as follows:

$600 per service: negotiation to confirm enforceability and redemption value, motion to set value and redeem security, negotiation of reaffirmation agreement, representation in motion for relief from stay. Sections B 13 & 15.

$200 plus filing fees per amended form or schedules. Section B 14.

Hourly fees as allowed in retainer for representation with regard to objections to claims of exemption, matters brought under 11 U.S.C. § 707(b), or related Rule 2004 examinations. Section B 16 & 17.

All other services including those listed in Section C are subject to separate agreement.
Client Forms, Consultation Agreement and Acknowledgment of Receipt of Disclosures and Instructions—Lincoln Law

Carl R. Gustafson

*Lincoln Law*
Welcome to Lincoln Law!

Thank you for completing the following form. This should take no longer than 10 minutes to complete. If you do not know exact figures, please complete the blank with your BEST GUESS.

Please Sign the Consultation Agreement and Keep the Final Page for your Records.

We realize the information asked for is confidential, but in order for our firm to give you the best recommendation for your particular situation, please complete the form as fully and accurately as possible.
**Lincoln Law**

**DATE:**

**HOW DID YOU HEAR ABOUT US? CIRCLE ONE.**

<table>
<thead>
<tr>
<th>Phone Book (which?)</th>
<th>Referral (who?)</th>
<th>Internet</th>
<th>Mail</th>
<th>Sign</th>
</tr>
</thead>
</table>

**Marital Status: (CIRCLE)**

<table>
<thead>
<tr>
<th>Married</th>
<th>Single</th>
<th>Divorced</th>
<th>Separated</th>
<th>Widowed</th>
</tr>
</thead>
</table>

**NUMBER OF CHILDREN LIVING AT HOME:**

**AGES:**

<table>
<thead>
<tr>
<th>DEBTOR</th>
<th>SPOUSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIRST NAME</td>
<td>FIRST NAME</td>
</tr>
<tr>
<td>MIDDLE NAME</td>
<td>MIDDLE NAME</td>
</tr>
<tr>
<td>LAST NAME</td>
<td>LAST NAME</td>
</tr>
<tr>
<td>SSN</td>
<td>SSN</td>
</tr>
<tr>
<td>EMAIL ADDRESS</td>
<td>EMAIL ADDRESS</td>
</tr>
<tr>
<td>HOME PHONE:</td>
<td>HOME PHONE:</td>
</tr>
<tr>
<td>WORK PHONE:</td>
<td>WORK PHONE:</td>
</tr>
<tr>
<td>CELL PHONE:</td>
<td>CELL PHONE:</td>
</tr>
</tbody>
</table>

**ADDRESS**

<table>
<thead>
<tr>
<th>STREET ADDRESS</th>
<th>MAILING ADDRESS (if different)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Number</td>
<td>Street Number</td>
</tr>
<tr>
<td>City, State Zip</td>
<td>City, State Zip</td>
</tr>
</tbody>
</table>

**INCOME**

<table>
<thead>
<tr>
<th>DEBTOR</th>
<th>SPOUSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>YEARLY INCOME BEFORE DEDUCTIONS</td>
<td>YEARLY INCOME BEFORE DEDUCTIONS</td>
</tr>
<tr>
<td>TAKE HOME PAY (per paycheck)</td>
<td>TAKE HOME PAY (per paycheck)</td>
</tr>
<tr>
<td>HOW OFTEN ARE YOU PAID? Weekly, Every Two Weeks, Twice a Month, Monthly</td>
<td>HOW OFTEN ARE YOU PAID? Weekly, Every Two Weeks, Twice a Month, Monthly</td>
</tr>
<tr>
<td>OTHER INCOME (odd jobs, second job, child support, food stamps, rental income, etc)</td>
<td>OTHER INCOME (odd jobs, second job, child support, food stamps, rental income, etc)</td>
</tr>
</tbody>
</table>

Please describe any changes to your employment or income in the last 6 months

Have you filed all your Tax returns in the last four years?  **Yes / No**  If not, list years not filed: ________________________________

**HOW LONG HAVE YOU LIVED IN CALIFORNIA?**  ________________________________
### PRIOR BANKRUPTCY CASES

Have you ever filed Bankruptcy: **YES** (circle) **NO**

How many times? ____________________________

7 or 13? ____________________________

Date Filed ____________________________

<table>
<thead>
<tr>
<th>TYPE OF DEBT</th>
<th>Yes or No</th>
<th>How Many?</th>
<th>Total Amt Owed $</th>
<th>Cosigners?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Credit Cards</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Bills</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Student Loans</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank Loans</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Taxes</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>IRS/State Taxes</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child Support</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reposs</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal Loans</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payday Loans</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Y / N</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

YES / NO Do you have **insufficient checks** outstanding? If so, how much $?

YES / NO Have you received any **cash advances** in the last 6 months?

YES / NO Are there any pending **lawsuits** or **judgments** secured against you?

YES / NO Are you **self-employed** or do you own any part of a business?

YES / NO Do you have over $500.00 in savings, CD’s, stocks, bonds, or similar financial accounts?

YES / NO Do you own a Recreational Vehicles, Motorcycles, Boats, Trailers, Vehicles, ATV’s, etc?

YES / NO Do you have any property (other than vehicles, see below) worth $500.00 or more? Specify:

### Home loans: **RENTING / BUYING / STAYING with FAMILY OR FRIENDS (CIRCLE ONE)**

<table>
<thead>
<tr>
<th>Mortgage Co.</th>
<th>RENT OR MORTGAGE Payment $</th>
<th>Arrears $ (How much behind)</th>
<th>Loan Balance $</th>
<th>Fair Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Vehicles: **(List all vehicles you own, or have cosigned, whether there is a debt against them or not)**

<table>
<thead>
<tr>
<th>Auto Creditor</th>
<th>Year / Make / Model</th>
<th>PMT $</th>
<th>Arrears $ (how much you are behind)</th>
<th>Loan Balance $</th>
<th>VALUE $</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Consultation Agreement

And

Acknowledgement of Receipt of Disclosures and Instructions

(THIS AGREEMENT MUST BE SIGNED BY CLIENT PRIOR TO ANY CONSULTATION)

This agreement is entered into this __________ day of ______________ of 20 __ by and between Lincoln Law Center (hereinafter referred to as the “Attorney”) and __________________________________________, (hereinafter referred to as the “Client” whether one or more).

Client has requested the opportunity to consult with and obtain information and advice from the Attorney regarding relief form debts, including relief from debts by filing bankruptcy under the United States Bankruptcy Code. This agreement is for the purposes of that consultation only. If at the end of the initial consultation, the parties agree that the Attorney is to provide any additional services short of being retained to file a bankruptcy, the parties shall attach the addendum to this agreement setting forth the additional services the Attorney is to provide the Client, the obligations of the Client, and the Attorney’s fees for such services. If the Client retains the Attorney to file a bankruptcy, the parties shall execute a separate agreement setting forth the fees and other terms of such representation. With the respect to the consultation, the parties agree as follows.

1. The first 30 minutes of the consultation are free. The client shall pay $150 for each hour thereafter, in 20 minute ($50) increments. Only one free consultation will be provided to the Client.

2. Attorney shall provide the following services during the consultation:
   a. Analyze the Client’s financial circumstances based on information provided by the Client.
   b. To the extent possible, based on the information provided by the Client, advise the Client of the Client’s bankruptcy and non-bankruptcy options. Attorney makes no representations or guarantees as to the completeness of advice related to non-bankruptcy option, or as to the actual availability, costs, outcomes or implications for future credit-worthiness of the Client of any bankruptcy or non-bankruptcy option.
   c. If the Client has not provided the Attorney with sufficient information upon which to fully advise the Client as to the Client’s options, inform the Client as to the information needed to enable the Attorney to provide such advice and information.
   d. Advise the Client of the requirements placed upon the Client in filing a chapter 7 or 13 bankruptcy.
   e. To the extent possible, quote the Client an estimated fee for the Attorney’s services to provide bankruptcy assistance or other legal services to the Client.

3. The Client Acknowledges that the first date upon which the Attorney has first offered to provide any bankruptcy assistance service is the date of this agreement, and that the Attorney provided the Client with the Notice to Client who Contemplates Filing Bankruptcy (the statement mandated by Section 527 (b) of the Bankruptcy Code), and the Instructions on Providing Information Required to File Bankruptcy (the statement mandated by Section 527 (a)(2), copies of which are attached to this Consultation Agreement.

4. If the Client elects to file a bankruptcy, a separate bankruptcy retainer agreement, including fees to be paid, will be provided.

Date: ___________________________  Carl R. Gustafson, Attorney at Law

Date: ___________________________  Client

Date: ___________________________  Client
Please Keep this Copy for your Records

Disclosure Pursuant to 11 U.S.C. §527(a)(2)

(Client Copy)

You are notified:

All information that you are required to provide with a petition and thereafter during a case under the Bankruptcy Code is required to be complete, accurate, and truthful.

All assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case. Some places in the Bankruptcy Code require that you list the replacement value of each asset. This must be the replacement value of the property at the date of filing the petition, without deducting for costs of sale or marketing, established after a reasonable inquiry. For property acquired for personal, family, or household use, replacement value means the price a retail merchant would charge for property of that kind, considering the age and condition of the property.

The following information, which appear on Official Form 22, Statement of Current Monthly Income, are required to be stated after reasonable inquiry: current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of the Bankruptcy Code, disposable income (determined in accordance with section 707(b)(2)).

Information that you provide during your case may be audited pursuant to provisions of the Bankruptcy Code. Failure to provide such information may result in dismissal of the case under this title or other sanction, including criminal sanctions.

IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of the creditors where you may be questioned by a court official called a 'trustee' and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.
If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.
Attorney Client Agreement—Chapter 7

Sally J. Elkington
*Elkington Shepherd LLP*
ELKINGTON SHEPHERD LLP
409 13th Street, 10th Floor
Oakland, CA 94612
510-465-0404
Fax: 510-465-0202

CONTRACT FOR LEGAL REPRESENTATION - CHAPTER 7

This engagement agreement ("Contract"), dated _________________, is between
ELKINGTON SHEPHERD LLP ("Attorney") and _________________.
Client(s) employs Attorney to represent Client(s) in a Chapter 7 bankruptcy case.

I. Services to Be Provided by Attorney

Services Attorney will provide to Client(s) include the following ("Standard Services"):

• Analysis of Client(s)'s financial condition;
• Counseling Client(s) as to the advisability of seeking relief in bankruptcy under Chapter 7 of the Bankruptcy Code;
• Advising Client(s) as to Client(s)'s eligibility to seek relief under Chapter 7 of the Bankruptcy Code;
• Advising Client(s) as to the availability of exemptions under applicable law;
• Assisting Client(s) in assembling all documents necessary for, or in connection with, the filing of a petition under the Bankruptcy Code;
• Assisting Client(s) in meeting all conditions precedent to filing a petition for relief under the Bankruptcy Code and in meeting all conditions precedent to obtaining a discharge, if the Client(s) is eligible to receive a discharge;
• Preparation and electronic filing of the Client(s)’s bankruptcy petition and supporting schedules;
• Preparing Client(s) for examination at the meeting of creditors held pursuant to section 341 of the Bankruptcy Code;
• Attending the meeting of creditors and all court hearings (except as otherwise excluded in this Contract);
• Assisting the Client(s) with reaffirmation agreements, if applicable;
• Assisting the Client(s) with routine lien avoidance proceedings, if applicable;
• Assisting the Client(s) with the enforcement of the automatic stay, if required;
• Communicating with Client(s)’s bankruptcy trustee; and
• Communicating with Client(s)’s creditors, as necessary.

II. Responsibilities of Client(s)

Client(s) agrees to:

• Discuss with Attorney the Client(s)’s objectives in filing the case;
• Provide Attorney with full, accurate and timely information, financial or otherwise, including properly documented proof of income and two (2) years of tax returns;
• Cooperate with Attorney in preparing all required bankruptcy papers and documents, thoroughly reviewing drafts of documents, and promptly advising Attorney of corrections or additions needed;
• Timely provide Attorney with any additional documents requested by the bankruptcy trustee or other parties in interest;
• Notify Attorney of any change in address or telephone number;
• Appear punctually at the meeting of creditors with a picture identification card and proof of social security number;
• Comply with all orders of the Bankruptcy Court; and
• Complete the required instructional course in personal financial management.

Failure of Client(s) to cooperate fully with Attorney or comply with any request of the bankruptcy trustee or court order may result in Attorney filing a motion with the Bankruptcy Court to withdraw from representation of Client(s).

III. Fees and Charges for Services and Terms of Payment

Attorney agrees to perform Standard Services for Client(s) in consideration for an attorney’s fee of $________ plus reimbursement of expenses for filing fees, credit reports, credit counseling costs, and other out-of-pocket expenses. Additional expenses may be incurred by Attorney for proper representation of Client(s). Client(s) shall reimburse Attorney for these costs at the actual cost to Attorney.

Client(s) agrees to pay the sum of $________ at the execution of this Contract. All disbursements and fees must be paid in full before Attorney will file a petition under the Bankruptcy Code on behalf of Client(s).

Client(s) agrees to pay the sum of $335.00 on or before the date for reviewing the completed bankruptcy and signing such. This fee will be deposited in the ELKINGTON SHEPHERD LLP trust account until paid to the Court on the file date.

IV. Non-Standard Services; Additional Fees

Client(s) agrees to pay an attorney’s fee for legal services beyond Standard Services ("Additional Services"). Charges for Additional Services will be assessed at the following rate: $400 per hour.

Attorney may require an additional retainer for Additional Services and shall be under no obligation to provide Additional Services without first having received an additional retainer to secure payment for such Additional Services. Time is charged in minimum units of one-tenth of an hour. Examples of Additional Services include, but are not limited to:

• Rule 2004 examinations, depositions, interrogatories, or other discovery proceedings;
• Defending claims that granting bankruptcy relief to Client(s) under the Bankruptcy Code would constitute "abuse" within the meaning of the Bankruptcy Code;
• Defending claims that one or more of Client(s)'s debts are non-dischargeable;
• Defending claims that Client(s) is not entitled to a discharge under the Bankruptcy Code;
• Defending matters arising from Client(s)'s failure to disclose any material fact; or
• Defending matters arising from Client(s)'s false statements made in connection with the bankruptcy petition, schedules, statement of financial affairs or any documents provided in support thereof.
V. Services Excluded from Contract

This Contract does not apply to, and Attorney is not hired to represent Client(s) in, the following:

- Adversary proceedings;
- Appeals; or
- Proceedings in any non-bankruptcy court or administrative agency.

VI. Termination of Attorney’s Representation

Client(s) may terminate Attorney’s representation at any time. Attorney may terminate representation with Client(s)’s consent, or for cause, including:

- Client(s)’s failure to pay fees when due;
- Client(s) is in breach of this Contract;
- Client(s) is unresponsive or uncooperative; or
- Circumstances would render Attorney’s continuing representation unlawful or unethical.

Once the bankruptcy case is filed, Attorney’s representation of Client(s) continues through the time Client(s) receives a discharge (except regarding violations of the permanent injunction as provided for in 11 USC § 524), the case is dismissed, the case is converted, or the Bankruptcy Court approves Attorney’s withdrawal from representation.

VII. Acknowledgment of Receipt of Disclosures

Client(s) acknowledges that Client(s) has received copies of all disclosure documents attached to this Contract. These documents include:

- Notice to Individual Consumer Debtor under §342(b)
- Disclosure Pursuant to §527(a)(2)
- Disclosure Pursuant to §527(b)

VIII. Entire Agreement and Signatures

The entire agreement between Attorney and Client(s) is contained in this instrument. The undersigned agree to all of the terms and conditions set forth herein and acknowledge that they have read and understand this agreement.

THE BANKRUPTCY CODE REQUIRES ELKINGTON SHEPHERD LLP, TO EXPLICITLY AND CONSPICUOUSLY INFORM YOU THAT:

WE ARE A DEBT RELIEF AGENCY, WE HELP PEOPLE FILE FOR BANKRUPTCY RELIEF UNDER THE BANKRUPTCY CODE

Dated: ____________

ELKINGTON SHEPHERD LLP

CLIENT

ATTORNEY

CLIENT
Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)

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 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.

<table>
<thead>
<tr>
<th>Chapter 7: Liquidation</th>
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<td>$245 filing fee</td>
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<td>$75 administrative fee</td>
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<td>$15 trustee surcharge</td>
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<td>$335 total fee</td>
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Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their nonexempt 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 122A–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
122A–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 122A–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.

Chapter 11: Reorganization

$1,167 filing fee

+ $580 administrative fee

$1,747 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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<td>$200 filing fee</td>
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<td>+ $75 administrative fee</td>
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<td>$275 total fee</td>
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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.

Chapter 13: Repayment plan for individuals with regular income

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<td>$235 filing fee</td>
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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_form_s.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/usdoj/happca/codeco_approved.html

In Alabama and North Carolina, go to:

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.
Initial Consultation Agreement and Required Notices—Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.

Sarah Lampi Little

*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
INITIAL CONSULTATION AGREEMENT AND REQUIRED NOTICES

Client desires to obtain advice and assistance with debt issues and relief from debt and has scheduled an initial consultation with Kornfield, Nyberg, Bendes, Kuhner & Little P.C. This initial consultation with the attorney is free of charge. The client understands that in order for the attorney to give meaningful advice, certain detailed financial information must be provided fully and accurately. The client agrees to give accurate, honest full and fair disclosure of financial information concerning income from all sources, monthly living expenses, the type and amount of all debts, and a disclosure of all assets and property owned by the client.

The attorney agrees to interview the client and give advice and counsel to assist the client in making decisions about debt problems, the possibility of filing bankruptcy, selecting the appropriate chapter of bankruptcy, and how a bankruptcy case may help or hurt the debt problems of the client. The initial consultation will consist of a review of the client’s current monthly income, a preliminary budget analysis, a preliminary analysis of qualifications for certain chapters of bankruptcy and a recommendation.

The initial consultation and interview will be performed by an attorney free of charge. In the event that the client decides to file a bankruptcy case, a new written agreement must be signed by the client and the attorney which will supersede this agreement relating to attorney fees and expenses. This new agreement will also provide a detailed explanation of the services performed or to be performed by the Law Offices of Sarah Lampi Little.

DISCLOSURES

The following disclosure notices are required by changes to the United States Bankruptcy Code enacted in 2005 under the name Bankruptcy Abuse Prevention and Consumer Protection Act (BACPA). This law was enacted after many years of intense lobbying by the credit industry. It is our opinion that the required disclosures and many provisions of the law are intended to intimidate and scare people, unduly complicate the process, increase the cost, and create more hurdles for people who are already struggling. The disclosures imply that debtors are dishonest people and that credit counseling agencies who get paid by creditors are in a better position to advise you about your financial situation than an attorney. As the disclosures note, you do not need an attorney to file bankruptcy. You are also free to represent yourself in a criminal proceeding or in any other legal proceeding. Bankruptcy laws are complicated, if done incorrectly you face losing assets or being denied your discharge.

We are also required to disclose that we are a “debt relief agency” and that we “help people file for bankruptcy relief under the Bankruptcy Code.” We disagree that we are a “debt relief agency.” We are attorneys. We specialize in bankruptcy law. We will gladly represent you in filing for bankruptcy relief.
DISCLOSURE PURSUANT TO 11 U.S.C. §527(a)(2)

- All information that you are required to provide with a petition and thereafter during a case under the Bankruptcy Code is required to be complete, accurate, and truthful.

- All assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case. Some places in the Bankruptcy Code require that you list the replacement value of each asset. This must be the replacement value of the property at the date of filing the petition, without deducting for costs of sale or marketing, established after a reasonable inquiry. For property acquired for personal, family, or household use, replacement value means the price a retail merchant would charge for property of that kind, considering the age and condition of the property.

- The following information, which appear on Official Form 22, Statement of Current Monthly Income, are required to be stated after reasonable inquiry: current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of the Bankruptcy Code, disposable income (determined in accordance with section 707(b)(2)).

- Information that you provide during your case may be audited pursuant to provisions of the Bankruptcy Code. Failure to provide such information may result in dismissal of the case under this title or other sanction, including criminal sanctions.

NOTICE MANDATED BY 11 U.S.C. §527(b)

IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.
The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of the creditors where you may be questioned by a court official called a 'trustee' and by creditors.

If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.

NOTICE MANDATED BY 11 U.S.C. §§342(b) AND 527(a)(1)

NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b)(2) OF THE BANKRUPTCY CODE

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.
1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.
Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

2. 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, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

Chapter 11: Reorganization

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

NOTICE MANDATED BY 11 U.S.C. §342(b)(2)

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.
Important Information Regarding Your Bank Accounts—Bank’s Right to Setoff—Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.

Sarah Lampi Little

*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
IMPORTANT INFORMATION
REGARDING YOUR BANK ACCOUNTS - BANK’S RIGHT TO SETOFF

The bank of other financial institution where you keep your checking and/or savings account has the legal right to set-off money in your checking or savings account against any delinquent debt you may owe the bank. Therefore, if you owe a bank, credit union or other financial institution money for a loan, or visa card, or otherwise, it is unwise to inform the institution that you are planning to file bankruptcy if you have any money in the checking or savings account, because they will take that money.

The institution’s right to offset money exists as to any money in the accounts before or on the day your bankruptcy petition is filed. In other words, if you have $500.00 in your checking account on the day bankruptcy is filed, and the institution discovers you filed bankruptcy several days after the petition was filed, and the $500.00 that was in the account on the date of the bankruptcy is still in the account, the bank may take the $500.00, and you will not get it back.

The most certain way to deal with this problem is to close any account where you owe the institution money, and move your banking elsewhere, and this should be done as soon as you decide to file bankruptcy. The next best way to handle it is to make sure that you do not leave any significant sums in the accounts that you cannot afford to lose until the bankruptcy is filed. Once the bankruptcy petition is filed, and any money that was in the account on the date of bankruptcy has been accounted for by withdrawal by checks clearing the bank, or by your just taking out the money, new money that is deposited to the account after bankruptcy is filed cannot be set-off by the bank without violating the bankruptcy law. In other words, if you want to keep banking at the same institution, just make sure the accounts are down to a minimum until the bankruptcy is filed, then start using them after the bankruptcy petition is filed. Bear in mind the institution can take any money from your account that was in the account on the date of bankruptcy, and remained in the account until they took it out, unless either cancelled checks or withdrawals occurred in excess of that amount after the bankruptcy petition was filed.

If in doubt, take the money out of your accounts, and don’t use them until after the bankruptcy petition is filed.
Pre Filing Credit Counseling and Post Filing Debtor Education Requirements—Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.

Sarah Lampi Little

*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PRE FILING CREDIT COUNSELING
AND
POST FILING DEBTOR EDUCATION REQUIREMENTS

CREDIT COUNSELING

CHAPTER 7 & 13 CASES
Before you are eligible to file a chapter 7 or chapter 13 bankruptcy case, you must obtain credit counseling from an independent credit counseling agency approved by the Bankruptcy Court and the United States Trustee. This counseling can be done on the internet, by phone, or in limited circumstances, in person. The counseling must be completed before your chapter 7 or chapter 13 case can be filed, if it is not complete and you do not have a certificate showing that it was completed, I cannot file your chapter 7 or Chapter 13 case.

DEBTOR EDUCATION/FINANCIAL MANAGEMENT

CHAPTER 7 & 13 CASES
After your case is filed but before the court will grant you a discharge of your debts, you must complete a course on Financial Management. For Chapter 7 cases, this class must be taken after your bankruptcy case has been filed and within 60 days of filing. For Chapter 13 cases, you must take the class before your final chapter 13 payment is made. If you do not complete this course by the time the court would normally enter your discharge, the clerk will close your case without granting you a discharge of your debts. You may still get a discharge after your case has been closed, but you will incur a new filing fee of $260 to reopen your case and also additional attorney fees of $300.00 to file the motion and order reopening your bankruptcy case.

We have provided you with several brochures from different companies providing these services. These are the companies our clients most frequently use, because they offer the best pricing or are the most convenient. You must make arrangements directly with the agency to complete your pre filing counseling requirements and pre discharge education requirements. You can opt to pay for both courses at the same time or you can pay for one and then other.

Credit Counseling and Debtor Education Certificates should be faxed or emailed to this office.

Fax 510-273-8669  Email:n.nyberg@kornfieldlaw.com

For a complete list of credit counseling agencies please visit www.usdoj.gov/ust/
Credit Counseling Services Approved for the Northern District by the United States Trustee’s Office

Submitted by:
Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
CREDIT COUNSELING SERVICES APPROVED FOR THE NORTHERN DISTRICT
BY THE UNITED STATES TRUSTEE’S OFFICE

In the new bankruptcy law that Congress passed and the President signed, effective October 17, 2006, debtors are now required to obtain Credit Counseling both before filing a bankruptcy and before they obtain the discharge of their debts. The United States Trustee’s office is responsible with issuing a list of approved agencies. Below are some of the approved agencies.

If you are filing a Chapter 7 bankruptcy, you will be required to pay for two counseling services and two Counseling Certificates:

1) Pre Bankruptcy Counseling Certificate - this certificate must be obtained prior to the filing and is good for 6-months after you receive it.
2) Pre Discharge Education Certificate - this certificate must be obtained within three (3) months you are involved in your bankruptcy.

If you are filing a Chapter 13 bankruptcy, you will be required to pay for two counseling services and two Counseling Certificates:

1) Pre Bankruptcy Counseling Certificate - this certificate must be obtained prior to the filing and is good for 6-months after you receive it.
2) Pre Discharge Education Certificate - this certificate must be obtained within the three to five years you are involved in your bankruptcy.

Most all of the Counseling Services below can be obtained either over the telephone or over the internet. The general costs are between $10 and $30 per certificate. Once you contact the Service you are going to use, make sure to tell them to either fax or email your certificate to my office. My fax number is 510-465-0202 or email is creditcounseling@elkingtonlaw.com. I would prefer they email me the certificate. I must file this certificate with the Court when we file your bankruptcy and at the end of.

Follow the steps below to access the list of all the companies approved by the United States Trustee’s office:

• Go to www.justice.gov/ust
• Click on Credit Counseling and Debtor Education
• Click on Approved Credit Counseling Agencies
• On the drop down choose California and click go
• Choose what Credit Counseling Service Company to take the class from
How Do I Get a Copy of My Credit Report and What Do I Do with It?

Submitted by:
Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
HOW DO I GET A COPY OF MY CREDIT REPORT AND WHAT DO I DO WITH IT?

AnnualCreditReport.com is the official site to help consumers to obtain their free credit report.

You are entitled to receive one free credit file disclosure every 12 months from each of the nationwide consumer credit reporting companies — Equifax, Experian and TransUnion. This free credit file can be requested through their website, by phone or by mail, but the central site of AnnualCreditReport.com allows you to request a free credit file disclosure, commonly called a credit report from each or all of the credit reporting companies.

Request your Credit Report Online
Go to www.annualcreditreport.com. Answer all the questions as you go. Do not buy any of the offered credit protection programs, as they are not necessary. Always move to the bottom of the screen to click “continue” which will move you to the next screen.

To assure that your credit file is disclosed only to you, the nationwide consumer credit reporting companies will authenticate your identity utilizing the personal identification information you provide on this site, including, but not limited to, your Social Security number, and then require that you answer certain questions. For your protection, if your identity cannot be authenticated for online delivery of your credit report, you will receive further instructions on how to request your report for delivery by the U.S. Postal Service. Failure to authenticate for online delivery of your annual credit file disclosure is not an indicator of fraudulent activity or identity theft.

Request your Credit Report by Phone
Call 1-877-322-8228 to request your credit reports by phone. You will go through a simple verification process over the phone. Your reports will be mailed to you.

Request your Credit Report by Mail
You can request your credit report by mail by filling out the request form attached and mailing it to:

Annual Credit Report Request Service
P.O. Box 105281
Atlanta, GA 30348-5281

What Do I Do With My Credit Report When I Get It

1. Read the credit report very carefully.

2. Use the addresses from the credit report to fill out the credit section of the questionnaire.

3. Verify that all of the debts listed on your credit report are your debts. If you find one that is not your debt list it as well, but indicate that it is a disputed debt.

4. Keep a copy of your credit report in your records and make a copy to give to our office with your other documents.
How Your Credit Report Will Help You in Bankruptcy

Our firm requires that each of our clients filing for bankruptcy obtain a credit report for the reasons listed below. If you are married, we require obtaining credit reports for both you and your spouse.

A credit report is necessary for the following reasons:

1. Obtaining the credit report helps us get accurate creditor names, addresses, types of debt, balances due, and account numbers.

2. Through your credit report, we may find creditors whom you have overlooked. For a debt to be discharged, it must be listed in your bankruptcy pleadings, so it’s important that we find out about all debts.

3. Credit reports can alert us to judgments against you.

4. Credit reports can alert us to liens against your property, and the need to seek lien avoidance under §522(f), thus helping you protect your property in some cases.

5. We may find out about co-signers to some of your debts, which are important to list in a bankruptcy.

6. If you are married, there may be surprising items on your credit report or your spouse’s, and the reports can help us determine whether you should file individually or jointly.

7. We may find out about debts created by a former spouse, who may have forged your signature to obtain credit.

8. Credit reports can alert us to mistakes on your credit record. The report will list the names and addresses of all three major credit bureaus whom you can contact to correct any mistakes or provide updated information.

9. Credit reports often contain the names and addresses of collection agencies representing creditors, and we can notify these collection agencies about the bankruptcy so that collection efforts stop.

10. If the IRS has a tax lien on your property, the credit report will alert us so that it can be dealt with properly.

11. Knowing what is on your credit report can help you get credit approval for important purchases after your debts are discharged.
Part II: Attorney Duties (PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART II: ATTORNEY DUTIES
OBTAINING A COMPLETE AND ACCURATE FINANCIAL PICTURE

AKA ATTORNEY DUE DILLIGENCE

- Client Interview
  - Understand your client’s level of sophistication
  - Understand your client’s level of stress
  - Understand the goals of the conversation
  - Keep control of the interview
THE INTAKE OF CLIENTS FINANCIAL SITUATION

- Intake Form
- Goal of Intake
- Get basic information
  - Assets and Liabilities
  - Why Bankruptcy?
- Consult Agreement and Notices
OBTAINING A COMPLETE AND ACCURATE FINANCIAL PICTURE

AKA ATTORNEY DUE DILLIGENCE

● Questionnaire
  ○ Assets
  ○ Liabilities
  ○ SOFA Information
  ○ Means Test Information

● Pacer Search
OBTAINING A COMPLETE AND ACCURATE FINANCIAL PICTURE

- Documents Required
  - Pay stubs
  - Bank account statements
  - Billing statements
  - Lawsuits
  - Judgment
  - Federal income tax returns for last 2 years
  - Co-debtor information
  - Real property information
  - Vehicle information
- Leases
- Divorce decrees & Marriage Settlement Agreements
- Garnishment
- Levy and liens
- Repossession information
- Credit Report
ADVISING THE CLIENT

Explore alternatives to Bankruptcy

- Is doing nothing an option?
- Repayment Plans?
- Bankruptcy?
EVALUATING THE CLIENT

- Meeting with the client
- Emotions of the client
- Establishing Rapport
RED FLAGS

- Truthfulness
- Situation makes sense?
- Goals realistic?
ALTERNATIVES TO BANKRUPTCY

- WHEN DOING NOTHING IS AN OPTION
- Statute of Limitations on Debt Passed
- Judgment Proof Client
- Nondischargeable Debt(s)
- Creditor Harassment outside of Bankruptcy
PAYMENT PLAN/SETTLEMENT

- Working Out a Feasible Plan or Settlement
- Possible Issues Down the Road
RETAINING THE CLIENT

- Retainer Agreement
  - Fees
  - Scope of Services
  - Additional Fees
Jurisdiction

- Federal district courts have original and exclusive jurisdiction of all cases filed under Title 11 of the United States Code (all bankruptcy cases), and have original, but not exclusive, jurisdiction of all civil proceedings arising under or related to cases under Title 11. (29 USC §1334(a) and (b))

- The district court in which a case under Title 11 is filed has exclusive jurisdiction of all the property of the debtor and of the estates, wherever it is located. 28 USC §1334(e)(1)

- Federal courts have no power to issue divorce, alimony or child custody decrees (domestic relations exception) in diversity cases and may not probate a will, administer a decedent's estate or hear any action that would interfere with pending state court probate proceedings (probate exception)
Jurisdiction (Stern v. Marshall)

- Bankruptcy jurisdiction extends to core proceedings described in 26 USC § 157(b)(2)

- *Stern v. Marshall* 131 S.Ct. 2594 (2011) held that the bankruptcy court has no constitutional authority to issue final rulings over certain state law claims, even some listed as core proceedings.

- Practical solution for most cases is that parties consent to the decision of the bankruptcy court in initial pleadings. *Wellness* 575 US ___
Eligibility

Generally any “person” who “resides or has a domicile, a place of business, or property in the United States” is eligible to file a voluntary bankruptcy petition. (11 USC 109(a))

- Person includes an individual, partnership, and corporation, but not a governmental unit, estate or trust.
Individual

Husbands and wives may file bankruptcy separately or jointly

- Unmarried persons living together are not “spouses” and may not file a joint petition.
Individual

- Aliens permanently residing in the U.S. and domiciled are eligible to file bankruptcy.
- Minors and/or incompetents are eligible to file bankruptcy through a duly-appointed representative, such as a guardian or conservator, or if no representative has been appointed, through a next friend or guardian ad litem.
  - Courts are split on whether a power of attorney authorizes the holder to file a bankruptcy petition on behalf of the incompetent person.
Individual

- Partnerships are eligible for relief under Chapter 7, 11 or 12
  - The Code does not define a partnership; therefore Courts look to state law to determine whether an entity is a partnership for the purposes of bankruptcy eligibility.

- Corporations may be debtors under Chapter 7, 11 or 12
  - May only file through a licensed attorney
  - Not eligible for a discharge
Eligibility

- Is the debtor able to pay creditors and therefore a Chapter 7 filing would be an “abusive filing” (Means Test):
  - Section 707 of the Bankruptcy Code (means test) is the primary method to determine if the filing of a Chapter 7 bankruptcy establishes substantial abuse. If a debtor does not “pass” the means test, either in prong one (current monthly income (CMI) is below the median income level) or prong two (the disposable monthly income (DMI) is within the acceptable amount) then the debtor should not file a Chapter 7 bankruptcy.
Eligibility

- 180 day bar to refiling
  - Applies where a case was dismissed based on “willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case” 11 USC 109(g)(1)
  - Prior dismissal by debtor after creditor filed for relief from stay 11 USC 109(g)(2)
Eligibility

- 8-year Rule: **CHAPTER 7 TO CHAPTER 7**
- Debtor cannot have received a discharge in a Chapter 7 case commenced (filed) within 8 years before the filing of the new case. 11 USC 727(a)(8)
  - No discharge available
Eligibility

- 6-year Rule: Debtor cannot have received a discharge in a Chapter 13 case commenced (filed) within 6 years of the filing date of the new case. 11 USC 727(a)(9)
  - No discharge available
And even more Eligibility Rules

Just for the fun of it:

- 4-year Rule: CHAPTER 7 TO CHAPTER 13: A debtor is ineligible for discharge under a Chapter 13 if he or she received a prior discharge in a Chapter 7, 11, or 12 case that was filed less than four years before the new Chapter 13
And just to make it confusing

- 2-year Rule: **CHAPTER 13 TO CHAPTER 13**: A debtor is ineligible for a discharge under a Chapter 13, if he or she received a prior discharge in a Chapter 13 case filed less than two before the filing date of the new Chapter 13.

- **ALL THE FILING RULES ARE FROM FILING DATE TO FILING DATE**
Venue

- A bankruptcy petition must be filed in the proper division (and within the proper location of that district that has multiple locations) that lies in the federal district for the district in which the debtor had either domicile, residence, principal place of business in the U.S. or principal assets in the U.S. during the longest portion of the 180-day period preceding filing of the case.
Venue

- **Domicile:**
  - Generally defined as the individual's residence with intent to remain there or return when absent.

- **Residence**
  - An individual may have more than one “residence” at a time. For bankruptcy venue purposes, residence means “a permanent residence, as in the individual’s home, as distinguished from a mere “stopping place” for the transaction of business or pleasure.

- **Principal place of business**
  - Where entity has its “principal place of business” or principal assets.

- **180-day requirement**
  - The petition should be filed in whichever district the individual has resided longer, even if the debtor no longer resides there.
EVALUATING THE BANKRUPTCY PROCESS

Chapter 7 vs. Chapter 13

- Chapter 7 – Liquidation Bankruptcy
- Chapter 13 – Reorganization Bankruptcy
HOMEOWNER’S ISSUE IN CHAPTER 7

- No repayment plan for arrears
- No strip of 2\textsuperscript{nd} mortgage
- Temporary stop of foreclosure
- Too much equity
- Equity increasing too fast
TYPES OF DEBTS

- Secured Debts
- Priority Debts
- Unsecured Debts
DEBTS NOT DISCHARGED

- Generally taxes
- Money borrowed on a credit card to pay taxes
- Student Loans
- Child Support and Alimony
- Fines, penalties and restitution for breaking the law
BANKRUPTCY PLANNING

- Timing the filing
- Reducing non-exempt assets
- Transfer of property
- Paying insiders
- Dischargeable taxes
- Recent use of credit
- Employment
- Inheritance
- Divorce
Sometimes sweet puppies can break the tension . . .
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Part III—Means Test

Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
PART III– MEANS TEST

SECTION 707(b)

- Cases filed by individuals with primarily consumer debts may be involuntarily dismissed if the case is an “abuse” of the provisions of Chapter 7 11 U.S.C.707(b)(1)
  - Not applicable to:
    - Qualified disabled veterans
    - Debtors whose debts are not primarily consumer debts
  - Section 707(b)(2) sets out the means test
  - Current monthly income (CMI) is defined in Section 101(10A) of the Bankruptcy Code – Form 122A-1
  - If the debtor’s CMI exceeds a defined level, the debtor is subject to the means test calculation and §707(b)(2)(C) specifically requires debtors to file a statement of CMI and the calculations that determine (the means test presumption of abuse.) – Form 122A-2

- Official Form 122A-1 – Chapter 7 Statement of Your Current Monthly Income (CMI)
  - Part 1 - Calculating the debtor’s monthly income (CMI)
  - Part 2 - Determining whether the means test applies
  - Part 3 - Signature
  - If Debtor’s income is less than the median family income for debtor’s state and family size – STOP
    - There is no presumption of abuse
  - If the debtor’s income is more than the median family income for debtor’s state and family size – you must fill out form 122A-1 Supp or form 122A-2
    - Official Form 122A-1 Supp – Statement of Exemption from Presumption of Abuse Under Section 707(b)(2)
      - Only fill out if your debts are not primarily consumer debts, or you have been on active duty performing a homeland defense activity
  - Part 1 – Identify the kind of debts debtor has – primarily consumer?
    - If yes – go to Part 2
    - If no – no assumption of abuse
    - Part 2 – Determine whether military service provisions apply
  - If after answering all of the questions, the provisions apply – STOP
If the provisions don’t apply – go to Official Form 122A-2

- Official Form 122A-2 – Chapter 7 Means Test Calculation
  - Part 1 – Determine your adjusted income (CMI)
    ✓ CMI defined – average monthly income from all sources that the debtor (or in a joint case, the debtor and debtor’s spouse) receives during the 6-month period ending on the last day of the month, immediately preceding the date of filing. 11 U.S.C. §101(10A)(A)
  - Part 2 – Calculate your deductions from your income
    ✓ Deductions under IRS Standards
    ✓ Additional Statutory Expense Deductions
    ✓ Deductions for Payment of Debt
    ✓ Total Deductions
    ✓ Determination of §707(b)(2) presumption
    ✓ Additional Claimed Deductions
  - Part 3 – Determine whether there is a presumption of abuse
    ✓ If under applicable median income or within the safe harbor – no assumption of abuse
    ✓ If over the applicable median income – there is a presumption of abuse
  - Part 4 – Give details about special circumstances
    ✓ Opportunity to rebut the presumption
      ➢ Examples:
        ▪ Lost job in current month
        ▪ Changed jobs
        ▪ Unusual expense higher than provided for in deductions
  - Part 5 – Signature

- If there is a presumption of abuse and not rebuttable
  ✓ Redo your numbers
  ✓ File Chapter 13
  ✓ Explore alternatives to bankruptcy
  ✓ Other options
The Means Test Flow Chart

Submitted by:
Carl R. Gustafson

Lincoln Law

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Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1)

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
**Official Form 122A–1**  
**Chapter 7 Statement of Your Current Monthly Income**

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 122A-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).

2. **Your gross wages, salary, tips, bonuses, overtime, and commissions** (before all payroll deductions).
   - [Column A] Debtor 1 $_________  
   - [Column A] Debtor 2 $_________  
   - [Column B] Debtor 2 or non-filing spouse $_________  

3. **Alimony and maintenance payments.** Do not include payments from a spouse if Column B is filled in.
   - [Column A] Debtor 1 $_________  
   - [Column A] Debtor 2 $_________  
   - [Column B] Debtor 2 or non-filing spouse $_________  

4. **All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support. 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.**
   - [Column A] Debtor 1 $_________  
   - [Column A] Debtor 2 $_________  
   - [Column B] Debtor 2 or non-filing spouse $_________  

5. **Net income from operating a business, profession, or farm**
   - [Debtor 1] $______  
   - [Debtor 2] $______  
   - Copy here $_________  

6. **Net income from rental and other real property**
   - [Debtor 1] $______  
   - [Debtor 2] $______  
   - Copy here $_________  

7. **Interest, dividends, and royalties**
   - [Column A] Debtor 1 $_________  
   - [Column A] Debtor 2 $_________  

---

**Check one box only as directed in this form and in Form 122A-1Supp:**

- [ ] 1. There is no presumption of abuse.
- [ ] 2. The calculation to determine if a presumption of abuse applies will be made under Chapter 7 Means Test Calculation (Official Form 122A–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**
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.
$__________ $__________

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.
$__________ $__________ $__________ $__________ $__________ $__________

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. $__________

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 122A-2. Go to Part 3 and fill out Form 122A–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.

Signature of Debtor 1 ____________________________ Signature of Debtor 2 ____________________________
Date MM / DD / YYYY Date MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Form 122A–2.
If you checked line 14b, fill out Form 122A–2 and file it with this form.
Statement of Exemption from Presumption of Abuse Under § 707(b)(2)
(Official Form 122A-1Supp)

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
Official Form 122A—1Supp
Statement of Exemption from Presumption of Abuse Under § 707(b)(2) 12/15

File this supplement together with Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1), if you believe that you are exempted from a presumption of abuse. Be as complete and accurate as possible. If two married people are filing together, and any of the exclusions in this statement applies to only one of you, the other person should complete a separate Form 122A-1 if you believe that this is required by 11 U.S.C. § 707(b)(2)(C).

Part 1: Identify the Kind of Debts You Have

1. 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." Make sure that your answer is consistent with the answer you gave at line 16 of the Voluntary Petition for Individuals Filing for Bankruptcy (Official Form 101).
   - No. Go to Form 122A-1; on the top of page 1 of that form, check box 1, There is no presumption of abuse, and sign Part 3. Then submit this supplement with the signed Form 122A-1.
   - Yes. Go to Part 2.

Part 2: Determine Whether Military Service Provisions Apply to You

2. Are you a disabled veteran (as defined in 38 U.S.C. § 3741(1))? (a) Yes. Did you incur debts mostly while you were on active duty or while you were performing a homeland defense activity?
      - No. Go to line 3.
      - Yes. Did you incur debts mostly while you were on active duty or while you were performing a homeland defense activity? 10 U.S.C. § 101(d)(1); 32 U.S.C. § 901(1).
        - No. Go to line 3.
        - Yes. Go to Form 122A-1; on the top of page 1 of that form, check box 1, There is no presumption of abuse, and sign Part 3. Then submit this supplement with the signed Form 122A-1.

3. Are you or have you been a Reservist or member of the National Guard?
   - No. Complete Form 122A-1. Do not submit this supplement.
     - No. Complete Form 122A-1. Do not submit this supplement.
     - Yes. Check any one of the following categories that applies: (a) I was called to active duty after September 11, 2001, for at least 90 days and remain on active duty.
       - No. Go to line 3.
       - Yes. I was called to active duty after September 11, 2001, for at least 90 days and was released from active duty on ________________, which is fewer than 540 days before I file this bankruptcy case.
       - Yes. I am performing a homeland defense activity for at least 90 days.
         - No. Go to line 3.
         - Yes. I performed a homeland defense activity for at least 90 days, ending on ________________, which is fewer than 540 days before I file this bankruptcy case.

If you checked one of the categories to the left, go to Form 122A-1. On the top of page 1 of Form 122A-1, check box 3. The Means Test does not apply now, and sign Part 3. Then submit this supplement with the signed Form 122A-1. You are not required to fill out the rest of Official Form 122A-1 during the exclusion period. The exclusion period means the time you are on active duty or are performing a homeland defense activity, and for 540 days afterward. 11 U.S.C. § 707(b)(2)(D)(ii). If your exclusion period ends before your case is closed, you may have to file an amended form later.
Chapter 7 Means Test Calculation
(Official Form 122A-2)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
To fill out this form, you will need your completed copy of Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-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 122A-1 here $_________

2. Did you fill out Column B in Part 1 of Form 122A–1?
   - No. Fill in $0 for the total on line 3.
   - Yes. Is your spouse filing with you?
     - No. Go to line 3.
     - Yes. Fill in $0 for the total on line 3.

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 122A–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 for the total on line 3.
   - Yes. Fill in the information below:

     State each purpose for which the income was used
     Fill in the amount you are subtracting from your spouse’s income

     ____________________________________________ $_________
     ____________________________________________ $_________
     ____________________________________________ + $_________
     Total ..................................................................... $_________

     Copy total here $_________

4. Adjust your current monthly income. Subtract the total on line 3 from line 1.

   $_________

Official Form 122A–2
Chapter 7 Means Test Calculation
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 122A–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 122A–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.

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.

<table>
<thead>
<tr>
<th>People who are under 65 years of age</th>
</tr>
</thead>
<tbody>
<tr>
<td>7a. Out-of-pocket health care allowance per person</td>
</tr>
<tr>
<td>7b. Number of people who are under 65</td>
</tr>
<tr>
<td>7c. Subtotal. Multiply line 7a by line 7b.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>People who are 65 years of age or older</th>
</tr>
</thead>
<tbody>
<tr>
<td>7d. Out-of-pocket health care allowance per person</td>
</tr>
<tr>
<td>7e. Number of people who are 65 or older</td>
</tr>
<tr>
<td>7f. Subtotal. Multiply line 7d by line 7e.</td>
</tr>
</tbody>
</table>

7g. Total. Add lines 7c and 7f. $________ Copy total here $________
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. Then divide by 60.

      | Name of the creditor | Average monthly payment |
      |----------------------|-------------------------|
      |                      | $                      |
      |                      | $                      |
      |                      | $                      |
      |                      | $                      |
      |                      | $                      |
      |                      | $                      |

      Total average monthly payment $______________________________

      Copy 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. $______________________________

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. $________________

Official Form 122A–2  Chapter 7 Means Test Calculation  page 3
### 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.

<table>
<thead>
<tr>
<th>Vehicle</th>
<th>Describe Vehicle</th>
<th>Ownership or leasing costs using IRS Local Standard</th>
<th>Average monthly payment for all debts secured by Vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>$_________</td>
<td>$_________</td>
</tr>
</tbody>
</table>

**13a.** Ownership or leasing costs using IRS Local Standard.

**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>
<thead>
<tr>
<th>Name of each creditor for Vehicle 1</th>
<th>Average monthly payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$_________</td>
</tr>
</tbody>
</table>

**Total average monthly payment:** $_________

**13c.** Net Vehicle 1 ownership or lease expense

Subtract line 13b from line 13a. If this amount is less than $0, enter $0.

Copy here:

$_________

Repeat this amount on line 33b.

<table>
<thead>
<tr>
<th>Vehicle 2</th>
<th>Describe Vehicle</th>
<th>Ownership or leasing costs using IRS Local Standard</th>
<th>Average monthly payment for all debts secured by Vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td>$_________</td>
<td>$_________</td>
</tr>
</tbody>
</table>

**13d.** Ownership or leasing costs using IRS Local Standard.

**13e.** Average monthly payment for all debts secured by Vehicle 2.

Do not include costs for leased vehicles.

<table>
<thead>
<tr>
<th>Name of each creditor for Vehicle 2</th>
<th>Average monthly payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$_________</td>
</tr>
</tbody>
</table>

**Total average monthly payment:** $_________

**13f.** Net Vehicle 2 ownership or lease expense

Subtract line 13e from 13d. If this amount is less than $0, enter $0.

Copy here:

$_________

Repeat this amount on line 33c.

### Public Transportation Expense:

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**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.

\[ \text{Amount} \]

**23. Optional telephones and telephone services:** The total monthly amount that you pay for telecommunication services for you and your dependents, such as pagers, call waiting, caller identification, special long distance, 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 5 of Official Form 122A-1, or any amount you previously deducted.

\[ \text{Amount} \]

**24. Add all of the expenses allowed under the IRS expense allowances.**

Add lines 6 through 23.

\[ \text{Total} \]
### Additional Expense Deductions

These are additional deductions allowed by the Means Test.

**Note:** Do not include any expense allowances listed in lines 6-24.

<table>
<thead>
<tr>
<th>Expense Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health insurance, disability insurance, and health savings account expenses.</td>
<td>$________</td>
</tr>
<tr>
<td>Disability insurance</td>
<td>$________</td>
</tr>
<tr>
<td>Health savings account</td>
<td>$________</td>
</tr>
<tr>
<td>Total</td>
<td>$________</td>
</tr>
<tr>
<td>Do you actually spend this total amount?</td>
<td></td>
</tr>
<tr>
<td>No. How much do you actually spend?</td>
<td>$________</td>
</tr>
<tr>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

26. **Continuing 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. These expenses may include contributions to an account of a qualified ABLE program. 26 U.S.C. § 529A(a).

$________

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 insurance and operating expenses on line 8. If you believe that you have home energy costs that are more than the home energy costs included in expenses on line 8, 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 $160.42* 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 4/01/19, 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.

$________
Debtor 1 _______________________________________________________ Case number (if known)_____________________________________

First Name Middle Name Last Name

IIIFLDO)RUP$± Chapter 7 Means Test Calculation
page

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 33e.

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 ................................................................. ➤ $____________

Loans on your first two vehicles:
33b. Copy line 13b here. ................................................................. ➤ $___________
33c. Copy line 13e here. ................................................................. ➤ $___________
33d. List other secured debts:

<table>
<thead>
<tr>
<th>Name of each creditor for other secured debt</th>
<th>Identify property that secures the debt</th>
<th>Does payment include taxes or insurance?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$____________</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$____________</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$____________</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>+ $____________</td>
</tr>
</tbody>
</table>

33e. Total average monthly payment. Add lines 33a through 33d.  $____________

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 33, to keep possession of your property (called the cure amount). Next, divide by 60 and fill in the information below.

<table>
<thead>
<tr>
<th>Name of the creditor</th>
<th>Identify property that secures the debt</th>
<th>Total cure amount</th>
<th>Monthly cure amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>$________ + 60 = $</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$________ + 60 = $</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$________ + 60 = $</td>
<td>+ $____________</td>
</tr>
</tbody>
</table>

Total $____________

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 = $________
   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).

   $_____________  Copy total here $_________

   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.

37. Add all of the deductions for debt payment.
   Add lines 33e through 36. .............................................................................................................................................................. $_________

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 ........................................................................................................................................................................ $_________

39. Calculate monthly disposable income for 60 months

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

   39b. Copy line 38, Total deductions.............. $_________


   Subtract line 39b from line 39a. $_________  Copy here $_________

   For the next 60 months (5 years) ................................................................. $_________

   $_________  Copy here $_________

39d. Total. Multiply line 39c by 60. .............................................................................................................................................................. $_________

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

   ☐ The line 39d is less than $7,700*. 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 $12,850*. 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 $7,700*, but not more than $12,850*. Go to line 41.

   * Subject to adjustment on 4/01/19, and every 3 years after that for cases filed on or after the date of adjustment.
41a. Fill in the amount of your total nonpriority unsecured debt. If you filed out A Summary of Your Assets and Liabilities and Certain Statistical Information Schedules (Official Form 106Sum), you may refer to line 3b on that form. 

\[
\text{\textbf{\$____________________}} \\
\text{\times 0.25} \\
\text{\textbf{\$____________________}}
\]

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

\[
\text{\textbf{\$____________________}}} \\
\text{\textbf{\$____________________}}
\]

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>
<thead>
<tr>
<th>Give a detailed explanation of the special circumstances</th>
<th>Average monthly expense or income adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$$</td>
</tr>
<tr>
<td></td>
<td>$$</td>
</tr>
<tr>
<td></td>
<td>$$</td>
</tr>
<tr>
<td></td>
<td>$$</td>
</tr>
</tbody>
</table>

**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

<table>
<thead>
<tr>
<th>Date MM / DD / YYYY</th>
<th>Date MM / DD / YYYY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
11 U.S.C. §707—Dismissal of a Case or Conversion to a Case Under Chapter 11 or 13

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13

(a) The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including—

(1) unreasonable delay by the debtor that is prejudicial to creditors;
(2) nonpayment of any fees or charges required under chapter 123 of title 28; and
(3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521 (a), but only on a motion by the United States trustee.

(b) (1) After notice and a hearing, the court, on its own motion or on a motion by the United States trustee, trustee (or bankruptcy administrator, if any), or any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts, or, with the debtor’s consent, convert such a case to a case under chapter 11 or 13 of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter. In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of “charitable contribution” under section 548 (d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548 (d)(4)).

(2) (A) (i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor’s current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

(I) 25 percent of the debtor’s nonpriority unsecured claims in the case, or $6,000, whichever is greater; or
(II) $10,000.

(ii) (I) The debtor’s monthly expenses shall be the debtor’s applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor’s actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor’s monthly expenses shall include the debtor’s reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 302 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor’s monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor’s monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.
(II) In addition, the debtor’s monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor’s immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

(III) In addition, for a debtor eligible for chapter 13, the debtor’s monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

(IV) In addition, the debtor’s monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

(V) In addition, the debtor’s monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

(iii) The debtor’s average monthly payments on account of secured debts shall be calculated as the sum of—

(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the filing of the petition; and

(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor’s primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor’s dependents, that serves as collateral for secured debts; divided by 60.

(iv) The debtor’s expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

(B) (i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

(I) documentation for such expense or adjustment to income; and

(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.
(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor’s current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

(I) 25 percent of the debtor’s nonpriority unsecured claims, or $6,000, whichever is greater; or

(II) $10,000.

(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor’s current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing—

(i) if the debtor is a disabled veteran (as defined in section 3741 (1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

(I) on active duty (as defined in section 101 (d)(1) of title 10); or

(II) performing a homeland defense activity (as defined in section 901 (1) of title 32); or

(ii) with respect to the debtor, while the debtor is—

(I) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101 (d)(1) of title 10) of not less than 90 days; or

(II) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901 (1) of title 32) performed for a period of not less than 90 days;

if after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted, the court shall consider—

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor’s financial situation demonstrates abuse.

(4) (A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707 (b), including reasonable attorneys’ fees, if—

(i) a trustee files a motion for dismissal or conversion under this subsection; and

(ii) the court—

(I) grants such motion; and

(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and
(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

(ii) determined that the petition, pleading, or written motion—

(I) is well grounded in fact; and

(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

(5) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

(i) the court does not grant the motion; and

(ii) the court finds that—

(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

(C) For purposes of this paragraph—

(i) the term “small business” means an unincorporated business, partnership, corporation, association, or organization that—

(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

(II) is engaged in commercial or business activity; and

(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

(I) a parent corporation; and

(II) any other subsidiary corporation of the parent corporation.

(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707 (b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor’s spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or
(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

(7) (A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor, including a veteran (as that term is defined in section 101 of title 38), and the debtor’s spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

(B) In a case that is not a joint case, current monthly income of the debtor’s spouse shall not be considered for purposes of subparagraph (A) if—

(i) (I) the debtor and the debtor’s spouse are separated under applicable nonbankruptcy law; or

(II) the debtor and the debtor’s spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

(ii) the debtor files a statement under penalty of perjury—

(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor’s spouse attributed to the debtor’s current monthly income.

(c) (1) In this subsection—

(A) the term “crime of violence” has the meaning given such term in section 16 of title 18; and

(B) the term “drug trafficking crime” has the meaning given such term in section 924 (c)(2) of title 18.

(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.

Adjustment of Dollar Amounts

For adjustment of certain dollar amounts specified in this section, that is not reflected in text, see Adjustment of Dollar Amounts note below.

Historical and Revision Notes

legislative statements

Section 707 of the House amendment indicates that the court may dismiss a case only after notice and a hearing.

senate report no. 95–989

This section authorizes the court to dismiss a liquidation case only for cause, such as unreasonable delay by the debtor that is prejudicial to creditors or nonpayment of any fees and charges required under chapter 123 [§ 1911 et seq.] of title 28. These causes are not exhaustive, but merely illustrative. The section does not contemplate, however, that the ability of the debtor to repay his debts in whole or in part constitutes adequate cause for dismissal. To permit dismissal on that ground would be to enact a non-uniform mandatory chapter 13, in lieu of the remedy of bankruptcy.

References in Text


The Federal Rules of Bankruptcy Procedure, referred to in subsec. (b)(4)(A), (B), (5)(A), are set out in the Appendix to this title.

Amendments


2008—Subsec. (b)(2)(D). Pub. L. 110–438 substituted “testing—” for “testing,” in introductory provisions, inserted cl. (i) designation before “if the debtor”, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and added cl. (ii).

2005—Pub. L. 109–8, § 102(a)(1), substituted “Dismissal of a case or conversion to a case under chapter 11 or 13” for “Dismissal” in section catchline.

Subsec. (b). Pub. L. 109–8, § 102(a)(2), redesignated existing provisions as par. (1), substituted “trustee (or bankruptcy administrator, if any), or” for “but not at the request or suggestion of” and “an abuse” for “a substantial abuse”, inserted “, or, with the debtor’s consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”, struck out “There shall be a presumption in favor of granting the relief requested by the debtor” before “In making”, and added pars. (2) to (7).

Subsec. (c). Pub. L. 109–8, § 102(f), added subsec. (c).

1998—Subsec. (b). Pub. L. 105–183 inserted at end “In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of “charitable contribution” under section 548 (d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548 (d)(4)).”


Subsec. (b). Pub. L. 99–554, § 219(b), substituted “motion or on a motion by the United States trustee, but” for “motion and”.

1984—Pub. L. 98–353 designated existing provisions as subsec. (a) and in pars. (1) and (2) substituted “or” for “and”, and added subsec. (b).
Effective Date of 2008 Amendment

“(a) Effective Date.—Except as provided in subsection (b), this Act [amending this section and enacting provisions set out as a note under section 101 of this title] and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act [Oct. 20, 2008].

“(b) Application of Amendments.—The amendments made by this Act [amending this section] shall apply only with respect to cases commenced under title 11 of the United States Code in the 7-year period beginning on the effective date of this Act.”

Effective Date of 2005 Amendment
Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of this title.

Effective Date of 1998 Amendment
Amendment by Pub. L. 105–183 applicable to any case brought under an applicable provision of this title that is pending or commenced on or after June 19, 1998, see section 5 of Pub. L. 105–183, set out as a note under section 544 of this title.

Effective Date of 1986 Amendment
Effective date and applicability of amendment by Pub. L. 99–554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99–554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Effective Date of 1984 Amendment
Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.

Schedules of Reasonable and Necessary Expenses
Pub. L. 109–8, title I, § 107, Apr. 20, 2005, 119 Stat. 42, provided that: “For purposes of section 707 (b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act [Apr. 20, 2005], issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.”

Adjustment of Dollar Amounts
The dollar amounts specified in this section were adjusted by notices of the Judicial Conference of the United States pursuant to section 104 of this title as follows:

By notice dated Feb. 19, 2010, 75 F.R. 8747, effective Apr. 1, 2010, in subsec. (b)(2)(A)(i)(I), dollar amount “6,575” was adjusted to “7,025”; in subsec. (b)(2)(A)(i)(II), dollar amount “10,950” was adjusted to “11,725”; in subsec. (b)(2)(A)(ii)(IV), dollar amount “1,650” was adjusted to “1,775”; in subsec. (b)(2)(B)(iv)(II), dollar amount “10,950” was adjusted to “11,725”; in subsec. (b)(5)(B), dollar amount “1,100” was adjusted to “1,175”; in subsec. (b)(6)(C), dollar amount “575” was adjusted to “625”; and, in subsec. (b)(7)(A)(iii), dollar amount “575” was adjusted to “625”. See notice of the Judicial Conference of the United States set out as a note under section 104 of this title.

By notice dated Feb. 7, 2007, 72 F.R. 7082, effective Apr. 1, 2007, in subsec. (b)(2)(A)(i)(I), dollar amount “6,000” was adjusted to “6,575”; in subsec. (b)(2)(A)(i)(II), dollar amount “10,950” was adjusted to “10,950”; in subsec. (b)(2)(A)(ii)(IV), dollar amount “1,500” was adjusted to “1,650”; in subsec. (b)(5)(B), dollar amount “1,000” was adjusted to “1,100”; in subsec. (b)(6)(C), dollar amount “252” was adjusted to “255”; and, in subsec. (b)(7)(A), dollar amount “525” was adjusted to “575”.

Rules Promulgated by Supreme Court
United States Supreme Court to prescribe general rules implementing the practice and procedure to be followed under subsec. (b) of this section, with section 2075 of Title 28, Judiciary and Judicial Procedure, to apply with respect to such general rules, see section 320 of Pub. L. 98–353, set out as a note under section 2075 of Title 28.
Statement of the U.S. Trustee Program’s Position on Legal Issues Arising Under the Chapter 7 Means Test

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
STATEMENT OF THE U.S. TRUSTEE PROGRAM'S POSITION ON LEGAL ISSUES ARISING UNDER THE CHAPTER 7 MEANS TEST

Following is a line-by-line summary of Form 22A and various recurring disposable income issues likely to arise in chapter 7 under the BAPCPA provisions of 11 U.S.C. § 707(b). The summary gives the position of the United States Trustee Program (USTP) on these issues. For ease of reference, the USTP positions are listed in summary fashion without citation to legal authority. The referenced lines are those on the Form 22A. Unless a circuit court has decided an issue to the contrary, United States Trustees should, absent unusual circumstances, maintain these positions when interpreting section 707(b).

Line 1A, Declaration of Disabled Veterans

- Must have at least 30% disability from service or released/discharged due to disability.
- Debt primarily incurred during period of active duty/homeland defense activity.
- Only if BOTH conditions apply is debtor exempt from further completing Form 22A.

Line 1B, Declaration of Non-Consumer Debts

- Less than 50% of total scheduled debt was incurred for personal, household or family purposes.
- Purpose of debt is judged at the time the debt was incurred.
- Home mortgages are typically consumer debt.
- Most tax debts are not typically consumer debt.

Line 1C, Declaration of Reservists and National Guard Exclusion

- Must be either a member of a reserve component or National Guard; AND
- Must have been on active duty or performing a homeland defense activity for at least 90 days.
- Exclusion applies after the minimum 90 day period of service, and for 540 days after the service ends.
- Exclusion applies only to cases filed between December 19, 2008 and December 18, 2011, unless extended by Congress.

Line 2, Filing Status

- The only four options permitted are those listed on the Form 22A.
- No option for legally separated but filing joint case; joint cases generally should be treated as a single household for means test purposes.
  - May be asserted as special circumstances to rebut the presumption of abuse under section 707(b)(2)(B).
  - May be considered by the UST when stating the reasons under section 704(b)(2) that a motion to dismiss is not appropriate.
• Information should be consistent with household size on Schedule I.

Line 3, Gross wages, salary, tips, bonuses, overtime, commissions.
  • Includes pay/shift differentials.
  • Includes income, whether or not taxable.
  • Figures are gross amounts, before any deductions.

Lines 4 & 5, Business and real property income and expenses.
  • Must be "ordinary and necessary," i.e., a reasonable operating expense.
  • Depreciation is not included.
  • Line "c" cannot be a negative number.

Line 6, Interest, dividends, and royalties.
  • Includes automatic dividend reinvestment program.

Line 7, Pension and retirement income.
  • Does not include Social Security payments.
  • Includes all other retirement, including government, 401(k), and IRA.

Line 8, Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor’s dependents, including child or spousal support.
  • Includes payments made monthly, quarterly, or annually.
  • Includes payments regardless of written agreement with contributor.
  • Includes payments from roommate, partner, parent, or relative, regardless of whether living with debtor.
  • Includes payments made directly to creditors on behalf of debtor, e.g., rent, car, or insurance.
  • Does not include payments from non-filing spouse (which are already included as income in Column B).

Line 9, Unemployment compensation.
  • Unemployment compensation is not a "benefit under SSA" and should be included; USTP opposes any entry in the boxes to the left of Columns A and B.
Line 10, Income from all other sources.

- Includes net gambling, cash gifts, litigation proceeds, and trust income.
- Includes private disability income.
- Does not include SSA benefits.
- Does not include tax refunds.
- Does not include loan proceeds.
- Whether it meets IRS test for income could be relevant, but whether it is taxable income or non-taxable income is not a factor.

Line 14, Applicable median family income.

- "Applicable state" is state of residence at filing.
- If married and two different households, residence is where most family members reside.
- If no plurality of family members are in any one state, use state of spouse with highest income.
- "Household size" is the debtor, debtor’s spouse, and any dependents that the debtor could claim under IRS dependency tests. The USTP uses the same IRS test for the definition of both "household" and "family." IRS Publication 501 explains the IRS tests for "dependent.”
- The USTP departs from the IRS dependent test (as does the IRS when it determines family size for collection purposes) in cases justifying "reasonable exceptions" (e.g. a long standing economic unit of unmarried individuals and their children). However, if an individual is counted as a family member for median income purposes, that individual’s income should be included as income on Part II of Form 22A.

Line 17, Marital adjustment.

- All income of the non-debtor spouse should be included, except the following expenses of the non-debtor spouse may be excluded:
  - withholding taxes;
  - student loan payments;
  - prior support obligations;
  - debt payments on which only the non-filing spouse is legally liable and where the consideration for the loan exclusively benefits the non-filing spouse. (Credit cards used to pay for household expenses may not be deducted on Line 17).
Line 19A, National Standards: food, apparel and services, housekeeping supplies, personal care, and miscellaneous.

- The following expenses are covered by the National Standards and may not be counted separately elsewhere:
  - apparel and services (includes shoes and clothing, laundry and dry cleaning, and shoe repair);
  - meals at home or away (unless unreimbursed business expenses);
  - housekeeping supplies (includes laundry and cleaning supplies; other household products such as cleaning and toilet tissue, paper towels and napkins; lawn and garden supplies; postage and stationary; and other miscellaneous household supplies);
  - personal care products and services (includes hair care products, haircuts and beautician services, oral hygiene products and articles, shaving needs, cosmetics, perfume, bath preparations, deodorants, feminine hygiene products, electric personal care appliances, personal care services, and repair of personal care appliances)
  - miscellaneous personal expenses.
- National Standard amount that may be claimed is based on the debtor, the debtor’s dependents, and the debtor’s spouse in a joint case if the spouse is not otherwise a dependent.


- National Standard amounts may be claimed based on debtor, debtor’s dependents, debtor’s spouse, and the age of household members.
- Actual mounts expended by the debtor exceeding the National Standards that are required for the health and welfare of the debtor, debtor’s dependents, and debtor’s spouse, which are not reimbursed by insurance or paid by a health savings account, may be claimed on line 31.

Line 20A, Local Standards: housing and utilities; non-mortgage expenses.

- Based on county of residence; see line 14 for resolving multiple residences.
- The following expenses are covered by the Local Standards and may not be counted elsewhere:
  - maintenance and repair;
  - homeowner association dues;
  - condominium fees;
  - gas, electricity, water, heating oil, bottled gas, trash and garbage collection, wood and other fuels, septic cleaning;
  - basic telephone and cell phone service.

Line 20B, Local Standards: housing and utilities, mortgage/rent expense.
Based on county of residence; see line 14 for resolving multiple residences.

The following are included in the Local Standard and may not be counted elsewhere, except as provided on lines 42 and 43:
- principal and interest on mortgage loan;
- rent;
- homeowners/renters insurance;
- local property taxes.

Line 20B(b) is the same figure as line 42 for house payments.

Debtor may not "double dip," that is take the full amount of the Local Standard for mortgage/rent on line 20B(a) and then fail to deduct the monthly mortgage payment on line 20B(b). The overall effect of disallowing double-dipping is to allow the debtor to take only the higher of the actual mortgage payment or the Local Standard.

If the home is being surrendered, the debtor may not include the mortgage payment on lines 42 and 43, and may not deduct the mortgage payment on line 20B(b). The debtor may, however, claim the full amount of the Local Standard for housing on line 20A.

Debtors and joint debtors are entitled to only one Local Standard mortgage/rent payment, even if maintaining two separate households.

Vacation homes do not entitle a debtor to the Local Standard on line 20B.

Debtor may not claim a Local Standard on line 20B when the debtor:
- is and has been living with a friend or relative for an extended period of time at no cost;
- is and has been living in military or other employer-paid housing.

**Line 21, Local Standards: housing and utilities; adjustment.**

- This line is often used improperly by debtors to claim housing expenses in excess of the IRS standards; USTP policy is to object to that use of line 21.
- This line is occasionally used by debtors who claim that Form 22A incorrectly captures the separation of the IRS housing Local Standard into two components, a mortgage component and a non-mortgage component; the USTP will object to that use of line 21.

**Line 22A, Local Standards: transportation, vehicle operation/public transportation expense.**

- Based on metro area or region.
- See line 14 to resolve multiple residences.
- The Local Standard for vehicle operation may be taken when the debtor owns, leases, or pays the operating expenses on a vehicle.
- The Local Standard for vehicle operation for zero vehicles may be taken if the debtor does not own, operate, or pay operating expenses on any vehicle.
- A vehicle must be "street ready" and licensable.
- A vehicle designed without an engine does not qualify, e.g., camper or trailer.
- Debtors located outside of the Fifth, Seventh, and Eighth Circuits who operate
vehicles not subject to a loan or lease may deduct an additional $200 if the vehicle is owned by the debtor, and is older than six (6) model years or has more than 75,000 miles.

**Line 22B, Local Standards: transportation, additional public transportation expense.**

- If debtor claims vehicle operating expense for one or more vehicles on Line 22A, debtor may only claim additional public transportation expense if reasonable and necessary for the health and welfare of the debtor, debtor’s dependents, and debtor’s spouse, or for the production of income.
- If additional public transportation expense is applicable, it is capped by Local Standard amount for public transportation.

**Lines 23 & 24, Local Standards: transportation ownership/lease expenses.**

- Outside the Fifth, Seventh, and Eighth circuits, debtor cannot claim the vehicle ownership expense if the debtor does not have a secured loan or a lease on the vehicle.
- In the Fifth, Seventh, and Eighth circuits debtor may claim this expense if the debtor owns a vehicle regardless of whether the debtor has a loan or lease payment. However, if the debtor owns a vehicle free and clear the USTP position is that the lack of any actual ownership expense may be considered in determining whether the case constitutes an abuse under the totality of the debtor’s financial circumstances pursuant to section 707(b)(3)(B).
- If the vehicle is being surrendered without replacement, the debtor may not claim the expense. *But see* discussion regarding line 42.
- If the vehicle is borrowed, the debtor may not claim the expense.
- Debtor may not "double dip," that is take the full amount of the vehicle ownership expense on line 23(a) and then fail to deduct the monthly lien payment on line 23(b). The overall effect is to allow the debtor to take the higher of the actual loan or lease payment and vehicle ownership expense.
- A debtor whose household contains a single driver is generally entitled to an ownership expense for only one vehicle.

**Line 25, Other Necessary Expenses: taxes.**

- Based on monthly amount of actual taxes owed, not taxes withheld.
- Includes FICA, Social Security, Medicare, state and local taxes.
- Non-debtor spouse’s taxes is not included if "backed out" on line 17.

**Line 26, Other Necessary Expenses: involuntary deductions for employment.**

- Includes retirement, union dues, uniform costs, work shoes.
- Does not include voluntary 401(k) contributions, voluntary 401(k) loan repayments,
or other voluntary retirement or profit sharing deductions.

- Does not include United Way or charitable contributions.
- Does not include elective insurance.

Line 27, Other Necessary Expenses: life insurance.

- Includes only amounts for term insurance on the debtor’s life.
- If the policy is whole life, debtor must determine what portion of the premium is attributable to term coverage.
- Does not include premiums on policies for non-debtor spouse or children.

Line 28, Other Necessary Expenses: court-ordered payments.

- Includes the current monthly amount of support and alimony, not any past due amounts, which are entered on line 44.
- Does not include purely voluntary amounts for which there is no legal obligation.

Line 29, Other Necessary Expenses: education for employment or for a physically or mentally challenged child.

- Employment education must be as a condition of employment.
- Expenses for challenged children must be for "health or welfare."
- Expenses for challenged children cannot be otherwise provided by public school system.
- Expenses for challenged children cannot be already included on line 30 or 38.

Line 30, Other Necessary Expenses: childcare.

- These are actual expenses only.
- Includes babysitting, nursery school, daycare, preschool.
- Premium daycare may be permitted, depending on the justification.
- May not be permitted if one parent is "stay at home;" depends on the circumstances.

Line 31, Other Necessary Expenses: health care.

- Includes only unreimbursed, out-of-pocket expenses, exceeding the National Standard amounts provided for at line 19B, including items traditionally reimbursable through a flexible spending or “cafeteria” medical saving plan. For example:
  - deductibles
  - medications
  - therapy
  - co-pays
- Does not include payments for health insurance or health savings account; those are
covered by line 34.
- Does not include elective or cosmetic surgery.
- May not duplicate items on line 34.

**Line 32, Other Necessary Expenses: telecommunication services.**
- Does not include basic phone or cell service, which is included in the Local Standards on line 20A.
- Pagers, call waiting, long distance, caller ID, and internet may be included, depending on amount and circumstance; test is whether "necessary for health and welfare or production of income."
- Does not include business expenses already deducted on line 4b or 5b.

**Line 34, Health Insurance, Disability Insurance, and Health Savings Account Expenses.**
- Includes actual expense for debtor, spouse, and dependents.
- Does not include flexible spending account or “cafeteria” medical saving plan contributions, which should be deducted as excess costs on line 31 to the extend they exceed to line 19B IRS standard amounts.

**Line 35, Continued contributions to the care of household or family members.**
- Includes only actual, not anticipated expenses.
- Family member must live with the debtor or be a member of the debtor’s immediate family, i.e., parent, grandparent, sibling, child, grandchild.
- Elderly, chronically ill, or disabled person must be unable to pay the expense.

**Line 36, Protection against family violence.**
- Include only ongoing expenses related to a real threat.
- Legal costs related to a restraining order may qualify.
- Home security system costs will not qualify in all cases.
- Nature of expense, but not the amount, must be kept confidential by the court.

**Line 37, Home energy costs.**
- Insert the amount by which the twelve-month average home energy costs exceed line 20A.
- Amount claimed is unlimited, but must be documented.

**Line 38, Education expenses for dependent children under 18.**
- Includes public or private elementary or secondary education.
- Does not include college or preschool education.
Child must be under 18 at filing.

Amount may not exceed $147.92 per child.

Expenses must be documented.

Cannot duplicate expenses claimed on line 30.

Does not include school lunches, which are included in National Standards on line 19A.

Can include home schooling expenses.

Line 39, Additional food and clothing expense.

- The USTP Web site breaks out the food/clothing standard for application of the 5 percent limit.
- Expenses must be actual, not merely anticipated.
- Special dietary and allergy restrictions can be covered.
- Documentation is required.

Line 40, Continued charitable contributions.

- Contribution is limited to 15 percent of gross income.
- The USTP position is that charitable contributions under section 707(b) are available to both below median and above median debtors. The Religious Liberty and Charitable Donation Clarification Act of 2006, Pub. L. 109-439 clarifies the Bankruptcy Code to ensure that above-median debtors may make continued charitable contributions.

Line 42, Future payments on secured claims.

- Total all payments coming due in the 60 months following filing and divide by 60.
- In the case of a variable rate loan, use the loan rate in effect on the petition date to calculate the payments.
- In the case of a "balloon" payment within 60 months, use the full amount of the balloon to calculate the average payment.
- Does not include property subject to a lease rather than a loan.
- Includes all secured debt, even "toys" and luxury items. Although the USTP position is to allow secured payments for luxury items on this line, the Program believes that luxury expenses may demonstrate that a petition was filed in bad faith warranting dismissal of the case under section 707(b)(3)(A), and may be considered in determining the totality of the debtors financial circumstances under section 707(b)(3)(B).
- Includes a secured loan payment, even when the value of the collateral is less than the amount of the loan.
- Outside the First Circuit, does not include payments when the debtor intends to surrender the collateral securing the loan.
- In the First Circuit, debtor may include payments on line 42 when the debtor intends...
to surrender the collateral securing the loan. However, the USTP position is that the failure of the debtor to continue to make the payments post-petition in surrendering the property may be considered in determining the totality of the debtor’s financial circumstances under section 707(b)(3)(B).

**Line 43, Other payments on secured claims.**

- Does not include arrearage on luxury items; the item must be "necessary for the support of the debtor or dependents."
- See line 42 for a discussion of when the collateral is surrendered.

**Line 44, Payments on prepetition priority claims.**

- The total of priority debt includes only amounts due as of filing.
- Does not include figures already listed on line 28.

**Line 45, Chapter 13 administrative expenses.**

- Debtor must project a hypothetical chapter 13 plan payment to calculate the figure on line 45a. The USTP does not insist on mathematical exactitude and allows a reasonable estimation of the hypothetical chapter 13 plan payment.
- Generally the plan payment should be calculated based on the amount of monthly disposable income suggested by the completion of the means test, or shown on Schedules I and J.
- The multiplier for line 45b is found on the USTP Web site by state.

**Line 56, Other Expenses.**

- Generally this line should be used to assert special circumstances to rebut the presumption of abuse under section 707(b)(2)(B).
- Also may provide information for the UST to consider under section 704(b)(2) when determining whether a motion to dismiss is appropriate.
- Should not be included by debtor in calculating disposable income on line 51, or in determining whether the presumption of abuse arises on lines 52-55.

April 23, 2010
Part III: Means Test (PowerPoint slides)

Sally J. Elkington  
*Elkington Shepherd LLP*

Carl R. Gustafson  
*Lincoln Law*

Sarah Lampi Little  
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART III: MEANS TEST

SECTION 707(b)
The means test requires:

- Determine if Debtor is exempt from Means Test
- Calculating the **debtor’s** income and determining if the income is above-median.
- If above median, computing the allowed deductions and expenses and debt payments, and
- Establishing whether the debtor’s income, after the allowed deductions triggers the presumption of abuse.
Official Form 122A-1 – Chapter 7
Statement of Your Current Monthly Income

- Part 1 – Calculating the Debtor(s)’ monthly income (CMI)
- Part 2 – Determining whether the means test applies
- Part 3 – Signature
Official Form 122A-1 Supp – Statement of Exemption from Presumption of Abuse Under Section 707(b)(2)

Only fill out if your debts are not primarily consumer debts, or you have been on active duty performing a homeland defense activity.
Part 1 – Identify the kinds of debts Debtor has

Part 2 – Determine whether military service provisions apply

– primarily consumer?
What is considered “Primarily Consumer Debt”? 

- Was the debt incurred primarily for personal, family or household purpose?
- Student loans can be “consumer debts” or not
- Mortgage debts probably consumer debts
- Tax debts generally not consumer debts
- Debt related to car accident not consumer
- Primarily = More than 50% of debt is consumer
Official Form 122A-2 – Chapter 7 Means Test Calculation

- Part 1 – Determine your adjusted income (CMI)
- Part 2 – Calculate your deductions from your income
- Part 3 – Determine whether there is a presumption of abuse
- Part 4 – Give details about special circumstances
- Part 5 – Signature
Calculate Income

- Use data from last 6 months’ ending the month before case filed
- Know what you must include and what is not included
- Know whether you must use gross receipts from self employment or net income
  - *In re Wiegand*, 386 B.R. 238 (9th Cir. BAP 2008)
Household Size

- Means test uses household size to determine median income and amount of allowances
- Heads on beds approach
- Economic unit approach
- Must include contributions for household expenses from members of household as income
Deductions Issues

- Compulsory retirement contributions allowed as deductions but Voluntary deductions NOT ALLOWED
- Tax withholdings on paychecks may be over or understated
- Child care deductible but private school tuition and other education expenses limited
- Vehicle operating expense allowed up to two cars but ownership expense only allowed if there is debt owed
Test Failure Creates a Presumption of Abuse

- Chapter 7 Trustee may make referral to United States Trustee
- United States Trustee may bring Motion to Dismiss under 11 U.S.C. 707(b)
- Presumption can be rebutted; examine your facts!
Oh No! Now What?

If there is a presumption of abuse and not rebuttable, what can you do?

- Redo your numbers. Have you missed anything?
- File Chapter 13?
- Explore alternatives to bankruptcy?
- Anything else?
Part IV: Filing a Chapter 7 Bankruptcy Case

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART IV – FILING A CHAPTER 7 BANKRUPTCY CASE

BASIC THREE REQUIREMENTS TO FILE BANKRUPTCY

- Filling out the official bankruptcy forms
- Take a pre-bankruptcy credit counseling course
  - Agency must be approved by the US trustee’s office within 180-day period before the bankruptcy filing
- Pay the filing fee – currently $335

CREDIT COUNSELING

- Who must take credit counseling
  - Exceptions:
    - UST determines that no courses are available in your district
      - Not very likely scenario
    - Exigent Circumstances
    - Incapacitated, have a disability or on active military duty in a combat zone

PETITION AND SCHEDULES

- Skeletal Filing – 14 days to complete or automatic dismissal
  - Petition
  - Matrix
  - Statement of Social Security
  - Filing Fee or Application for waiver or request for payments
  - Credit Counseling Certificate
- Full Filing - All of the above plus:
  - Schedule of Assets and Liabilities
  - Summary of Assets and Liabilities and Certain Statistical Information
  - Schedules A – J
  - Declaration regarding schedules
  - Statement of Financial Affairs – SOFA
  - Statement of Intention
  - Statement of social security number
  - Chapter 7 Statement of Your Current Monthly Income – Form 122A-1
  - Chapter 7 Means Test Calculation – Form 122A-2 – If necessary
  - Statement of Exemption from Presumption of Abuse Under §707(b)(2)
  - Disclosure of Compensation to Debtor’s Attorney
  - Creditor Matrix
• Fee Waiver – Form B 103B
  o Income must be 150% of poverty line
    ✓ www.uscourts.gov – at bottom of page, click on Bankruptcy, then Chapter 7 Fee Waiver Procedures and Resources and then 150 Percent of the HHS Poverty Guidelines
  o Unable to pay in installments
  o Individual (no business filings)
  o Only available in Chapter 7 filing
• Application to Pay Filing Fee in Installments – Form B 103A
  o Must pay entire fee within 120 days after you file and Court must approve payment timetable.
  o Case will be dismissed if you don’t pay the entire fee

FILING REQUIREMENTS

• Electronic Filing System – ECF
• Emergency situation

REAFFIRMATION, SURRENDER, REDEMPTION (STATEMENT OF INTENTION)

• REAFFIRMATION
  o Debtor wants to keep property that is a secured debt
  o Keep same terms or negotiate better terms
  o Agreement made between debtor and creditor that waives discharge of a debt that would otherwise be discharged in return for paying off the debt
  o Creditor prepares reaffirmation agreement

• SURRENDER
  o Debtor doesn't want property anymore
  o Surrender it back to the lender and discharge all the debt owed on the property
    ✓ Some property will never be picked up – what to do?
    ✓ Mattresses, air conditioning, flooring

• REDEMPTION
  • Keep secured property by paying the creditor the replacement value of the property
    ✓ Good option if debtor owes substantially more than what property is worth
    ✓ Can only redeem if meet following requirements:
• Debt is a consumer debt on goods used for personal of household purposes
• Property is personal property, i.e., not real estate
• Property is tangible
• Property is exempt or trustee has abandoned it

AMENDING THE SCHEDULES

• You should amend the schedules as soon as you discover the mistake or what is incorrect
• You should amend any part of the bankruptcy that is incorrect
• Debtor must sign a declaration for the amended part of the bankruptcy
  ✓ e-signing not allowed

FINANCIAL MANAGEMENT CERTIFICATE

○ Before a debtor can receive a discharge in Chapter 7 or Chapter 13, she or he must complete a course in personal financial management
  ✓ Purpose is to teach debtor how to manage money and use credit wisely after bankruptcy
Bankruptcy Official Form 101—Voluntary Petition for Individuals Filing for Bankruptcy

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
Fill in this information to identify your case:

United States Bankruptcy Court for the:
NORTHERN DISTRICT OF CALIFORNIA

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:

1. Your full name
   - Write the name that is on your government-issued picture identification (for example, your driver's license or passport).
   - Bring your picture identification to your meeting with the trustee.
   - Sample
     - First name
     - Middle name
     - Last name and Suffix (Sr., Jr., II, III)

2. All other names you have used in the last 8 years
   - Include your married or maiden names.

3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)

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

- First name
- Middle name
- Last name and Suffix (Sr., Jr., II, III)
Debtor 1  Sample Sample Sample  
Case number (if known) 

<table>
<thead>
<tr>
<th>4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have not used any business name or EINs.</td>
</tr>
<tr>
<td>Business name(s)</td>
</tr>
<tr>
<td>EINs</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Where you live</th>
</tr>
</thead>
<tbody>
<tr>
<td>If Debtor 2 lives at a different address:</td>
</tr>
<tr>
<td>Number, Street, City, State &amp; ZIP Code</td>
</tr>
<tr>
<td>County</td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td>Number, P.O. Box, Street, City, State &amp; ZIP Code</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Why you are choosing this district to file for bankruptcy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Check one:</td>
</tr>
<tr>
<td>Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.</td>
</tr>
<tr>
<td>I have another reason. Explain. (See 28 U.S.C. § 1408.)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>About Debtor 2 (Spouse Only in a Joint Case):</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have not used any business name or EINs.</td>
</tr>
<tr>
<td>Business name(s)</td>
</tr>
<tr>
<td>EINs</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>5. Where you live</th>
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<tbody>
<tr>
<td>Number, Street, City, State &amp; ZIP Code</td>
</tr>
<tr>
<td>County</td>
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</tr>
<tr>
<td>I have another reason. Explain. (See 28 U.S.C. § 1408.)</td>
</tr>
</tbody>
</table>
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 2010). 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 the 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.

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.

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

### 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?

If immediate attention is needed, why is it needed?

Where is the property?

Number, Street, City, State & ZIP Code

---

If you are filing under Chapter 11 of the Bankruptcy Code and are a small business debtor, 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).

15. Tell the court whether you have received a 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.

You must check one:

- 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.

- 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.

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

  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 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 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.

  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 currently on active military duty in a military combat zone.

- 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.

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  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.
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

18. How many Creditors do you estimate that you owe?

1-49
50-99
100-199
200-999

1,000-5,000
5001-10,000
10,001-25,000
25,001-50,000

60,001-100,000
More than100,000

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

$0 - $50,000
$50,001 - $100,000
$100,001 - $500,000
$500,001 - $1 million

$1,000,001 - $10 million
$10,000,001 - $50 million
$50,000,001 - $100 million
$100,000,001 - $500 million

$500,000,001 - $1 billion
$1,000,000,001 - $10 billion
$10,000,000,001 - $50 billion
More than $50 billion

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

$0 - $50,000
$50,001 - $100,000
$100,001 - $500,000
$500,001 - $1 million

$1,000,001 - $10 million
$10,000,001 - $50 million
$50,000,001 - $100 million
$100,000,001 - $500 million

$500,000,001 - $1 billion
$1,000,000,001 - $10 billion
$10,000,000,001 - $50 billion
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.

/s/ Sample Sample Sample
Signature of Debtor 1

/s/ Sample Sample Sample
Signature of Debtor 2

Executed on July 26, 2017
MM/DD/YYYY
Executed on MM/DD/YYYY
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.

/s/ Sally J. Elkington
Date July 26, 2017

Sally J. Elkington
Printed name

Elkington Shepherd LLP
Trade name

409 - 13th Street, 10th Floor
Oakland, CA 94612

Contact phone 510-465-0404

Bar number & State 142619
Fill in this information to identify your case:

Debtor 1
First Name Middle Name Last Name
Sample Sample Sample

Debtor 2
(Spouse if filing)
First Name Middle Name Last Name

United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA

Case number (if known) ________________________________

Check if this is an amended filing □

**Official Form 106Sum**

**Summary of Your Assets and Liabilities and Certain Statistical Information**

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**

<table>
<thead>
<tr>
<th>Your assets</th>
<th>Value of what you own</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Schedule A/B: Property (Official Form 106A/B)</td>
<td></td>
</tr>
<tr>
<td>1a. Copy line 55, Total real estate, from Schedule A/B</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>1b. Copy line 62, Total personal property, from Schedule A/B</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>1c. Copy line 63, Total of all property on Schedule A/B</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

**Part 2: Summarize Your Liabilities**

<table>
<thead>
<tr>
<th>Your liabilities</th>
<th>Amount you owe</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D)</td>
<td></td>
</tr>
<tr>
<td>2a. Copy the total you listed in Column A, Amount of claim, at the bottom of the last page of Part 1 of Schedule D</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>3. Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)</td>
<td></td>
</tr>
<tr>
<td>3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of Schedule E/F</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of Schedule E/F</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

Your total liabilities $ 0.00

**Part 3: Summarize Your Income and Expenses**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Schedule I: Your Income (Official Form 106I)</td>
<td></td>
</tr>
<tr>
<td>Copy your combined monthly income from line 12 of Schedule I</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>5. Schedule J: Your Expenses (Official Form 106J)</td>
<td></td>
</tr>
<tr>
<td>Copy your monthly expenses from line 22c of Schedule J</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

**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 8-9g 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.

Official Form 106Sum Summary of Your Assets and Liabilities and Certain Statistical Information page 1 of 2

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Best Case Bankruptcy
8. From the Statement of Your Current Monthly Income: Copy your total current monthly income from Official Form 122A-1 Line 11; OR, Form 122B Line 11; OR, Form 122C-1 Line 14.

$ 0.00

9. Copy the following special categories of claims from Part 4, line 6 of Schedule E/F:

<table>
<thead>
<tr>
<th>From Part 4 on Schedule E/F, copy the following:</th>
<th>Total claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>9a. Domestic support obligations (Copy line 6a.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9b. Taxes and certain other debts you owe the government. (Copy line 6b.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9d. Student loans. (Copy line 6f.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)</td>
<td>+$ 0.00</td>
</tr>
<tr>
<td>9g. Total. Add lines 9a through 9f.</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>
Fill in this information to identify your case and this filing:

<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Sample Sample Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Name</td>
<td></td>
</tr>
<tr>
<td>Middle Name</td>
<td></td>
</tr>
<tr>
<td>Last Name</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Debtor 2 (Spouse, if filing)</th>
<th>Sample Sample Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Name</td>
<td></td>
</tr>
<tr>
<td>Middle Name</td>
<td></td>
</tr>
<tr>
<td>Last Name</td>
<td></td>
</tr>
</tbody>
</table>

United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA

Case number

☐ Check if this is an amended filing

Official Form 106A/B
Schedule A/B: Property

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?

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

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

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: $0.00

Part 3: Describe Your Personal and Household Items

Do you own or have any legal or equitable interest in any of the following items?

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 ................................................................. $0.00

Part 4: Describe Your Financial Assets
Do you own or have any legal or equitable interest in any of the following?

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.................................................................

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.................................................................

18. Bonds, mutual funds, or publicly traded stocks
    Examples: Bond funds, investment accounts with brokerage firms, money market accounts
    ☐ No
    ☐ Yes.................................................................

Official Form 106A/B Schedule A/B: Property
Software Copyright (c) 1996-2017 Best Case, LLC - www.bestcase.com
Best Case Bankruptcy
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:        % of ownership:

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.
    No
    Yes. Give specific information about them

21. Retirement or pension accounts
    Examples: Interest in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans
    No
    Yes. List each account separately.

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
    No
    Yes. Give specific information about them...

23. Annuities
    A contract for a periodic payment of money to you, either for life or for a number of years
    No
    Yes. Give specific information about them...

24. Interests in an education IRA, in an account in a qualified ABLE program, or under a qualified state tuition program.
    26 U.S.C. §§ 530(b)(1), 529A(b), and 529(b)(1).
    No
    Yes. Give specific information about them...

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...

28. Tax refunds owed to you
    No
    Yes. Give specific information about them, including whether you already filed the returns and the tax years.......

29. Family support
    Examples: Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement
    No
    Yes. Give specific information.....
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 $0.00

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.

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.

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 $0.00
### Part 8: List the Totals of Each Part of this Form

<table>
<thead>
<tr>
<th>Part</th>
<th>Description</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>55.</td>
<td>Part 1: Total real estate, line 2</td>
<td>$0.00</td>
</tr>
<tr>
<td>56.</td>
<td>Part 2: Total vehicles, line 5</td>
<td>$0.00</td>
</tr>
<tr>
<td>57.</td>
<td>Part 3: Total personal and household items, line 15</td>
<td>$0.00</td>
</tr>
<tr>
<td>58.</td>
<td>Part 4: Total financial assets, line 36</td>
<td>$0.00</td>
</tr>
<tr>
<td>59.</td>
<td>Part 5: Total business-related property, line 45</td>
<td>$0.00</td>
</tr>
<tr>
<td>60.</td>
<td>Part 6: Total farm- and fishing-related property, line 52</td>
<td>$0.00</td>
</tr>
<tr>
<td>61.</td>
<td>Part 7: Total other property not listed, line 54</td>
<td>$0.00</td>
</tr>
<tr>
<td>62.</td>
<td>Total personal property. Add lines 56 through 61...</td>
<td>$0.00</td>
</tr>
<tr>
<td>63.</td>
<td>Total of all property on Schedule A/B. Add line 55 + line 62</td>
<td>$0.00</td>
</tr>
</tbody>
</table>
Official Form 106C

Schedule C: The Property You Claim as Exempt

4/16

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.

<table>
<thead>
<tr>
<th>Brief description of the property and line on Schedule A/B that lists this property</th>
<th>Current value of the portion you own</th>
<th>Amount of the exemption you claim</th>
<th>Specific laws that allow exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copy the value from Schedule A/B</td>
<td>Check only one box for each exemption.</td>
<td>100% of fair market value, up to any applicable statutory limit</td>
<td></td>
</tr>
</tbody>
</table>

3. Are you claiming a homestead exemption of more than $160,375? (Subject to adjustment on 4/01/19 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
Fill in this information to identify your case:

Debtor 1  
Debtor 2  
(Spouse if filing)  
United States Bankruptcy Court for the:  
NORTHERN DISTRICT OF CALIFORNIA  
Case number (if known)  

☐ Check if this is an amended filing  

Official Form 106D  
Schedule D: Creditors Who Have Claims Secured by Property  

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.
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 Have 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?
   - Yes. Go to Part 2.
   - No. Go to Part 2.

Part 2: List All of Your NONPRIORITY Unsecured Claims
3. Do any creditors have nonpriority unsecured claims against you?
   - Yes. You have nothing to report in this part. Submit this form to the court with your other schedules.
   - No. Go to Part 2.

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.

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.

<table>
<thead>
<tr>
<th>Total claims from Part 1</th>
<th>Total Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>6a. Domestic support obligations</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6b. Taxes and certain other debts you owe the government</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6c. Claims for death or personal injury while you were intoxicated</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6d. Other. Add all other priority unsecured claims. Write that amount here.</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6e. Total Priority. Add lines 6a through 6d.</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total claims from Part 2</th>
<th>Total Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>6f. Student loans</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6g. Obligations arising out of a separation agreement or divorce that you did not report as priority claims</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6h. Debts to pension or profit-sharing plans, and other similar debts</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6i. Other. Add all other nonpriority unsecured claims. Write that amount here.</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>6j. Total Nonpriority. Add lines 6f through 6i.</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>
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 contacts of leases are listed on Schedule A/B:Property (Official Form 106 A/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.

<table>
<thead>
<tr>
<th>Person or company with whom you have the contract or lease</th>
<th>State what the contract or lease is for</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 Name&lt;br&gt;Number Street&lt;br&gt;City State ZIP Code</td>
<td></td>
</tr>
<tr>
<td>2.2 Name&lt;br&gt;Number Street&lt;br&gt;City State ZIP Code</td>
<td></td>
</tr>
<tr>
<td>2.3 Name&lt;br&gt;Number Street&lt;br&gt;City State ZIP Code</td>
<td></td>
</tr>
<tr>
<td>2.4 Name&lt;br&gt;Number Street&lt;br&gt;City State ZIP Code</td>
<td></td>
</tr>
<tr>
<td>2.5 Name&lt;br&gt;Number Street&lt;br&gt;City State ZIP Code</td>
<td></td>
</tr>
</tbody>
</table>
# Official Form 106H
## Schedule H: Your Codebtors

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?

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.

<table>
<thead>
<tr>
<th>Column 1: Your codebtor</th>
<th>Column 2: The creditor to whom you owe the debt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name, Number, Street, City, State and ZIP Code</td>
<td>Check all schedules that apply:</td>
</tr>
<tr>
<td>Schedule D, line</td>
<td>Schedule E/F, line</td>
</tr>
<tr>
<td>Schedule E/F, line</td>
<td>Schedule G, line</td>
</tr>
<tr>
<td>Schedule G, line</td>
<td></td>
</tr>
</tbody>
</table>

3.1 Name

<table>
<thead>
<tr>
<th>Number</th>
<th>Street</th>
<th>City</th>
<th>State</th>
<th>ZIP Code</th>
</tr>
</thead>
</table>

3.2 Name

<table>
<thead>
<tr>
<th>Number</th>
<th>Street</th>
<th>City</th>
<th>State</th>
<th>ZIP Code</th>
</tr>
</thead>
</table>

...
Official Form 106I
Schedule I: Your Income
12/15

Be as complete and accurate as possible. If two married people are filing together (Debtor 1 and Debtor 2), both are equally responsible for supplying correct information. If you are married and not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse. 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 Employment

1. Fill in your employment information.
   - Employment status
     - Debtor 1: [Employed, Not employed]
     - Debtor 2 or non-filing spouse: [Employed, Not employed]
   - Occupation
   - Employer's name
   - Employer's address
   - How long employed there?

Part 2: Give Details About Monthly Income

Estimate monthly income as of the date you file this form. If you have nothing to report for any line, write $0 in the space. Include your non-filing spouse unless you are separated.

If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

<table>
<thead>
<tr>
<th>For Debtor 1</th>
<th>For Debtor 2 or non-filing spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. $0.00</td>
<td>$N/A</td>
</tr>
<tr>
<td>3. -$0.00</td>
<td>-$N/A</td>
</tr>
<tr>
<td>4. $0.00</td>
<td>$N/A</td>
</tr>
</tbody>
</table>
Debtor 1: Sample Sample Sample

<table>
<thead>
<tr>
<th></th>
<th>For Debtor 1</th>
<th>For Debtor 2 or non-filing spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>$ 0.00</td>
<td>$ N/A</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5a</td>
<td>Tax, Medicare, and Social Security deductions</td>
<td>5a. $ 0.00</td>
</tr>
<tr>
<td>5b</td>
<td>Mandatory contributions for retirement plans</td>
<td>5b. $ 0.00</td>
</tr>
<tr>
<td>5c</td>
<td>Voluntary contributions for retirement plans</td>
<td>5c. $ 0.00</td>
</tr>
<tr>
<td>5d</td>
<td>Required repayments of retirement fund loans</td>
<td>5d. $ 0.00</td>
</tr>
<tr>
<td>5e</td>
<td>Insurance</td>
<td>5e. $ 0.00</td>
</tr>
<tr>
<td>5f</td>
<td>Domestic support obligations</td>
<td>5f. $ 0.00</td>
</tr>
<tr>
<td>5g</td>
<td>Union dues</td>
<td>5g. $ 0.00</td>
</tr>
<tr>
<td>5h</td>
<td>Other deductions. Specify:</td>
<td>5h. $ 0.00</td>
</tr>
<tr>
<td>6</td>
<td>Add the payroll deductions. Add lines 5a+5b+5c+5d+5e+5f+5g+5h.</td>
<td>6. $ 0.00</td>
</tr>
<tr>
<td>7</td>
<td>Calculate total monthly take-home pay. Subtract line 6 from line 4.</td>
<td>7. $ 0.00</td>
</tr>
<tr>
<td>8</td>
<td>List all other income regularly received:</td>
<td>8. $ 0.00</td>
</tr>
<tr>
<td>8a</td>
<td>Net income from rental property and from operating a business, profession, or farm. Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.</td>
<td>8a. $ 0.00</td>
</tr>
<tr>
<td>8b</td>
<td>Interest and dividends</td>
<td>8b. $ 0.00</td>
</tr>
<tr>
<td>8c</td>
<td>Family support payments that you, a non-filing spouse, or a dependent regularly receive. Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.</td>
<td>8c. $ 0.00</td>
</tr>
<tr>
<td>8d</td>
<td>Unemployment compensation</td>
<td>8d. $ 0.00</td>
</tr>
<tr>
<td>8e</td>
<td>Social Security</td>
<td>8e. $ 0.00</td>
</tr>
<tr>
<td>8f</td>
<td>Other government assistance that you regularly receive. Include cash assistance and the value (if known) of any non-cash assistance that you receive, such as food stamps (benefits under the Supplemental Nutrition Assistance Program) or housing subsidies. Specify:</td>
<td>8f. $ 0.00</td>
</tr>
<tr>
<td>8g</td>
<td>Pension or retirement income</td>
<td>8g. $ 0.00</td>
</tr>
<tr>
<td>8h</td>
<td>Other monthly income. Specify:</td>
<td>8h. $ 0.00</td>
</tr>
<tr>
<td>9</td>
<td>Add all other income. Add lines 8a+8b+8c+8d+8e+8f+8g+8h.</td>
<td>9. $ 0.00</td>
</tr>
<tr>
<td>10</td>
<td>Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.</td>
<td>10. $ 0.00</td>
</tr>
<tr>
<td>11</td>
<td>State all other regular contributions to the expenses that you list in Schedule J. Include contributions from an unmarried partner, members of your household, your dependents, your roommates, and other friends or relatives. Do not include any amounts already included in lines 2-10 or amounts that are not available to pay expenses listed in Schedule J. Specify:</td>
<td>11. $ 0.00</td>
</tr>
<tr>
<td>12</td>
<td>Add the amount in the last column of line 10 to the amount in line 11. The result is the combined monthly income. Write that amount on the Summary of Schedules and Statistical Summary of Certain Liabilities and Related Data, if it applies</td>
<td>12. $ 0.00</td>
</tr>
</tbody>
</table>

13. Do you expect an increase or decrease within the year after you file this form?
- [ ] No.
- [X] Yes. Explain: 

Official Form 106I Schedule I: Your Income page 2
Fill in this information to identify your case:

Debtor 1 Sample Sample Sample
Debtor 2 (Spouse, if filing)
United States Bankruptcy Court for the: NORTHERN DISTRICT OF CALIFORNIA
Case number (If known)

Check if this is:
☐ An amended filing
☐ A supplement showing postpetition 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

2. Do you have dependents?
☐ 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?
☑ No
☐ 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 106I).

<table>
<thead>
<tr>
<th>Your expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. $ 0.00</td>
</tr>
</tbody>
</table>

4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.

If not included in line 4:

4a. Real estate taxes
4b. Property, homeowner's, or renter's insurance
4c. Home maintenance, repair, and upkeep expenses
4d. Homeowner's association or condominium dues

5. Additional mortgage payments for your residence, such as home equity loans

Official Form 106J Schedule J: Your Expenses page 1
Debtor 1  Sample Sample Sample  Case number (if known)  

6. Utilities:  
6a. Electricity, heat, natural gas  
6b. Water, sewer, garbage collection  
6c. Telephone, cell phone, Internet, satellite, and cable services  
6d. Other. Specify:  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity, heat, natural gas</td>
<td>0.00</td>
</tr>
<tr>
<td>Water, sewer, garbage collection</td>
<td>0.00</td>
</tr>
<tr>
<td>Telephone, cell phone, Internet, satellite, and cable services</td>
<td>0.00</td>
</tr>
<tr>
<td>Other. Specify</td>
<td>0.00</td>
</tr>
</tbody>
</table>

7. Food and housekeeping supplies  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

8. Childcare and children's education costs  

9. Clothing, laundry, and dry cleaning  

10. Personal care products and services  

11. Medical and dental expenses  

12. Transportation, include gas, maintenance, bus or train fare. Do not include car payments.  

13. Entertainment, clubs, recreation, newspapers, magazines, and books  

14. Charitable contributions and religious donations  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

15. Insurance. Do not include insurance deducted from your pay or included in lines 4 or 20.  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Life insurance</td>
<td>0.00</td>
</tr>
<tr>
<td>Health insurance</td>
<td>0.00</td>
</tr>
<tr>
<td>Vehicle insurance</td>
<td>0.00</td>
</tr>
<tr>
<td>Other insurance. Specify:</td>
<td>0.00</td>
</tr>
</tbody>
</table>

16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20.  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

17. Installment or lease payments:  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car payments for Vehicle 1</td>
<td>0.00</td>
</tr>
<tr>
<td>Car payments for Vehicle 2</td>
<td>0.00</td>
</tr>
<tr>
<td>Other. Specify:</td>
<td>0.00</td>
</tr>
</tbody>
</table>

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).  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

19. Other payments you make to support others who do not live with you.  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mortgages on other property</td>
<td>0.00</td>
</tr>
<tr>
<td>Real estate taxes</td>
<td>0.00</td>
</tr>
<tr>
<td>Property, homeowner's, or renter's insurance</td>
<td>0.00</td>
</tr>
<tr>
<td>Maintenance, repair, and upkeep expenses</td>
<td>0.00</td>
</tr>
<tr>
<td>Homeowner's association or condominium dues</td>
<td>0.00</td>
</tr>
<tr>
<td>Other: Specify</td>
<td>0.00</td>
</tr>
</tbody>
</table>

21. Calculate your monthly expenses  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Add lines 4 through 21</td>
<td>0.00</td>
</tr>
<tr>
<td>Add line 22a and 22b. The result is your monthly expenses.</td>
<td>0.00</td>
</tr>
</tbody>
</table>

22. Calculate your monthly net income.  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copy line 12 (your combined monthly income) from Schedule I.</td>
<td>0.00</td>
</tr>
<tr>
<td>Copy your monthly expenses from line 22c above.</td>
<td>0.00</td>
</tr>
<tr>
<td>Subtract your monthly expenses from your monthly income. The result is your monthly net income.</td>
<td>0.00</td>
</tr>
</tbody>
</table>

23. 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?  

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>No.</td>
<td>0.00</td>
</tr>
<tr>
<td>Yes. Explain here:</td>
<td></td>
</tr>
</tbody>
</table>
Fill in this information to identify your case:

<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Sample Sample Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Name</td>
<td>Middle Name</td>
</tr>
<tr>
<td>Debtor 2</td>
<td>(Spouse if filing)</td>
</tr>
<tr>
<td>United States Bankruptcy Court for the:</td>
<td>NORTHERN DISTRICT OF CALIFORNIA</td>
</tr>
<tr>
<td>Case number (if known)</td>
<td></td>
</tr>
</tbody>
</table>

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
- [x] 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.

<table>
<thead>
<tr>
<th>X</th>
<th>/s/ Sample Sample Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Signature of Debtor 2</td>
</tr>
</tbody>
</table>

Signature of Debtor 1
Date July 26, 2017

Date
Official Form 107  
Statement of Financial Affairs for Individuals Filing for Bankruptcy  
4/16

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.

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.
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.

Debtor 1 Sources of income

Describe below.  

Gross income from each source (before deductions and exclusions)

Debtor 2 Sources of income

Describe below.  

Gross income (before deductions and exclusions)

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 $6,425 or more?

No. Go to line 7.

Yes List below each creditor to whom you paid a total of $6,425 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 4/01/19 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.

Creditor's Name and Address  Dates of payment  Total amount paid  Amount you still owe  Reason for this payment

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.

Insider's Name and Address  Dates of payment  Total amount paid  Amount you still owe  Reason for this payment

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 to an insider.

Insider's Name and Address  Dates of payment  Total amount paid  Amount you still owe  Reason for this payment Include creditor's name
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>
<thead>
<tr>
<th>Case title</th>
<th>Nature of the case</th>
<th>Court or agency</th>
<th>Status of the case</th>
</tr>
</thead>
</table>

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 details.
   
<table>
<thead>
<tr>
<th>Creditor Name and Address</th>
<th>Describe the Property</th>
<th>Date</th>
<th>Value of the property</th>
</tr>
</thead>
</table>

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.
    
    | Creditor Name and Address | Describe the action the creditor took | Date action was taken | Amount |
    |---------------------------|-------------------------------------|----------------------|--------|

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 |
    |------------------------------------------------------|-------------------|-------------------------|-------|

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 | Dates you contributed | Value |
    |---------------------------------------------------------------|-----------------------------|----------------------|-------|

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 |
    |----------------------------------------------------------|---------------------------------------------|------------------|-----------------------|

Official Form 107  Statement of Financial Affairs for Individuals Filing for Bankruptcy page 3
Software Copyright (c) 1996-2017 Best Case, LLC - www.bestcase.com Best Case Bankruptcy
### 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.

<table>
<thead>
<tr>
<th>Person Who Was Paid</th>
<th>Description and value of any property transferred</th>
<th>Date payment or transfer was made</th>
<th>Amount of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Person Who Was Paid</th>
<th>Description and value of any property transferred</th>
<th>Date payment or transfer was made</th>
<th>Amount of payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Person Who Received Transfer</th>
<th>Description and value of property transferred</th>
<th>Date transfer was made</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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>
<thead>
<tr>
<th>Name of trust</th>
<th>Description and value of the property transferred</th>
<th>Date Transfer was made</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Part 8: List of 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? Include checking, savings, money market, or other financial accounts; certificates of deposit; shares in banks, credit unions, brokerage houses, pension funds, cooperatives, associations, and other financial institutions.

- No
- Yes. Fill in the details.

<table>
<thead>
<tr>
<th>Name of Financial Institution</th>
<th>Last 4 digits of account number</th>
<th>Type of account or instrument</th>
<th>Date account was closed, sold, moved, or transferred</th>
<th>Last balance before closing or transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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>
<thead>
<tr>
<th>Name of Financial Institution</th>
<th>Who else had access to it?</th>
<th>Describe the contents</th>
<th>Do you still have it?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?

<table>
<thead>
<tr>
<th>Name of Storage Facility</th>
<th>Who else has or had access to it?</th>
<th>Describe the contents</th>
<th>Do you still have it?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Storage Facility</td>
<td>Address (Number, Street, City, State and ZIP Code)</td>
<td>Address (Number, Street, City, State and ZIP Code)</td>
<td></td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Owner's Name</th>
<th>Address (Number, Street, City, State and ZIP Code)</th>
<th>Where is the property?</th>
<th>Describe the property</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner's Name</td>
<td>Address (Number, Street, City, State and ZIP Code)</td>
<td>Where is the property?</td>
<td>Describe the property</td>
<td>Value</td>
</tr>
</tbody>
</table>

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?

<table>
<thead>
<tr>
<th>Name of site</th>
<th>Address (Number, Street, City, State and ZIP Code)</th>
<th>Governmental unit</th>
<th>Environmental law, if you know it</th>
<th>Date of notice</th>
</tr>
</thead>
</table>

25. Have you notified any governmental unit of any release of hazardous material?

<table>
<thead>
<tr>
<th>Name of site</th>
<th>Address (Number, Street, City, State and ZIP Code)</th>
<th>Governmental unit</th>
<th>Environmental law, if you know it</th>
<th>Date of notice</th>
</tr>
</thead>
</table>

26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

<table>
<thead>
<tr>
<th>Case Title</th>
<th>Case Number</th>
<th>Court or agency</th>
<th>Name</th>
<th>Address (Number, Street, City, State and ZIP Code)</th>
<th>Nature of the case</th>
<th>Status of the case</th>
</tr>
</thead>
</table>

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)
Debtor 1 Sample Sample Sample
Case number (if known)

☐ 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.

Business Name
Address
(Number, Street, City, State and ZIP Code)

Describe the nature of the business
Name of accountant or bookkeeper

Employer Identification number
Do not include Social Security number or ITIN.

Dates business existed

28. Within 2 years before you filed for bankruptcy, did you give a financial statement to anyone about your business? Include all financial institutions, creditors, or other parties.

☐ No
☐ Yes. Fill in the details below.

Name
Address
(Number, Street, City, State and ZIP Code)

Date Issued

Official Form 107
Statement of Financial Affairs for Individuals Filing for Bankruptcy

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Best Case Bankruptcy
I have read the answers on this Statement of Financial Affairs and any attachments, and I declare under penalty of perjury that the answers are true and correct. I understand that 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.

/s/ Sample Sample Sample

Signature of Debtor 1

Date July 26, 2017

Did you attach additional pages to Your Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)?

☐ No

☐ Yes

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 the Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).
Fill in this information to identify your case:

Debtor 1                                  Sample Sample Sample
First Name                              Middle Name               Last Name

Debtor 2 (Spouse if filing)               First Name                              Middle Name               Last Name

United States Bankruptcy Court for the:  NORTHERN DISTRICT OF CALIFORNIA

Case number (if known):

☐ Check if this is an amended filing

Official Form 108
Statement of Intention for Individuals Filing Under Chapter 7

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 Have Secured Claims

If you are an individual filing under chapter 7, you must list all of your secured creditors.

1. For any creditors that you listed in Part 1 of Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D), fill in the information below.

<table>
<thead>
<tr>
<th>Creditor's name</th>
<th>Description of property securing debt</th>
<th>What do you intend to do with the property that secures a debt?</th>
<th>Did you claim the property as exempt on Schedule C?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Surrender the property.</td>
<td>☐ Retain the property and [explain]:</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
<tr>
<td>☐ Retain the property and redeem it.</td>
<td>☐ Retain the property and enter into a Reaffirmation Agreement.</td>
<td>☐ Yes</td>
<td>☐ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Creditor's name</th>
<th>Description of property securing debt</th>
<th>What do you intend to do with the property that secures a debt?</th>
<th>Did you claim the property as exempt on Schedule C?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Surrender the property.</td>
<td>☐ Retain the property and [explain]:</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
<tr>
<td>☐ Retain the property and redeem it.</td>
<td>☐ Retain the property and enter into a Reaffirmation Agreement.</td>
<td>☐ Yes</td>
<td>☐ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Creditor's name</th>
<th>Description of property securing debt</th>
<th>What do you intend to do with the property that secures a debt?</th>
<th>Did you claim the property as exempt on Schedule C?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Surrender the property.</td>
<td>☐ Retain the property and [explain]:</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
<tr>
<td>☐ Retain the property and redeem it.</td>
<td>☐ Retain the property and enter into a Reaffirmation Agreement.</td>
<td>☐ Yes</td>
<td>☐ No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Creditor's name</th>
<th>Description of property securing debt</th>
<th>What do you intend to do with the property that secures a debt?</th>
<th>Did you claim the property as exempt on Schedule C?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Surrender the property.</td>
<td>☐ Retain the property and [explain]:</td>
<td>☐ No</td>
<td>☐ Yes</td>
</tr>
</tbody>
</table>
Debtor 1  Sample Sample Sample  Case number (if known)  

- Retain the property and redeem it.  
- Retain the property and enter into a Reaffirmation Agreement.  
- Retain the property and [explain]:

**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).

<table>
<thead>
<tr>
<th>Describe your unexpired personal property leases</th>
<th>Will the lease be assumed?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
<tr>
<td>Lessor's name:</td>
<td>No</td>
</tr>
<tr>
<td>Description of leased Property:</td>
<td>Yes</td>
</tr>
</tbody>
</table>
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 /s/ Sample Sample Sample
Sample Sample Sample
Signature of Debtor 1

X
Signature of Debtor 2

Date
July 26, 2017

Date

Fill in this information to identify your case:
United States Bankruptcy Court for the:
NORTHERN DISTRICT OF CALIFORNIA
Case number (if known): 

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

<table>
<thead>
<tr>
<th>For Debtor 1:</th>
<th>For Debtor 2 (Only if Spouse is Filing:)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First name</td>
<td>First name</td>
</tr>
<tr>
<td>Middle name</td>
<td>Middle name</td>
</tr>
<tr>
<td>Last name</td>
<td>Last name</td>
</tr>
</tbody>
</table>

Part 2: Tell the Court About all of Your Social Security or Federal Individual Taxpayer Identification Numbers

<table>
<thead>
<tr>
<th>2. All Social Security Numbers you have used</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ You do not have a Social Security Number</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. All federal Individual Taxpayer Identification Numbers (ITIN) you have used</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ You do not have an ITIN.</td>
</tr>
</tbody>
</table>

Part 3: Sign Below

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

X /s/ Sample Sample Sample  
Date July 26, 2017  
Signature of Debtor 1

X /s/ Sample Sample Sample  
Date  
Signature of Debtor 2
United States Bankruptcy Court  
Northern District of California  

In re  
Sample Sample Sample  
Debtor(s)  

Case No.  

Chapter  7  

STATEMENT PURSUANT TO RULE 2016(B)  

The undersigned, pursuant to Rule 2016(b), Bankruptcy Rules, states that:  

1. The undersigned is the attorney for the debtor(s) in this case.  

2. The compensation paid or agreed to be paid by the debtor(s), to the undersigned is:  
   a) For legal services rendered or to be rendered in contemplation of and in connection with this case  
   b) Prior to the filing of this statement, debtor(s) have paid  
   c) The unpaid balance due and payable is  

3. $ 0.00 of the filing fee in this case has been paid.  

4. The Services rendered or to be rendered include the following:  
   a. Analysis of the financial situation, and rendering advice and assistance to the debtor(s) in determining whether to file a petition under title 11 of the United States Code.  
   b. Preparation and filing of the petition, schedules, statement of affairs and other documents required by the court.  
   c. Representation of the debtor(s) at the meeting of creditors.  

5. The source of payments made by the debtor(s) to the undersigned was from earnings, wages and compensation for services performed, and  

6. The source of payments to be made by the debtor(s) to the undersigned for the unpaid balance remaining, if any, will be from earnings, wages and compensation for services performed, and  

7. The undersigned has received no transfer, assignment or pledge of property from debtor(s) except the following for the value stated:  

8. The undersigned has not shared or agreed to share with any other entity, other than with members of undersigned's law firm, any compensation paid or to be paid except as follows:  

Dated: July 26, 2017  

Respectfully submitted,  

/s/ Sally J. Elkington  
Attorney for Debtor: Sally J. Elkington 142619  
Elkington Shepherd LLP  
409 - 13th Street, 10th Floor  
Oakland, CA 94612  
510-465-0404 Fax: 510-465-0202
Fill in the information to identify your case:

<table>
<thead>
<tr>
<th>Debtor 1</th>
<th>Sample Sample Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debtor 2</td>
<td>(Spouse, if filing)</td>
</tr>
</tbody>
</table>

United States Bankruptcy Court for the: Northern District of California

Case number (if known) ____________

Check one box only as directed in this form and in Form 122A-1Supp:

- [ ] 1. There is no presumption of abuse
- [ ] 2. The calculation to determine if a presumption of abuse applies will be made under Chapter 7 Means Test Calculation (Official Form 122A-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 122A - 1**

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

12/15

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 122A-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 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.

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
<th>Debtor 2 or non-filing spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Your gross wages, salary, tips, bonuses, overtime, and commissions (before all payroll deductions). $0.00 $0.00

3. Alimony and maintenance payments. Do not include payments from a spouse if Column B is filled in. $0.00 $0.00

4. All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support. 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. $0.00 $0.00

5. Net income from operating a business, profession, or farm
   - Gross receipts (before all deductions) $0.00 $0.00
   - Ordinary and necessary operating expenses -$0.00 -$0.00
   - Net monthly income from a business, profession, or farm $0.00 Copy here -> $0.00 $0.00

6. Net income from rental and other real property
   - Gross receipts (before all deductions) $0.00 $0.00
   - Ordinary and necessary operating expenses -$0.00 -$0.00
   - Net monthly income from rental or other real property $0.00 Copy here -> $0.00 $0.00

7. Interest, dividends, and royalties
   - Gross receipts (before all deductions) $0.00 $0.00
   - Ordinary and necessary operating expenses -$0.00 -$0.00
   - Net monthly income from rental or other real property $0.00 Copy here -> $0.00 $0.00

---

Official Form 122A-1 Chapter 7 Statement of Your Current Monthly Income page 1

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Best Case Bankruptcy

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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: $0.00
- For your spouse: $0.00

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

- $0.00

Income from all other sources not listed above. Specify the source and amount:

- $0.00

Income from all other sources:

<table>
<thead>
<tr>
<th>Source Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment compensation</td>
<td>$0.00</td>
</tr>
<tr>
<td>Pension or retirement income</td>
<td>$0.00</td>
</tr>
<tr>
<td>Income from all other sources</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Total current monthly income:

<table>
<thead>
<tr>
<th>Column A (Debtor 1)</th>
<th>Column B (Debtor 2 or non-filing spouse)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Total current monthly income: $0.00 + $0.00 = $0.00

Part 2: Determine Whether the Means Test Applies to You

12a. Copy your total current monthly income from line 11 and multiply by 12 (the number of months in a year):

Line 11: $0.00

Multiply by 12: $0.00

12b. The result is your annual income for this part of the form:

$0.00

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

- Fill in the state in which you live: CA
- Fill in the number of people in your household: 1
- Fill in the median family income for your state and size of household: $52,416.00

14. How do the lines compare?

- 14a. If Line 12b is less than or equal to line 13, there is no presumption of abuse. Go to Part 3.
- 14b. If Line 12b is more than line 13, the presumption of abuse is determined by Form 122A-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.

Sample Sample Sample

Signature of Debtor 1

Date: July 26, 2017

If you checked line 14a, do NOT fill out or file Form 122A-2.

If you checked line 14b, fill out Form 122A-2 and file it with this form.
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 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.

<table>
<thead>
<tr>
<th>Chapter 7: Liquidation</th>
</tr>
</thead>
<tbody>
<tr>
<td>$245 filing fee</td>
</tr>
<tr>
<td>$75 administrative fee</td>
</tr>
<tr>
<td>+ $15 trustee surcharge</td>
</tr>
<tr>
<td>$335 total fee</td>
</tr>
</tbody>
</table>

Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their nonexempt 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 122A–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 122A–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 122A–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.

Chapter 11: Reorganization

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>filing fee</td>
<td>$1,167</td>
</tr>
<tr>
<td>administrative fee</td>
<td>$550</td>
</tr>
<tr>
<td>total fee</td>
<td>$1,717</td>
</tr>
</tbody>
</table>

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.

Chapter 12: Repayment plan for family farmers or fishermen

$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.

Chapter 13: Repayment plan for individuals with regular income

$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.

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/code/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.
In re Sample Sample Sample

Debtor(s). / 

CREDITOR MATRIX COVER SHEET

I declare that the attached Creditor Mailing Matrix, consisting of 1 sheets, contains the correct, complete and current names and addresses of all priority, secured and unsecured creditors listed in debtor's filing and that this matrix conforms with the Clerk's promulgated requirements.

DATED: July 26, 2017

/s/ Sally J. Elkington

Signature of Debtor's Attorney or Pro Per Debtor
Application to Have the Chapter 7 Filing Fee Waived (Official Form 103B)

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
Official Form 103B
Application to Have the Chapter 7 Filing FeeWaived

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).

Part 1: Tell the Court About Your Family and Your Family’s Income

1. What is the size of your family?
   Your family includes you, your spouse, and any dependents listed on Schedule J: Your Expenses (Official Form 106J).
   Check all that apply:
   - You
   - Your spouse
   - Your dependents ___________________
   How many dependents? ____________
   Total number of people

2. Fill in your family’s average monthly income.
   Include your spouse’s income if your spouse is living with you, even if your spouse is not filing.
   Do not include your spouse’s income if you are separated and your spouse is not filing with you.
   Add your income and your spouse’s income. Include the value (if known) of any non-cash governmental assistance that you receive, such as food stamps (benefits under the Supplemental Nutrition Assistance Program) or housing subsidies.
   If you have already filled out Schedule I: Your Income, see line 10 of that schedule.
   That person’s average monthly net income (take-home pay)
   You $_________________
   Your spouse $_________________
   Subtotal $_________________
   Subtract any non-cash governmental assistance that you included above.
   $_________________
   Your family’s average monthly net income
   Total $_________________

3. Do you receive non-cash governmental assistance?
   [ ] No
   [ ] Yes. Describe

4. Do you expect your family’s average monthly net income to increase or decrease by more than 10% during the next 6 months?
   [ ] No
   [ ] Yes. Explain

5. Tell the court why you are unable to pay the filing fee in installments within 120 days. If you have some additional circumstances that cause you to not be able to pay your filing fee in installments, explain them.
Part 2: Tell the Court About Your Monthly Expenses

6. Estimate your average monthly expenses. Include amounts paid by any government assistance that you reported on line 2.

   $___________________

If you have already filled out Schedule J, Your Expenses, copy line 22 from that form.

7. Do these expenses cover anyone who is not included in your family as reported in line 1?

   No
   Yes. Identify who: ____________________________

8. Does anyone other than you regularly pay any of these expenses?

   No
   Yes. How much do you regularly receive as contributions? $_________ monthly

If you have already filled out Schedule I: Your Income, copy the total from line 11.

9. Do you expect your average monthly expenses to increase or decrease by more than 10% during the next 6 months?

   No
   Yes. Explain: ____________________________

Part 3: Tell the Court About Your Property

If you have already filled out Schedule A/B: Property (Official Form 106A/B) attach copies to this application and go to Part 4.

10. How much cash do you have?

    Examples: Money you have in your wallet, in your home, and on hand when you file this application

    Cash:  $_________________

11. Bank accounts and other deposits of money?

    Examples: Checking, savings, money market, or other financial accounts; certificates of deposit; shares in banks, credit unions, brokerage houses, and other similar institutions. If you have more than one account with the same institution, list each. Do not include 401(k) and IRA accounts.

    | Institution name: | Amount: |
    |-------------------|---------|
    | Checking account: | $________|
    | Savings account:  | $________|
    | Other financial accounts: | $________|
    | Other financial accounts: | $________|

12. Your home? (if you own it outright or are purchasing it)

    Examples: House, condominium, manufactured home, or mobile home

    Number Street: ____________________________
    City State ZIP Code: ____________________________

    Current value: $________
    Amount you owe on mortgage and liens: $________

13. Other real estate?

    Number Street: ____________________________
    City State ZIP Code: ____________________________

    Current value: $________
    Amount you owe on mortgage and liens: $________

14. The vehicles you own?

    Examples: Cars, vans, trucks, sports utility vehicles, motorcycles, tractors, boats

    Make: ____________________________
    Model: ____________________________
    Year: ____________________________
    Mileage: ____________________________

    Current value: $________
    Amount you owe on liens: $________

    Make: ____________________________
    Model: ____________________________
    Year: ____________________________
    Mileage: ____________________________

    Current value: $________
    Amount you owe on liens: $________
**Part 1: Identify the Debtor**

Debtor 1: _______________________________________________________ Case number (if known) _____________________________________

First Name Middle Name Last Name

**Part 2: Describe Other Assets**

15. Other assets?

Do not include household items and clothing.

<table>
<thead>
<tr>
<th>Describe the other assets:</th>
<th>Current value:</th>
<th>Amount you owe on item:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Part 3: Identify Money or Property Due**

16. Money or property due you?

Examples: Tax refunds, past due or lump sum alimony, spousal support, child support, maintenance, divorce or property settlements, Social Security benefits, workers' compensation, personal injury recovery

<table>
<thead>
<tr>
<th>Who owes you the money or property?</th>
<th>How much is owed?</th>
<th>Do you believe you will likely receive payment in the next 180 days?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$___________</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>$___________</td>
<td>Yes. Explain:</td>
</tr>
</tbody>
</table>

**Part 4: Answer These Additional Questions**

17. Have you paid anyone for services for this case, including filling out this application, the bankruptcy filing package, or the schedules?

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Whom did you pay? Check all that apply:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>An attorney</td>
</tr>
<tr>
<td></td>
<td>A bankruptcy petition preparer, paralegal, or typing service</td>
</tr>
<tr>
<td></td>
<td>Someone else</td>
</tr>
<tr>
<td></td>
<td>How much did you pay? $_______________________</td>
</tr>
</tbody>
</table>

18. Have you promised to pay or do you expect to pay someone for services for your bankruptcy case?

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Whom do you expect to pay? Check all that apply:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>An attorney</td>
</tr>
<tr>
<td></td>
<td>A bankruptcy petition preparer, paralegal, or typing service</td>
</tr>
<tr>
<td></td>
<td>Someone else</td>
</tr>
<tr>
<td></td>
<td>How much do you expect to pay? $_____________________</td>
</tr>
</tbody>
</table>

19. Has anyone paid someone on your behalf for services for this case?

<table>
<thead>
<tr>
<th>No</th>
<th>Yes. Who was paid on your behalf? Check all that apply:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>An attorney</td>
</tr>
<tr>
<td></td>
<td>A bankruptcy petition preparer, paralegal, or typing service</td>
</tr>
<tr>
<td></td>
<td>Someone else</td>
</tr>
<tr>
<td></td>
<td>Who paid?</td>
</tr>
<tr>
<td></td>
<td>Parent</td>
</tr>
<tr>
<td></td>
<td>Brother or sister</td>
</tr>
<tr>
<td></td>
<td>Friend</td>
</tr>
<tr>
<td></td>
<td>Pastor or clergy</td>
</tr>
<tr>
<td></td>
<td>Someone else</td>
</tr>
<tr>
<td></td>
<td>How much did someone else pay? $_____________________</td>
</tr>
</tbody>
</table>

20. 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      |

**Part 5: Sign Below**

By signing here under penalty of perjury, I declare that I cannot afford to pay the filing fee either in full or in installments. I also declare that the information I provided in this application is true and correct.

Signature of Debtor 1

Signature of Debtor 2

Date MM/DD/YYYY

Date MM/DD/YYYY

Official Form 103B

Application to Have the Chapter 7 Filing Fee Waived

page 3
Order on the Application to Have the Chapter 7 Filing Fee Waived

After considering the debtor’s Application to Have the Chapter 7 Filing Fee Waived (Official Form 103B), the court orders that the application is:

[] Granted. However, the court may order the debtor to pay the fee in the future if developments in administering the bankruptcy case show that the waiver was unwarranted.

[] Denied. The debtor must pay the filing fee according to the following terms:

You must pay... On or before this date...

$__________ Month / day / year

$__________ Month / day / year

$__________ Month / day / year

+ $__________ Month / day / year

Total $__________ Month / day / year

If the debtor would like to propose a different payment timetable, the debtor must file a motion promptly with a payment proposal. The debtor may use Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A) for this purpose. The court will consider it.

The debtor must pay the entire filing fee before making any more payments or transferring any more property to an attorney, bankruptcy petition preparer, or anyone else in connection with the bankruptcy case. The debtor must also pay the entire filing fee to receive a discharge. If the debtor does not make any payment when it is due, the bankruptcy case may be dismissed and the debtor’s rights in future bankruptcy cases may be affected.

[] Scheduled for hearing.

A hearing to consider the debtor’s application will be held

on _______ at _______ AM / PM at _____________________________.

Month / day / year Address of courthouse

If the debtor does not appear at this hearing, the court may deny the application.

By the court: ________________________________

Month / day / year United States Bankruptcy Judge
Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A)

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
Official Form 103A
Application for Individuals to Pay the Filing Fee in Installments

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

Part 1: Specify Your Proposed Payment Timetable

1. Which chapter of the Bankruptcy Code are you choosing to file under?
   - Chapter 7
   - Chapter 11
   - Chapter 12
   - Chapter 13

2. You may apply to pay the filing fee in up to four installments. Fill in the amounts you propose to pay and the dates you plan to pay them. Be sure all dates are business days. Then add the payments you propose to pay.
   - You propose to pay...
     - $___________ On or before this date ........... MM / DD / YYYY
     - $___________ On or before this date ........... MM / DD / YYYY
     - $___________ On or before this date ........... MM / DD / YYYY
     - + $___________ On or before this date ........... MM / DD / YYYY
   - Total $___________

Your total must equal the entire fee for the chapter you checked in line 1.

Part 2: Sign Below

By signing here, you state that you are unable to pay the full filing fee at once, that you want to pay the fee in installments, and that you understand that:

- You must pay your entire filing fee before you make any more payments or transfer any more property to an attorney, bankruptcy petition preparer, or anyone else for services in connection with your bankruptcy case.
- You must pay the entire fee no later than 120 days after you first file for bankruptcy, unless the court later extends your deadline. Your debts will not be discharged until your entire fee is paid.
- If you do not make any payment when it is due, your bankruptcy case may be dismissed, and your rights in other bankruptcy proceedings may be affected.

Signature of Debtor 1 ____________________________
Date MM / DD / YYYY

Signature of Debtor 2 ____________________________
Date MM / DD / YYYY

Your attorney’s name and signature, if you used one
Signature ____________________________
Date MM / DD / YYYY

Check if this is an amended filing

809
Order Approving Payment of Filing Fee in Installments

After considering the Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A), the court orders that:

[ ] The debtor(s) may pay the filing fee in installments on the terms proposed in the application.

[ ] The debtor(s) must pay the filing fee according to the following terms:

<table>
<thead>
<tr>
<th>You must pay...</th>
<th>On or before this date...</th>
</tr>
</thead>
<tbody>
<tr>
<td>$_____________</td>
<td>Month / day / year</td>
</tr>
<tr>
<td>$_____________</td>
<td>Month / day / year</td>
</tr>
<tr>
<td>$_____________</td>
<td>Month / day / year</td>
</tr>
<tr>
<td>+ $_____________</td>
<td>Month / day / year</td>
</tr>
</tbody>
</table>

Total $_____________

Until the filing fee is paid in full, the debtor(s) must not make any additional payment or transfer any additional property to an attorney or to anyone else for services in connection with this case.

By the court:

__________________________  ________________________________
By the court:  United States Bankruptcy Judge

Month / day / year  Month / day / year
Reaffirmation Agreement Forms

Submitted by:
Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
Official Form 427
Cover Sheet for Reaffirmation Agreement

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.

6. Using information from Schedule I: Your Income (Official Form 106I) and Schedule J: Your Expenses (Official Form 106J), fill in the amounts.

   Income and expenses reported on Schedules G and H | Income and expenses stated on the reaffirmation agreement

   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 22c of Schedule J $__________ | 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. Scheduled net monthly income $__________ | 6h. Present net monthly income $__________

   Subtract lines 6b and 6c from 6a. If the total is less than 0, put the number in brackets.
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?  
   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.  
    X ____________________________  
    Signature of Debtor 1  
    X ____________________________  
    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  
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:  
   X __________________________________  
   Signature  
   ____________________________  
   Date  
   MM / DD / YYYY  

Sally J. Elkington 142619  
Printed Name  

Check one:  
   ☐ Debtor or Debtor’s Attorney  
   ☐ Creditor or Creditor’s Attorney
B2400A (Form B2400A) (12/15)

United States Bankruptcy Court
Northern District of California

In re ____________________________ Case No. ____________________________
Debtor Chapter __________

REAFFIRMATION DOCUMENTS

Name of Creditor: _______________________________________________________

☐ Check this box if Creditor is a Credit Union

I. REAFFIRMATION AGREEMENT

Reaffirming a debt is a serious financial decision. Before entering into this Reaffirmation Agreement, you must review the important disclosures, instructions, and definitions found in Part V of this Reaffirmation Documents packet.

1. Brief description of the original agreement being reaffirmed: ____________________________
   For example, auto loan

2. AMOUNT REAFFIRMED: $ ____________________________
   The Amount Reaffirmed is the entire amount that you are agreeing to pay. This may include unpaid principal, interest, and fees and costs (if any) arising on or before the date you sign this Reaffirmation Agreement.
   See the definition of "Amount Reaffirmed" in Part V. C below.

3. The ANNUAL PERCENTAGE RATE applicable to the Amount Reaffirmed is _____________ %.
   See definition of "Annual Percentage Rate" in Part V. C below.
   This is a (check one) ☐ Fixed rate ☐ Variable rate
   If the loan has a variable rate, the future interest rate may increase or decrease from the Annual Percentage Rate disclosed here.

4. Reaffirmation Agreement Repayment Terms:
   ☐ If fixed term, $_____ per month for ____ months starting on ______.
   ☐ If not fixed term, describe repayment terms: ______.

5. Describe the collateral, if any, securing the debt:
   Description: _______________________________________________________

Check one.
☐ Presumption of Undue Hardship
☐ No Presumption of Undue Hardship
See Debtor’s Statement in Support of Reaffirmation, Part II below, to determine which box to check.
6. Did the debt that is being reaffirming arise from the purchase of the collateral described above?

☐ Yes ☐ No

If yes, what was the purchase price for the collateral? $ __________
If no, what was the amount of the original loan? $ __________

7. Detail the changes made by this Reaffirmation Agreement to the most recent credit terms on the reaffirmed debt and any related agreement:

<table>
<thead>
<tr>
<th>Date of Bankruptcy</th>
<th>Reaffirmation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance due (including fees and costs) $</td>
<td>$</td>
</tr>
<tr>
<td>Annual Percentage Rate %</td>
<td>%</td>
</tr>
<tr>
<td>Monthly Payment $</td>
<td>$</td>
</tr>
</tbody>
</table>

8. ☐ Check this box if the creditor is agreeing to provide you with additional future credit in connection with this Reaffirmation Agreement. Describe the credit limit, the Annual Percentage Rate that applies to future credit and any other terms on future purchases and advances using such credit:

---

II. DEBTOR'S STATEMENT IN SUPPORT OF REAFFIRMATION AGREEMENT

1. Were you represented by an attorney during the course of negotiating this agreement?

☐ Yes ☐ No

2. Is the creditor a credit union?

☐ Yes ☐ No

3. If your answer to EITHER question 1, or 2, above is "No" complete a. and b. below.

a. My present monthly income and expenses are:

i. Monthly income from all sources after payroll deductions (take-home pay plus any other income) $ __________

ii. Monthly expenses (including all reaffirmed debts except this one) $ __________

iii. Amount available to pay this reaffirmed debt (subtract ii. from i.) $ __________

iv. Amount of monthly payment required for this reaffirmed debt $ __________

If the monthly payment on this reaffirmed debt (line iv.) is greater than the amount you have available to pay this
b. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or on me because:

Check one of the two statements below, if applicable:

☐ I can afford to make the payments on the reaffirmed debt because my monthly income is greater than my monthly expenses even after I include in my expenses the monthly payments on all debts I am reaffirming, including this one.

☐ I can afford to make the payments on the reaffirmed debt even though my monthly income is less than my monthly expenses after I include in my expenses the monthly payments on all debts I am reaffirming, including this one, because:

Use an additional page if needed for a full explanation.

4. If your answers to BOTH questions 1. and 2. above were "Yes," check the following statement, if applicable:

☐ I believe this reaffirmation agreement is in your financial interest and I can afford to make the payments on the reaffirmed debt.

Also, check the box at the top of page one that says "No Presumption of Undue Hardship."
III. CERTIFICATION BY DEBTOR(S) AND SIGNATURES OF PARTIES

I hereby certify that:

i. I (We) agree to reaffirm the debt described above.

ii. Before signing this Reaffirmation Agreement, I (we) read the terms disclosed in this Reaffirmation Agreement (Part I) and the Disclosure Statement, Instructions and Definitions included in Part V below;

iii. The Debtor’s Statement in Support of Reaffirmation Agreement (Part II above) is true and complete;

iv. I am (We are) entering into this agreement voluntarily and fully informed of my (our) rights and responsibilities; and

v. I (We) have received a copy of this completed and signed Reaffirmation Documents packet.

SIGNATURE(S)

Date __________________________ Signature __________________________

Debtor

Date __________________________ Signature __________________________

Joint Debtor, if any

Reaffirmation Agreement Terms Accepted by Creditor:

Creditor

Print Name __________________________ Address __________________________

Print Name of Representative __________________________ Signature __________________________ Date __________________________

PART IV. CERTIFICATION BY DEBTOR’S ATTORNEY (IF ANY)

To be filed only if the attorney represented the debtor during the course of negotiating this agreement.

I hereby certify that: (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

☐ A presumption of undue hardship has been established with respect to this agreement. In my opinion, however, the debtor is able to make the required payment.

Check box, if the presumption of undue hardship box is checked on page 1 and the creditor is not a Credit Union.

Date __________________________ Signature of Debtor's Attorney __________________________

Print Name of Debtor's Attorney __________________________

Sally J. Elkington 142619
V. DISCLOSURE STATEMENT AND INSTRUCTIONS TO DEBTOR(S)

Before agreeing to reaffirm a debt, review the terms disclosed in the Reaffirmation Agreement (Part I) and these additional important disclosures and instructions.

Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps, detailed in Part B below, are not completed, the Reaffirmation Agreement is not effective, even though you have signed it.

A. DISCLOSURE STATEMENT

1. **What are your obligations if you reaffirm a debt?** A reaffirmed debt remains your personal legal obligation. Your reaffirmed debt is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Your obligations will be determined by the reaffirmation agreement, which may have changed the terms of the original agreement. If you are reaffirming an open end credit agreement, that agreement or applicable law may permit the creditor to change the terms of that agreement in the future under certain conditions.

2. **Are you required to enter into a reaffirmation agreement by any law?** No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments that you agree to make.

3. **What if your creditor has a security interest or lien?** Your bankruptcy discharge does not eliminate any lien on your property. A “lien” is often referred to as a security interest, deed of trust, mortgage, or security deed. The property subject to a lien is often referred to as collateral. Even if you do not reaffirm and your personal liability on the debt is discharged, your creditor may still have a right under the lien to take the collateral if you do not pay or default on the debt. If the collateral is personal property that is exempt or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the collateral, as the parties agree or the court determines.

4. **How soon do you need to enter into and file a reaffirmation agreement?** If you decide to enter into a reaffirmation agreement, you must do so before you receive your discharge. After you have entered into a reaffirmation agreement and all parts of this Reaffirmation Documents packet requiring signature have been signed, either you or the creditor should file it as soon as possible. The signed agreement must be filed with the court no later than 60 days after the first date set for the meeting of creditors, so that the court will have time to schedule a hearing to approve the agreement if approval is required.

5. **Can you cancel the agreement?** You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters your discharge, or during the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled). Remember that you can rescind the agreement, even if the court approves it, as long as you rescind within the time allowed.

6. **When will this reaffirmation agreement be effective?**
   a. **If you were represented by an attorney during the negotiation of your reaffirmation agreement**
      i. **if the creditor is not a Credit Union,** your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship in which case the agreement becomes effective only after the court approves it;
ii. if the creditor is a Credit Union, your Reaffirmation Agreement becomes effective when it is filed with the court.

b. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, the reaffirmation agreement will not be effective unless the court approves it. To have the court approve your agreement, you must file a motion. See Instruction 5, below. The court will notify you and the creditor of the hearing on your reaffirmation agreement. You must attend this hearing, at which time the judge will review your reaffirmation agreement. If the judge decides that the reaffirmation agreement is in your best interest, the agreement will be approved and will become effective. However, if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home, you do not need to file a motion or get court approval of your reaffirmation agreement.

7. What if you have questions about what a creditor can do? If you have questions about reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement. If you do not have an attorney helping you, you may ask the judge to explain the effect of this agreement to you at the hearing to approve the reaffirmation agreement. When this disclosure refers to what a creditor “may” do, it is not giving any creditor permission to do anything. The word “may” is used to tell you what might occur if the law permits the creditor to take the action.

B. INSTRUCTIONS

1. Review these Disclosures and carefully consider the decision to reaffirm. If you want to reaffirm, review and complete the information contained in the Reaffirmation Agreement (Part I above). If your case is a joint case, both spouses must sign the agreement if both are reaffirming the debt.

2. Complete the Debtor’s Statement in Support of Reaffirmation Agreement (Part II above). Be sure that you can afford to make the payments that you are agreeing to make and that you have received a copy of the Disclosure Statement and a completed and signed Reaffirmation Agreement.

3. If you were represented by an attorney during the negotiation of your Reaffirmation Agreement, your attorney must sign and date the Certification By Debtor’s Attorney section (Part IV above).

4. You or your creditor must file with the court the original of this Reaffirmation Documents packet and a completed Reaffirmation Agreement Cover Sheet (Official Bankruptcy Form 427).

5. If you are not represented by an attorney, you must also complete and file with the court a separate document entitled “Motion for Court Approval of Reaffirmation Agreement unless your reaffirmation agreement is for a consumer debt secured by a lien on your real property, such as your home. You can use Form B2400B to do this.

C. DEFINITIONS

1. "Amount Reaffirmed” means the total amount of debt that you are agreeing to pay (reaffirm) by entering into this agreement. The amount of debt includes any unpaid fees and costs arising on or before the date you sign this agreement that you are agreeing to pay. Your credit agreement may obligate you to pay additional amounts that arise after the date you sign this agreement. You should consult your credit agreement to determine whether you are obligated to pay additional amounts that may arise after the date of this agreement.

2. "Annual Percentage Rate” means the interest rate on a loan expressed under the rules required by federal law. The annual percentage Rate (as opposed to the “stated interest rate”) tells you the full cost of your credit including many of the creditor’s fees and charges. You will find the annual percentage rate for your original agreement on the disclosure statement that was given to you when the loan papers were signed or on the monthly statements sent to you for an open end credit account such as a credit card.
3. "Credit Union" means a financial institution as defined in 12 U.S.C. § 461(b)(1)(A)(iv). It is owned and controlled by and provides financial services to its members and typically uses words like "Credit Union" or initials like “C.U.” or “F.C.U.” in its name.
United States Bankruptcy Court
Northern District of California

In re Case No.
Debtor(s) Chapter 7

MOTION FOR APPROVAL OF REAFFIRMATION AGREEMENT

I (we), the debtor(s), affirm the following to be true and correct:

I am not represented by an attorney in connection with this reaffirmation agreement.

I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of Reaffirmation Agreement, and because (provide any additional relevant reasons the court should consider):

Therefore, I ask the court for an order approving this reaffirmation agreement under the following provisions (check all applicable boxes):

☐ 11 U.S.C. § 524(c)(6) (debtor is not represented by an attorney during the course of the negotiation of the reaffirmation agreement)

☐ 11 U.S.C. § 524(m) (presumption of undue hardship has arisen because monthly expenses exceed monthly income, as explained in Part II of Form B2400A, Reaffirmation Documents)

Signed:

(Debtor)

(Joint Debtor, if any)

Date:

________________________
The debtor(s) has (have) filed a motion for approval of the reaffirmation agreement dated made between the debtor(s) and creditor . The court held the hearing required by 11 U.S.C. § 524(d) on notice to the debtor(s) and the creditor on (date).

COURT ORDER:

☐ The court grants the debtor's motion under 11 U.S.C. § 524(c)(6)(A) and approves the reaffirmation agreement described above as not imposing an undue hardship on the debtor(s) or a dependent of the debtor(s) and as being in the best interest of the debtor(s).

☐ The court grants the debtor's motion under 11 U.S.C. § 524(k)(8) and approves the reaffirmation agreement described above.

☐ The court does not disapprove the reaffirmation agreement under 11 U.S.C. § 524(m).

☐ The court disapproves the reaffirmation agreement under 11 U.S.C. § 524(m).

☐ The court does not approve the reaffirmation agreement.

BY THE COURT

Date: __________________________

United States Bankruptcy Judge
Redemption Property Agreement

Submitted by:
Sally J. Elkington
_Elkington Shepherd LLP_

Carl R. Gustafson
_Lincoln Law_

Sarah Lampi Little
_Kornfield, Nyberg, Bendes, Kuhner & Little, P.C._
United States Bankruptcy Court
Northern District of California

In re ____________________________________________  Case No. ________________
Debtor(s) Chapter __________

Redemption of Property Agreement

I [We] _____ and ________, agree(s) that:

1. Creditor owns a security interest in ___.
2. The value of collateral is $___.
3. Creditor's interest is valid and enforceable despite the debtor's bankruptcy case.
4. Debtor agrees to pay the full value of the collateral no later than ___.
5. Upon receiving the payment specified in paragraph 4, creditor will take all steps necessary to terminate its security interest in the collateral.

Date ____________________________  Signed ________________________________

Debtor

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Part IV: Filing a Chapter 7 Bankruptcy Case (PowerPoint slides)

Sally J. Elkington
_Elkington Shepherd LLP_

Carl R. Gustafson
_Lincoln Law_

Sarah Lampi Little
_Kornfield, Nyberg, Bendes, Kuhner & Little, P.C._
PART IV: FILING A CHAPTER 7 BANKRUPTCY CASE
Commencement of a Chapter 7 Case:

- A case is commenced by a petition by a debtor(s) or may be filed by creditors seeking an involuntary bankruptcy case.
- Petition must be accompanied by the filing fee (currently $335), an application to pay the fee in installments or an application to waive the fee.
- Debtor must file with the voluntary petition a verified statement of debtor’s social security number and any other tax identification number or a statement that the debtor has no number.
Schedules A through J
(Official Form 6)

- A list of assets (Schedules A and B)
- Property claimed as exempt (Schedule C)
- Information about creditors (Schedules D, E and F)
- List of unexpired leases and executor contracts (Schedule G)
- List of codebtors (Schedule H)
- Income and Expenses (Schedules I and J)
- Statement of Financial Affairs (Official Form 7)
- Statement of Current Monthly Income and Means Test Calculation (Official Form 22A)
- Statement of Intention with Regard to Secured Debts and Unexpired Personal Property/Leases (Official Form 8)
- Mailing matrix with the name and address of each creditor
- Certificate of Credit Counseling
CREDIT COUNSELING CLASS & CERTIFICATE

What is a credit counseling class?

What proof do I get to show client has taken class?

Do I have to include this in my bankruptcy case?

When do I take this class?
Fee waiver/Fee installment application

- Can my client get a fee waiver of bankruptcy filing fee?
  - only if beneath 150% of poverty line and unable to pay in installments
- What is the procedure?
- Can I appear for my client?
Filing requirements

• Many if not all courts require attorneys who regularly file bankruptcy petitions to use the Case management Electronic Filing system.

• Your district will likely require you to take a training course or otherwise certify that you are familiar with CM/ECG prior to allowing you to file electronically.

• In emergency situation, you can still drop files by the clerk’s office.
Debtors must decide what they are going to do with property that is collateral for a debt. Options include

• Reaffirming the debt
• Surrendering the collateral
• Redeeming the asset
Amending Schedules

• When do you amend?
• What do you amend?
• Can debtors e-sign documents?
FINANCIAL MANAGEMENT CERTIFICATE

- Required for discharge
- Case will close without discharge without certificate
- Purpose – teach debtors how to manage money and use credit wisely after bankruptcy
NOTES
Part V: Bankruptcy Estate & Exemptions

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART V: BANKRUPTCY ESTATE & EXEMPTIONS

In considering filing for Chapter 7 or Chapter 13 bankruptcy, it is vital to understand that at the commencement of the bankruptcy case, all of debtor’s property becomes part of a bankruptcy estate.

Domiciliary Requirements for Exemptions

- Which state’s exemptions apply if the debtor recently moved? 11 U.S.C. §522(b)(3)
  - The state exemption law that applies is determined by the state in which the debtor’s domicile has been located for the 730 days immediately preceding the petition filing date.
  - If not domiciled in a single state for the entire 730-day period, then determine where the debtor was domiciled for the longer portion of the 180-day period immediately preceding the 730-day period (2 years plus 180 days). Using exemptions for a different state
    - If state law for exemptions is not the state law of filing, determine whether the exemption state’s law allows extraterritorial use of its exemptions.
    - Exemptionsexpress.com

- Property of the Bankruptcy Estate 11 USC §541
  - The filing of a bankruptcy petition creates an “estate”, which is comprised of all legal and equitable interest of the debtor in property wherever located and by whomever held as of the commencement of the case.
  - Includes property the debtor owns and possesses (i.e. real estate, car, furniture); property owns but does not possess (i.e. security deposits, royalties, and commissions); property debtor is entitled to receive (i.e. legal claims, accounts receivables, tax refunds).
  - Property acquired within 180 days after commencement of the case: 11 USC §541(a)(5)
  - By bequest or inheritance, through a property settlement agreement with spouse or divorce decree, as a life insurance beneficiary.
  - Report acquired property on a supplemental schedule, even if the case is already closed
  - Failure to report: revoke discharge of all of your debts
  - Marital Property: the estate includes community property whether or not the debtor is filing a joint petition.
  - Preferences: the trustee may avoid, and bring back into the bankruptcy estate, a payment or transfer of property worth more than $600 to a creditor made within 90 days before filing or one year if the creditor was an insider. 11 USC § 547.
Transfers with intent to defraud creditors. 11 USC §727(a)(2)
   ✓ Exemption planning versus transfer of assets out of the debtor’s name for little or no consideration.

Property that is part of the bankruptcy estate and not exempt is transferred to the trustee for the benefit of creditors.

- Federal Exemptions
  - If §522(b)(3)(A) renders the debtor ineligible to claim any exemptions, the debtor may use the federal exemptions
  - Congress enacted a set of federal exemptions (11.U.S.C. §522(d)), but allowed states to “opt out” and require residents to use the state exemption system.
  - California opted out of the federal exemptions and requires debtors to choose one of two alternate sets of bankruptcy exemptions: §704 exemptions – Homestead or §703 exemptions – Wildcard

- Exemptions Generally:
  - The debtor is able to keep property that is exempt. Reviewing with the client what property is exempt is a big factor in determining whether to file bankruptcy and what type of bankruptcy
  - An exemption may protect certain items without regard to value, such as tax exempt retirement accounts (but Roth IRAs and traditional IRAs, exemption limited to $1,095,000) regardless of state or federal exemption system.
  - An exemption, instead, may protect debtor’s ownership interest in a specific asset up to a limited dollar amount (homestead, tools of trade).
  - The wildcard exemption: fixed dollar amount allocable at will to any property, as the debtor chooses.
  - Debtor can combine an asset-specific exemption and a portion of the wildcard exemption to completely exempt an asset.
  - Spouses filing jointly.
  - The trustee, or any creditor, can object to the debtor’s claimed exemptions within 30 days after the Meeting of Creditors, or within 30 days after the debtor files an amendment to debtor’s exemptions. F.R.B.P. 4003

- Homestead Exemption:
  - Trustee may take and sell debtor’s home if debtor has equity greater than the homestead exemption and give the debtor cash for the exemption amount.
  - To claim a homestead exemption, the debtor may not need record a Homestead Declaration.
  - Regardless of the state homestead allowance, federal law may limit the homestead to $155,675 (adjusts with inflation) if it has not been owned by the debtor for the prior 1215 days, with some tracking allowance. 11 USC 522(p).
  - The above limit applies also to some felons and those who commit other specified bad acts.
• How to keep non-exempt property:
  o Pre-petition planning – Converting assets of a non-exempt type into property that is exempt (risk: attempt to defraud creditors)
  o Redemption rights: Debtors may pay the property’s value in cash or substitute exempt property of equal value

• Valuation of debtor’s property:
  o Exemption amounts relate to equity in the property so determining the value of the property is important.
    ✓ Value of the property is its fair market value as of the date of the filing the petition or the date the property becomes part of the bankruptcy estate § 522(a)(2).
    ✓ Determine what the property can be sold for at the time of filing. Ignore liens on personal property when computing value.
      ➢ Vehicles: use Kelly Blue Book, NADA guide, or Edmunds.com

• Secured property:
  o Creditors are entitled to take back the collateral.
  o Purchase money security interest and nonpurchase-money security interest
  o Judicial liens, Statutory liens, Tax liens
  o Statement of Intention:
    ✓ Debtor must file a Statement of Intention regarding any collateral which secures a debt and serve it on debtor’s creditors within 30 days after filing the bankruptcy petition
  o Debtor must give back the property (surrender), pay the creditor its replacement value (redemption) or sign a reaffirmation agreement (reaffirm) within 30 to 45 days after the Meeting of Creditors.
    ✓ If the debtor doesn’t meet both deadlines, the automatic stay no longer protects that collateral.
  o Motions for Relief from Stay on surrendered property
  o Reaffirmation on Vehicles — to sign or not to sign
  o Reaffirmation on anything other than a Vehicle

LIEN AVOIDANCE UNDER §522(f)
  o Can be done any time prior to closing of the bankruptcy
    ✓ Reopening a bankruptcy to avoid lien
  o Debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that the lien impairs an exemption, if such lien is a
    ✓ Judicial lien
    ✓ Non-possessory, non-purchase money security interest in any
      ➢ Household goods or furnishings
      ➢ Clothing
- Appliances
- Books
- Animals
- Crops
- Musical instruments
- Jewelry
- Tools of the trade
- Prescribed health aids

✓ Lien must impair the exemption to the extent that the sum of the lien and all other liens (not avoided) on the property and the amount of the exemption exceeds the value of the debtor’s interest on the property.
Exemptions—How to Figure Which to Use

Sally J. Elkington  
*Elkington Shepherd LLP*

Carl R. Gustafson  
*Lincoln Law*

Sarah Lampi Little  
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
EXEMPTIONS – HOW TO FIGURE WHICH TO USE

1) Identify the applicable state
   a) The bankruptcy code has exemptions; the “federal” exemption found under 11 U.S.C. 522. However, states have the option to opt out of the federal exemptions and adopt their own, or allow use of federal exemptions or state exemptions.
   b) Your client must use the state law’s exemptions determined by 11 U.S.C. 522(b)(3)(A)
      a. Domiciled in the state for past 730 days
      b. If Debtor has not been domiciled in their present state for at least 730 days, then look to where the debtor was domiciled in the 180 days preceding the 730 days and go with the state where the debtor was domiciled the longest during that period.
      c. Simple, huh?
   c) Look at the exemption laws of that state –
      a. Does the state opt out? If yes, Debtor has to use that state’s exemptions
      b. UNLESS – the debtor no longer lives in that state AND that state doesn’t allow non-residents to use their exemptions, if so, use federal
      c. If state does not opt out, use either federal or state, but see b.
   d) IF state has two or more exemption schemes: e.g. California
      a. Make sure you understand
Sample Motion to Avoid Judicial Lien
Pursuant to 11 U.S.C. §522(f),
United States Bankruptcy Court, Northern
District of California, Oakland Division

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

In Re:  
JOSE ARTURO FLORES  
CHRISTINA INIGUEZ  
Debtors.  
Bankruptcy Case No. 11-46798 RLE  
Chapter 13  
MOTION TO AVOID JUDICIAL LIEN PURSUANT TO 11 U.S.C. §522(f)

TO:  THE HONORABLE ROGER L. EFREMSKY, U. S. BANKRUPTCY JUDGE:

The motion of the Debtors allege:

1. Citibank (South Dakota) N.A. has or claims to have and abstract of judgment recorded against real property of the debtors which is commonly known as 41667 Maywood Street, Fremont, California 94538.

2. The lien was recorded with the Alameda County Recorder on December 27, 2010 as instrument number 2010387207 Exhibit E, attached to the Declaration in Support of Motion.

3. The liens against this property include a 1st Deed of Trust in favor of Santa Clara County Federal Credit Union in the amount of $311,532.87, a 2nd Deed of Trust in favor of Santa Clara County Federal Credit Union in the amount of $99,155.62, the Abstract of Judgment in favor of Stanislaus Credit Control Service, Inc. in the amount of $7,820.28 including interest to petition date and $3,991.37 including interest to petition date, the Abstract of
Judgment in favor of Citibank (South Dakota) N.A. in the amount of $10,612.65 including interest to petition date and $5,163.38 including interest to petition date, and the Abstract of Judgment in favor of American Express Centurion Bank in the amount $27,178.38 including interest to petition date. See Debtors’ Declaration in Support of Motion for further evidentiary support.

4. Debtors claimed this property exempt, and more than 30 days has elapsed since the debtors’ Amended Schedule C was filed on March 10, 2015 (See Docket Nos. 24 and 25) and no objection to their claimed exemption has been raised by any party.

5. The total liens against the property plus the exemption claimed of $40,300 equal $505,754.55, which is greater than the value of the real property absent any liens, which is $456,000.

6. Such judicial lien, or claim of judicial lien, impairs and exemption to which the debtors are entitled under 11 U.S.C. §522(b).

7. Such judicial lien, or claim of judicial lien, is avoidable by debtors pursuant to 11 U.S.C. section 522(f)(1).

WHEREFORE, Debtors pray for relief as follows:

1. That the judicial lien, or claim of judicial lien against real proper of the debtors commonly known as 41667 Maywood Street, Fremont, California, recorded with the Alameda County Recorder on December 27, 2010 as instrument number 2010387207 be avoided.

2. For such other and further relief as the Court considers proper.

Dated: June 2, 2016

/s/Sarah Lampi Little
SARAH LAMPI LITTLE
Attorney for Debtor
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

In Re: JOSE ARTURO FLORES

Christina Iniguez

Debtors.

Bankruptcy Case No. 11-46798 RLE
Chapter 13

NOTICE OF MOTION TO AVOID JUDICIAL LIEN PURSUANT TO 11 U.S.C. §522(f)

TO: CITIBANK (SOUTH DAKOTA) N.A., ITS ATTORNEY OF RECORD AND ALL INTERESTED PARTIES:

NOTICE IS HEREBY GIVEN that the debtors Jose Arturo Flores and Christina Iniguez have filed a Motion for an Order declaring void the Judicial Lien held by Citibank (South Dakota) N.A. on real property located at 41667 Maywood Street, Fremont, California 94538, which was recorded with the Alameda County Recorder on December 17, 2010 as instrument number 2010387207. The Motion will be based on this Notice of Motion, the Motion to Avoid Judicial Lien Pursuant to 11 U.S.C. §522(f) and the Declaration of Debtors in Support of Motion.

NOTICE IS FURTHER GIVEN that FRBP 2002 and Local Rule 9014-1 prescribe the procedures to be followed and that you have twenty-one (21) days from the date of service of this notice for you to request a hearing on the Motion. Any such request for hearing must: (1) be filed with the court and served upon the initiating party and the Chapter 7 Trustee; and (2) be accompanied by any declarations and/or memoranda of law the requesting party wishes to present.

SARAH L. LITTLE, ESQ. (Bar No. 215635)
KORNFIELD, NYBERG, BENDES & KUHNER, P.C.
1970 Broadway, Suite 225
Oakland, California 94612
Telephone: (510) 763-1000
Facsimile: (510) 273-8669
Email: s.little@kornfieldlaw.com

Attorneys for Debtors
in support of its position. If a request for hearing is timely made, the initiating party shall timely
set the matter for hearing and give at least seven (7) days written notice of the date of the hearing
to the requesting party and the Chapter 7 Trustee. The mailing address of the Bankruptcy Court
for filing objections or requests for hearing is U.S. Bankruptcy Court, P.O. Box 2070, Oakland,
CA 94604. If a request for hearing is not timely made, the court may enter an order approving the
Motion by default.

Dated: June 2, 2016

/s/Sarah Lampi Little
SARAH LAMPI LITTLE
Attorney for Debtors
PROOF OF SERVICE

I am at least 18 years of age and not a party to the within-entitled action. I am employed in the City of Oakland in the County of Alameda where the mailing took place. My business address is 1970 Broadway, Suite 225, Oakland, California. On June 2, 2016, I caused to be served a copy of the following documents:

NOTICE OF MOTION TO AVOID JUDICIAL LIEN PURSUANT TO 11 U.S.C. §522(f);
MOTION TO AVOID JUDICIAL LIEN PURSUANT TO 11 U.S.C. §522(f); AND
DECLARATION OF DEBTORS IN SUPPORT OF MOTION TO AVOID JUDICIAL LIEN PURSUANT TO 11 U.S.C. §522(f)
to the name(s) addressed below:

Via-Certified Mail
CITIBANK, N.A.
Attn: Officer, Director or Managing Agent, or any authorized agent by appointment or by law
701 East 60th St N
Sioux Falls, SD 57104

Via-Electronic Service
U.S. Trustee
1301 Clay Street, Suite 690N
Oakland, CA 94612

Michael Hunt
Janelle Henriques

Via-Electronic Service
Martha G. Bronitsky
Chapter 13 Trustee
P.O. Box 5004
Hayward, CA 94540

Jose Arturo Flores
Christine Iniguez
41667 Maywood Street
Fremont, CA 94538

By enclosing the above documents in an envelope and placing the envelope for collection and mailing on the date and at the place mentioned above following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is place for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. (CCP §§ 1013, 1013(a), 2015.5).

By personally delivering copies to person(s) at the address(es) listed above. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney’s office by leaving the above documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the above documents at the party’s residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening. (CCP §§ 415.10, 1011, 2015.5).
By facsimile transmission as agreed by the parties from a facsimile transmission machine, whose telephone number is (510) 273-8869. For the same party at the facsimile number referenced above at ___am/pm. The above document(s) were transmitted to a facsimile machine maintained by the person on whom it is served. The transmission was reported as complete and without error and the transmission report was properly issued by the sending fax machine. A copy of the transmission report is hereby attached. (CRC § 2.306, CCP §§ 1013(e), 2015.5).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 2, 2016, at Oakland, California.

/s/ Gail A. Michael
Debtors Jose Arturo Flores and Christina Iniguez hereby declare:

1. We are the debtors in the above entitled chapter 13 case, filed on 06/24/11.
2. We are informed and believe that creditors Stanislaus Credit Control Service, Citibank (South Dakota), N.A. and American Express Centurion Bank have or claims to have abstracts of judgment recorded against our real property, which is commonly known as 41667 Maywood Street, Fremont, CA 94538.
3. The Abstract of Judgment of Stanislaus Credit Control Service, Inc. was recorded with the Alameda County Recorder on January 18, 2007 as instrument number 2007030556, see Exhibit A.
4. The Abstract of Judgment of Stanislaus Credit Control Service, Inc. was recorded with the Alameda County Recorder on June 5, 2007 as instrument number 2007210574, see Exhibit B.
5. The Abstract of Judgment of Citibank (South Dakota) N.A. was recorded with the
   Alameda County Recorder on June 4, 2009 as instrument number 2009177358, see Exhibit
   C.

6. The Abstract of Judgment of American Express Centurion Bank was recorded with the
   Alameda County Recorder on October 20, 2010 as instrument number 2010306961, see
   Exhibit D.

7. The Abstract of Judgment of Citibank (South Dakota) N.A. was recorded with the
   Alameda County Recorder on December 27, 2010 as instrument number 2010387207, see
   Exhibit E.

8. These creditors were listed and scheduled property under 11 U.S.C. §521(1) as a creditors
   and the claims will be discharged under 11. U.S.C. §1328.

9. We scheduled this real property on Schedule A of our bankruptcy petition, and on
   Amended Schedule C to claim this interest exempt.

10. We believe the value of the real property at the time of our bankruptcy filing was
    $456,000.00. We owe a 1st deed of trust against this property in favor of Santa Clara
    County Federal Credit Union and the balance at the time of filing was $311,532.87, A true
    and correct copy of the facing pages of their Proof of Claim #13 is attached as Exhibit F.
    We also owe a 2nd Deed of Trust to Santa Clara County Federal Credit Union, with a loan
    balance of $99,155.62 as of the petition date. A true and correct copy of the face pages of
    Proof of Claim 14 is attached as Exhibit G. We also owed property taxes to Alameda
    County Tax Collector in the amount of $2,747.84. A true and correct copy of the face
    pages of Proof of Claim 24 is attached as Exhibit H.

11. At the time of my bankruptcy filing, and currently, we reside in this property.
We declare under penalty of perjury that the foregoing is true and correct to the best of our knowledge.

Dated: May 26, 2016

/s/ Jose Arturo Flores

Dated: May 26, 2016

/s/ Christina Iniguez
CASE 11-46798    DOC# 40-1    FILED: 06/02/16

THIS PAGE WAS ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING
INFORMATION PER CALIFORNIA GOVERNMENT CODE, SEC. 27361.6

EXHIBIT A

Page 1 of
Case: 11-46798    Doc# 40-1    Filed: 06/02/16    Entered: 06/02/16 15:08:36    Page 2 of
<table>
<thead>
<tr>
<th><strong>PLAINTIFF:</strong> Stansilas Credit Control Service, Inc.</th>
<th><strong>CASE NUMBER:</strong> 126322</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEFENDANT:</strong> Christine Iniguzc</td>
<td></td>
</tr>
</tbody>
</table>

**NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:**

13. Judgment creditor (name and address):

14. Judgment creditor (name and address):

15. [ ] Continued on Attachment 15.

**INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:**

<table>
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<th>Name and last known address</th>
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<tr>
<td>Social security No.:</td>
<td>XXX-XX-</td>
</tr>
<tr>
<td>Summons was personally served at or mailed to (address):</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>17.</th>
<th>Name and last known address</th>
</tr>
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<td>Driver's license No. &amp; state:</td>
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<tr>
<td>Social security No.:</td>
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<td>Summons was personally served at or mailed to (address):</td>
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</table>

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<tr>
<th>18.</th>
<th>Name and last known address</th>
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<td>Social security No.:</td>
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<th>20.</th>
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<td>Social security No.:</td>
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</tr>
<tr>
<td>Summons was personally served at or mailed to (address):</td>
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<th>Name and last known address</th>
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<tr>
<td>Summons was personally served at or mailed to (address):</td>
<td></td>
</tr>
</tbody>
</table>

22. [ ] Continued on Attachment 22.
PLEASE COMPLETE THE INFORMATION BELOW:

RECORDED AT THE REQUEST OF:

Stanislaus Credit Control Service, Inc

WHEN RECORDED, MAIL TO:

NAME: Stanislaus Credit Control Service, Inc
ADDRESS: 914 14th Street
TOWN & STATE: Modesto, Ca
ZIP CODE: 95354

ABSTRACT OF JUDGMENT

(Print the title of the document in this area exactly as it appears on the original)

THIS PAGE WAS ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION PER CALIFORNIA GOVERNMENT CODE, SEC. 27361.6
Case: 11-46798    Doc# 40-2    Filed: 06/02/16    Entered: 06/02/16 15:08:36    Page 2 of

ATTORNEY OF PARTY WITHOUT ATTORNEY (name, address, state bar number, and telephone number):
Recording requested by and return to:
Law Office of Lamb & Michael, A.P.C.
William H. Michael, S.B. #609192
Linda S. Leong, S.B. #156406
1314 G Street
Modesto, CA 95354

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
Stanislaus
STREET ADDRESS: 1100 I Street
MAILING ADDRESS: Modesto CA 95354

PLAINTIFF: Stanislaus Credit Control Service, Inc.
DEFENDANT: Christine Iniguez

ABSTRACT OF JUDGMENT—CIVIL
AND SMALL CLAIMS

1. The □ judgment creditor □ assignee of record
   applies for an abstract of judgment and represents the following:
   a. Judgment debtor’s
      Name and last known address:
      Christine Iniguez
      41667 Maywood Street
      Fremont CA 94538
   b. Driver’s license No. and state:
   c. Social security No.: XXX-XX- 5793
   d. Summons or notice of entry of state’s judgment was personally served or
      mailed to (name and address): Christine Iniguez
      32740 Tule Lake Ln., Fremont CA 94539

2. □ Information on additional judgment
   debtors is shown on page 2.
3. Judgment creditor (name and address):
   Stanislaus Credit Control Service, Inc.
   914 14th Street, Modesto, Ca 95354
   Date: 05/14/07
   William H. Michael/Linda S. Leong

4. □ Information on additional judgment
   creditors is shown on page 2.
5. (□ Original abstract recorded in this county: Alameda
   a. Date: 01/16/07
   b. Instrument No.: 2007030556

6. Total amount of judgment as entered or last renewed:
   $ 2450.55
7. All judgment creditors and debtors are listed on this abstract.
8. a. Judgment entered on (date): 07/31/89
   b. Renewal entered on (date): 01/12/98, 03/07/07
9. □ This judgment is an installment judgment.

10. □ An execution lien □ attachment lien is endorsed on the judgment as follows:
   a. Amount:
   b. In favor of (name and address):

11. A stay of enforcement has
   a. □ not been ordered by the court.
   b. □ been ordered by the court effective until
   (date):

12. a. □ I certify that this is a true and correct abstract of
    the judgment entered in this action.
   b. □ A certified copy of the judgment is attached.

This abstract issued on (date):

MAY 2 5 2007

Clerk, by

ABSTRACT OF JUDGMENT—CIVIL
AND SMALL CLAIMS
ABSTRACT OF JUDGMENT

(PLEASE fill in DOCUMENT TITLE(S) ON THIS LINE)

This page added to provide adequate space for recording information
(Additional recording fee applies)

Gov. code 27361.6

Case: 11-46798  Doc# 40-3  Filed: EXHIBIT C Entered: 06/02/16 15:08:36  Page 1 of
ATTORNEY OR PARTY WITHOUT ATTORNEY (name, address, State bar number, and telephone number):
Recording requested by and return to: (408) 362-2270
Michael M. Hunt, ESQ.  #99804
Jamalia Henriques, ESQ.  #111589
151 Bernal Rd. Ste#8
San Jose, CA 95119
[ X ] ATTORNEY [ X ] JUDGMENT [ ] ASSIGNEE OF RECO
RECORD
Superior Court of California, County of Alameda
Street Address: LIMITED JURISDICTION
Mailing Address: 39439 PASO PADRE PARKWAY
City and Zip Code: FREMONT, CA 94538
Branch Name: FREMONT HALL OF JUSTICE
Plaintiff: CITIBANK (SOUTH DAKOTA) N.A.
Defendant: CHRISTINA INIGUZ

Abstract of Judgment—Civil
AND SMALL CLAIMS
[ ] Amended

1. The [X] judgment creditor [ ] assignee of record applies for an abstract of judgment and represents the following:
   a. Judgment debtor's
       [ Name and last known address ]
       CHRISTINA INIGUZ
       41667 Maywood St
       Fremont, CA 94538-4116

   b. Driver's license No.[last 4 digits] and state: [X] Unknown
   c. Social Security No.[last 4 digits]: XXX-XX-5793  [ ] Unknown
   d. Summons or notice of entry of court judgment was personally served or mailed to (name and address):
       CHRISTINA INIGUZ
       41667 Maywood St. Fremont, CA 94538-4116,

2. [ ] Information on additional judgment creditors is shown on page 2.
3. Judgment creditor (name and address):
   CITIBANK (SOUTH DAKOTA) N.A.
   C/O H&H, 151 Bernal Rd #8, San Jose, CA 95119

   Date: May 18, 2009

   [ ] Renewal entered on (date):
   [ ] This judgment is an installment judgment.

   (Signature of Applicant or Attorney)

6. Total amount of judgment as entered or last renewed:
   $8,748.01
7. All judgment creditors and debtors are listed on this abstract.
   [ ] A stay of enforcement has
   a. [X] not been ordered by the court.
   b. [ ] A certified copy of the judgment is attached.
   [ ] The judgment entered on (date): May 7, 2009
10. [ ] An [ ] execution [ ] attachment lien is endorsed on the judgment as follows:
   a. Amount:
   b. In favor of (name and address):

11. [ ] This abstract was issued on (date):
   MAY 26 2008
NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:
13. Judgment creditor (name and address):

14. Judgment creditor (name and address):

15. [ ] Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:
16. Name and last known address

17. Name and last known address

16. Driver's license No. ([last 4 digits])

17. Driver's license No. ([last 4 digits])

16. Social Security No. ([last 4 digits])

17. Social Security No. ([last 4 digits])

16. Summons was personally served at or mailed to (address):

17. Summons was personally served at or mailed to (address):

18. Name and last known address

19. Name and last known address

18. Driver's license No. ([last 4 digits])

19. Driver's license No. ([last 4 digits])

18. Social Security No. ([last 4 digits])

19. Social Security No. ([last 4 digits])

18. Summons was personally served at or mailed to (address):

19. Summons was personally served at or mailed to (address):

20. [ ] Continued on attachment 20.
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, State Bar number, and telephone number).

Recording requested by and return to:
ELIZABETH A. BLEIER, ESQ. Bar No. 81470
RICHARD E. GOLDEN, ESQ. Bar No. 102079
16350 Ventura Blvd., Suite 820
Encino, CA 91436
File No. 9-07784-0/2600-00

ATTORNEY FOR JUDGMENT CREDITOR

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
STREET ADDRESS 99439 Paso Padre Parkway
MAILING ADDRESS 99439 Paso Padre Parkway
CITY AND ZIP CODE Fremont 94538
BRANCH NAME FREMONT HALL OF JUSTICE

DEFENDANT: JOSE FLORES

ABSTRACT OF JUDGMENT – CIVIL AND SMALL CLAIMS

1. The judgment creditor, assignee of record applies for an abstract of judgment and represents the following:

   a. Judgment debtor’s name and last known address:

      Jose Flores
      41667 Meywood St
      Fremont, California 94538

   b. Driver’s license No. and state: Unknown
   c. Social Security No.: XXX-XX-8333 Unknown
   d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address): Jose Flores
      41667 Meywood St
      Fremont, California 94538

2. Information on additional judgment debtors is shown on page 2.

3. Judgment creditor (name and address):

   AMERICAN EXPRESS CENTURION BANK
   16139 Ventura Blvd., Suite 620
   Encino, CA 91436

Date: May 14, 2010

ELIZABETH BLEIER RICHARD E. GOLDEN
(TYPE OR PRINT NAME) (SIGNATURE OR PRINT NAME OF ATTORNEY)

6. Total amount of judgment as entered or last renewed: $24,266.41

7. All judgment creditors and debtors are listed on this abstract.

8. a. Judgment entered on: 4/12/10
   b. Renewal entered on (date):

9. This judgment is an installment judgment.

10. An execution lien is endorsed on the judgment as follows:
   a. Amount: $5
   b. In favor of (name and address):

11. A stay of enforcement has
   a. not been ordered by the court.
   b. been ordered by the court effective until (date):

12. I certify that this is a true and correct abstract of the judgment entered in this action.
   a. Copy of the judgment is attached.
   b. A certified copy of the judgment is attached.

Clerk by

PAT S. SWEETEN

This abstract issued on (date):

JUN 14 2010

Case: 11-46798 Docu 40-4 Filed: 06/02/16 Entered: 06/02/16 15:08:36 Page 2 of 3
Case: 11-46798    Doc# 40-4    Filed: 06/02/16    Entered: 06/02/16 15:08:36    Page 3 of 3

PLAINTIFF: AMERICAN EXPRESS CENTURION BANK
DEFENDANT: JOSE FLORES

NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (name and address):

14. Judgment creditor (name and address):

15.  □ Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS

16. Name and last known address

17. Name and last known address

Driver’s license No. & state:  □ Unknown
Social security No.: XXX-XX-6000  □ Unknown
Summons was personally served at or mailed to (address):

Driver’s license No. & state:  □ Unknown
Social security No.:  □ Unknown
Summons was personally served at or mailed to (address):

18. Name and last known address

19. Name and last known address

Driver’s license No. & state:  □ Unknown
Social security No.:  □ Unknown
Summons was personally served at or mailed to (address):

Driver’s license No. & state:  □ Unknown
Social security No.:  □ Unknown
Summons was personally served at or mailed to (address):

20.  □ Continued on Attachment 22.
Case: 11-46798    Doc# 40-5    Filed: 06/02/16    Entered: 06/02/16 15:08:36    Page 1 of 2

**ABSTRACT OF JUDGMENT--CIVIL**

1. The [X] judgment creditor [ ] assignee of record applies for an abstract of judgment and represents the following:
   a. Judgment debtor's
      [ ] Name and last known address
      JOSE FLORES
      33762 4th St
      Union City CA 94587-3405
      [ ]
      b. Driver's license No.[last 4 digits] and state: [X] Unknown
      [ ] Unknown
      c. Social Security No.[last 4 digits]: 4393
      d. Summons or notice of entry of sister-state judgment was served or mailed to (name and address): JOSE FLORES
      33762 4TH ST UNION CITY CA 94587-3405

2. [ ] Information on additional judgment debtors is shown on page 2.

3. Judgment creditor (name and address):
   CITIBANK (SOUTH DAKOTA) N.A.
   C/O Hunt & Henriquez
   151 Bernal Rd #6, San Jose, CA 95119
   Date: December 8, 2010

4. [ ] Information on additional judgment creditors is shown on page 2.

5. [ ] Original abstract recorded in this county:
   a. Date:
   b. Instrument No.:

6. Total amount of judgment as entered or last renewed:
   $4836.11

7. All judgment creditors and debtors are listed on this abstract.

8. a. Judgment entered on (date): October 20, 2010
   b. Renewal entered on (date):

9. [ ] This judgment is an installment judgment.

10. [ ] An [X] execution [ ] attachment lien is endorsed on the judgment as follows:
    a. Amount: $ 
    b. In favor of (name and address):

11. A stay of enforcement has
    a. [X] not been ordered by the court.
    b. [ ] A certified copy of the judgment is attached.

**EXECUTIVE OFFICER/CLERK**

This abstract issued on (date):

DEC 14 2010

Alicia Espinoza
Clerk, by Alicia Espinoza, Deputy

Form Adopted for Mandatory Use
Judicial Council of California
EJ-001 [Rev. January 1, 2008]
<table>
<thead>
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<th>PLAINIFF:</th>
<th>DEFENDANT:</th>
<th>CASE NUMBER:</th>
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NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:
13. Judgment creditor (name and address:)
14. Judgment creditor (name and address:)

15. [ ] Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:
16. Name and last known address
17. Name and last known address

[ ]

Driver's license No.[last 4 digits] [ ] Unknown
Social Security No.[last 4 digits]: [ ] Unknown
Summons was personally served at or mailed to (address):

18. Name and last known address
19. Name and last known address

[ ]

Driver's license No.[last 4 digits] [ ] Unknown
Social Security No.[last 4 digits]: [ ] Unknown
Summons was personally served at or mailed to (address):

[ ]

20. [ ] Continued on attachment 20.
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| PRIN & INT             | 1665.18   | PAYMENT DATES |
| TAXES & INS           | .00       | LAST       |
| MISC INS              | .00       | NEXT       |
| CURR LT CHG           | .00       | UNPAID LC  |
| (LESS) SUBSIDY        | .00       | BALLOON PYMT|
| CURRENT PAYMENT       | 1665.18   | INT PAID YTD|

**UNSENT PAYMENT INFORMATION**

| ID:                    | [ ]       | PARAMETERS: |
| [                     | ]        | [ ]        |

| other GENERAL INTERRUPT PRINT | PRINT | main |
| keys SCREEN SCREEN CONTROL keys | PRINT | main |
UNITED STATES BANKRUPTCY COURT  
Northern District of California

PROOF OF CLAIM

Name of Debtor: Jose Anjos Flores  
Christina Jigueore

Name of Creditor (the person or other entity to whom the debtor owes money or property):
Santa Clara County Federal Credit Union

Name and address where notices should be sent:
Santa Clara County Federal Credit Union
853 N 1st Street
San Jose, CA 95112-0770

Telephone number:

Telephone number:

Name and address where payment should be sent (if different from above):

1. Amount of Claim as of Date Case Filed: $99,155.62

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach limited statement of interest or charges.

2. Basis for Claim:

   □ Other - Specify:

3. Last four digits of any number by which creditor identifies debtor: 5961

4. Secured Claim (See instruction §4 on reverse side.)
   Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

   Nature of property or right of setoff: Real Estate  □ Motor Vehicle  □ Other

   Value of Property: $45,600.00  □ Annual Interest Rate: 4.95

   Amount of arrearage and other charges at time case was filed included in secured claim:

   If any: $  □ Basis for perfection:

   Amount of Secured Claim: $99,155.62  Amount Unsecured:

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

   □ Wages, salaries, or commissions (up to $1,725) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507(a)(4).


   □ Up to $2,600 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507(a)(7).

   □ Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8).

   □ Other - Specify applicable paragraph of 11 U.S.C. §507(a):

   Amount entitled to priority: $  

6. Creditors: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documentation: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, assignments of insurance, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 2 and definition of "redacted" on reverse side.)

   ⬇️ DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. ⬆️

If the documents are not available, please explain:

Date: 8/4/11  
Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

FOR COURT USE ONLY

Penalty for presenting fraudulent claim: fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 151 and 3571.

CaGebz:11495988 DoClaim:0-74  Filed: 08/08/13  Entered:06/02/16/15:08:39Page 2 of 2  
EXHIBIT G

889
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ID: [ ]
TRAN CODE: [ ]
PARAMETERS: [ ]
[ other GENERAL INTERPT PRINT SCREEN ]
[ keys SCREEN ]
[ CONTROL keys ]
**FORM B10 (Official Form 10) (10-12)**

**United States Bankruptcy Court**
**NORTHERN DISTRICT OF CALIFORNIA**

**Name of Debtor** (The person or other entity to whom the debtor owes money or property):
JOSÉ ARTURO FLORES
CHRISTINA INGÜEZ

**Case Number**
CHAPTER 13
CASE No. 11-46798 RLE 13

**Address:**
ALAMEDA COUNTY TAX COLLECTOR
1221 OAK STREET
OAKLAND, CA 94612

**Telephone Number:** 510-272-6847

**Account or other number by which creditor identifies debtor:** 252-1099-38

**1. Basis for Claim:**
- Goods sold
- Services performed
- Money loaned
- Personal injury/medical death
- Other ______

**2. Date debt was incurred:**
2010-11

**3. If court judgment, date obtained:**

**4. Total Amount of Claim at Time Case Filed:** $2,747.84

**CLAIM AMOUNT IS SUBJECT TO CHANGE RESULTING FROM TAX AUDIT, ESCAPE BILLS, AND OTHER AMOUNTS TO BE DETERMINED.**

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.

**5. Secured Claim:**
- Check this box if your claim is secured by collateral (including a right of setoff).
- Brief Description of Collateral:
  - Real Estate
  - Motor Vehicle
  - Other ______
- Value of Collateral: $ ______

Amount of arrearage and other charges at time case filed included in secured claim, if any: $2,747.84

**6. Unsecured Nonpriority Claim:**
- Check this box if a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

**7. Unsecured Priority Claim:**
- Check this box if you have an unsecured priority claim
- Amount entitled to priority $ ______

Specify the priority of the claim:
- Wages, salaries, or commissions (up to $4,000) earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(5).
- Filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(5).
- Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- Other - specify applicable paragraph of 11 U.S.C. § 507 (a) ______

**8. Credits:** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

**9. Supporting documents:** Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, lien statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

**10. Date-Stamped Copy:** To receive an acknowledgment of the filing of the claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

**SIGNATURES**

**Debtor:**

**Creditor:**

**Debtor:***

**Creditor:**

**OFFICIAL RECEIVED:**

**DISTRICT OF CALIFORNIA**

**PROOF OF CLAIM**

**CASE: 11-46798**

**Doc# 408**

**Filed: 06/02/16**

**Entered: 06/02/16 15:08:36**

**Page 1 of 2**

**2011 OCT 12 AM 9:58**

**U.S. BANKRUPTCY COURT**

**NORTHERN DIST. OF CA.**

**OAKLAND, CA.**

**This Space is for Court Use Only**

**EXHIBIT H**
SECOND INSTALLMENT PAYMENT, 2010-2011
PARCEL NO. 525-1099-38
TRACER NO. 397315

THIS AMOUNT DUE FEB. 1, 2011
$2,488.95
Do Not Use This Stub After June 30, 2011
SEND THIS STUB WITH YOUR SECOND PAYMENT

D U P L I C A T E
Make checks payable to: Donald R. White, Tax Collector, Alameda County

52011 73873315002 5000248895 000000000

FIRST INSTALLMENT PAYMENT, 2010-2011
PARCEL NO. 525-1099-38
TRACER NO. 397315

THIS AMOUNT DUE NOV. 1, 2010
$2,747.84
Do Not Use This Stub After June 30, 2011
SEND THIS STUB WITH YOUR FIRST PAYMENT

D U P L I C A T E
Make checks payable to: Donald R. White, Tax Collector, Alameda County

52011 9382315001 5000248845 000000000
Part V: Bankruptcy Estate & Exemptions
(PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART V: BANKRUPTCY ESTATE & EXEMPTIONS
Bankruptcy Estate

- In considering filing for Chapter 7 or Chapter 13 bankruptcy, it is vital to understand that at the commencement of the bankruptcy case, all of debtor’s property becomes part of a bankruptcy estate.

- A Chapter 7 Trustee “owns” the bankruptcy estate for the benefit of creditors
Property of the Estate
11 USC §541

- The filing of a bankruptcy petition creates an “estate”.
- Includes property the debtor:
  - owns and possesses (i.e. real estate, car, furniture);
  - property owns but does not possess (i.e. security deposits, royalties, and commissions);
  - property debtor is entitled to receive (i.e. legal claims, accounts receivables, tax refunds).
Estate 11 USC §541

- Property acquired within 180 days after commencement of the case:

  11 USC §541(a)(5)
  - By bequest or inheritance, through a property settlement agreement with spouse or divorce decree, as a life insurance beneficiary
  - Report acquired property on a supplemental schedule, even if the case is already closed
  - Failure to report: May revoke discharge of all of your client’s debts
Estate 11 USC §541

- Marital Property: the estate includes community property whether or not the debtor is filing a joint petition.
- Preferences: the trustee may avoid, and bring back into the bankruptcy estate, a payment or transfer of property worth more than $600 to a creditor made within 90 days before filing or one year if the creditor was an insider. 11. U.S.C. § 547
Estate 11 USC §541

- Transfers with intent to defraud creditors. 11 USC §727(a)(2)
  - Exemption planning versus transfer of assets out of the debtor’s name for little or no consideration.

- Property that is part of the bankruptcy estate and not exempt is transferred to the trustee for the benefit of creditors.
Exemptions

- The debtor is able to keep property that is exempt. Reviewing with the client what property is exempt is a big factor in determining whether to file bankruptcy and what type of bankruptcy.

- Congress enacted a set of federal exemptions (11.U.S.C. §522(d)), but allowed states to “opt out” and require residents to use the state exemption system.
Exemptions

- California opted out of the federal exemptions and requires debtors to choose one of two alternate sets of bankruptcy exemptions: §704 exemptions (aka Homestead) or §703 exemptions (aka Wildcard).

- An exemption may protect certain items without regard to value, such as tax-exempt retirement accounts (but Roth IRAs and traditional IRAs, exemption limited to $1,095,000) regardless of state or federal exemption system.
Exemptions

- Most exemptions protect debtor's ownership interest in a specific asset up to a limited dollar amount.
- The wildcard exemption: fixed dollar amount allocable at will to any property, as the debtor chooses.
- Debtor can combine an asset-specific exemption and a portion of the wildcard exemption to completely exempt an asset.
Exemptions

- The trustee, or any creditor, can object to the debtor’s claimed exemptions within 30 days after the Meeting of Creditors, or within 30 days after the debtor files an amendment to debtor’s exemptions. F.R.B.P. 4003
Homestead Exemption

- Trustee may take and sell debtor's home if debtor has equity greater than the homestead exemption and give the debtor cash for the exemption amount.
- To use homestead exemption over $155,675 (where state laws allow), the debtor must have acquired the home in that state more than 40 months prior to filing.
- Some other bad acts may establish this cap to the homestead exemption.
How to keep non-exempt property

- Pre-petition planning: Converting assets of a non-exempt type into property that is exempt (risk: attempt to defraud creditors)

- Redemption rights: Debtors may pay the property’s value in cash or substitute exempt property of equal value
Domiciliary Requirements:

Which state’s exemptions apply if the debtor recently moved? 11 U.S.C. §522(b)(3)

- The law that applies is determined by the state where the debtor has been domiciled for the 2 years preceding the petition filing date.
- If domiciled in multiple states during last 2 years, then determine where the debtor was domiciled the longest time during the 1/2 year between 2 and 2 1/2 years ago.
Out of State Exemptions

Using exemptions for a different state

- If state law for exemptions is not the state law of filing, determine whether the exemption state’s law allows extraterritorial use of its exemptions.
- Exemptionexpress.com
- If §522(b)(3)(A) renders the debtor ineligible to claim any exemptions, the debtor may use the federal exemptions.
Valuation of debtor’s property:

- Exemption amounts relate to equity in the property so determining the value of the property is important.
- Value of the property is its fair market value as of the date of the filing the petition or the date the property becomes part of the bankruptcy estate.
- § 522(a)(2). Determine what the property can be sold for at the time of filing. Ignore liens on personal property when computing value. Appreciation in the property accrues to the trustee.
- Vehicles: use Kelly Blue Book, NADA guide, or Edmunds.com
Secured property

- Secured creditors retain their rights against their collateral.
- Purchase money security interest and nonpurchase-money security interest
- Judicial liens, Statutory liens, Tax liens
- Debtor must file a Statement of Intention regarding any collateral which secures a debt and serve it on debtor’s creditors within 30 days after filing the bankruptcy petition
Secured property

- Debtor must surrender the property, redeem the property or reaffirm the debt within 30 to 45 after the Meeting of Creditors.
- If the debtor doesn’t meet both deadlines, the automatic stay no longer protects that collateral.
- Motions for Relief from Stay on surrendered property
- Reaffirmation on Vehicles -- to sign or not to sign
- Reaffirmation on anything other than a Vehicle
LIEN AVOIDANCE UNDER §522(f)

- Can be done anytime prior to closing
- Reopening a bankruptcy to avoid a lien
- Avoiding a lien that impairs an exemption
  - Must be judicial lien
  - Non-possessory, non-purchase money security interest
  - Lien must impair the exemption to the extent that the sum of the lien and all other liens (not avoided) on the property and the amount of the exemption exceeds the value of the debtor’s interest on property
Part VI: The Automatic Stay and Discharge of Debts

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART VI: THE AUTOMATIC STAY AND DISCHARGE OF DEBTS

AUTOMATIC STAY PROTECTION

- The filing of the bankruptcy petition creates an automatic stay, which is a very broad court injunction against the continuance of any action by creditors, collection agencies, and government entities against the debtor or the debtor’s property. §362 describes the automatic stay.

- Violation of the Automatic Stay
  - Creates a cause of action for damages, punitive damages, and attorney fees.)362(k).
  - Even unknowing violations of the stay are voidable.
  - Only actions taken with notice of the stay give rise to damages
  - Examples of stay violations:
    - creditor phone calls
    - collection statements not required by law or requested by client
    - lawsuits
    - garnishments
    - repossession
    - entry of default on a loan
    - most attempts to collect debt by most entities

- Automatic Stay denied to persistent filers of bad-faith petitions:
  - If the debtor had a bankruptcy case pending within the preceding one-year period and dismissed, the stay will terminate after 30 days of the filing of the later case. The court may extend the stay if the party in interest demonstrates through a noticed motion that the filing of the later case is in good faith.
  - The stay will not apply at all if the debtor had two or more dismissals in the past year. The court can grant a stay if the party in interest demonstrates through a noticed motion that the filing of the later case is in good faith.

- Automatic stay does not apply to the following actions, which can continue against the debtor notwithstanding a bankruptcy filing: §362(b)
  - Proceedings concerning paternity, child custody, visitation rights, domestic violence, and divorce (to the extent the divorce proceeding does not seek to divide property of the estate).
  - Criminal proceedings (other than fines imposed)
  - IRS tax proceedings (other than issuing a lien or seizing property)
  - Continued withholding of income for loans from retirement funds
Foreclosures: if the debtor filed a prior bankruptcy case within the previous two years and the court had lifted the stay allowing the lender to proceed with the foreclosure, including in rem relief.

Eviction of a tenant, if the landlord obtained a judgment for possession prior to the bankruptcy filing, or if the landlord is evicting the tenant because the tenant is endangering the property or using controlled substances on the property. (Exception may be available if the debtor files a certification and deposits rent.)

Termination of Stay and Motion to Lift the Stay:
- Creditors can file a Motion to Lift Stay to allow the creditor to continue legal proceedings against a particular asset, or to allow landlords to begin or continue eviction proceedings.
- The Bankruptcy court may lift the stay and allow the creditor to do so in cases where the debtor has little or no equity in an asset. Fed. R. Bankr. P. 4001, 9014
- A debtor may resist the lifting of the automatic stay by offering adequate protection to the creditor.
- The stay terminates upon discharge, so in the typical chapter 7 case the stay lasts for about 3 months.

**DISCHARGEABILITY ISSUES**

- The court’s discharge notice does not specify which debts have been discharged. Discharge of debts is generally governed by §523, and contains a list of debts that are not dischargeable and others that may be discharged under limited circumstances.
- In some situations, the burden is on the creditor to timely file a complaint objecting to the discharge of a debt (B.R. 4007).
  - Failure to file an adversarial action in a timely manner allows the debt to be discharged.
  - The deadline is 60 days from the first date set for the meeting of creditors, but the Court can extend the deadline for good cause.
- Debts that are generally not discharged on policy grounds include, but are not limited to:
  - Payroll withholding taxes
  - Income taxes (depends when due and when filed)
  - Domestic support obligations (Child support, spousal support and related debts)
  - Student loans (unless undue hardship is shown – good luck!)
  - Traffic tickets or government fines (but possible in Chapter 13)
Debts that will be discharged unless they are challenged by the creditor through an adversary proceeding:

- Fraud
  - Fraud or defalcation while acting in a fiduciary capacity
- Embezzlement
- Alcohol related accident judgments
- Willful and malicious conduct to an entity or property of another
- Credit card purchases for luxury goods owed to a single creditor and aggregating to more than $675 (as of April 2016) and incurred within 90 days of filing for bankruptcy are presumed to be nondischargeable.
  - if you prove that you intended to pay the charges back
  - or that the goods aren't "luxury" items then the debt will be discharged
- In re Dougherty, 84 B.R. 653 (9th Cir. BAP 1988)
  - Dischargeability of credit card debt under §523(a)(2)
  - A court may infer the existence of a debtor's intent not to pay with reference to a non-exhaustive list of twelve factors:
    - The length of time between the charges made and the filing of bankruptcy
    - Whether or not an attorney has been consulted concerning the filing of bankruptcy before the charges were made
    - The number of charges made
    - The amount of the charges
    - The financial condition of the debtor at the time the charges are made
    - Whether the charges were above the credit limit of the account
    - Whether the debtor made multiple charges on the same day
    - Whether or not the debtor was employed
    - The debtor’s prospects for employment
    - Financial sophistication of the debtor
    - Whether there was a sudden change in the debtor's buying habits; and
Debts not listed on the petition:

- A debt not listed or scheduled on the petition will not be discharged unless the creditor has notice or actual knowledge of the case in order to timely file a proof of claim.
  - Exception for no-asset bankruptcy cases – *In re Beezley*, 994 F.2d 1433 (9th Cir. 1993)

Debts from a divorce settlement agreement or court decree:

- Must prove that the debtor has the ability to pay and the detriment to the recipient would be greater than the benefit to the debtor

Dischargeability status and the bankruptcy forms:

- Whether a debt is dischargeable has no effect on its classification as a secured debt (Schedule D), an unsecured priority debt (Schedule E), or an unsecured nonpriority debt (Schedule F).

Unsecured Priority Claims (Form - Schedule E)

- If there were to be a distribution to creditors, certain types of unsecured creditors would get paid ahead of all other unsecured creditors. These different types of categories of unsecured priority claims are set forth in §507.

Unsecured Nonpriority Claims (Form - Schedule F)

- There is no lien or collateral securing the claim and the claim is not entitled to priority treatment under the Bankruptcy Code.

**§707 ACTIONS BY TRUSTEE OR CREDITOR**

- Bankruptcy is a fresh start limited to the “honest, but unfortunate debtor”.
- §707 allows a creditor or party-in-interest (trustee) to object to the entire discharge if certain criteria can be proved, including (partial list):
  - Debtor, with intent to hinder, delay or defraud, transferred, destroyed, or concealed property within one year prior to filing the bankruptcy, or after the filing of the bankruptcy
  - Debtor concealed, destroyed, falsified or failed to keep and preserve books and records showing debtor’s financial position
  - Debtor knowingly made a false oath or account, presented a false claim, etc.

- Even if discharge is denied, trustee can still administer the case
- Burden on creditor or trustee to file a complaint in a timely manner
Sample Complaint Seeking Damages in Core Adversary Proceeding—Violation of Automatic Stay

Carl R. Gustafson

Lincoln Law
COMES NOW the Plaintiff, [Redacted], by and through her attorney of record, Carl R. Gustafson, LINCOLN LAW, and alleges and complains as follows:

COMPLAINT SEEKING DAMAGES IN CORE ADVERSARY PROCEEDING

[Redacted] v. [Redacted], AP Complaint
1. This is an action for damages filed in the United States Bankruptcy Court, Northern District of California, pursuant to 11 U.S.C §362(k).

1. The Plaintiff complains against Defendant for violations of the automatic stay.

2. The Plaintiff moves this court for an order finding Defendant has violated the stay, and awarding Plaintiff actual damages, including an award of attorney fees.

JURISDICTION AND VENUE

3. Jurisdiction is conferred on this Court pursuant to the provisions of 28 U.S.C. §1334. The proceeding arises in and is related to the above-captioned Chapter 13 case, case no.                                  under Title 11 and concerns property of the Debtor in that case. This court has both personal and subject matter jurisdiction to hear this case pursuant to 28 U.S.C. §1334, and 28 U.S.C. §157(b)(2).

4. This matter is primarily a core proceeding and therefore the Bankruptcy Court has jurisdiction to enter a final order. However, in the even this case is determined to be a non-core proceeding, Plaintiff's consent to the entry of final order by the Bankruptcy Judge.

5. Venue lies in this District pursuant to 28 U.S.C. §1391(b).

THE PARTIES

6. The Plaintiff is a debtor under Chapter 13 of Title 11 of the United States Code, in the case numbered                                .

7. Defendant                                        is a Delaware corporation, which conducts business in California at                                         . Defendant is a creditor with an unsecured, non-priority claim which is the subject of this action.

FACTUAL ALLEGATIONS

v. AF Complaint
8. On or before February 2013, Plaintiff, an employee of Defendant, incurred personal charges on her corporate card. Her agreement with her employer was that she would repay the personal charges. When her employment ended, she had not repaid the personal charges in full.

9. On or before February 10, 2013, Plaintiff bought vacation days through Defendant's vacation buy program. When her employment ended, she had not yet had the full amount deducted from her paychecks.

10. Defendant began collections against Plaintiff using a collections agency located in Florida. Plaintiff made payments to the Florida address that she would later list in her bankruptcy petition.

11. When she lost her job, she could no longer make the payments.


13. Plaintiff scheduled two debts to Defendant Ross on her bankruptcy schedules. The first debt, was for $5,364.16 for a corporate car, and the second was for $1,137.00 for employee vacation benefits. The address for both debts was listed as 

14. Defendant received two notices of Plaintiff's bankruptcy case. First, a Notice of Chapter 13 Plan was sent to the Tampa, Florida address. See Docket Item no. 9, in the main case. Second, a Notice of Creditors Meeting was sent to the Tampa, Florida address. See Docket item no. 8 in the main case. Both notices were sent by the Bankruptcy Noticing Center on July 3, 2014.
15. Both notice provided Plaintiff’s name, address and the last four digits of her social security number, so that Defendant would be able to easily identify her as a consumer who owed it a debt.

16. No returned mail was delivered to the Court. Therefore, Plaintiff believes and alleges that Defendant received the Notices sent by the Court’s system.

17. On July 8, 2014, afraid that ___ would continue to collect on the prepetition debt, Plaintiff requested her counsel notify ___ at its corporate headquarters that she had filed for bankruptcy, and that if Defendant attempted any further collections, they might be a violation of the bankruptcy code.

18. Accordingly, on July 8, 2014, Lincoln Law sent a letter, via first class U.S. mail postage prepaid, to ___ at its California corporate headquarters, ___ The letter identified Debtor as ___, and provided the case number and date on which Debtor had filed the Chapter 13 petition. The letter also explained that an automatic stay had gone into effect, and that any attempts at further collection may “be a violation of the Federal Bankruptcy Law.”

19. The letter was not returned as undeliverable. Therefore, Plaintiff believes and alleges that Defendant received the July 8, 2014 letter. This is Defendant’s third actual notice of Plaintiff’s bankruptcy.

20. On January 22, 2015, Defendant, through its attorney ___ filed an action in the Superior Court of California for Alameda County, case number ___. The Complaint requested $6,001.46 in damages for charges Plaintiff incurred on a business credit card. The Complaint specifically seeks damages in the amount of $5,364.16 of ___ v. ___
unreimbursed credit card charges which were owed by Plaintiff to Defendant as of June 18, 2012, and $637.30 in vacation hours purchased in 2013. These are the exact debts scheduled on Plaintiff’s Chapter 13 petition.

21. Defendant attempted to serve the Complaint and Summons at Plaintiff’s old address in Livermore, California. She no longer lived there.

22. When her old roommates contacted her about the attempted service, Plaintiff went to her attorney again for another letter informing that she had filed for bankruptcy and was under the protection of the automatic stay.

23. On January 26, 2015, Plaintiff’s bankruptcy attorney drafted a letter informing Stores that Plaintiff had filed for bankruptcy. The letter provided Plaintiff’s bankruptcy case number, and informed Stores that an automatic stay went into effect on June 27, 2014 “preventing a creditor from attempting to collect this debt.” The letter was sent to Stores’s corporate office located at

24. The letter was not returned as undeliverable. Therefore, Plaintiff believes and alleges that Defendant received the notice of Plaintiff’s bankruptcy sent January 26, 2015. This was Defendant’s fourth actual notice of Plaintiff’s chapter 13 bankruptcy filed June 27, 2014.

25. Despite this second actual notice of Plaintiff’s bankruptcy sent to Defendant’s corporate headquarters, Defendant did not withdraw the lawsuit that had been filed just days before.

26. On April 27, 2015, Defendant caused Plaintiff to be served with a Summons and Complaint by a process server who came to her home and served the legal process. At 9:30 p.m., the process server knocked on Plaintiff’s door to serve her with the summons and complaint in

 v. AP Complaint

5
the state court collections action. Plaintiff was startled to be served so late at night by a stranger knocking at her door.

27. On May 4, 21015, Defendant a Proof of Service of Summons with the Alameda County Court.

28. Defendant’s collection action against Plaintiff has caused her great anxiety. She is afraid a judgment will be entered against her in the state court action. She has hired Lincoln Law litigation to preserve her rights under the Bankruptcy Code.

29. Her attorneys prepared and mailed a Notice of Stay to the Superior Court of Alameda County on May 26, 2015, informing the court of her bankruptcy petition.

30. She believes, however, that the Defendant will not stop its collection efforts until and unless the Court orders it to stop. Therefore, she is filing this complaint in adversary proceeding.

**Damages Incurred by Debtors**

31. Plaintiff had to hire an attorney stop Defendant’s violations of her rights under the Bankruptcy Code. Plaintiff has incurred attorney’s fees in his attempt to protect their rights under the bankruptcy code.

32. Plaintiff’s peace of mind regarding the stay supposedly in place while she completed the payments under her plan is shattered. Plaintiff feels helpless in the face of and depressed and humiliated by the efforts of the Defendant to circumvent the automatic stay and to persist in the state court collections. Plaintiff is also really afraid that she will have to pay the attorneys fees for the state court collection action, and that she will be stuck with the prepetition
debt that she properly scheduled on her petition, and of which Defendant has received at least four notices.

**CAUSE OF ACTION ONE:**
**WILLFUL VIOLATION OF THE AUTOMATIC STAY**
**(PURSUANT TO 11 U.S.C. § 362(a))**

33. The allegations in paragraphs 10 through 32 are realleged and incorporated herein by this reference.

34. Section 362(a)(1) prohibits "the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

35. Defendant engaged in four separate acts which constitute the commencement or continuation of a legal action and the use of legal process to collect on a prepetition debt: the filing of the state court complaint, the attempted service in early January 2015, the service on Plaintiff in April 2015 and the filing of the Proof of Service of Summons in May 2015.

36. Defendant knew that Plaintiff filed for bankruptcy, and was repeatedly notified at the address of its debt collector and at its corporate headquarters.

37. As a result of the above violations of 11 U.S.C. Section 362, the Defendant is liable to the Debtor-Plaintiffs for actual damages, punitive damages and legal fees. See 11 U.S.C. §362(k).

///

///

v. AP Complaint
DEMAND FOR RELIEF

WHEREFORE, the Debtor-Plaintiff(s), having set forth their claims for relief against the Defendants respectfully prays of the Court the following:

A. The Court enter an Order finding that Defendant violated the automatic stay on five separate occasions;

B. Plaintiff recovers against Defendant a sum to be determined by the Court in the form of actual damages;

C. That the Plaintiff recovers against the Defendant legal fees and expenses incurred by her attorney in bringing this adversary proceeding to protect Plaintiff’s rights.

D. That the Plaintiff has and recovers further relief as the Court may deem just and proper.

Dated: May 27, 2015

LINCOLN LAW, LLP

/s/ Carl Gustafson

Carl Gustafson

Attorney for Debtor
11 U.S.C. §523—Exceptions to Discharge

Submitted by:
Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
11 U.S.C. §523 – EXCEPTIONS TO DISCHARGE

(a) A discharge under section 727, 1141, 1228 (a), 1228 (b), or 1328 (b) of this title does not discharge an individual debtor from any debt—

(1) for a tax or a customs duty—

(A) of the kind and for the periods specified in section 507 (a)(3) or 507 (a)(8) of this title, whether or not a claim for such tax was filed or allowed;

(B) with respect to which a return, or equivalent report or notice, if required—

(i) was not filed or given; or

(ii) was filed or given after the date on which such return, report, or notice was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax;

(2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by—

(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor’s or an insider’s financial condition;

(B) use of a statement in writing—

(i) that is materially false;

(ii) respecting the debtor’s or an insider’s financial condition;

(iii) on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and

(iv) that the debtor caused to be made or published with intent to deceive; or

(C) for purposes of subparagraph (A)—

(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within
90 days before the order for relief under this title are presumed to be nondischargeable; and

(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

(ii) for purposes of this subparagraph—

(I) the terms “consumer”, “credit”, and “open end credit plan” have the same meanings as in section 103 of the Truth in Lending Act; and

(II) the term “luxury goods or services” does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor;

(3) neither listed nor scheduled under section 521 (a)(1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit—

(A) if such debt is not of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim, unless such creditor had notice or actual knowledge of the case in time for such timely filing; or

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such timely filing and request;

(4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;

(5) for a domestic support obligation;

(6) for willful and malicious injury by the debtor to another entity or to the property of another entity;

(7) to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss, other than a tax penalty—
(A) relating to a tax of a kind not specified in paragraph (1) of this subsection; or

(B) imposed with respect to a transaction or event that occurred before three years before the date of the filing of the petition;

(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor’s dependents, for—

(A)

(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;

(9) for death or personal injury caused by the debtor’s operation of a motor vehicle, vessel, or aircraft if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance;

(10) that was or could have been listed or scheduled by the debtor in a prior case concerning the debtor under this title or under the Bankruptcy Act in which the debtor waived discharge, or was denied a discharge under section 727 (a)(2), (3), (4), (5), (6), or (7) of this title, or under section 14c(1), (2), (3), (4), (6), or (7) of such Act;

(11) provided in any final judgment, unreviewable order, or consent order or decree entered in any court of the United States or of any State, issued by a Federal depository institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union;

(12) for malicious or reckless failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency;
(13) for any payment of an order of restitution issued under title 18, United States Code;

(14) incurred to pay a tax to the United States that would be nondischargeable pursuant to paragraph (1);

(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);

(14B) incurred to pay fines or penalties imposed under Federal election law;

(15) to a spouse, former spouse, or child of the debtor and not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit;

(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor’s interest in a unit that has condominium ownership, in a share of a cooperative corporation, or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot; but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case;

(17) for a fee imposed on a prisoner by any court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under subsection (b) or (f)(2) of section 1915 of title 28 (or a similar non-Federal law), or the debtor’s status as a prisoner, as defined in section 1915 (h) of title 28 (or a similar non-Federal law);

(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;
but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or

(19) that—

(A) is for—

(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or any regulation or order issued under such Federal or State securities laws; or

(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

(B) results, before, on, or after the date on which the petition was filed, from—

(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

(ii) any settlement agreement entered into by the debtor; or

(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.

For purposes of this subsection, the term “return” means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.

(b) Notwithstanding subsection (a) of this section, a debt that was excepted from discharge under subsection (a)(1), (a)(3), or (a)(8) of this section, under section 17a(1), 17a(3), or 17a(5) of the Bankruptcy Act, under section 439A [1] of the Higher Education Act of 1965, or under section 733(g) [1] of the Public Health Service Act in a prior case concerning the debtor under this title, or under the Bankruptcy Act, is dischargeable in a case under this title unless, by the terms of subsection (a) of this section, such debt is not dischargeable in the case under this title.
(c) (1) Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt of a kind specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt described in subsection (a)(2), (a)(4), (a)(6), or (a)(11) owed to such institution by an institution-affiliated party unless the receiver, conservator, or liquidating agent was appointed in time to reasonably comply, or for a Federal depository institutions regulatory agency acting in its corporate capacity as a successor to such receiver, conservator, or liquidating agent to reasonably comply, with subsection (a)(3)(B) as a creditor of such institution-affiliated party with respect to such debt.

(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney’s fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.

(e) Any institution-affiliated party of an insured depository institution shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a)(4) or (11).
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Part VI: The Automatic Stay and Discharge of Debts (PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PARTS VI: THE AUTOMATIC STAY AND DISCHARGE OF DEBTS
AUTOMATIC STAY PROTECTION

The filing of the bankruptcy petition creates an automatic stay, which is a very broad court injunction against the continuation of any action by creditors, collection agencies, and government entities against the debtor or the debtor’s property. Section 362 describes the automatic stay.
AUTOMATIC STAY PROTECTION

- Violation of the Automatic Stay
  - Creates a cause of action for damages, punitive damages, and attorney fees. §362(k).

- Violation of the Automatic Stay
  - Even unknowing violations of the stay are voidable.
  - Only actions taken with notice of the stay give rise to recoverable damages.
Motion to Lift the Stay
Examples of stay violations

- Collection statements not required by law or requested by client
- Creditor phone calls
- Garnishments
- Lawsuits
- Repossessions
- Entry of default on a loan
- Most attempts to collect debt by most entities
Automatic Stay denied to persistent filers of bad-faith petitions

- If the debtor had a bankruptcy case dismissed that was pending within the preceding one-year period, the stay will terminate after 30 days of the filing of the later case. The court may extend the stay after a noticed motion and upon a showing of good faith and a change of circumstances.

- If the debtor had two or more dismissals in the past year, the stay will not apply at all. A debtor may move the court to impose a stay.
AUTOMATIC STAY PROTECTION

Automatic stay does not apply to the following actions: §362(b)

- Proceedings concerning paternity, child custody, visitation rights, domestic violence, and divorce (to the extent the divorce proceeding does not seek to divide property of the estate).
- Criminal proceedings (other than fines imposed)
- IRS tax proceedings (other than issuing a lien or seizing property)
- Continued withholding of income for loans from retirement funds
- Foreclosures, where the court had lifted the stay in a prior filing
- Eviction of a tenant, if landlord previously obtained judgment for possession
Motion to Lift the Stay:

- Creditors can file a Motion to Lift Stay to allow the creditor to continue legal proceedings against a particular asset, or to allow landlords to begin or continue eviction proceedings.
- The Bankruptcy court may lift the stay and allow the creditor to do so in cases where the debtor has little or no equity in an asset. Fed. R. Bankr. P. 4001, 9014
Motion to Lift the Stay

- A Debtor may resist the lifting of the automatic stay by offering adequate protection to the creditor.
- The stay terminates upon discharge, so in the typical chapter 7 case the stay lasts for about 3 months.
- The stay continues for 14 days after an order is granted. Rule 4001(a)(3).
Dischargeability Issues

- 11 USC §523 contains a list of debts that are not dischargeable and others that may be discharged under limited circumstances.

- For some debts, the creditor must file a complaint objecting to the discharge of a debt within 60 days of the first date set for the meeting of creditors (B.R. 4007).

- Failure to file a complaint may allow the debt to be discharged.
Dischargeability Issues

- Debts that are generally not discharged on policy grounds include, but are not limited to:
  - Payroll withholding taxes
  - Income taxes (depends when due and when filed)
  - Domestic support obligations
  - Student loans (unless undue hardship is shown)
  - Traffic tickets or government fines
  - Alcohol related accident judgments
  - Judgments for willful or malicious conduct resulting in serious physical injury or death
  - Luxury goods, cash advances (depends on the amount AND when incurred)
  - Debts for fiduciary breach
Dischargeability Issues

- Debts that will be discharged unless they are challenged by the creditor through an adversary proceeding:
  - Fraud
  - Embezzlement
  - Intentional Injury
  - Fraud or defalcation while acting in a fiduciary capacity
  - Proven credit card abuse
In re Dougherty, 84 B.R. 653 (9th Cir. BAP 1988)

- Dischargeability of credit card debt under §523(a)(2)
- A court may infer the existence of a debtor’s intent not to pay with reference to a non-exhaustive list of twelve factors:
  1. The length of time between the charges made and the filing of bankruptcy
  2. Whether or not an attorney has been consulted concerning the filing of bankruptcy before the charges were made
  3. The number of charges made
  4. The amount of the charges
  5. The financial condition of the debtor at the time the charges are made
  6. Whether the charges were above the credit limit of the account
  7. Whether the debtor made multiple charges on the same day
  8. Whether or not the debtor was employed
  9. The debtor's prospects for employment
  10. Financial sophistication of the debtor
  11. Whether there was a sudden change in the debtor's buying habits; and
  12. Whether the purchases were made for luxuries or necessities
Debts not listed on the petition

- A debt not listed or scheduled on the petition will not be discharged unless the creditor has notice or actual knowledge of the case in order to timely file a proof of claim.

- Exception for no-asset bankruptcy cases – *In re Beezley*, 994 F.2d 1433 (9th Cir. 1993)
Debts that may be challenged by a creditor  §523

- Section 523 lists several grounds for denying a discharge of all debts. The burden is on the creditor or trustee to file a complaint in a timely manner.
- In limited circumstances a discharge may be vacated upon discovery of fraudulent conduct. (Section 727(d))
Dischargeability status and the bankruptcy forms

- Whether a debt is dischargeable has no effect on its classification as a secured debt (Schedule D) or an unsecured debt (Schedule E/F),

- Unsecured Priority Claims (Form - Schedule E/F)
  If there were to be a distribution to creditors, certain types of unsecured creditors would get paid ahead of all other unsecured creditors. These different types of categories of unsecured priority claims are set forth in §507.

- Unsecured Nonpriority Claims (Form - Schedule E/F)
  There is no lien or collateral securing the claim and the claim is not entitled to priority treatment under the Bankruptcy Code.
§707 ACTIONS BY THE TRUSTEE OR CREDITOR

- §707 allows a creditor or party-in-interest (trustee) to object to the entire discharge if certain criteria can be proved.
- Even if discharge is denied, trustee can still administer the case.
- Burden on creditor or trustee to file a complaint in a timely manner.
Part VII: The §341 Hearing aka Meeting of Creditors

Sally J. Elkington
Elkington Shepherd LLP

Carl R. Gustafson
Lincoln Law

Sarah Lampi Little
Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.
PART VII – THE §341 HEARING AKA MEETING OF CREDITORS

- **PREPARING FOR THE 341(a) HEARING**
  - Debtors will attend the 341(a) Meeting of Creditors with attorney and be examined by the Chapter 7 Trustee
  - Explain to debtor what to expect
  - What to provide to the trustee 7 days in advance of the hearing (§521)
    - Payment advices (paycheck stubs) or other evidence of payment received within 60 days prior to the date of filing
    - Statement of the amount of monthly net income, itemized to show how the amount is calculated
    - Statement disclosing any reasonable anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition
    - Can the trustee require additional documents?

- **Who is the Chapter 7 Trustee?**
  - The Chapter 7 Trustee is the individual charged with the responsibility of reviewing the petition and conducting the 341(a) hearing to assess the veracity of the information debtor provided in the petition and testimony provided at the hearing.

- **What is the purpose of a 341(a) hearing?**
  - The 341(a) hearing takes place 30-40 days after the filing of the petition.
  - Hearing is a fact-finding session that debtors are required to attend.
  - Debtors are sworn in by the trustee and are asked a series of questions about their finances.
  - Meetings generally take about 10 to 15 minutes
  - What if creditors show up
  - 2004 Exam – similar to deposition in state court
    - Motion of any party in interest
      - Creditor
      - Trustee
    - Scope
      - Only to acts, conduct, or property or liabilities and financial condition of debtor, or to any matter which may affect the admiration of debtor’s estate, or debtor’s right to a discharge
• **Chapter 7 Trustee Duties**
  o Review the Bankruptcy Petition and Documents
  o Examine the Debtor under Oath
  o Liquidate Nonexempt Assets
  o Avoid Certain Transfers or Security Interests
  o Look for Fraud and Inaccuracies in the Petition
  o Provide Certain Notices to Child Support Payees and Agencies

• **Typical questions asked by the Chapter 7 Trustee include:**
  o Did you review and sign your paperwork?
  o Have you ever filed Bankruptcy before?
  o Is the information you provided on the petition true and correct?
  o Do you need to make any changes to the information in your petition?
  o Have you listed all of your assets and debts?
  o Any changes in the information provided since you filed the case?
  o Have you transferred any property prior to filing your case?
  o Have you transferred any credit card balances or withdrawn any cash from a credit card in the last year?
  o How did you value (whatever asset you have valued)?
  o Do you expect and inheritance in the next 180 days?

• **What to bring to the hearing:**
  o valid social security card
  o valid driver’s license or government issued picture identification
    ✓ Good practice tip: Advise client in writing that they need to bring social security card and driver’s license or government issued picture identification

• **What should unrepresented debtor bring to hearing?**
  o copy of their petition and schedules
  o copy of most recently filed tax returns (which have already been mailed to Chapter 7 Trustee if applicable)
  o notepad and pen to take notes

• **What else?**
  o If the debtor moves prior to receiving a discharge and before the case is closed, a change of address must be filed with the court.
  o Tell the client to arrive early
  o Bring your entire file as you never know what the trustee might ask for
  o Does your court have airport style security?
    ✓ If yes, plan for it and be sure to tell client
Section 341(a) Meeting of Creditors—Required Statements/Questions

Submitted by:
Sally J. Elkington
_Elkington Shepherd LLP_

Carl R. Gustafson
_Lincoln Law_

Sarah Lampi Little
_Kornfield, Nyberg, Bendes, Kuhner & Little, P.C._
SECTION 341(a) MEETING OF CREDITORS

REQUIRED STATEMENTS/QUESTIONS

1. State your name for the record. Is the address on the petition your current address?

2. Please provide your picture ID and social security number card for review.
   a. If the documents are in agreement with the § 341(a) meeting notice, a suggested statement for the record is:
      “I have viewed the original state of ________ drivers license (or other type of original photo ID) and original social security card (or other original document used for proof) and they match the name and social security number on the § 341 (a) meeting notice.”
   b. If the documents are not in agreement with the 341(a) meeting notice, a suggested statement for the record is:
      “I have viewed the original social security card (or other original document used for proof) and the number does not match the number on the § 341(a) meeting notice. I have instructed the debtor (or debtor’s counsel) to submit to the court an amended verified statement by [date], with notice of the correct number to all creditors, the United States Trustee, and the trustee, and to file with the court a redacted copy of the notice, showing only the last four digits of the social security number, and a certificate of service.”
   c. When the documents do not match the petition, the trustee shall attempt to ascertain why, and shall report the matter to the United States Trustee.
   d. If the debtor did not bring proof of identity and social security number, the trustee shall determine why.

3. Did you sign the petition, schedules, statements, and related documents and is the signature your own? Did you read the petition, schedules, statements, and related documents before you signed them?

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1These statements/questions are required. The trustee shall ensure the debtor answers the substance of each of the questions on the record. The trustee may exercise discretion and judgment in varying the wording of the statements/questions, if the substance of the questions is covered.
4. Are you personally familiar with the information contained in the petition, schedules, statements and related documents? To the best of your knowledge, is the information contained in the petition, schedules, statements, and related documents true and correct? Are there any errors or omissions to bring to my attention at this time?

5. Are all of your assets identified on the schedules? Have you listed all of your creditors on the schedules?

6. Have you previously filed bankruptcy? (If so, the trustee must obtain the case number and the discharge information to determine the debtor(s) discharge eligibility.)

7. What is the address of your current employer?

8. Is the copy of the tax return you provided a true copy of the most recent tax return you filed?

9. Do you have a domestic support obligation? To whom? Please provide to me the claimant’s address and telephone number, but do not state it on the record.

10. Have you read the Bankruptcy Information Sheet provided by the United States Trustee?

SAMPLE GENERAL QUESTIONS
(To be asked when deemed appropriate.)

1. Do you own or have any interest whatsoever in any real estate?
   If owned: When did you purchase the property? How much did the property cost? What are the mortgages encumbering it? What do you estimate the present value of the property to be? Is that the whole value or your share? How did you arrive at that value?
   If renting: Have you ever owned the property in which you live and/or is its owner in any way related to you?

2. Have you made any transfers of any property or given any property away within the last one year period (or such longer period as applicable under state law)?
   If yes: What did you transfer? To whom was it transferred? What did you receive in exchange? What did you do with the funds?

3. Does anyone hold property belonging to you?
   If yes: Who holds the property and what is it? What is its value?

4. Do you have a claim against anyone or any business?
   If there are large medical debts, are the medical bills from injury?
   Are you the plaintiff in any lawsuit?
   What is the status of each case and who is representing you?
5. Are you entitled to life insurance proceeds or an inheritance as a result of someone’s death?  
If yes: Please explain the details.

If you become a beneficiary of anyone’s estate within six months of the date your bankruptcy petition was filed, the trustee must be advised within ten days through your counsel of the nature and extent of the property you will receive. FRBP 1007(h)

6. Does anyone owe you money?  
If yes: Is the money collectible? Why haven’t you collected it? Who owes the money and where are they?

7. Have you made any large payments, over $600, to anyone in the past year?

8. Were federal income tax returns filed on a timely basis? When was the last return filed?  
Do you have copies of the federal income tax returns? At the time of the filing of your petition, were you entitled to a tax refund from the federal or state government?  
If yes: Inquire as to amounts.

9. Do you have a bank account, either checking or savings?  
If yes: In what banks and what were the balances as of the date you filed your petition?

10. When you filed your petition, did you have:
   a. any cash on hand?  
   b. any U.S. Savings Bonds?  
   c. any other stocks or bonds?  
   d. any Certificates of Deposit?  
   e. a safe deposit box in your name or in anyone else’s name?

11. Do you own an automobile?  
If yes: What is the year, make, and value? Do you owe any money on it? Is it insured?

12. Are you the owner of any cash value life insurance policies?  
If yes: State the name of the company, face amount of the policy, cash surrender value, if any, and the beneficiaries.

13. Do you have any winning lottery tickets?

14. Do you anticipate that you might realize any property, cash or otherwise, as a result of a divorce or separation proceeding?
15. Regarding any consumer debts secured by your property, have you filed the required Statement of Intention with respect to the exemption, retention, or surrender of that secured property? Please provide a copy of the statement to the trustee. Have you performed that intention?

16. Have you been engaged in any business during the last six years? If yes: Where and when? What happened to the assets of the business?

In cases where debtors are engaged in business, the following questions should be considered:

1. Who was responsible for maintaining financial records?

2. Which of the following records were maintained?
   a. Cash receipts journal
   b. Cash disbursements journal
   c. General journal
   d. Accounts receivable ledger
   e. Accounts payable ledger
   f. Payroll ledger
   g. Fixed asset ledger
   h. Inventory ledger
   i. General ledger
   j. Balance sheet, income statement, and cash flow statements

3. Where are each of the foregoing records now located?

4. Who was responsible for preparing financial statements?

5. How often were financial statements prepared?

6. For what periods are financial statements available?

7. Where are such financial statements now located?

8. Was the business on a calendar year or a fiscal year?

9. Were federal income tax returns filed on a timely basis? When was the last return filed?

10. Do you have copies of the federal income tax returns? Who does have the copies?

11. What outside accountants were employed within the last three years?

12. Do you have copies of the reports of such accountants? Who does have copies?

13. What bank accounts were maintained within the last three years?
14. Where are the bank statements and canceled checks now located?

15. What insurance policies were in effect within the last year? What kind, and why?

16. From whom can copies of such insurance policies be obtained?

17. If the business is incorporated, where are the corporate minutes?

18. Is the debtor owed any outstanding accounts receivable? From whom? Are they collectible?

19. Is there any inventory, property, or equipment remaining?
Main Duties of a Chapter 7 Trustee

Sally J. Elkington  
*Elkington Shepherd LLP*

Carl R. Gustafson  
*Lincoln Law*

Sarah Lampi Little  
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
MAIN DUTIES OF A CHAPTER 7 TRUSTEE

- Review the Bankruptcy Petition and Documents Filed by the Debtor

- Verify the Information and Calculations Using Debtor’s Financial Documents And Other Independent Sources.

- Examine the Debtor Under Oath
  ✓ 341(a) meeting of creditors. The bankruptcy trustee conducts the hearing and asks the debtor questions under oath about the information contained in the bankruptcy documents.

- Liquidate Nonexempt Assets
  ✓ The Trustee has the power to sell the nonexempt assets of the bankruptcy debtor.
    ★ The trustee determines the value of property to see if there are any nonexempt assets that should be sold to pay the creditors.
    ★ If there are no nonexempt assets, the trustee will prepare a report stating there will be no distribution to creditors. But if the trustee finds any nonexempt assets, he or she must liquidate and sell them in a way that gives the maximum amount of return to the creditors.

- Avoid Certain Transfers or Security Interests
  ✓ The trustee has certain powers to avoid any preferential transfers or improperly executed security interests.
    ★ If the debtor transferred property to someone else or paid back certain creditors over others (such as family members) before filing bankruptcy, the trustee may be able to avoid these and get the money or property back to distribute it among all creditors.
    ★ If a creditor (such as a car company) did not properly create a lien or security interest on debtor’s property, the trustee can avoid that as well and sell the property free and clear of the lien.
Part VIII: After the Filing of the Bankruptcy

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART VIII - AFTER THE FILING OF THE BANKRUPTCY

- **AFTER THE 341(a) HEARING**
  - Financial Management Certificate
    - The debtor may be done after the 341 hearing if the debtor has already filed the financial management certificate.
  - Trustee may request more information and continue the hearing
    - Proof of value of an asset
    - Proof of ownership of an asset
    - Proof of lien(s) against an asset
  - Amending the Schedules
  - Motion to abandon

- **LIEN AVOIDANCE UNDER §522(f)**
  - Can be done any time prior to closing of the bankruptcy
    - Reopening a bankruptcy to avoid lien
  - Debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that the lien impairs an exemption, if such lien is a
    - Judicial lien
    - Non-possessory, non-purchase money security interest in any
      - Household goods or furnishings
      - Clothing
      - Appliances
      - Books
      - Animals
      - Crops
      - Musical instruments
      - Jewelry
      - Tools of the trade
      - Prescribed health aids
    - Lien must impair the exemption to the extent that the sum of the lien and all other liens (not avoided) on the property and the amount of the exemption exceeds the value of the debtor’s interest on the property

- **TRANSFERS THE TRUSTEE MAY AVOID**
  - §547 Preference Actions
    - Trustee may avoid and recover from creditors payments made with the 90-day period before the bankruptcy filing
      - Policy behind provision to prevent aggressive collection activities that may force the debtor into bankruptcy or to keep the debtor from pay on debts they do not want to discharge
      - 1-year look back for insiders
Preference is defined in §547
- Payment on an antecedent debt
- Made while debtor was insolvent
- To a non insider within 90 days of filing
- That allows creditor to receive more on claim than would have had payment not been made and claim paid through bankruptcy proceeding

There are defenses that the attorney should evaluate
- Ordinary course of business
- Contemporaneous exchange for goods or services
- New value

- § 544 and § 548 – Fraudulent Conveyances
  - Actual fraud – intent to defraud creditors
    - Made 1-year before date of filing
    - Made with intent to hinder or defraud creditor
      - Overt intention
  - Constructive fraud – transfer made in exchange for grossly inadequate consideration
    - In exchange debtor received less than “reasonably equivalent value”; and
    - Debtor is unable to pay debts either at the time of transfer or result of transfer

- ADMINISTRATION OF ASSETS
  - If trustee administers assets, case stays open
  - Determining factors on whether property should be abandoned
  - Motion to Abandon

- DISCHARGE
  - The goal of the case in the end is to get a discharge.
    - If everything has been completed, you and the Debtor should receive a copy of the discharge within 60 days after first meeting of creditors.
    - Contact trustee if much more time than 60 days passes
    - Tell debtor to keep discharge in safe place in case creditor tries to collect from them or credit report is not accurate

- CLOSING THE CASE
  - A case will be closed without a discharge if debtor fails to take or attorney fails to file Financial Management Certificate
  - Case will have to be reopened
    - Fee of $245
    - Motion to reopen
Part VII: 341 Hearing (PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART VII:
341 HEARING
Preventing client for 341 Meeting

Debtor needs to bring the following to 341 meeting:

Valid social security card.

Valid driver’s license or government issued picture identification.

Attorney should bring:

- Copy of petition, supporting documentation, and tax returns.
Before the 341 Meeting

At least 7 days before the hearing, attorney must submit most recently filed tax return to Chapter 7 Trustee.

Trustees may also require other documents:
- Bank statement covering petition date
- 60 days of paystubs
- Evidence supporting amount of secured debts on real property
- Proof of insurance
At the 341 Meeting

You and your client should plan to arrive 30 minutes before the scheduled 341 meeting. They will be nervous! Be their hero in the easiest of settings.

Debtor will be asked read the "Bankruptcy Information Sheet" before the examination by Chapter 7 Trustee at 341(a) hearing. You can give this to your clients in your office.

Debtor will be sworn in by the Chapter 7 Trustee.

It is the responsibility of the debtor to testify truthfully.
What questions will the trustee ask?

Trustee: “I want the TRUTH!”
Debtor: “You can’t handle the truth!”
Trustee: “Did you order the Code Red?”
Debtor: “You’re damn right I did!”
What questions will the trustee ask?

• Bankruptcy trustee is required to ask certain questions per the trustee’s handbook
• Must verify identity and social security number
• Must confirm that Debtor(s) have read and signed bankruptcy petition
• Will ask questions related to investigation of assets of the bankruptcy estate
• Will ask questions to confirm no abuse of the bankruptcy system
After the Hearing / Case Wrap Up

Debtor may also need to do the following:

Provide the Chapter 7 Trustee with any requested information at 341 meeting.

Amend schedules as necessary and send a copy to Chapter 7 Trustee.

Attend continued hearing dates (if required).
If your client is excused from appearing at a continued 341(a) hearing, you should confirm this in writing & call Chapter 7 Trustee before hearing to confirm no appearance is necessary.)
Financial Management Class

Client must take financial management class. A financial management certificate along with bankruptcy court’s certification statement must then be filed with the court.

FAILURE TO FILE FINANCIAL MANAGEMENT CERTIFICATE & CERTIFICATION STATEMENT WILL RESULT IN CASE BEING CLOSED WITHOUT A DISCHARGE OF THEIR DEBTS.

What can I do now if this happens?
Discharge:
You and your client should expect to receive discharge 60 days after the first 341 Meeting.

If much more time passes after 60 days after 341(a) hearing, contact the Chapter 7 Trustee or the bankruptcy court.
CHANGE OF ADDRESS

Debtor should file a change of address form with the court if they move before receiving a discharge.

Attorney should also file a change address form if address of firm has changed.
Part VIII: After 341 Meeting
(PowerPoint slides)

Sally J. Elkington
*Elkington Shepherd LLP*

Carl R. Gustafson
*Lincoln Law*

Sarah Lampi Little
*Kornfield, Nyberg, Bendes, Kuhner & Little, P.C.*
PART VIII:
AFTER 341 MEETING
LIEN AVOIDANCE MOTIONS

- Non consensual judicial liens or non-possessory, nonpurchase money interests in certain personal property (522(f)(1))
- Impairs exemption:

Formula

Lien + all other liens on property + exemption > fair market value
Barring Discharge - §727 Actions by Trustee or Creditor

• §727 lists several grounds for denying a discharge of all debts. The burden is on the creditor or trustee to file a complaint in a timely manner.

• In limited circumstances a discharge may be vacated upon discovery of fraudulent conduct. (§727(d))
Transfers that the Trustee May Avoid

- Preferences Section 547
  - 90 look back for ordinary creditors
  - 1 year look back for insiders

- Fraudulent Conveyances Section 544 & 548
If Trustee Administers Asset(s) Case Stays Open

• Review all property
• Determine whether any property should be abandoned (appreciating real estate)
• File motion to force trustee to abandon
Discharge:
You and your client should expect to receive discharge 60 days after the first 341 Meeting.

If much more time passes after 60 days after 341 hearing, contact the Chapter 7 Trustee or the Bankruptcy Court Clerk.
Closing the Case

Client must take financial management class. A financial management certificate, along with bankruptcy court’s certification statement must be filed with the court.

FAILURE TO FILE FINANCIAL MANAGEMENT CERTIFICATE & CERTIFICATION STATEMENT WILL RESULT IN CASE BEING CLOSED WITHOUT A DISCHARGE OF DEBTS.
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