

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

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**MEMORANDUM**

**To:** Honorable Jeffrey S. Sutton, Chair  
Standing Committee on Rules of Practice and Procedure

**From:** Honorable Eugene R. Wedoff, Chair  
Advisory Committee on Federal Rules of Bankruptcy Procedure

**Date:** May 8, 2013

**Re:** Report of the Advisory Committee on Bankruptcy Rules

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**I. Introduction**

The Advisory Committee on Bankruptcy Rules met on April 2 and 3, 2013, in New York, New York, at the United States Bankruptcy Court. The draft minutes of that meeting accompany this report as Appendix C. The Committee's actions fall into three categories.

First, the Advisory Committee took action on the proposed rule and form amendments that were published for comment in August 2012. Forty-six comments were submitted in response to the publication, some of which addressed multiple rules and forms. The comments were considered in a series of subcommittee conference calls, at a meeting of the Forms Modernization Project, and in Committee discussions at the New York meeting. (The comments are summarized below, along with a discussion of the changes that the Committee made in response.) The Advisory Committee now seeks the Standing Committee's final approval and transmission to the Judicial Conference of most of the published items: the revision of the Part VIII rules and amendments to ten other rules and five official forms. Because the Committee made significant changes after publication to one set of published forms—the means test forms—it requests that those forms be republished.

Second, the Advisory Committee took action on new proposed rule and form amendments that are the result of two major projects: the continuing work of the Forms Modernization Project and the development of a chapter 13 plan form. The Committee requests publication for public comment of (1) the remaining group of modernized forms for use in individual-debtor bankruptcy cases and (2) a chapter 13 plan form and implementing rule amendments.

Finally, as discussed below, the Committee also approved and seeks publication for comment of proposed amendments to two other rules and three forms.

Part II of this report discusses the action items, grouped as follows:

(A1) matters published in August 2012 for which the Advisory Committee seeks approval for transmission to the Judicial Conference—amendments to Rules 1014, 7004, 7008, 7012, 7016, 7054, 8001-8028, 9023, 9024, 9027, and 9033, and Official Forms 3A, 3B, 6I, and 6J;

(A2) a conforming amendment to Official Form 23, for which the Committee requests transmission to the Judicial Conference without publication;

(B1) amendments to Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, for which the Committee seeks approval for republication in August 2013, along with the initial publication of Official Form 22A-1Supp; and

(B2) matters for which the Advisory Committee seeks approval for publication in August 2013—amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5005, 5009, 7001, 9006, and 9009, and Official Forms 101, 101A, 101B, 104, 106Sum, 106A/B, 106C, 106D, 106E/F, 106G, 106H, 106Dec, 107, 112, 113, 119, 121, 318, 423, 427, 17A, 17B, and 17C.

## II. Action Items

### A. Items for Final Approval

*A1. Amendments Published for Comment in August 2012. The Advisory Committee recommends that the proposed rule and form amendments that are discussed below be approved and forwarded to the Judicial Conference. It recommends that the amended forms take effect on December 1, 2013.* The text of the amended rules and forms is set out in Appendix A.

**Action Item 1. Rules 7008, 7012, 7016, 9027, and 9033** would be amended in response to *Stern v. Marshall*, 131 S. Ct. 2594 (2011). The Bankruptcy Rules follow the Judicial Code's division between core and non-core proceedings. The current rules contemplate that a

bankruptcy judge's adjudicatory authority is more limited in non-core proceedings than in core proceedings. For example, parties are required to state whether they do or do not consent to final adjudication by the bankruptcy judge in non-core proceedings. There is no comparable requirement for core proceedings. *Stern*, which held that a bankruptcy judge did not have authority under Article III of the Constitution to enter final judgment in a proceeding deemed core under the Judicial Code, has introduced the possibility that such a proceeding may nevertheless lie beyond the power of a bankruptcy judge to adjudicate finally. In other words, a proceeding could be "core" as a statutory matter but "non-core" as a constitutional matter.

The Advisory Committee proposed to amend the Bankruptcy Rules in three respects. First, the terms core and non-core would be removed from Rules 7008, 7012, 9027, and 9033 to avoid possible confusion in light of *Stern*. Second, parties in all bankruptcy proceedings (including removed actions) would need to state whether they do or do not consent to entry of final orders or judgment by the bankruptcy judge. Third, Rule 7016, which governs pretrial procedures, would be amended to direct bankruptcy courts to decide the proper treatment of proceedings.

The Advisory Committee received eight comments on all or part of these proposed amendments. In the main, the comments expressed support for the amendments but raised five issues:

- (1) whether to retain the terms "core" and "non-core";
- (2) whether references to the "bankruptcy court" in the published amendments should revert to the "bankruptcy judge," the term that is currently used;
- (3) whether to provide procedures for treating as proposed findings and conclusions a bankruptcy judge's decision entered as a final order or judgment when that decision is later determined to be beyond the bankruptcy judge's final adjudicatory power;
- (4) whether to require a statement as to consent when a litigant proceeds by motion before filing a formal pleading; and
- (5) whether to provide that a litigant may consent to final adjudication by a bankruptcy judge with respect to part, but not the whole, of a proceeding.

After reviewing the comments, the Advisory Committee voted unanimously to recommend final approval of the published amendments. With respect to the first three issues raised by the comments, these points were thoroughly considered before publication of the amendments. The Advisory Committee did not find the comments to raise new concerns that would justify revisiting those issues. Issues (4) and (5), on the other hand, had not been considered previously. The Advisory Committee nevertheless concluded that the comments raising those issues, although presenting possible suggestions for future rulemaking, did not

require alteration of the published amendments. Similarly, the Advisory Committee concluded that a comment by the Bankruptcy Clerks Advisory Group regarding the requirement of service of notice by mail under current Rules 9027 and 9033 might be considered for future rulemaking but was beyond the scope of the *Stern*-related amendments. The comments are set out in more detail in Appendix A.

**Action Item 2. Rules 8001-8028** (Part VIII of the Bankruptcy Rules) are the products of a comprehensive revision of the rules governing bankruptcy appeals to district courts, bankruptcy appellate panels, and, with respect to some procedures, courts of appeals. They result from a multi-year project to bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure; to incorporate a presumption favoring the electronic transmission, filing, and service of court documents; and to adopt a clearer style. Existing rules were reorganized and renumbered, some rules were combined, and provisions of other rules were moved to new locations. Much of the language of the existing rules was restyled.

Fourteen sets of comments were submitted in response to the publication of these rules. Many of the comments were lengthy and detailed. They demonstrated the commenters' careful review of the published rules and provided suggestions on issues of style, organization, and substance. In considering the comments, the Advisory Committee was guided by the goal of maintaining close adherence to the Federal Rules of Appellate Procedure ("FRAP"), except where those rules are incompatible with bankruptcy appeals. It also recommended postponing for future consideration a number of suggestions that would change existing practice or raise policy issues requiring careful consideration. In general, the comments displayed a positive response to the proposed revision of the Part VIII rules, and the Advisory Committee unanimously voted to recommend them for final approval with the post-publication changes that are indicated.

Not all of the proposed rules were commented upon. The following discussion describes the most significant comments that were submitted and the Advisory Committee's responses. Appendix A sets out after each rule a more complete listing of both the comments—including some on rules not discussed below—and the changes made after publication.

*General Comments.* Two bankruptcy judges and the National Conference of Bankruptcy Judges praised the revision of the Part VIII rules, stating that it would lead to improved quality of bankruptcy appellate practice, reduce confusion, and yield a more efficient and effective bankruptcy appellate practice.

*Rule 8002.* Two comments expressed concern about the inclusion of an inmate mailbox rule, which deems a notice of appeal by an inmate timely filed if it is deposited in the institution's internal mail system on or before the last day for filing. The commenters stated that this rule could delay for several days the determination that a bankruptcy court order or judgment has become final. The Committee continued to support the inclusion of this provision

in order to mirror FRAP 4(c). It believed that, given the rarity of inmate appeals in bankruptcy cases, the impact of the provision on finality will be limited.

*Rule 8003.* Several comments pointed out that the provision in subdivision (d) directing the clerk of the appellate court to docket an appeal “under the title of the bankruptcy court action” is unclear since “action” might refer to the overall bankruptcy case or to an adversary proceeding within the case. The Committee agreed that this was an instance in which the FRAP language needs to be modified for the bankruptcy context. It voted to change the wording in Rule 8003(d)(2) and the parallel provision in Rule 8004(c)(2) to “under the title of the bankruptcy case and the title of any adversary proceeding.”

*Rule 8004.* The clerk of a bankruptcy appellate panel (“BAP”) commented on the provision of subdivision (c)(3) that directed the dismissal of an appeal if leave to appeal is denied. She stated that appellants sometimes file a motion for leave to appeal when leave is not required and in that situation, although the motion is denied, dismissal is not appropriate. The Committee voted to delete the sentence in question, which is not contained in either the current bankruptcy rule or FRAP rule from which the proposed rule is derived.

One comment pointed out an inconsistency between proposed Rule 8003 and Rule 8004. Rule 8003(c) requires the bankruptcy clerk to serve the notice of appeal, whereas Rule 8004(a) places that duty on the appellant (along with the motion for leave to appeal). This difference is a carryover from existing practice. The Committee decided to consider in the future whether the service requirement should be the same in both rules.

*Rule 8005.* Several comments questioned whether an election to have an appeal heard by the district court, rather than the BAP, must still be made by a statement in a separate document. Subdivision (a) of the proposed rule refers to an official form that did not exist at the time the rule was published, and some comments also expressed confusion about that reference. At the spring meeting, the Committee approved for publication an amendment to the notice of appeal form, Official Form 17A, that will include a section for making an election under this rule. That form, which if approved will take effect on the same date as the rule, will clarify that the separate-document rule no longer applies.

Two comments addressed the procedure that should apply when an appellee elects to have the district court hear an appeal that was initially sent to the BAP. The Committee agreed with one of the comments that the BAP clerk should notify the bankruptcy clerk if an appeal is transferred to the district court, and it voted to add a sentence to that effect in subdivision (b).

*Rule 8006.* Two comments stated that the proposed rule does not give the bankruptcy court sufficient time to certify a direct appeal to the court of appeals. Under subdivision (b), a matter is deemed to remain pending in the bankruptcy court for purposes of this rule for 30 days after the effective date of the first notice of appeal. The Advisory Committee decided that this time limit strikes an appropriate balance between giving the bankruptcy court time to decide

whether to certify a direct appeal and letting the district court or BAP know at a reasonably early time that a certification for direct appeal will not be coming from the bankruptcy court. Under 28 U.S.C. § 158(d)(2), district courts and BAPs also have certification authority.

*Rule 8007.* Two comments questioned the provision of the published rule that appeared to permit a party to seek a stay pending appeal in an appellate court before a notice of appeal has been filed. The comments took the position that, until a notice of appeal is filed, the appellate court lacks jurisdiction to rule on a stay motion. The Committee agreed that the rule should be clarified to eliminate the possibility of filing a motion for a stay in the appellate court prior to the filing of a notice of appeal.

*Rule 8009.* Two bankruptcy judges and the Bankruptcy Clerks Advisory Group submitted comments stating that the practice of having the parties designate the record on appeal is now outdated and that the 8th Circuit BAP's rule regarding the record should be adopted. Under that rule the record before the bankruptcy court is the record on appeal, and parties refer by number to the appropriate bankruptcy court docket entries in their appellate briefs. BAP judges are able to review the entire bankruptcy court record electronically. The Advisory Committee decided that the rule should remain as published but that this issue should be taken up for consideration in the future.

Several comments objected to two FRAP provisions that were included in this rule: subdivision (c) that permits a statement of the evidence when a transcript is unavailable, and subdivision (d) that permits an agreed statement as the record on appeal. As to both, the Committee favored remaining consistent with the parallel FRAP provisions.

*Rule 8010.* Three comments noted that, while subdivision (b)(1) directs the bankruptcy clerk to transmit the record to the appellate clerk when it is complete, it does not specify what the clerk should do if the record is never completed. The Advisory Committee voted to add this issue to the list of matters for future consideration.

*Rule 8013.* One comment suggested that district courts be allowed to require a notice of motion in bankruptcy appeals if they otherwise follow that practice in their court. Another comment made a similar suggestion concerning proposed orders. The Advisory Committee agreed with these comments and added "Unless the court orders otherwise" to subdivision (a)(2)(D)(ii).

Another comment questioned why a rule allowing intervention on appeal is necessary and whether a party moving to intervene would have standing. The Advisory Committee noted that it is not always clear who is a party to a contested matter, so someone affected by an order being appealed may want to intervene to participate in the appeal. A United States trustee is also sometimes in the position of needing to intervene on appeal.

*Rule 8016.* Two comments raised questions about subdivision (f), which addressed the consequences of failing to file a brief on time. It was unclear why the provision was located in the rule governing cross-appeals, and it seemed to be inconsistent with a provision in Rule 8018. The Advisory Committee thought that the comments were well taken, and it voted to delete the subdivision.

*Rule 8017.* The States' Association of Bankruptcy Attorneys commented that all governmental units, not just the United States and states, should be permitted to file an amicus brief without consent or leave of court. The Advisory Committee adhered to the decision to make the bankruptcy rule consistent with FRAP 29.

*Rule 8018.* A bankruptcy judge commented that the authorization in subdivision (f) for dismissal of an appeal or cross-appeal should require notice and an opportunity to show cause why the appeal should not be dismissed. The Advisory Committee voted to reword the provision to clarify that dismissal can occur only upon motion of a party or on the court's own motion, after which the appellant would have an opportunity to respond.

*Rule 8019.* One comment stated that there should not be a presumption in favor of oral argument and that the grounds for not allowing it should not be limited. The Advisory Committee made no change to the proposed rule, which is consistent with current Rule 8012 and FRAP 34(a)(2).

Another comment asserted that there is an inconsistency between subdivision (b), which requires a unanimous vote of a BAP panel to dispense with oral argument, and subdivision (g), which allows a BAP panel by majority vote to require oral argument when the parties agree to submit the case on the briefs. The Advisory Committee concluded that these provisions are consistent with FRAP 34(a)(2) and (f) and with the presumption in favor of oral argument.

*Rule 8021.* The States' Association of Bankruptcy Attorneys commented that subdivision (b), which permits the assessment of costs for or against the United States, its agencies, and officers only if authorized by law, should apply to all governmental units. The Advisory Committee made no change to this provision, which is consistent with FRAP 39(b).

*Rule 8023.* In its comments, the National Conference of Bankruptcy Judges suggested two issues for future consideration by the Advisory Committee relating to this rule, which governs voluntary dismissals of appeals. (1) In the bankruptcy court Rule 7041 requires a plaintiff seeking to dismiss an adversary proceeding objecting to the debtor's discharge to provide notice to certain parties and obtain a court order containing appropriate terms and conditions. The NCBJ suggests the need for similar safeguards when that type of proceeding is voluntarily dismissed on appeal. (2) Under Rule 9019 a trustee is required to obtain court approval of any compromise or settlement. The NCBJ stated that it is not clear how Rule 9019 relates to this rule. The Advisory Committee added these issues to its list of matters for future consideration.

*Rule 8024.* The National Conference of Bankruptcy Judges commented that the rule carries forward a problem in current Rule 8016: It does not provide for the issuance of a mandate by the appellate court and thus does not make clear when jurisdiction reverts in the bankruptcy court after the conclusion of an appeal. While the existing rule does not appear to be disrupting bankruptcy administration unduly, the comment suggested that the Advisory Committee consider this issue in the future. The Advisory Committee agreed to do so.

**Action Item 3. Rule 1014(b)** governs the procedure for determining where cases will proceed if petitions are filed in different districts by, against, or regarding the same debtor or related debtors. The rule currently provides that, upon motion, the court in which the first-filed petition is pending may determine—in the interest of justice or for the convenience of the parties—the district or districts in which the cases will proceed. Except as otherwise ordered by that court, proceedings in the cases in the other districts “shall be stayed by the courts in which they have been filed” until the first court makes its determination.

The Advisory Committee proposed amending Rule 1014(b) to provide that proceedings in subsequently filed cases are stayed only upon order of the court in which the first-filed petition is pending and to expand the list of persons entitled to receive notice of a motion in the first court for a determination of where the related cases should proceed. The amendment would state more clearly what event triggers the stay of proceedings in the court in which a subsequent petition is filed. The current rule has led to uncertainty about whether the stay goes into effect immediately upon the filing of the second petition or only upon the filing of a motion to determine where the cases should proceed. Rather than selecting either of these options, the Committee decided that an order by the first court should be required. That requirement would eliminate any uncertainty about whether a stay was in effect. It would also permit a judicial determination—not just a party’s assertion—that the rule applies and that a stay of other proceedings is needed.

Four sets of comments were submitted in response to the publication of the proposed amendments. Two of the commenters—Bankruptcy Judge Robert J. Kressel and the National Conference of Bankruptcy Judges—questioned the jurisdiction of the first court to enjoin parties to other cases. The States’ Association of Bankruptcy Attorneys raised four issues. Its comment stated that (1) the rule does not clearly state that the first court has exclusive authority to determine the venue of the related cases; (2) it is not clear who can seek a determination of where the cases can proceed; (3) the Committee Note says that the clerk can order the moving party to provide notice, but that party will not always have the information needed to provide notice to parties in other cases; and (4) a time limit should be imposed for seeking a determination in the first court. Finally, Bankruptcy Judge Christopher Klein commented that the current rule generally works well and engenders cooperation among the affected courts, something he fears will not happen under the amended rule.

Regarding the jurisdictional issue that was raised, the Advisory Committee noted that the rule—in its current form as well as in the proposed amended version—allows a court to order a change of venue of cases pending in other courts. The accompanying stay provision is intended to prevent the entry of inconsistent orders while the venue situation is resolved by the first court.

The proposed amendment both clarifies and narrows the scope of the stay provision. The current rule applies a blanket rule that all the later-filed cases are stayed while the first court makes the venue determination. The amended rule would limit the stay to situations in which the first court finds that the rule in fact applies and that a stay is needed. Bankruptcy courts have long been held to have jurisdiction to issue stays to protect the estate being administered, including stays to protect the individuals managing the estate. *Ex parte Christy*, 44 U.S. 292, 318 (1845) (recognizing the power of a court presiding over a bankruptcy case to issue stays of other proceedings); *Celotex Corp. v. Edwards*, 514 U.S. 300, 313 (1995) (enforcing a bankruptcy court's injunction preventing judgment creditors from proceeding against sureties). Consistent with this authority, the legitimacy of the existing rule's stay authority has not been questioned. The Committee concluded that an amendment that reduces the scope of that authority would be equally valid.

In considering the comments of the States' Association of Bankruptcy Attorneys, the Committee concluded that the amended rule would give the first court exclusive authority to determine where the related cases will proceed if a motion for that purpose is filed in that court. The Committee did not support imposing a time limit for filing the motion because of the varying circumstances in which this rule might be invoked. The Committee also concluded that the rule did not need to be more specific about the provision of notice. It did, however, vote to make a wording change regarding notice that was suggested by the National Conference of Bankruptcy Judges.

Despite Judge Klein's positive experience with current Rule 1014(b), the Committee remained concerned that it imposes a stay of other cases at a time that is uncertain and under circumstances of which affected courts and parties may be unaware.

The Committee therefore unanimously voted to approve the amendments to Rule 1014(b) with one wording change.

**Action Item 4. Rule 7004(e)** governs the time during which a summons is valid after its issuance in an adversary proceeding. The current rule provides that a summons is valid so long as it is served within 14 days of its issuance. The Advisory Committee sought publication of an amendment to reduce that period from 14 days to 7 days. The concern prompting the amendment is that a 14-day delay before service of a summons may unduly limit the defendant's time to answer, which is calculated under Rule 7012 of the Bankruptcy Rules from the date the summons is issued and not (as is the case under the Civil Rules) the date it is served. Because summonses are routinely issued electronically and served by mail (as permitted under Rule

7004(b)), the Advisory Committee believed that a seven-day service window would be sufficient.

Upon publication of the amendment, the Advisory Committee received four comments. Each of the comments raised essentially the same issue—that a seven-day window to serve a summons may be too short in some circumstances. Two comments noted that service by mail is not permitted under Rule 7004(b) when the recipient’s postal address is not a “dwelling house or usual place of abode or . . . the place where the individual regularly conducts a business or profession.” If, for example, the recipient has only a post office box, the Bankruptcy Rules do not provide for service by mail. Effecting service within seven days may be impracticable under those circumstances. One comment observed that with an unrepresented plaintiff or one whose lawyer is not a registered electronic filer, the summons will not be issued electronically. If the party receives the summons by mail from the clerk, some or all of the seven-day period will expire, making timely service unlikely. A similar concern was raised with respect to judges who require the inclusion of a scheduling order with the summons. The scheduling order might not be prepared for several days, which could impede the ability to make timely service.

For three reasons, the Advisory Committee concluded that the concerns raised by the comments did not justify altering or abandoning the amendment to Rule 7004(e). First, the principal concern expressed by the comments—that a seven-day service window might be insufficient in particular circumstances—had been contemplated by the Advisory Committee. Those circumstances were considered to be infrequent and, if they did arise, were thought to be best handled through a request for an enlargement of the time to serve the summons under Rule 9006(b). The comments do not suggest that the Advisory Committee was mistaken in its consideration of the issue. In response to the comments, the Advisory Committee has added language to the Committee Note accompanying the amendment in order to highlight the availability of an enlargement of time under Rule 9006(b).

Second, the alternative approaches to service of summonses offered by the comments would require significant changes to the Bankruptcy Rules. The Advisory Committee, however, sought to make the least disruptive change that would ensure sufficient time to serve, and respond to, a summons. The Advisory Committee rejected an alternative amendment to Rule 7012 that would lengthen the defendant’s time to answer, because that approach would not serve the need to expedite proceedings in bankruptcy. The Advisory Committee also declined to make more extensive changes to Rule 7004, such as adopting the Civil Rules’ method of calculating the defendant’s time to respond.

Third, the published amendment’s 7-day time to serve a summons, although less than the 14-day period under the current rule, is close to the ten-day period that prevailed before it was lengthened by the Time-Computation Project. The comments suggest that further study may be warranted with respect to harmonizing the Bankruptcy and Civil Rules on issuance and service of a summons and complaint. But that project is well beyond the scope of the published amendment.

Accordingly, the Advisory Committee voted unanimously to recommend final approval of the text of the amended rule as published, together with a revised Committee Note.

**Action Item 5. Rules 7008(b) and 7054** would be amended to change the procedure for seeking attorney's fees in bankruptcy proceedings. The Advisory Committee proposed the amendments in order to clarify and to promote uniformity in the procedures for seeking an award of attorney's fees. Rule 7054 would be amended to include much of the substance of Civil Rule 54(d)(2). Rule 7008(b), which currently addresses attorney's fees, would be deleted. By bringing the Bankruptcy Rules into closer alignment with the Civil Rules, the amendments would eliminate a potential trap for an attorney, particularly one familiar with the Civil Rules, who might overlook the requirement in Rule 7008(b) to plead a request for attorney's fees as a claim in the complaint, answer, or other pleading. As under the Civil Rules, the procedure for seeking an award of attorney's fees would be governed exclusively by Rule 7054, unless the governing substantive law requires the fees to be proved at trial as an element of damages.

Two comments were submitted on these amendments. The States' Association of Bankruptcy Attorneys addressed the sentence in Rule 7054(b)(1), which is not proposed for amendment, that permits the award of costs against the United States, its officers, and agencies only to the extent permitted by law. The Association suggested that the provision be broadened to apply to all governmental units. The other comment was submitted by attorney Louis M. Bubala III. Mr. Bubala stated that he was "pleased especially with the proposed elimination of Rule 7008(b) and addition of Rule 7054(b)(2) regarding claims for attorney's fees. The current rules have caused problems over the years, and the adoption of the procedure from the civil rules is a good one."

The Advisory Committee voted unanimously to approve the amendments as published.

**Action Item 6. Rule 9023**, which governs New Trials; Amendment of Judgments, and **Rule 9024**, which governs Relief from Judgment or Order, would be amended to include a cross-reference to proposed Rule 8008, which governs Indicative Rulings. The Advisory Committee proposed these amendments in order to call attention at an appropriate place in the rules to that new bankruptcy appellate rule. Rule 8008 prescribes procedures for both the bankruptcy court and the appellate court when an indicative ruling is sought. It therefore incorporates provisions of both Civil Rule 62.1 and FRAP 12.1. Because a litigant filing a post-judgment motion that implicates the indicative-ruling procedure will not encounter a rule similar to Civil Rule 62.1 in either the Part VII or Part IX rules, the Committee decided that it would be useful to include a cross-reference to Rule 8008 in the rules governing post-judgment motions.

The only comment submitted in response to the publication of these amendments was from the National Conference of Bankruptcy Judges. It commented that a cross-reference to another rule is more appropriately placed in a Committee Note than in the rule itself.

The Advisory Committee voted unanimously to approve the amendments to these rules as published because a Committee Note may not be amended without an amendment of the rule. Furthermore, several comments on the Part VIII rules suggested that it is helpful to have a cross-reference to another rule included in the rule, rather than in the Committee Note, because Committee Notes are not always published in rule compilations and are often overlooked.

**Action Item 7.** **Official Forms 3A, 3B, 6I, and 6J** are restyled forms for use in individual-debtor cases that were published for comment last August. The Advisory Committee unanimously voted to recommend them for final approval with the post-publication changes that are indicated.

The forms were developed as part of the Advisory Committee's ongoing Forms Modernization Project ("FMP"), which is a multi-year endeavor of the Advisory Committee, working in conjunction with the Federal Judicial Center and the Administrative Office of the U.S. Courts. The dual goals of the FMP are to improve the official bankruptcy forms and to improve the interface between the forms and available technology. The judiciary is in the process of developing "the next generation" of CM/ECF ("Next Gen"), and the modernized forms are being designed to use enhanced technology that will become available through Next Gen. From a forms perspective, the major change in Next Gen will be the ability to store all information on forms as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose.

The FMP group made a preliminary decision, endorsed by the Advisory Committee, that the forms for individual debtors should be separated from those for entities other than individuals. There is a greater need for the forms submitted by individuals to be less technical, because individuals are generally less sophisticated than other entities and because individuals may not have the assistance of counsel. Accordingly, the forms for individual debtors are designed to use language more common in ordinary conversation, to employ more intuitive layouts, and to include clearer instructions and examples within the forms and more extensive separate instruction sheets.

Official Forms 3A (Application for Individuals to Pay the Filing Fee in Installments), 3B (Application to Have the Chapter 7 Filing Fee Waived), 6I (Schedule I: Your Income), and 6J (Schedule J: Your Expenses) were selected for the initial-implementation stage of the FMP because they make no significant change in substantive content and simply replace existing forms that apply only in individual-debtor cases. The restyled forms all involve the debtors' income and expenses, and they are employed by a range of users: the courts, U.S. trustees, and case trustees, for varied purposes. The publication of these forms has already provided valuable feedback on the FMP approach to form design, and, if adopted, their use will provide a helpful gauge of the effectiveness of the FMP approach.

In response to the publication of these forms, 29 sets of comments were submitted, and one letter was informally submitted to the working group. Set out below is a discussion of the most significant comments and the changes made by the Advisory Committee in response.

*General Comments.* Comments on the overall project and the published forms in general fell primarily into the following categories:

- support for the new forms;
- dislike of the new forms and a preference for maintaining the current forms;
- concern that the forms contain too much shading, too much white space, and too many pages, all of which will increase printing, mailing, and electronic transmission costs;
- concern that the forms will encourage pro se filings, to the detriment of the debtors and the courts; and
- expressions of a need for a clear statement about the extent to which software-generated forms can deviate from the graphic and formatting styles of the proposed forms, such as by omitting instructions and omitting or collapsing inapplicable sections.

The Advisory Committee discussed these comments during its spring meeting. Members first discussed the most fundamental question—whether the project should proceed notwithstanding the negative commentary. After reviewing the reasons for the project and the guiding principles behind the redesign, the Committee unanimously concluded that the project should proceed.

In response to the numerous comments about shading, the Committee accepted the FMP's recommendation that shading should largely be eliminated. The Committee agreed with the FMP's redesign of the forms, which retains the black banner for the "part" designation but uses a different format for the title of each part. Shading was largely eliminated from the balance of each of the forms. The Committee believes that these changes will reduce toner usage and increase the ease with which forms are printed and reproduced.

The Advisory Committee also agreed with the FMP's assessment regarding page length. The increase in the page length is a function of several factors. First, in an effort to increase accuracy and ease of use, and to create a form whose answers can populate a usable database of answers, more specific questions are posed, and the debtor is often prompted to provide an answer. Second, rather than providing a dense set of instructions at the beginning of a form and then blank spaces for the answers, these forms provide instructions where the debtor is likely to need them. Third, more space is provided to answer some of the questions. Finally, examples are often included to help the debtor understand what information is being requested. The Committee agreed with the FMP that this approach is likely to provide more accurate, usable information.

The extent to which software-generated forms may deviate from the official forms is an issue that is relevant to other forms, not just to the modernized forms. Proposed revised Rule 9009, which is part of the chapter 13 plan form and rules package presented at this meeting for publication, provides additional guidance regarding the extent to which software-generated forms may deviate from the official forms.

Whether the use of plain English and a more user-friendly design will encourage more filings without the assistance of counsel has been the subject of discussion since the beginning of this project. The preparation of comprehensive instructions that explain the impact and complexity of a bankruptcy case and provide ample warnings about the significance of the forms should discourage, not encourage, pro se filings. In addition, the Committee believes that it is important that forms be understandable by all debtors, including those who are represented, because debtors are required to sign the forms under penalty of perjury. The comments did not cause the Committee to change its views.

*Comments on Official Form 3A (installment payment of filing fees).* Two sets of comments addressed this form specifically. Both suggested the need to add to the form the option of paying a chapter 13 filing fee through the debtor's plan. Districts differ on whether to permit this practice, and the current form does not expressly provide this option. In view of the fact that the practice is far from universal and the bankruptcy system has been able to accommodate the practice when it is allowed, the Advisory Committee decided that the form should remain silent regarding that option.

Line 2 of the published form stated that a debtor may ask the court to extend the deadline for payment of the final fee installment and that the debtor must explain why an extension is needed. One comment noted that no space was provided on the form for the explanation. Because the FMP group contemplated that such an extension would require a separate application at a later time, and in order to avoid any confusion, reference to the possibility of an extension was moved from the form to the instructions. This change is consistent with the form currently in effect, which merely informs the debtor of the possibility of obtaining an extension "for cause shown" and does not ask the debtor to provide reasons for the extension as part of the application.

A comment proposed deletion of the instruction in the signature box not to pay "anyone else in connection with your bankruptcy case" until the entire filing fee is paid. The comment noted that this statement would prohibit a debtor from making payments to a chapter 13 trustee before all of the installment payments are made. The published form changed the wording of the current form slightly, but in a way that gave rise to this comment. Current Form 3A includes the statement, "Until the filing fee is paid in full, I will not make any additional payment or transfer any additional property to an attorney or any other person *for services* in connection with this case" (emphasis added). The Committee agreed with the FMP that the comment should be addressed by reinserting "for services" in the statement.

*Comments on Official Form 3B (waiver of filing fees).* Five comments were submitted regarding this form. Several of them stated that certain information asked for on the proposed form should be omitted because of its irrelevance to the waiver decision. The following information was suggested for deletion:

- line 3, non-cash government assistance;
- lines 12-16, various assets that the debtor owns;
- line 19, payment for bankruptcy services by someone else; and
- line 20, prior bankruptcy filings by the debtor or the debtor's spouse.

The current form asks for the second and third items of information listed above, and the Advisory Committee decided to continue requesting that information. The current form also asks for prior bankruptcy filings by the debtor, but not by the debtor's spouse unless the spouse is also filing. On recommendation of the FMP, the Committee decided that the request for information about prior filings should be limited to filings by the debtor(s), and not by a non-filing spouse.

The decision about how to respond to the first item, non-cash government assistance, was more complicated. The amount of non-cash government assistance may be relevant to determining whether a debtor is able to make payments of the filing fee, since it may reduce the debtor's other expenses, but it is not specifically asked for on current Form 3B. The current form asks for the total combined monthly income as computed on Schedule I. Restyled Schedule I as published asked debtors to include the value of "[o]ther government assistance." Immediately preceding that question, it asked for "unemployment compensation" and "Social Security," which might have suggested to some debtors that "other government assistance" referred only to other forms of cash assistance. At the same time, non-cash governmental assistance should not be counted in determining whether the debtor meets an income threshold for waiver eligibility. The interim procedures of the Judicial Conference regarding chapter 7 fee waivers direct that "Non-cash governmental assistance (such as food stamps or housing subsidies) is not included [in income]."

The comments caused the FMP group to rephrase the request for information about governmental assistance on both Form 3B and Schedule I and to harmonize the two forms. In completing Form 3B, the debtor is permitted to use the income calculated on Schedule I. Because Schedule I has been revised to direct the debtor to include non-cash governmental assistance in income to the extent that the debtor knows the value of such assistance, on Form 3B it is necessary to have the debtor first report the amount of income including the value of non-cash assistance and then deduct the value of such assistance to determine the amount of income for purposes of the fee waiver application. In response to comments that the debtor does not always know the value of non-cash governmental assistance, both Form 3B and Schedule I have been revised to clarify that the debtor only needs to include the value of such assistance to the extent known. The Advisory Committee approved these changes recommended by the FMP.

*Comments on Official Form 6I (income).* Fourteen comments specifically addressed this form. Several of them raised questions about when income information must be provided about non-filing spouses. In order to clarify the requirement, the following instruction was added at the beginning of the form: “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.” The form specifically asks for information about both spouses when they file jointly.

As discussed above, in response to comments about non-cash governmental assistance, the Advisory Committee approved changes to Schedule I. As revised, the form asks the debtor to report income from unemployment compensation, Social Security, and “Other governmental assistance that you regularly receive.” For the last category, the form directs the debtor to include the value of cash assistance and “the value (if known) of any non-cash assistance.”

The FMP group recommended and the Advisory Committee approved two changes to the form’s list of payroll deductions. The proposed form now asks separately about mandatory and voluntary contributions to retirement plans. And a new specific payroll deduction for “domestic support obligations” was added in response to a comment that these deductions are sufficiently common to justify a specific listing.

*Comments on Official Form 6J (expenses).* Fifteen comments specifically addressed Schedule J. The part of the proposed form drawing the most comment was the inclusion in part 2 of column B (“For Chapter 13 Only – What your expenses will be if your current plan is confirmed”). The comments displayed uncertainty about the purpose served by that column and doubt about the accuracy of the responses that it would elicit. The FMP group recommended two changes, which the Advisory Committee approved, in response to those comments. First, column B in was eliminated. Second, in order to permit districts that currently allow debtors to use Schedules I and J to update their income and expense information, a new checkbox was added to both forms in which a debtor can indicate that the information on the form is a “supplement . . . as of the following date:\_\_\_\_\_.”

One commenter questioned the reason for the question, “Does anyone else live in your household?” Agreeing with the FMP that the question was too broad, the Advisory Committee approved the following changes to Part 1 of Schedule J. First, questions 1 and 2 on the published form were combined into a single question asking about all of the debtor(s)’s dependents, regardless of whether the dependents live with the debtor. Second, question 3 was revised to make its financial purpose clear. In the published version of the form, question 3 asked, “Does anyone else live in your household?” Now question 3 asks, “Do your expenses include expenses of people other than yourself and your dependents?” The question has been converted to a simple “yes/no” format. If the debtor’s Schedule J reveals that it includes expenses for people other than the debtor and the debtor’s dependents, interested parties may investigate further if warranted.

Several comments questioned the inclusion of student loan payments as an expense deduction in Schedule J. They argued that allowing this deduction represented a policy decision that student loans can continue to be paid during a chapter 13 case without constituting unfair discrimination against other unsecured claims that are not being paid in full. Another comment contrasted the treatment of student loans with other nondischargeable debts that are not treated as deductions. In response, the category of student loans as a distinct line item was eliminated. Now debtors who are paying student loans as an expense may list those payments as an “other” installment payment on line 21 of the form.

Just as with Schedule I, some comments questioned the treatment of non-filing spouses on this form. To eliminate the confusion, the following wording was added to the instructions for the form: “If you are married and are filing individually, include your non-filing spouse’s expenses unless you are separated. If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.” New question 1 affirmatively asks if debtor 2 lives in a separate household. If so, that debtor is directed to file a separate Schedule J.

*A2. Amendment for Which Final Approval Is Sought Without Publication.* **The Advisory Committee recommends that an amendment to Official Form 23 be approved and forwarded to the Judicial Conference. It recommends that the amended form become effective on December 1, 2013.** Because the proposed amendment is conforming in nature, the Committee concluded that publication for comment is not required. The text of the amended form is set out in Appendix A.

**Action Item 8.** **Official Form 23** is the form an individual debtor files in a chapter 7 or chapter 13 case to certify that he or she has completed a postpetition instructional course concerning personal financial management—a requirement for receiving a discharge. The Supreme Court has approved an amendment to Rule 1007(b)(7), due to go into effect on December 1, 2013, that will relieve individual debtors of the obligation to file Official Form 23 if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course. The preface and instructions to Form 23 would be amended to reflect that change by stating that a debtor should file the form only if the course provider has not already notified the court of the debtor’s completion of the course.

## **B. Items for Publication in August 2013**

**The Advisory Committee recommends that the proposed rule and form amendments and new proposed forms that are discussed below be published for public comment.** The texts of the amended rules and official forms are set out in Appendix B.

*B1. Form Amendments for Which Republication Is Sought.*

**Action Item 9. Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2**, the restyled means-test forms for individual debtors under chapter 7, 11, and 13, were published for comment in August 2012. Eighteen sets of comments on these forms were officially submitted, and one person informally provided the Advisory Committee with a detailed review of the forms. The comments ranged from suggestions and critiques regarding wording, style, and formatting of the forms to ones raising questions about interpretations of the Bankruptcy Code and case law. The FMP, the Subcommittee on Forms, and the Advisory Committee carefully considered all of the comments. The Committee determined that several of the comments were well taken, and it approved changes to the forms in response. Because it determined that the changes made were of sufficient significance to require republication, it requests that the newly revised means-test forms be published for public comment in August. Along with the republication of Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, the Committee requests publication of **Official Form 22A-1Supp**, which was created in response to the comments.

The following discussion describes the most significant changes that the Committee made to the means-test forms at the spring meeting. In addition to the changes that are discussed, a number of stylistic changes were made.

(1) Creation of a separate form for chapter 7 means-test exemption. Section 707(b)(2)(D) exempts—either permanently or for a specified period—a limited number of chapter 7 debtors from being subject to the means test. In the current chapter 7 means-test form (Official Form 22A) and the revised form that was published last summer (proposed Official Form 22A-1), information about eligibility for an exemption is asked for at the beginning of the form. Because of the complexity of the qualifying requirements, this portion of the form occupies the entire first page.

Several comments were submitted regarding this part of the published form. One comment suggested moving to a separate form the questions that pertain to exemptions based on certain types of military service. The Advisory Committee agreed and decided that all of the exemption questions should be removed from Form 22A-1 and placed in a new supplement to that form, Official Form 22A-1Supp. That change serves two purposes. It unclutters Form 22A-1 by removing questions that are only occasionally applicable. It also results in uniform line numbering in the three means-test forms about income (22A-1, 22B, and 22C-1). Previously, the initial questions that were only in the chapter 7 form caused a misalignment with the parallel forms.

(2) New instruction about a domestic support obligation paid by one joint debtor or non-filing spouse to the other debtor. A comment suggested and the Advisory Committee agreed that the question in line 3 of Forms 22A-1, 22B, and 22C-1 about income from alimony and maintenance payments should be accompanied by an instruction not to include such payments from a spouse if column B (for reporting the income of a joint debtor or non-filing spouse) is filled in. The instruction is intended to prevent double reporting of the same income.

(3) Changes to implement the *Hamilton v. Lanning* decision. In *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), the Supreme Court held that the calculation of a chapter 13 debtor's projected disposable income under § 1325(b) requires consideration of changes to income or expenses reported elsewhere on Official Form 22C that, at the time of plan confirmation, had occurred or were virtually certain to occur. Proposed Form 22C-2, as published last summer, included a section in which a debtor was asked to report any income or expense reported on the form that "has changed or is virtually certain to change during the 12 months after the date you filed your bankruptcy petition." Two comments stated that the 12-month limitation should be deleted. The Advisory Committee voted to accept this suggestion as better reflecting the *Lanning* decision. As revised, line 46 of Form 22C-2 directs a debtor to indicate if reported income or expenses "have changed or are virtually certain to change after the date that you filed your bankruptcy petition and during the time your case will be open."

The Advisory Committee also approved a change at the spring meeting to Official Form 22C-1 to reflect the possibility that a bankruptcy judge might calculate current monthly income under § 101(10A)(A)(ii), rather than the ordinary method required by § 101(10A)(A)(I). The Advisory Committee agreed to provide for this possibility by adding the language "Unless otherwise ordered by the court," to the options in line 21 of proposed Form 22C-1 for stating the applicable commitment period.

## *B2. Rules and Forms for Which Publication Is Sought.*

**Action Item 10. Rules to implement the chapter 13 plan form.** For the past two years, the Advisory Committee has studied the creation of a national plan form for chapter 13 cases. The twin goals of the project have been to bring more uniformity to chapter 13 practice and to simplify the review of chapter 13 plans by debtors, courts, trustees, and creditors. These goals are consistent with the Supreme Court's decision in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (2010), which held that an order confirming a procedurally improper chapter 13 plan was nevertheless entitled to preclusive effect and that bankruptcy judges must independently review chapter 13 plans for conformity with applicable law.

The Advisory Committee formed a Chapter 13 Plan Form Working Group to steer the project. The Working Group produced a draft plan form, together with a number of draft amendments to the Bankruptcy Rules that would be necessary to give effect to the plan and would clarify and increase the efficiency of chapter 13 practice. At its September 2012 meeting in Portland, Oregon, the Advisory Committee discussed drafts of the plan form and rule amendments prepared by the Working Group. The Advisory Committee also approved the Working Group's recommendation to hold a mini-conference on the draft plan and rules. That mini-conference, held in Chicago in January 2013, brought together participants from a broad cross-section of groups interested in the chapter 13 process. The participants included chapter 13 trustees, bankruptcy judges, a court clerk, consumer debtor attorneys, and representatives of secured and unsecured creditors. Based on the input received during the mini-conference, the Working Group prepared a revised draft plan and accompanying rule amendments for

consideration by the Advisory Committee at its April 2013 meeting in New York. The Advisory Committee voted unanimously to seek publication of the form and rule amendments.

The following discussion summarizes the amendments to the Bankruptcy Rules that the Advisory Committee seeks permission to publish with the chapter 13 plan form.

*Rule 2002.* The Bankruptcy Rules describe categories of events that trigger the obligation to provide notice. Rule 2002 currently requires 28 days' notice of the time to file objections to confirmation of a chapter 13 plan as well as of the confirmation hearing itself. Because the Bankruptcy Rules do not currently require that an objection to confirmation be filed in advance of the confirmation hearing, notice of the confirmation hearing and notice of the time to file an objection to confirmation can be made at the same time. An amendment to Rule 3015(f), however, would require that objections to confirmation of a chapter 13 plan be filed at least seven days before the confirmation hearing.

The Advisory Committee had two concerns about the interplay between current Rule 2002 and amended Rule 3015(f). First, parties would need to cross-reference the two rules in order to calculate the proper time for serving notice of the deadline to file an objection to confirmation in a chapter 13 case, and this might pose a trap for the unwary. Second, the combination of the 7-day pre-hearing deadline for objections to confirmation under Rule 3015(f) and the 28-day notice period for the time to file objections to confirmation under Rule 2002 would effectively create a 35-day notice period for a confirmation hearing, which is unnecessarily long. In particular, when a pre-confirmation modification of a plan is required, a 35-day period would be excessive.

The Advisory Committee proposes to retain the 28-day period for notice of a chapter 13 confirmation hearing, but to amend Rule 2002 in light of the new time period for objections to confirmation in Rule 3015(f). Thus, Rule 2002 would require 21 days' notice of the time to file objections to confirmation.

*Rule 3002.* When the Advisory Committee surveyed bankruptcy judges and trustees regarding chapter 13 practice, they frequently expressed dissatisfaction with the requirements for filing a proof of claim. The current rule requires only unsecured creditors to file proofs of claim, which has caused confusion about whether and when secured creditors must file proofs of claim in chapter 13 cases. Adding to that confusion, the lengthy deadline for filing a proof of claim under the current rule means that a timely claim could be filed even after the Bankruptcy Code requires a court to hold a confirmation hearing in a chapter 13 case.

Amended Rule 3002 responds to both of these concerns. First, Rule 3002(a) would be amended to require a secured creditor, as well as an unsecured creditor, to file a proof of claim in order to have an allowed claim. In keeping with Code § 506(d), however, the amendment also makes clear that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. Second, Rule 3002(c) would be amended to change the calculation of the

claims bar date. Rather than 90 days from the meeting of creditors under Code § 341, the bar date would be 60 days after the petition is filed in a chapter 13 case. The amended rule includes a provision for an extension of the bar date when the debtor has failed to provide in a timely manner a list of creditors' names and addresses for notice purposes. In response to concerns raised during the Chicago mini-conference, the amended rule would also include a longer bar date for certain supporting documents required for mortgage claims on a debtor's principal residence. With those claims, the mortgagee would be required to file a proof of claim within the 60-day period but would have an additional 60 days to file a supplement with the supporting documents.

*Rule 3007.* Objections to claims are governed by Rule 3007. Because the plan form permits some determinations regarding claims to be made through the plan, the Advisory Committee proposes an amendment to Rule 3007. The amended rule would provide an exception to the need to file a claim objection if a determination with respect to that claim is made in connection with plan confirmation under proposed Rule 3012.

*Rule 3012.* In order to implement the provisions of the plan form that would allow determinations of the amount of a claim in certain circumstances, the Advisory Committee proposes to amend and reorganize Rule 3012. The amendment would provide that the amount of a secured claim under Code § 506(a) may be determined in a proposed plan, subject to objection and resolution at the confirmation hearing. Current Rule 3012 provides for the valuation of a secured claim by motion only. The amended rule would also make clear that a chapter 13 plan would not control the amount of a claim entitled to priority treatment or the amount of a secured claim of a governmental unit.

*Rule 3015.* Rule 3015 governs the filing of a chapter 13 plan as well as plan modifications and objections to confirmation. The Advisory Committee proposes extensive amendments to the rule. They include an amended subdivision (c) requiring use of the official form for chapter 13 plans, a new seven-day deadline in Rule 3015(f) for filing objections to confirmation, and an amended subdivision (g) providing when the plan terms control over contrary proofs of claim. These amendments dovetail with amendments to Rules 2002, 3007, and 3012.

*Rule 4003.* Code § 522(f) permits a debtor to avoid certain liens encumbering property that is exempt from the debtor's estate. Current Rule 4003(d) provides that lien avoidance under this section of the Code requires a motion. The plan form, however, would include a provision for a debtor to request lien avoidance as permitted by § 522(f). The Advisory Committee proposes an amendment to Rule 4003(d) to give effect to that part of the plan form.

*Rule 5009.* The Advisory Committee has included a procedure in amended Rule 5009(d) for the debtor to obtain an order confirming that a secured claim has been satisfied. This is particularly important to debtors who need, for title purposes, documentation showing that an unsecured second mortgage or other lien has been satisfied in a chapter 12 or chapter 13 case.

Because the Advisory Committee does not wish to take a position on the requirements for lien satisfaction, the language of the amended rule permits the debtor to request entry of the order but does not specify those requirements.

*Rule 7001.* Rule 7001 lists disputes that are required to be conducted by adversary proceeding. Current Rule 7001(2) includes among the list of adversary proceedings a proceeding “to determine the validity, priority, or extent of a lien or other interest in property.” The Advisory Committee proposes to amend Rule 7001(2) so that determinations of the amount of a secured claim (under amended Rule 3012) and lien avoidance (under amended Rule 4003(d)) through a chapter 12 or chapter 13 plan would not require an adversary proceeding.

*Rule 9009.* In order to ensure use of the chapter 13 plan form without significant alterations, the Advisory Committee has proposed an amendment to Rule 9009. That rule currently provides that official forms may be “used with alterations as may be appropriate” and with “their contents rearranged.” The language of the current rule raised the concern that debtors (or courts) might rearrange the chapter 13 plan form or include terms that deviate from it without properly identifying those terms. Because greater uniformity is a principal goal of the plan form, amended Rule 9009 would limit the range of permissible changes to forms. The amended rule—which would be reorganized with separate subdivisions for official forms, director’s forms, and a rule of construction for forms—prohibits alterations to official forms, unless alterations are permitted by the Bankruptcy Rules or by an official form itself. The amended rule would also permit modification of forms in limited circumstances to take account of the use of similar typefaces and the need to expand or delete space for responses on a form. These provisions would permit a filer to expand or delete space, as appropriate, when responding to an item on a form or to skip a category of information by indicating that no response is reported for that category. The amended rule also includes a provision for the alteration of form court orders in a particular case.

**Action Item 11.** **Rule 5005** governs the Filing and Transmittal of Papers. As reported at last two meetings, the Advisory Committee has been considering the advisability of proposing a national bankruptcy rule that would permit the use of electronic signatures of debtors and other individuals who are not registered users of CM/ECF, without requiring the retention of the original document bearing a handwritten signature. The Committee now seeks publication for public comment of a proposed amendment of Rule 5005 that would create such a rule.

Currently the use of electronic signatures in bankruptcy courts is governed by local rules. Bankruptcy Rule 5005(b)(2) provides in part that a “court may by local rule permit or require documents to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes.”

Many of the local rules that deal with electronic signatures are based on Model Rules for Electronic Case Filing that were approved by the Judicial Conference of the United States (“JCUS”) in 2001 and modified in 2003. The model rules were recommended by the Committee

on Court Administration and Case Management (“CACM”), which developed them with participation by the Committee on Information Technology and the Standing Committee. The introduction to the model rules explains that courts are “free to adapt the provisions of these model rules as they choose.”

Two of the model rules relate to signatures on electronically filed documents. Model Rule 8 (Signatures) provides that the “user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User’s signature on all electronic documents filed with the court. . . . for any . . . purpose for which a signature is required in connection with proceedings before the court.” Regarding the signature of an individual without a CM/ECF user log-in and password (a “non-Filing User”), Model Rule 8 states that an electronically filed document should represent the signature by “a ‘s/’ and the name typed in the space where a signature would otherwise appear, or as a scanned image.”

Model Rule 7 (Retention Requirements) imposes a duty on a Filing User to maintain in paper form any electronically filed document that required the original signature of someone other than the Filing User. The Commentary to the rule states without further elaboration that, “because electronically filed documents do not include original, handwritten signatures, it is necessary to provide for retention of certain signed documents in paper form in case they are needed as evidence in the future.” The rule does not specify the retention period, but instead leaves that decision up to each district.

Many bankruptcy courts today have local rules that require the attorney (Filing User) to preserve original documents bearing the debtor’s (non-Filing User’s) signature for a specified period of time. The retention periods vary. A few bankruptcy courts do not require retention of the original document so long as the attorney submits a declaration manually signed by the debtor attesting to the truth of the information electronically filed or, in other courts, files a scanned image of the signature page with the debtor’s original signature.

The issue of the retention of documents that are filed electronically with the debtor’s signature was initially brought to the Advisory Committee by the Forms Modernization Project. It raised the issue in response to concerns expressed by debtors’ attorneys about their need to retain petitions, schedules, and other individual-debtor filing documents that will be lengthier in the proposed restyled format. Representatives of the Department of Justice also expressed concerns about the retention of original documents by debtors’ attorneys and the lack of uniformity regarding the retention period. The Department made a recommendation to the Next Gen’s Additional Stakeholders Functional Requirements Group that documents bearing handwritten signatures, signed under penalty of perjury, be retained by the clerk of court for five years—the statute of limitations for fraud and perjury proceedings—unless a national rule were adopted declaring that electronic copies of such documents in the court’s CM/ECF system constitute legally sufficient best evidence in the absence of an original signed document.

After its fall 2012 meeting, the Advisory Committee received a copy of a memorandum from the chair of CACM to the chair of the Standing Committee that requested the Standing Committee to “explore creating a federal rule regarding electronic signatures and the retention of paper documents containing original signatures.” CACM suggested three possible approaches to the issue:

- Its preference is the promulgation of a national rule specifying that an electronic signature in the CM/ECF system is *prima facie* evidence of a valid signature. Under this proposal, the burden would be placed on persons opposing the validity of the signature to prove with appropriate evidence that an electronic signature was not valid.
- The second approach would be to require courts to retain copies of all originally-signed, paper documents that are electronically filed. According to CACM, this method would address problems with law firms retaining such records, but would impose a substantial cost on the courts.
- According to CACM, a third alternative would be a policy option. CACM could ask JCUS to specify the retention period for original documents containing the signature of a non-Filing User. CACM noted, however, that such a policy would not address the problems for external users because of lack of uniformity in local rules, and it would not encourage the reliance on electronic signatures.

At the request of the Advisory Committee, Dr. Molly Johnson of the Federal Judicial Center collected and reviewed local bankruptcy rules regarding signatures of debtors on documents that are filed electronically and requirements for the retention of original documents bearing a non-Filing User’s signature. For a point of comparison, she also reviewed local district court rules regarding signatures by non-Filing Users and related retention requirements. In connection with her report, Dr. Johnson reviewed a recent Office of Management and Budget document on the use of electronic signatures in federal transactions and solicited the views of interested parties about possible rule changes that would eliminate retention requirements.

Informal feedback from U.S. trustees, chapter 7 case trustees, and the Executive Office of U.S. Attorneys indicated a preference for handwritten signatures affixed to original documents, rather than purely electronic signatures and an accompanying declaration, but recognized that scanned images of signatures may also be workable. They expressed concern about whether a debtor’s declaration would be persuasive evidence that the debtor saw all of the relevant documents or knew which documents were covered by the declaration.

The Advisory Committee’s Subcommittee on Technology and Cross Border Insolvency considered several options for a rule that would allow the use of electronic signatures of non-Filing Users without requiring either an attorney or the court to retain the original document. At the spring meeting, it recommended to the Committee a proposed amendment of Rule 5005 that

would allow scanned signatures of debtors and other non-Filing Users to be treated the same as handwritten signatures without requiring the retention of hard copies of documents. The Subcommittee stressed the importance of requiring the scanned signature page and the related document to be filed as a single docket entry in order provide clarity about the document that was being attested to by the non-Filing User. The amended rule would also provide that the user name and password of a registered user of the CM/ECF system would be treated as that individual's signature on electronically filed documents. The Subcommittee noted that the validity of a signature submitted under the amended rule would still be subject to challenge, just as is true for a handwritten signature.

After full discussion, the Advisory Committee unanimously approved the Subcommittee's recommendation, and it requests that the proposed revision of Rule 5005(a) be published for comment.

**Action Item 12. Rule 9006(f)**, which is modeled on Civil Rule 6(d), provides three additional days for a party to act "after service" if service is made by mail or under Civil Rule 5(b)(2)(D), (E), or (F). At the January 2013 meeting, the Standing Committee approved for publication a proposed amendment of Civil Rule 6(d) that would clarify that only the party that is served by mail or under the specified provisions of Civil Rule 5—and not the party making service—is permitted to add three days to any prescribed period for taking action after service is made. Because Rule 9006(f) contains the same potential ambiguity as current Rule 6(d), the Advisory Committee voted to propose a parallel amendment of the bankruptcy rule. The Committee requests that the proposed amendment of Rule 9006(f) be published for public comment at the same time as the amendment of Civil Rule 6(d).

**Action Item 13. Official Form 113 (chapter 13 plan form)**. The Advisory Committee seeks permission to publish for public comment a national plan form for chapter 13 cases. As described in Action Item 10, the plan form is the product of more than two years of study and consultation by a Working Group of the Advisory Committee.

The plan form includes ten parts. Beginning with a notice to interested parties (Part 1), the plan form covers: the amount, source, and length of the debtor's plan payments (Part 2); the treatment of secured claims (Part 3); the treatment of the trustee's fees, administrative claims, and other priority claims (Part 4); the treatment of unsecured claims not entitled to priority (Part 5); the treatment of executory contracts and unexpired leases (Part 6); the order of distribution of payments by the trustee (Part 7); the reversion of property of the estate with the debtor (Part 8); and nonstandard plan terms (Part 9). Part 10 is the signature box.

The plan form contains a number of significant features. First, it permits a debtor to propose to limit the amount of a secured claim (Part 3, § 3.2), to avoid certain liens as provided by the Bankruptcy Code (Part 3, § 3.4), and to include nonstandard terms that are not part of—or that deviate from—the official form (Part 9). In order to make any of these particular terms effective, however, the debtor must clearly indicate in Part 1 that the plan includes one or more

of them by marking the appropriate checkbox. Thus, the face of the document will put the court, the trustee, and creditors on notice that the plan contains terms that may require additional scrutiny. Second, the plan form makes clear when it will control over a creditor's contrary proof of claim. For example, a debtor may propose to limit the amount of a nongovernmental secured claim under Code § 506(a) because the collateral securing it is worth less than the claim. The proposed amount of the secured claim would be binding, subject to a creditor's objection to the plan and a final determination of the issue in connection with plan confirmation. Otherwise, a creditor's proof of claim will control the amount and treatment of the claim, subject to a claim objection.

The treatment of nonstandard plan provisions has been a concern during the process of drafting the plan. As described earlier, Part 1 requires the debtor to indicate whether the plan form includes nonstandard terms. In order to give further assurance that the debtor has filed a plan form that otherwise adheres to the official form, the Working Group proposed that the plan's signature box include a certification to that effect. Thus, the plan form requires that the debtor's attorney (or the debtor, if pro se) must certify by signing the plan that all of its provisions are identical to the official form, except for nonstandard provisions located in Part 9.

The Advisory Committee anticipates that the plan form would go into effect at the same time as the amendments to the Bankruptcy Rules intended to implement it. Accordingly, a request for final approval of the plan form after publication for public comment would be timed to match the progress of those rule amendments.

**Action Item 14. Remaining revised forms for individual debtors.** As discussed above under Action Item 7, the Advisory Committee has been engaged in a multi-year undertaking—through its FMP—to restyle the official bankruptcy forms and to improve the interface between the forms and available technology. The Advisory Committee approved the FMP's decision to create a separate set of forms for use in cases involving individual debtors. The first group of the individual-debtor forms was published for comment last August, and, as set out in Action Items 7 and 8, the Committee is seeking either final approval or republication of those forms at this meeting. The Committee also requests publication of the remaining restyled individual-debtor forms in August of this year. These forms are included in Appendix B. Although the normal effective date for official bankruptcy forms published this summer would be December 1, 2014, the Advisory Committee recommends that the effective date be delayed until at least December 1, 2015, for reasons that are discussed below.

Drafts of the proposed Official Forms for which publication is sought were presented to the Standing Committee for its preliminary review at the January 2013 meeting. Members of the Standing Committee offered comments, both of a stylistic and substantive nature, and the Advisory Committee subsequently approved some changes to the proposed forms in response to that feedback. The Advisory Committee approved other changes to the forms at its spring meeting in response to comments that were submitted on the forms published in 2012 and suggestions by Committee members.

As explained at the January 2013 Standing Committee meeting, the need for different versions of case opening forms for individuals and non-individuals required the FMP to develop a new numbering scheme for all the bankruptcy forms that both organizes the bankruptcy forms in a logical way and has some relationship to current form numbers. The basic numbering protocol for the new forms is:

- 1XX – Forms for Individuals Filing for Bankruptcy
- 2XX – Forms for Non-individual Filing for Bankruptcy
- 3XX – Orders and Court Notices
- 4XX – Additional Official Forms
- XXXX - Director's Forms

A forms number conversion chart to accompany the forms for publication is included in Appendix B.

The proposed Official Forms for which the Advisory Committee requests publication are the following:

- 101**            **Voluntary Petition for Individuals Filing for Bankruptcy**
- 101A**        **Initial Statement About an Eviction Judgment Against You**
- 101B**        **Statement About Payment of an Eviction Judgment Against You**
- 104**            **List in Individual Chapter 11 Cases of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders**
- 105**            **Involuntary Petition Against an Individual**
- 106Sum**      **Summary of Your Assets and Liabilities and Certain Statistical Information**
- 106A/B**      **Schedule A/B: Property**
- 106C**        **Schedule C: The Property You Claim as Exempt**
- 106D**        **Schedule D: Creditors Who Hold Claims Secured by Property**
- 106E/F**      **Schedule E/F: Creditors Who Have Unsecured Claims**
- 106G**        **Schedule G: Executory Contracts and Unexpired Leases**

<b>106H</b>	<b>Schedule H: Your Codebtors</b>
<b>106Dec</b>	<b>Declaration About an Individual Debtor’s Schedules</b>
<b>107</b>	<b>Statement of Financial Affairs for Individuals Filing for Bankruptcy</b>
<b>112</b>	<b>Statement of Intention for Individuals Filing Under Chapter 7</b>
<b>119</b>	<b>Bankruptcy Petition Preparer’s Notice, Declaration, and Signature</b>
<b>121</b>	<b>Statement About Your Social Security Numbers</b>
<b>318</b>	<b>Order of Discharge</b>
<b>423</b>	<b>Certification About a Financial Management Course</b>
<b>427</b>	<b>Cover Sheet for Reaffirmation Agreement</b>

**An instruction booklet for individuals is also included for comment.**

*Changes Made after the January Meeting.* (1) The exemption schedule’s *Schwab v. Reilly* option. As presented at the January meeting of the Standing Committee, the draft of the schedule that a debtor uses for claiming property as exempt (at that time designated as Schedule D and now as Schedule C) included four columns for providing information. They were labeled: **i.** Brief description of the property and line on *Schedule A* that lists this property; **ii.** Current value of the portion you own; **iii.** Amount of the exemption you claim; and **iv.** Specific laws that allow exemption. The third column—Amount of the exemption you claim—included only a blank line on which a debtor could insert either a specific dollar amount or use the option offered by *Schwab v. Reilly*, 130 S. Ct. 2652 (2010), of claiming as exempt “100% of fair market value.”<sup>1</sup>

The instructions at the beginning of the form explained, “For each item of property you claim as exempt, you must specify the amount of the exemption you claim. Usually, a specific dollar amount is claimed as exempt, but in some circumstances the amount of the exemption claimed might be indicated as 100% of fair market value. For example, a debtor might claim 100% of fair market value for an exemption that is unlimited in amount, such as some exemptions for health aids.”

This design of the form represented a compromise between the existing exemption schedule and an earlier published amendment to the schedule, which was eventually withdrawn

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<sup>1</sup> The *Schwab* Court stated, “Where, as here, it is important to the debtor to exempt the full market value of the asset or the asset itself, our decision will encourage the debtor to declare the value of her claimed exemption in a manner that makes the scope of the exemption clear, for example, by listing the exempt value as “full fair market value (FMV)” or “100% of FMV.” 130 S. Ct. at 2668.

by the Advisory Committee. The existing exemption schedule requires a debtor to specify “the value of the claimed exemption.” The proposed amendment that was published in August 2011 added two checkboxes to the form to allow debtors to state the value of a claimed exemption as either (1) the “Full fair market value of the exempted property” or (2) “Exemption limited to \$\_\_\_\_\_.”

The Advisory Committee decided not to pursue the August 2011 proposal after reviewing comments submitted in response to publication. A number of them, mostly by bankruptcy trustees, stated that because the new option could be easily invoked by checking a box, it would encourage debtors to claim the full fair market value of an asset as exempt, even when using an exemption capped at an amount less than the asset’s value. They argued that the increase in such exemption claims would then lead to a “plethora of objections.”

In January when the draft exemption form was discussed by the Standing Committee, several concerns were raised about the form’s proposed wording and format. One concern was that the option of claiming 100% of fair market value was presented too subtly for pro se debtors to understand it. One member suggested that additional examples be provided of when that option could properly be invoked, and another suggested highlighting the relevant instructions. It was also suggested that perhaps the Advisory Committee had given too much deference to the views of trustees and that the Committee should consider revising the form to present the “100% FMV” option more clearly. At the conclusion of the meeting, one member of the Standing Committee suggested that the column for “Amount of the exemption you claim” provide two options: (1) a checkbox followed by a line with a dollar sign, and (2) a checkbox followed by “100% of fair market value, not greater than any applicable statutory limit.”

A revised draft of the proposed exemption form was prepared to incorporate the suggestions offered by the Standing Committee. As approved by the Advisory Committee, the form now provides two options under “Amount of the exemption you claim”: (1) a checkbox followed by a line with a dollar sign, and (2) a checkbox followed by “100% of fair market value, up to any applicable statutory limit.” The instruction at the top of the form relating to the exemption amount appears in a separate paragraph, written in bold. It reads as follows:

**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.**

The Advisory Committee concluded that this version of the form provides the debtor a means of claiming an exemption of 100% of fair market value when doing so is permissible under applicable law.

(2) Changed designations of the debtor's schedules. Official Form 6 (to be redesignated as Official Form 106) consists of a series of schedules that a debtor must file at the outset of a bankruptcy case. The schedules are referred to by letter—currently A–J. As proposed by the FMP group, some schedules would be combined (current A and B, and E and F), and the order of some schedules would be changed. As a result, the existing letter designations of all of the schedules would be altered.

At the spring meeting, two members of the Advisory Committee suggested an alternative designation scheme for the schedules that would result in only a minimal change from the existing designations. Under their proposal, the two combined forms would be designated by two letters—A/B and E/F—and the schedules would remain in the same order as they currently appear. As a result, all but the combined forms would retain their current letter designations. The proponents of this alternative argued that publishing new schedules with a lettering scheme that more closely aligns with the status quo would minimize confusion during the period of implementation and transition to the new forms and would likely make it easier to build support for the new forms among the constituencies that use them on a daily basis.

After discussion, the Committee adopted the alternative designation proposal by a vote of 7 to 5.

(3) Other changes after the January meeting. In response to comments made about the restyled individual-debtor forms that were published in August 2012, the Advisory Committee approved formatting and appearance changes to those forms, and it made the same changes to the forms that are now proposed for publication. Most shading was removed from the forms, and the black banners separating the parts of the forms were reduced. The Committee's review and editing of the proposed forms also resulted in some stylistic changes and, in a few forms, substantive changes to ensure conformity with the Bankruptcy Code and rules.

*Proposed Effective Date.* Although the normal effective date for official bankruptcy forms published in 2013 would be December 1, 2014, the Advisory Committee recommends that the effective date for the restyled individual-debtor forms that will be initially published this summer be delayed at least until December 1, 2015, in order to permit them to go into effect at the same time as the restyled forms for non-individual cases. The non-individual forms are about a year behind the individual forms in development. There are two reasons for the need for synchronization. First, many of the individual-debtor forms being published this summer are revisions of forms that currently apply in all bankruptcy cases, individual and non-individual. To avoid overlap and confusion, the non-individual forms should not go into effect until the current forms have been replaced for all cases. Second, the forms that will be published this summer implement the new forms-numbering scheme. Waiting for the effective date of the non-

individual forms will allow there to be a uniform numbering scheme for all of the bankruptcy forms. A year or more delay in the effective date will also have the benefit of allowing the next generation of CM/ECF to first become operational. Next Gen will provide the ability to store information on the forms as data so that authorized users can produce customized reports suitable for their needs. One of the goals of the FMP has been to take advantage of these new technological developments.

**Action Item 15.** **Official Forms 17A, 17B, and 17C** are proposed for publication in connection with the revision of the bankruptcy appellate rules. Form 17A would be an amended and renumbered notice-of-appeal form, and Forms 17B and 17C would be new.

Proposed Form 17A would include in the Notice of Appeal a section for the appellant's optional statement of election to have the appeal heard by the district court rather than by the bankruptcy appellate panel. It would only be applicable in districts for which appeals to a bankruptcy appellate panel have been authorized. Inclusion of the statement in the notice of appeal would ensure compliance with the statutory requirement that an appellant make its election to have the district court hear its appeal "at the time of filing the appeal." 28 U.S.C. § 158(c)(1)(A).

New Form 17B—the Optional Appellee Statement of Election to Proceed in the District Court—would be the form that an appellee would file if it wanted the appeal to be heard by the district court and the appellant or another appellee did not make that election. To comply with § 158(c)(1)(B), the appellee would have to file the form within 30 days after service of the notice of appeal.

New Form 17C—Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2)—would provide a means for a party to certify compliance with the provisions of the bankruptcy appellate rules that prescribe limitations on brief length based on number of words or lines of text (the "type-volume limitation"). It is based on Appellate Form 6, which implements the parallel provisions of FRAP 32(a)(7)(B).

The Advisory Committee requests that the proposed forms be published this August so that they would be on schedule to take effect on December 1, 2014, the same effective date as is anticipated for the revised Part VIII rules.

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# APPENDIX A

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# APPENDIX A.1

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**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY  
PROCEDURE\***

For Final Approval and Transmittal to the Judicial Conference

**Rule 1014. Dismissal and Change of Venue**

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(b) PROCEDURE WHEN PETITIONS INVOLVING  
THE SAME OR RELATED DEBTORS ARE FILED IN  
DIFFERENT COURTS. If petitions commencing cases under the  
Code or seeking recognition under chapter 15 are filed in different  
districts by, regarding, or against (1) the same debtor, (2) a  
partnership and one or more of its general partners, (3) two or  
more general partners, or (4) a debtor and an affiliate, ~~on motion~~  
filed the court in the district in which the first-filed petition ~~filed~~  
first is pending ~~and after hearing on notice to the petitioners, the~~  
~~United States trustee, and other entities as directed by the court,~~  
~~the court~~ may determine, in the interest of justice or for the  
convenience of the parties, the district or districts in which ~~the case~~  
~~or any of the~~ cases should proceed. The court may so determine  
on motion and after a hearing, with notice to the following entities  
in the affected cases: the United States trustee, entities entitled to

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\* New material is underlined; matter to be omitted is lined through.

17        notice under Rule 2002(a), and other entities as the court directs.  
18        ~~Except as otherwise ordered by t~~The court in the district in which  
19        ~~the petition filed first is pending,~~ may order the parties to the later-  
20        filed cases not to proceed further ~~the proceedings on the other~~  
21        ~~petitions shall be stayed by the courts in which they have been~~  
22        ~~filed until~~ it makes the determination is ~~made.~~

### COMMITTEE NOTE

Subdivision (b) provides a practical solution for resolving venue issues when related cases are filed in different districts. It designates the court in which the first-filed petition is pending as the decision maker if a party seeks a determination of where the related cases should proceed. Subdivision (b) is amended to clarify when proceedings in the subsequently filed cases are stayed. It requires an order of the court in which the first-filed petition is pending to stay proceedings in the related cases. Requiring a court order to trigger the stay will prevent the disruption of other cases unless there is a judicial determination that this subdivision of the rule applies and that a stay of related cases is needed while the court makes its venue determination.

Notice of the hearing must be given to all debtors, trustees, creditors, indenture trustees, and United States trustees in the affected cases, as well as any other entity that the court directs. Because the clerk of the court that makes the determination often may lack access to the names and addresses of entities in other cases, a court may order the moving party to provide notice.

The other changes to subdivision (b) are stylistic.

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### Changes Made After Publication

The only change made after publication was stylistic.

## Summary of Public Comment

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). I do not understand how a judge has jurisdiction to enter orders affecting parties in a case pending in another district in front of a different judge.

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ).** The NCBJ is concerned that the court hearing the first-filed case would lack jurisdiction to order parties in the other cases, some of whom may not be parties to the first-filed case, not to proceed further. In addition, a wording suggestion is offered to make clearer who is to receive notice of the motion in the first-filed case.

**12-BK-010. States' Association of Bankruptcy Attorneys.** The rule does not expressly state that the court where the first petition is filed shall be the only one to determine the issue of where the cases should proceed. It is also not clear who can initiate such a determination or whether the court may or should do so sua sponte. While the Committee Note says that the court can order the moving party to provide notice to parties in the other cases, the rule does not say so. Finally, a time limit should be set for filing a motion for a determination in the first court since the stay is no longer automatic.

**12-BK-033. Chief Judge Christopher M. Klein** (Bankr. E.D. Cal.). The current rule-mandated stay has generally worked well. Under the proposed amendment, the later-filed cases can proceed unabated until the first court orders the later-filed cases to stop. Stays are less likely to occur (judges do not like telling other judges what to do), resulting in a greater chance of multiple, inconsistent orders being issued in the respective cases involving the same or related debtors.

### Rule 7004. Process; Service of Summons, Complaint

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(e) SUMMONS: TIME LIMIT FOR SERVICE WITHIN

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THE UNITED STATES. Service made under Rule 4(e), (g),

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(h)(1), (I), or (j)(2) F.R. Civ. P. shall be by delivery of the

5

summons and complaint within ~~14~~ 7 days after the summons is

6 issued. If service is by any authorized form of mail, the summons  
7 and complaint shall be deposited in the mail within ~~14~~ 7 days after  
8 the summons is issued. If a summons is not timely delivered or  
9 mailed, another summons shall be issued and served. This  
10 subdivision does not apply to service in a foreign country.

### COMMITTEE NOTE

Subdivision (e) is amended to alter the period of time during which service of the summons and complaint must be made. The amendment reduces that period from fourteen days to seven days after issuance of the summons. Because Rule 7012 provides that the defendant's time to answer the complaint is calculated from the date the summons is issued, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond. The amendment is therefore intended to encourage prompt service after issuance of a summons. If service of the summons within any seven-day period is impracticable, a court retains the discretion to enlarge that period of time under Rule 9006(b).

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### Changes Made After Publication

A new sentence referring to the availability of an enlargement of time under Rule 9006(b) was added to the Committee Note.

### Summary of Public Comment

**12-BK-001. Bradley R. Tamm** (Attorney, Honolulu, Hawaii). The shortened time is sufficient in circumstances when service can be effected by mail. Sometimes, however, service cannot be effected by mail under Rule 7004(b), such as when an individual's only address is a post office box. Seven days will often be insufficient and will lead to situations where the summons must be reissued multiple times. Instead of shortening the summons service window in Rule 7004(e), the defendant's time to respond in Rule 7012(a) should be lengthened. That period could be increased from 30 days to 45 days, or the government's 35-day period to answer could be applied to all parties.

**12-BK-031. Insolvency Law Committee of the Business Law Section of the State Bar of California.** Service within 7 days may be onerous under certain circumstances. Some judges require service of a scheduling order, which may not issue until days after the case is filed and the summons is issued. We recommend keeping the 14-day window and revising Rule 7012(a) to provide the defendant with 28 days to respond after service of the summons and complaint.

**12-BK-033. Chief Judge Christopher M. Klein** (Bankr. E.D. Cal.). Rule 7004(e) is dysfunctional, and reducing the service window from 14 to 7 days will only make the existing problems worse. The published amendment will increase the likelihood of stale summonses, which will increase delay. Because the “limited life” summons under the Bankruptcy Rules is out of step with practice in federal district court and state court, where a summons typically does not expire, general practice lawyers and pro se parties fall into a trap for the unwary.

These bankruptcy-specific service provisions date back to the era of the Bankruptcy Act, when the Civil Rules lacked a time limit for service. The Civil Rules now contain a time limit for service under Rule 4(m), and the Bankruptcy Rules should reflect that change. The Rules Committee should (1) delete the time limit on the validity of the summons under Rule 7004(e); (2) amend Rule 7012(a) to mirror the times in Civil Rule 12(a); and (3) alter the Civil Rule 4(m) time limit (incorporated by Bankruptcy Rule 7004(a)) to less than the 120 days in the Civil Rule.

**12-BK-041. Daniel Press** (Attorney, McLean, Virginia). In most cases, counsel should be able to serve the summons and complaint by mail within 7 days. If, however, an unrepresented plaintiff, or one whose lawyer is not a registered electronic filer, receives the summons by mail from the clerk, some or all of the 7-day window will expire, making it impossible to make timely service on the defendant. In addition, not all domestic summonses can be served by mail. Service within 7 days may be impossible in such situations.

The rule should be amended to allow service by mail to post office boxes, or there should be a different time period specified for service that is not made by mail. Also, although Rule 7004(e) does not include service under Civil Rule 4(j)(1) (service on foreign governments or agencies), an express exception should be included.

## Rule 7008. General Rules of Pleading

1           ~~(a) APPLICABILITY OF RULE 8 F.R.CIV.P.~~ Rule 8  
2 F.R.Civ.P. applies in adversary proceedings. The allegation of  
3 jurisdiction required by Rule 8(a) shall also contain a reference to  
4 the name, number, and chapter of the case under the Code to which  
5 the adversary proceeding relates and to the district and division  
6 where the case under the Code is pending. In an adversary  
7 proceeding before a bankruptcy ~~judge~~ court, the complaint,  
8 counterclaim, cross-claim, or third-party complaint shall contain a  
9 statement ~~that the proceeding is core or noncore and, if non-core~~  
10 that the pleader does or does not consent to entry of final orders or  
11 judgment by the bankruptcy ~~judge~~ court.

12           ~~(b) ATTORNEY'S FEES. A request for an award of~~  
13 ~~attorney's fees shall be pleaded as a claim in a complaint, cross-~~  
14 ~~claim, third-party complaint, answer, or reply as may be~~  
~~appropriate.~~

### COMMITTEE NOTE

Former subdivision (a) is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not

consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. Rule 7012(b) has been amended to require a similar statement in a responsive pleading. The bankruptcy judge will then determine the appropriate course of proceedings under Rule 7016.

The rule is also amended to delete subdivision (b), which required a request for attorney's fees always to be pleaded as a claim in an allowed pleading. That requirement, which differed from the practice under the Federal Rules of Civil Procedure, had the potential to serve as a trap for the unwary.

The procedures for seeking an award of attorney's fees are now set out in Rule 7054(b)(2), which makes applicable most of the provisions of Rule 54(d)(2) F.R. Civ. P. As specified by Rule 54(d)(2)(A) and (B) F.R. Civ. P., a claim for attorney's fees must be made by a motion filed no later than 14 days after entry of the judgment unless the governing substantive law requires those fees to be proved at trial as an element of damages. When fees are an element of damages, such as when the terms of a contract provide for the recovery of fees incurred prior to the instant adversary proceeding, the general pleading requirements of this rule still apply.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-003. Douglas N. Candeub** (Attorney, Wilmington, Delaware). The Advisory Committee should not abandon references to "core" and "non-core" proceedings in the rules. Those terms could be retained while adding a statement regarding consent in all proceedings.

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ).** The NCBJ approves of the published rule amendments to the extent that they require a statement regarding consent in all adversary proceedings. But the terms "core" and "non-core" should not be deleted from the rule. In the NCBJ's view, the court and parties benefit from knowing early in the proceeding whether the parties view the proceeding as core or non-core.

**12-BK-010. States' Association of Bankruptcy Attorneys (SABA).** We approve of the basic approach of the amendments. The amended rules should make clear that a party may consent to some aspects of a bankruptcy court's determination and not others. For example, a state may consent to final adjudication by a bankruptcy court on the question whether the automatic stay applies to a police or regulatory action but not consent to a final adjudication by the bankruptcy court of the underlying substantive claim.

**12-BK-033. Chief Judge Christopher M. Klein** (Bankr. E.D. Cal.). The term "bankruptcy court," which was substituted in place of "bankruptcy judge," should be defined. The Bankruptcy Rules apply in cases and proceedings under title 11, whether before district judges or bankruptcy judges. Accordingly, reference to the "bankruptcy court" could be read to include a district judge that is sitting in bankruptcy (such as upon withdrawal of the reference). In those circumstances, there is no need for a statement regarding consent, because an Article III judge is presiding.

**12-BK-037. National Bankruptcy Conference (NBC).** Rule 7008 should be revised to permit a party to consent to the bankruptcy court's final adjudication of specific issues or claims in the proceeding.

**12-BK-044. Louis M. Bubala** (Attorney, Reno, Nevada). I am pleased with the proposed elimination of Rule 7008(b) and addition of Rule 7054(b)(2) regarding claims for attorney's fees. The current rules have caused problems over the years, and the adoption of the procedure from the civil rules is a good one.

**Rule 7012. Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings**

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(b) APPLICABILITY OF RULE 12(b)-(I) F.R. CIV. P.  
Rule 12(b)-(I) F.R. Civ. P. applies in adversary proceedings. A responsive pleading shall admit or deny an allegation that the proceeding is core or non-core. If the response is that the proceeding is non-core it shall include a statement that the party

7 does or does not consent to entry of final orders or judgment by the  
8 bankruptcy judge court. In non-core proceedings, final orders and  
9 judgments shall not be entered on the bankruptcy judge's order  
10 except with the express consent of the parties.

### COMMITTEE NOTE

Subdivision (b) is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. The amended rule also removes the provision requiring express consent before the entry of final orders and judgments in non-core proceedings. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. This amendment complements the requirements of amended Rule 7008(a). The bankruptcy judge's subsequent determination of the appropriate course of proceedings, including whether to enter final orders and judgments or to issue proposed findings of fact and conclusions of law, is a pretrial matter now provided for in amended Rule 7016.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-003. Douglas N. Candeub** (Attorney, Wilmington, Delaware). The Advisory Committee should not abandon references to “core” and “non-core” proceedings in the rules. Those terms could be retained while adding a statement regarding consent in all proceedings.

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ)**. The NCBJ approves of the published rule amendments to the extent that they require a statement regarding consent in all adversary proceedings. But the

terms “core” and “non-core” should not be deleted from the rule. In the NCBJ’s view, the court and parties benefit from knowing early in the proceeding whether the parties view the proceeding as core or non-core.

**12-BK-033. Chief Judge Christopher M. Klein** (Bankr. E.D. Cal.). The term “bankruptcy court,” which was substituted in place of “bankruptcy judge,” should be defined. The Bankruptcy Rules apply in cases and proceedings under title 11, whether before district judges or bankruptcy judges. Accordingly, reference to the “bankruptcy court” could be read to include a district judge that is sitting in bankruptcy (such as upon withdrawal of the reference). In those circumstances, there is no need for a statement regarding consent, because an Article III judge is presiding.

**12-BK-037. National Bankruptcy Conference (NBC).** Rule 7012(b) should be revised to permit a party to consent to the bankruptcy court’s final adjudication of specific issues or claims in the proceeding.

**Rule 7016. ~~Pre-Trial Procedures; Formulating Issues~~**

- 1                    (a) PRETRIAL CONFERENCES; SCHEDULING;  
2                    MANAGEMENT. Rule 16 F.R.Civ.P. applies in adversary  
3                    proceedings.
- 4                    (b) DETERMINING PROCEDURE. The bankruptcy  
5                    court shall decide, on its own motion or a party’s timely motion,  
6                    whether:
- 7                    (1) to hear and determine the proceeding;  
8                    (2) to hear the proceeding and issue proposed  
9                    findings of fact and conclusions of law; or  
10                    (3) to take some other action.

## COMMITTEE NOTE

This rule is amended to create a new subdivision (b) that provides for the bankruptcy court to enter final orders and judgment, issue proposed findings and conclusions, or take some other action in a proceeding. The rule leaves the decision as to the appropriate course of proceedings to the bankruptcy court. The court's decision will be informed by the parties' statements, required under Rules 7008(a), 7012(b), and 9027(a) and (e), regarding consent to the entry of final orders and judgment. If the bankruptcy court chooses to issue proposed findings of fact and conclusions of law, Rule 9033 applies.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-001. National Conference of Bankruptcy Judges (NCBJ).** The addition of subpart (b) to Rule 7016 is unnecessary and confusing. It suggests that the bankruptcy court must choose one of three possible dispositions at an early stage of an adversary proceeding. This is an intrusion on the court's inherent case management authority. The proposed amendment does not fill the gap created by removing the required allegation as to whether a proceeding is core or non-core. Even if the Advisory Committee does not retain the requirement that parties declare whether a proceeding is core or non-core, Rule 7016 should be kept in its current form.

**12-BK-009. Judge S. Martin Teel, Jr. (Bankr. D.D.C.).** The proposed changes to the rules do not address the treatment of a bankruptcy judge's decision, entered as a final order or judgment, if it is later determined that the bankruptcy judge lacked constitutional authority to enter a final order or judgment. If Rule 9033 is not amended to address this issue, then the Committee Note in Rule 7016 should be changed to add language expressly providing for the treatment of the bankruptcy court's decision as proposed findings of fact and conclusions of law.

**12-BK-037. National Bankruptcy Conference (NBC).** Rather than permit the bankruptcy court to decide *Stern* issues on its own motion, proposed Rule 7016 should require notice and a hearing. In the alternative,

the Court should make a formal decision not to hold a hearing rather than simply deciding *Stern* issues on its own.

The proposed rule, which deals with pre-trial procedures, does not address the treatment of *Stern* issues that arise in the resolution of motions to dismiss or other preliminary rulings. The proposed rules should provide a mechanism for a party to raise *Stern* issues if the party has not yet filed an answer or other pleading.

#### **Rule 7054. Judgments; Costs**

1                   (a) JUDGMENTS. Rule 54(a)-(c) F.R. Civ. P. applies in  
2                   adversary proceedings.

3                   (b) COSTS; ATTORNEY'S FEES

4                                 (1) Costs Other Than Attorney's Fees. The court  
5                   may allow costs to the prevailing party except when a statute of the  
6                   United States or these rules otherwise provides. Costs against the  
7                   United States, its officers and agencies shall be imposed only to  
8                   the extent permitted by law. Costs may be taxed by the clerk on 14  
9                   days' notice; on motion served within seven days thereafter, the  
10                  action of the clerk may be reviewed by the court.

11                                (2) Attorney's Fees.

12   (A) Rule 54(d)(2)(A)-(C) and (E) F.R. Civ.  
13                   P. applies in adversary proceedings except for the reference in  
14                   Rule 54(d)(2)(C) to Rule 78.

15 (B) By local rule, the court may establish  
16 special procedures to resolve fee-related issues without extensive  
17 evidentiary hearings.

### COMMITTEE NOTE

Subdivision (b) is amended to prescribe the procedure for seeking an award of attorney's fees and related nontaxable expenses in adversary proceedings. It does so by adding new paragraph (2) that incorporates most of the provisions of Rule 54(d)(2) F.R. Civ. P. The title of subdivision (b) is amended to reflect the new content, and the previously existing provision governing costs is renumbered as paragraph (1) and re-titled.

As provided in Rule 54(d)(2)(A), new subsection (b)(2) does not apply to fees recoverable as an element of damages, as when sought under the terms of a contract providing for the recovery of fees incurred prior to the instant adversary proceeding. Such fees typically are required to be claimed in a pleading.

Rule 54(d)(2)(D) F.R. Civ. P. does not apply in adversary proceedings insofar as it authorizes the referral of fee matters to a master or a magistrate judge. The use of masters is not authorized in bankruptcy cases, *see* Rule 9031, and 28 U.S.C. § 636 does not authorize a magistrate judge to exercise jurisdiction upon referral by a bankruptcy judge. The remaining provision of Rule 54(d)(2)(D) is expressed in subdivision (b)(2)(B) of this rule.

Rule 54(d)(2)(C) refers to Rule 78 F.R. Civ. P., which is not applicable in adversary proceedings. Accordingly, that reference is not incorporated by this rule.

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### Changes Made After Publication

No changes were made after publication.

## Summary of Public Comment

**12-BK-010. States' Association of Bankruptcy Attorneys.** The provision in Rule 7054(b)(1) that permits the award of costs against the United States, its officers, and agencies only to the extent permitted by law should be broadened to apply to all governmental units.

**12-BK-044. Louis M. Bubala** (Attorney, Reno, Nevada). I am pleased with the proposed elimination of Rule 7008(b) and addition of Rule 7054(b)(2) regarding claims for attorney's fees. The current rules have caused problems over the years, and the adoption of the procedure from the civil rules is a good one.

### Rule 9023. New Trials; Amendment of Judgments

1                   Rule 59 F.R.Civ.P. applies in cases under the Code, except  
2                   as provided in Rule 3008. In some circumstances, Rule 8008  
3                   governs post-judgment motion practice after an appeal has been  
4                   docketed and is pending.

### COMMITTEE NOTE

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ).** The cross-reference to Rule 8008 is more appropriately placed in a Committee Note than in the amended rule itself.

## **Rule 9024. Relief from Judgment or Order**

1           Rule 60 F.R.Civ.P. applies in cases under the Code except  
2           that (1) a motion to reopen a case under the Code or for the  
3           reconsideration of an order allowing or disallowing a claim against  
4           the estate entered without a contest is not subject to the one-year  
5           limitation prescribed in Rule 60(c), (2) a complaint to revoke a  
6           discharge in a chapter 7 liquidation case may be filed only within  
7           the time allowed by § 727(e) of the Code, and (3) a complaint to  
8           revoke an order confirming a plan may be filed only within the  
9           time allowed by § 1144, § 1230, or § 1330. In some  
10          circumstances, Rule 8008 governs post-judgment motion practice  
11          after an appeal has been docketed and is pending.

### **COMMITTEE NOTE**

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ).** The cross-reference to Rule 8008 is more appropriately placed in a Committee Note than in the amended rule itself.

**Rule 9027. Removal**

1 (a) NOTICE OF REMOVAL.

2 (1) *Where filed; form and content.* A notice of  
3 removal shall be filed with the clerk for the district and  
4 division within which is located the state or federal court  
5 where the civil action is pending. The notice shall be  
6 signed pursuant to Rule 9011 and contain a short and plain  
7 statement of the facts which entitle the party filing the  
8 notice to remove, contain a statement that upon removal of  
9 the claim or cause of action ~~the proceeding is core or non-~~  
10 ~~core and, if non-core, that~~ the party filing the notice does or  
11 does not consent to entry of final orders or judgment by the  
12 bankruptcy ~~judge~~ court, and be accompanied by a copy of  
13 all process and pleadings.

14 \* \* \* \* \*

15 (e) PROCEDURE AFTER REMOVAL.

16 \* \* \* \* \*

17 (3) Any party who has filed a pleading in  
18 connection with the removed claim or cause of action,

19 other than the party filing the notice of removal, shall file a  
20 statement ~~admitting or denying any allegation in the notice~~  
21 ~~of removal that upon removal of the claim or cause of~~  
22 ~~action the proceeding is core or non-core.~~ If the statement  
23 alleges that the proceeding is non-core, it shall state that the  
24 party does or does not consent to entry of final orders or  
25 judgment by the bankruptcy ~~judge~~ court. A statement  
26 required by this paragraph shall be signed pursuant to Rule  
27 9011 and shall be filed not later than 14 days after the filing  
28 of the notice of removal. Any party who files a statement  
29 pursuant to this paragraph shall mail a copy to every other  
30 party to the removed claim or cause of action.

31 \* \* \* \* \*

### COMMITTEE NOTE

Subdivisions (a)(1) and (e)(3) are amended to delete the requirement for a statement that the proceeding is core or non-core and to require in all removed actions a statement that the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for a statement regarding consent at the time of removal, whether or not a proceeding is termed non-core.

The party filing the notice of removal must include a statement regarding consent in the notice, and the other parties who have filed pleadings must respond in a separate statement filed within 14 days after removal. If a party to the removed claim or cause of action has not filed a pleading prior to removal, however, there is no need to file a separate statement under subdivision (e)(3), because a statement regarding consent

must be included in a responsive pleading filed pursuant to Rule 7012(b). Rule 7016 governs the bankruptcy court's decision whether to hear and determine the proceeding, issue proposed findings of fact and conclusions of law, or take some other action in the proceeding.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-031. Insolvency Law Committee of the Business Law Section of the State Bar of California.** The rule should clarify whether, in a removed action, a statement regarding consent included in a party's first pleading or motion satisfies the requirement of the rule, or whether a separate statement is required. The Committee Note states that no statement is required if a party to a removed action has not yet filed a pleading prior to removal, because the statement will be filed in a responsive pleading in accordance with Rule 7012. But that party may choose to file a pre-answer motion instead. The rule could also be read to require a separate statement even if the party files a pleading.

**12-BK-040. Bankruptcy Clerks Advisory Group (BCAG).** Proposed Rule 9027(e)(3) requires the party filing a statement regarding consent upon removal to "mail a copy to every other party to the removed cause of action." "Mail" should be changed to "transmit" because service can be accomplished electronically. Furthermore, the copy of the statement is unnecessary when a notice would be sufficient.

### **Rule 9033. ~~Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings~~**

1 (a) SERVICE. ~~In non-core proceedings heard pursuant to~~  
2 ~~28 U.S.C. § 157(c)(1)~~In a proceeding in which the bankruptcy  
3 court has issued the bankruptcy judge shall file proposed findings  
4 of fact and conclusions of law. ~~The clerk shall serve forthwith~~  
5 copies on all parties by mail and note the date of mailing on the  
6 docket.

7 \* \* \* \* \*

### COMMITTEE NOTE

Subdivision (a) is amended to delete language limiting this provision to non-core proceedings. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. § 157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. If the bankruptcy court decides, pursuant to Rule 7016, that it is appropriate to issue proposed findings of fact and conclusions of law in a proceeding, this rule governs the subsequent procedures.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-008. National Conference of Bankruptcy Judges (NCBJ).** The requirement that the clerk serve proposed findings of fact and conclusions of law “by mail and note the date of mailing on the docket” should be altered to reflect electronic service. A mailing requirement is anachronistic and unnecessary. That portion of the rule should be eliminated, so that the rule would simply read “the clerk shall serve forthwith copies on all parties.”

**12-BK-040. Bankruptcy Clerks Advisory Group (BCAG).** Rule 9033(a) should not require the clerk to serve copies of the proposed findings

and conclusions “by mail.” BCAG endorses the NCBJ’s comment that this language be revised to state: “The clerk shall serve forthwith copies on all parties.”

**12-BK-009. Judge S. Martin Teel, Jr. (Bankr. D.D.C.).** Rule 9033 should address the treatment of a bankruptcy judge’s decision that is entered as a final order but later determined to be beyond the bankruptcy judge’s constitutional authority to adjudicate finally. A new subpart of the rule should provide that the decision in those circumstances should be treated as proposed findings and conclusions. The subpart could provide that the bankruptcy court may indicate whether its decision should be so treated if it is determined that the judge lacked the authority to enter a final order or judgment.

The approach taken by some courts, such as the Southern District of New York, that have adopted an amended standing order of reference is insufficient. The S.D.N.Y. order does not include a deadline for the parties to file objections to the decision now deemed proposed findings and conclusions, and the briefs filed on appeal would not necessarily contain all objections to those findings and conclusions.

**12-BK-033. Chief Judge Christopher M. Klein (Bankr. E.D. Cal.).** Rule 9033 should designate a process for transmitting the report and recommendation to the district court, perhaps as in proposed Rule 8003(d). The rule should provide for the bankruptcy clerk to certify to the district court that objections to the proposed findings and conclusions were, or were not, filed.

A uniform national rule should be in place to determine the procedures for deeming a bankruptcy judge’s decision to be proposed findings and conclusions on appeal if the district court determines that the entry of a final judgment exceeded the authority of the bankruptcy judge. The rule should also authorize a bankruptcy appellate panel (BAP) to transfer an appeal to a district court if the BAP determines that the decision below was beyond the constitutional authority of the bankruptcy judge to enter final judgment.

**12-BK-037. National Bankruptcy Conference (NBC).** Because a bankruptcy court may not know whether its decision will later be determined to be beyond its constitutional authority to enter final judgment, the difference in procedures between proposed findings and conclusions

under Rule 9033 and judgments entered under Rule 7054 and Civil Rule 54(a) should be narrowed. If a district court concludes that a decision entered as a final judgment should be treated as proposed findings and conclusions, the losing party may be deprived of procedural rights under Rule 9033 to object to those proposed findings and conclusions.

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# APPENDIX A.2

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**FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**PART VIII. BANKRUPTCY APPEALS**

**Rule**

- 8001. Scope of Part VIII Rules; Definition of “BAP”; Method of Transmission
- 8002. Time for Filing Notice of Appeal
- 8003. Appeal as of Right—How Taken; Docketing the Appeal
- 8004. Appeal by Leave—How Taken; Docketing the Appeal
- 8005. Election to Have an Appeal Heard by the District Court Instead of the BAP
- 8006. Certifying a Direct Appeal to the Court of Appeals
- 8007. Stay Pending Appeal; Bonds; Suspension of Proceedings
- 8008. Indicative Rulings
- 8009. Record on Appeal; Sealed Documents
- 8010. Completing and Transmitting the Record
- 8011. Filing and Service; Signature
- 8012. Corporate Disclosure Statement
- 8013. Motions; Intervention
- 8014. Briefs
- 8015. Form and Length of Briefs; Form of Appendices and Other Papers
- 8016. Cross-Appeals
- 8017. Brief of an Amicus Curiae

- 8018. Serving and Filing Briefs; Appendices
- 8019. Oral Argument
- 8020. Frivolous Appeal and Other Misconduct
- 8021. Costs
- 8022. Motion for Rehearing
- 8023. Voluntary Dismissal
- 8024. Clerk's Duties on Disposition of the Appeal
- 8025. Stay of a District Court or BAP Judgment
- 8026. Rules by Circuit Councils and District Courts; Procedure When There is No Controlling Law
- 8027. Notice of a Mediation Procedure
- 8028. Suspension of Rules in Part VIII

## Summary of Public Comment

### General Comments on the Revision of Part VIII

**12-BK-008. National Conference of Bankruptcy Judges.** The NCBJ applauds and endorses the revisions to Part VIII. Bringing the Part VIII rules more into line with the structure and organization of the Federal Rules of Appellate Procedure will reduce confusion and improve the quality of bankruptcy appellate practice.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). The proposed changes are welcome and reflect the fact that we are in the twenty-first century and electronic filing is here to stay. They will make the entire bankruptcy appellate process run more efficiently and effectively.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). The product is impressive and a great leap forward for bankruptcy appellate procedure.

One stylistic comment was submitted.

**Rule 8001. Scope of Part VIII Rules; Definition of “BAP”;  
Method of Transmission**

1           (a) GENERAL SCOPE. These Part VIII rules govern the  
2           procedure in a United States district court and a bankruptcy  
3           appellate panel on appeal from a judgment, order, or decree of a  
4           bankruptcy court. They also govern certain procedures on appeal  
5           to a United States court of appeals under 28 U.S.C. § 158(d).

6           (b) DEFINITION OF “BAP.” “BAP” means a bankruptcy  
7           appellate panel established by a circuit’s judicial council and  
8           authorized to hear appeals from a bankruptcy court under 28  
9           U.S.C. § 158.

10          (c) METHOD OF TRANSMITTING DOCUMENTS. A  
11          document must be sent electronically under these Part VIII rules,  
12          unless it is being sent by or to an individual who is not represented  
13          by counsel or the court’s governing rules permit or require mailing  
14          or other means of delivery.

**COMMITTEE NOTE**

These Part VIII rules apply to appeals under 28 U.S.C. § 158(a) from bankruptcy courts to district courts and BAPs. The Federal Rules of Appellate Procedure generally govern bankruptcy appeals to courts of appeals.

Eight of the Part VIII rules do, however, relate to appeals to courts of appeals. Rule 8004(e) provides that the authorization by a court of appeals of a direct appeal of a bankruptcy court’s interlocutory order or decree constitutes a grant of leave to appeal. Rule 8006 governs the procedure for certification under 28 U.S.C. § 158(d)(2) of a direct appeal

from a judgment, order, or decree of a bankruptcy court to a court of appeals. Rule 8007 addresses stays pending a direct appeal to a court of appeals. Rule 8008 authorizes a bankruptcy court to issue an indicative ruling while an appeal is pending in a court of appeals. Rules 8009 and 8010 govern the record on appeal in a direct appeal to a court of appeals. Rule 8025 governs the granting of a stay of a district court or BAP judgment pending an appeal to the court of appeals. And Rule 8028 authorizes the court of appeals to suspend applicable Part VIII rules in a particular case, subject to certain enumerated exceptions.

These rules take account of the evolving technology in the federal courts for the electronic filing, storage, and transmission of documents. Except as applied to pro se parties, the Part VIII rules require documents to be sent electronically, unless applicable court rules or orders expressly require or permit another means of sending a particular document.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

Several stylistic comments were submitted.

**Rule 8002. Time for Filing Notice of Appeal**

1 (a) IN GENERAL.

2 (1) *Fourteen-Day Period.* Except as provided in  
3 subdivisions (b) and (c), a notice of appeal must be filed with the  
4 bankruptcy clerk within 14 days after entry of the judgment, order,  
5 or decree being appealed.

6 (2) *Filing Before the Entry of Judgment.* A notice of appeal  
7 filed after the bankruptcy court announces a decision or order—but  
8 before entry of the judgment, order, or decree—is treated as filed on  
9 the date of and after the entry.

10 (3) *Multiple Appeals.* If one party files a timely notice of  
11 appeal, any other party may file a notice of appeal within 14 days  
12 after the date when the first notice was filed, or within the time  
13 otherwise allowed by this rule, whichever period ends later.

14 (4) *Mistaken Filing in Another Court.* If a notice of appeal  
15 is mistakenly filed in a district court, BAP, or court of appeals, the  
16 clerk of that court must state on the notice the date on which it was  
17 received and transmit it to the bankruptcy clerk. The notice of  
18 appeal is then

19 considered filed in the bankruptcy court on the date so stated.

20 (b) EFFECT OF A MOTION ON THE TIME TO APPEAL.

21 (1) *In General.* If a party timely files in the bankruptcy  
22 court any of the following motions, the time to file an appeal runs for  
23 all parties from the entry of the order disposing of the last such  
24 remaining motion:

25 (A) to amend or make additional findings under Rule  
26 7052, whether or not granting the motion would alter the  
27 judgment;

28 (B) to alter or amend the judgment under Rule 9023;

29 (C) for a new trial under Rule 9023; or

30 (D) for relief under Rule 9024 if the motion is filed  
31 within 14 days after the judgment is entered.

32 (2) *Filing an Appeal Before the Motion is Decided.* If a  
33 party files a notice of appeal after the court announces or enters a  
34 judgment, order, or decree—but before it disposes of any motion  
35 listed in subdivision (b)(1)—the notice becomes effective when the  
36 order disposing of the last such remaining motion is entered.

37 (3) *Appealing the Ruling on the Motion.* If a party intends to  
38 challenge an order disposing of any motion listed in subdivision  
39 (b)(1)—or the alteration or amendment of a judgment, order, or  
40 decree upon the motion—the party must file a notice of appeal or an

41 amended notice of appeal. The notice or amended notice must  
42 comply with Rule 8003 or 8004 and be filed within the time  
43 prescribed by this rule, measured from the entry of the order  
44 disposing of the last such remaining motion.

45 (4) *No Additional Fee.* No additional fee is required to file  
46 an amended notice of appeal.

47 (c) APPEAL BY AN INMATE CONFINED IN AN  
48 INSTITUTION.

49 (1) *In General.* If an inmate confined in an institution files a  
50 notice of appeal from a judgment, order, or decree of a bankruptcy  
51 court, the notice is timely if it is deposited in the institution's  
52 internal mail system on or before the last day for filing. If the  
53 institution has a system designed for legal mail, the inmate must use  
54 that system to receive the benefit of this rule. Timely filing may be  
55 shown by a declaration in compliance with 28 U.S.C. § 1746 or by a  
56 notarized statement, either of which must set forth the date of deposit  
57 and state that first-class postage has been prepaid.

58 (2) *Multiple Appeals.* If an inmate files under this  
59 subdivision the first notice of appeal, the 14-day period provided in  
60 subdivision (a)(3) for another party to file a notice of appeal runs  
61 from the date when the bankruptcy clerk docketed the first notice.

62 (d) EXTENDING THE TIME TO APPEAL.

63 (1) *When the Time May be Extended.* Except as provided in  
64 subdivision (d)(2), the bankruptcy court may extend the time to file a  
65 notice of appeal upon a party's motion that is filed:

66 (A) within the time prescribed by this rule; or

67 (B) within 21 days after that time, if the party shows  
68 excusable neglect.

69 (2) *When the Time May Not be Extended.* The bankruptcy  
70 court may not extend the time to file a notice of appeal if the  
71 judgment, order, or decree appealed from:

72 (A) grants relief from an automatic stay under § 362,  
73 922, 1201, or 1301 of the Code;

74 (B) authorizes the sale or lease of property or the use  
75 of cash collateral under § 363 of the Code;

76 (C) authorizes the obtaining of credit under § 364 of  
77 the Code;

78 (D) authorizes the assumption or assignment of an  
79 executory contract or unexpired lease under § 365 of the  
80 Code;

81 (E) approves a disclosure statement under § 1125 of  
82 the Code; or

83 (F) confirms a plan under § 943, 1129, 1225, or 1325  
84 of the Code.

85                               (3) *Time Limits on an Extension*. No extension of time may  
86                               exceed 21 days after the time prescribed by this rule, or 14 days after  
87                               the order granting the motion to extend time is entered, whichever is  
88                               later.

### COMMITTEE NOTE

This rule is derived from former Rule 8002 and F.R.App.P. 4(a) and (c). With the exception of subdivision (c), the changes to the former rule are stylistic. The rule retains the former rule's 14-day time period for filing a notice of appeal, as opposed to the longer periods permitted for appeals in civil cases under F.R.App.P. 4(a).

Subdivision (a) continues to allow any other party to file a notice of appeal within 14 days after the first notice of appeal is filed, or thereafter to the extent otherwise authorized by this rule. Subdivision (a) also retains provisions of the former rule that prescribe the date the notice of appeal is deemed filed if the appellant files it prematurely or in the wrong court.

Subdivision (b), like former Rule 8002(b) and F.R.App.P. 4(a), tolls the time for filing a notice of appeal when certain postjudgment motions are filed, and it prescribes the effective date of a notice of appeal that is filed before the court disposes of all of the specified motions. As under the former rule, a party that wants to appeal the court's disposition of the motion or the alteration or amendment of a judgment, order, or decree in response to such a motion must file a notice of appeal or, if it has already filed one, an amended notice of appeal.

Although Rule 8003(a)(3)(C) requires a notice of appeal to be accompanied by the required fee, no additional fee is required for the filing of an amended notice of appeal.

Subdivision (c) mirrors the provisions of F.R.App.P. 4(c)(1) and (2), which specify timing rules for a notice of appeal filed by an inmate confined in an institution.

Subdivision (d) continues to allow the court to grant an extension of time to file a notice of appeal, except with respect to certain specified judgments, orders, and decrees.

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## Changes Made After Publication

Stylistic changes were made to the title of subdivision (b)(3) and to subdivision (c)(1).

### Summary of Public Comment

**12-BK-004. Thomas R. Morris** (Attorney, Farmington Hills, Mich.). The inmate mailbox rule prescribed by subdivision (c) should be made subject to the exceptions provided for in proposed Rule 8002(d)(2). These exceptions help to ensure the finality of certain types of bankruptcy court orders upon which transactions often rely. If the inmate mailbox rule is not made subject to the same exceptions, a transaction that depends on the finality of an order could be held hostage to the possibility of an inmate appeal or at least thrown into uncertainty if an inmate appeal becomes known after the expiration of the regular appeal period.

**12-BK-011. Debtor/Creditor Rights Comm. of the Business Law Section of the State Bar of Michigan.** The Committee agrees with the comment of Mr. Morris. The inmate appeal rule should not be added to Rule 8002, but, if it is, it should be limited to inmates who had previously opposed entry of the order from which an appeal is taken and disclosed their status as an inmate.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). Subdivision (b)(1) should recognize that parties frequently make motions for reconsideration and bankruptcy courts act on them, even though the rules do not specifically authorize this motion. A motion to reconsider should be added to the list of motions that toll the time for filing a notice of appeal.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Rule 8002 should include a provision like FRAP 4(a)(6), which permits the district court to reopen the time to file an appeal for someone who did not receive notice of entry of the judgment within 21 days after its entry. This rule applies to bankruptcy cases appealed from the district court to the court of appeals, and there is no reason that it should not also be available for the first level of appeal. It would also be useful for Rule 8002 to have a provision similar to FRAP 4(a)(7), which addresses when a judgment or order is entered for purposes of Rule 4(a). The provision helps clarify timing issues presented by the separate-document requirement.

Several stylistic comments were submitted.

**Rule 8003. Appeal as of Right—How Taken; Docketing the Appeal**

1 (a) FILING THE NOTICE OF APPEAL.

2 (1) *In General.* An appeal from a judgment, order,  
3 or decree of a bankruptcy court to a district court or BAP  
4 under 28 U.S.C. § 158(a)(1) or (a)(2) may be taken only by  
5 filing a notice of appeal with the bankruptcy clerk within  
6 the time allowed by Rule 8002.

7 (2) *Effect of Not Taking Other Steps.* An  
8 appellant's failure to take any step other than the timely  
9 filing of a notice of appeal does not affect the validity of  
10 the appeal, but is ground only for the district court or BAP  
11 to act as it considers appropriate, including dismissing the  
12 appeal.

13 (3) *Contents.* The notice of appeal must:

14 (A) conform substantially to the appropriate  
15 Official Form;

16 (B) be accompanied by the judgment, order,  
17 or decree, or the part of it, being appealed; and

18 (C) be accompanied by the prescribed fee.

19 (4) *Additional Copies.* If requested to do so, the  
20 appellant must furnish the bankruptcy clerk with enough

21 copies of the notice to enable the clerk to comply with  
22 subdivision (c).

23 (b) JOINT OR CONSOLIDATED APPEALS.

24 (1) *Joint Notice of Appeal.* When two or more  
25 parties are entitled to appeal from a judgment, order, or  
26 decree of a bankruptcy court and their interests make  
27 joinder practicable, they may file a joint notice of appeal.  
28 They may then proceed on appeal as a single appellant.

29 (2) *Consolidating Appeals.* When parties have  
30 separately filed timely notices of appeal, the district court  
31 or BAP may join or consolidate the appeals.

32 (c) SERVING THE NOTICE OF APPEAL.

33 (1) *Serving Parties and Transmitting to the United*  
34 *States Trustee.* The bankruptcy clerk must serve the notice  
35 of appeal on counsel of record for each party to the appeal,  
36 excluding the appellant, and transmit it to the United States  
37 trustee. If a party is proceeding pro se, the clerk must send  
38 the notice of appeal to the party's last known address. The  
39 clerk must note, on each copy, the date when the notice of  
40 appeal was filed.

41 (2) *Effect of Failing to Serve or Transmit Notice.*

42 The bankruptcy clerk's failure to serve notice on a party or

43 transmit notice to the United States trustee does not affect  
44 the validity of the appeal.

45 (3) *Noting Service on the Docket.* The clerk must  
46 note on the docket the names of the parties served and the  
47 date and method of the service.

48 (d) TRANSMITTING THE NOTICE OF APPEAL TO  
49 THE DISTRICT COURT OR BAP; DOCKETING THE APPEAL.

50 (1) *Transmitting the Notice.* The bankruptcy clerk  
51 must promptly transmit the notice of appeal to the BAP  
52 clerk if a BAP has been established for appeals from that  
53 district and the appellant has not elected to have the district  
54 court hear the appeal. Otherwise, the bankruptcy clerk  
55 must promptly transmit the notice to the district clerk.

56 (2) *Docketing in the District Court or BAP.* Upon  
57 receiving the notice of appeal, the district or BAP clerk  
58 must docket the appeal under the title of the bankruptcy  
59 case and the title of any adversary proceeding, and must  
60 identify the appellant, adding the appellant's name if  
61 necessary.

#### COMMITTEE NOTE

This rule is derived from several former Bankruptcy Rule and Appellate Rule provisions. It addresses appeals as of right, joint and consolidated appeals, service of the notice of appeal, and the timing of the

docketing of an appeal in the district court or BAP.

Subdivision (a) incorporates, with stylistic changes, much of the content of former Rule 8001(a) regarding the taking of an appeal as of right under 28 U.S.C. § 158(a)(1) or (2). The rule now requires that the judgment, order, or decree being appealed be attached to the notice of appeal.

Subdivision (b), which is an adaptation of F.R.App.P. 3(b), permits the filing of a joint notice of appeal by multiple appellants that have sufficiently similar interests that their joinder is practicable. It also allows the district court or BAP to consolidate appeals taken separately by two or more parties.

Subdivision (c) is derived from former Rule 8004 and F.R.App.P. 3(d). Under Rule 8001(c), the former rule's requirement that service of the notice of appeal be accomplished by mailing is generally modified to require that the bankruptcy clerk serve counsel by electronic means. Service on pro se parties must be made by sending the notice to the address most recently provided to the court.

Subdivision (d) modifies the provision of former Rule 8007(b), which delayed the docketing of an appeal by the district court or BAP until the record was complete and the bankruptcy clerk transmitted it. The new provision, adapted from F.R.App.P. 3(d) and 12(a), requires the bankruptcy clerk to promptly transmit the notice of appeal to the clerk of the district court or BAP. Upon receipt of the notice of appeal, the district or BAP clerk must docket the appeal. Under this procedure, motions filed in the district court or BAP prior to completion and transmission of the record can generally be placed on the docket of an already pending appeal.

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### **Changes Made After Publication**

In subdivision (d)(2), the direction for docketing a bankruptcy appeal was changed to reflect the fact that many bankruptcy appeals have dual titles—the bankruptcy case itself and the adversary proceeding that is the subject of the appeal. Stylistic changes were made to subdivision (c)(1). Conforming changes were made to the Committee Note.

### **Summary of Public Comment**

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). The title of subdivision (c) refers to “serving” the notice of appeal, and subdivision (c)(3) refers to noting service on the docket. Subdivision (c)(1), however, requires the clerk to “transmit” the notice of appeal. “Transmit” should be substituted for “serve.”

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). Same.

**12-BK-040. Bankruptcy Clerks Advisory Group**. Same.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). The meaning of the concluding sentence of subdivision (b)(1)—“They may then proceed on appeal as a single appellant”—is unclear.

**12-BK-040. Bankruptcy Clerks Advisory Group**. Agrees with Judge Kressel’s comment.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (c)(1) should require the appellant rather than the bankruptcy clerk to serve the notice of appeal on the parties.

**12-BK-008. National Conference of Bankruptcy Judges**. Same. If the service duty remains on the bankruptcy clerk, Rule 8004(c)(1) concerning interlocutory appeals should be made consistent with Rule 8003(c)(1).

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). Same. If the service duty remains on the bankruptcy clerk, service should not be required on entities that received electronic notice of the docketing of the notice of appeal in the bankruptcy court.

**12-BK-040. Bankruptcy Clerks Advisory Group**. Agrees with Judge Kressel’s and the NCBJ comments.

**12-BK-010. The States’ Association of Bankruptcy Attorneys**. Subdivision (d)(1) should be revised to delay the transmission of the notice of appeal until the time has expired for all parties to the appeal to make an election to have the district court, rather than the BAP, hear the appeal. This change would avoid requiring the BAP to transfer an appeal to the district court if the appellee elects to have the district court hear it.

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). Sometimes the bankruptcy clerk will not have transmitted the notice of appeal to the BAP when an appellee files an election to have the district court hear the appeal. The rule should reflect that possibility.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (c)(1) requires the clerk to note on each copy of the notice of appeal the date when it was filed. This requirement is unnecessary because the electronic docket within CM/ECF will state the filing date.

**12-BK-034. Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee.** The change to Rule 8003 removing the delay of docketing an appeal provides greater clarity regarding the timing of the docketing of the appeal and will save bankruptcy clerks time and resources.

Several stylistic comments were submitted.

**Rule 8004. Appeal by Leave—How Taken; Docketing the Appeal**

1           (a) NOTICE OF APPEAL AND MOTION FOR LEAVE  
2 TO APPEAL. To appeal from an interlocutory order or decree of a  
3 bankruptcy court under 28 U.S.C. § 158(a)(3), a party must file  
4 with the bankruptcy clerk a notice of appeal as prescribed by Rule  
5 8003(a). The notice must:

- 6                   (1) be filed within the time allowed by Rule 8002;
- 7                   (2) be accompanied by a motion for leave to appeal  
8 prepared in accordance with subdivision (b); and
- 9                   (3) unless served electronically using the court’s  
10 transmission equipment, include proof of service in  
11 accordance with Rule 8011(d).

12           (b) CONTENTS OF THE MOTION; RESPONSE.

13                   (1) *Contents.* A motion for leave to appeal under  
14 28 U.S.C. § 158(a)(3) must include the following:

- 15                           (A) the facts necessary to understand the  
16 question presented;
- 17                           (B) the question itself;
- 18                           (C) the relief sought;
- 19                           (D) the reasons why leave to appeal should  
20 be granted; and
- 21                           (E) a copy of the interlocutory order or

22 decree and any related opinion or memorandum.

23 (2) *Response*. A party may file with the district or  
24 BAP clerk a response in opposition or a cross-motion  
25 within 14 days after the motion is served.

26 (c) TRANSMITTING THE NOTICE OF APPEAL AND  
27 THE MOTION; DOCKETING THE APPEAL; DETERMINING  
28 THE MOTION.

29 (1) *Transmitting to the District Court or BAP*. The  
30 bankruptcy clerk must promptly transmit the notice of  
31 appeal and the motion for leave to the BAP clerk if a BAP  
32 has been established for appeals from that district and the  
33 appellant has not elected to have the district court hear the  
34 appeal. Otherwise, the bankruptcy clerk must promptly  
35 transmit the notice and motion to the district clerk.

36 (2) *Docketing in the District Court or BAP*. Upon  
37 receiving the notice and motion, the district or BAP clerk  
38 must docket the appeal under the title of the bankruptcy  
39 case and the title of any adversary proceeding, and must  
40 identify the appellant, adding the appellant's name if  
41 necessary.

42 (3) *Oral Argument Not Required*. The motion and  
43 any response or cross-motion are submitted without oral

44 argument unless the district court or BAP orders otherwise.

45 (d) FAILURE TO FILE A MOTION WITH A  
46 NOTICE OF APPEAL. If an appellant timely files a notice  
47 of appeal under this rule but does not include a motion for  
48 leave, the district court or BAP may order the appellant to  
49 file a motion for leave, or treat the notice of appeal as a  
50 motion for leave and either grant or deny it. If the court  
51 orders that a motion for leave be filed, the appellant must  
52 do so within 14 days after the order is entered, unless the  
53 order provides otherwise.

54 (e) DIRECT APPEAL TO A COURT OF APPEALS. If  
55 leave to appeal an interlocutory order or decree is required under  
56 28 U.S.C. § 158(a)(3), an authorization of a direct appeal by the  
57 court of appeals under 28 U.S.C. § 158(d)(2) satisfies the  
58 requirement.

#### COMMITTEE NOTE

This rule is derived from former Rules 8001(b) and 8003 and F.R.App.P. 5. It retains the practice for interlocutory bankruptcy appeals of requiring a notice of appeal to be filed along with a motion for leave to appeal. Like current Rule 8003, it alters the timing of the docketing of the appeal in the district court or BAP.

Subdivision (a) requires a party seeking leave to appeal under 28 U.S.C. § 158(a)(3) to file with the bankruptcy clerk both a notice of appeal and a motion for leave to appeal.

Subdivision (b) prescribes the contents of the motion, retaining the

requirements of former Rule 8003(a). It also continues to allow another party to file a cross-motion or response to the appellant's motion. Because of the prompt docketing of the appeal under the current rule, the cross-motion or response must be filed in the district court or BAP, rather than in the bankruptcy court as the former rule required.

Subdivision (c) requires the bankruptcy clerk to transmit promptly to the district court or BAP the notice of appeal and the motion for leave to appeal. Upon receipt of the notice and the motion, the district or BAP clerk must docket the appeal. Unless the district court or BAP orders otherwise, no oral argument will be held on the motion.

Subdivision (d) retains the provisions of former Rule 8003(c). It provides that if the appellant timely files a notice of appeal, but fails to file a motion for leave to appeal, the court can either direct that a motion be filed or treat the notice of appeal as the motion and either grant or deny leave.

Subdivision (e), like former Rule 8003(d), treats the authorization of a direct appeal by the court of appeals as a grant of leave to appeal under 28 U.S.C. § 158(a)(3) if the district court or BAP has not already granted leave. Thus, a separate order granting leave to appeal is not required. If the court of appeals grants permission to appeal, the record must be assembled and transmitted in accordance with Rules 8009 and 8010.

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### Changes Made After Publication

In subdivision (c)(2), the direction for docketing a bankruptcy appeal was changed to reflect the fact that many bankruptcy appeals have dual titles—the bankruptcy case itself and the adversary proceeding that is the subject of the appeal. As published, subdivision (c)(3) stated that the court must dismiss the appeal if the motion for leave to appeal is denied. That sentence was deleted.

### Summary of Public Comment

**12-BK-036. Mary P. Sharon, Clerk (1st Cir. BAP).** Subdivision (c)(3) should provide that the appellate court “may” (not “must”) dismiss the appeal if leave to appeal is denied. We sometimes deny such motions as moot because the order appealed from was final, not interlocutory.

Subdivision (a) should refer to “an appeal from an interlocutory order,

decree, or judgment,” not just “order or decree.” We frequently see attempts to appeal a partial judgment, which can be interlocutory.

Subdivision (a)(3) requires the notice of appeal to be accompanied by proof of service unless it is served electronically. There is not a similar provision under Rule 8003. Moreover, the proof of service only applies to the notice of appeal and not to the motion for leave to appeal. It would be better to include in this rule the language of Rule 8003(c).

**12-BK-010. The States’ Association of Bankruptcy Attorneys.**

Subdivision (c)(1) presents the same issue as Rule 8003(d)(1) concerning the time for the bankruptcy clerk to transmit the notice of appeal to the BAP for docketing the appeal.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). It is not clear whether the harmless error provisions of proposed Rule 8003(a)(2) apply to this rule. Perhaps the Committee Note should indicate that they do apply.

Rule 8005(d) requires a motion for leave to appeal that is not accompanied by a notice of appeal to be treated as a notice of appeal for purposes of determining the timeliness of a statement of election to have a district court hear an appeal. Rule 8004(d), however, is silent about whether a motion for leave to appeal may be treated as a notice of appeal. The provision should expressly state that such a motion may be treated as a notice of appeal. The result should not differ based on whether or not a BAP has been authorized.

**12-BK-031. Insolvency Law Comm. of the Business Law Section of the State Bar of California.** Subdivision (b)(2) provides that a response in opposition or a cross-motion to a motion for leave to appeal is to be filed in the district court or BAP even though the original motion is filed in the bankruptcy court. This may cause confusion. The rule should be modified to provide that a response or cross-motion must be filed within 14 days after the bankruptcy clerk transmits the notice of appeal, rather than after the motion is served.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Rule 8004 should specify that motions for leave to appeal are not governed by Rule 9014. This addition would parallel proposed Rule 8006(f)(4) (a request for certification of a direct appeal is not governed by Rule 9014).

The rule should clarify the power of the bankruptcy court during an interlocutory appeal. This issue causes considerable confusion among courts.

**12-BK-034. Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee.** The change to Rule 8004 removing the delay of docketing an appeal provides greater clarity regarding the timing of the docketing of the appeal and will save bankruptcy clerks time and resources.

Several stylistic comments were submitted.

**Rule 8005. Election to Have an Appeal Heard by the District Court Instead of the BAP**

1 (a) FILING OF A STATEMENT OF ELECTION. To  
2 elect to have an appeal heard by the district court, a party must:

3 (1) file a statement of election that conforms  
4 substantially to the appropriate Official Form; and

5 (2) do so within the time prescribed by 28 U.S.C.  
6 § 158(c)(1).

7 (b) TRANSMITTING THE DOCUMENTS RELATED  
8 TO THE APPEAL. Upon receiving an appellant’s timely  
9 statement of election, the bankruptcy clerk must transmit to the  
10 district clerk all documents related to the appeal. Upon receiving a  
11 timely statement of election by a party other than the appellant, the  
12 BAP clerk must transmit to the district clerk all documents related  
13 to the appeal and notify the bankruptcy clerk of the transmission.

14 (c) DETERMINING THE VALIDITY OF AN  
15 ELECTION. A party seeking a determination of the validity of an  
16 election must file a motion in the court where the appeal is then  
17 pending. The motion must be filed within 14 days after the  
18 statement of election is filed.

19 (d) MOTION FOR LEAVE WITHOUT A NOTICE OF  
20 APPEAL—EFFECT ON THE TIMING OF AN ELECTION. If  
21 an appellant moves for leave to appeal under Rule 8004 but fails to

22 file a separate notice of appeal with the motion, the motion must be  
23 treated as a notice of appeal for purposes of determining the  
24 timeliness of a statement of election.

### COMMITTEE NOTE

This rule, which implements 28 U.S.C. § 158(c)(1), is derived from former Rule 8001(e). It applies only in districts in which an appeal to a BAP is authorized.

As the former rule required, subdivision (a) provides that an appellant that elects to have a district court, rather than a BAP, hear its appeal must file with the bankruptcy clerk a statement of election when it files its notice of appeal. The statement must conform substantially to the appropriate Official Form. For appellants, that statement is included in the Notice of Appeal Official Form. If a BAP has been established for appeals from the bankruptcy court and the appellant does not file a timely statement of election, any other party that elects to have the district court hear the appeal must file a statement of election with the BAP clerk no later than 30 days after service of the notice of appeal.

Subdivision (b) requires the bankruptcy clerk to transmit all appeal documents to the district clerk if the appellant files a timely statement of election. If the appellant does not make that election, the bankruptcy clerk must transmit those documents to the BAP clerk. Upon a timely election by any other party, the BAP clerk must promptly transmit the appeal documents to the district clerk and notify the bankruptcy clerk that the appeal has been transferred.

Subdivision (c) provides a new procedure for the resolution of disputes regarding the validity of an election. A motion seeking the determination of the validity of an election must be filed no later than 14 days after the statement of election is filed. Nothing in this rule prevents a court from determining the validity of an election on its own motion.

Subdivision (d) provides that, in the case of an appeal by leave, if the appellant files a motion for leave to appeal but fails to file a notice of appeal, the filing and service of the motion will be treated for timing purposes under this rule as the filing and service of the notice of appeal.

## Changes Made After Publication

In subdivision (b), a requirement was added that the BAP clerk notify the bankruptcy clerk if an appeal is transferred from the BAP to the district court upon the election of an appellee. Conforming and clarifying changes were made to the Committee Note.

### Summary of Public Comment

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (a) should emphasize that the official election form needs to be a separate document from the notice of appeal. The separate document requirement should be retained.

**12-BK-010. The States' Association of Bankruptcy Attorneys.** Is there an official form, or is it still being drafted? The election form should be combined with the notice of appeal. The current separate statement requirement causes confusion and, when not followed, leads to the voiding of an election to have the appeal heard in the district court. Putting the two forms together will ensure that they are filed at the same time.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). Subdivision (a) should make clear whether the statement of election must be set forth in a separate document. The current separate document requirement should be retained.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). Subdivision (a) does not specify whether the election must be made by a separate document. Requiring a separate document makes things much clearer for the courts and parties.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (a) refers to an Official Form, but there is no such form.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). The provision in subdivision (b) for the BAP clerk to transmit documents to the district clerk may not be well received by district clerks. They are accustomed to receiving documents from bankruptcy clerks. The current practice (at least in the 8th Cir. BAP) of having the BAP clerk return the appeal to the bankruptcy clerk, who then transmits it to the district clerk, should be retained or allowed as an acceptable alternative.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (b) should be revised to require notification of the bankruptcy clerk if the BAP

clerk transmits the record to the district clerk.

**12-BK-010. The States' Association of Bankruptcy Attorneys.** Given the suggestion for revising proposed Rule 8003 to delay transmittal of the appeal until all parties' time to elect a district court has expired, subdivision (b)(1) should be revised to eliminate the possibility of a BAP clerk transmitting an appeal to the district clerk. If no parties file a statement of election, the bankruptcy clerk will transmit the appeal to the BAP clerk. If any party does elect a district court, the bankruptcy clerk will send the appeal to the district clerk.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). There are two problems with subdivision (c). First, it does not deal with the situation in which the bankruptcy court erroneously transmits a notice of appeal to the district court even though no election was made. In that case there should be a longer period of time to contest the transmittal to the district court. Second, even when a statement of election is filed, 14 days to contest the election is not long enough. The time should be the same as the appellee's time to file an election.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). The rule does not retain the provision of current Rule 8001(e)(2), which provides for the withdrawal of an election with the district court's acquiescence.

Several stylistic comments were submitted.

**Rule 8006. Certifying a Direct Appeal to the Court of Appeals**

1           (a) EFFECTIVE DATE OF A CERTIFICATION. A  
2 certification of a judgment, order, or decree of a bankruptcy court  
3 for direct review in a court of appeals under 28 U.S.C. § 158(d)(2)  
4 is effective when:

- 5                   (1) the certification has been filed;  
6                   (2) a timely appeal has been taken under Rule 8003  
7 or 8004; and  
8                   (3) the notice of appeal has become effective under  
9 Rule 8002.

10           (b) FILING THE CERTIFICATION. The certification  
11 must be filed with the clerk of the court where the matter is  
12 pending. For purposes of this rule, a matter remains pending in the  
13 bankruptcy court for 30 days after the effective date under Rule  
14 8002 of the first notice of appeal from the judgment, order, or  
15 decree for which direct review is sought. A matter is pending in  
16 the district court or BAP thereafter.

17           (c) JOINT CERTIFICATION BY ALL APPELLANTS  
18 AND APPELLEES. A joint certification by all the appellants and  
19 appellees under 28 U.S.C. § 158(d)(2)(A) must be made by using  
20 the appropriate Official Form. The parties may supplement the  
21 certification with a short statement of the basis for the certification,

22 which may include the information listed in subdivision (f)(2).

23 (d) THE COURT THAT MAY MAKE THE  
24 CERTIFICATION. Only the court where the matter is pending, as  
25 provided in subdivision (b), may certify a direct review on request  
26 of parties or on its own motion.

27 (e) CERTIFICATION ON THE COURT'S OWN  
28 MOTION.

29 (1) *How Accomplished.* A certification on the  
30 court's own motion must be set forth in a separate  
31 document. The clerk of the certifying court must serve it  
32 on the parties to the appeal in the manner required for  
33 service of a notice of appeal under Rule 8003(c)(1). The  
34 certification must be accompanied by an opinion or  
35 memorandum that contains the information required by  
36 subdivision (f)(2)(A)-(D).

37 (2) *Supplemental Statement by a Party.* Within 14  
38 days after the court's certification, a party may file with the  
39 clerk of the certifying court a short supplemental statement  
40 regarding the merits of certification.

41 (f) CERTIFICATION BY THE COURT ON REQUEST.

42 (1) *How Requested.* A request by a party for  
43 certification that a circumstance specified in 28 U.S.C.

44 §158(d)(2)(A)(i)-(iii) applies—or a request by a majority of  
45 the appellants and a majority of the appellees—must be  
46 filed with the clerk of the court where the matter is pending  
47 within 60 days after the entry of the judgment, order, or  
48 decree.

49 (2) *Service and Contents.* The request must be  
50 served on all parties to the appeal in the manner required  
51 for service of a notice of appeal under Rule 8003(c)(1), and  
52 it must include the following:

53 (A) the facts necessary to understand the  
54 question presented;

55 (B) the question itself;

56 (C) the relief sought;

57 (D) the reasons why the direct appeal  
58 should be allowed, including which circumstance  
59 specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii)  
60 applies; and

61 (E) a copy of the judgment, order, or decree  
62 and any related opinion or memorandum.

63 (3) *Time to File a Response or a Cross-Request.* A  
64 party may file a response to the request within 14 days after  
65 the request is served, or such other time as the court where

66 the matter is pending allows. A party may file a cross-  
67 request for certification within 14 days after the request is  
68 served, or within 60 days after the entry of the judgment,  
69 order, or decree, whichever occurs first.

70 (4) *Oral Argument Not Required.* The request,  
71 cross-request, and any response are submitted without oral  
72 argument unless the court where the matter is pending  
73 orders otherwise.

74 (5) *Form and Service of the Certification.* If the  
75 court certifies a direct appeal in response to the request, it  
76 must do so in a separate document. The certification must  
77 be served on the parties to the appeal in the manner  
78 required for service of a notice of appeal under Rule  
79 8003(c)(1).

80 (g) PROCEEDING IN THE COURT OF APPEALS  
81 FOLLOWING A CERTIFICATION. Within 30 days after the  
82 date the certification becomes effective under subdivision (a), a  
83 request for permission to take a direct appeal to the court of  
84 appeals must be filed with the circuit clerk in accordance with F.  
R. App. P. 6(c).

#### COMMITTEE NOTE

This rule is derived from former Rule 8001(f), and it provides the

procedures for the certification of a direct appeal of a judgment, order, or decree of a bankruptcy court to the court of appeals under 28 U.S.C. § 158(d)(2). Once a case has been certified in the bankruptcy court, the district court, or the BAP for direct appeal and a request for permission to appeal has been timely filed with the circuit clerk, the Federal Rules of Appellate Procedure govern further proceedings in the court of appeals.

Subdivision (a), like the former rule, requires that an appeal be properly taken—now under Rule 8003 or 8004—before a certification for direct review in the court of appeals takes effect. This rule requires the timely filing of a notice of appeal under Rule 8002 and accounts for the delayed effectiveness of a notice of appeal under the circumstances specified in that rule. Ordinarily, a notice of appeal is effective when it is filed in the bankruptcy court. Rule 8002, however, delays the effectiveness of a notice of appeal when (1) it is filed after the announcement of a decision or order but prior to the entry of the judgment, order, or decree; or (2) it is filed after the announcement or entry of a judgment, order, or decree but before the bankruptcy court disposes of certain postjudgment motions.

When the bankruptcy court enters an interlocutory order or decree that is appealable under 28 U.S.C. § 158(a)(3), certification for direct review in the court of appeals may take effect before the district court or BAP grants leave to appeal. The certification is effective when the actions specified in subdivision (a) have occurred. Rule 8004(e) provides that if the court of appeals grants permission to take a direct appeal before leave to appeal an interlocutory ruling has been granted, the authorization by the court of appeals is treated as the granting of leave to appeal.

Subdivision (b) provides that a certification must be filed in the court where the matter is pending, as determined by this subdivision. This provision modifies the former rule. Because of the prompt docketing of appeals in the district court or BAP under Rules 8003 and 8004, a matter is deemed—for purposes of this rule only—to remain pending in the bankruptcy court for 30 days after the effective date of the notice of appeal. This provision will in appropriate cases give the bankruptcy judge, who will be familiar with the matter being appealed, an opportunity to decide whether certification for direct review is appropriate. Similarly, subdivision (d) provides that only the court where the matter is then pending according to subdivision (b) may make a certification on its own motion or on the request of one or more parties.

Section 158(d)(2) provides three different ways in which an appeal may be certified for direct review. Implementing these options, the rule

provides in subdivision (c) for the joint certification by all appellants and appellees; in subdivision (e) for the bankruptcy court's, district court's, or BAP's certification on its own motion; and in subdivision (f) for the bankruptcy court's, district court's, or BAP's certification on request of a party or a majority of appellants and a majority of appellees.

Subdivision (g) requires that, once a certification for direct review is made, a request to the court of appeals for permission to take a direct appeal to that court must be filed with the clerk of the court of appeals no later than 30 days after the effective date of the certification. Federal Rule of Appellate Procedure 6(c), which incorporates all of F.R.App.P. 5 except subdivision (a)(3), prescribes the procedure for requesting the permission of the court of appeals and governs proceedings that take place thereafter in that court.

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### **Changes Made After Publication**

In subdivisions (b) and (g), cross-references were added. In subdivision (f)(4), the statement regarding the inapplicability of Rule 9014 was deleted as unnecessary. A clarifying change was made to the first paragraph of the Committee Note.

### **Summary of Public Comment**

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (c) should provide an opportunity for the bankruptcy court to comment on the proceeding's suitability for direct appeal when a certification is jointly made by all appellants and appellees.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). Subdivision (d), in combination with subdivision (b), gives a bankruptcy court only 30 days after the effective date of the first notice of appeal, to certify a direct appeal. That is not enough time for the court that will be most knowledgeable about the case to make a decision. Either Rule 9006 should be amended to allow the bankruptcy court to extend this time period, or the period in which the case is deemed to remain pending in the bankruptcy court for purposes of this rule should be extended to at least 60 days. When a majority of appellants and appellees request a certification, they have 60 days after the entry of judgment to do so. Midway through this time period, the court that can make the certification will change, causing confusion.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). If a request for

certification is made within 30 days after the notice of appeal, but the bankruptcy court does not rule on it within that time period, the bankruptcy court loses jurisdiction to certify the appeal. The rule does not make clear how the bankruptcy court would transmit the motion to the appropriate appellate court.

Several stylistic comments were submitted.

**Rule 8007. Stay Pending Appeal; Bonds; Suspension of Proceedings**

1 (a) INITIAL MOTION IN THE BANKRUPTCY COURT.

2 (1) *In General.* Ordinarily, a party must move first  
3 in the bankruptcy court for the following relief:

4 (A) a stay of a judgment, order, or decree of  
5 the bankruptcy court pending appeal;

6 (B) the approval of a supersedeas bond;

7 (C) an order suspending, modifying,  
8 restoring, or granting an injunction while an appeal  
9 is pending; or

10 (D) the suspension or continuation of  
11 proceedings in a case or other relief permitted by  
12 subdivision (e).

13 (2) *Time to File.* The motion may be made either  
14 before or after the notice of appeal is filed.

15 (b) MOTION IN THE DISTRICT COURT, THE BAP,  
16 OR THE COURT OF APPEALS ON DIRECT APPEAL.

17 (1) *Request for Relief.* A motion for the relief  
18 specified in subdivision (a)(1)—or to vacate or modify a  
19 bankruptcy court’s order granting such relief—may be  
20 made in the court where the appeal is pending.

21 (2) *Showing or Statement Required.* The motion

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must:

(A) show that moving first in the  
bankruptcy court would be impracticable; or

(B) if a motion was made in the bankruptcy  
court, either state that the court has not yet ruled on  
the motion, or state that the court has ruled and set  
out any reasons given for the ruling.

(3) *Additional Content.* The motion must also

include:

(A) the reasons for granting the relief  
requested and the facts relied upon;

(B) affidavits or other sworn statements  
supporting facts subject to dispute; and

(C) relevant parts of the record.

(4) *Serving Notice.* The movant must give  
reasonable notice of the motion to all parties.

(c) **FILING A BOND OR OTHER SECURITY.** The  
district court, BAP, or court of appeals may condition relief on  
filing a bond or other appropriate security with the bankruptcy  
court.

(d) **BOND FOR A TRUSTEE OR THE UNITED  
STATES.** The court may require a trustee to file a bond or other

44 appropriate security when the trustee appeals. A bond or other  
45 security is not required when an appeal is taken by the United  
46 States, its officer, or its agency or by direction of any department  
47 of the federal government.

48 (e) CONTINUATION OF PROCEEDINGS IN THE  
49 BANKRUPTCY COURT. Despite Rule 7062 and subject to the  
50 authority of the district court, BAP, or court of appeals, the  
51 bankruptcy court may:

52 (1) suspend or order the continuation of other  
53 proceedings in the case; or

54 (2) issue any other appropriate orders during the  
55 pendency of an appeal to protect the rights of all parties in  
56 interest.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8005 and F.R.App.P. 8. It now applies to direct appeals in courts of appeals.

Subdivision (a), like the former rule, requires a party ordinarily to seek relief pending an appeal in the bankruptcy court. Subdivision (a)(1) expands the list of relief enumerated in F.R.App.P. 8(a)(1) to reflect bankruptcy practice. It includes the suspension or continuation of other proceedings in the bankruptcy case, as authorized by subdivision (e). Subdivision (a)(2) clarifies that a motion for a stay pending appeal, approval of a supersedeas bond, or any other relief specified in paragraph (1) may be made in the bankruptcy court before or after the filing of a notice of appeal.

Subdivision (b) authorizes a party to seek the relief specified in (a)(1), or the vacation or modification of the granting of such relief, by

means of a motion filed in the court where the appeal is pending—district court, BAP, or the court of appeals on direct appeal. Accordingly, a notice of appeal need not be filed with respect to a bankruptcy court’s order granting or denying such a motion. The motion for relief in the district court, BAP, or court of appeals must state why it was impracticable to seek relief initially in the bankruptcy court, if a motion was not filed there, or why the bankruptcy court denied the relief sought.

Subdivisions (c) and (d) retain the provisions of the former rule that permit the district court or BAP—and now the court of appeals—to condition the granting of relief on the posting of a bond by the appellant, except when that party is a federal government entity. Rule 9025 governs proceedings against sureties.

Subdivision (e) retains the provision of the former rule that authorizes the bankruptcy court to decide whether to suspend or allow the continuation of other proceedings in the bankruptcy case while the matter for which a stay has been sought is pending on appeal.

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### Changes Made After Publication

The clause “or where it will be taken” was deleted in subdivision (b)(1). Stylistic changes were made to the titles of subdivisions (b) and (e) and in subdivision (e)(1). A discussion of subdivision (e) was added to the Committee Note.

### Summary of Public Comment

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Although it is appropriate to allow a motion for stay or other relief to be made in the bankruptcy court before a notice of appeal is filed, as subdivision (a)(2) provides, a notice of appeal should be required before an appellate court can hear such a motion. That is how the appellate court obtains jurisdiction. The rule does not explain how the motion gets before the appellate court if no notice of appeal has been filed.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Agrees with Judge Kressel’s comment.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). If the intent of subdivision (e) is to override the doctrine of exclusive appellate jurisdiction, the rule or Committee Note should be more explicit. Also

subdivision (b)(2)(B) should require a copy of any written ruling or order in the bankruptcy court to be included with the motion.

**12-BK-010. The States' Association of Bankruptcy Attorneys.**

Subdivision (d) should except all governmental units, not just the United States, from the bond requirement.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). Asking the bankruptcy court to grant a stay pending appeal is almost always a waste of time—even though that is the long-standing practice. This step in the process should be permissive rather than mandatory. In addition, the rule should state that the appellate court's consideration of the stay motion should be *de novo* rather than a review of whether the bankruptcy court abused its discretion in denying the stay.

Several stylistic changes were submitted.

**Rule 8008. Indicative Rulings**

1           (a) RELIEF PENDING APPEAL. If a party files a timely  
2 motion in the bankruptcy court for relief that the court lacks  
3 authority to grant because of an appeal that has been docketed and  
4 is pending, the bankruptcy court may:

5                   (1) defer considering the motion;

6                   (2) deny the motion; or

7                   (3) state that the court would grant the motion if the  
8 court where the appeal is pending remands for that purpose,  
9 or state that the motion raises a substantial issue.

10           (b) NOTICE TO THE COURT WHERE THE APPEAL IS  
11 PENDING. The movant must promptly notify the clerk of the  
12 court where the appeal is pending if the bankruptcy court states  
13 that it would grant the motion or that the motion raises a  
14 substantial issue.

15           (c) REMAND AFTER AN INDICATIVE RULING. If the  
16 bankruptcy court states that it would grant the motion or that the  
17 motion raises a substantial issue, the district court or BAP may  
18 remand for further proceedings, but it retains jurisdiction unless it  
19 expressly dismisses the appeal. If the district court or BAP  
20 remands but retains jurisdiction, the parties must promptly notify

21 the clerk of that court when the bankruptcy court has decided the  
22 motion on remand.

### COMMITTEE NOTE

This rule is an adaptation of F.R.Civ.P. 62.1 and F.R.App.P. 12.1. It provides a procedure for the issuance of an indicative ruling when a bankruptcy court determines that, because of a pending appeal, the court lacks jurisdiction to grant a request for relief that the court concludes is meritorious or raises a substantial issue. The rule does not attempt to define the circumstances in which an appeal limits or defeats the bankruptcy court's authority to act in the face of a pending appeal. In contrast, Rule 8002(b) identifies motions that, if filed within the relevant time limit, suspend the effect of a notice of appeal filed before the last such motion is resolved. In those circumstances, the bankruptcy court has authority to resolve the motion without resorting to the indicative ruling procedure.

Subdivision (b) requires the movant to notify the court where an appeal is pending if the bankruptcy court states that it would grant the motion or that it raises a substantial issue. This provision applies to appeals pending in the district court, the BAP, or the court of appeals.

Federal Rules of Appellate Procedure 6 and 12.1 govern the procedure in the court of appeals following notification of the bankruptcy court's indicative ruling.

Subdivision (c) of this rule governs the procedure in the district court or BAP upon notification that the bankruptcy court has issued an indicative ruling. The district court or BAP may remand to the bankruptcy court for a ruling on the motion for relief. The district court or BAP may also remand all proceedings, thereby terminating the initial appeal, if it expressly states that it is dismissing the appeal. It should do so, however, only when the appellant has stated clearly its intention to abandon the appeal. Otherwise, the district court or BAP may remand for the purpose of ruling on the motion, while retaining jurisdiction to proceed with the appeal after the bankruptcy court rules, provided that the appeal is not then moot and a party wishes to proceed.

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### Changes Made After Publication

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). Subdivision (c) should be made applicable to courts of appeals on direct appeal. While FRAP 12.1 deals with remands by the courts of appeals after notification of indicative rulings, it does not authorize remand to bankruptcy courts.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Rather than completely ducking the question when an appeal limits or defeats the bankruptcy court's authority to act while the appeal is pending, the Committee Note should at least note the point on which there seems to be a consensus—that a trial court retains plenary authority when an interlocutory order is appealed, at least until the appellate court grants leave to appeal.

One stylistic comment was submitted.

**Rule 8009. Record on Appeal; Sealed Documents**

1 (a) DESIGNATING THE RECORD ON APPEAL;  
2 STATEMENT OF THE ISSUES.

3 (1) *Appellant.*

4 (A) The appellant must file with the  
5 bankruptcy clerk and serve on the appellee a  
6 designation of the items to be included in the record  
7 on appeal and a statement of the issues to be  
8 presented.

9 (B) The appellant must file and serve the  
10 designation and statement within 14 days after:

11 (i) the appellant's notice of appeal as  
12 of right becomes effective under Rule 8002;

13 or

14 (ii) an order granting leave to appeal  
15 is entered.

16 A designation and statement served prematurely  
17 must be treated as served on the first day on which  
18 filing is timely.

19 (2) *Appellee and Cross-Appellant.* Within 14 days  
20 after being served, the appellee may file with the  
21 bankruptcy clerk and serve on the appellant a designation

22 of additional items to be included in the record. An  
23 appellee who files a cross-appeal must file and serve a  
24 designation of additional items to be included in the record  
25 and a statement of the issues to be presented on the cross-  
26 appeal.

27 (3) *Cross-Appellee*. Within 14 days after service of  
28 the cross-appellant's designation and statement, a cross-  
29 appellee may file with the bankruptcy clerk and serve on  
30 the cross-appellant a designation of additional items to be  
31 included in the record.

32 (4) *Record on Appeal*. The record on appeal must  
33 include the following:

- 34 • the docket entries kept by the  
35 bankruptcy clerk;
- 36 • items designated by the parties;
- 37 • the notice of appeal;
- 38 • the judgment, order, or decree being  
39 appealed;
- 40 • any order granting leave to appeal;
- 41 • any certification required for a direct appeal  
42 to the court of appeals;
- 43 • any opinion, findings of fact, and

44 conclusions of law relating to the issues on appeal,  
45 including transcripts of all oral rulings;  
46 • any transcript ordered under subdivision (b);  
47 any statement required by subdivision (c);  
48 and  
49 • any additional items from the record that the  
50 court where the appeal is pending orders.

51 (5) *Copies for the Bankruptcy Clerk.* If paper  
52 copies are needed, a party filing a designation of items  
53 must provide a copy of any of those items that the  
54 bankruptcy clerk requests. If the party fails to do so, the  
55 bankruptcy clerk must prepare the copy at the party's  
56 expense.

57 (b) TRANSCRIPT OF PROCEEDINGS.

58 (1) *Appellant's Duty to Order.* Within the time  
59 period prescribed by subdivision (a)(1), the appellant must:

60 (A) order in writing from the reporter, as  
61 defined in Rule 8010(a)(1), a transcript of such  
62 parts of the proceedings not already on file as the  
63 appellant considers necessary for the appeal, and  
64 file a copy of the order with the bankruptcy clerk;  
65 or

66 (B) file with the bankruptcy clerk a  
67 certificate stating that the appellant is not ordering a  
68 transcript.

69 (2) *Cross-Appellant's Duty to Order.* Within 14  
70 days after the appellant files a copy of the transcript order  
71 or a certificate of not ordering a transcript, the appellee as  
72 cross-appellant must:

73 (A) order in writing from the reporter, as  
74 defined in Rule 8010(a)(1), a transcript of such  
75 additional parts of the proceedings as the cross-  
76 appellant considers necessary for the appeal, and  
77 file a copy of the order with the bankruptcy clerk;  
78 or

79 (B) file with the bankruptcy clerk a  
80 certificate stating that the cross-appellant is not  
81 ordering a transcript.

82 (3) *Appellee's or Cross-Appellee's Right to Order.*  
83 Within 14 days after the appellant or cross-appellant files a  
84 copy of a transcript order or certificate of not ordering a  
85 transcript, the appellee or cross-appellee may order in  
86 writing from the reporter a transcript of such additional  
87 parts of the proceedings as the appellee or cross-appellee

88                    considers necessary for the appeal. A copy of the order  
89                    must be filed with the bankruptcy clerk.

90                    (4) *Payment.* At the time of ordering, a party must  
91                    make satisfactory arrangements with the reporter for paying  
92                    the cost of the transcript.

93                    (5) *Unsupported Finding or Conclusion.* If the  
94                    appellant intends to argue on appeal that a finding or  
95                    conclusion is unsupported by the evidence or is contrary to  
96                    the evidence, the appellant must include in the record a  
97                    transcript of all relevant testimony and copies of all  
98                    relevant exhibits.

99                    (c) STATEMENT OF THE EVIDENCE WHEN A  
100                    TRANSCRIPT IS UNAVAILABLE. If a transcript of a hearing or  
101                    trial is unavailable, the appellant may prepare a statement of the  
102                    evidence or proceedings from the best available means, including  
103                    the appellant's recollection. The statement must be filed within  
104                    the time prescribed by subdivision (a)(1) and served on the  
105                    appellee, who may serve objections or proposed amendments  
106                    within 14 days after being served. The statement and any  
107                    objections or proposed amendments must then be submitted to the  
108                    bankruptcy court for settlement and approval. As settled and  
109                    approved, the statement must be included by the bankruptcy clerk

110 in the record on appeal.

111 (d) AGREED STATEMENT AS THE RECORD ON  
112 APPEAL. Instead of the record on appeal as defined in  
113 subdivision (a), the parties may prepare, sign, and submit to the  
114 bankruptcy court a statement of the case showing how the issues  
115 presented by the appeal arose and were decided in the bankruptcy  
116 court. The statement must set forth only those facts alleged and  
117 proved or sought to be proved that are essential to the court's  
118 resolution of the issues. If the statement is accurate, it—together  
119 with any additions that the bankruptcy court may consider  
120 necessary to a full presentation of the issues on appeal—must be  
121 approved by the bankruptcy court and must then be certified to the  
122 court where the appeal is pending as the record on appeal. The  
123 bankruptcy clerk must then transmit it to the clerk of that court  
124 within the time provided by Rule 8010. A copy of the agreed  
125 statement may be filed in place of the appendix required by Rule  
126 8018(b) or, in the case of a direct appeal to the court of appeals, by  
127 F.R.App.P. 30.

128 (e) CORRECTING OR MODIFYING THE RECORD.

129 (1) *Submitting to the Bankruptcy Court.* If any  
130 difference arises about whether the record accurately  
131 discloses what occurred in the bankruptcy court, the

132 difference must be submitted to and settled by the  
133 bankruptcy court and the record conformed accordingly. If  
134 an item has been improperly designated as part of the  
135 record on appeal, a party may move to strike that item.

136 (2) *Correcting in Other Ways.* If anything material  
137 to either party is omitted from or misstated in the record by  
138 error or accident, the omission or misstatement may be  
139 corrected, and a supplemental record may be certified and  
140 transmitted:

141 (A) on stipulation of the parties;

142 (B) by the bankruptcy court before or after  
143 the record has been forwarded; or

144 (C) by the court where the appeal is  
145 pending.

146 (3) *Remaining Questions.* All other questions as to  
147 the form and content of the record must be presented to the  
148 court where the appeal is pending.

149 (f) **SEALED DOCUMENTS.** A document placed under  
150 seal by the bankruptcy court may be designated as part of the  
151 record on appeal. In doing so, a party must identify it without  
152 revealing confidential or secret information, but the bankruptcy  
153 clerk must not transmit it to the clerk of the court where the appeal

154 is pending as part of the record. Instead, a party must file a motion  
155 with the court where the appeal is pending to accept the document  
156 under seal. If the motion is granted, the movant must notify the  
157 bankruptcy court of the ruling, and the bankruptcy clerk must  
158 promptly transmit the sealed document to the clerk of the court  
159 where the appeal is pending.

160 (g) OTHER NECESSARY ACTIONS. All parties to an  
161 appeal must take any other action necessary to enable the  
162 bankruptcy clerk to assemble and transmit the record.

#### COMMITTEE NOTE

This rule is derived from former Rule 8006 and F.R.App.P. 10 and 11(a). The provisions of this rule and Rule 8010 are applicable to appeals taken directly to a court of appeals under 28 U.S.C. § 158(d)(2), as well as to appeals to a district court or BAP. See F.R.App.P. 6(c)(2)(A) and (B).

The rule retains the practice of former Rule 8006 of requiring the parties to designate items to be included in the record on appeal. In this respect, the bankruptcy rule differs from the appellate rule. Among other things, F.R.App.P. 10(a) provides that the record on appeal consists of all the documents and exhibits filed in the case. This requirement would often be unworkable in a bankruptcy context because thousands of items might have been filed in the overall bankruptcy case.

Subdivision (a) provides the time period for an appellant to file a designation of items to be included in the record on appeal and a statement of the issues to be presented. It then provides for the designation of additional items by the appellee, cross-appellant, and cross-appellee, as well as for the cross-appellant's statement of the issues to be presented in its appeal. Subdivision (a)(4) prescribes the content of the record on appeal. Ordinarily, the bankruptcy clerk will not need to have paper copies of the designated items because the clerk will either transmit them to the appellate court electronically or otherwise make them available electronically. If the bankruptcy clerk requires a paper copy of some or all of the items

designated as part of the record, the clerk may request the party that designated the item to provide the necessary copies, and the party must comply with the request or bear the cost of the clerk's copying.

Subdivision (b) governs the process for ordering a complete or partial transcript of the bankruptcy court proceedings. In situations in which a transcript is unavailable, subdivision (c) allows for the parties' preparation of a statement of the evidence or proceedings, which must be approved by the bankruptcy court.

Subdivision (d) adopts the practice of F.R.App.P. 10(d) of permitting the parties to agree on a statement of the case in place of the record on appeal. The statement must show how the issues on appeal arose and were decided in the bankruptcy court. It must be approved by the bankruptcy court in order to be certified as the record on appeal.

Subdivision (e), modeled on F.R.App.P. 10(e), provides a procedure for correcting the record on appeal if an item is improperly designated, omitted, or misstated.

Subdivision (f) is a new provision that governs the handling of any document that remains sealed by the bankruptcy court and that a party wants to include in the record on appeal. The party must request the court where the appeal is pending to accept the document under seal, and that motion must be granted before the bankruptcy clerk may transmit the sealed document to the district, BAP, or circuit clerk.

Subdivision (g) requires the parties' cooperation with the bankruptcy clerk in assembling and transmitting the record. It retains the requirement of former Rule 8006, which was adapted from F.R.App.P. 11(a).

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### **Changes Made After Publication**

In subdivision (a)(2) and (3), the place of filing was clarified. "Docket entries kept by the bankruptcy clerk" was added to the list in subdivision (a)(4).

### **Summary of Public Comment**

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). The practice of designating the record is fairly archaic. The 8th Cir. BAP has a rule that the

record before the bankruptcy court is the record on appeal. The record does not have to be designated or copied. Instead the parties refer to the appropriate bankruptcy court docket numbers in their briefs, and BAP judges can review the entire bankruptcy court record. This rule should at the least accommodate that practice.

**12-BK-015. Judge Barry S. Schermer** (Bankr. E.D. Mo.). The bankruptcy judges of the E.D. Mo. agree with Judge Kressel's comment about designation of the record.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Agrees with Judge Kressel's and Judge Schermer's comments.

**12-BK-036. Mary P. Sharon,** Clerk (1st Cir. BAP). Subdivision (a)(1)(A) provides that the appellant files its designation in the bankruptcy court, but subdivisions (a)(2) and (a)(3) do not specify the court where the appellee, cross-appellant, and cross-appellee file their designations.

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). "The docket entries maintained by the bankruptcy clerk" should be added as the first entry in the list of items to be included in the record on appeal. This is derived from FRAP 10(a)(3), although the certification requirement is deleted. In subdivision (a)(4), delete "from the record" from the last item, and authorize the bankruptcy court to order additional items added.

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (a)(5) includes the possibility of the bankruptcy clerk having to prepare paper copies of items for the record on appeal at a party's expense if the clerk requests them and the party does not comply. Although this provision is part of existing Rule 8006, it should be eliminated. The parties should bear the burden of producing them, not the clerk.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Agrees with the NCBJ comment.

**12-BK-034. Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee.** Proposed subdivision (a) provides stylistic changes that will assist practitioners in completing the record on appeal with greater ease.

**12-BK-040. Bankruptcy Clerks Advisory Group.** In subdivisions (b)(1), (b)(2), and (b)(3), if an appellant is not ordering a transcript, it must file with the bankruptcy clerk a certificate stating that fact. Since orders for transcripts must be filed with the clerk, as well as the reporter's receipt of a

transcript order, the filing of a certificate of no transcript seems unnecessary. The certificate requirement also suggests the need for a special form.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (b)(5) should make clear that the transcript referred to is the one described in (b)(1) and not a transcript that a party has created on its own and included in a brief or submitted as a separate document.

Subdivision (c) is troubling, at least without a definition of “unavailable.” Many appellants will argue that a transcript is unavailable because they cannot afford to pay for it.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). Same (as comment about subdivision (c)).

**12-BK-040. Bankruptcy Clerks Advisory Group.** The group agrees with Judge Kressel’s comment. This rule will require the bankruptcy clerk to check for service, track the time for filing objections, as well as the settlement and approval of the statement. It also appears that the clerk will have to verify that the transcript is unavailable. If the provision is retained, it needs to be revised.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (d)—Agreed Statement as the Record on Appeal—will cause havoc and irritate bankruptcy judges.

**12-BK-015. Judge Barry S. Schermer** (Bankr. E.D. Mo.). The bankruptcy judges of the E.D. Mo. strongly oppose the addition of subdivision (d). It would cause much additional work for bankruptcy judges and their staff. The benefits to the parties and the appellate court are questionable.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Agrees with Judge Schermer’s comment.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (e)(1) authorizes a party to move to strike an item that has been improperly designated as part of the record on appeal. The FRAP provision on which this rule is modeled, FRAP 10(e), does not contain a similar sentence. Improper designation goes beyond whether the record accurately reflects what occurred in the bankruptcy court. It goes to the form and content of the record, which are governed by (e)(3) and are resolved by the appellate court. The sentence about moving to strike should therefore be moved from

subdivision (e)(1) to (e)(3).

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (f) addresses sealed documents. Currently sealed documents remain under seal during the appeal. The rule suggests that, if a party does not file a motion with the appellate court to accept the document under seal, the document may be unsealed. The more protective approach would be to keep the document sealed unless requested otherwise.

**Rule 8010. Completing and Transmitting the Record**

1 (a) REPORTER'S DUTIES.

2 (1) *Proceedings Recorded Without a Reporter*

3 *Present.* If proceedings were recorded without a reporter  
4 being present, the person or service selected under  
5 bankruptcy court procedures to transcribe the recording is  
6 the reporter for purposes of this rule.

7 (2) *Preparing and Filing the Transcript.* The  
8 reporter must prepare and file a transcript as follows:

9 (A) Upon receiving an order for a transcript  
10 in accordance with Rule 8009(b), the reporter must  
11 file in the bankruptcy court an acknowledgment of  
12 the request that shows when it was received, and  
13 when the reporter expects to have the transcript  
14 completed.

15 (B) After completing the transcript, the  
16 reporter must file it with the bankruptcy clerk, who  
17 will notify the district, BAP, or circuit clerk of its

18 filing.

19 (C) If the transcript cannot be completed  
20 within 30 days after receiving the order, the reporter  
21 must request an extension of time from the  
22 bankruptcy clerk. The clerk must enter on the  
23 docket and notify the parties whether the extension  
24 is granted.

25 (D) If the reporter does not file the  
26 transcript on time, the bankruptcy clerk must notify  
27 the bankruptcy judge.

28 (b) CLERK'S DUTIES.

29 (1) *Transmitting the Record—In General.* Subject  
30 to Rule 8009(f) and subdivision (b)(5) of this rule, when  
31 the record is complete, the bankruptcy clerk must transmit  
32 to the clerk of the court where the appeal is pending either  
33 the record or a notice that the record is available  
34 electronically.

35 (2) *Multiple Appeals.* If there are multiple appeals  
36 from a judgment, order, or decree, the bankruptcy clerk  
37 must transmit a single record.

38 (3) *Receiving the Record.* Upon receiving the  
39 record or notice that it is available electronically, the

40 district, BAP, or circuit clerk must enter that information  
41 on the docket and promptly notify all parties to the appeal.

42 (4) *If Paper Copies Are Ordered.* If the court  
43 where the appeal is pending directs that paper copies of the  
44 record be provided, the clerk of that court must so notify  
45 the appellant. If the appellant fails to provide them, the  
46 bankruptcy clerk must prepare them at the appellant's  
47 expense.

48 (5) *When Leave to Appeal is Requested.* Subject to  
49 subdivision (c), if a motion for leave to appeal has been  
50 filed under Rule 8004, the bankruptcy clerk must prepare  
51 and transmit the record only after the district court, BAP, or  
52 court of appeals grants leave.

53 (c) RECORD FOR A PRELIMINARY MOTION IN THE  
54 DISTRICT COURT, BAP, OR COURT OF APPEALS. This  
55 subdivision (c) applies if, before the record is transmitted, a party  
56 moves in the district court, BAP, or court of appeals for any of the  
57 following relief:

- 58 • leave to appeal;
- 59 • dismissal;
- 60 • a stay pending appeal;
- 61 • approval of a supersedeas bond, or additional

62 security on a bond or undertaking on appeal; or  
63 • any other intermediate order.  
64 The bankruptcy clerk must then transmit to the clerk of the court  
65 where the relief is sought any parts of the record designated by a  
66 party to the appeal or a notice that those parts are available  
67 electronically.

### COMMITTEE NOTE

This rule is derived from former Rule 8007 and F.R.App. P 11. It applies to an appeal taken directly to a court of appeals under 28 U.S.C. § 158(d)(2), as well as to an appeal to a district court or BAP.

Subdivision (a) generally retains the procedure of former Rule 8007(a) regarding the reporter's duty to prepare and file a transcript if a party requests one. It clarifies that the person or service that transcribes the recording of a proceeding is considered the reporter under this rule if the proceeding is recorded without a reporter being present in the courtroom. It also makes clear that the reporter must file with the bankruptcy court the acknowledgment of the request for a transcript and statement of the expected completion date, the completed transcript, and any request for an extension of time beyond 30 days for completion of the transcript.

Subdivision (b) requires the bankruptcy clerk to transmit the record to the district, BAP or circuit clerk when the record is complete and, in the case of appeals under 28 U.S.C. §158(a)(3), leave to appeal has been granted. This transmission will be made electronically, either by sending the record itself or sending notice that the record can be accessed electronically. The court where the appeal is pending may, however, require that a paper copy of some or all of the record be furnished, in which case the clerk of that court will direct the appellant to provide the copies. If the appellant does not do so, the bankruptcy clerk must prepare the copies at the appellant's expense.

In a change from former Rule 8007(b), subdivision (b) of this rule no longer directs the clerk of the appellate court to docket the appeal upon receipt of the record from the bankruptcy clerk. Instead, under Rules

8003(d) and 8004(c) and F.R.App.P. 12(a), the district, BAP, or circuit clerk docket the appeal upon receipt of the notice of appeal or, in the case of appeals under 28 U.S.C. § 158(a)(3), the notice of appeal and the motion for leave to appeal. Accordingly, by the time the district, BAP, or circuit clerk receives the record, the appeal will already be docketed in that court. The clerk of the appellate court must indicate on the docket and give notice to the parties to the appeal when the transmission of the record is received. Under Rule 8018(a) and F.R.App.P. 31, the briefing schedule is generally based on that date.

Subdivision (c) is derived from former Rule 8007(c) and F.R.App.P. 11(g). It provides for the transmission of parts of the record that the parties designate for consideration by the district court, BAP, or court of appeals in ruling on specified preliminary motions filed prior to the preparation and transmission of the record on appeal.

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### Changes Made After Publication

Subdivision (a)(1) was revised to more accurately reflect the way in which transcription services are selected. A cross-reference to Rule 8009(b) was added to subdivision (a)(2)(A).

### Summary of Public Comment

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). In subdivision (a)(1), “bankruptcy court” should be changed to “bankruptcy clerk” because the clerk is the person who designates the person or service that transcribes the recording of a court proceeding. Worded as it is, the provision might lead to appellants bothering the court with motions to designate a court reporter or transcription service.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Regarding subdivision (a)(1), bankruptcy clerks do not designate a single transcription service. Instead, in order to avoid favoritism, they provide a list of transcription services.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Regarding subdivision (a)(2)(A): Add a cross-reference to Rule 8009(b) to emphasize the need for making satisfactory arrangements for paying the court reporter. Nonpayment is a common cause of delays of bankruptcy appeals.

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (b)(1) directs the bankruptcy clerk to transmit the record when it is complete. In some cases the record is never complete because the parties fail to designate what the record should contain. The provision should be revised to fix an outside deadline for the clerk's transmission of the record. Once the deadline passes, the clerk would transmit whatever items in the list in proposed Rule 8009(a)(4) the clerk has.

**12-BK-034. Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee.** Subdivision (b) does not specify the clerk's duties if the record is never completed.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Endorses the NCBJ comment on this issue.

**12-BK-014. Judge Dennis Montali (Bankr. N.D. Cal.).** In some cases when the appellate court orders paper copies of the record to be delivered, it may be appropriate for the appellee to provide them. Add to the end of the first sentence of subdivision (b)(4), "or the appellee where appropriate."

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (b)(4) should be eliminated for the reasons stated regarding Rule 8009(a)(5).

**12-BK-040. Bankruptcy Clerks Advisory Group.** The group endorses the NCBJ comment on this issue.

**12-BK-033. Judge Christopher M. Klein (Bankr. E.D. Cal.).** The requirement that a reporter file an acknowledgment of the order for a transcript may be more difficult for a reporter in the bankruptcy court than in the district court. In the bankruptcy court the reporter is unlikely to have a close relationship and familiarity with the court, and the duty imposed under this provision is more onerous than the requirement of FRAP 11(b)(1)(A). Also limit the reporter's duty under subdivision (a)(2)(A) to requests for transcripts that are designated for purposes of an appeal.

The requirements of subdivision (a)(2)(C)–(D) (reporter must seek extension of time, clerk must report tardiness) will be ineffectual. The bankruptcy judge has no tools and few incentives to do anything but shrug.

Consider authorizing a sanction of dismissal of an appeal if the appellant is delinquent in performing any of its duties regarding completion of the record.

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (a)(2) does not make clear how a reporter will be able to estimate when the transcript will be completed or how the reporter requests an extension of time from the bankruptcy clerk.

**Rule 8011. Filing and Service; Signature**

1 (a) FILING.

2 (1) *With the Clerk.* A document required or permitted to be  
3 filed in a district court or BAP must be filed with the clerk of that  
4 court.

5 (2) *Method and Timeliness.*

6 (A) *In general.* Filing may be accomplished by  
7 transmission to the clerk of the district court or BAP. Except  
8 as provided in subdivision (a)(2)(B) and (C), filing is timely  
9 only if the clerk receives the document within the time fixed  
10 for filing.

11 (B) *Brief or Appendix.* A brief or appendix is also  
12 timely filed if, on or before the last day for filing, it is:

13 (i) mailed to the clerk by first-class mail—or  
14 other class of mail that is at least as  
15 expeditious—postage prepaid, if the district court’s  
16 or BAP’s procedures permit or require a brief or  
17 appendix to be filed by mailing; or

18 (ii) dispatched to a third-party commercial  
19 carrier for delivery within 3 days to the clerk, if the  
20 court's procedures so permit or require.

21 (C) *Inmate Filing*. A document filed by an inmate  
22 confined in an institution is timely if deposited in the  
23 institution's internal mailing system on or before the last day  
24 for filing. If the institution has a system designed for legal  
25 mail, the inmate must use that system to receive the benefit  
26 of this rule. Timely filing may be shown by a declaration in  
27 compliance with 28 U.S.C. § 1746 or by a notarized  
28 statement, either of which must set forth the date of deposit  
29 and state that first-class postage has been prepaid.

30 (D) *Copies*. If a document is filed electronically, no  
31 paper copy is required. If a document is filed by mail or  
32 delivery to the district court or BAP, no additional copies are  
33 required. But the district court or BAP may require by local  
34 rule or by order in a particular case the filing or furnishing of  
35 a specified number of paper copies.

36 (3) *Clerk's Refusal of Documents*. The court's clerk must  
37 not refuse to accept for filing any document transmitted for that  
38 purpose solely because it is not presented in proper form as required  
39 by these rules or by any local rule or practice.

40 (b) SERVICE OF ALL DOCUMENTS REQUIRED. Unless a rule  
41 requires service by the clerk, a party must, at or before the time of the filing  
42 of a document, serve it on the other parties to the appeal. Service on a party  
43 represented by counsel must be made on the party's counsel.

44 (c) MANNER OF SERVICE.

45 (1) *Methods.* Service must be made electronically, unless it  
46 is being made by or on an individual who is not represented by  
47 counsel or the court's governing rules permit or require service by  
48 mail or other means of delivery. Service may be made by or on an  
49 unrepresented party by any of the following methods:

50 (A) personal delivery;

51 (B) mail; or

52 (C) third-party commercial carrier for delivery

53 within 3 days.

54 (2) *When Service Is Complete.* Service by electronic means  
55 is complete on transmission, unless the party making service  
56 receives notice that the document was not transmitted successfully.  
57 Service by mail or by commercial carrier is complete on mailing or  
58 delivery to the carrier.

59 (d) PROOF OF SERVICE.

60 (1) *What Is Required.* A document presented for filing must  
61 contain either:

62 (A) an acknowledgment of service by the person  
63 served; or  
64 (B) proof of service consisting of a statement by the  
65 person who made service certifying:  
66 (i) the date and manner of service;  
67 (ii) the names of the persons served; and  
68 (iii) the mail or electronic address, the fax  
69 number, or the address of the place of delivery, as  
70 appropriate for the manner of service, for each person  
71 served.

72 (2) *Delayed Proof.* The district or BAP clerk may permit  
73 documents to be filed without acknowledgment or proof of service,  
74 but must require the acknowledgment or proof to be filed promptly  
75 thereafter.

76 (3) *Brief or Appendix.* When a brief or appendix is filed, the  
77 proof of service must also state the date and manner by which it was  
78 filed.

79 (e) SIGNATURE. Every document filed electronically must  
80 include the electronic signature of the person filing it or, if the person is  
81 represented, the electronic signature of counsel. The electronic signature  
82 must be provided by electronic means that are consistent with any technical  
83 standards that the Judicial Conference of the United States establishes.

84 Every document filed in paper form must be signed by the person filing the  
85 document or, if the person is represented, by counsel.

### COMMITTEE NOTE

This rule is derived from former Rule 8008 and F.R.App.P. 25. It adopts some of the additional details of the appellate rule, and it provides greater recognition of the possibility of electronic filing and service.

Subdivision (a) governs the filing of documents in the district court or BAP. Consistent with other provisions of these Part VIII rules, subdivision (a)(2) requires electronic filing of documents, including briefs and appendices, unless the district court's or BAP's procedures permit or require other methods of delivery to the court. An electronic filing is timely if it is received by the district or BAP clerk within the time fixed for filing. No additional copies need to be submitted when documents are filed electronically, by mail, or by delivery unless the district court or BAP requires them.

Subdivision (a)(3) provides that the district or BAP clerk may not refuse to accept a document for filing solely because its form does not comply with these rules or any local rule or practice. The district court or BAP may, however, direct the correction of any deficiency in any document that does not conform to the requirements of these rules or applicable local rules, and may prescribe such other relief as the court deems appropriate.

Subdivisions (b) and (c) address the service of documents in the district court or BAP. Except for documents that the district or BAP clerk must serve, a party that makes a filing must serve copies of the document on the other parties to the appeal. Service on represented parties must be made on counsel. Subdivision (c) expresses the general requirement under these Part VIII rules that documents be sent electronically. *See* Rule 8001(c). Local court rules, however, may provide for other means of service, and subdivision (c) specifies non-electronic methods of service by or on an unrepresented party. Electronic service is complete upon transmission, unless the party making service receives notice that the transmission did not reach the person intended to be served in a readable form.

Subdivision (d) retains the former rule's provisions regarding proof of service of a document filed in the district court or BAP. In addition, it

provides that a certificate of service must state the mail or electronic address or fax number to which service was made.

Subdivision (e) is a new provision that requires an electronic signature of counsel or an unrepresented filer for documents that are filed electronically in the district court or BAP. A local rule may specify a method of providing an electronic signature that is consistent with any standards established by the Judicial Conference of the United States. Paper copies of documents filed in the district court or BAP must bear an actual signature of counsel or the filer. By requiring a signature, subdivision (e) ensures that a readily identifiable attorney or party takes responsibility for every document that is filed.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). The rule allowing briefs and appendices to be timely filed if mailed by the deadline has always been a bad rule. Why shouldn't the filing rules be the same for these documents as for all others?

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). Subdivision (a)(2) should not follow the ill-advised rule of FRAP 25(a)(2)(B) of having different filing rules for briefs and appendices.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (a)(2)(C) requires that a notarized statement state that first-class postage has been prepaid, but the rule does not require that the postage be paid. And subdivision (b) refers to service by the clerk. The rules should not require service by the clerk.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (a)(3), which is similar to Rule 5005(a)(1), should incorporate a provision similar to Rule 5005(c). Also the Committee Note's discussion of the signature requirement of subdivision (e) should refer to Rule 9011, unless Rule 9011 is to be qualified. In that case, there is a need for clarification.

One stylistic comment was submitted.

### **Rule 8012. Corporate Disclosure Statement**

1           (a) WHO MUST FILE. Any nongovernmental corporate  
2 party appearing in the district court or BAP must file a statement  
3 that identifies any parent corporation and any publicly held  
4 corporation that owns 10% or more of its stock or states that there  
5 is no such corporation.

6           (b) TIME TO FILE; SUPPLEMENTAL FILING. A party  
7 must file the statement with its principal brief or upon filing a  
8 motion, response, petition, or answer in the district court or BAP,  
9 whichever occurs first, unless a local rule requires earlier filing.  
10 Even if the statement has already been filed, the party's principal  
11 brief must include a statement before the table of contents. A party  
12 must supplement its statement whenever the required information  
13 changes.

### **COMMITTEE NOTE**

This rule is derived from F.R.App.P. 26.1. It requires the filing of corporate disclosure statements and supplemental statements in order to assist district court and BAP judges in determining whether they should recuse themselves. Rule 9001 makes the definitions in § 101 of the Code applicable to these rules. Under § 101(9) the word "corporation" includes a limited liability company, limited liability partnership, business trust, and certain other entities that are not designated under applicable law as corporations.

If filed separately from a brief, motion, response, petition, or answer, the statement must be filed and served in accordance with Rule 8011. Under Rule 8015(a)(7)(B)(iii), the corporate disclosure statement is not included in calculating applicable word-count limitations.

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### **Changes Made After Publication**

A sentence was added to the Committee Note to draw attention to the broad definition of “corporation” under § 101(9) of the Bankruptcy Code.

### **Summary of Public Comment**

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). It may be worth explaining in the Committee Note that a “corporate party” includes limited liability partnerships, limited liability companies, and other entities that are included within the definition of “corporation” in § 101(9) of the Bankruptcy Code.

**Rule 8013. Motions; Intervention**

1 (a) CONTENTS OF A MOTION; RESPONSE; REPLY.

2 (1) *Request for Relief.* A request for an order or  
3 other relief is made by filing a motion with the district or  
4 BAP clerk, with proof of service on the other parties to the  
5 appeal.

6 (2) *Contents of a Motion.*

7 (A) *Grounds and the Relief Sought.* A  
8 motion must state with particularity the grounds for  
9 the motion, the relief sought, and the legal argument  
10 necessary to support it.

11 (B) *Motion to Expedite an Appeal.* A  
12 motion to expedite an appeal must explain what  
13 justifies considering the appeal ahead of other  
14 matters. If the district court or BAP grants the  
15 motion, it may accelerate the time to transmit the  
16 record, the deadline for filing briefs and other  
17 documents, oral argument, and the resolution of the  
18 appeal. A motion to expedite an appeal may be  
19 filed as an emergency motion under subdivision (d).

20 (C) *Accompanying Documents.*

21 (i) Any affidavit or other document

22 necessary to support a motion must be  
23 served and filed with the motion.

24 (ii) An affidavit must contain only  
25 factual information, not legal argument.

26 (iii) A motion seeking substantive  
27 relief must include a copy of the bankruptcy  
28 court's judgment, order, or decree, and any  
29 accompanying opinion as a separate exhibit.

30 (D) *Documents Barred or Not Required.*

31 (i) A separate brief supporting or  
32 responding to a motion must not be filed.

33 (ii) Unless the court orders  
34 otherwise, a notice of motion or a proposed  
35 order is not required.

36 (3) *Response and Reply; Time to File.* Unless the  
37 district court or BAP orders otherwise,

38 (A) any party to the appeal may file a  
39 response to the motion within 7 days after service of  
40 the motion; and

41 (B) the movant may file a reply to a  
42 response within 7 days after service of the response,  
43 but may only address matters raised in the response.

44 (b) DISPOSITION OF A MOTION FOR A  
45 PROCEDURAL ORDER. The district court or BAP may rule on a  
46 motion for a procedural order—including a motion under Rule  
47 9006(b) or (c)—at any time without awaiting a response. A party  
48 adversely affected by the ruling may move to reconsider, vacate, or  
49 modify it within 7 days after the procedural order is served.

50 (c) ORAL ARGUMENT. A motion will be decided  
51 without oral argument unless the district court or BAP orders  
52 otherwise.

53 (d) EMERGENCY MOTION.

54 (1) *Noting the Emergency.* When a movant  
55 requests expedited action on a motion because irreparable  
56 harm would occur during the time needed to consider a  
57 response, the movant must insert the word “Emergency”  
58 before the title of the motion.

59 (2) *Contents of the Motion.* The emergency motion  
60 must

61 (A) be accompanied by an affidavit setting  
62 out the nature of the emergency;

63 (B) state whether all grounds for it were  
64 submitted to the bankruptcy court and, if not, why  
65 the motion should not be remanded for the

66 bankruptcy court to consider;  
67 (C) include the e-mail addresses, office  
68 addresses, and telephone numbers of moving  
69 counsel and, when known, of opposing counsel and  
70 any unrepresented parties to the appeal; and

71 (D) be served as prescribed by Rule 8011.

72 (3) *Notifying Opposing Parties.* Before filing an  
73 emergency motion, the movant must make every  
74 practicable effort to notify opposing counsel and any  
75 unrepresented parties in time for them to respond. The  
76 affidavit accompanying the emergency motion must state  
77 when and how notice was given or state why giving it was  
78 impracticable.

79 (e) POWER OF A SINGLE BAP JUDGE TO  
80 ENTERTAIN A MOTION.

81 (1) *Single Judge's Authority.* A BAP judge may  
82 act alone on any motion, but may not dismiss or otherwise  
83 determine an appeal, deny a motion for leave to appeal, or  
84 deny a motion for a stay pending appeal if denial would  
85 make the appeal moot.

86 (2) *Reviewing a Single Judge's Action.* The BAP  
87 may review a single judge's action, either on its own

88 motion or on a party's motion.

89 (f) FORM OF DOCUMENTS; PAGE LIMITS; NUMBER  
90 OF COPIES.

91 (1) *Format of a Paper Document.* Rule 27(d)(1)  
92 F.R.App.P. applies in the district court or BAP to a paper  
93 version of a motion, response, or reply.

94 (2) *Format of an Electronically Filed Document.*  
95 A motion, response, or reply filed electronically must  
96 comply with the requirements for a paper version regarding  
97 covers, line spacing, margins, typeface, and type style. It  
98 must also comply with the page limits under paragraph (3).

99 (3) *Page Limits.* Unless the district court or BAP  
100 orders otherwise:

101 (A) a motion or a response to a motion must  
102 not exceed 20 pages, exclusive of the corporate  
103 disclosure statement and accompanying documents  
104 authorized by subdivision (a)(2)(C); and

105 (B) a reply to a response must not exceed  
106 10 pages.

107 (4) *Paper Copies.* Paper copies must be provided

108                   only if required by local rule or by an order in a particular  
109                   case.  
110                   (g) INTERVENING IN AN APPEAL. Unless a statute  
111                   provides otherwise, an entity that seeks to intervene in an appeal  
112                   pending in the district court or BAP must move for leave to  
113                   intervene and serve a copy of the motion on the parties to the  
114                   appeal. The motion or other notice of intervention authorized by  
115                   statute must be filed within 30 days after the appeal is docketed. It  
116                   must concisely state the movant's interest, the grounds for  
117                   intervention, whether intervention was sought in the bankruptcy  
118                   court, why intervention is being sought at this stage of the  
119                   proceeding, and why participating as an amicus curiae would not  
120                   be adequate.

#### **COMMITTEE NOTE**

This rule is derived from former Rule 8011 and F.R.App.P. 15(d) and 27. It adopts many of the provisions of the appellate rules that specify the form and page limits of motions and accompanying documents, while also adjusting those requirements for electronic filing. In addition, it prescribes the procedure for seeking to intervene in the district court or BAP.

Subdivision (a) retains much of the content of former Rule 8011(a) regarding the contents of a motion, response, and reply. It also specifies the documents that may accompany a motion. Unlike the former rule, which allowed the filing of separate briefs supporting a motion, subdivision (a) now adopts the practice of F.R.App.P. 27(a) of prohibiting the filing of briefs supporting or responding to a motion. The motion or response itself must include the party's legal arguments.

Subdivision (a)(2)(B) clarifies the procedure for seeking to expedite an appeal. A motion under this provision seeks to expedite the time for the disposition of the appeal as a whole, whereas an emergency motion—which is addressed by subdivision (d)—typically involves an urgent request for relief short of disposing of the entire appeal (for example, an emergency request for a stay pending appeal to prevent imminent mootness). In appropriate cases—such as when there is an urgent need to resolve the appeal quickly to prevent harm—a party may file a motion to expedite the appeal as an emergency motion.

Subdivision (b) retains the substance of former Rule 8011(b). It authorizes the district court or BAP to act on a motion for a procedural order without awaiting a response to the motion. It specifies that a party seeking reconsideration, vacation, or modification of the order must file a motion within 7 days after service of the order.

Subdivision (c) continues the practice of former Rule 8011(c) and F.R.App.P. 27(e) of dispensing with oral argument of motions in the district court or BAP unless the court orders otherwise.

Subdivision (d), which carries forward the content of former Rule 8011(d), governs emergency motions that the district court or BAP may rule on without awaiting a response when necessary to prevent irreparable harm. A party seeking expedited action on a motion in the district court or BAP must explain the nature of the emergency, whether all grounds in support of the motion were first presented to the bankruptcy court, and, if not, why the district court or BAP should not remand for reconsideration. The moving party must also explain the steps taken to notify opposing counsel and any unrepresented parties in advance of filing the emergency motion and, if they were not notified, why it was impracticable to do so.

Subdivision (e), like former Rule 8011(e) and similar to F.R.App.P. 27(c), authorizes a single BAP judge to rule on certain motions. This authority, however, does not extend to issuing rulings that would dispose of the appeal. For that reason, the rule now prohibits a single BAP judge from denying a motion for a stay pending appeal when the effect of that ruling would be to require dismissal of the appeal as moot. A ruling by a single judge is subject to review by the BAP.

Subdivision (f) incorporates by reference the formatting and appearance requirements of F.R.App.P. 27(d)(1). When paper versions of the listed documents are filed, they must comply with the requirements of the specified rules regarding reproduction, covers, binding, appearance, and format. When these documents are filed electronically, they must comply

with the relevant requirements of the specified rules regarding covers and format. Subdivision (f) also specifies page limits for motions, responses, and replies, which is a matter that former Rule 8011 did not address.

Subdivision (g) clarifies the procedure for seeking to intervene in a proceeding that has been appealed. It is based on F.R.App.P. 15(d), but it also requires the moving party to explain why intervention is being sought at the appellate stage. The former Part VIII rules did not address intervention.

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### Changes After Publication

Subdivision (a)(2)(D) was changed to allow the court to require a notice of motion or proposed order. A stylistic change was made to subdivision (d)(2)(B).

### Summary of Public Comment

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (a)(2)(D)(ii) provides that a notice of motion is not required. This provision is contrary to the motion practice in some district courts, such as the Northern District of Illinois, which require a notice of motion for all motions. The provision should either be deleted or modified to add “unless required by local rule.”

**12-BK-026. Judge S. Martin Teel, Jr. (Bankr. D.D.C.).** Modify subdivision (a)(2)(D)(iii) by adding at the end of the provision, “unless required by local rule or order of the court in which the appeal is pending.” A district court or BAP should have discretion to require a proposed order.

Modify subdivision (d)(2)(B). Sometimes it would not be appropriate to file a motion relating to an appeal in the bankruptcy court.

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (f)(3)(A) provides that a motion may not exceed 20 pages. Some districts have local rules with more restrictive requirements. The provision should therefore be prefaced with “Unless otherwise provided by local rule.”

Subdivision (g), which allows intervention in an appeal, should be deleted. It does not have a counterpart in the general appellate rules, although some circuits have recognized an inherent power to permit intervention. It is not clear why a special bankruptcy appellate intervention rule is needed or who

would have standing to participate on appeal if they had not participated in proceedings in the bankruptcy court.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). It is unclear why subdivision (g) is necessary or whether a party moving to intervene would have standing

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (d) appears to require irreparable harm to support an emergency motion. There could be situations, however, such as expediting an appeal, that may warrant emergency consideration even though irreparable harm will not ensue.

Several stylistic comments were submitted.

**Rule 8014. Briefs**

1           (a) APPELLANT’S BRIEF. The appellant’s brief must  
2 contain the following under appropriate headings and in the order  
3 indicated:

4                   (1) a corporate disclosure statement, if required by  
5 Rule 8012;

6                   (2) a table of contents, with page references;

7                   (3) a table of authorities—cases (alphabetically  
8 arranged), statutes, and other authorities—with references  
9 to the pages of the brief where they are cited;

10                  (4) a jurisdictional statement, including:

11                           (A) the basis for the bankruptcy court’s  
12 subject-matter jurisdiction, with citations to  
13 applicable statutory provisions and stating relevant  
14 facts establishing jurisdiction;

15                           (B) the basis for the district court’s or  
16 BAP’s jurisdiction, with citations to applicable  
17 statutory provisions and stating relevant facts  
18 establishing jurisdiction;

19                           (C) the filing dates establishing the  
20 timeliness of the appeal; and

21                           (D) an assertion that the appeal is from a

22 final judgment, order, or decree, or information  
23 establishing the district court's or BAP's  
24 jurisdiction on another basis;

25 (5) a statement of the issues presented and, for each  
26 one, a concise statement of the applicable standard of  
27 appellate review;

28 (6) a concise statement of the case setting out the  
29 facts relevant to the issues submitted for review, describing  
30 the relevant procedural history, and identifying the rulings  
31 presented for review, with appropriate references to the  
32 record;

33 (7) a summary of the argument, which must contain  
34 a succinct, clear, and accurate statement of the arguments  
35 made in the body of the brief, and which must not merely  
36 repeat the argument headings;

37 (8) the argument, which must contain the  
38 appellant's contentions and the reasons for them, with  
39 citations to the authorities and parts of the record on which  
40 the appellant relies;

41 (9) a short conclusion stating the precise relief  
42 sought; and

43 (10) the certificate of compliance, if required by

44 Rule 8015(a)(7) or (b).

45 (b) APPELLEE’S BRIEF. The appellee’s brief must  
46 conform to the requirements of subdivision (a)(1)-(8) and (10),  
47 except that none of the following need appear unless the appellee  
48 is dissatisfied with the appellant’s statement:

49 (1) the jurisdictional statement;

50 (2) the statement of the issues and the applicable  
51 standard of appellate review; and

52 (3) the statement of the case.

53 (c) REPLY BRIEF. The appellant may file a brief in reply  
54 to the appellee’s brief. A reply brief must comply with the  
55 requirements of subdivision (a)(2)-(3).

56 (d) STATUTES, RULES, REGULATIONS, OR  
57 SIMILAR AUTHORITY. If the court’s determination of the  
58 issues presented requires the study of the Code or other statutes,  
59 rules, regulations, or similar authority, the relevant parts must be  
60 set out in the brief or in an addendum.

61 (e) BRIEFS IN A CASE INVOLVING MULTIPLE  
62 APPELLANTS OR APPELLEES. In a case involving more than  
63 one appellant or appellee, including consolidated cases, any  
64 number of appellants or appellees may join in a brief, and any  
65 party may adopt by reference a part of another’s brief. Parties may

66 also join in reply briefs.

77 (f) CITATION OF SUPPLEMENTAL AUTHORITIES.

78 If pertinent and significant authorities come to a party's attention

79 after the party's brief has been filed—or after oral argument but

80 before a decision—a party may promptly advise the district or

81 BAP clerk by a signed submission setting forth the citations. The

82 submission, which must be served on the other parties to the

83 appeal, must state the reasons for the supplemental citations,

84 referring either to the pertinent page of a brief or to a point argued

85 orally. The body of the submission must not exceed 350 words.

86 Any response must be made within 7 days after the party is served,

87 unless the court orders otherwise, and must be similarly limited.

### COMMITTEE NOTE

This rule is derived from former Rule 8010(a) and (b) and F.R.App.P. 28. Adopting much of the content of Rule 28, it provides greater detail than former Rule 8010 contained regarding appellate briefs.

Subdivision (a) prescribes the content and structure of the appellant's brief. It largely follows former Rule 8010(a)(1), but, to ensure national uniformity, it eliminates the provision authorizing a district court or BAP to alter these requirements. Subdivision (a)(1) provides that when Rule 8012 requires an appellant to file a corporate disclosure statement, it must be placed at the beginning of the appellant's brief. Subdivision (a)(10) is new. It implements the requirement under Rule 8015(a)(7)(C) and (b) for the filing of a certificate of compliance with the limit on the number of words or lines allowed to be in a brief.

Subdivision (b) carries forward the provisions of former Rule 8010(a)(2).

Subdivision (c) is derived from F.R.App.P. 28(c). It authorizes an appellant to file a reply brief, which will generally complete the briefing process.

Subdivision (d) is similar to former Rule 8010(b), but it is reworded to reflect the likelihood that briefs will generally be filed electronically rather than in paper form.

Subdivision (e) mirrors F.R.App.P. 28(i). It authorizes multiple appellants or appellees to join in a single brief. It also allows a party to incorporate by reference portions of another party's brief.

Subdivision (f) adopts the procedures of F.R.App.P. 28(j) with respect to the filing of supplemental authorities with the district court or BAP after a brief has been filed or after oral argument. Unlike the appellate rule, it specifies a period of 7 days for filing a response to a submission of supplemental authorities. The supplemental submission and response must comply with the signature requirements of Rule 8011(e).

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). In subdivision (a)(4)(D), consider requiring an assertion that leave to appeal has been granted in the case of an interlocutory appeal under § 158(a)(3).

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). Subdivision (f), which governs supplemental authorities, requires a party to inform the court by way of a "signed submission." Proceeding by a motion would be preferable.

One stylistic comment was submitted.

**Rule 8015. Form and Length of Briefs; Form of Appendices and Other Papers.**

1           (a) PAPER COPIES OF A BRIEF. If a paper copy of a  
2 brief may or must be filed, the following provisions apply:

3                   (1) *Reproduction.*

4                           (A) A brief may be reproduced by any  
5 process that yields a clear black image on light  
6 paper. The paper must be opaque and unglazed.  
7 Only one side of the paper may be used.

8                           (B) Text must be reproduced with a clarity  
9 that equals or exceeds the output of a laser printer.

10                          (C) Photographs, illustrations, and tables  
11 may be reproduced by any method that results in a  
12 good copy of the original. A glossy finish is  
13 acceptable if the original is glossy.

14                          (2) *Cover.* The front cover of a brief must contain:

15                                  (A) the number of the case centered at the  
16 top;

17                                  (B) the name of the court;

18                                  (C) the title of the case as prescribed by  
19 Rule 8003(d)(2) or 8004(c)(2);

20                                  (D) the nature of the proceeding and the  
21 name of the court below;

22 (E) the title of the brief, identifying the  
23 party or parties for whom the brief is filed; and  
24 (F) the name, office address, telephone  
25 number, and e-mail address of counsel representing  
26 the party for whom the brief is filed.

27 (3) *Binding*. The brief must be bound in any  
28 manner that is secure, does not obscure the text, and  
29 permits the brief to lie reasonably flat when open.

30 (4) *Paper Size, Line Spacing, and Margins*. The  
31 brief must be on 8½-by-11 inch paper. The text must be  
32 double-spaced, but quotations more than two lines long  
33 may be indented and single-spaced. Headings and  
34 footnotes may be single-spaced. Margins must be at least  
35 one inch on all four sides. Page numbers may be placed in  
36 the margins, but no text may appear there.

37 (5) *Typeface*. Either a proportionally spaced or  
38 monospaced face may be used.

39 (A) A proportionally spaced face must  
40 include serifs, but sans-serif type may be used in  
41 headings and captions. A proportionally spaced  
42 face must be 14-point or larger.

43 (B) A monospaced face may not contain

44 more than 10½ characters per inch.

45 (6) *Type Styles.* A brief must be set in plain, roman  
46 style, although italics or boldface may be used for  
47 emphasis. Case names must be italicized or underlined.

48 (7) *Length.*

49 (A) *Page limitation.* A principal brief must  
50 not exceed 30 pages, or a reply brief 15 pages,  
51 unless it complies with (B) and (C).

52 (B) *Type-volume limitation.*

53 (i) A principal brief is acceptable if:

- 54 • it contains no more  
55 than 14,000 words; or  
56 • it uses a monospaced  
57 face and contains no more  
58 than 1,300 lines of text.

59 (ii) A reply brief is acceptable if it  
60 contains no more than half of the type  
61 volume specified in item (i).

62 (iii) Headings, footnotes, and  
63 quotations count toward the word and line  
64 limitations. The corporate disclosure  
65 statement, table of contents, table of

66 citations, statement with respect to oral  
67 argument, any addendum containing  
68 statutes, rules, or regulations, and any  
69 certificates of counsel do not count toward  
70 the limitation.

71 (C) *Certificate of Compliance.*

72 (i) A brief submitted under  
73 subdivision (a)(7)(B) must include a  
74 certificate signed by the attorney, or an  
75 unrepresented party, that the brief complies  
76 with the type-volume limitation. The person  
77 preparing the certificate may rely on the  
78 word or line count of the word-processing  
79 system used to prepare the brief. The  
80 certificate must state either:

- 81 • the number of words in the
- 82 brief; or
- 83 • the number of lines of
- 84 monospaced type in the brief.

85 (ii) The certification requirement is  
86 satisfied by a certificate of compliance that  
87 conforms substantially to the appropriate

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Official Form.

(b) ELECTRONICALLY FILED BRIEFS. A brief filed electronically must comply with subdivision (a), except for (a)(1), (a)(3), and the paper requirement of (a)(4).

(c) PAPER COPIES OF APPENDICES. A paper copy of an appendix must comply with subdivision (a)(1), (2), (3), and (4), with the following exceptions:

(1) An appendix may include a legible photocopy of any document found in the record or of a printed decision.

(2) When necessary to facilitate inclusion of odd-sized documents such as technical drawings, an appendix may be a size other than 8½-by-11 inches, and need not lie reasonably flat when opened.

(d) ELECTRONICALLY FILED APPENDICES. An appendix filed electronically must comply with subdivision (a)(2) and (4), except for the paper requirement of (a)(4).

(e) OTHER DOCUMENTS.

(1) *Motion*. Rule 8013(f) governs the form of a motion, response, or reply.

(2) *Paper Copies of Other Documents*. A paper copy of any other document, other than a submission under

110 Rule 8014(f), must comply with subdivision (a), with the  
111 following exceptions:

112 (A) A cover is not necessary if the caption  
113 and signature page together contain the information  
114 required by subdivision (a)(2).

115 (B) Subdivision (a)(7) does not apply.

116 (3) *Other Documents Filed Electronically.* Any  
117 other document filed electronically, other than a  
118 submission under Rule 8014(f), must comply with the  
119 appearance requirements of paragraph (2).

120 (f) LOCAL VARIATION. A district court or BAP must  
121 accept documents that comply with the applicable requirements of  
122 this rule. By local rule, a district court or BAP may accept  
123 documents that do not meet all of the requirements of this rule.

#### COMMITTEE NOTE

This rule is derived primarily from F.R.App.P. 32. Former Rule 8010(c) prescribed page limits for principal briefs and reply briefs. Those limits are now addressed by subdivision (a)(7) of this rule. In addition, the rule incorporates most of the detail of F.R.App.P. 32 regarding the appearance and format of briefs, appendices, and other documents, along with new provisions that apply when those documents are filed electronically.

Subdivision (a) prescribes the form requirements for briefs that are filed in paper form. It incorporates F.R.App.P. 32(a), except it does not include color requirements for brief covers, it requires the cover of a brief to include counsel's e-mail address, and cross-references to the appropriate bankruptcy rules are substituted for references to the Federal Rules of

## Appellate Procedure.

Subdivision (a)(7) decreases the length of briefs, as measured by the number of pages, that was permitted by former Rule 8010(c). Page limits are reduced from 50 to 30 pages for a principal brief and from 25 to 15 for a reply brief in order to achieve consistency with F.R.App.P. 32(a)(7). But as permitted by the appellate rule, subdivision (a)(7) also permits the limits on the length of a brief to be measured by a word or line count, as an alternative to a page limit. Basing the calculation of brief length on either of the type-volume methods specified in subdivision (a)(7)(B) will result in briefs that may exceed the designated page limits in (a)(7)(A) and that may be approximately as long as allowed by the prior page limits.

Subdivision (b) adapts for briefs that are electronically filed subdivision (a)'s form requirements. With the use of electronic filing, the method of reproduction, method of binding, and use of paper become irrelevant. But information required on the cover, formatting requirements, and limits on brief length remain the same.

Subdivisions (c) and (d) prescribe the form requirements for appendices. Subdivision (c), applicable to paper appendices, is derived from F.R.App.P. 32(b), and subdivision (d) adapts those requirements for electronically filed appendices.

Subdivision (e), which is based on F.R.App.P. 32(c), addresses the form required for documents—in paper form or electronically filed—that these rules do not otherwise cover.

Subdivision (f), like F.R.App.P. 32(e), provides assurance to lawyers and parties that compliance with this rule's form requirements will allow a brief or other document to be accepted by any district court or BAP. A court may, however, by local rule or, under Rule 8028 by order in a particular case, choose to accept briefs and documents that do not comply with all of this rule's requirements. The decision whether to accept a brief that appears not to be in compliance with the rules must be made by the court. Under Rule 8011(a)(3), the clerk may not refuse to accept a document for filing solely because it is not presented in proper form as required by these rules or any local rule or practice.

Under Rule 8011(e), the party filing the document or, if represented, its counsel must sign all briefs and other submissions. If the document is filed electronically, an electronic signature must be provided in accordance with Rule 8011(e).

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## Changes Made After Publication

In subdivision (f), “or order in a particular case” was deleted as unnecessary. The discussion in the Committee Note about brief lengths was revised, and the discussion of subdivision (f) was expanded.

## Summary of Public Comment

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (f) seems inconsistent with Rule 8011(a)(3). Perhaps it would be more accurate to provide that nonconforming documents must be accepted for filing (Rule 8011(a)(3)), but that a court may order a document not conforming to the requirements of Rule 8015 to be stricken if prompt corrective action is not taken.

**12-BK-010. The States’ Association of Bankruptcy Attorneys.** The Committee Note incorrectly suggests that the page limits of proposed subdivision (a)(7) will be shorter than the existing page limits provided by current Rule 8010(c). Although the page limitation of proposed subdivision (a)(7)(A) reduces the number of pages from 50 to 30, the Committee Note to FRAP 32 indicates that the type-volume limitation that is adopted by subdivision (a)(7)(B) is expected to approximate 50 pages. The 30-page limit is merely a safe harbor. The Committee Note to Rule 8015 should make clear that no significant reduction in brief length is being imposed.

**12-BK-034. Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee.** We support the proposed reduction of brief page length, as this will bring greater consistency with the FRAP and Oregon Local Bankruptcy Rules.

Several stylistics comments were submitted.

**Rule 8016. Cross-Appeals**

1           (a) APPLICABILITY. This rule applies to a case in which  
2 a cross-appeal is filed. Rules 8014(a)-(c), 8015(a)(7)(A)-(B), and  
3 8018(a)(1)-(3) do not apply to such a case, except as otherwise  
4 provided in this rule.

5           (b) DESIGNATION OF APPELLANT. The party who  
6 files a notice of appeal first is the appellant for purposes of this  
7 rule and Rule 8018(a)(4) and (b) and Rule 8019. If notices are  
8 filed on the same day, the plaintiff, petitioner, applicant, or movant  
9 in the proceeding below is the appellant. These designations may  
10 be modified by the parties' agreement or by court order.

11           (c) BRIEFS. In a case involving a cross-appeal:

12                   (1) *Appellant's Principal Brief.* The appellant must  
13 file a principal brief in the appeal. That brief must comply  
14 with Rule 8014(a).

15                   (2) *Appellee's Principal and Response Brief.* The  
16 appellee must file a principal brief in the cross-appeal and  
17 must, in the same brief, respond to the principal brief in the  
18 appeal. That brief must comply with Rule 8014(a), except  
19 that the brief need not include a statement of the case  
20 unless the appellee is dissatisfied with the appellant's  
21 statement.

22                           (3) *Appellant’s Response and Reply Brief.* The  
23 appellant must file a brief that responds to the principal  
24 brief in the cross-appeal and may, in the same brief, reply  
25 to the response in the appeal. That brief must comply with  
26 Rule 8014(a)(2)-(8) and (10), except that none of the  
27 following need appear unless the appellant is dissatisfied  
28 with the appellee’s statement in the cross-appeal:

- 29                           (A) the jurisdictional statement;
- 30                           (B) the statement of the issues and the  
31 applicable standard of appellate review; and
- 32                           (C) the statement of the case.

33                           (4) *Appellee’s Reply Brief.* The appellee may file a  
34 brief in reply to the response in the cross-appeal. That brief  
35 must comply with Rule 8014(a)(2)-(3) and (10) and must  
36 be limited to the issues presented by the cross-appeal.

37 (d) LENGTH.

38                           (1) *Page Limitation.* Unless it complies with  
39 paragraphs (2) and (3), the appellant’s principal brief must  
40 not exceed 30 pages; the appellee’s principal and response  
41 brief, 35 pages; the appellant’s response and reply brief, 30  
42 pages; and the appellee’s reply brief, 15 pages.

43                           (2) *Type-Volume Limitation.*

44 (A) The appellant’s principal brief or the  
45 appellant’s response and reply brief is acceptable if:  
46 (i) it contains no more than 14,000  
47 words; or  
48 (ii) it uses a monospaced face and  
49 contains no more than 1,300 lines of text.  
50 (B) The appellee’s principal and response  
51 brief is acceptable if:  
52 (i) it contains no more than 16,500  
53 words; or  
54 (ii) it uses a monospaced face and  
55 contains no more than 1,500 lines of text.  
56 (C) The appellee’s reply brief is acceptable  
57 if it contains no more than half of the type volume  
58 specified in subparagraph (A).  
59 (D) Headings, footnotes, and quotations  
60 count toward the word and line limitations. The  
61 corporate disclosure statement, table of contents,  
62 table of citations, statement with respect to oral  
63 argument, any addendum containing statutes, rules,  
64 or regulations, and any certificates of counsel do not  
65 count toward the limitation.

66                           (3) *Certificate of Compliance*. A brief submitted  
67                           either electronically or in paper form under paragraph (2)  
68                           must comply with Rule 8015(a)(7)(C).

69                           (e) TIME TO SERVE AND FILE A BRIEF. Briefs must  
70                           be served and filed as follows, unless the district court or BAP by  
71                           order in a particular case excuses the filing of briefs or specifies  
72                           different time limits:

73                           (1) the appellant’s principal brief, within 30 days  
74                           after the docketing of notice that the record has been  
75                           transmitted or is available electronically;

76                           (2) the appellee’s principal and response brief,  
77                           within 30 days after the appellant’s principal brief is  
78                           served;

79                           (3) the appellant’s response and reply brief, within  
80                           30 days after the appellee’s principal and response brief is  
81                           served; and

82                           (4) the appellee’s reply brief, within 14 days after  
83                           the appellant’s response and reply brief is served, but at  
84                           least 7 days before scheduled argument unless the district  
85                           court or BAP, for good cause, allows a later filing.

**COMMITTEE NOTE**

This rule is derived from F.R.App.P. 28.1. It governs the timing, content, length, filing, and service of briefs in bankruptcy appeals in which there is a cross-appeal. The former Part VIII rules did not separately address the topic of cross-appeals.

Subdivision (b) prescribes which party is designated the appellant when there is a cross-appeal. Generally, the first to file a notice of appeal will be the appellant.

Subdivision (c) specifies the briefs that the appellant and the appellee may file. Because of the dual role of the parties to the appeal and cross-appeal, each party is permitted to file a principal brief and a response to the opposing party's brief, as well as a reply brief. For the appellee, the principal brief in the cross-appeal and the response in the appeal are combined into a single brief. The appellant, on the other hand, initially files a principal brief in the appeal and later files a response to the appellee's principal brief in the cross-appeal, along with a reply brief in the appeal. The final brief that may be filed is the appellee's reply brief in the cross-appeal.

Subdivision (d), which prescribes page limits for briefs, is adopted from F.R.App.P. 28.1(e). It applies to briefs that are filed electronically, as well as to those filed in paper form. Like Rule 8015(a)(7), it imposes limits measured by either the number of pages or the number of words or lines of text.

Subdivision (e) governs the time for filing briefs in cases in which there is a cross-appeal. It adapts the provisions of F.R.App.P. 28.1(f).

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### **Changes Made After Publication**

Subdivision (d)(2)(D) was added, and subdivision (f) was deleted. In subdivision (a), the statement that Rule 8018(a) does not apply was changed to refer to Rule 8018(a)(1)-(3). In subdivision (b), Rule 8018(a)(4) was added to the list of rules. Conforming changes were made to the Committee Note.

### **Summary of Public Comment**

**12-BK-008. National Conference of Bankruptcy Judges.** Subdivision (f) addresses the consequences of an appellant's or an appellee's failure to file a brief on time. This provision is misplaced because it applies to all

appeals, not just to cross-appeals. Moreover, another provision —Rule 8018(a)(4)—addresses the same subject, but differs in scope. A single rule addressing the issue would be better.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). It is unclear why subdivision (f) is tucked in here. It also appears to duplicate Rule 8018(a)(4).

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). In subdivision (f) the authorization for dismissal of an appeal or cross-appeal should require notice and an opportunity to show cause why dismissal ought not be ordered. This issue is more logically addressed in Rule 8018.

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (d) addresses length and type-volume limitations similar to those in Rule 8015. A counterpart to Rule 8015(f) should be incorporated.

**Rule 8017. Brief of an Amicus Curiae**

1           (a) WHEN PERMITTED. The United States or its officer  
2           or agency or a state may file an amicus-curiae brief without the  
3           consent of the parties or leave of court. Any other amicus curiae  
4           may file a brief only by leave of court or if the brief states that all  
5           parties have consented to its filing. On its own motion, and with  
6           notice to all parties to an appeal, the district court or BAP may  
7           request a brief by an amicus curiae.

8           (b) MOTION FOR LEAVE TO FILE. The motion must  
9           be accompanied by the proposed brief and state:

- 10                       (1) the movant’s interest; and  
11                       (2) the reason why an amicus brief is desirable and  
12                       why the matters asserted are relevant to the disposition of  
13                       the appeal.

14           (c) CONTENTS AND FORM. An amicus brief must  
15           comply with Rule 8015. In addition to the requirements of Rule  
16           8015, the cover must identify the party or parties supported and  
17           indicate whether the brief supports affirmance or reversal. If an  
18           amicus curiae is a corporation, the brief must include a disclosure  
19           statement like that required of parties by Rule 8012. An amicus  
20           brief need not comply with Rule 8014, but must include the  
21           following:

- 22 (1) a table of contents, with page references;
- 23 (2) a table of authorities—cases (alphabetically  
24 arranged), statutes, and other authorities—with references  
25 to the pages of the brief where they are cited;
- 26 (3) a concise statement of the identity of the amicus  
27 curiae, its interest in the case, and the source of its  
28 authority to file;
- 29 (4) unless the amicus curiae is one listed in the first  
30 sentence of subdivision (a), a statement that indicates  
31 whether:
- 32 (A) a party’s counsel authored the brief in  
33 whole or in part;
- 34 (B) a party or a party’s counsel contributed  
35 money that was intended to fund preparing or  
36 submitting the brief; and
- 37 (C) a person—other than the amicus curiae,  
38 its members, or its counsel—contributed money that  
39 was intended to fund preparing or submitting the  
40 brief and, if so, identifies each such person;
- 41 (5) an argument, which may be preceded by a  
42 summary and need not include a statement of the applicable  
43 standard of review; and

44 (6) a certificate of compliance, if required by Rule  
45 8015(a)(7)(C) or 8015(b).

46 (d) LENGTH. Except by the district court's or BAP's  
47 permission, an amicus brief must be no more than one-half the  
48 maximum length authorized by these rules for a party's principal  
49 brief. If the court grants a party permission to file a longer brief,  
50 that extension does not affect the length of an amicus brief.

51 (e) TIME FOR FILING. An amicus curiae must file its  
52 brief, accompanied by a motion for filing when necessary, no later  
53 than 7 days after the principal brief of the party being supported is  
54 filed. An amicus curiae that does not support either party must file  
55 its brief no later than 7 days after the appellant's principal brief is  
56 filed. The district court or BAP may grant leave for later filing,  
57 specifying the time within which an opposing party may answer.

58 (f) REPLY BRIEF. Except by the district court's or  
59 BAP's permission, an amicus curiae may not file a reply brief.

60 (g) ORAL ARGUMENT. An amicus curiae may  
61 participate in oral argument only with the district court's or BAP's  
62 permission.

## COMMITTEE NOTE

This rule is derived from F.R.App.P. 29. The former Part VIII rules did not address the participation by an amicus curiae in a bankruptcy appeal.

Subdivision (a) adopts the provisions of F.R.App.P. 29(a). In addition, it authorizes the district court or BAP on its own motion— with notice to the parties—to request the filing of a brief by an amicus curiae.

Subdivisions (b)-(g) adopt F.R.App.P. 29(b)-(g).

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-010. The States' Association of Bankruptcy Attorneys.** All governmental units should be permitted to file an amicus brief without consent or leave of court.

One stylistic comment was submitted.

**Rule 8018. Serving and Filing Briefs; Appendices**

1           (a) TIME TO SERVE AND FILE A BRIEF. The  
2 following rules apply unless the district court or BAP by order in a  
3 particular case excuses the filing of briefs or specifies different  
4 time limits:

5                   (1) The appellant must serve and file a brief within  
6 30 days after the docketing of notice that the record has  
7 been transmitted or is available electronically.

8                   (2) The appellee must serve and file a brief within  
9 30 days after service of the appellant’s brief.

10                  (3) The appellant may serve and file a reply brief  
11 within 14 days after service of the appellee’s brief, but a  
12 reply brief must be filed at least 7 days before scheduled  
13 argument unless the district court or BAP, for good cause,  
14 allows a later filing.

15                  (4) If an appellant fails to file a brief on time or  
16 within an extended time authorized by the district court or  
17 BAP, an appellee may move to dismiss the appeal—or the  
18 district court or BAP, after notice, may dismiss the appeal  
19 on its own motion. An appellee who fails to file a brief  
20 will not be heard at oral argument unless the district court  
21 or BAP grants permission.

22 (b) DUTY TO SERVE AND FILE AN APPENDIX TO  
23 THE BRIEF.

24 (1) *Appellant*. Subject to subdivision (e) and Rule  
25 8009(d), the appellant must serve and file with its principal  
26 brief excerpts of the record as an appendix. It must contain  
27 the following:

28 (A) the relevant entries in the bankruptcy  
29 docket;

30 (B) the complaint and answer, or other  
31 equivalent filings;

32 (C) the judgment, order, or decree from  
33 which the appeal is taken;

34 (D) any other orders, pleadings, jury  
35 instructions, findings, conclusions, or opinions  
36 relevant to the appeal;

37 (E) the notice of appeal; and

38 (F) any relevant transcript or portion of it.

39 (2) *Appellee*. The appellee may also serve and file  
40 with its brief an appendix that contains material required to  
41 be included by the appellant or relevant to the appeal or  
42 cross-appeal, but omitted by the appellant.

43 (3) *Cross-Appellee*. The appellant as cross-

44                   appellee may also serve and file with its response an  
45                   appendix that contains material relevant to matters raised  
46                   initially by the principal brief in the cross-appeal, but  
47                   omitted by the cross-appellant.

48                   (c) **FORMAT OF THE APPENDIX.** The appendix must  
49                   begin with a table of contents identifying the page at which each  
50                   part begins. The relevant docket entries must follow the table of  
51                   contents. Other parts of the record must follow chronologically.  
52                   When pages from the transcript of proceedings are placed in the  
53                   appendix, the transcript page numbers must be shown in brackets  
54                   immediately before the included pages. Omissions in the text of  
55                   documents or of the transcript must be indicated by asterisks.  
56                   Immaterial formal matters (captions, subscriptions,  
57                   acknowledgments, and the like) should be omitted.

58                   (d) **EXHIBITS.** Exhibits designated for inclusion in the  
59                   appendix may be reproduced in a separate volume or volumes,  
60                   suitably indexed.

61                   (e) **APPEAL ON THE ORIGINAL RECORD WITHOUT**  
62                   **AN APPENDIX.** The district court or BAP may, either by rule for  
63                   all cases or classes of cases or by order in a particular case,  
64                   dispense with the appendix and permit an appeal to proceed on the  
65                   original record, with the submission of any relevant parts of the

### COMMITTEE NOTE

This rule is derived from former Rule 8009 and F.R.App.P. 30 and 31. Like former Rule 8009, it addresses the timing of serving and filing briefs and appendices, as well as the content and format of appendices. Rule 8011 governs the methods of filing and serving briefs and appendices.

The rule retains the bankruptcy practice of permitting the appellee to file its own appendix, rather than requiring the appellant to include in its appendix matters designated by the appellee. Rule 8016 governs the timing of serving and filing briefs when a cross-appeal is taken. This rule's provisions about appendices apply to all appeals, including cross-appeals.

Subdivision (a) retains former Rule 8009's provision that allows the district court or BAP to dispense with briefing or to provide different time periods than this rule specifies. It increases some of the time periods for filing briefs from the periods prescribed by the former rule, while still retaining shorter time periods than some provided by F.R.App.P. 31(a). The time for filing the appellant's brief is increased from 14 to 30 days after the docketing of the notice of the transmission of the record or notice of the availability of the record. That triggering event is equivalent to docketing the appeal under former Rule 8007. Appellate Rule 31(a)(1), by contrast, provides the appellant 40 days after the record is filed to file its brief. The shorter time period for bankruptcy appeals reflects the frequent need for greater expedition in the resolution of bankruptcy appeals, while still providing the appellant more time to prepare its brief than the former rule provided.

Subdivision (a)(2) similarly expands the time period for filing the appellee's brief from 14 to 30 days after the service of the appellant's brief. This period is the same as F.R. App. 31(a)(1) provides.

Subdivision (a)(3) retains the 14-day time period for filing a reply brief that the former rule prescribed, but it qualifies that period to ensure that the final brief is filed at least 7 days before oral argument.

If a district court or BAP has a mediation procedure for bankruptcy appeals, that procedure could affect when briefs must be filed. *See* Rule 8027.

Subdivision (a)(4) is new. Based on F.R.App.P. 31(c), it provides

for actions that may be taken—dismissal of the appeal or denial of participation in oral argument—if the appellant or appellee fails to file its brief.

Subdivisions (b) and (c) govern the content and format of the appendix to a brief. Subdivision (b) is similar to former Rule 8009(b), and subdivision (c) is derived from F.R.App.P. 30(d).

Subdivision (d), which addresses the inclusion of exhibits in the appendix, is derived from F.R.App.P. 30(e).

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### **Changes Made After Publication**

Subdivision (a)(4) was revised to provide more detail about the procedure for dismissing an appeal due to appellant’s failure to timely file a brief.

### **Summary of Public Comment**

**12-BK-026. Judge S. Martin Teel, Jr.** (Bankr. D.D.C.). In Rule 8016(f), the authorization for dismissal of an appeal or cross-appeal should require notice and an opportunity to show cause why dismissal ought not be ordered. This issue is more logically addressed in Rule 8018.

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). Subdivision (e) allows the appellate court to dispense with the appendix and permit an appeal to proceed on the original record. Similar language should be included in Rule 8009.

One stylistic comment was submitted.

**Rule 8019. Oral Argument**

1           (a) PARTY’S STATEMENT. Any party may file, or a  
2           district court or BAP may require, a statement explaining why oral  
3           argument should, or need not, be permitted.

4           (b) PRESUMPTION OF ORAL ARGUMENT AND  
5           EXCEPTIONS. Oral argument must be allowed in every case  
6           unless the district judge—or all the BAP judges assigned to hear  
7           the appeal—examine the briefs and record and determine that oral  
8           argument is unnecessary because

9                       (1) the appeal is frivolous;

10                      (2) the dispositive issue or issues have been  
11           authoritatively decided; or

12                      (3) the facts and legal arguments are adequately  
13           presented in the briefs and record, and the decisional  
14           process would not be significantly aided by oral argument.

15           (c) NOTICE OF ARGUMENT; POSTPONEMENT. The  
16           district court or BAP must advise all parties of the date, time, and  
17           place for oral argument, and the time allowed for each side. A  
18           motion to postpone the argument or to allow longer argument must  
19           be filed reasonably in advance of the hearing date.

20           (d) ORDER AND CONTENTS OF ARGUMENT. The  
21           appellant opens and concludes the argument. Counsel must not

22 read at length from briefs, the record, or authorities.

23 (e) CROSS-APPEALS AND SEPARATE APPEALS. If  
24 there is a cross-appeal, Rule 8016(b) determines which party is the  
25 appellant and which is the appellee for the purposes of oral  
26 argument. Unless the district court or BAP directs otherwise, a  
27 cross-appeal or separate appeal must be argued when the initial  
28 appeal is argued. Separate parties should avoid duplicative  
29 argument.

30 (f) NONAPPEARANCE OF A PARTY. If the appellee  
31 fails to appear for argument, the district court or BAP may hear the  
32 appellant's argument. If the appellant fails to appear for argument,  
33 the district court or BAP may hear the appellee's argument. If  
34 neither party appears, the case will be decided on the briefs unless  
35 the district court or BAP orders otherwise.

36 (g) SUBMISSION ON BRIEFS. The parties may agree to  
37 submit a case for decision on the briefs, but the district court or  
38 BAP may direct that the case be argued.

39 (h) USE OF PHYSICAL EXHIBITS AT ARGUMENT;  
40 REMOVAL. Counsel intending to use physical exhibits other than  
41 documents at the argument must arrange to place them in the  
42 courtroom on the day of the argument before the court convenes.  
43 After the argument, counsel must remove the exhibits from the

44 courtroom unless the district court or BAP directs otherwise. The  
45 clerk may destroy or dispose of the exhibits if counsel does not  
46 reclaim them within a reasonable time after the clerk gives notice  
47 to remove them.

### COMMITTEE NOTE

This rule generally retains the provisions of former Rule 8012 and adds much of the additional detail of F.R.App.P. 34. By incorporating the more detailed provisions of the appellate rule, Rule 8019 promotes national uniformity regarding oral argument in bankruptcy appeals.

Subdivision (a), like F.R.App.P. 34(a)(1), now allows a party to submit a statement explaining why oral argument is or is not needed. It also authorizes a court to require this statement. Former Rule 8012 only authorized statements explaining why oral argument should be allowed.

Subdivision (b) retains the reasons set forth in former Rule 8012 for the district court or BAP to conclude that oral argument is not needed.

The remainder of this rule adopts the provisions of F.R.App.P. 34(b)-(g), with one exception. Rather than requiring the district court or BAP to hear appellant's argument if the appellee does not appear, subdivision (f) authorizes the district court or BAP to go forward with the argument in the appellee's absence. Should the court decide, however, to postpone the oral argument in that situation, it would be authorized to do so.

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### Changes Made After Publication

No changes were made after publication.

### Summary of Public Comment

**12-BK-005. Judge Robert J. Kressel** (Bankr. D. Minn.). There should not be a presumption in favor of oral argument. Furthermore, the grounds for not allowing it should not be limited. It is sometimes not granted for other reasons, such as the need for an expedited decision or issues of cost.

**12-BK-014. Judge Dennis Montali** (Bankr. N.D. Cal.). There is an

inconsistency between subdivisions (b) and (g). Subdivision (b) requires unanimity among the panel of BAP judges to dispense with oral argument, yet subdivision (g) says that the BAP may direct a case to be argued even though the parties agreed to submit it on the briefs. A simple majority of the judges should be sufficient in either situation.

**12-BK-027. William McNeil** (Attorney, Malvern, Pennsylvania). The Committee Note regarding subdivision (f) is inconsistent with the rule. The note states that if the appellee does not appear, the court is authorized to postpone oral argument. Subdivision (f), however, authorizes postponement only if both parties fail to appear. An appellant who appears for oral argument should not be forced to reappear at a postponed argument just because the other party failed to appear.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). Subdivision (d) regarding order and contents of argument is unnecessary. Subdivision (g) does not provide the means by which the parties inform the court of their agreement to submit the case for decision on the briefs.

One stylistic comment was submitted.

## **Rule 8020. Frivolous Appeal and Other Misconduct**

1           (a) FRIVOLOUS APPEAL—DAMAGES AND COSTS.  
2           If the district court or BAP determines that an appeal is frivolous,  
3           it may, after a separately filed motion or notice from the court and  
4           reasonable opportunity to respond, award just damages and single  
5           or double costs to the appellee.

6           (b) OTHER MISCONDUCT. The district court or BAP  
7           may discipline or sanction an attorney or party appearing before it  
8           for other misconduct, including failure to comply with any court  
9           order. First, however, the court must afford the attorney or party  
10          reasonable notice, an opportunity to show cause to the contrary,  
11          and, if requested, a hearing.

### **COMMITTEE NOTE**

This rule is derived from former Rule 8020 and F.R.App.P. 38 and 46(c). Subdivision (a) permits an award of damages and costs to an appellee for a frivolous appeal. Subdivision (b) permits the district court or BAP to impose on parties as well as their counsel sanctions for misconduct other than taking a frivolous appeal. Failure to comply with a court order, for which sanctions may be imposed, may include a failure to comply with a local court rule.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-033. Judge Christopher M. Klein** (Bankr. E.D. Cal.). Subdivision (b) provides sanctioning authority for the “failure to comply with any court order.” It would be better to add “or local rule” after “order.” The Committee Note states that failure to comply with a court order may include a failure to comply with a local court rule, but people do not always read Committee Notes, and some courts do not consider them authoritative.

**Rule 8021. Costs**

1 (a) AGAINST WHOM ASSESSED. The following rules  
2 apply unless the law provides or the district court or BAP orders  
3 otherwise:

4 (1) if an appeal is dismissed, costs are taxed against  
5 the appellant, unless the parties agree otherwise;

6 (2) if a judgment, order, or decree is affirmed, costs  
7 are taxed against the appellant;

8 (3) if a judgment, order, or decree is reversed, costs  
9 are taxed against the appellee;

10 (4) if a judgment, order, or decree is affirmed or  
11 reversed in part, modified, or vacated, costs are taxed only  
12 as the district court or BAP orders.

13 (b) COSTS FOR AND AGAINST THE UNITED  
14 STATES. Costs for or against the United States, its agency, or its  
15 officer may be assessed under subdivision (a) only if authorized  
16 by law.

17 (c) COSTS ON APPEAL TAXABLE IN THE  
18 BANKRUPTCY COURT. The following costs on appeal are  
19 taxable in the bankruptcy court for the benefit of the party entitled  
20 to costs under this rule:

21 (1) the production of any required copies of a brief,

22 appendix, exhibit, or the record;

23 (2) the preparation and transmission of the record;

24 (3) the reporter's transcript, if needed to determine

25 the appeal;

26 (4) premiums paid for a supersedeas bond or other

27 bonds to preserve rights pending appeal; and

28 (5) the fee for filing the notice of appeal.

29 (d) BILL OF COSTS; OBJECTIONS. A party who wants

30 costs taxed must, within 14 days after entry of judgment on appeal,

31 file with the bankruptcy clerk, with proof of service, an itemized

32 and verified bill of costs. Objections must be filed within 14 days

33 after service of the bill of costs, unless the bankruptcy court

34 extends the time.

### COMMITTEE NOTE

This rule is derived from former Rule 8014 and F.R.App.P. 39. It retains the former rule's authorization for taxing appellate costs against the losing party and its specification of the costs that may be taxed. The rule also incorporates some of the additional details regarding the taxing of costs contained in F.R.App.P. 39. Consistent with former Rule 8014, the bankruptcy clerk has the responsibility for taxing all costs. Subdivision (b), derived from F.R.App.P. 39(b), clarifies that additional authority is required for the taxation of costs by or against federal governmental parties.

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### Changes Made After Publication

No changes were made after publication.

## Summary of Public Comment

### **12-BK-010. The States' Association of Bankruptcy Attorneys.**

Subdivision (b) should be expanded to apply to all governmental units, not just to the United States and its agencies and officers.

**Rule 8022. Motion for Rehearing.**

1 (a) TIME TO FILE; CONTENTS; RESPONSE; ACTION  
2 BY THE DISTRICT COURT OR BAP IF GRANTED.

3 (1) *Time.* Unless the time is shortened or extended  
4 by order or local rule, any motion for rehearing by the  
5 district court or BAP must be filed within 14 days after  
6 entry of judgment on appeal.

7 (2) *Contents.* The motion must state with  
8 particularity each point of law or fact that the movant  
9 believes the district court or BAP has overlooked or  
10 misapprehended and must argue in support of the motion.  
11 Oral argument is not permitted.

12 (3) *Response.* Unless the district court or BAP  
13 requests, no response to a motion for rehearing is  
14 permitted. But ordinarily, rehearing will not be granted in  
15 the absence of such a request.

16 (4) *Action by the District Court or BAP.* If a  
17 motion for rehearing is granted, the district court or BAP  
18 may do any of the following:

19 (A) make a final disposition of the appeal  
20 without reargument;

21 (B) restore the case to the calendar for

22 reargument or resubmission; or  
23 (C) issue any other appropriate order.  
24 (b) FORM OF THE MOTION; LENGTH. The motion  
25 must comply in form with Rule 8013(f)(1) and (2). Copies must  
26 be served and filed as provided by Rule 8011. Unless the district  
27 court or BAP orders otherwise, a motion for rehearing must not  
28 exceed 15 pages.

### COMMITTEE NOTE

This rule is derived from former Rule 8015 and F.R.App.P. 40. It deletes the provision of former Rule 8015 regarding the time for appeal to the court of appeals because the matter is addressed by F.R.App.P. 6(b)(2)(A).

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### Changes Made After Publication

In subdivision (b), the reference to local rule was deleted as unnecessary.

### Summary of Public Comment

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). It would give the courts more flexibility to state in subdivision (a)(2) that there is no oral argument on a motion for rehearing unless the court orders otherwise. An absolute prohibition seems unnecessary.

One stylistic comment was submitted.

### **Rule 8023. Voluntary Dismissal**

1           The clerk of the district court or BAP must dismiss an  
2           appeal if the parties file a signed dismissal agreement specifying  
3           how costs are to be paid and pay any fees that are due. An appeal  
4           may be dismissed on the appellant's motion on terms agreed to by  
5           the parties or fixed by the district court or BAP.

### **COMMITTEE NOTE**

This rule is derived from former Rule 8001(c) and F.R.App.P. 42. The provision of the former rule regarding dismissal of appeals in the bankruptcy court prior to docketing of the appeal has been deleted. Now that docketing occurs promptly after a notice of appeal is filed, *see* Rules 8003(d) and 8004(c), an appeal likely will not be voluntarily dismissed before docketing.

The rule retains the provision of the former rule that the district or BAP clerk must dismiss an appeal upon the parties' agreement. District courts and BAPs continue to have discretion to dismiss an appeal on an appellant's motion. Nothing in the rule prohibits a district court or BAP from dismissing an appeal for other reasons authorized by law, such as the failure to prosecute an appeal.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

**12-BK-008. National Conference of Bankruptcy Judges.** The proposed rule is consistent with current practice under Rule 8001(c), and the NCBJ supports its adoption. The rule, however, presents two issues that the Committee should consider in the near future. (1) It does not account for the possibility that an appeal may concern an objection to discharge under § 727(a). In the bankruptcy court, Rule 7041 provides that a plaintiff may not dismiss this type of action without giving notice and obtaining a court order

containing appropriate terms and conditions. Consideration should be given to including similar safeguards in this rule. (2) The rule also does not take into account that a bankruptcy trustee may be a party to an appeal that is voluntarily dismissed. Under Rule 9019 the trustee is required to obtain court approval of any compromise. The rule does not make clear how it relates to Rule 9019.

**12-BK-036. Mary P. Sharon**, Clerk (1st Cir. BAP). The rule provides that the appellate court must dismiss if the parties file an agreement. Since they are requesting relief, according to Rule 8013(a) they should have to file a motion.

**Rule 8024. Clerk’s Duties on Disposition of the Appeal**

1           (a) JUDGMENT ON APPEAL. The district or BAP clerk  
2 must prepare, sign, and enter the judgment after receiving the  
3 court’s opinion or, if there is no opinion, as the court instructs.  
4 Noting the judgment on the docket constitutes entry of judgment.

5           (b) NOTICE OF A JUDGMENT. Immediately upon the  
6 entry of a judgment, the district or BAP clerk must:

7                   (1) transmit a notice of the entry to each party to  
8 the appeal, to the United States trustee, and to the  
9 bankruptcy clerk, together with a copy of any opinion; and

10                   (2) note the date of the transmission on the docket.

11           (c) RETURNING PHYSICAL ITEMS. If any physical  
12 items were transmitted as the record on appeal, they must be  
13 returned to the bankruptcy clerk on disposition of the appeal.

**COMMITTEE NOTE**

This rule is derived from former Rule 8016, which was adapted from F.R.App.P. 36 and 45(c) and (d). The rule is reworded to reflect that only items in the record that are physically, as opposed to electronically, transmitted to the district court or BAP need to be returned to the bankruptcy clerk. Other changes to the former rule are stylistic.

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**Changes Made After Publication**

Stylistic changes were made to subdivision (c) and the Committee Note.

## Summary of Public Comment

**12-BK-040. Bankruptcy Clerks Advisory Group.** Subdivision (c) refers to returning “original” documents. The bankruptcy clerk would not be transmitting original documents as the record on appeal. It therefore would be better to refer to “any paper documents.”

**12-BK-008. National Conference of Bankruptcy Judges.** The proposed rule carries forward a problem in current rule 8016. It fails to address when jurisdiction reverts in the bankruptcy court after an appeal. The Federal Rules of Appellate Procedure resolve this problem for appeals from the district court to the court of appeals by providing for the issuance of a mandate by the appellate court. Until the mandate is issued, the district court generally lacks authority to take any action with respect to the matters involved in the appeal. Proposed Rule 8024 lacks any comparable provision, even though it provides for the appellate clerk’s transmission of notice of entry of judgment, with a copy of any opinion, to the parties, the U.S. trustee, and the bankruptcy clerk. The rule should adopt a mandate requirement with time limits for the issuance of the mandate and a provision for when it becomes effective. Because the problem exists with the current rule and does not seem to be disrupting bankruptcy administration unduly, promulgation of this rule should not be delayed. But the Committee should consider the issue in the near future.

**Rule 8025. Stay of a District Court or BAP Judgment**

1 (a) AUTOMATIC STAY OF JUDGMENT ON APPEAL.

2 Unless the district court or BAP orders otherwise, its judgment is  
3 stayed for 14 days after entry.

4 (b) STAY PENDING APPEAL TO THE COURT OF  
5 APPEALS.

6 (1) *In General.* On a party's motion and notice to  
7 all other parties to the appeal, the district court or BAP may  
8 stay its judgment pending an appeal to the court of appeals.

9 (2) *Time Limit.* The stay must not exceed 30 days  
10 after the judgment is entered, except for cause shown.

11 (3) *Stay Continued.* If, before a stay expires, the  
12 party who obtained the stay appeals to the court of appeals,  
13 the stay continues until final disposition by the court of  
14 appeals.

15 (4) *Bond or Other Security.* A bond or other  
16 security may be required as a condition for granting or  
17 continuing a stay of the judgment. A bond or other security  
18 may be required if a trustee obtains a stay, but not if a stay  
19 is obtained by the United States or its officer or agency or  
20 at the direction of any department of the United States  
21 government.

22 (c) AUTOMATIC STAY OF AN ORDER, JUDGMENT,  
23 OR DECREE OF A BANKRUPTCY COURT. If the district court  
24 or BAP enters a judgment affirming an order, judgment, or decree  
25 of the bankruptcy court, a stay of the district court's or BAP's  
26 judgment automatically stays the bankruptcy court's order,  
27 judgment, or decree for the duration of the appellate stay.

28 (d) POWER OF A COURT OF APPEALS NOT  
29 LIMITED. This rule does not limit the power of a court of appeals  
30 or any of its judges to do the following:

- 31 (1) stay a judgment pending appeal;  
32 (2) stay proceedings while an appeal is pending;  
33 (3) suspend, modify, restore, vacate, or grant a stay  
34 or an injunction while an appeal is pending; or  
35 (4) issue any order appropriate to preserve the  
36 status quo or the effectiveness of any judgment to be  
37 entered.

#### COMMITTEE NOTE

This rule is derived from former Rule 8017. Most of the changes to the former rule are stylistic. Subdivision (c) is new. It provides that if a district court or BAP affirms the bankruptcy court ruling and the appellate judgment is stayed, the bankruptcy court's order, judgment, or decree that is affirmed on appeal is automatically stayed to the same extent as the stay of the appellate judgment.

### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

No comments were submitted.

**Rule 8026. Rules by Circuit Councils and District Courts;  
Procedure When There is No Controlling Law**

1           (a) LOCAL RULES BY CIRCUIT COUNCILS AND  
2 DISTRICT COURTS.

3                   (1) *Adopting Local Rules.* A circuit council that  
4 has authorized a BAP under 28 U.S.C. § 158(b) may make  
5 and amend rules governing the practice and procedure on  
6 appeal from a judgment, order, or decree of a bankruptcy  
7 court to the BAP. A district court may make and amend  
8 rules governing the practice and procedure on appeal from  
9 a judgment, order, or decree of a bankruptcy court to the  
10 district court. Local rules must be consistent with, but not  
11 duplicative of, Acts of Congress and these Part VIII rules.  
12 Rule 83 F.R.Civ.P. governs the procedure for making and  
13 amending rules to govern appeals.

14                   (2) *Numbering.* Local rules must conform to any  
15 uniform numbering system prescribed by the Judicial  
16 Conference of the United States.

17                   (3) *Limitation on Imposing Requirements of Form.*  
18 A local rule imposing a requirement of form must not be  
19 enforced in a way that causes a party to lose any right  
20 because of a nonwillful failure to comply.

21           (b) PROCEDURE WHEN THERE IS NO

22 CONTROLLING LAW.

23 (1) *In General.* A district court or BAP may  
24 regulate practice in any manner consistent with federal law,  
25 applicable federal rules, the Official Forms, and local rules.

26 (2) *Limitation on Sanctions.* No sanction or other  
27 disadvantage may be imposed for noncompliance with any  
28 requirement not in federal law, applicable federal rules, the  
29 Official Forms, or local rules unless the alleged violator has  
30 been furnished in the particular case with actual notice of  
31 the requirement.

#### COMMITTEE NOTE

This rule is derived from former Rule 8018. The changes to the former rule are stylistic.

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#### Changes Made After Publication

No changes were made after publication.

#### Summary of Public Comment

No comments were submitted.

### **Rule 8027. Notice of a Mediation Procedure**

- 1           If the district court or BAP has a mediation procedure  
2           applicable to bankruptcy appeals, the clerk must notify the parties  
3           promptly after docketing the appeal of:
- 4           (a) the requirements of the mediation procedure; and
  - 5           (b) any effect the mediation procedure has on the time to
  - 6           file briefs.

### **COMMITTEE NOTE**

This rule is new. It requires the district or BAP clerk to advise the parties promptly after an appeal is docketed of any court mediation procedure that is applicable to bankruptcy appeals. The notice must state what the mediation requirements are and how the procedure affects the time for filing briefs.

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### **Changes Made After Publication**

No changes were made after publication.

### **Summary of Public Comment**

No comments were submitted.

### **Rule 8028. Suspension of Rules in Part VIII**

1           In the interest of expediting decision or for other cause in a  
2           particular case, the district court or BAP, or where appropriate the  
3           court of appeals, may suspend the requirements or provisions of  
4           the rules in Part VIII, except Rules 8001, 8002, 8003, 8004, 8005,  
5           8006, 8007, 8012, 8020, 8024, 8025, 8026, and 8028.

### **COMMITTEE NOTE**

This rule is derived from former Rule 8019 and F.R.App.P. 2. To promote uniformity of practice and compliance with statutory authority, the rule includes a more extensive list of requirements that may not be suspended than either the former rule or the Federal Rules of Appellate Procedure provide. Rules governing the following matters may not be suspended:

- scope of the rules; definition of “BAP”; method of transmission;
- time for filing a notice of appeal;
- taking an appeal as of right;
- taking an appeal by leave;
- election to have an appeal heard by a district court instead of a BAP;
- certification of direct appeal to a court of appeals;
- stay pending appeal;
- corporate disclosure statement;
- sanctions for frivolous appeals and other misconduct;
- clerk’s duties on disposition of an appeal;
- stay of a district court’s or BAP’s judgment;
- local rules; and
- suspension of the Part VIII rules.

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### **Changes Made After Publication**

No changes were made after publication.

## **Summary of Public Comment**

No comments were submitted.

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# APPENDIX A.3

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

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

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

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

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

Check if this is an amended filing

**Official Form 3A**

**Application for Individuals to Pay the Filing Fee in Installments**

12/13

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..... Fee: **\$306**
- Chapter 11..... Fee: **\$1,213**
- Chapter 12..... Fee: **\$246**
- Chapter 13..... Fee: **\$281**

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 must propose to pay the entire fee no later than 120 days after you file this bankruptcy case. If the court approves your application, the court will set your final payment timetable.

You propose to pay...

\$ _____	<input type="checkbox"/> With the filing of the petition
	<input type="checkbox"/> 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.

<b>x</b> _____ Signature of Debtor 1	<b>x</b> _____ Signature of Debtor 2	<b>x</b> _____ Your attorney's name and signature, if you used one
Date _____ MM / DD / YYYY	Date _____ MM / DD / YYYY	Date _____ MM / DD / YYYY

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

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

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

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

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

## Order Approving Payment of Filing Fee in Installments

After considering the *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 3A), 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:

<u>You must pay...</u>	<u>On or before this date...</u>
\$ _____	_____ / _____ / _____ Month / day / year
\$ _____	_____ / _____ / _____ Month / day / year
\$ _____	_____ / _____ / _____ Month / day / year
+ \$ _____	_____ / _____ / _____ Month / day / year
<b>Total</b>	
\$ <span style="border: 1px solid black; padding: 2px;">_____</span>	

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.

\_\_\_\_\_  
Month / day / year

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge

## Official Form 3A

# Instructions for the Application for Individuals to Pay the Filing Fee in Installments

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United States Bankruptcy Court

12/01/13

### How to Fill Out the Application

If you cannot afford to pay the full filing fee when you first file for bankruptcy, you may pay the fee in installments. However, in most cases, you must pay the entire fee within 120 days of when you file, and the court must approve your payment timetable. If necessary after the court establishes the initial schedule, you may ask the court to extend the deadline to 180 days after you file. In that case, you must explain why you need the extension. Your debts will not be discharged until you pay your entire fee.

Do not file this form if you can afford to pay your full fee when you file.

If you are filing under chapter 7 and cannot afford to pay the full filing fee at all, you may be qualified to ask the court to waive your filing fee. See *Application to Have Your Chapter 7 Filing Fee Waived* (Official Form 3B).

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out the *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer* (Official Form 19); include a copy of it in this package.

### Things to remember when filling out this form

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

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

## COMMITTEE NOTE

This form, which applies only in cases of individual debtors, has been revised as part of the Forms Modernization Project, making the form easier to read and, as a result, likely to generate more complete and accurate responses. Also, the declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 19. That form must be completed and signed by the BPP, and filed with each document for filing prepared by a BPP.

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### Changes Made After Publication

The instruction that the debtor must propose to pay the entire fee no later than 120 days after “you first file for bankruptcy” was changed to “after you file this bankruptcy case.”

Reference to the possibility of an extension to pay the fee beyond 120 days after filing was moved from the form to the instructions.

The instruction in the signature box regarding payments to others before the filing fee is paid was revised by adding the words “for services” as follows: “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.”

### Summary of Public Comment

**12-BK-012. Walter Oney<sup>1</sup>** (Attorney, Fitchburg, Massachusetts). The form should take a position on whether the debtor may pay part of the filing fee through the chapter 13 plan. The form should include space for a debtor to explain why an extension of the final date for payment is needed. The instruction that the debtor must propose to pay the entire fee no later than 120 days after “you first file for bankruptcy” should be changed to “after you file this bankruptcy case.” It is not clear why the debtor’s attorney is asked to sign the form.

**12-BK-046. National Association of Consumer Bankruptcy Attorneys.** The instruction in the signature box not to pay

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<sup>1</sup> Comments 12-BK-007, -019, -021, -023, -030, -039, -041 expressed agreement with Mr. Oney.

“anyone else in connection with your bankruptcy case” until the entire filing fee is paid should be removed because chapter 13 debtors often make payments to the trustee while their filing fee installments are still being paid. The order should include an option for paying the filing fee installments through a chapter 13 plan.

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

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

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

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

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

Check if this is an amended filing

**Official Form 3B**

**Application to Have the Chapter 7 Filing Fee Waived**

12/13

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: Current Expenditures of Individual Debtor(s)* (Official Form 6J).

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.

Subtract any non-cash governmental assistance that you included above.

**That person's average monthly net income (take-home pay)**

You ..... \$ \_\_\_\_\_

Your spouse ... + \$ \_\_\_\_\_

Subtotal..... \$ \_\_\_\_\_

– \$ \_\_\_\_\_

**Your family's average monthly net income**

Total..... \$ \_\_\_\_\_

**3. Do you receive non-cash governmental assistance?**

- No
- Yes. Describe.....

Type of assistance

**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: Real Property (Official Form 6A)* and *Schedule B: Personal Property (Official Form 6B)*, 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.

	<u>Institution name:</u>	<u>Amount:</u>
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 _____	Current value: \$ _____
City _____	State _____	ZIP Code _____
		Amount you owe on mortgage and liens: \$ _____

**13. Other real estate?**

Number _____	Street _____	Current value: \$ _____
City _____	State _____	ZIP Code _____
		Amount you owe on mortgage and liens: \$ _____

**14. The vehicles you own?**

*Examples:* Cars, vans, trucks, sports utility vehicles, motorcycles, tractors, boats

Make: _____	Current value: \$ _____
Model: _____	Amount you owe on liens: \$ _____
Year: _____	
Mileage: _____	
Make: _____	Current value: \$ _____
Model: _____	Amount you owe on liens: \$ _____
Year: _____	
Mileage: _____	

15. Other assets?

Describe the other assets:

Do not include household items and clothing.

[Empty box for describing other assets]

Current value: \$ \_\_\_\_\_
Amount you owe on liens: \$ \_\_\_\_\_

16. Money or property due you?

Who owes you the money or property?

How much is owed?

Do you believe you will likely receive payment in the next 180 days?

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

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

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

No

Yes. Explain:

[Empty box for explaining payment expectation]

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?

No

Yes. Whom did you pay? Check all that apply:

An attorney

A bankruptcy petition preparer, paralegal, or typing service

Someone else \_\_\_\_\_

How much did you pay?

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

18. Have you promised to pay or do you expect to pay someone for services for your bankruptcy case?

No

Yes. Whom do you expect to pay? Check all that apply:

An attorney

A bankruptcy petition preparer, paralegal, or typing service

Someone else \_\_\_\_\_

How much do you expect to pay?

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

19. Has anyone paid someone on your behalf for services for this case?

No

Yes. Who was paid on your behalf? Check all that apply:

An attorney

A bankruptcy petition preparer, paralegal, or typing service

Someone else \_\_\_\_\_

Who paid?

Check all that apply:

Parent

Brother or sister

Friend

Pastor or clergy

Someone else \_\_\_\_\_

How much did someone else pay?

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

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.

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

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

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

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

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

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

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

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

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

## 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 3B), 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 \$306 filing fee according to the following terms:

<u>You must pay...</u>	<u>On or before this date...</u>
\$ _____ . _____	_____ / _____ / _____ Month / day / year
\$ _____ . _____	_____ / _____ / _____ Month / day / year
\$ _____ . _____	_____ / _____ / _____ Month / day / year
+ \$ _____ . _____	_____ / _____ / _____ Month / day / year
<b>Total</b>	<b>\$ 306.00</b>

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 3A) 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.

\_\_\_\_\_  
Month / day / year

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge

**Official Form 3B****Instructions for the Application to Have the Chapter 7 Filing Fee Waived**

United States Bankruptcy Court

12/01/2013

**How to Fill Out the Application**

The fee for filing a bankruptcy case under Chapter 7 is \$306. If you cannot afford to pay the entire fee now in full or in installments within 120 days, use this form. If you can afford to pay your filing fee in installments, see *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 3A).

If you file this form, you are asking the court to waive your fee. After reviewing your application, the court may waive your fee, set a hearing for further investigation, or require you to pay the fee in installments or in full.

**For your fee to be waived, all of these statements must be true:**

- You are filing for bankruptcy under Chapter 7.
- You are an individual.
- The total combined monthly income for your family is less than 150% of the official poverty guideline last published by the U.S. Department of Health and Human Services (DHHS). (For more information about the guidelines, go to <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/PovertyGuidelines.aspx>.)
- You cannot afford to pay the fee in installments.

*Your family* includes you, your spouse, and any dependents listed on *Schedule J*. Your family may be different from your *household*, referenced on *Schedules I* and *J*. Your household may include your unmarried partner and others who live with you and with whom you share income and expenses.

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer* (Official Form 19); include a copy of it in this package.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

If you have already completed the following forms, the information on them may help you when you fill out this application:

- *Schedule A: Real Property* (Official Form 6A)
- *Schedule I: Your Income* (Official Form 6I)
- *Schedule J: Your Expenses* (Official Form J)

**Understand the terms used in this form**

The *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 3B) uses *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, this form uses *you* to ask for information from both debtors. For example, if the 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.

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

- Be as complete and accurate as possible.
- If you have some additional circumstances that cause you to not be able to pay your filing fee in installments, explain them on line 5 of the form.
- If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).
- If two married people are filing together, both are equally responsible for supplying correct information.

## COMMITTEE NOTE

This form, which applies only in cases of individual debtors, has been revised as part of the Forms Modernization Project, making the form easier to read and, as a result, likely to generate more complete and accurate responses. Additionally, in calculating the income that determines the debtor's initial eligibility for a fee waiver, line 2 of the form now directs the debtor to exclude non-cash governmental assistance, such as food stamps and housing subsidies. However, because non-cash governmental assistance may be relevant in evaluating the additional requirement that the debtor be unable to pay the filing fee, the nature of any such assistance is to be reported separately on line 3. Also, the declaration and signature section for a non-attorney bankruptcy petition preparer (BPP) has been removed as unnecessary. The same declaration, required under 11 U.S.C. § 110, is contained in Official Form 19. That form must be completed and signed by the BPP, and filed with each document for filing prepared by a BPP.

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### Changes Made After Publication

At line 2 of the form the calculation of the debtor's average monthly income was changed. The debtor is first instructed to report income including non-cash governmental assistance, if known, and then is instructed to subtract non-cash governmental assistance from that figure to calculate average monthly net income.

The following sentence was added at line 5 of the form: "If you have some additional circumstances that cause you to not be able to pay your filing fee in installments, explain them."

At line 6, the debtor is directed to include in the estimate of average monthly expenses any governmental assistance that was reported on line 2 of the form.

At line 20, the instruction to report any bankruptcy filing by the debtor's non-filing spouse was removed.

## Summary of Public Comment

**12-BK-012. Walter Oney<sup>1</sup>** (Attorney, Fitchburg, Massachusetts). Mr. Oney submitted a 58-page comment that reviewed and critiqued the published forms on a line-by-line basis. His comments were detailed and addressed both stylistic and substantive matters. With regard to Official Form 3B, his most significant substantive comments were the following:

- The instructions in part 1 about non-cash governmental assistance are confusing. The debtor should be instructed to subtract the value of non-cash assistance included on Schedule I before filling out Line 2. The order of Lines 2 and 3 should be reversed.
- Schedule I does not capture all of the family income that 28 U.S.C. § 1930(f)(1) contemplates, and a pro se debtor is unlikely to know what to include on Form 3B.
- It is not clear why six months is a relevant time period for possible changes in income and expenses on Lines 4 and 9. Most chapter 7 cases are over in three months, and installment payments generally have to be completed in 120 days.
- Consider omitting Lines 12-16. If the reason for asking about these assets is to determine if the debtor could liquidate them in order to pay the filing fee, liens that might be avoided under § 522(f) should not be subtracted from the values. Because these assets are property of the estate, the debtor won't be able to liquidate them until the trustee abandons them, and that won't happen until after the fee is paid.
- Omit Line 20. The statute does not condition a fee waiver on the debtor not being a serial filer. It is not relevant to a fee waiver application whether a non-filing spouse has filed for bankruptcy. Consider adding a line for calculating 150% of the applicable poverty guidelines, which might be helpful to the court. Pro se debtors should be instructed not to complete this line.

**12-BK-013. Judge James D. Walker, Jr.** (Bankr. M.D. Ga.). Two questions should be added: (1) "Is your current financial situation the result of unusual circumstances? If yes, explain." (2) "Has anyone assisted you in the preparation of this form? If yes, what is your relationship to that person?" The first question would

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<sup>1</sup> Comments 12-BK-007, -019, -021, -023, -030, -039, and -041 expressed agreement with Mr. Oney.

provide information necessary for deciding whether to grant a waiver – i.e., the circumstances that led to the bankruptcy filing and whether those circumstances are likely to be temporary or permanent. The answer to the second question could help the judge gauge the reliability of the information reported. For example, it may reveal that the debtor was assisted by an attorney acting pro bono.

**12-BK-019. Penny Souhrada** (Attorney, Davenport, Iowa). I do not believe that the Code requires revealing information about whether someone else paid for the services of an attorney or petition preparer. Will the court follow up by reviewing the listed person’s finances and asking that person to help pay the debtor’s debts?

**12-BK-045. David S. Yen** (Attorney, Legal Assistance Foundation of Metropolitan Chicago). The first question in Part 1 should be revised to instruct, like the current form, not to include a spouse if the debtor is separated and not filing jointly. The question about family members should be revised to capture information about an adult living with the debtor who is neither a spouse nor a dependent. Question 3 in Part 1 should be deleted because it is difficult to put a dollar value on non-cash government benefits, such as Medicaid, free or reduced price lunches, and public housing benefits. Instead, Question 6 should be revised to instruct: “If some of your expenses are paid for by non-cash government assistance such as food stamps or housing subsidies, list only the cash that your household spends on the subsidized items.” The revised question addresses the relevant issue—the ability of the debtor to come up with cash. Question 20 should be revised to ask about previous bankruptcy cases of debtor 1 and debtor 2, not about a “spouse,” who may not be filing with the debtor.

The order should include space for stating the reasons for denial without a hearing. It should also indicate that, if the waiver is denied and circumstances change or the reasons for the denial no longer apply, the debtor can ask the court to reconsider the denial.

**12-BK-046. National Association of Consumer Bankruptcy Attorneys.** There is no need to ask about non-cash government housing assistance. The debtor is unlikely to know that value and the difference between the market rent and the subsidized amount the debtor pays does not indicate anything about the debtor’s ability to pay the filing fee. The current form seems cleaner and easier to read and fill out.

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

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

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

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

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

Check if this is:

An amended filing

A supplement showing post-petition chapter 13 income as of the following date:  
 \_\_\_\_\_  
MM / DD / YYYY

# Official Form 6I

## Schedule I: Your Income

12/13

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.**

If you have more than one job, attach a separate page with information about additional employers.

Include part-time, seasonal, or self-employed work.

Occupation may include student or homemaker, if it applies.

**Employment status**

Employed  
 Not employed

Employed  
 Not employed

**Occupation**

\_\_\_\_\_

**Employer's name**

\_\_\_\_\_

**Employer's address**

Number _____ Street _____	Number _____ Street _____
_____	_____
_____	_____
City _____ State _____ ZIP Code _____	City _____ State _____ ZIP Code _____

**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.

	For Debtor 1	For Debtor 2 or non-filing spouse
2. <b>List monthly gross wages, salary, and commissions</b> (before all payroll deductions). If not paid monthly, calculate what the monthly wage would be.	2. \$ _____	\$ _____
3. <b>Estimate and list monthly overtime pay.</b>	3. + \$ _____	+ \$ _____
4. <b>Calculate gross income.</b> Add line 2 + line 3.	4. <span style="border: 1px solid black; padding: 2px;">\$ _____</span>	<span style="border: 1px solid black; padding: 2px;">\$ _____</span>

	For Debtor 1	For Debtor 2 or non-filing spouse
Copy line 4 here..... → 4.	\$ _____	\$ _____
<b>5. List all payroll deductions:</b>		
5a. Tax, Medicare, and Social Security deductions	5a. \$ _____	\$ _____
5b. Mandatory contributions for retirement plans	5b. \$ _____	\$ _____
5c. Voluntary contributions for retirement plans	5c. \$ _____	\$ _____
5d. Required repayments of retirement fund loans	5d. \$ _____	\$ _____
5e. Insurance	5e. \$ _____	\$ _____
5f. Domestic support obligations	5f. \$ _____	\$ _____
5g. Union dues	5g. \$ _____	\$ _____
5h. Other deductions. Specify: _____	5h. + \$ _____	+ \$ _____
6. Add the payroll deductions. Add lines 5a + 5b + 5c + 5d + 5e + 5f + 5g + 5h.	6. \$ _____	\$ _____
7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	7. \$ _____	\$ _____
<b>8. List all other income regularly received:</b>		
8a. 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.	8a. \$ _____	\$ _____
8b. Interest and dividends	8b. \$ _____	\$ _____
8c. 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.	8c. \$ _____	\$ _____
8d. Unemployment compensation	8d. \$ _____	\$ _____
8e. Social Security	8e. \$ _____	\$ _____
8f. 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: _____	8f. \$ _____	\$ _____
8g. Pension or retirement income	8g. \$ _____	\$ _____
8h. Other monthly income. Specify: _____	8h. + \$ _____	+ \$ _____
9. Add all other income. Add lines 8a + 8b + 8c + 8d + 8e + 8f + 8g + 8h.	9. <span style="border: 1px solid black; padding: 2px;">\$ _____</span>	<span style="border: 1px solid black; padding: 2px;">\$ _____</span>
10. Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.	10. <span style="border: 1px solid black; padding: 2px;">\$ _____</span> + <span style="border: 1px solid black; padding: 2px;">\$ _____</span> = <span style="border: 1px solid black; padding: 2px;">\$ _____</span>	<span style="border: 1px solid black; padding: 2px;">\$ _____</span>
11. 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: _____		11. + \$ _____
12. 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		12. <span style="border: 1px solid black; padding: 2px;">\$ _____</span> <b>Combined monthly income</b>
13. Do you expect an increase or decrease within the year after you file this form? <input type="checkbox"/> No. <input type="checkbox"/> Yes. Explain: _____		

**Official Form 6I****Instructions for Schedule I: Your Income**

United States Bankruptcy Court

12/01/13

**How to fill out Schedule I**

In *Schedule I: Your Income* (Official Form 6I), you will give the details about your employment and monthly income as of the date you file this form. If you are married and your spouse is living with you, include information about your spouse even if your spouse is not filing with you. If you are separated and your spouse is not filing with you, do not include information about your spouse.

**How to report employment and income**

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

In Part 1, line 1, fill in employment information for you and, if appropriate, for a non-filing spouse. If either person has more than one employer, attach a separate page with information about the additional employment.

In Part 2, give details about the monthly income you currently expect to receive. Show all totals as monthly payments, even if income is not received in monthly payments.

If your income is received in another time period, such as daily, weekly, quarterly, annually, or irregularly, calculate how much income would be by month, as described below.

If either you or a non-filing spouse has more than one employer, calculate the monthly amount for each employer separately, and then combine the income information for all employers for that person on lines 2-7.

One easy way to calculate how much income per month is to total the payments earned in a year, then divide by 12 to get a monthly figure. For example, if you are paid seasonally, you would simply divide the amount you expect to earn in a year by 12 to get the monthly amount.

Below are other examples of how to calculate monthly amount.

**Example for quarterly payments:**

If you are paid \$15,000 every quarter, figure your monthly income in this way:

$$\begin{array}{r} \$15,000 \text{ income every quarter} \\ \times \quad 4 \text{ pay periods in the year} \\ \hline \$60,000 \text{ total income for the year} \end{array}$$

$$\frac{\$60,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,000 \text{ monthly income}$$

**Example for bi-weekly payments:**

If you are paid \$2,500 every other week, figure your monthly income in this way:

$$\begin{array}{r} \$2,500 \text{ income every other week} \\ \times \quad 26 \text{ number of pay periods in the year} \\ \hline \$65,000 \text{ total income for the year} \end{array}$$

$$\frac{\$65,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,417 \text{ monthly income}$$

**Example for weekly payment:**

If you are paid \$1,000 every week, figure your monthly income in this way:

$$\begin{array}{r} \$1,000 \text{ income every week} \\ \times \quad 52 \text{ number of pay periods in the year} \\ \hline \$52,000 \text{ total income for the year} \end{array}$$

$$\frac{\$52,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$4,333 \text{ monthly income}$$

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**Example for irregular payments:**

If you are paid \$4,000 8 times a year, figure your monthly income in this way:

$$\begin{array}{r} \$4,000 \text{ income a payment} \\ \times \quad 8 \text{ payments a year} \\ \hline \$32,000 \text{ income for the year} \end{array}$$

$$\frac{\$32,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$2,667 \text{ monthly income}$$

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**Example for daily payments:**

If you are paid \$75 a day and you work about 8 days a month, figure your monthly income in this way:

$$\begin{array}{r} \$75 \text{ income a day} \\ \times \quad 96 \text{ days a year} \\ \hline \$7,200 \text{ total income for the year} \end{array}$$

$$\frac{\$7,200 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$600 \text{ monthly income}$$

or this way:

$$\begin{array}{r} \$75 \text{ income a day} \\ \times \quad 8 \text{ payments a month} \\ \hline \$600 \text{ income for the month} \end{array}$$

In Part 2, line 11, fill in amounts that other people provide to pay the expenses you list on *Schedule J: Your Expenses*. For example, if you and a person to whom you are not married pay all household expenses together and you list all your joint household expenses on *Schedule J*, you must list the amounts that person contributes monthly to pay the household expenses on line 11. If you have a roommate and you divide the rent and utilities, do not list the amounts your roommate pays on line 11 if you have listed only your share of those expenses on *Schedule J*. Do not list on line 11 contributions that you already disclosed elsewhere on the form.

Note that the income you report on *Schedule I* may be different from the income you report on other bankruptcy forms. For example, the *Statement of Current Monthly Income and Means Test Calculation (Chapter 7)* (Official Form 22A), *Statement of Current Monthly Income (Chapter 11)* (Official Form 22B), and the *Statement of Current Monthly Income and Calculation of Commitment Period (Chapter 13)* (Official Form 22C) all use a different definition of income and apply that definition to a different period of time. *Schedule I* asks about the income that you are now receiving, while the other forms ask about income you received in the applicable time period before filing. So the amount of income reported in any of those forms may be different from the amount reported here.

If, after filing *Schedule I*, you need to file an estimate of income in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental *Schedule I*. To do so you must check the “supplement” box at the top of the form and fill in the date.

**Understand the terms used in this form**

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

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

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

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

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

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

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

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

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

Check if this is:

- An amended filing
- A supplement showing post-petition chapter 13 expenses as of the following date:  
MM / DD / YYYY
- A separate filing for Debtor 2 because Debtor 2 maintains a separate household

**Official Form 6J**

**Schedule J: Your Expenses**

12/13

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

**Part 1: Describe Your Household**

**1. Is this a joint case?**

- No. Go to line 2.
- Yes. **Does Debtor 2 live in a separate household?**
  - No
  - Yes. Debtor 2 must file a separate Schedule J.

**2. Do you have dependents?**

Do not list Debtor 1 and Debtor 2.  
 Do not state the dependents' names.

<input type="checkbox"/> No	<input type="checkbox"/> 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?
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes
	_____	_____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes

**3. Do your expenses include expenses of people other than yourself and your dependents?**

- No
- Yes

**Part 2: Estimate Your Ongoing Monthly Expenses**

Estimate your expenses as your bankruptcy filing date unless you are using this form as 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 6I.)

**4. The rental or home ownership expenses for your residence.** Include first mortgage payments and any rent for the ground or lot.

**Your expenses**

4. \$ \_\_\_\_\_

**If not included in line 4:**

- 4a. Real estate taxes 4a. \$ \_\_\_\_\_
- 4b. Property, homeowner's, or renter's insurance 4b. \$ \_\_\_\_\_
- 4c. Home maintenance, repair, and upkeep expenses 4c. \$ \_\_\_\_\_
- 4d. Homeowner's association or condominium dues 4d. \$ \_\_\_\_\_

**Your expenses**

- |  |      |          |
|--|------|----------|
| 5. <b>Additional mortgage payments for your residence</b> , such as home equity loans  | 5.   | \$ _____ |
| <b>6. Utilities:</b>   |      |          |
| 6a. Electricity, heat, natural gas   | 6a.  | \$ _____ |
| 6b. Water, sewer, garbage collection   | 6b.  | \$ _____ |
| 6c. Telephone, cell phone, Internet, satellite, and cable services   | 6c.  | \$ _____ |
| 6d. Other. Specify: _____  | 6d.  | \$ _____ |
| <b>7. Food and housekeeping supplies</b>   | 7.   | \$ _____ |
| <b>8. Childcare and children's education costs</b>   | 8.   | \$ _____ |
| <b>9. Clothing, laundry, and dry cleaning</b>  | 9.   | \$ _____ |
| <b>10. Personal care products and services</b>   | 10.  | \$ _____ |
| <b>11. Medical and dental expenses</b>   | 11.  | \$ _____ |
| <b>12. Transportation.</b> Include gas, maintenance, bus or train fare.<br>Do not include car payments.  | 12.  | \$ _____ |
| <b>13. Entertainment, clubs, recreation, newspapers, magazine, and books</b>   | 13.  | \$ _____ |
| <b>14. Charitable contributions and religious donations</b>  | 14.  | \$ _____ |
| <b>15. Insurance.</b><br>Do not include insurance deducted from your pay or included in lines 4 or 20.   |      |          |
| 15a. Life insurance  | 15a. | \$ _____ |
| 15b. Health insurance  | 15b. | \$ _____ |
| 15c. Vehicle insurance   | 15c. | \$ _____ |
| 15d. Other insurance. Specify: _____   | 15d. | \$ _____ |
| <b>16. Taxes.</b> Do not include taxes deducted from your pay or included in lines 4 or 20.<br>Specify: _____  | 16.  | \$ _____ |
| <b>17. Installment or lease payments:</b>  |      |          |
| 17a. Car payments for Vehicle 1  | 17a. | \$ _____ |
| 17b. Car payments for Vehicle 2  | 17b. | \$ _____ |
| 17c. Other. Specify: _____   | 17c. | \$ _____ |
| 17d. Other. Specify: _____   | 17d. | \$ _____ |
| <b>18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 6I).</b> | 18.  | \$ _____ |
| <b>19. Other payments you make to support others who do not live with you.</b><br>Specify: _____   | 19.  | \$ _____ |
| <b>20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.</b>   |      |          |
| 20a. Mortgages on other property   | 20a. | \$ _____ |
| 20b. Real estate taxes   | 20b. | \$ _____ |
| 20c. Property, homeowner's, or renter's insurance  | 20c. | \$ _____ |
| 20d. Maintenance, repair, and upkeep expenses  | 20d. | \$ _____ |
| 20e. Homeowner's association or condominium dues   | 20e. | \$ _____ |

21. **Other.** Specify: \_\_\_\_\_

21. **+\$** \_\_\_\_\_

22. **Your monthly expenses.** Add lines 4 through 21.  
The result is your monthly expenses.

22. \$ \_\_\_\_\_

23. **Calculate your monthly net income.**

23a. Copy line 12 (*your combined monthly income*) from *Schedule I*.

23a. \$ \_\_\_\_\_

23b. Copy your monthly expenses from line 22 above.

23b. **-\$** \_\_\_\_\_

23c. Subtract your monthly expenses from your monthly income.  
The result is your *monthly net income*.

23c. \$ \_\_\_\_\_

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

No.

Yes.

Explain here:

**Official Form 6J****Instructions for Schedule J: Your Expenses**

United States Bankruptcy Court

12/01/13

**How to Fill Out Schedule J**

*Schedule J: Your Expenses* (Official Form 6J) provides an estimate the monthly expenses, as of the date you file for bankruptcy, for you, your dependents, and the other people in your household whose income is included on *Schedule I: Your Income* (Official Form 6I). On your initial filing in Part 2 select “Initial estimate at the beginning of the case”.

If you are married and are filing individually, include your non-filing spouse’s expenses unless you are separated.

If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.

Do not include expenses that other members of your household pay directly from their income if you did not include that income on *Schedule I*. For example, if you have a roommate and you divide the rent and utilities and you have not listed your roommate’s contribution to household expenses in line 11 of *Schedule I*, you would list only your share of these expenses on *Schedule J*.

Show all totals as monthly payments. If you have weekly, quarterly, or annual payments, calculate how much you would spend on those items every month.

Do not list as expenses any payments on credit card debts incurred before filing bankruptcy.

Do not include business expenses on this form. You have already accounted for those expenses as part of determining net business income on *Schedule I*.

On line 20, do not include expenses for your residence or for any rental or business property. You have already listed expenses for your residence on lines 4 and 5 of this form. You listed the expenses for your rental and business

property as part of the process of determining your net income from that property on *Schedule I* (line 8a).

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

If, after filing *Schedule J*, you need to file an estimate of expenses in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental *Schedule J*. To do so you must check the “supplement” box at the top of the form and fill in the date.

**Understand the terms used in this form**

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

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

- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).
- If two married people are filing together, both are equally responsible for supplying correct information.
- Do not list a minor child’s full name. Instead, fill in only the child’s initials and the full name and address of the child’s parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m) and 9037.

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

## COMMITTEE NOTE

*Schedule I: Your Income* (Official Form 6I) and *Schedule J: Your Expenses* (Official Form 6J), which apply only in cases of individual debtors, have been revised as part of the Forms Modernization Project, making the forms easier to read and, as a result, likely to generate more complete and accurate responses.

Revised Schedules I and J seek to obtain a full picture of the debtor's economic situation—to the extent that debtor receives income or has expenses. The revised forms are intended to avoid the situation that frequently happens with the current forms where debtor lives with and pools assets with other people and the household provides support to dependents who may not be related by blood or marriage to the debtor.

The amendments seek to avoid the situation where the expenses listed on Schedule J are for the entire household, but the income listed on Schedule I is only for the debtor. Line 11 on revised Schedule I now includes contributions made by someone else to the expenses on Schedule J, and the debtor is instructed to include contributions from an unmarried partner, members of the debtor's household, dependents, roommates, and other friends or relatives.

As revised, the initial Schedule J will provide estimated expenses at the beginning of the case and the debtor will so indicate in Part 2 of the form.

In drafting the form it became apparent that at least some courts are using Schedules I and J in analyzing proposed chapter 13 plans and potential modification of those plans or when a debtor's financial circumstances change. To avoid a lack of clarity on the form regarding the date to be used in computing expenses, and in order to allow Schedule J to continue to serve the plan feasibility function, the revised form may also be used as a supplement to the initial filing if the debtor checks the appropriate box in the caption and indicates the pertinent post-filing date of the estimate.

New lines 1, 2, and 3 on revised Schedule J request information about the debtor's household. Line 1 requires joint debtors who maintain separate households to file separate Schedule J forms. A check box has been added to the caption to identify such filings. Line 2 requires information about each dependent

who lives with the debtor and each dependent who lives separately. In order to allow a full understanding of the debtor's expenses, Line 3 requires debtors to state whether their expenses include the expenses of persons other than themselves and their dependents. In addition, new line 23 on the form includes a calculation of the debtor's monthly net income.

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## **Changes Made After Publication**

### **Official Form 6I**

A checkbox was added to the top of the form for the following statement: "A supplement showing post-petition chapter 13 income as of the following date \_\_\_\_\_."

The following two sentences were added to the directions at the top of the form: "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."

At line 1 of the form, the direction to include employment information about a non-filing spouse was removed.

At line 5, the entry for listing contributions to retirement plans was divided into separate entries for mandatory and voluntary contributions, and an entry was added for union dues.

Line 8f, regarding government assistance, was revised with a direction to include the value of any non-cash assistance such as food stamps or housing subsidies, if known.

### **Official Form 6J**

A checkbox was added to the top of the form for the following statement: "A supplement showing post-petition chapter 13 income as of the following date \_\_\_\_\_."

A checkbox was added to the top of the form for the following statement, identifying the form as "A separate filing for Debtor 2 because Debtor 2 maintains a separate household".

A new line 1 was added to Part 1, directing Debtor 2 to fill out a separate Schedule J if the case is a joint case and Debtor 2 lives in a separate household. The remaining questions in Part 1 were reorganized, and an instruction to not list dependent names was added.

In Part 2, Column A was relabeled “Your expenses,” and Column B was eliminated.

At line 17, Installment or lease payments, the separate entry for student loan payments was removed.

At line 18, an instruction was added to clarify that alimony, maintenance, and support should be listed as an expense only to the extent that it has not already been accounted for as a payroll deduction on line 5 of Schedule I.

### **Summary of Public Comment on Schedule I**

**12-BK-007. Brian Flick** (Attorney, Cincinnati, Ohio). Schedule I is too long and the information requested is redundant. Use the existing Schedule I, and change only the payroll expense itemization to include liens for retirement loans and retirement deductions.

**12-BK-008. National Conference of Bankruptcy Judges.** The deleted language contained in current Schedule I that refers to the “Spouse” column should be restored so that the “Spouse” column is completed in every case filed by joint debtors and by every married debtor, unless the spouses are separated and a joint petition is not filed. This would provide more complete disclosure, continue existing practice, and conform the revised form to the instructions for filling it out.

**12-BK-012. Walter Oney**<sup>1</sup> (Attorney, Fitchburg, Massachusetts). Mr. Oney submitted a 58-page comment that reviewed and critiqued the published forms on a line-by-line basis. His comments were detailed and addressed both stylistic and substantive matters. With regard to Schedule I, among his most significant substantive comments were the following:

- Married debtors will not easily understand when they should report their spouse’s income.

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<sup>1</sup> Comments 12-BK-007, -017, -019, -021, -023, -030, -039, and -041 concurred with Mr. Oney’s comments.

- It is unlikely that pro se filers will be able to reliably combine their income from multiple jobs with different pay periods, as the revised form directs. The instructions about how to determine a monthly income are overwhelmingly confusing, even for a filer who has only one job.
- Debtors often lack even rudimentary bookkeeping skills, so asking them to attach a statement concerning real estate and business income is problematic. There should be a form for reporting business and real estate income expenses. Alternatively, debtors could be directed to use their bookkeeping software to generate a profit and loss statement covering a specific time period.
- All non-cash government benefits should be shown in Schedule I, which will make it easier for pro se debtors to complete the fee waiver form. Debtors may not realize that they are supposed to report as income items such as food stamps, housing subsidies, WIC vouchers, and fuel assistance that they receive in kind or directly.
- Joint filers who live in separate households may each be receiving contributions to their separate household expenses from other people. This schedule lumps these separate contributions together.
- Line 5b combines voluntary and involuntary retirement contributions. If this embodies a policy decision that both kinds of deductions are reasonable expenses in every chapter, it is likely that some chapter 13 trustees and most chapter 7 trustees would strongly disagree.

**12-BK-025. Stuart Gold** (Attorney, Southfield, Michigan).

Schedule I should include a line to reflect if the debtor is using savings (retirement or otherwise) to balance his or her budget. This issue comes up from time to time in overcoming hardship concerns for a reaffirmation.

**12-BK-030. Jeanne Hovenden** (Attorney, Chesterfield, Virginia).

The instructions for Schedule I need to include—above the “Part 1” line, rather than on the side—the statement about not including a non-filing spouse if the debtor is separated from that spouse.

**12-BK-038. John Gustafson** (Chapter 13 Standing Trustee, Toledo, Ohio). Changes on Schedules I and J do not reflect the costs and benefits of changing the line number or letter designations. The cost is the loss of the ability to search Lexis and Westlaw for cases discussing various items that have been listed for years using the same numbering system by using line numbers. The form could easily preserve the old numbering system.

Part 2 of Schedule I should say to include the non-filing spouse “unless you are legally separated, or maintain separate households.” The instruction should be at the top of the form.

**12-BK-039. Caralyce M. Lassner** (Attorney, Utica, Michigan). Rather than revising Schedule I to make it easier for pro se debtors to use, the instructions could be revised. The revised form is unnecessarily longer without adding substantive information that would justify additional length. The lengthening appears to be directly due to partial incorporation of the instructions into the face of the form.

Child support, spousal support, or other domestic support obligations should be listed as specific payroll deductions. To maximize accurate and full disclosure, the Instructions for Schedule I should provide additional instruction about what “income” is. To simplify the form, change the column heading to “Debtor 2/Spouse,” because “non-filing spouse” may be confusing to a pro se debtor.

**12-BK-040. Bankruptcy Clerks Advisory Group.** The instructions are difficult to understand and likely will create confusion for debtors, especially pro se debtors, which could result in clerk’s office staff spending more time responding to questions, reviewing forms, issuing deficiencies, and possibly scheduling hearings to address form completion problems. The examples given for the treatment of a roommate’s contribution to household expenses are inconsistent in the instructions for Schedule I and for Schedule J. The Committee Note provides a much clearer description.

**12-BK-041. Daniel Press** (Attorney, McLean, Virginia). Although Schedules I and J should be updated to reflect some expenses that debtors incur now that did not exist when the original schedules were adopted, such as telecommunications, there is no need for a wholesale overhaul.

**12-BK-042. Joe Wittman** (Attorney, Topeka, Kansas). The additional length of Schedules I and J—double that of the current forms—is unnecessary. The current form or some version of it is adequate. There are too many variations of what “income” and “expenses” are and whether they are “routine” or intermittent, which will confuse pro se debtors. People who are trained in the law can easily put the information on the forms and deal with the unusual case.

**12-BK-043. American Legal and Financial Network Executive Bankruptcy Sub-Committee on Local Rules and Rules Changes.** Comments are all positive with respect to the new Schedules I and J. The forms are a vast improvement over the current forms. They provide significantly more transparency, are more intuitive, and provide greater disclosures for creditors and the court to consider in analyzing the debtor’s current financial situation as it relates to a reorganization or liquidation process.

The inclusion of court and district information at the top of Schedule I is extremely helpful to creditors who typically manage a nationwide portfolio. The more user-friendly format and instructions should help in many cases, especially with pro se debtors. Line 11 in Part 2 is a welcome addition in this age of merged and non-traditional households. It will help debtors and creditors in ascertaining the true contributions to the overall household income.

**12-BK-044. Louis M. Bubala** (Attorney, Reno, Nevada). Strongly supports the revisions to forms for individual debtors, which add clarity to the financial disclosures. The broad exclusion for employment of and income of the debtor’s non-filing, separated spouse should be removed. The exclusion is inconsistent with Nevada’s community property law. The use of the word “separated” on Schedule I may have unintended consequences in Nevada and possibly other community property states in avoiding disclosure of post-petition income. Given the state law nature of marriage and property, you should reconsider removing this reporting exception.

Applauds the directive in Part 1 of Schedule I that the debtor attach a separate page with information about additional employers. This additional reporting could be added to Part 2 about monthly income. The committee should require not only the combined amounts, but also separate reporting of income for each employer.

**12-BK-045. David S. Yen** (Attorney, Legal Assistance Foundation of Metropolitan Chicago). The reference in column 2 throughout Schedule I to “Debtor 2 or non-filing spouse” is a change from the current form, which does not require the income of a non-filing spouse if the couple is separated. The new form should instruct the filer not to include income of a spouse if the couple is separated and not filing jointly.

Income from primary employers of Debtor 1 and Debtor 2 or a non-filing spouse living with Debtor 1 should be listed in detail on Schedule I in order to provide information on how the debtor arrived at the numbers. The form should ask only for net income from other employers. This strikes a balance between the benefit of having complete itemization and the cost of having to file longer forms.

The word “cash” should be inserted in the heading and first sentence of Part 2 of Schedule I between “Monthly” and “Income,” and in line 8f, after “Other” and before “government.”

The current 10% threshold should be retained for expected changes in income and expenses. Income and many expenses change either seasonably or for some other reason, but most pro se debtors will mark the box saying that there are no expected changes. In our free market economy, every debtor should say that he or she expects an increase or decrease.

**12-BK-046. National Association of Consumer Bankruptcy Attorneys (NACBA).** NACBA questions the relocation of the list of dependents from Schedule I to Schedule J. The proposed forms do not fix the problem that the current forms have no place to include second job information.

**Carl Barnes.** (Software Developer, Best Case Bankruptcy, not officially submitted). Part 1: Describe Employment. Tighten up to fit dependents information on the page.

Line 5a. Payroll taxes and social security payments. Use of “payments” is confusing. The correct term is “contributions” (FICA is the Federal Insurance Contributions Act).

Lines 5f through 5h should be changed back to a single line, as it is in the current form, to make the Schedule I data fit on one page. Additional detail could be provided in an attachment if necessary.

Line 10. Calculate monthly income. Move the total joint income to a separate line. This will make more room in the lines above by not having space reserved for a third column. It also avoids confusing references in the instructions to “last column of line 10.” All of the income data could be on a single page, making it easier to read.

### **Summary of Public Comment on Schedule J**

**12-BK-006. Raymond P. Bell, Jr.** (Vice President of Bankruptcy Management Services, Mercantile Adjustment Bureau, LLC, Willow Grove, Pennsylvania). Column B starting on page 2 asks “[w]hat your expenses will be if your current plan is confirmed.” This could be confusing, and could just replicate what is in Column A if the debtor wants to be safe. There is a long period of time between filing and the confirmation hearing, and things could change. Given that the dismissal rate for chapter 13s is high, it is not clear why this column is needed or what useful information it will provide. The second paragraph of the Instructions for Schedule J relating to Column B is also confusing.

**12-BK-007. Brian Flick** (Attorney, Cincinnati, Ohio). The forms are too long and the information requested is redundant. For example, “Dependents in Home you are supporting, Dependents not supporting, other non-dependents.”

**12-BK-012. Walter Oney<sup>2</sup>** (Attorney, Fitchburg, Massachusetts). Mr. Oney submitted a 58-page comment that reviewed and critiqued the published forms on a line-by-line basis. His comments were detailed and addressed both stylistic and substantive matters. With regard to Schedule J, among his most significant substantive comments were the following:

- Pro se filers will not understand the instructions for filing separate copies of the form when they are married but separated versus filing jointly. The second column will confuse pro se filers. There should be two versions of Schedule J based on whether there is one household or two.
- Eliminate the chapter 13 column.

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<sup>2</sup> Comments 12-BK-007, -017, -019, -021, -023, -030, -039, and -041 concurred with Mr. Oney’s comments.

- Neither the form nor the instructions say how to treat expenses that will be paid through a chapter 12 or 13 plan. Schedule J should capture contractually required payments, even if the plan provides for surrender of the collateral, cram down, or conduit payments. But plan feasibility requires consideration of debtor's expected cash flow, so Schedule J should not show expenses that will be paid by the trustee. The form instructions should be changed to ask for all expenses as of the filing date in the first column, and projected out-of-pocket expenses in the second column.
- The line items for food & housekeeping supplies and personal care services should be replaced with a single item labeled "Food and other household expenses."
- Explanatory comments that give examples inhibit responses, because people interpret them to mean that only the type of expense listed in the example should be included.
- Including student loan payments in line 17c appears to embody a policy decision that the payments are proper deductions in all chapters. This view is not universally accepted, and the form or instructions need to be explicit about the underlying policy of allowing debtors to be able to continue making contractually required student loan payments without being accused of unfair discrimination.

**12-BK-020. Susan Silveira** (Attorney, San Jose, California). The request that debtors list their "future" expenses on Schedule J should be omitted. It would be speculative and does not seem necessary to comply with the Bankruptcy Code. It could produce difficulties for trustees, debtors, creditors, and judges.

**12-BK-028. Nathan Horowitz** (Attorney, White Plains, New York). I do not see the usefulness of the two columns for expenses. A vast majority of debtors expect their expenses to be the same at filing as they will at confirmation in 6 months. There can be changes in financial circumstances, but those are often unexpected. Expected changes (avoiding a second lien, paying off a car loan within the year) can be included in the footnote provided on the current form. The two columns will in most cases simply be duplicated.

"Clothing" and "laundry and dry cleaning" are distinct expenses that should not be lumped together, as this makes it more difficult

for a trustee to focus on a particular expense. The trustee will simply ask for a breakdown of the expenses, which will cause additional work. The same is true for lumping together child care and education. Keeping separate expenses separate allows a complete look at a debtor's financial obligations and reduces potential inquiries.

**12-BK-030. Jeanne Hovenden** (Attorney, Chesterfield, Virginia). The portion of Schedule J dealing with dependents is confusing. Asking multiple questions about dependents will lead to less clarity, not more, from debtors who are already confused by the current forms. Column B is confusing and unnecessary. The description in line 5 needs to include the words "second mortgage" and "HELOC" in addition to "home equity loans." Many debtors are fixated on these terms and will not include them unless specifically prompted.

**12-BK-038. John Gustafson** (Chapter 13 Standing Trustee, Toledo, Ohio). Line 17c lists student loan payments as a deduction. This should be deleted. There is no line item for restitution payments, payments on nondischargeable debts, co-signed loans, or payments on credit cards the debtor wants to keep using. Including a line item for student loan payments makes it look like the Official Forms endorse deducting student loan payments, because after deducting all of the line items, line 22 says "The result is your monthly expenses." That is not correct if student loans are being paid through a plan.

**12-BK-039. Caralyce M. Lassner** (Attorney, Utica, Michigan). The form is expanded from one page to three with little additional information being solicited.

Part 1. Moving dependent information from Schedule I to Schedule J is logical. But asking about other household residents is misplaced if the goal is to create a more pro se debtor friendly form to assist in getting more accurate and complete disclosures. Line 8 of Schedule I, which asks for "all other income regularly received," does not ask for disclosure of income or contributions from individuals listed in Schedule J, line 3. There should be an additional column of check boxes, potentially applicable to all individuals identified in Part 1, asking "Does this individual contribute to your household expenses?" There should be additional instructions to Schedule J explaining that for each individual identified on Schedule J as contributing, their contribution must be included on Schedule I.

Part 2. The use of two columns, and specifically the limitation of Column B to chapter 13 cases, is cumbersome and unnecessary. If the purpose is to show the debtor's pre- and postpetition expenses, Column B should not be limited to chapter 13. All debtors will experience changes in their budget upon filing their petitions.

Line 20. Not many debtors will have second properties, so there is no reason to include this line item in all cases, thereby lengthening the form.

**12-BK-040. Bankruptcy Clerks Advisory Group.** There may be credit reporting issues if a non-filing spouse is identified as Debtor 2. The form requires a non-filing spouse to be identified as "Debtor 2." If a non-filing spouse is identified as a debtor in the schedules, credit reporting agencies might use the bankruptcy of the non-filing spouse in a credit report. Calling the non-filing spouse "Debtor 2" could lead to an assumption that the non-filing spouse is filing bankruptcy.

The instructions to Schedule J require a non-filing spouse to be identified as "Debtor 2," but the box at the top of page 1 identifies "Debtor 2" as "Spouse, if filing." There is no place on the form to clearly delineate the non-filing spouse. Remaining pages list only "Debtor 1" at the top. If the non-filing spouse must fill out this form, there is no way to identify him or her. Schedule I and Form 22 provide a Column B identified as "Debtor 2 or non-filing spouse," which suggests that Debtor 2 is not the same as a non-filing spouse.

Column B could be difficult to complete, because it might be hard for debtors to estimate what expenses will change if the current plan is confirmed. It is likely that only line 21 would change. The plan can address changes, so this column is duplicitous.

Questions 1 through 3 are repetitive. They should be condensed into a single question that clearly addresses which dependents are living in each household.

**12-BK-045. David S. Yen** (Attorney, Legal Assistance Foundation of Metropolitan Chicago). For chapter 13 cases, any benefit of having two columns is outweighed by the extra work and confusion that would result from including two columns. It appears that the intent of Column B is that an expense for a secured debt where the trustee is paying the secured creditor should be listed as zero. Thus, if the plan provides that the trustee will make the car payment, the entry in line 17a, Column B would

be zero. But this may not be clear to a pro se debtor, who may enter the car payment in Column B, even though the plan provides that the trustee will be making the payment. The instructions should clarify that if an expense will be paid by the chapter 13 trustee, the amount in Column B should be zero.

The instructions should include this statement: “If some of your expenses are paid for by non-cash government assistance such as food stamps or housing subsidies, list only the cash that your household spends on the subsidized items.”

The current 10% threshold for expected changes in expenses should be retained. Many expenses change either seasonably or for some other reason, but most pro se debtors will mark the box saying that there are no expected changes.

**12-BK-046. National Association of Consumer Bankruptcy Attorneys.** The two columns in Part 2 for chapter 13 debtors are unnecessary. They would require chapter 13 debtors to complete three separate budgets. There is no Code requirement for this, and it is very burdensome on the debtors. There is no reason for the pre-bankruptcy budget. The form should include a second check box for amendments, to indicate that budget amounts are based on circumstances as of the date of any amendment to Schedule J.

Student loan payments are an appropriate expense in chapter 7 cases, as in most cases they will be nondischargeable and need to be paid. In appropriate circumstances, chapter 13 debtors should be allowed to separately classify student loan claims and continue to pay them. But because many courts and trustees object to including these payments in chapter 7 and 13 budgets, including the payments in Schedule J is a trap for the unwary. The instructions should indicate that debtors can include student loan payments under the “Other” category if appropriate.

Line 18 should note that a debtor should not duplicate amounts paid through payroll deduction that are reported on Schedule I. Schedule J should specifically include a line or lines for emergencies and miscellaneous, as is provided in the National Standards under food and clothing on the B22 forms. The types of educational expenses should mirror the B22 line items more closely.

**Carl Barnes.** (Software Developer, Best Case Bankruptcy, not officially submitted). The information about dependents should be put back on Schedule I. Putting the information in Schedule I fits

the income/expense data better across the two forms, uses less space, and splits the data across pages for better reading.

# APPENDIX A.4

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# UNITED STATES BANKRUPTCY COURT

\_\_\_\_\_ District Of \_\_\_\_\_

In re \_\_\_\_\_,  
Debtor

Case No. \_\_\_\_\_

Chapter \_\_\_\_\_

## DEBTOR'S CERTIFICATION OF COMPLETION OF POSTPETITION INSTRUCTIONAL COURSE CONCERNING PERSONAL FINANCIAL MANAGEMENT

*This form should not be filed if an approved provider of a postpetition instructional course concerning personal financial management has already notified the court of the debtor's completion of the course. Otherwise, every individual debtor in a chapter 7 or a chapter 13 case or in a chapter 11 case in which § 1141(d)(3) applies must file this certification. If a joint petition is filed and this certification is required, each spouse must complete and file a separate certification. Complete one of the following statements and file by the deadline stated below:*

I, \_\_\_\_\_, the debtor in the above-styled case, hereby  
(Printed Name of Debtor)  
certify that on \_\_\_\_\_ (Date), I completed an instructional course in personal financial management  
provided by \_\_\_\_\_, an approved personal financial  
(Name of Provider)  
management provider.

Certificate No. (if any): \_\_\_\_\_.

I, \_\_\_\_\_, the debtor in the above-styled case, hereby  
(Printed Name of Debtor)  
certify that no personal financial management course is required because of [Check the appropriate box]:  
 Incapacity or disability, as defined in 11 U.S.C. § 109(h);  
 Active military duty in a military combat zone; or  
 Residence in a district in which the United States trustee (or bankruptcy administrator) has determined that  
the approved instructional courses are not adequate at this time to serve the additional individuals who would otherwise  
be required to complete such courses.

Signature of Debtor: \_\_\_\_\_

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

*Instructions:* Use this form only to certify whether you completed a course in personal financial management and only if your course provider has not already notified the court of your completion of the course. (Fed. R. Bankr. P. 1007(b)(7).) Do NOT use this form to file the certificate given to you by your prepetition credit counseling provider and do NOT include with the petition when filing your case.

*Filing Deadlines:* In a chapter 7 case, file within 60 days of the first date set for the meeting of creditors under § 341 of the Bankruptcy Code. In a chapter 11 or 13 case, file no later than the last payment made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. (See Fed. R. Bankr. P. 1007(c).)

### **COMMITTEE NOTE**

The form is amended to reflect the amendment of Rule 1007(b)(7). As amended, that rule allows an approved provider of a personal financial management course to notify the court directly of the debtor's completion of the course. That notification relieves the debtor of the obligation to file this form.

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Because this amendment is being made to conform to an amendment to Rule 1007(b)(7) that will take effect on December 1, 2013, final approval is sought without publication.

# APPENDIX B

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# APPENDIX B.1

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**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY  
PROCEDURE\***

For Publication for Public Comment

**Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee**

1 (a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST.

2 Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk,  
3 or some other person as the court may direct, shall give the debtor, the trustee, all  
4 creditors and indenture trustees at least 21 days' notice by mail of:

5 \* \* \* \* \*

6 (7) the time fixed for filing proofs of claims pursuant to Rule  
7 3003(c); ~~and~~

8 (8) the time fixed for filing objections and the hearing to consider  
9 confirmation of a chapter 12 plan; and

10 (9) the time fixed for filing objections to confirmation of a chapter  
11 13 plan.

12 (b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST.

13 Except as provided in subdivision (l) of this rule, the clerk, or some other person  
14 as the court may direct, shall give the debtor, the trustee, all creditors and  
15 indenture trustees not less than

---

\* New material is underlined; matter to be omitted is lined through.





22 ~~insufficient under the circumstances to give the creditor a reasonable time to file a~~  
23 ~~proof of claim~~

24 (A) the notice was insufficient under the circumstances to  
25 give the creditor a reasonable time to file a proof of claim because the debtor  
26 failed to timely file the list of creditors' names and addresses required by Rule  
27 1007(a), or

28 (B) the notice was insufficient under the circumstances to  
29 give the creditor a reasonable time to file a proof of claim, and notice of the time  
30 to file a proof of claim was mailed to the creditor at a foreign address.

31 (7) A proof of claim filed by the holder of a claim that is secured  
32 by a security interest in the debtor's principal residence is timely filed if

33 (A) the proof of claim, together with the attachments  
34 required by Rule 3001(c)(2)(C), is filed not later than 60 days after the order for  
35 relief is entered, and

36 (B) any attachments required by Rule 3001(c)(1) and (d)  
37 are filed as a supplement to the holder's claim not later than 120 days after the  
38 order for relief is entered.

#### COMMITTEE NOTE

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with § 506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules

3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the § 341 meeting of creditors to 60 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 60-day time for filing runs from the order of conversion. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.

Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within 60 days of the order for relief. The claim will be timely if any additional documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See § 301 and § 303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to the proof of claim.



**Rule 3012. Valuation of Security Determination of the Amount of Secured and Priority Claims**

1           ~~The court may determine the value of a claim secured by a lien on~~  
2           ~~property in which the estate has an interest on motion of any party in interest and~~  
3           ~~after a hearing on notice to the holder of the secured claim and any other entity as~~  
4           ~~the court may direct.~~

5           (a) DETERMINATION OF AMOUNT OF CLAIM. On request by a  
6           party in interest and after notice—to the holder of the claim and any other entity  
7           the court designates—and a hearing, the court may determine

8                     (1) the amount of a secured claim under § 506(a) of the Code, or

9                     (2) the amount of a claim entitled to priority under § 507 of the  
10           Code.

11           (b) REQUEST FOR DETERMINATION; HOW MADE. Except as  
12           provided in subdivision (c), a request to determine the amount of a secured claim  
13           may be made by motion, in a claim objection, or in a plan filed in a chapter 12 or  
14           13 case. A request to determine the amount of a claim entitled to priority may be  
15           made by motion or in a claim objection. The request shall be served on the holder  
16           of the claim and any other entity the court designates in the manner provided for  
17           service of a summons and complaint by Rule 7004.

18           (c) CLAIMS OF GOVERNMENTAL UNITS. A request to determine the  
19           amount of a secured claim of a governmental unit may be made by motion or in a

20 claim objection after the governmental unit files a proof of claim or after the time  
21 for filing one under Rule 3002(c)(1) has expired.

### **COMMITTEE NOTE**

This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

**Rule 3015. Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 ~~Family Farmer Debt Adjustment~~ or a Chapter 13 ~~Individual's Debt Adjustment~~ Case**

1 (a) FILING OF CHAPTER 12 PLAN. The debtor may file a chapter 12  
2 plan with the petition. If a plan is not filed with the petition, it shall be filed  
3 within the time prescribed by § 1221 of the Code.

4 (b) FILING OF CHAPTER 13 PLAN. The debtor may file a chapter 13  
5 plan with the petition. If a plan is not filed with the petition, it shall be filed  
6 within 14 days thereafter, and such time may not be further extended except for  
7 cause shown and on notice as the court may direct. If a case is converted to  
8 chapter 13, a plan shall be filed within 14 days thereafter, and such time may not  
9 be further extended except for cause shown and on notice as the court may direct.

10 (c) ~~DATING. Every proposed plan and any modification thereof shall be~~  
11 ~~dated.~~ FORM OF CHAPTER 13 PLAN. The plan filed in a chapter 13 case shall  
12 be prepared as prescribed by the appropriate Official Form. Provisions not  
13 otherwise included in the Official Form or deviating from the Official Form are  
14 effective only if they are included in a section of the Official Form designated for  
15 nonstandard provisions and are also identified in accordance with any other  
16 requirements of the Official Form.

17 (d) ~~NOTICE AND COPIES. If the plan~~ The plan or a summary of the plan  
18 ~~shall be~~ is not included with the ~~each~~ notice of the hearing on confirmation mailed  
19 pursuant to Rule 2002, the debtor shall serve the plan on the trustee and all  
20 creditors when it is filed with the court. ~~If required by the court, the debtor shall~~

21 ~~furnish a sufficient number of copies to enable the clerk to include a copy of the~~  
22 ~~plan with the notice of the hearing.~~

23 (e) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall  
24 forthwith transmit to the United States trustee a copy of the plan and any  
25 modification thereof filed pursuant to subdivision (a) or (b) of this rule.

26 (f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD  
27 FAITH IN THE ABSENCE OF AN OBJECTION. An objection to confirmation  
28 of a plan shall be filed and served on the debtor, the trustee, and any other entity  
29 designated by the court, and shall be transmitted to the United States trustee,  
30 ~~before confirmation of the plan~~ at least seven days before the hearing on  
31 confirmation. An objection to confirmation is governed by Rule 9014. If no  
32 objection is timely filed, the court may determine that the plan has been proposed  
33 in good faith and not by any means forbidden by law without receiving evidence  
34 on such issues.

35 (g) EFFECT OF CONFIRMATION. Any determination made under Rule  
36 3012 of the amount of a secured claim under § 506(a) of the Code in a chapter 12  
37 or 13 case is binding on the holder of the claim, even if the holder files a contrary  
38 proof of claim under Rule 3002 or the debtor schedules that claim under § 521(a)  
39 of the Code, and regardless of whether any objection to the claim has been filed  
40 under Rule 3007.

41 ~~(g)~~ (h) MODIFICATION OF PLAN AFTER CONFIRMATION. A  
42 request to modify a plan pursuant to § 1229 or § 1329 of the Code shall identify  
43 the proponent and shall be filed together with the proposed modification. The

44 clerk, or some other person as the court may direct, shall give the debtor, the  
45 trustee, and all creditors not less than 21 days notice by mail of the time fixed for  
46 filing objections and, if an objection is filed, the hearing to consider the proposed  
47 modification, unless the court orders otherwise with respect to creditors who are  
48 not affected by the proposed modification. A copy of the notice shall be  
49 transmitted to the United States trustee. A copy of the proposed modification, or a  
50 summary thereof, shall be included with the notice. ~~If required by the court, the~~  
51 ~~proponent shall furnish a sufficient number of copies of the proposed~~  
52 ~~modification, or a summary thereof, to enable the clerk to include a copy with~~  
53 ~~each notice.~~ If a copy is not included with the notice and the proposed  
54 modification is sought by the debtor, a copy shall be served on the trustee and all  
55 creditors in the manner provided for service of the plan by subdivision (d) of this  
56 rule. Any objection to the proposed modification shall be filed and served on the  
57 debtor, the trustee, and any other entity designated by the court, and shall be  
58 transmitted to the United States trustee. An objection to a proposed modification  
59 is governed by Rule 9014.

#### COMMITTEE NOTE

This rule is amended and reorganized.

Subdivision (c) is amended to require use of the Official Form for chapter 13 plans. The amended rule also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official Form specifically designated for such provisions and identified in the manner required by the Official Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan in advance of confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan. The seven-day notice period may be altered in a particular case by the court under Rule 9006.

Subdivision (g) is amended to provide that the amount of a secured claim under § 506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination controls over a contrary proof of claim, without the need for a claim objection under Rule 3007, and over the schedule submitted by the debtor under § 521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012.

Subdivision (h) was formerly subdivision (g). It is redesignated and amended to clarify that service of a proposed plan modification must be made in accordance with subdivision (d) of this rule.



**Rule 5005. Filing, Electronic Signatures, and Transmittal of Papers**

1 (a) FILING and SIGNATURES.

2 (1) *Place of Filing.*

3 \* \* \* \* \*

4 (2) *Filing by Electronic Means.* A court may by local rule permit  
5 or require documents to be filed, ~~signed, or verified~~ by electronic means that are  
6 consistent with technical standards, if any, that the Judicial Conference of the  
7 United States establishes. A local rule may require filing by electronic means  
8 only if reasonable exceptions are allowed. A document filed by electronic means  
9 in compliance with a local rule constitutes a written paper for the purpose of  
10 applying these rules, ~~the Federal Rules of Civil Procedure made applicable by~~  
11 ~~these rules,~~ and § 107 of the Code.

12 (3) *Signatures on Documents Filed by Electronic Means.*

13 (A) *The Signature of a Registered User.* The user name  
14 and password of an individual who is registered to use the court's electronic filing  
15 system serves as that individual's signature on any electronically filed document.  
16 The signature may be used with the same force and effect as a written signature  
17 under these rules and for any other purpose for which a signature is required in  
18 proceedings before the court.

19 (B) *Signature of Other Individuals.* When an individual  
20 other than a registered user of the court's electronic filing system is required to  
21 sign a document that is filed electronically, the individual shall include in a single  
22 filing with the document a scanned or otherwise electronically replicated copy of

23 the document's signature page bearing the individual's original signature. Once a  
24 document has been properly filed under this rule, the original document bearing  
25 the individual's original signature need not be retained. The electronic signature  
26 may then be used with the same force and effect as a written signature under these  
27 rules and for any other purpose for which a signature is required in proceedings  
28 before the court.

29 \* \* \* \* \*

### COMMITTEE NOTE

The rule is amended to address the treatment of electronic signatures in documents filed in connection with bankruptcy cases, a matter previously addressed only in local bankruptcy rules. New provisions are added that prescribe the circumstances under which electronic signatures may be treated in the same manner as handwritten signatures without the need for anyone to retain paper documents with original signatures. The amended rule supersedes any conflicting local rules.

The title of the rule and subdivision (a) are amended to reflect the rule's expanded scope. The reference to "the Federal Rules of Civil Procedure made applicable by these rules" in subdivision (a)(2) is stricken as unnecessary.

Subdivision (a)(3) is added to address the effect of signatures in documents that are electronically filed. Subparagraph (A) applies to persons who are registered users of a court's electronic filing system. It adopts as the national rule the practice that previously existed in virtually all districts. The user name and password of an individual who is registered to use the CM/ECF system are treated as that person's signature for all documents that are electronically filed. That signature may then be treated the same as a written signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

Subparagraph (B) applies to the signatures of persons who are not registered users of the court's electronic filing system. When documents require the signature of a debtor or other individual who is not a registered user of CM/ECF—such as petitions, schedules, and declarations—they may be filed electronically along with a scanned or otherwise electronically replicated image of the signature page bearing the individual's actual signature. Those documents will then be stored electronically by the court, and neither the court nor the filing attorney is required to retain paper copies of the filed documents. This

amendment, which changes the practice that previously existed in many districts, was prompted by several concerns: the lack of uniformity of retention periods required by local rules, the burden placed on lawyers and courts to retain a large volume of paper, and potential conflicts of interest imposed on lawyers who were required to retain documents that could be used as evidence against their clients. When scanned signature pages are filed in accordance with this rule, the electronically filed signature may be treated the same as a written signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

Just as someone may challenge in court proceedings the validity of a handwritten signature, nothing in this rule prevents a challenge to the validity of an electronic signature that is filed in compliance the rule's provisions.

**Rule 5009. Closing Chapter 7~~Liquidation~~, Chapter 12~~Family Farmer's Debt Adjustment~~, Chapter 13~~Individual's Debt Adjustment~~, and Chapter 15 Ancillary and Cross-Border Cases; Order Declaring Lien Satisfied**

1 (a) CLOSING OF CASES UNDER CHAPTERS 7, 12, AND 13. If in a  
2 chapter 7, chapter 12, or chapter 13 case the trustee has filed a final report and  
3 final account and has certified that the estate has been fully administered, and if  
4 within 30 days no objection has been filed by the United States trustee or a party  
5 in interest, there shall be a presumption that the estate has been fully  
6 administered.

7 \* \* \* \* \*

8 (d) ORDER DECLARING LIEN SATISFIED. In a chapter 12 or chapter  
9 13 case, if a claim that was secured by property of the estate is subject to a lien  
10 under applicable nonbankruptcy law, the debtor may request entry of an order  
11 determining that the lien on that property has been satisfied. The request shall be  
12 made by motion and shall be served on the holder of the claim and any other  
13 entity the court designates in the manner provided by Rule 7004 for service of a  
14 summons and complaint. An order entered under this subdivision is effective as a  
15 release of the lien.

**COMMITTEE NOTE**

Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a lien satisfied. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a request at another time if the lien has been satisfied and any other requirements for entry of the order have been met.

Other changes to this rule are stylistic.





**Rule 9009. Forms**

1            (a) OFFICIAL FORMS. ~~Except as otherwise provided in Rule 3016(d),~~  
2            ~~the~~ The Official Forms prescribed by the Judicial Conference of the United States  
3            ~~shall be observed and used with alterations as may be appropriate~~ without  
4            alteration, except as otherwise provided in these rules or in a particular Official  
5            Form. Official Forms may be modified

6                            (1) to use font faces substantially similar to those prescribed,  
7                            maintaining the prescribed size and style;

8                            (2) to expand the prescribed areas for responses in order to permit  
9                            complete responses;

10                           (3) to delete space not needed for responses;

11                           (4) to delete items requiring detail in a question or category if the  
12                           filer indicates—either by checking “no” or “none” or by stating in words—that  
13                           there is nothing to report on that question or category; and

14                           (5) for court orders in a particular case only, to make any change  
15                           that does not conflict with an applicable rule or with an Official Form that the  
16                           order addresses or implements. ~~Forms may be combined and their contents~~  
17                           ~~rearranged to permit economies in their use.~~

18                           (b) DIRECTOR’S FORMS. The Director of the Administrative Office of  
19                           the United States Courts may issue additional forms for use under the Code.

20                    (c) CONSTRUCTION. The forms shall be construed to be consistent with  
21 these rules and the Code.

### COMMITTEE NOTE

This rule is amended and reorganized into separate subdivisions.

Subdivision (a) addresses permissible modifications to Official Forms. It requires that an Official Form be used without alteration, except when another rule or the Official Form itself permits alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability of a filer to modify an Official Form to use a typeface substantially similar to the prescribed size and style, to expand or delete the space for responses as appropriate, and to delete inapplicable items so long as the filer indicates that no response is intended. For example, when more space will be necessary to completely answer a question on an Official Form without an attachment, the answer space may be expanded. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. The Official Form chapter 13 plan, for example, requires that topics be addressed in a particular order, and that nonstandard provisions be addressed in a specified section of the plan. Any changes that contravene the instructions on the Official Form chapter 13 plan would be prohibited by this rule.

The rule permits modification of court orders included in the Official Forms, provided that the modification does not conflict with any applicable rule or Official Form. For example, the court may add an additional provision to the Order Approving Payment of Filing Fee in Installments, which is part of Official Form 3A.

The creation of subdivision (b) and subdivision (c) is stylistic.

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# APPENDIX B.2

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

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

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

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

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

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

1. There is no presumption of abuse.

2. The presumption of abuse is determined by Form 22A-2.

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

Check if this is an amended filing

**Official Form 22A-1**

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

12/14

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

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

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

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

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

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

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

8. Unemployment compensation

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

For you ..... \$

For your spouse ..... \$

\$ \$

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

\$ \$

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

10a. .... \$

10b. .... \$

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

\$ \$

\$ \$

+\$ \$

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

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

Part 2: Determine Whether the Means Test Applies to You

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

12a. Copy your total current monthly income from line 11..... Copy line 11 here -> 12a. \$

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

12b. The result is your annual income for this part of the form. 12b. \$

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. .... 13. \$

To find that information, either go to the Means Test information at http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

14. How do the lines compare?

14a. [ ] Line 12b is less than or equal to line 13. On the top of page 1, check box 1, There is no presumption of abuse. Go to Part 3.

14b. [ ] Line 12b is more than line 13. On the top of page 1, check box 2, The presumption of abuse is determined by Form 22A-2. Go to Part 3 and fill out Form 22A-2.

Part 3: Sign Below

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

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Official Form 22A-2, Chapter 7 Means Test Calculation.

If you checked line 14b, fill out Official Form 22A-2, Chapter 7 Means Test Calculation and file it with this form.

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

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

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

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

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

Check if this is an amended filing

## Official Form 22A—1Supp

### Statement of Exemption from Presumption of Abuse Under § 707(b)(2) 12/14

File this supplement together with *Chapter 7 Statement of Your Current Monthly Income (Official Form 22A-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 Official Form 22A-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 “Nature of Debts” box on page 1 of the *Voluntary Petition (Official Form 1)*.

No. Go to the top of page 1 of Official Form 22A-1, and check box 1, *There is no presumption of abuse*. Then sign Part 3 of that form, and submit this supplement with that form.

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))?

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 the top of page 1 of Official Form 22A-1, and check box 1, *There is no presumption of abuse*. Then sign Part 3 of that form, and submit this supplement with that form.

3. **Are you or have you been a Reservist or member of the National Guard?**

No. Complete Official Form 22A-1. Do not submit this supplement.

Yes. Were you called to active duty or did you perform a homeland defense activity? 10 U.S.C. § 101(d)(1); 32 U.S.C. § 901(1).

No. Complete Official Form 22A-1. Do not submit this supplement.

Yes. Check any one of the following categories that applies:

I was called to active duty after September 11, 2001, for at least 90 days and remain on active duty.

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.

I am performing a homeland defense activity for at least 90 days.

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 the top of page 1 of Official Form 22A-1, and check box 3, *The Means Test does not apply now because of qualified military service but it could apply later*. Then sign Part 3 of that form, and submit this supplement with that form.

You are not required to fill out the rest of Official Form 22A-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 Official Form 22A-1.

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

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

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

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

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

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

According to the calculations required by this Statement:

1. There is no presumption of abuse.

2. There is a presumption of abuse.

Check if this is an amended filing

# Official Form 22A-2

## Chapter 7 Means Test Calculation

12/14

To fill out this form, you will need your completed copy of Form 22A-1: *Chapter 7 Statement of Your Current Monthly Income* (Official Form 22A-1). Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

**Part 1: Determine Your Adjusted Income**

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

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

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

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

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

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

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

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

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

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

Part 2: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, either go to http://www.justice.gov/ust/ao/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

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

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

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

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

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

[Empty box for line 5]

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

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

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

People who are under 65 years of age

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

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

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

People who are 65 years of age or older

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

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

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

7g. Total. Add lines 7c and 7f. \$ \_\_\_\_\_ Copy total here → ..... 7g. \$ \_\_\_\_\_

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

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

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

Use the U.S. Trustee Program chart to answer the questions in lines 8-9. Go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

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

9. Housing and utilities – Mortgage or rent expenses:

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

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

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

Table with 3 columns: Name of the creditor, Does payment include taxes or insurance?, Average monthly payment. Includes checkboxes for 'No' and 'Yes' and dollar amount fields.

9b. Total average monthly payment

\$

Copy line 9b here

-\$

Repeat this amount on line 33a.

9c. Net mortgage or rent expense.

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

9c.

\$

Copy line 9c here

\$

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing does not accurately compute the amount that applies to you, fill in any additional amount you claim. \$

Explain why:

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

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

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

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

Vehicle 1 Describe Vehicle 1: \_\_\_\_\_

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

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

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

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

Copy 13b here - \$ Repeat this amount on line 33b.

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

Vehicle 2 Describe Vehicle 2: \_\_\_\_\_

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

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

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

Copy 13e here - \$ Repeat this amount on line 33c.

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

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

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

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

16. **Taxes:** The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes. \$ \_\_\_\_\_  
Do not include real estate, sales, or use taxes.

17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. \$ \_\_\_\_\_  
Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.

18. **Life insurance:** The total monthly premiums that you pay for your own term life insurance. If two married people are filing together, include payments that you make for your spouse's term life insurance. Do not include premiums for life insurance on your dependents, for a non-filing spouse's life insurance, or for any form of life insurance other than term. \$ \_\_\_\_\_

19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. \$ \_\_\_\_\_  
Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.

20. **Education:** The total monthly amount that you pay for education that is either required:  
 as a condition for your job, or  
 for your physically or mentally challenged dependent child if no public education is available for similar services. \$ \_\_\_\_\_

21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. \$ \_\_\_\_\_  
Do not include payments for any elementary or secondary school education.

22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7. \$ \_\_\_\_\_  
Payments for health insurance or health savings accounts should be listed only in line 25.

23. **Telecommunication services:** The total monthly amount that you pay for telecommunication services such as pagers, call waiting, caller identification, special long distance, business internet service, and business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. + \$ \_\_\_\_\_  
Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 8 of Official Form 22A-1, or any amount you previously deducted.

24. **Add all of the expenses allowed under the IRS expense allowances.** \$ \_\_\_\_\_  
Add lines 6 through 23.

**Additional Expense Deductions**

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

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

Health insurance	\$ _____
Disability insurance	\$ _____
Health savings account	+ \$ _____
Total	\$ _____

Copy total here → ..... \$ \_\_\_\_\_

Do you actually spend this total amount?

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

Yes

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

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

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

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

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards. \$ \_\_\_\_\_  
To find the maximum additional allowance, either go to <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court.  
You must show that the additional amount claimed is reasonable and necessary.

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

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

**Deductions for Debt Payment**

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

Do not deduct mortgage payments previously deducted as an operating expense in Line 9. 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:**

**Average monthly payment**

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

**Loans on your first two vehicles:**

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

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

Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
33d. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33e. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	\$ _____
33f. _____	_____	<input type="checkbox"/> No <input type="checkbox"/> Yes	+ \$ _____

33g. Total average monthly payment. Add lines 33a through 33f. .... \$ \_\_\_\_\_

Copy total here ➔

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

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

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

Name of the creditor	Identify property that secures the debt	Total cure amount	Monthly cure amount
_____	_____	\$ _____ ÷ 60 =	\$ _____
_____	_____	\$ _____ ÷ 60 =	\$ _____
_____	_____	\$ _____ ÷ 60 =	+ \$ _____

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 = \$ \_\_\_\_\_

36. Are you eligible to file a case under Chapter 13? 11 U.S.C. § 109(e). For more information, go to www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter13.aspx

- 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 determined under schedules issued by the Executive Office for United States Trustees. To find this information, go to www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

X

Average monthly administrative expense if you were filing under Chapter 13

Form with input boxes for administrative expense and a 'Copy total here' instruction.

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

Form with input box for total debt payment deductions.

Total Deductions from Income

38. Add all of the allowed deductions.

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

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

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

Total deductions \$ Copy total here \$

Determine Whether There Is a Presumption of Abuse

39. Calculate monthly disposable income for 60 months

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

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

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

For the next 60 months (5 years) x 60

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

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

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

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

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

38a. \$

x .25

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

Calculation box with \$ signs and an arrow pointing to a 'Copy here' box.

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.

Give Details About Special Circumstances

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

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

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

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

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

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

### How to fill out these forms

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

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

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

If you and your spouse are filing together, you and your spouse may file a single Official Form 22A-1. However, if an exemption on Official Form 22A-1Supp applies to only one of you, separate forms may be required. 11 U.S.C. § 707(b)(2)(C).

If your completed Official Form 22A-1 shows income above the median, you must file the second form, 22A-2, *Chapter 7 Means Test Calculation* (Official Form 22A-2). The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay other debts. If this amount is high enough, it will give rise to a *presumption of abuse*. A presumption of

abuse does not mean you are actually trying to abuse the bankruptcy system. Rather, the presumption simply means that you may have enough income that you should not be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

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

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

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

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

### Understand the terms used in the form

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

### Things to remember when filling out these forms

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

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

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

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

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

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

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

Draft May 7, 2013

Check if this is an amended filing

**Official Form 22B**

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

12/14

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

**Part 1:** Calculate Your 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.** Fill out Column A, lines 2-11.

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

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

	<i>Column A</i> For Debtor 1	<i>Column B</i> Debtor 2 or non-filing spouse
<b>7. Interest, dividends, and royalties</b>	\$ _____	\$ _____
<b>8. Unemployment compensation</b>	\$ _____	\$ _____
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 .....	\$ _____	
<b>9. Pension or retirement income.</b> Do not include any amount received that was a benefit under the Social Security Act.	\$ _____	\$ _____
<b>10. Income from all other sources not listed above.</b> Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.		
10a. _____	\$ _____	\$ _____
10b. _____	\$ _____	\$ _____
10c. Total amounts from separate pages, if any.	+ \$ _____	+ \$ _____
<b>11. Calculate your total current monthly income.</b> Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	\$ _____	+ \$ _____ = <span style="border: 1px solid black; padding: 2px;">\$ _____</span>
		<b>Total current monthly income</b>

**Part 2:** Sign Below

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

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

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

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

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

## Official Form 22B

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

United States Bankruptcy Court

12/01/14

### How to Fill Out this Form

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

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

### Understand the terms used in the form

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

### Things to remember when filling out this form

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

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

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

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

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

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

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

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

According to the calculations required by this Statement:

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

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

---

3. The commitment period is 3 years.

4. The commitment period is 5 years.

Check if this is an amended filing

**Official Form 22C-1**  
**Chapter 13 Statement of Your Current Monthly Income**  
**and Calculation of Commitment Period**

12/14

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

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

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

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

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

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

7. **Interest, dividends, and royalties** \$ \_\_\_\_\_
8. **Unemployment compensation** \$ \_\_\_\_\_
- Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ..... ↓
- For you ..... \$ \_\_\_\_\_
- For your spouse ..... \$ \_\_\_\_\_

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

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

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

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

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

- 10a. \_\_\_\_\_
- 10b. \_\_\_\_\_
- 10c. Total amounts from separate pages, if any.

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

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

+ \$ \_\_\_\_\_ + \$ \_\_\_\_\_

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

\$ _____	+	\$ _____	=	\$ _____
				Total average monthly income

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

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

13. **Calculate the marital adjustment.** Check one:
- You are not married. Fill in 0 in line 13d.
- You are married and your spouse is filing with you. Fill in 0 in line 13d.
- You are married and your spouse is not filing with you.

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

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

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

- 13a. \_\_\_\_\_ \$ \_\_\_\_\_
- 13b. \_\_\_\_\_ \$ \_\_\_\_\_
- 13c. \_\_\_\_\_ + \$ \_\_\_\_\_
- 13d. Total ..... \$ \_\_\_\_\_

Copy here. → 13d. \_\_\_\_\_

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

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

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

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

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

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

- 16a. Fill in the state in which you live. \_\_\_\_\_
- 16b. Fill in the number of people in your household. \_\_\_\_\_
- 16c. Fill in the median family income for your state and size of household. .... 16c. \$ \_\_\_\_\_

To find that information, either go to the Means Test information at <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court .

17. How do the lines compare?

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

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

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

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

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

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

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

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

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

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

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

21. How do the lines compare?

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

**Part 4:** Sign Below

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

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

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

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

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

If you checked 17a, do NOT fill out or file Official Form 22C-2: *Calculation of Disposable Income*.

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

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

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

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

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

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

 Check if this is an amended filing
**Official Form 22C-2****Chapter 13 Calculation of Your Disposable Income**

12/14

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

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

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

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, either go to <http://www.ustice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court.

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

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

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

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

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

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

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

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

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

People who are under 65 years of age

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

7b. Number of people who are under 65 X

7c. Subtotal. Multiply line 7a by line 7b. \$

Copy line 7c here -> \$

People who are 65 years of age or older

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

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

7f. Subtotal. Multiply line 7d by line 7e. \$

Copy line 7f here -> + \$

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

\$ Copy total here -> ..... 7g. \$

Local Standards

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

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

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

Refer to the U.S. Trustee website to answer the questions in lines 8-9. Go to http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

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

9. Housing and utilities - Mortgage or rent expenses:

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

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

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

Table with 2 columns: Name of the creditor, Average monthly payment. Includes lines for creditor names and payment amounts.

9b. Total average monthly payment ..... \$

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

9c. Net mortgage or rent expense.

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

\$ Copy 9c here -> \$

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing does not accurately compute the amount that applies to you, fill in any additional amount you claim. \$

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

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

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

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

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

Vehicle 1 Describe Vehicle 1:

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

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

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

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment. Includes instructions to copy 13b here and repeat amount on line 33b.

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

Vehicle 2 Describe Vehicle 2:

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

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

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment. Includes instructions to copy here and repeat amount on line 33c.

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

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

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

Other Necessary Expenses

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

- 16. Taxes: The total monthly amount that you actually pay for federal, state and local taxes...
17. Involuntary deductions: The total monthly payroll deductions that your job requires...
18. Life insurance: The total monthly premiums that you pay for your own term life insurance...
19. Court-ordered payments: The total monthly amount that you pay as required by the order of a court...
20. Education: The total monthly amount that you pay for education that is either required...
21. Childcare: The total monthly amount that you pay for childcare, such as babysitting...
22. Additional health care expenses, excluding insurance costs: The monthly amount that you pay for health care...
23. Telecommunication services: The total monthly amount that you pay for telecommunication services...
24. Add all of the expenses allowed under the IRS expense allowances. Add lines 6 through 23.

Additional Expense Deductions

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

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

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

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

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

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

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

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

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

To find the maximum additional allowance, either go to <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> or ask for help at the clerk's office of the bankruptcy court.

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

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

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

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

Add lines 25 through 31.

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

**Deductions for Debt Payment**

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

Do not deduct mortgage payments previously deducted as an operating expense in line 9.

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

**Average monthly payment**

**Mortgages on your home**

3a. Copy line 9b here ..... ➔ \$ \_\_\_\_\_

**Loans on your first two vehicles**

3b. Copy line 13b here. .... ➔ \$ \_\_\_\_\_

3c. Copy line 13e here. .... ➔ \$ \_\_\_\_\_

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

3d. \_\_\_\_\_ No \$ \_\_\_\_\_  
Yes

3e. \_\_\_\_\_ No \$ \_\_\_\_\_  
Yes

3f. \_\_\_\_\_ No + \$ \_\_\_\_\_  
Yes

3g. Total average monthly payment. Add lines 33a through 33f. .... \$ \_\_\_\_\_ **Copy total here ➔** \$ \_\_\_\_\_

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

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

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

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

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

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

36. Projected monthly Chapter 13 plan payment

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

Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. To find this information, go to www.justice.gov/ust/eo/bapcpa/meanstesting.htm or ask for help at the clerk's office of the bankruptcy court.

X \_\_\_\_\_

Average monthly administrative expense

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

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

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

Total Deductions from Income

38. Add all of the allowed deductions.

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

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

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

Total deductions

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

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

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

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

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

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

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

Table with 2 columns: Describe the special circumstances, Amount of expense. Rows 43a, 43b, 43c, 43d. Total.

44. Total adjustments. Add lines 40, 41, 42, and 43d. \$ Copy total here - \$

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

Part 3: Change in Income or Expenses

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

Table with 6 columns: Form, Line, Reason for change, Date of change, Increase or decrease?, Amount of change. Multiple rows for reporting changes.

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

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

**Part 4:** Sign Below

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

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

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

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

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

## Official Forms 22C–1 and 22C–2

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

United States Bankruptcy Court

12/01/14

#### How to Fill Out these Forms

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

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

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

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

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

If you and your spouse are filing together, you and your spouse must file a single statement.

#### Understand the terms used in these form

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

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

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

**Do not file these instructions with your bankruptcy filing package. Keep them for your records.**

## COMMITTEE NOTE

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

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

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

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

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

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

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

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

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# APPENDIX B.3

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
<b>OFFICIAL FORMS</b>						
						Chart Draft -- 05022013
<a href="#">B 1</a>	Voluntary Petition	B101	Voluntary Petition for Individuals Filing for Bankruptcy ( <i>incorporates exhibits – carves out eviction judgment statement as new form B101AB</i> )	Yes	Fall 2012	August 2013
		B101A B101B	Your Statement About an Eviction Judgment Against You – Parts A and B ( <i>was in Form B1</i> )	Yes	Fall 2012	August 2013
		B201	Voluntary Petition for Non-Individuals Filing for Bankruptcy	Yes	Fall 2013	August 2014
	Exhibit A	B201A	Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11	Yes	Fall 2013	August 2014
	Exhibit C	B101 B201	<i>Hazardous Property or Property That Needs Immediate Attention -- incorporated in Forms B101 and B201</i>	Yes		
	Exhibit D	B101	<i>Individual Debtor's Statement of Compliance with Credit Counseling Requirement – Incorporated in Form B101</i>	Yes		
<a href="#">B 2</a>	Declaration under Penalty of Perjury on Behalf of a Corporation or Partnership	B202	Declaration Under Penalty of Perjury On Behalf of a Corporation or Partnership ( <i>For petition, schedules, SOFA, etc</i> )	Yes	Fall 2013	August 2014
<a href="#">B 3A</a>	Application and Order to Pay Filing Fee in Installments	B103A	Application for Individuals to Pay the Filing Fee in Installments	Yes	Spring 2011	August 2012
<a href="#">B 3B</a>	Application for Waiver of Chapter 7 Filing Fee	B103B	Application to Have the Chapter 7 Filing Fee Waived	Yes	Spring 2011	August 2012

\*1XX = Individual Filing Package    2XX = Non-Individual Filing Package    3XX = Orders and Court Notices  
 4XX = Add. Official Forms    XXXX = director's forms

No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date	
<a href="#">B 4</a>	List of Creditors Holding 20 Largest Unsecured Claims	B104	For Individual Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders ( <i>individuals</i> )	Yes	Fall 2012	August 2013	
		B204? B404?	For Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders ( <i>non-individuals</i> )	Yes	Fall 2013	August 2014	
<a href="#">B 5</a>	Involuntary Petition	B105	Involuntary Petition Against an Individual	Yes	Fall 2012	August 2013	
		B205	Involuntary Petition Against a Non-Individual	Yes	Fall 2013	August 2014	
<a href="#">B6</a>	Cover Sheet for Schedules	<b>No coversheet created</b>					
<a href="#">B6</a>	Summary of Schedules (Includes Statistical Summary of Certain Liabilities)	B106 -- Summary	A Summary of Your Assets and Liabilities and Certain Statistical Information ( <i>individuals</i> )	Yes	Fall 2012	August 2013	
		B206 -- Summary	A Summary of Your Assets and Liabilities ( <i>non-individuals</i> )	Yes	Fall 2013	August 2014	
<a href="#">B 6A</a>	Schedule A - Real Property	}	B106A/B	Schedule A/B: Property ( <i>combines real and personal property, individuals</i> )	Yes	Fall 2012	August 2013
<a href="#">B 6B</a>	Schedule B - Personal Property		B206A/B	Schedule A/B: Property ( <i>combines real and personal property, non-individuals</i> )	Yes	Fall 2013	August 2014
<a href="#">B 6C</a>	Schedule C - Property Claimed as Exempt	B106C	Schedule C: The Property You Claim as Exempt ( <i>individuals</i> )	Yes	Fall 2012	August 2013	
<a href="#">B 6D</a>	Schedule D - Creditors Holding Secured Claims	B106D	Schedule D: Creditors Who Hold Claims Secured By Property ( <i>against individuals</i> )	Yes	Fall 2012	August 2013	
		B206D	Schedule D: Creditors Who Hold Claims Secured By	Yes	Fall 2013	August	

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
			Property <i>(against non-individuals)</i>			2014
<a href="#">B 6E</a>	Schedule E - Creditors Holding Unsecured Priority Claims	}	B106E/F Schedule E/F: Creditors Who Have Unsecured Claims <i>(against individuals, combines priority and non-priority)</i>	Yes	Fall 2012	August 2013
<a href="#">B 6F</a>	Schedule F - Creditors Holding Unsecured Nonpriority Claims		B206E/F Schedule E/F: Creditors Who Have Unsecured Claims <i>(against non-individuals, combines priority and non-priority)</i>	Yes	Fall 2013	August 2014
<a href="#">B 6G</a>	Schedule G - Executory Contracts and Unexpired Leases	B106G	Schedule G: Executory Contracts and Unexpired Leases <i>(individuals)</i>	Yes	Fall 2012	August 2013
		B206G	Schedule G: Executory Contracts and Unexpired Leases <i>(non-individuals)</i>	Yes	Fall 2013	August 2014
<a href="#">B 6H</a>	Schedule H - Codebtors	B106H	Schedule H: Your Codebtors <i>(individuals)</i>	Yes	Fall 2012	August 2013
		B206H	Schedule H: Your Codebtors <i>(non-individuals)</i>	Yes	Fall 2013	August 2014
<a href="#">B 6I</a>	Schedule I - Current Income of Individual Debtor(s)	B106I	Schedule I: Your Income <i>(individuals – published as 6I)</i>	Yes	Fall 2011	August 2012
		B206I	Schedule I: Your Income <i>(non-individuals)</i>	Yes		
<a href="#">B 6J</a>	Schedule J- Current Expenditures of Individual Debtor(s)	B106J	Schedule J: Your Expenses <i>(individuals- published as 6J)</i>	Yes	Fall 2011	August 2012
		B206J	Schedule J: Your Expenses <i>(non-individuals)</i>	Yes		
<a href="#">B 6</a>	Declaration Concerning Debtor's Schedules	B106 -- Declaration	Declaration About an Individual Debtor's Schedules	Yes	Fall 2012	August 2013
		B202	Declaration Under Penalty of Perjury On Behalf of a Corporation or Partnership <i>(For petition, schedules,</i>	Yes	Fall 2013	August

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
			SOFA, etc)			2014
<a href="#">B 7</a>	Statement of Financial Affairs	B107	Your Statement of Financial Affairs for Individuals Filing for Bankruptcy	Yes	Fall 2012	August 2013
		B207	Statement of Your Financial Affairs ( <i>non-Individuals</i> )	Yes	Fall 2013	August 2014
<a href="#">B 8</a>	Chapter 7 Individual Debtor's Statement of Intention	B112	Statement of Intention for Individuals Filing Under Chapter 7	Yes	Fall 2012	August 2013
<a href="#">B 9</a>	Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Deadlines	<b>No coversheet created.</b>				
<a href="#">B 9A</a>	Chapter 7 Individual or Joint Debtor No Asset Case	B 309A	(For Individuals or Joint Debtors) Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline	Yes	Spring 2013	August 2014
<a href="#">B 9B</a>	Chapter 7 Corporation/Partnership No Asset Case	B 309C	(For Corporations or Partnerships) Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline Set	Yes	Spring 2013	August 2014
<a href="#">B 9C</a>	Chapter 7 Individual or Joint Debtor Asset Case	B 309B	(For Individuals or Joint Debtors) Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set	Yes	Spring 2013	August 2014
<a href="#">B 9D</a>	Chapter 7 Corporation/Partnership Asset Case (12/11)	B 309D	(For Corporations or Partnerships) Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set	Yes	Spring 2013	August 2014
<a href="#">B 9E</a>	Chapter 11 Individual or Joint Debtor Case	} B 309E	(For Individuals or Joint Debtors) Notice of Chapter 11 Bankruptcy Case ( <i>former Alt version combined with Form B309-E</i> )	Yes	Spring 2013	August 2014
<a href="#">B 9E(Alt.)</a>	Chapter 11 Individual or Joint Debtor Case					
<a href="#">B 9F</a>	Chapter 11 Corporation/Partnership Case	} B 309F	(For Corporations or Partnerships) Notice of Chapter 11 Bankruptcy Case ( <i>former Alt version combined with Form B309-F</i> )	Yes	Spring 2013	August 2014
<a href="#">B 9F(Alt.)</a>	Chapter 11 Corporation/Partnership Case					
<a href="#">B 9G</a>	Chapter 12 Individual or Joint	B 309G	(For Individuals or Joint Debtors) Notice of Chapter	Yes	Spring 2013	August

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3XX = Orders and Court Notices

No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
	Debtor Family Farmer		12 Bankruptcy Case			2014
<a href="#">B 9H</a>	Chapter 12 Corporation/Partnership Family Farmer	B 309H	(For Corporations or Partnerships) Notice of Chapter 12 Bankruptcy Case	Yes	Spring 2013	August 2014
<a href="#">B 9I</a>	Chapter 13 Case	B 309I	Notice of Chapter 13 Bankruptcy Case	Yes	Spring 2013	August 2014
<a href="#">B 10</a>	Proof Of Claim	B 410	Proof Of Claim		Fall 2013	August 2014
<a href="#">B 10A</a>	Proof Of Claim, Attachment A	B 410A	Proof Of Claim, Attachment A		Fall 2013	August 2014
<a href="#">B 10S1</a>	Proof Of Claim, Supplement 1	B 410S1	Proof Of Claim, Supplement 1		Fall 2013	August 2014
<a href="#">B 10S2</a>	Proof Of Claim, Supplement 2	B 410S2	Proof Of Claim, Supplement 2		Fall 2013	August 2014
<a href="#">B 11A</a>	General Power of Attorney	B 411A				August 2014
<a href="#">B 11B</a>	Special Power of Attorney	B 411B				August 2014
<a href="#">B 12</a>	Order and Notice for Hearing on Disclosure Statement	B 312				August 2014
<a href="#">B 13</a>	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof	B 313				August 2014
<a href="#">B 14</a>	Ballot for Accepting or Rejecting Plan	B 414				August 2014
<a href="#">B 15</a>	Order Confirming Plan	B 315				August 2014
<a href="#">B 16A</a>	Caption	B 416A				August

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
						2014
<a href="#">B 16B</a>	Caption (Short Title)	B 416B				August 2014
<a href="#">B 16C</a>	[Abrogated]	N/A				August 2014
<a href="#">B 16D</a>	Caption for Use in Adversary Proceeding other than for a Complaint Filed by a Debtor	B 416D				August 2014
<a href="#">B 17</a>	Notice of Appeal under 28 U.S.C. §158(a) or (b) from a Judgment, Order or Decree of a Bankruptcy Court	B 417				August 2014
<a href="#">B 18</a>	Discharge of Debtor	B 318	Discharge of Debtor in a Chapter 7 Case	Yes	Fall 2012	August 2013
<a href="#">B 19</a>	Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer	B119	Bankruptcy Petition Preparer's Notice, Declaration and Signature <i>(was B 113)</i>	Yes	Fall 2012	August 2013
<a href="#">B 20A</a>	Notice of Motion or Objection	B 420A	Notice of Motion or Objection	Yes	Spring 2013	August 2014
<a href="#">B 20B</a>	Notice of Objection to Claim	B 420B	Notice of Objection to Claim	Yes	Spring 2013	August 2014
<a href="#">B 21</a>	Statement of Social Security Number	B 121 <i>updated from B102</i>	Your Statement About Your Social Security Numbers	Yes	Fall 2012	August 2013
<a href="#">B 22A</a>	Statement of Current Monthly Income and Means Test Calculation (Chapter 7)	B 108-1	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation <i>(published as 22A-1)</i>	Yes	Spring 2011 Spring 2012	August 2012, 13
		B 108-1Supp	Chapter 7 means test exemption attachment <i>(published as 22A-1Supp)</i>	Yes	Spring 2013	August 2013
		B 108-2	Chapter 7 Means Test Calculation <i>(published as 22A-2)</i>	Yes	Spring 2011 Spring 2012	August 2012, 13
<a href="#">B 22B</a>	Statement of Current Monthly Income (Chapter 11)	B 109	Chapter 11 Statement of Your Current Monthly Income <i>(published as 22B)</i>	Yes	Spring 2011	August

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3XX = Orders and Court Notices

No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
					Spring 2012	2012, 13
<a href="#">B 22C</a>	Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)	B 110-1	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period <i>(published as 22C-1)</i>	Yes	Spring 2011 Spring 2012	August 2012, 13
		B 110-2	Chapter 13 Calculation of Your Disposable Income <i>(published as 22C-2)</i>	Yes	Spring 2011 Spring 2012	August 2012, 13
<a href="#">B 23</a>	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	B 423	Certification About a Financial Management Course <i>(was B 113)</i>	Yes	Fall 2012	August 2013
<a href="#">B 24</a>	Certification to Court of Appeals	B 424				August 2014
<a href="#">B 25A</a>	Plan of Reorganization in Small Business Case under Chapter 11	B 425A				
<a href="#">B 25B</a>	Disclosure Statement in Small Business Case under Chapter 11	B 425B				
<a href="#">B 25C</a>	Small Business Monthly Operating Report	B 425C				
<a href="#">B 26</a>	Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest	B 426				
<a href="#">B 27</a>	Reaffirmation Agreement Cover Sheet	B427	Cover Sheet for Reaffirmation Agreement	Yes	Fall 2012	August 2013
<b>DIRECTOR FORMS</b>						
<a href="#">B 13S</a>	Order Conditionally Approving	B 1300S				

\*1XX = Individual Filing Package    2XX = Non-Individual Filing Package    3XX = Orders and Court Notices  
4XX = Add. Official Forms    XXXX = director's forms

No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
	Disclosure Statement, Fixing Time for Filing Acceptances or Rejections of Plan, and Fixing the Time for Filing Objections to the Disclosure Statement and to the Confirmation of the Plan, Combined with Notice Thereof and of the Hearing on Final Approval of the Disclosure Statement and the Hearing on Confirmation of the Plan					
<a href="#">B 15S</a>	Order Finally Approving Disclosure Statement and Confirming Plan	B 1500S				
<a href="#">B 18F</a>	Discharge of Debtor After Completion of Chapter 12 Plan	B 1800F				
<a href="#">B 18FH</a>	Discharge of Debtor Before Completion of Chapter 12 Plan	B 1800FH				
<a href="#">B 18J</a>	Discharge of Joint Debtors (Chapter 7)	B 318	Order of Discharge <i>(combined with Forms 18 and 18JO)</i>			
<a href="#">B 18JO</a>	Discharge of One Joint Debtor (Chapter 7)	B 318	Order of Discharge <i>(combined with Forms 18 and 18J)</i>			
<a href="#">B 18RI</a>	Discharge of Individual Debtor in a Chapter 11 Case	B 1800RI				
<a href="#">B 18W</a>	Discharge of Debtor After Completion of Chapter 13 Plan	B 1800W				
<a href="#">B 18WH</a>	Order Discharging Debtor Before Completion of Chapter 13 Plan	B 1800WH				
<a href="#">B 104</a>	Adversary Proceeding Cover Sheet	B 1040				
<a href="#">B 131</a>	Exemplification Certificate	B 1310				
<a href="#">B 132</a>	Application for Search of Bankruptcy Records	B 1320				

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
<a href="#">B 133</a>	Claims Register	B 1330				
<a href="#">B 200</a>	Required Lists, Schedules, Statements and Fees	B 2000				
<a href="#">B 201A</a>	Notice to Individual Consumer Debtor	B 2010				
<a href="#">B 201B</a>	Certification of Notice to Individual Consumer Debtor(s)	B 101	Not needed because certification is in petition			
<a href="#">B 202</a>	Statement of Military Service	B 2020				
<a href="#">B 203</a>	Disclosure of Compensation of Attorney for Debtor	B 2030	Attorney's Disclosure of Compensation			
<a href="#">B 204</a>	Notice of Need to File Proof of Claim Due to Recovery of Assets	B 2040				
<a href="#">B 205</a>	Notice to Creditors and Other Parties in Interest	B 2050				
<a href="#">B 206</a>	Certificate of Commencement of Case	B 2060				
<a href="#">B 207</a>	Certificate of Retention of Debtor In Possession	B 2070				
<a href="#">B 210A</a>	Transfer of Claim Other Than for Security	B 2100A				
<a href="#">B 210B</a>	Notice of Transfer of Claim Other Than for Security	B 2100B				
<a href="#">B 230A</a>	Order Confirming Chapter 12 Plan	B 2300A				
<a href="#">B 230B</a>	Order Confirming Chapter 13 Plan	B 2300B				
<a href="#">B 231A</a>	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 12 Plan	B 2310A				
<a href="#">B 231B</a>	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 13 Plan	B 2310B				

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XXXX = director's forms

3XX = Orders and Court Notices

No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
<a href="#">B 240A</a>	Reaffirmation Documents	B 2400A				
<a href="#">B 240B</a>	Motion for Approval of Reaffirmation Agreement	B 2400B				
<a href="#">B 240C</a>	Order on Reaffirmation Agreement	B 2400C				
<a href="#">B 240A/B ALT</a>	Reaffirmation Agreement	B 2400A/B ALT				
<a href="#">B 240C ALT</a>	Order on Reaffirmation Agreement	B 2400C ALT				
<a href="#">B 250A</a>	Summons in an Adversary Proceeding	B 2500A				
<a href="#">B 250B</a>	Summons and Notice of Pretrial Conference in an Adversary Proceeding	B 2500B				
<a href="#">B 250C</a>	Summons and Notice of Trial in an Adversary Proceeding	B 2500C				
<a href="#">B 250D</a>	Third-Party Summons	B 2500D				
<a href="#">B 250E</a>	Summons to Debtor in Involuntary Case	B 2500E				
<a href="#">B 250F</a>	Summons in a Chapter 15 Case Seeking Recognition of a Foreign Nonmain Proceeding	B 2500F				
<a href="#">B 253</a>	Order for Relief in an Involuntary Case	B 2530				
<a href="#">B 254</a>	Subpoena for Rule 2004 Examination	B 2540				
<a href="#">B 255</a>	Subpoena in an Adversary Proceeding	B 2550				
<a href="#">B 256</a>	Subpoena in a Case Under the Bankruptcy Code	B 2560				
<a href="#">B 260</a>	Entry of Default	B 2600				

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No.	Current title	New No.*	New title	Drafted?	Date to BK Comm.	Publication Date
<a href="#">B 261A</a>	Judgment by Default	B 2610A				
<a href="#">B 261B</a>	Judgment by Default	B 2610B				
<a href="#">B 261C</a>	Judgment in an Adversary Proceeding	B 2610C				
<a href="#">B 262</a>	Notice of Entry of Judgment	B 2620				
<a href="#">B 263</a>	Bill of Costs	B 2630				
<a href="#">B 264</a>	Writ of Execution to the United States Marshal	B 2640				
<a href="#">B 265</a>	Certification of Judgment for Registration in Another District	B 2650				
<a href="#">B 270</a>	Notice of Filing of Final Report of Trustee, of Hearing on Applications for Compensation [and of Hearing on Abandonment of Property by the Trustee]	B 2700				
<a href="#">B 271</a>	Final Decree	B 2710				
<a href="#">B 280</a>	Disclosure of Compensation of Bankruptcy Petition Preparer	B 2800	Disclosure of Compensation of Bankruptcy Petition Preparer			
<a href="#">B 281</a>	Appearance of Child Support Creditor or Representative	B 2810				
<a href="#">B 283</a>	Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)	B 283				

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

United States Bankruptcy Court for the:

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

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

Check if this is an amended filing

**Official Form 101**

**Voluntary Petition for Individuals Filing for Bankruptcy**

12/15

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

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

**Part 1: Identify Yourself**

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

About Debtor 1:

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

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

Include trade names and doing business as names

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

Number Street

City State ZIP Code

County

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

Number Street

P.O. Box

City State ZIP Code

If Debtor 2 lives at a different address:

Number Street

City State ZIP Code

County

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

Number Street

P.O. Box

City State ZIP Code

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

Check one:

Over the last 180 days before filing this bankruptcy filing package, I have lived in this district longer than in any other district.

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

Four horizontal lines for explanation.

Check one:

Over the last 180 days before filing this bankruptcy filing package, I have lived in this district longer than in any other district.

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

Four horizontal lines for explanation.

**Part 2: Tell the Court About Your Bankruptcy Case**

**7. The chapter of the Bankruptcy Code you are choosing to file under**

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

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

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

If you file under Chapter ...	Your total fee is...
7	\$306
11	\$1,213
12	\$246
13	\$281

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

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

**I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may waive your fee 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 bankruptcy filing package.

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

- No
- Yes. District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

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

- No
- Yes. Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY
- Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

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

- No. Go to line 12.
- Yes. Has your landlord obtained an eviction judgment against you and do you want to stay in your residence?
  - No. Go to line 12.
  - Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

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

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

A sole proprietorship is a business you own as an individual, rather than 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 package.

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

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

Check the appropriate box to describe your business:

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

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

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

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines.

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

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

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

For example, do you own perishable goods or livestock that must be fed?

- 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

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

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

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

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

**About Debtor 1:**

You must check one:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You must check one:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 6: Answer These Questions for Reporting Purposes

16. What kind of debts do you have? 16a. Are your debts primarily consumer debts? 16b. Are your debts primarily business debts? 16c. State the type of debts you owe that are not consumer debts or business debts.

17. Are you filing under Chapter 7? Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

18. How many creditors do you estimate that you owe? 1-49, 50-99, 100-199, 200-999, 1,000-5,000, 5,001-10,000, 10,001-25,000, 25,001-50,000, 50,001-100,000, More than 100,000

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 declare under penalty of perjury that the information provided in this petition is true and correct. I understand that if I make a false statement, I could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

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

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.

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

Debtor 1

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

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

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

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

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

**X**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- No
- Yes

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

- No
- Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out this bankruptcy filing package?

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

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

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

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

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

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

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

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

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

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

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

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

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

## COMMITTEE NOTE

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

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

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

Part 2, *Tell the Court About Your Bankruptcy Case*, line 7, removes choices for chapters 9 and 15 filings because they do not pertain to individuals. Additionally, Part 2 adds at line 8 a table that lists the applicable filing fees for chapters 7, 11, 12, and 13. The status of “being filed” is added to the question regarding bankruptcy cases pending or filed by a spouse, business partner, or affiliate (line 10). Lastly, the question “Do you rent your residence?” (line 11) and Official Forms 101A, *Initial Statement About an Eviction Judgment Against You*, and 101B, *Statement About Payment of an Eviction Judgment Against You*, replace “Certification By a Debtor Who Resides as a Tenant of Residential Property,” on page 2 of Official Form 1.

Part 3, *Report About Any Businesses You Own as a Sole Proprietor*, line 12, incorporates options from the “nature of business” box from page 1 of Official Form 1 that would apply to individual debtors, thus eliminating checkboxes for railroads and clearing banks. Part 3, line 13, also eliminates a checkbox to report whether a plan was filed with the petition, or if plan acceptances were solicited prepetition. Additionally, line 13 rephrases the question relating to whether a debtor filing under Chapter 11 is a small business debtor.

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

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

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

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

A warning is added about the difficulties of filing bankruptcy without an attorney and the possibility of losing property or rights if the debtor does not properly handle the case. Pro se debtors are required to acknowledge reading and understanding the warning and to disclose whether they have paid or agreed to pay someone who is not an attorney to help complete the bankruptcy filing. Debtors who are represented by an attorney do not need to file the page that sets out the warning and acknowledgement.

Fill in this information to identify your case:

Draft May 3, 2013

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

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

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

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

Official Form 101A

Initial Statement About an Eviction Judgment Against You

12/15

Fill out this form only if:

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

See 11 U.S.C. §§ 362(b)(2) and 362(l)

File this form with the court when you first file your bankruptcy filing package.

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

Certification About Applicable Law and Deposit of Rent

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

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

City State ZIP Code

I certify under penalty of perjury that:

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

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

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

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

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

If you checked both boxes above, signed the form to certify that both apply, and served your landlord a copy of this statement, the automatic stay under 11 U.S.C. § 362(a)(3) will apply to the continuation of the eviction against you for 30 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).

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

If you wish to stay in your residence after that 30-day period and continue to receive the protection of the automatic stay under 11 U.S.C. § 362(a)(3), you must pay the entire amount you owe to your landlord as stated in the eviction judgment before the 30-day period ends. You must also fill out Official Form 101B, file it with the bankruptcy court, and serve your landlord a copy of it before the 30-day period ends.

Fill in this information to identify your case:

Draft May 3, 2013

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

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

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

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

Official Form 101B

Statement About Payment of an Eviction Judgment Against You

12/15

Fill out this form only if:

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

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

Certification About Applicable Law and Payment of Eviction Judgment

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

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

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

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

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

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

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

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

“Missing” Forms Modernization Project (FMP) Forms for Individuals

Nine FMP Official Bankruptcy Forms are not included in this publication package because they have already been published for public comment under the current two-digit forms numbering scheme. The forms will be updated with their projected three-digit number designations listed below when this publication package is approved for implementation.

Projected three digit form number	Form Title	Two digit form number and publication year(s)
103A	Application for Individuals to Pay the Filing Fee in Installments	3A (2012)
103B	Application to Have the Chapter 7 Filing Fee Waived	3B (2012)
106I	Schedule I: Your Income	6I (2012)
106J	Schedule J: Your Expenses	6J (2012)
108-1	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation	22A-1 (2012 and 2013)
108-1Supp	Statement of Exemption from Presumption of Abuse Under § 707(b)(2)	22A-1Supp (2013)
108-2	Chapter 7 Means Test Calculation	22A-2 (2012 and 2013)
109	Chapter 11 Statement of Your Current Monthly Income	22B (2012 and 2013)
110-2	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period	22C-1 (2012 and 2013)
110-2	Chapter 13 Calculation of Your Disposable Income	22C-2 (2012 and 2013)

## COMMITTEE NOTE

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

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

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

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

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

nonbankruptcy law by paying their landlord the entire amount they owe and that they have paid their landlord the entire amount owed as stated in the judgment for possession or in the eviction judgment.

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

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

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

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

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

Check if this is an amended filing

**Official Form 104**

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

12/15

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

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

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

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

Unsecured claim

3

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

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

4

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

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

5

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

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

6

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

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

7

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

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

Unsecured claim

8

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

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

\$

9

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

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

\$

10

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

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

\$

11

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

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

\$

12

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

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

\$

Unsecured claim

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

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

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

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

Contact \_\_\_\_\_

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

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

Contingent

Unliquidated

Disputed

None of the above apply

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

No

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

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

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

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

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

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

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

Contact \_\_\_\_\_

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

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

Contingent

Unliquidated

Disputed

None of the above apply

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

No

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

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

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

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

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

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

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

Contact \_\_\_\_\_

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

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

Contingent

Unliquidated

Disputed

None of the above apply

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

No

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

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

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

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

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

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

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

Contact \_\_\_\_\_

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

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

Contingent

Unliquidated

Disputed

None of the above apply

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

No

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

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

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

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

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

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

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

Contact \_\_\_\_\_

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

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

Contingent

Unliquidated

Disputed

None of the above apply

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

No

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

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

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

Unsecured claim

18

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

What is the nature of the claim? \$

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

- Contingent
Unliquidated
Disputed
None of the above apply

Does the creditor have a lien on your property?

- No
Yes. Total claim (secured and unsecured): \$
Value of security: \$
Unsecured claim \$

19

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

What is the nature of the claim? \$

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

- Contingent
Unliquidated
Disputed
None of the above apply

Does the creditor have a lien on your property?

- No
Yes. Total claim (secured and unsecured): \$
Value of security: \$
Unsecured claim \$

20

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

What is the nature of the claim? \$

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

- Contingent
Unliquidated
Disputed
None of the above apply

Does the creditor have a lien on your property?

- No
Yes. Total claim (secured and unsecured): \$
Value of security: \$
Unsecured claim \$

Part 2: Sign Below

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

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

## COMMITTEE NOTE

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

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

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

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

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

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

United States Bankruptcy Court for the:

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

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

Check if this is an amended filing

**Official Form 105**

**Involuntary Petition Against an Individual**

12/15

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

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

**1. Chapter of the Bankruptcy Code**

Check one:

- Chapter 7  
 Chapter 11

**Part 2: Identify the Debtor**

**2. Debtor's full name**

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

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

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

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

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

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

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

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

Unknown

XXX - XX - \_\_\_\_\_

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

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

Unknown

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

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

6. Debtor's address

Principal residence

Mailing address, if different from residence

Number Street

Number Street

City State ZIP Code

City State ZIP Code

County

Principal place of business

Number Street

City State ZIP Code

County

7. Type of business

Debtor does not operate a business

Check one if the debtor operates a business:

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

8. Type of debt

Each petitioner believes:

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

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

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

**Part 3: Report About the Case**

**10. Venue**

*Check one:*

Reason for filing in this court.

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

**11. Allegations**

Each petitioner is eligible to file this petition under 11 U.S.C. § 303(b).

The debtor may be the subject of an involuntary case under 11 U.S.C. § 303(a).

*At least one box must be checked.*

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

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

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

**13. Each petitioner's claim**

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

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

**Part 4:** Request for Relief

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

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

**Petitioners or Petitioners' Representative**

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

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

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

**Mailing address of petitioner**

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

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

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

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

Email \_\_\_\_\_

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

\_\_\_\_\_  
Name

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

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

**Attorneys**

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

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

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

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

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

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

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

**X**

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

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

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

**Mailing address of petitioner**

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

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

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

\_\_\_\_\_  
Name

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

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

**X**

\_\_\_\_\_  
Signature of Attorney

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

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

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

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

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

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

**X**

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

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

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

**Mailing address of petitioner**

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

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

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

\_\_\_\_\_  
Name

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

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

**X**

\_\_\_\_\_  
Signature of Attorney

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

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

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

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

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

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

## COMMITTEE NOTE

Official Form 105, *Involuntary Petition Against an Individual*, which is used only in cases of individual debtors, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered to distinguish it from the version to be used in non-individual cases, and stylistic changes were made throughout the form.

The form is derived from Official Form 5, *Involuntary Petition*. The new form separates questions into four parts likely to be more familiar to non-lawyers, groups questions of a similar nature together, and eliminates questions unrelated to individual debtors.

Part 1, *Identify the Chapter of the Bankruptcy Code Under Which Petition is Filed*, moves to the beginning of the form the question regarding the chapter of the Bankruptcy Code under which the petition is filed.

Part 2, *Identify the Debtor*, includes the questions regarding the debtor's name, prior names, Social Security Number, Individual Taxpayer Identification Number and Employer Identification Number. Petitioners must list the address for the debtor's principal residence, mailing address (if different), and principal place of business. Petitioners must indicate whether the debtor operates a business, and, if so, use checkboxes to indicate whether the business falls into certain categories. The statutory definition of "consumer debts" is provided, as well as a definition of "business debts."

Part 3, *Report About the Case*, amends the question regarding venue to advise that venue is the "Reason to file in this court" and amends the choices for venue. The first option is revised to read: "Over the last 180 days before the filing of this bankruptcy, the debtor has resided, had the principal place of business, or had principal assets in this district longer than any other district." Also, the form adds an option for "Other reason."

Explain,” with a statutory reference. In the question for Allegations, the exact citation to the Bankruptcy Code is provided for the second allegation, and checkboxes are provided for the last allegation. Petitioners must check “yes” or “no” to answer whether there has been any transfer of any claim against the debtor by or to a petitioner. The information regarding the petitioner’s claims is moved to this part of the form, and the portion listing the amount of the claim is amended to ask about the amount of the claim that exceeds the value of the lien, if any.

Part 4, *Request for Relief*, amends the instructions to include a warning about making a false statement, and adds a separate requirement for each petitioner’s mailing address. Also, petitioners’ attorneys must provide their email addresses, or if a petitioner is an individual and not represented by an attorney, the contact phone and email address of that petitioner must be provided.

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

Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	_____		District of _____
			(State)
Case number	_____		
	(If known)		

Check if this is an amended filing

## Official Form 106Sum

### Summary of Your Assets and Liabilities and Certain Statistical Information 12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Fill out all of your schedules first; then complete the information on this form. If you are filing amended schedules after you file your original forms, you must fill out a new *Summary* and check the box at the top of this page.

#### Part 1: Summarize Your Assets

		Your assets
		Value of what you own
1. <b>Schedule A/B: Property</b> (Official Form 106A/B).		
1a. Copy line 55, Total real estate, from <i>Schedule A/B</i> .....		\$ _____
1b. Copy line 62, Total personal property, from <i>Schedule A/B</i> .....		\$ _____
1c. Copy line 63, Total of all property on <i>Schedule A/B</i> .....		\$ _____

#### Part 2: Summarize Your Liabilities

		Your liabilities
		Amount you owe
2. <b>Schedule D: Creditors Who Hold Claims Secured by Property</b> (Official Form 106D)		
2a. Copy the total you listed in Column A, <i>Amount of claim</i> , at the bottom of the last page of Part 1 of <i>Schedule D</i> .....		\$ _____
3. <b>Schedule E/F: Creditors Who Have Unsecured Claims</b> (Official Form 106E/F)		
3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of <i>Schedule E/F</i> .....		\$ _____
3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of <i>Schedule E/F</i> .....		+ \$ _____
<b>Your total liabilities</b>		\$ _____

#### Part 3: Summarize Your Income and Expenses

4. <b>Schedule I: Your Income</b> (Official Form 106I)		
Copy your combined monthly income from line 12 of <i>Schedule I</i> .....		\$ _____
5. <b>Schedule J: Your Expenses</b> (Official Form 106J)		
Copy your monthly expenses from line 22, Column A, of <i>Schedule J</i> .....		\$ _____

**Part 4:** Answer These Questions for Administrative and Statistical Records

**6. Are you filing for bankruptcy under Chapters 7, 11, or 13?**

- No. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.
- Yes

**7. What kind of debt do you have?**

- Your debts are primarily consumer debts.** *Consumer debts* are those "incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Fill out lines 8-10 for statistical purposes. 28 U.S.C. § 159.
- Your debts are not primarily consumer debts.** You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.

**8. From the *Statement of Your Current Monthly Income* (Official Form 108-1, 109, or 110-1):**  
Copy your total current monthly income from line 11.

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

**9. Copy the following special categories of claims from Part 4, line 6 of *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F):**

**Total claim**

**From Part 4 on *Schedule E/F*, copy the following:**

- 9a. Domestic support obligations (Copy line 6a.) \$ \_\_\_\_\_
- 9b. Taxes and certain other debts you owe the government. (Copy line 6b.) \$ \_\_\_\_\_
- 9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.) \$ \_\_\_\_\_
- 9d. Student loans. (Copy line 6f.) \$ \_\_\_\_\_
- 9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.) \$ \_\_\_\_\_
- 9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.) + \$ \_\_\_\_\_
- 9g. **Total.** Add lines 9a through 9f. \$ \_\_\_\_\_

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

Fill in this information to identify your case and this filing:

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

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

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

Case number \_\_\_\_\_

Check if this is an amended filing

Official Form 106A/B

Schedule A/B: Property

12/15

In each category, separately list and describe items worth more than \$500. 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
- Yes. Where is the property?

1.1. \_\_\_\_\_  
Street address, if available, or other description

City State ZIP Code

County

What is the property? Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

Who is an owner of the property? Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

Other information you wish to add about this item, such as local property identification number: \_\_\_\_\_

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

Current value of the entire property? Current value of the portion you own?

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

Check if this is community property (see instructions)

If you own or have more than one, list here:

1.2. \_\_\_\_\_  
Street address, if available, or other description

City State ZIP Code

County

What is the property? Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

Who is an owner of the property? Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

Other information you wish to add about this item, such as local property identification number: \_\_\_\_\_

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

Current value of the entire property? Current value of the portion you own?

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

Check if this is community property (see instructions)

1.3. \_\_\_\_\_  
 Street address, if available, or other description  
 \_\_\_\_\_  
 \_\_\_\_\_  
 City State ZIP Code  
 \_\_\_\_\_  
 County

**What is the property?** Check all that apply.

- Single-family home
- Duplex or multi-unit building
- Condominium or cooperative
- Manufactured or mobile home
- Land
- Investment property
- Timeshare
- Other \_\_\_\_\_

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

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
--	--

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

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

**Check if this is community property** (see instructions)

**Other information you wish to add about this item, such as local property identification number:** \_\_\_\_\_

2. Add the dollar value of the portion you own for all of your entries from Part 1, including any entries for pages you have attached for Part 1. Write that number here. ....>

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

**Part 2: Describe Your Vehicles**

**Do you own or have legal or equitable interest in any vehicles, whether they are registered or not?** Include any vehicles you own that someone else drives. Do not report leased vehicles here. If you lease a vehicle, fill out *Schedule G: Executory Contracts and Unexpired Leases*.

**3. Cars, vans, trucks, tractors, sport utility vehicles, motorcycles**

- No
- Yes

3.1. Make: \_\_\_\_\_  
 Model: \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Mileage:  0-24,999  
 25,000-49,999  
 50,000-74,999  
 75,000 or more

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

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

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
--	--

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

**Check if this is community property** (see instructions)

Other information:  
\_\_\_\_\_

If you own or have more than one, describe here:

3.2. Make: \_\_\_\_\_  
 Model: \_\_\_\_\_  
 Year: \_\_\_\_\_  
 Mileage:  0-24,999  
 25,000-49,999  
 50,000-74,999  
 75,000 or more

**Who is an owner of the property?** Check one.

- Debtor 1 only
- Debtor 2 only
- Debtor 1 and Debtor 2 only
- At least one of the debtors and another

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

<b>Current value of the entire property?</b>	<b>Current value of the portion you own?</b>
--	--

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

**Check if this is community property** (see instructions)

Other information:  
\_\_\_\_\_

3.3. Make: \_\_\_\_\_
Model: \_\_\_\_\_
Year: \_\_\_\_\_
Mileage: [ ] 0-24,999
[ ] 25,000-49,999
[ ] 50,000-74,999
[ ] 75,000 or more

Other information:

[Empty box for other information]

Who is an owner of the property? Check one.

- [ ] Debtor 1 only
[ ] Debtor 2 only
[ ] Debtor 1 and Debtor 2 only
[ ] At least one of the debtors and another

[ ] Check if this is community property (see instructions)

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

Current value of the entire property? Current value of the portion you own?

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

3.4. Make: \_\_\_\_\_
Model: \_\_\_\_\_
Year: \_\_\_\_\_
Mileage: [ ] 0-24,999
[ ] 25,000-49,999
[ ] 50,000-74,999
[ ] 75,000 or more

Other information:

[Empty box for other information]

Who is an owner of the property? Check one.

- [ ] Debtor 1 only
[ ] Debtor 2 only
[ ] Debtor 1 and Debtor 2 only
[ ] At least one of the debtors and another

[ ] Check if this is community property (see instructions)

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

Current value of the entire property? Current value of the portion you own?

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

4. Watercraft, aircraft, motor homes, ATVs and other recreational vehicles, other vehicles, and accessories

Examples: Boats, trailers, motors, personal watercraft, fishing vessels, snowmobiles, motorcycle accessories

- [ ] No
[ ] Yes

4.1. Make: \_\_\_\_\_
Model: \_\_\_\_\_
Year: \_\_\_\_\_

Other information:

[Empty box for other information]

Who is an owner of the property? Check one.

- [ ] Debtor 1 only
[ ] Debtor 2 only
[ ] Debtor 1 and Debtor 2 only
[ ] At least one of the debtors and another

[ ] Check if this is community property (see instructions)

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

Current value of the entire property? Current value of the portion you own?

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

If you own or have more than one, list here:

4.2. Make: \_\_\_\_\_
Model: \_\_\_\_\_
Year: \_\_\_\_\_

Other information:

[Empty box for other information]

Who is an owner of the property? Check one.

- [ ] Debtor 1 only
[ ] Debtor 2 only
[ ] Debtor 1 and Debtor 2 only
[ ] At least one of the debtors and another

[ ] Check if this is community property (see instructions)

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

Current value of the entire property? Current value of the portion you own?

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

5. Add the dollar value of the portion you own for all of your entries from Part 2, including any entries for pages you have attached for Part 2. Write that number here

\$ [Empty box for total value]

Part 3: Describe Your Personal and Household Items

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

Current value of the portion you own? Do not deduct secured claims or exemptions.

6. Household goods and furnishings

Examples: Major appliances, furniture, linens, china, kitchenware

No

Yes. Describe.....

Text input box for describing household goods and furnishings.

\$

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.....

Text input box for describing electronics.

\$

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.....

Text input box for describing collectibles of value.

\$

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.....

Text input box for describing equipment for sports and hobbies.

\$

10. Firearms

Examples: Pistols, rifles, shotguns, ammunition, and related equipment

No

Yes. Describe.....

Text input box for describing firearms.

\$

11. Clothes

Examples: Everyday clothes, furs, leather coats, designer wear, shoes, accessories

No

Yes. Describe.....

Text input box for describing clothes.

\$

12. Jewelry

Examples: Everyday jewelry, costume jewelry, engagement rings, wedding rings, heirloom jewelry, watches, gems, gold, silver

No

Yes. Describe.....

Text input box for describing jewelry.

\$

13. Non-farm animals

Examples: Dogs, cats, birds, horses

No

Yes. Describe.....

Text input box for describing non-farm animals.

\$

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.....

Text input box for describing other personal and household items.

\$

15. Add the dollar value of all of your entries from Part 3, including any entries for pages you have attached for Part 3. Write that number here



\$

Part 4: Describe Your Financial Assets

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

Current value of the portion you own? Do not deduct secured claims or exemptions.

16. Cash

Examples: Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition

No Yes Cash: \$

17. Deposits of money

Examples: Checking, savings, or other financial accounts; certificates of deposit; shares in credit unions, brokerage houses, and other similar institutions. If you have multiple accounts with the same institution, list each.

No Yes Institution name:

Table with 3 columns: Account type (e.g., 17.1. Checking account), Institution name, and Current value (\$).

18. Bonds, mutual funds, or publicly traded stocks

Examples: Bond funds, investment accounts with brokerage firms, money market accounts

No Yes Institution name: \$

19. Non-publicly traded stock and interests in incorporated and unincorporated businesses, including an interest in an LLC, partnership, and joint venture

No Yes. Give specific information about them Name of entity: % 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.

Form for section 20 with checkboxes for 'No' and 'Yes. Give specific information about them...' and three lines for issuer name and amount.

21. Retirement or pension accounts

Examples: Interests in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans

Form for section 21 with checkboxes for 'No' and 'Yes. List each account separately.' and multiple lines for account type, institution name, and amount.

22. Security deposits and prepayments

Your share of all unused deposits you have made so that you may continue service or use from a company. Examples: Agreements with landlords, prepaid rent, public utilities (electric, gas, water), telecommunications companies, or others

Form for section 22 with checkboxes for 'No' and 'Yes...' and multiple lines for institution name or individual and amount for various categories like Electric, Gas, Heating oil, etc.

23. Annuities (A contract for a periodic payment of money to you, either for life or for a number of years)

Form for section 23 with checkboxes for 'No' and 'Yes...' and three lines for issuer name and description and amount.

24. **Interests in an education IRA** as defined in 26 U.S.C. § 530(b)(1) or under a qualified state tuition plan as defined in 26 U.S.C. § 529(b)(1).

No

Yes ..... Institution name and description. Separately file the records of any interests. 11 U.S.C. § 521(c):

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

25. **Trusts, equitable or future interests in property (other than anything listed in line 1), and rights or powers exercisable for your benefit**

No

Yes. Give specific information about them....

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

26. **Patents, copyrights, trademarks, trade secrets, and other intellectual property**

*Examples:* Internet domain names, websites, proceeds from royalties and licensing agreements

No

Yes. Give specific information about them....

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

27. **Licenses, franchises, and other general intangibles**

*Examples:* Building permits, exclusive licenses, cooperative association holdings, liquor licenses, professional licenses

No

Yes. Give specific information about them....

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

**Money or property owed to you?**

**Current value of the portion you own?**  
Do not deduct secured claims or exemptions.

28. **Tax refunds owed to you**

No

Yes. Give specific information about them, including whether you already filed the returns and the tax years. ....

\_\_\_\_\_

Federal: \$ \_\_\_\_\_  
State: \$ \_\_\_\_\_  
Local: \$ \_\_\_\_\_

29. **Family support**

*Examples:* Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement

No

Yes. Give specific information.....

\_\_\_\_\_

Alimony: \$ \_\_\_\_\_  
Maintenance: \$ \_\_\_\_\_  
Support: \$ \_\_\_\_\_  
Divorce settlement: \$ \_\_\_\_\_  
Property settlement: \$ \_\_\_\_\_

30. **Other amounts someone owes you**

*Examples:* Unpaid wages, disability insurance payments, disability benefits, sick pay, vacation pay, workers' compensation, Social Security benefits; unpaid loans you made to someone else

No

Yes. Give specific information.....

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

31. Interests in insurance policies

Examples: Health, disability, or life insurance; health savings account (HSA); credit, homeowner's, or renter's insurance

Form for insurance policies with checkboxes for 'No' and 'Yes', and fields for company name, beneficiary, and surrender/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, have inherited something from an existing estate

Form for interest in property with checkboxes for 'No' and 'Yes', and a text box for specific information followed by a dollar sign field.

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

Form for claims against third parties with checkboxes for 'No' and 'Yes', and a text box for claim description followed by a dollar sign field.

34. Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims

Form for other contingent claims with checkboxes for 'No' and 'Yes', and a text box for claim description followed by a dollar sign field.

35. Any financial assets you did not already list

Form for financial assets with checkboxes for 'No' and 'Yes', and a text box for specific information followed by a dollar sign field.

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



Box for total dollar value with a dollar sign and a line for the number.

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?

- Yes/No options with instructions to go to Part 6 or line 38.

Current value of the portion you own? Do not deduct secured claims or exemptions.

38. Accounts receivable or commissions you already earned

Form for accounts receivable with checkboxes for 'No' and 'Yes', and a text box for description followed by a dollar sign field.

39. Office equipment, furnishings, and supplies

Examples: Business-related computers, software, modems, printers, copiers, fax machines, rugs, telephones, desks, chairs, electronic devices

Form for office equipment with checkboxes for 'No' and 'Yes', and a text box for description followed by a dollar sign field.

40. Machinery, fixtures, equipment, supplies you use in business, and tools of your trade

No
Yes. Describe..... \$

41. Inventory

No
Yes. Describe..... \$

42. Interests in partnerships or joint ventures

No
Yes. Describe..... Name of entity: % of ownership: \$

43. Customer lists, mailing lists, or other compilations

No
Yes. Do your lists include personally identifiable information (as defined in 11 U.S.C. § 101(41A))?
No
Yes. Describe..... \$

44. Any business-related property you did not already list

No
Yes. Give specific information ..... \$

45. Add the dollar value of all of your entries from Part 5, including any entries for pages you have attached for Part 5. Write that number here

\$

Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In. If you own or have an interest in farmland, list it in Part 1.

46. Do you own or have any legal or equitable interest in any farm- or commercial fishing-related property?

No. Go to Part 7.
Yes. Go to line 47.

Current value of the portion you own? Do not deduct secured claims or exemptions.

47. Farm animals

Examples: Livestock, poultry, farm-raised fish

No
Yes..... \$

**48. Crops—either growing or harvested**

No  
 Yes. Give specific information.....  \$ \_\_\_\_\_

**49. Farm and fishing equipment and implements**

No  
 Yes.....  \$ \_\_\_\_\_

**50. Farm and fishing supplies, chemicals, and feed**

No  
 Yes.....  \$ \_\_\_\_\_

**51. Any farm- and commercial fishing-related property you did not already list**

No  
 Yes. Give specific information.....  \$ \_\_\_\_\_

**52. Add the dollar value of all of your entries from Part 6, including any entries for pages you have attached for Part 6. Write that number here** →

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

**Part 7: Describe All Property You Own or Have an Interest in That You Did Not List Above**

**53. Do you have other property of any kind you did not already list?**

*Examples: Season tickets, country club membership*

No  
 Yes. Give specific information.....  \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

**54. Add the dollar value of all of your entries from Part 7. Write that number here** →

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

**Part 8: List the Totals of Each Part of this Form**

**55. Part 1: Total real estate, line 2** ..... → \$ \_\_\_\_\_

**56. Part 2: Total vehicles, line 5** \$ \_\_\_\_\_

**57. Part 3: Total personal and household items, line 15** \$ \_\_\_\_\_

**58. Part 4: Total financial assets, line 36** \$ \_\_\_\_\_

**59. Part 5: Total business-related property, line 45** \$ \_\_\_\_\_

**60. Part 6: Total farm- and fishing-related property, line 52** \$ \_\_\_\_\_

**61. Part 7: Total other property not listed, line 54** + \$ \_\_\_\_\_

**62. Total personal property.** Add lines 56 through 61. ....  \$ \_\_\_\_\_ Copy personal property total → + \$ \_\_\_\_\_

**63. Total of all property on Schedule A/B.** Add line 55 + line 62.....  \$ \_\_\_\_\_

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

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

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

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

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

Check if this is an amended filing

**Official Form 106C**

**Schedule C: The Property You Claim as Exempt**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

**For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.**

**Part 1: Identify the Property You Claim as Exempt**

1. **Which set of exemptions are you claiming?** Check one only, even if your spouse is filing with you.

- You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
- You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. **For any property you list on Schedule A/B that you claim as exempt, fill in the information below.**

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
	<small>Copy the value from Schedule A/B</small>	<small>Check only one box for each exemption.</small>	
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____

3. **Are you claiming a homestead exemption of more than \$155,675?**

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

- No
- Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
  - No
  - Yes

Part 2: Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
	Copy the value from Schedule A/B	Check only one box for each exemption	
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____ _____ _____

Fill in this information to identify your case:

Debtor 1 First Name Middle Name Last Name
Debtor 2 (Spouse, if filing) First Name Middle Name Last Name
United States Bankruptcy Court for the: District of (State)
Case number (If known)

Check if this is an amended filing

Official Form 106D

Schedule D: Creditors Who Hold 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 hold 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 Your Secured Claims

2. List all of your secured claims in the alphabetical order of the major creditor who holds each claim. If a creditor has more than one secured claim, list the creditor separately for each claim. If more than one creditor holds a particular claim, list the other creditors in Part 2.

Table with 3 columns: Column A Amount of claim, Column B Value of collateral that supports this claim, Column C Unsecured portion If any

2.1 Describe the property that is collateral:
Creditor's Name
Number Street
City State ZIP Code
Who owes the debt? Check one.
Date debt was incurred Last 4 digits of account number

2.2 Describe the property that is collateral:
Creditor's Name
Number Street
City State ZIP Code
Who owes the debt? Check one.
Date debt was incurred Last 4 digits of account number

Add the dollar value of your entries in Column A on this page. Write that number here: \$

<b>Part 1:</b>	<b>Additional Page</b>	<b>Column A</b>	<b>Column B</b>	<b>Column C</b>
	<b>After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.</b>	<b>Amount of claim</b>	<b>Value of collateral that supports this claim</b>	<b>Unsecured portion</b>
		Do not deduct the value of collateral.		If any

□		<b>Describe the property that is collateral:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____				
	Number _____ Street _____				
	City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one.	<b>As of the date you file, the claim is:</b> Check all that apply.			
	<input type="checkbox"/> Debtor 1 only	<input type="checkbox"/> Contingent			
	<input type="checkbox"/> Debtor 2 only	<input type="checkbox"/> Unliquidated			
	<input type="checkbox"/> Debtor 1 and Debtor 2 only	<input type="checkbox"/> Disputed			
	<input type="checkbox"/> At least one of the debtors and another	<input type="checkbox"/> None of the above apply			
	<input type="checkbox"/> <b>Check if this is a community claim</b>	<b>Nature of lien.</b> Check all that apply.			
		<input type="checkbox"/> An agreement you made (such as mortgage or secured car loan)			
		<input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien)			
		<input type="checkbox"/> Judgment lien from a lawsuit			
		<input type="checkbox"/> Other _____			
	<b>Date debt was incurred</b> _____	<b>Last 4 digits of account number</b> ____ _			

□		<b>Describe the property that is collateral:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____				
	Number _____ Street _____				
	City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one.	<b>As of the date you file, the claim is:</b> Check all that apply.			
	<input type="checkbox"/> Debtor 1 only	<input type="checkbox"/> Contingent			
	<input type="checkbox"/> Debtor 2 only	<input type="checkbox"/> Unliquidated			
	<input type="checkbox"/> Debtor 1 and Debtor 2 only	<input type="checkbox"/> Disputed			
	<input type="checkbox"/> At least one of the debtors and another	<input type="checkbox"/> None of the above apply			
	<input type="checkbox"/> <b>Check if this is a community claim</b>	<b>Nature of lien.</b> Check all that apply.			
		<input type="checkbox"/> An agreement you made (such as mortgage or secured car loan)			
		<input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien)			
		<input type="checkbox"/> Judgment lien from a lawsuit			
		<input type="checkbox"/> Other _____			
	<b>Date debt was incurred</b> _____	<b>Last 4 digits of account number</b> ____ _			

□		<b>Describe the property that is collateral:</b>	\$ _____	\$ _____	\$ _____
	Creditor's Name _____				
	Number _____ Street _____				
	City _____ State _____ ZIP Code _____				
	<b>Who owes the debt?</b> Check one.	<b>As of the date you file, the claim is:</b> Check all that apply.			
	<input type="checkbox"/> Debtor 1 only	<input type="checkbox"/> Contingent			
	<input type="checkbox"/> Debtor 2 only	<input type="checkbox"/> Unliquidated			
	<input type="checkbox"/> Debtor 1 and Debtor 2 only	<input type="checkbox"/> Disputed			
	<input type="checkbox"/> At least one of the debtors and another	<input type="checkbox"/> None of the above apply			
	<input type="checkbox"/> <b>Check if this is a community claim</b>	<b>Nature of lien.</b> Check all that apply.			
		<input type="checkbox"/> An agreement you made (such as mortgage or secured car loan)			
		<input type="checkbox"/> Statutory lien (such as tax lien, mechanic's lien)			
		<input type="checkbox"/> Judgment lien from a lawsuit			
		<input type="checkbox"/> Other _____			
	<b>Date debt was incurred</b> _____	<b>Last 4 digits of account number</b> ____ _			

<b>Add the dollar value of your entries in Column A on this page. Write that number here:</b>	\$ _____
<b>If this is the last page of your form, add the dollar value totals from all pages. Write that number here:</b>	\$ _____

**Part 2:** List Others to Be Notified for a Debt That You Already Listed

Use this page only if you have others to be notified about your bankruptcy for a debt that you already listed in Part 1. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the creditor in Part 1, and then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Part 1, list the additional creditors here. If you do not have additional persons to be notified for any debts in Part 1, do not fill out or submit this page.

<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _
<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _
<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _
<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _
<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _
<input type="checkbox"/> Name _____ Number Street _____ _____ City State ZIP Code _____	On which line in Part 1 did you enter the creditor? ____ Last 4 digits of account number ____ _ ____ _

Fill in this information to identify your case:

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

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

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

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

Check if this is an amended filing

Official Form 106E/F

Schedule E/F: Creditors Who Have Unsecured Claims

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY claims and Part 2 for creditors with NONPRIORITY claims. Do not include any creditors with partially secured claims that are listed in Schedule D: Creditors Who Hold Claims Secured by Property. If more space is needed, copy the Part you need, fill it out, number the entries in the boxes on the left. Attach the Continuation Page to this page. If you have no information to report in a Part, do not file that Part. On the top of any additional pages, write your name and case number (if known).

Part 1: List All of Your PRIORITY Unsecured Claims

1. Do any creditors have priority unsecured claims against you?

- No. Go to Part 2.
- Yes.

2. List all of your priority unsecured claims in the alphabetical order of the creditor who holds each claim. If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. If you have more than two priority unsecured claims, fill out the Continuation Page of Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3. (For an explanation of each type of claim, see the instructions for this form in the instruction booklet.)

	Total claim	Priority amount	Nonpriority amount
2.1			
Priority Creditor's Name _____ _____ Number _____ Street _____ _____ City _____ State _____ ZIP Code _____ <b>Who incurred the debt?</b> Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this is a community debt	Last 4 digits of account number _____ \$ _____ \$ _____ \$ _____ When was the debt incurred? _____ <b>As of the date you file, the claim is:</b> Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed <input type="checkbox"/> None of the above apply	<b>Type of PRIORITY unsecured claim:</b> <input type="checkbox"/> Domestic support obligations <input type="checkbox"/> Taxes and certain other debts you owe the government <input type="checkbox"/> Claims for death or personal injury while you were intoxicated <input type="checkbox"/> Other. Specify _____	

2.2			

Priority Creditor's Name

Number Street

City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another
Check if this is a community debt

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

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

Part 1: Your PRIORITY Unsecured Claims - Continuation Page

After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth. Total claim Priority amount Nonpriority amount

Form entry 1: Priority Creditor's Name, Address, Debt type, and claim details.

Form entry 2: Priority Creditor's Name, Address, Debt type, and claim details.

Form entry 3: Priority Creditor's Name, Address, Debt type, and claim details.

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

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

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

**Last 4 digits of account number** \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**When was the debt incurred?** \_\_\_\_\_

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

Contingent  
 Unliquidated  
 Disputed  
 None of the above apply

**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 is a community debt**

**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 \_\_\_\_\_

**Part 2: List All of Your NONPRIORITY Unsecured Claims**

**3. Do any creditors have nonpriority unsecured claims against you?**  
 No. You have nothing to report in this part. Submit this form to the court with your other schedules.  
 Yes

**4. List all of your nonpriority unsecured claims in the alphabetical order of the creditor who holds each claim.** If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. If you have more than four priority unsecured claims fill out the Continuation Page of Part 2. If more than one creditor holds a particular claim, list the other creditors in Part 3.

	Total claim
<p><b>4.1</b></p> <p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <p><input type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> <b>Check if this is a community debt</b></p>	<p><b>Last 4 digits of account number</b> _____ \$ _____</p> <p><b>When was the debt incurred?</b> _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed  <input type="checkbox"/> None of the above apply</p> <p><b>Type of NONPRIORITY unsecured claim:</b></p> <p><input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input type="checkbox"/> Other. Specify _____</p>

<p><b>4.2</b></p> <p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p> <p><b>Who incurred the debt?</b> Check one.</p> <p><input type="checkbox"/> Debtor 1 only  <input type="checkbox"/> Debtor 2 only  <input type="checkbox"/> Debtor 1 and Debtor 2 only  <input type="checkbox"/> At least one of the debtors and another  <input type="checkbox"/> <b>Check if this is a community debt</b></p>	<p><b>Last 4 digits of account number</b> _____ \$ _____</p> <p><b>When was the debt incurred?</b> _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated  <input type="checkbox"/> Disputed  <input type="checkbox"/> None of the above apply</p> <p><b>Type of NONPRIORITY unsecured claim:</b></p> <p><input type="checkbox"/> Student loans  <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims  <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts  <input type="checkbox"/> Other. Specify _____</p>
--	--

<p><b>4.3</b></p> <p>Nonpriority Creditor's Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	<p><b>Last 4 digits of account number</b> _____ \$ _____</p> <p><b>When was the debt incurred?</b> _____</p> <p><b>As of the date you file, the claim is:</b> Check all that apply.</p> <p><input type="checkbox"/> Contingent  <input type="checkbox"/> Unliquidated</p>
--	---

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 is a community debt

- Disputed
None of the above apply

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

4.4

Nonpriority Creditor's Name
Number Street
City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another
Check if this is a community debt

Last 4 digits of account number \$

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

Type of NONPRIORITY unsecured claim:

- Student loans
Obligations arising out of a separation agreement or divorce that you did not report as priority claims
Debts to pension or profit-sharing plans, and other similar debts
Other. Specify

Part 2: Your NONPRIORITY Unsecured Claims – Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

Nonpriority Creditor's Name
Number Street
City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another
Check if this is a community debt

Last 4 digits of account number \$

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

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

Nonpriority Creditor's Name
Number Street
City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another
Check if this is a community debt

Last 4 digits of account number \$

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

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

Last 4 digits of account number \$

Debtor 1

First Name Middle Name Last Name

Case number (if known)

Nonpriority Creditor's Name

Number Street

City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is a community debt

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

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

Nonpriority Creditor's Name

Number Street

City State ZIP Code

Who incurred the debt? Check one.

- Debtor 1 only
Debtor 2 only
Debtor 1 and Debtor 2 only
At least one of the debtors and another

Check if this is a community debt

Last 4 digits of account number \$

When was the debt incurred?

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

- Contingent
Unliquidated
Disputed
None of the above apply

Type of NONPRIORITY unsecured claim:

- Student loans
Obligations arising out of a separation agreement or divorce that you did not report as priority claims
Debts to pension or profit-sharing plans, and other similar debts
Other. Specify

Part 3: List Others to Be Notified for a Debt That You Already Listed

5. Use this page only if you have others to be notified about your bankruptcy, for a debt that you already listed in Parts 1 or 2. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the original creditor in Parts 1 or 2, then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Parts 1 or 2, list the additional creditors here. If you do not have additional persons to be notified for any debts in Parts 1 or 2, do not fill out or submit this page.

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line of (Check one): Part 1: Creditors with Priority Unsecured Claims
Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line of (Check one): Part 1: Creditors with Priority Unsecured Claims
Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line of (Check one): Part 1: Creditors with Priority Unsecured Claims
Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number

Name

On which entry in Part 1 or Part 2 did you list the original creditor?

- Line of (Check one): Part 1: Creditors with Priority Unsecured Claims
Part 2: Creditors with Nonpriority Unsecured Claims

Debtor 1

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

First Name Middle Name Last Name

Number Street

Last 4 digits of account number \_\_\_\_\_

City State ZIP Code

Name

On which entry in Part 1 or Part 2 did you list the original creditor?

Line \_\_\_\_ of (Check one):  Part 1: Creditors with Priority Unsecured Claims

Part 2: Creditors with Nonpriority Unsecured Claims

Number Street

Last 4 digits of account number \_\_\_\_\_

City State ZIP Code

Name

On which entry in Part 1 or Part 2 did you list the original creditor?

Line \_\_\_\_ of (Check one):  Part 1: Creditors with Priority Unsecured Claims

Part 2: Creditors with Nonpriority Unsecured Claims

Number Street

Last 4 digits of account number \_\_\_\_\_

City State ZIP Code

Name

On which entry in Part 1 or Part 2 did you list the original creditor?

Line \_\_\_\_ of (Check one):  Part 1: Creditors with Priority Unsecured Claims

Part 2: Creditors with Nonpriority Unsecured Claims

Number Street

Last 4 digits of account number \_\_\_\_\_

City State ZIP Code

Part 4: Add the Amounts for Each Type of Unsecured Claim

6. Total the amounts of certain types of unsecured claims for statistical reporting purposes. For reporting purposes, add the amounts for each type of unsecured claim.

		Total claim
<b>Total claims from Part 1</b>	6a. Domestic support obligations	6a. \$ _____
	6b. Taxes and certain other debts you owe the government	6b. \$ _____
	6c. Claims for death or personal injury while you were intoxicated	6c. \$ _____
	6d. Other. Add all other priority unsecured claims. Write that amount here.	6d. + \$ _____
	6e. Total. Add lines 6a through 6d.	6e. <span style="border: 1px solid black; padding: 2px;">\$ _____</span>

		Total claim
<b>Total claims from Part 2</b>	6f. Student loans	6f. \$ _____
	6g. Obligations arising out of a separation agreement or divorce that you did not report as priority claims	6g. \$ _____
	6h. Debts to pension or profit-sharing plans, and other similar debts	6h. \$ _____

Debtor 1

First Name Middle Name Last Name

Case number (if known)

6i. **Other.** Add all other nonpriority unsecured claims.  
Write that amount here.

6i. + \$ \_\_\_\_\_

6j. **Total.** Add lines 6f through 6i.

6j. 

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

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

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

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

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

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

Check if this is an amended filing

**Official Form 106G**

**Schedule G: Executory Contracts and Unexpired Leases**

12/15

**Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the additional page, fill it out, number the entries, and attach it to this page. On the top of any additional pages, write your name and case number (if known).**

**1. Do you have any executory contracts or unexpired leases?**

- No. Check this box and file this form with the court with your other schedules. You have nothing else to report on this form.
- Yes. Fill in all of the information below even if the contracts or leases are listed on *Schedule A/B: Property* (Official Form 106A/B).

**2. List separately each person or company with whom you have the contract or lease. Then state what each contract or lease is for (for example, rent, vehicle lease, cell phone). See the instructions for this form in the instruction booklet for more examples of executory contracts and unexpired leases.**

Person or company with whom you have the contract or lease	State what the contract or lease is for
<p><b>1</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>2</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>3</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>4</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	
<p><b>5</b></p> <p>Name _____</p> <p>Number _____ Street _____</p> <p>City _____ State _____ ZIP Code _____</p>	

**Additional Page if You Have More Contracts or Leases**

Person or company with whom you have the contract or lease	What the contract or lease is for
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	
<input type="checkbox"/> Name _____ Number Street _____ City State ZIP Code _____	

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

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

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

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

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

Check if this is an amended filing

**Official Form 106H**  
**Schedule H: Your Codebtors**

12/15

**Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, and number the entries in the boxes on the left. Attach the Additional Page to this page. On the top of any Additional Pages, write your name and case number (if known). Answer every question.**

- 1. Do you have any codebtors?** (If you are filing a joint case, do not list either spouse as a codebtor.)  
 No  
 Yes
- 2. Within the last 8 years, have you lived in a community property state or territory?** (*Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.*)  
 No. Go to line 3.  
 Yes. Did your spouse, former spouse, or legal equivalent live with you at the time?  
 No  
 Yes. In which community state or territory did you live? \_\_\_\_\_. Fill in the name and current address of that person.

\_\_\_\_\_  
 Name of your spouse

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

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

- 3. In Column 1, list as codebtors all of the people or entities who are also liable for any debts you may have. Include all guarantors and cosigners; 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) or Schedule E/F (Official Form 106E/F). Use Schedule D or Schedule E/F to fill out Column 2.**

*Column 1: Your codebtor*

*Column 2: The creditor to whom you owe the debt*

1	<i>Column 1: Your codebtor</i>	<i>Column 2: The creditor to whom you owe the debt</i>
<b>1</b>	_____ Name	Line from <i>Schedule D</i> : _____ OR
	_____ Number Street	Line from <i>Schedule E/F</i> : _____
	_____ City State ZIP Code	
<b>2</b>	_____ Name	Line from <i>Schedule D</i> : _____ OR
	_____ Number Street	Line from <i>Schedule E/F</i> : _____
	_____ City State ZIP Code	
<b>3</b>	_____ Name	Line from <i>Schedule D</i> : _____ OR
	_____ Number Street	Line from <i>Schedule E/F</i> : _____
	_____ City State ZIP Code	

Additional Page to List More Codebtors

Column 1: Your codebtor	Column 2: The creditor to whom you owe the debt
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____
<input type="checkbox"/> Name _____  Number Street _____  City State ZIP Code _____	Line from Schedule D: _____ OR Line from Schedule E/F: _____

“Missing” Forms Modernization Project (FMP) Forms for Individuals

Nine FMP Official Bankruptcy Forms are not included in this publication package because they have already been published for public comment under the current two-digit forms numbering scheme. The forms will be updated with their projected three-digit number designations listed below when this publication package is approved for implementation.

Projected three digit form number	Form Title	Two digit form number and publication year(s)
103A	Application for Individuals to Pay the Filing Fee in Installments	3A (2012)
103B	Application to Have the Chapter 7 Filing Fee Waived	3B (2012)
106I	Schedule I: Your Income	6I (2012)
106J	Schedule J: Your Expenses	6J (2012)
108-1	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation	22A-1 (2012 and 2013)
108-1Supp	Statement of Exemption from Presumption of Abuse Under § 707(b)(2)	22A-1Supp (2013)
108-2	Chapter 7 Means Test Calculation	22A-2 (2012 and 2013)
109	Chapter 11 Statement of Your Current Monthly Income	22B (2012 and 2013)
110-2	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period	22C-1 (2012 and 2013)
110-2	Chapter 13 Calculation of Your Disposable Income	22C-2 (2012 and 2013)

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

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

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

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

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

Check if this is an amended filing

**Official Form 106Dec**

**Declaration About an Individual Debtor's Schedules**

12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. If you make a false statement, you could be fined up to \$500,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Sign Below

**Did you pay or agree to pay someone who is NOT an attorney to help you fill out this bankruptcy filing package?**

- 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 forms filed with this declaration and that they are true and correct.**

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

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

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

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

## COMMITTEE NOTE

The schedules to be used in cases of individual debtors are revised as part of the Forms Modernization Project, making them easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats. Therefore, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions. The individual debtor schedules are also renumbered, starting with the number 106 and followed by the letter or name of the schedule to distinguish them from the versions to be used in non-individual cases.

**Official Form 106Sum**, *Summary of Your Assets and Liabilities and Certain Statistical Information*, replaces Official Form 6, *Summary of Schedules and Statistical Summary of Certain Liability and Related Data (28 U.S.C. § 159)*, in cases of individual debtors.

The form is reformatted and updated with cross-references indicating the line numbers of specific schedules from which the summary information is to be gathered. In addition, because most filings are now done electronically, the form no longer requires the debtor to indicate which schedules are attached or to state the number of sheets of paper used for the schedules.

**Official Form 106A/B**, *Schedule A/B: Property*, consolidates information about an individual debtor's real and personal property into a single form. It replaces Official Form 6A, *Real Property*, and Official Form 6B, *Personal Property*, in cases of individual debtors. In addition to specific questions about the assets, the form also includes open text fields for providing additional information regarding particular assets when appropriate.

The layout and categories of property on Official Form 106A/B have changed. Instead of dividing property interests into two categories (real or personal property), the new form uses seven categories likely to be more familiar to non-lawyers: real estate, vehicles, personal household items, financial assets, business-related property, farm- and commercial fishing-related property, and a catch-all category for property that was not listed elsewhere in the form. Although the new form categories and the examples provided in many of the categories are designed to prompt debtors to be thorough and list all of their interests in property, the prompts are not intended to require a detailed description of items of little value that are unlikely to be administered by the case trustee. For example, the debtor is directed to separately describe and list individual items of property only if they are worth more than \$500. The debtor may describe generally items of minimal value (such as children's clothes) by adding the value of the items and reporting the total.

Although a particular item of property may fit into more than one category, the instructions for the form explain that it should be listed only once.

In addition, because property that falls within a particular category may not be specifically elicited by the particular line items on the form, the debtor is asked in Parts 3–6 (lines 14, 35, 44, and 51) to specifically identify and value any other property in the category.

Part 1, *Describe Each Residence, Building, Land, or Other Real Estate You Own or Have an Interest In*, avoids legal terms such as “life estate” or “joint tenancy,” because many individual debtors do not fully understand the nature of their ownership interest in real property. Instead, the debtor is asked to state the “current value of the portion you own,” and to also state whether ownership is shared with someone else. Furthermore, instead of asking an open-ended description of the property, the form guides the debtor in answering the description question by providing eight options from which to choose: single-family home, duplex or multi-unit building, condominium or cooperative, manufactured or mobile home, land, investment property, timeshare, and other.

Part 2, *Describe Your Vehicles*, also guides the debtor in answering the question, asking for the make, model, year, and mileage of the car or other vehicle. Because mileage is just a general indication of vehicle value, the debtor is not required to list the exact mileage, but instead is prompted to provide the approximate mileage by selecting from four checkboxes.

Part 3, *Describe Your Personal and Household Items*, simplifies wording, updates categories, and uses more common terms. For example, “Wearing apparel” is changed to “Clothes” and examples include furs, which were previously grouped with jewelry. Firearms, on the other hand, which were previously grouped with sports and other hobbies, are now set out as a separate category. Additionally, because a new Part 6 has been added to separately describe farm related property, Part 3 includes a category for “Non-farm animals.”

Part 4, *Describe Your Financial Assets*, prompts a listing of the debtor’s financial assets through several questions providing separate space, after each listed type of account or deposit, for the institution name and the value of the debtor’s interest in the asset. Two new categories of financial assets are added: “Bonds, mutual funds, or publicly traded stocks” and “Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment.”

Part 5, *Describe Any Business-Related Property You Own or Have an Interest In*, provides prompts for listing business-related property such as accounts receivable, inventory, and machinery, and includes a direction to list business-related real estate in Part 1, to avoid listing real estate twice.

Part 6, *Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In*, provides prompts for listing farm- or commercial fishing-related property, such as farm animals, crops, and feed. It also includes a direction to list any farm- or commercial fishing-related real estate in Part 1.

Part 7, *Describe All Property You Own or Have an Interest in That You Did Not List Above*, is a catch-all provision that allows the debtor to report property that is difficult to categorize.

Part 8, *List the Totals of Each Part of this Form*, tabulates the total value of the debtor's interest in the listed property. The tabulation includes two subtotals, one for real estate, which corresponds to the real property total that was reported on former Official Form 6A. The second subtotal is of Parts 2-7, which corresponds to the personal property total that was reported on former Official Form 6B.

**Official Form 106C**, *Schedule C: The Property You Claim as Exempt*, replaces Official Form 6C, *Property Claimed as Exempt*, in cases of individual debtors.

Part 1, *Identify the Property You Claim as Exempt*, includes a table to list the property the debtor seeks to exempt, the value of the property owned by the debtor, the amount of the claimed exemption, and the law that allows the exemption. The first column asks for a brief description of the exempt property, and it also asks for the line number where the property is listed on Schedule A/B. The second column asks for the value of the portion of the asset owned by the debtor, rather than the entire asset. The third column asks for the amount, rather than the value, of the exemption claim.

The form has also been changed in light of the Supreme Court's ruling in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010). Entries in the "amount of the exemption you claim" column may now be listed as either a dollar limited amount or as 100% of fair market value, up to any applicable statutory limit. For example, a debtor might claim 100% of fair market value for a home covered by an exemption capped at \$15,000, and that limit would be applicable. This choice would impose no dollar limit where the exemption is unlimited in dollar amount, such as some exemptions for health aids, certain governmental benefits, and tax-exempt retirement funds.

**Official Form 106D**, *Schedule D: Creditors Who Hold Claims Secured by Property*, replaces Official Form 6D, *Creditors Holding Secured Claims*, in cases of individual debtors.

Part 1, *List Your Secured Claims*, now directs the debtor to

list only the last four digits of the account number. Part 1 also adds four checkboxes with which to describe the nature of the lien: an agreement the debtor made (such as mortgage or secured car loan); statutory lien (such as tax lien, mechanic's lien); judgment lien from a lawsuit; and other.

The form adds Part 2, *List Others to Be Notified for a Debt That You Already Listed*. The debtor is instructed to use Part 2 if there is a need to notify someone about the bankruptcy filing other than the creditor for a debt listed in Part 1. For example, if a collection agency is trying to collect for a creditor listed in Part 1, the collection agency would be listed in Part 2.

**Official Form 106E/F, *Schedule E/F: Creditors Who Have Unsecured Claims***, consolidates information about priority and nonpriority unsecured claims into a single form. It replaces Official Form 6E, *Creditors Holding Unsecured Priority Claims*, and Official Form 6F, *Creditors Holding Unsecured Nonpriority Claims*, in cases of individual debtors.

Although both priority and nonpriority unsecured claims are reported in Official Form 106E/F, the two types of claims are separately grouped so that the total for each type can be reported for case administration and statistical purposes. The form eliminates the question "consideration for claim" and instructs debtors to list claims in the alphabetical order of creditors.

Part 1, *List All of Your PRIORITY Unsecured Claims*, includes four checkboxes for identifying the type of priority that applies to the claim: domestic support obligations; taxes and certain other debts owed to the government; claims for death or personal injury while intoxicated; and "other." The first three categories are required to be separately reported for statistical purposes. If the debtor selects "other," the debtor must specify the basis of the priority, *e.g.*, wages or employee benefit plan contribution.

Part 2, *List All of Your NONPRIORITY Unsecured Claims*, no longer asks whether the claim is subject to setoff. The form creates four checkboxes, including three for types of claims that must be separately reported for statistical purposes: student loans;

obligations arising out of a separation agreement or divorce not listed as priority claims; and debts to pension or profit-sharing plans and other similar debts. The remaining “other” checkbox treats claims not subject to separate reporting. If the debtor selects “other,” the debtor must specify the basis of the claim.

Part 3, *List Others to Be Notified for a Debt That You Already Listed*, is new. The debtor is instructed to use Part 3 only if there is a need to give notice of the bankruptcy to someone other than a creditor listed in Parts 1 and 2. For example, if a collection agency is trying to collect for a creditor listed in Part 1, the collection agency would be listed in Part 3.

Finally, Part 4, *Add the Amounts for Each Type of Unsecured Claim*, requires the debtor to provide the total amounts of particular types of unsecured claims for statistical reporting purposes and the overall totals of the priority and nonpriority unsecured claims reported in this form.

**Official Form 106G**, *Schedule G: Executory Contracts and Unexpired Leases*, replaces Official Form 6G, *Executory Contracts and Unexpired Leases*, in cases of individual debtors.

The form is simplified. Instead of requiring the debtor to make multiple assertions about each potential executory contract or unexpired lease, the form simply requires the debtor to identify the name and address of the other party to the contract or lease, and to state what the contract or lease deals with. Definitions and examples of executory contracts and unexpired leases are included in the separate instructions for the form.

An additional page is provided in case the debtor has so many executory contracts and unexpired leases that the available page is not adequate. If the debtor needs to use the additional page, the debtor is required to fill in the entry number.

**Official Form 106H**, *Schedule H: Your Codebtors*, replaces Official Form 6H, *Codebtors*, in cases of individual debtors.

The form breaks out the questions about whether there are any codebtors, and whether the debtor has lived with a spouse or legal equivalent in a community property state in the prior eight years. It also removes Alaska from the listed community property states. Finally, it asks the debtor to indicate where the debt is listed on Schedule D or Schedule E/F, thereby eliminating the need to list the name and address of the creditor.

**Official Form 106I**, *Schedule I: Your Income*, replaces Official Form 6I, *Your Income*, in cases of individual debtors.

The form is one of an initial set of forms that were published as part of the Forms Modernization Project in 2012. It is renumbered and internal cross references are updated to conform to the new numbering system now being introduced by the Forms Modernization Project.

**Official Form 106J**, *Schedule J: Your Expenses*, replaces Official Form 6J, *Your Expenses*, in cases of individual debtors.

The form is one of an initial set of forms that were published as part of the Forms Modernization Project in 2012. It is renumbered and internal cross references are updated to conform to the new numbering system now being introduced by the Forms Modernization Project.

**Official Form 106Dec**, *Declaration About an Individual Debtor's Schedules*, replaces Official Form 6, *Declaration Concerning Debtor's Schedules*, in cases of individual debtors.

The form, which is to be signed by the debtor and filed with the debtor's schedules, deletes the Declaration and Signature of Bankruptcy Petition Preparer (BPP). Instead, the debtor is directed to complete and file Official Form 119, *Bankruptcy Petition Preparer's Notice, Declaration, and Signature*, if a BPP helped fill out the bankruptcy forms.

Because the form applies only to individual debtors, it no longer contains the Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership. It also deletes from the

declaration the phrase “to the best of my knowledge, information, and belief” in order to conform to the language of 28 U.S.C. § 1746. *See* Rule 1008.

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

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

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

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

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

Check if this is an amended filing

**Official Form 107**

**Statement of Financial Affairs for Individuals Filing for Bankruptcy**

12/15

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

**Part 1:** Give Details About Where You Lived Before

**1. During the last 3 years, have you lived anywhere other than where you live now?**

- No
- Yes. List all of the places you lived in the last 3 years. Do not include where you live now.

Debtor 1:	Dates Debtor 1 lived there	Debtor 2:	Dates Debtor 2 lived there
		<input type="checkbox"/> Same as Debtor 1	<input type="checkbox"/> Same as Debtor 1
Number Street	From _____ To _____	Number Street	From _____ To _____
City State ZIP Code		City State ZIP Code	
		<input type="checkbox"/> Same as Debtor 1	<input type="checkbox"/> Same as Debtor 1
Number Street	From _____ To _____	Number Street	From _____ To _____
City State ZIP Code		City State ZIP Code	

**2. 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**

**3. Did you have any income from being employed or operating a business during this year or the two previous calendar years?**

Fill in a total amount for the income you received from all jobs and all businesses, including part-time activities. If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Check all that apply.	Gross income (before deductions and exclusions)	Sources of income Check all that apply.	Gross income (before deductions and exclusions)
<b>From January 1 of current year until the date you filed for bankruptcy:</b>	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
<b>For last calendar year:</b> (January 1 to December 31, _____) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
<b>For the calendar year before that:</b> (January 1 to December 31, _____) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____

**4. 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 3.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)
<b>From January 1 of current year until the date you filed for bankruptcy:</b>	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
<b>For last calendar year:</b> (January 1 to December 31, _____) YYYY	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
<b>For the calendar year before that:</b> (January 1 to December 31, _____) YYYY	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____
	_____	\$ _____	_____	\$ _____

Part 3: List Certain Payments You Made Before You Filed for Bankruptcy

5. Are either Debtor 1's or Debtor 2's debts primarily consumer debts?

No. My debts are not primarily consumer debts. Consumer debts are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$6,225\* or more?

No. Go to line 6.

Yes. List below each creditor to whom you paid a total of \$6,225\* or more in one or more payments and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

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

Yes. My debts are 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 6.

Yes. List below each creditor to whom you paid a total of \$600 or more and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

Table with 5 columns: Creditor's Name, Dates of payment, Total amount paid, Amount you still owe, Was this payment for... (Mortgage, Car, Credit card, Loan repayment, Suppliers or vendors, Other). It contains three rows of creditor information for reporting.

6. **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 percent or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Include payments for domestic support obligations, such as child support and alimony.

- No
- Yes. List all payments to an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment
Insider's Name _____  Number Street _____  City State ZIP Code _____	_____	\$ _____	\$ _____	
Insider's Name _____  Number Street _____  City State ZIP Code _____	_____	\$ _____	\$ _____	

7. **Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an insider?**  
 Include payments on debts guaranteed or cosigned by an insider.

- No
- Yes. List all payments that benefited an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment Include creditor's name
Insider's Name _____  Number Street _____  City State ZIP Code _____	_____	\$ _____	\$ _____	
Insider's Name _____  Number Street _____  City State ZIP Code _____	_____	\$ _____	\$ _____	

**Part 4: Identify Legal Actions, Repossessions, and Foreclosures**

**8. 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.

	Nature of the case	Court or agency	Status of the case
Case title _____ _____		Court Name _____	<input type="checkbox"/> Pending
Case number _____		Number Street _____	<input type="checkbox"/> On appeal
		City State ZIP Code _____	<input type="checkbox"/> Concluded
Case title _____ _____		Court Name _____	<input type="checkbox"/> Pending
Case number _____		Number Street _____	<input type="checkbox"/> On appeal
		City State ZIP Code _____	<input type="checkbox"/> Concluded

**9. 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 10.
- Yes. Fill in the information below.

	Describe the property	Date	Value of the property
Creditor's Name _____ Number Street _____ City State ZIP Code _____		_____	\$ _____
	<b>Explain what happened</b>		
	<input type="checkbox"/> Property was repossessed. <input type="checkbox"/> Property was foreclosed. <input type="checkbox"/> Property was garnished. <input type="checkbox"/> Property was attached, seized, or levied.		
Creditor's Name _____ Number Street _____ City State ZIP Code _____		_____	\$ _____
	<b>Explain what happened</b>		
	<input type="checkbox"/> Property was repossessed. <input type="checkbox"/> Property was foreclosed. <input type="checkbox"/> Property was garnished. <input type="checkbox"/> Property was attached, seized, or levied.		

10. Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off or otherwise take anything from your accounts without your permission or refuse to make a payment because you owed a debt?

- No
- Yes. Fill in the details.

	Describe the action the creditor took	Date action was taken	Amount
Creditor's Name _____ Number Street _____ City State ZIP Code _____			\$ _____
	Last 4 digits of account number: XXXX-__ __ __ __		

11. 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, custodian, or other official?

- No
- Yes. Fill in the details.

	Describe the property	Value
Custodian's Name _____ Number Street _____ City State ZIP Code _____		\$ _____
Case title _____ Case number _____ Date of order or assignment _____ MM / DD / YYYY	Court Name _____ Number Street _____ City State ZIP Code _____	

**Part 5: List Certain Gifts and Contributions**

12. Within 2 years before you filed for bankruptcy, did you give any gifts with a total value of more than \$600 per person?

- No
- Yes. Fill in the details for each gift.

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
Person to Whom You Gave the Gift _____ Number Street _____ City State ZIP Code _____ Person's relationship to you _____		_____	\$ _____
		_____	\$ _____

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
Person to Whom You Gave the Gift			\$
			\$
Number Street			
City State ZIP Code			
Person's relationship to you			

13. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?

- No
- Yes. Fill in the details for each gift or contribution.

Gifts or contributions to charities that total more than \$600	Describe what you contributed	Date you contributed	Value
Charity's Name			\$
			\$
Number Street			
City State ZIP Code			

**Part 6:** List Certain Losses

14. 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 <small>Include the amount that insurance has paid. List pending insurance claims on line 33 of Schedule A/B: Property.</small>	Date of your loss	Value of property lost
			\$

Part 7: List Certain Payments or Transfers

15. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?

Include any attorneys, bankruptcy petition preparers, or credit counseling agencies for services required in your bankruptcy.

- No
Yes. Fill in the details.

Table with 3 columns: Description and value of any property transferred, Date payment or transfer was made, Amount of payment. Includes fields for Person Who Was Paid, Address, and Person Who Made the Payment.

Table with 3 columns: Description and value of any property transferred, Date payment or transfer was made, Amount of payment. Includes fields for Person Who Was Paid, Address, and Person Who Made the Payment.

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 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 15.

- No
Yes. Fill in the details.

Table with 3 columns: Description and value of any property transferred, Date payment or transfer was made, Amount of payment. Includes fields for Person Who Was Paid, Address, and Person Who Made the Payment.

**17. 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. Do not include gifts and transfers that you have already listed on this statement.

- No
- Yes. Fill in the details.

	Description and value of property transferred	Describe any property or payments received or debts paid in exchange	Date transfer was made
Person Who Received Transfer _____ Number Street _____ _____ City State ZIP Code _____			_____

Person's relationship to you \_\_\_\_\_

Person Who Received Transfer _____ Number Street _____ _____ City State ZIP Code _____			_____
---	--	--	-------

Person's relationship to you \_\_\_\_\_

**18. 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.

Description and value of the property transferred	Date transfer was made
Name of trust _____ _____	_____

**Part 8: List Certain Financial Accounts, Safety Deposit Boxes, and Storage Units**

**19. 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.

	Last 4 digits of account number	Type of account	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
Name of Financial Institution _____ Number Street _____ City State ZIP Code _____	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____
Name of Financial Institution _____ Number Street _____ City State ZIP Code _____	XXXX-____-____-____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____

**20. 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.

	Who else had access to it?	Describe the contents	Do you still have it?
Name of Financial Institution _____ Number Street _____ City State ZIP Code _____	Name _____ Number Street _____ City State ZIP Code _____		<input type="checkbox"/> No <input type="checkbox"/> Yes

**21. Do you store property in a storage unit, or have you stored property in a storage unit within 1 year before you filed for bankruptcy?**

Do not include storage units that are part of the building in which you live.

- No
- Yes. Fill in the details.

	Who else has or had access to it?	Describe the contents	Do you still have it?
Name of Storage Facility _____ Number Street _____ City State ZIP Code _____	Name _____ Number Street _____ City State ZIP Code _____		<input type="checkbox"/> No <input type="checkbox"/> Yes

**Part 9: Identify Property You Hold or Control for Someone Else**

22. Do you hold or control any property that someone else owns? Include any property you borrowed from, are storing for, or hold in trust for someone.

- No
- Yes. Fill in the details.

Where is the property?	Describe the property	Value
Owner's Name _____  Number Street _____  City State ZIP Code _____		\$ _____

**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.

23. Has any governmental unit notified you that you may be liable or potentially liable under or in violation of an environmental law?

- No
- Yes. Fill in the details.

Governmental unit	Environmental law, if you know it	Date of notice
Name of site _____  Number Street _____  City State ZIP Code _____		_____

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

- No
- Yes. Fill in the details.

Governmental unit	Environmental law, if you know it	Date of notice
Name of site _____  Number Street _____  City State ZIP Code _____		_____

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

- No
Yes. Fill in the details.

Table with columns: Court or agency, Nature of the case, Status of the case. Includes fields for Case title, Case number, Court Name, Number Street, City State ZIP Code, Pending, On appeal, Concluded.

Part 11: Give Details About Your Business or Connections to Any Business

26. 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
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
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.

Table with 3 rows for business details. Columns: Describe the nature of the business, Employer Identification number, Name of accountant or bookkeeper, Dates business existed. Includes fields for Business Name, EIN, Number Street, City State ZIP Code, From To.

27. 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.

Date issued

Name MM / DD / YYYY

Number Street

City State ZIP Code

Part 12: Sign Below

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

X Signature of Debtor 1

X Signature of Debtor 2

Date

Date

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

- No
- Yes

## COMMITTEE NOTE

Official Form 107, *Statement of Financial Affairs for Individuals Filing for Bankruptcy*, which applies only in cases of individual debtors, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. The goals of the Forms Modernization Project include improving the interface between technology and the forms so as to increase efficiency and reduce the need to produce the same information in multiple formats. Therefore, many of the open-ended questions and multiple-part instructions have been replaced with more specific questions. In addition, the form is renumbered to distinguish it from the version to be used in non-individual cases, and stylistic changes were made throughout the form.

The form is derived from former Official Form 7, *Statement of Financial Affairs*. The new form uses eleven sections likely to be more understandable to non-lawyers, groups questions of a similar nature together, and eliminates questions unrelated to individual debtors. The new form deletes the instruction, previously found in many questions, that married debtors filing under chapter 12 or chapter 13 must include information applicable to their spouse, even if their spouse is not filing with them, unless the spouses are separated. This change was made because a non-filing spouse's general financial affairs are not relevant to the debtor's bankruptcy case.

Part 1, *Give Details About Where You Lived Before*, moves the questions regarding the debtor's prior addresses, as well as residences in a community property state, to the beginning of the form. The form eliminates the "name used" question in reference to prior addresses. Also, the debtor is no longer required to list the name of a spouse or former spouse who lived with the debtor in a community property state since that information will be provided in Official Form 106F.

Part 2, *Explain the Sources of Your Income*, consolidates the questions regarding income, adding "wages, commissions, bonuses, tips" as a category for sources of income, and it

eliminates the option to report income on a fiscal year basis. In addition, the form provides examples of types of “other income.” The time period is clarified to indicate that the prior two years means two calendar years, plus the portion of the calendar year in which the bankruptcy is filed.

Part 3, *List Certain Payments You Made Before You Filed for Bankruptcy*, includes questions related to payments made in the 90 days prior to bankruptcy, with a separate question for payments made to insiders within one year before filing for bankruptcy. The statutory definition of consumer debt is provided. The question regarding the nature of the debtor’s debts requires the debtor to use checkboxes to indicate whether or not they are primarily consumer debts. The form instructs debtors not to include payments for domestic support obligations in the section regarding insider payments. The form provides a separate question regarding payments or transfers on account of a debt that benefited an insider. For both questions regarding payments to insiders, the debtor is required to provide a reason for the payment. Partnerships of which the debtor is a general partner have been added to the examples of “insiders.”

Part 4, *Identify Legal Actions, Repossessions, and Foreclosures*, consolidates questions regarding actions against the debtor’s property. The form provides examples of types of legal actions, and requires the debtor to indicate the status of any action. The form adds the requirements that a debtor include any property levied on within a year of filing for bankruptcy and that the debtor provide the last four digits of any account number for any setoffs. Also, a debtor must list any assignment for the benefit of creditors made within one year of filing for bankruptcy.

Part 5, *List Certain Gifts and Contributions*, changes the reporting threshold to \$600 per person or charity and increases the look-back period from one to two years.

Part 6, *List Certain Losses*, clarifies how to report insurance coverage for losses. It provides that the debtor must include on this form amounts of insurance that have been paid, but must list pending insurance claims on Official Form 106A/B.

Part 7, *List Certain Payments or Transfers*, includes questions regarding payments or transfers of property by the debtor. The question regarding payments or transfers to anyone who was consulted about seeking bankruptcy or preparing a bankruptcy petition requires the email or website address of the person who was paid, as well as the name of the person who made the payment if it was not the debtor. There is a separate question asked about payments or transfers to anyone who promised to help the debtor deal with creditors or make payments to creditors, reminding the debtor not to include any payments or transfers already listed. Also, the debtor must list any transfers of property, outright or for security purposes, made within two years of filing for bankruptcy, unless the transfer was made in the ordinary course of the debtor's business. There is a reminder not to list gifts or other transfers already included elsewhere on the form. The question regarding self-settled trusts adds an explanation that such trusts are often referred to as asset-protection devices.

Part 8, *List Certain Financial Accounts, Safety Deposit Boxes, and Storage Units*, adds money market accounts to the examples provided for the question regarding financial accounts or instruments and removes "other instruments" from the examples. Also, the form adds a question about whether the debtor has or had property stored in a storage unit within one year of filing for bankruptcy. The debtor must provide the name and address of the storage facility and anyone who has or had access to the unit, as well as a description of the contents and whether the debtor still has access to the storage unit. Storage units that are part of the building in which the debtor resides are excluded.

Part 9, *Identify Property You Hold or Control for Someone Else*, instructs that the debtor should include any property that the debtor borrowed from, is storing for, or is holding in trust for someone.

Part 10, *Give Details About Environmental Information*, requires the debtor to list the case title and nature of the case for any judicial or administrative proceeding under any environmental law and to indicate the status of the case.

Part 11, *Give Details About Your Business or Connections to Any Business*, eliminates instructions that apply only to corporations and partnerships. The debtor must indicate if, within four years (previously six years) before filing for bankruptcy, the debtor owned a business or had certain connections to a business, with five categories of businesses provided as checkboxes. If the debtor has a connection to a business, the debtor must list the name, address, nature, and Employer Identification number of the business, the dates the business existed, and the name of an accountant or bookkeeper for the business. Accounting information requested is truncated; the debtor is simply required to provide the name of the business bookkeeper or accountant.

Part 12, *Sign Below*, eliminates the signature boxes for a partnership or corporation and a non-attorney bankruptcy petition preparer. Also, the debtor is asked to indicate through checkboxes whether additional pages are attached to the form.

“Missing” Forms Modernization Project (FMP) Forms for Individuals

Nine FMP Official Bankruptcy Forms are not included in this publication package because they have already been published for public comment under the current two-digit forms numbering scheme. The forms will be updated with their projected three-digit number designations listed below when this publication package is approved for implementation.

Projected three digit form number	Form Title	Two digit form number and publication year(s)
103A	Application for Individuals to Pay the Filing Fee in Installments	3A (2012)
103B	Application to Have the Chapter 7 Filing Fee Waived	3B (2012)
106I	Schedule I: Your Income	6I (2012)
106J	Schedule J: Your Expenses	6J (2012)
108-1	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation	22A-1 (2012 and 2013)
108-1Supp	Statement of Exemption from Presumption of Abuse Under § 707(b)(2)	22A-1Supp (2013)
108-2	Chapter 7 Means Test Calculation	22A-2 (2012 and 2013)
109	Chapter 11 Statement of Your Current Monthly Income	22B (2012 and 2013)
110-2	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period	22C-1 (2012 and 2013)
110-2	Chapter 13 Calculation of Your Disposable Income	22C-2 (2012 and 2013)

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

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

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

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

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

Check if this is an amended filing

**Official Form 112**

**Statement of Intention for Individuals Filing Under Chapter 7**

12/15

If you are an individual filing under Chapter 7 and creditors have claims secured by your property or you have leased personal property and the lease has not expired, you must fill out this form. 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 deliver copies to the creditors and lessors you list on the form.

If two married people are filing together in a joint case, both are equally responsible for supplying correct information. Both debtors must sign and date the form.

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).

**Part 1: List Your Creditors Who Hold Secured Claims**

1. For any creditors that you listed in Part 1 of *Schedule D*, fill in the information below.

Identify the creditor and the property that is collateral	What do you intend to do with the property that secures a debt?	Did you claim the property as exempt on Schedule C?
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Give the property to the creditor. <input type="checkbox"/> Keep the property. <i>Check one:</i> <input type="checkbox"/> I will redeem the property. <input type="checkbox"/> I will sign a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Other. Explain: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Give the property to the creditor. <input type="checkbox"/> Keep the property. <i>Check one:</i> <input type="checkbox"/> I will redeem the property. <input type="checkbox"/> I will sign a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Other. Explain: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Give the property to the creditor. <input type="checkbox"/> Keep the property. <i>Check one:</i> <input type="checkbox"/> I will redeem the property. <input type="checkbox"/> I will sign a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Other. Explain: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Creditor's name: _____ Description of property securing debt: _____	<input type="checkbox"/> Give the property to the creditor. <input type="checkbox"/> Keep the property. <i>Check one:</i> <input type="checkbox"/> I will redeem the property. <input type="checkbox"/> I will sign a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Other. Explain: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes

**Part 2:** List Your Unexpired Personal Property Leases

**For any unexpired personal property lease that you listed in Schedule G, fill in the information below. *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).**

Describe your unexpired personal property leases	Will the lease be assumed?
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
Lessor's name: _____ Description of leased property: _____	<input type="checkbox"/> No <input type="checkbox"/> Yes

**Part 3:** Sign Below

**Under penalty of perjury, I declare that I have indicated my intention about any property of my estate that secures a debt and any personal property that is subject to an unexpired lease.**

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

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

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

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

## COMMITTEE NOTE

Official Form 112, *Statement of Intention for Individuals Filing Under Chapter 7*, is revised in its entirety as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered, and stylistic changes are made throughout the form.

The form is derived from former Official Form 8, *Chapter 7 Individual Debtor's Statement of Intention*. The new form uses language likely to be understandable to non-lawyers. In addition, the instructions are more extensive, advising an individual Chapter 7 debtor that the form must be completed and filed within 30 days and that the debtor must deliver copies of the form to creditors and lessors listed on the form.

Part 1, *Your Creditors Who Hold Secured Claims*, refers to signing a "Reaffirmation Agreement" rather than asking whether the debtor intends to "reaffirm the debt." In addition, the debtor is asked if the property is claimed as exempt on Schedule C (Official Form 106C).

Part 2, *List Your Unexpired Personal Property Leases*, defines unexpired leases and explains that a debtor may assume an unexpired personal property lease if the trustee does not assume it.

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

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

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

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

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

**Official Form 119****Bankruptcy Petition Preparer's Notice, Declaration, and Signature****12/15**

**Bankruptcy petition preparers as defined in 11 U.S.C. § 110 must fill out this form every time they help prepare documents that are filed in the case. If more than one bankruptcy petition preparer helps with the documents, each must sign in Part 3. A bankruptcy petition preparer who does not comply with the provisions of title 11 of the United States Code and the Federal Rules of Bankruptcy Procedure may be fined and imprisoned. 11 U.S.C. § 110; 18 U.S.C. § 156.**

**Part 1: Notice to Debtor**

**Bankruptcy petition preparers must give the debtor a copy of this form and have the debtor sign it before they prepare any documents for filing or accept any compensation. A signed copy of this form must be filed with any document prepared.**

Bankruptcy petition preparers are not attorneys and may not practice law or give you legal advice, including the following:

- whether to file a petition under the Bankruptcy Code (11 U.S.C. § 101 et seq.);
- whether filing a case under Chapter 7, 11, 12, or 13 is appropriate;
- whether your debts will be eliminated or discharged in a case under the Bankruptcy Code;
- whether you will be able to keep your home, car, or other property after filing a case under the Bankruptcy Code;
- what tax consequences may arise because a case is filed under the Bankruptcy Code;
- whether any tax claims may be discharged;
- whether you may or should promise to repay debts to a creditor or enter into a reaffirmation agreement;
- how to characterize the nature of your interests in property or your debts; or
- what procedures and rights apply in a bankruptcy case.

**The bankruptcy petition preparer \_\_\_\_\_ has notified me of  
 Name  
 any maximum allowable fee before preparing any document for filing or accepting any fee.**

\_\_\_\_\_  
 Signature of Debtor 1 acknowledging receipt of this notice Date \_\_\_\_\_  
 MM / DD / YYYY

\_\_\_\_\_  
 Signature of Debtor 2, acknowledging receipt of this notice Date \_\_\_\_\_  
 MM / DD / YYYY

**Part 2: Declaration of the Bankruptcy Petition Preparer**

**Under penalty of perjury, I declare that:**

I am a bankruptcy petition preparer or the officer, principal, responsible person, or partner of a bankruptcy petition preparer;

I or my firm prepared the documents listed below and gave the debtor a copy of them and the *Notice to Debtor by Bankruptcy Petition Preparer* as required by 11 U.S.C. §§ 110(b), 110(h), and 342(b); and

if rules or guidelines are established according to 11 U.S.C. § 110(h) setting a maximum fee for services that bankruptcy petition preparers may charge, I or my firm notified the debtor of the maximum amount before preparing any document for filing or before accepting any fee from the debtor.

Printed name \_\_\_\_\_ Title, if any \_\_\_\_\_ Firm name, if it applies \_\_\_\_\_

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

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_ Contact phone \_\_\_\_\_

**I or my firm prepared the documents listed below:**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Voluntary Petition (Form 101)   | <input type="checkbox"/> Schedule I (Form 106I)  | <input type="checkbox"/> Chapter 11 Statement of Your Current Monthly Income (Form 109)  |
| <input type="checkbox"/> Statement About Your Social Security Numbers (Form 121)                       | <input type="checkbox"/> Schedule J (Form 106J)  | <input type="checkbox"/> Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (Form 110-1) |
| <input type="checkbox"/> Your Assets and Liabilities and Certain Statistical Information (Form 106Sum) | <input type="checkbox"/> Declaration About an Individual Debtor's Schedules (Form 106Dec)                    | <input type="checkbox"/> Chapter 13 Calculation of Your Disposable Income (Form 110-2)   |
| <input type="checkbox"/> Schedule A/B (Form 106A/B)  | <input type="checkbox"/> Statement of Financial Affairs (Form 107)   | <input type="checkbox"/> Application to Pay Filing Fee in Installments (Form 103A)   |
| <input type="checkbox"/> Schedule C (Form 106C)  | <input type="checkbox"/> Statement of Intention for Individuals Filing Under Chapter 7 (Form 112)            | <input type="checkbox"/> Application to Have Chapter 7 Filing Fee Waived (Form 103B)   |
| <input type="checkbox"/> Schedule D (Form 106D)  | <input type="checkbox"/> Chapter 7 Statement of Your Current Monthly Income (Form 108-1)                     | <input type="checkbox"/> A list of names and addresses of all creditors ( <i>creditor or mailing matrix</i> )                  |
| <input type="checkbox"/> Schedule E/F (Form 106E/F)  | <input type="checkbox"/> Statement of Exemption from Presumption of Abuse Under § 707(b)(2) (Form 108-1Supp) | <input type="checkbox"/> Other _____   |
| <input type="checkbox"/> Schedule G (Form 106G)  | <input type="checkbox"/> Chapter 7 Means Test Calculation (Form 108-2)                                       |  |
| <input type="checkbox"/> Schedule H (Form 106H)  |  |  |

**Part 3: Sign Below**

Bankruptcy petition preparers must sign and give their Social Security numbers. If more than one bankruptcy petition preparer prepared the documents to which this declaration applies, the signature and Social Security number of each preparer must be provided. 11 U.S.C. § 110.

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner \_\_\_\_\_ Social Security number of person who signed \_\_\_\_\_ Date \_\_\_\_\_  
 MM / DD / YYYY

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

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner \_\_\_\_\_ Social Security number of person who signed \_\_\_\_\_ Date \_\_\_\_\_  
 MM / DD / YYYY

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

## COMMITTEE NOTE

Official Form 119, *Bankruptcy Petition Preparer's Notice, Declaration, and Signature*, applies only in cases of individual debtors. It is revised as part of the Forms Modernization Project, making it easier to read and, as a result, likely to generate more complete and accurate responses. In addition, the form is renumbered, and stylistic changes are made throughout the form.

The form is derived from former Official Form 19, *Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer*. An instruction is added to the form that provides statutory citations. Filers are advised that if more than one bankruptcy petition preparer helped with the documents, each must sign the form.

Part 1, *Notice to Debtor*, is moved to the beginning of the form and revised. An instruction is added that bankruptcy petition preparers must give the debtor a copy of the form and have the debtor sign it before they prepare any documents for filing or accept compensation, and that the form must be filed with any document prepared. It warns the debtor that bankruptcy petition preparers are not attorneys and may not practice law or give legal advice, with a list of examples of advice that may not be provided by a bankruptcy petition preparer. The signature line of this part includes a statement that the debtor acknowledges receipt of the notice.

Part 2, *Declaration of the Bankruptcy Petition Preparer*, revises the declaration by the bankruptcy petition preparer to include an officer, principal, responsible person, or partner of a bankruptcy petition preparer. The bankruptcy petition preparer must provide a firm name, if applicable, as well as a contact phone, and must indicate which documents the bankruptcy petition preparer prepared from a list of documents. An "other" option is provided for any additional documents.

Part 3, *Sign Below*, provides spaces for the bankruptcy petition preparer to enter a social security number, and it adds language regarding an officer, principal, responsible person, or partner of the bankruptcy petition preparer on the signature line.

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

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
State

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

Draft May 3, 2013

**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.

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. To help creditors correctly identify a case, full Social Security Numbers may appear on an electronic version of some notices. Please consult local court procedures for submission requirements.

If you do not tell the truth on this form, you may be fined up to \$250,000, you may be imprisoned for up to 5 years, or both.

**Part 1: Tell the Court About Yourself and Your spouse if Your Spouse is Filing With You**

For Debtor 1:	For Debtor 2 (Only If Spouse Is Filing):
<b>1. Your name</b>	
First name _____	First name _____
Middle name _____	Middle name _____
Last name _____	Last name _____

**Part 2: Tell the Court About all of Your Social Security or Federal Individual Taxpayer Identification Numbers**

<b>2. All Social Security Numbers you have used</b>	_____ - _____ - _____ _____ - _____ - _____	_____ - _____ - _____ _____ - _____ - _____
<input type="checkbox"/> You do not have a Social Security number.	<input type="checkbox"/> You do not have a Social Security number.	

<b>3. All federal Individual Taxpayer Identification Numbers (ITIN) you have used</b>	9 _____ - _____ - _____ 9 _____ - _____ - _____	9 _____ - _____ - _____ 9 _____ - _____ - _____
<input type="checkbox"/> You do not have an ITIN.	<input type="checkbox"/> You do not have an ITIN.	

**Part 3: Sign Below**

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

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

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

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

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

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

## COMMITTEE NOTE

Official Form 121, *Statement About Your Social Security Numbers*, is revised as part of the Forms Modernization Project. The form, which applies only in cases of individual debtors, replaces former Official Form 21, *Statement of Social Security Number(s)*. It is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations and partnerships.

To make Form 121 easier to understand and complete, the form is divided into three sections, and directions on the form are simplified. The debtors' Employer Tax-Identification number (EIN) is eliminated from the form, and the debtor's name is moved from the caption to the body of the form.

Information to identify the case:			
Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
	Last 4 digits of Social Security number or ITIN _____		
	EIN _____ - _____		
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
	Last 4 digits of Social Security number or ITIN _____		
	EIN _____ - _____		
United States Bankruptcy Court for the:	_____	District of _____	
		(State)	
Case number:	_____		

## Order of Discharge

**IT IS ORDERED:** A discharge under 11 U.S.C. § 727 is granted to:

\_\_\_\_\_ [\_\_\_\_\_]

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

**By the court:** \_\_\_\_\_  
United States Bankruptcy Judge

### Notice to the creditors:

This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien.

This order does not prevent debtors from paying any debt voluntarily or from paying reaffirmed debts according to the reaffirmation agreement. 11 U.S.C. § 524(c), (f).

This order does not close or dismiss the case, and it does not determine how much money, if any, the trustee will pay creditors.

### Notice to the debtor:

This court order grants you (the debtor) a discharge. Most debts are covered by the discharge, but not all. Generally a discharge removes your personal liability for debts that you owed before you filed your bankruptcy case.

Also, if this case began under a different chapter of the Bankruptcy Code and was later converted to chapter 7, debts that existed before the conversion are discharged.

This order does not close or dismiss the case, and it does not determine how much money, if any, the trustee will pay creditors.

In a case involving community property: Special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

**For more information, see page 2 ►**

### **Creditors cannot collect discharged debts from you**

This order means that no one can make any attempt to collect from you personally a debt that has been discharged. For example, creditors cannot sue you, garnish your wages, assert a deficiency claim against you, or otherwise try to collect from you personally on discharged debts. They cannot contact you by mail, phone, or otherwise in any attempt to collect the debt as your personal liability.

A creditor who violates this order can be required to pay you damages and attorney's fees.

However, you may voluntarily pay any debt that has been discharged.

### **But creditors might collect for some debts**

This discharge does not stop creditors from collecting debts that you reaffirmed or from any property in which they have a valid lien.

Debts covered by a valid reaffirmation agreement are not discharged. When you signed a reaffirmation agreement, you chose to give up your discharge for that particular debt.

In addition, the creditor may have a right to enforce a lien against your property unless the lien was avoided or eliminated. For example, the creditor may have the right to foreclose a home mortgage or repossess an automobile.

Also, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as your insurance company or a relative who cosigned or guaranteed a loan.

### **Some debts are not discharged**

Examples of some debts that are not discharged are:

debts that are domestic support obligations;

debts for most student loans;

debts for most taxes;

debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;

debts for most fines, penalties, forfeitures, or criminal restitution obligations;

some debts which you did not properly list;

debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and

debts for death or personal injury caused by your operating a vehicle while intoxicated.

**This information is only a general summary of the bankruptcy discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of this discharge.**

## COMMITTEE NOTE

Official Form 318, *Order of Discharge*, is revised and renumbered as part of the Forms Modernization Project. The form is used to issue a discharge in chapter 7 cases filed by individuals or joint debtors. It replaces former Official Form 18, *Discharge of Debtor*, Director's Procedural Form 18J, *Discharge of Joint Debtors*, and Director's Procedural Form 18JO, *Discharge of One Joint Debtor*.

To make the discharge order and the explanation of it easier to read and understand, legal terms are explained more fully or replaced with commonly understood terms, and the form is reformatted.

Reaffirmed debts are explained more fully, and debtors are informed that a discharge will not stop creditors from collecting debts from any property in which they have a valid lien. In addition, debtors are advised that the discharge does not stop creditors from collecting from anyone else who is liable on the debt, such as a cosigner on the loan or an insurance company.

Director's Procedural Forms 18J and 18JO are no longer needed because Form 318 specifies the names of the debtors, or debtor, to whom the discharge is issued.

Fill in this information to identify the case:

Draft April 19, 2013

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

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

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

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

Official Form 423

Certification About a Financial Management Course

12/15

If you are an individual and you filed for bankruptcy under chapter 7 or 13, or under chapter 11 and § 1141 (d)(3) applies, you must take an approved course about personal financial management. In a joint case, each debtor must take the course. 11 U.S.C. §§ 727(a)(11) and 1328(g).

After you finish the course, the provider will give you a certificate. The provider may notify the court that you have completed the course. If the provider does not do so, then Debtor 1 and Debtor 2 must each file this form with the certificate number before your debts will be discharged.

If you filed under chapter 7 and you need to file this form, file it within 60 days after the first date set for the meeting of creditors under § 341 of the Bankruptcy Code.

If you filed under chapter 11 or 13 and you need to file this form, file it before you make the last payment that your plan requires or before you file a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Bankruptcy Code. Fed. R. Bankr. P. 1007(c).

In some cases, the court can waive the requirement to take the financial management course. To have the requirement waived, you must file a motion with the court and obtain a court order.

Part 1: Tell the Court About the Required Course

You must check one:

I completed an approved course in personal financial management:

Date I took the course \_\_\_\_\_  
MM / DD / YYYY

Name of approved provider \_\_\_\_\_

Certificate number \_\_\_\_\_

I am not required to complete a course in personal financial management because the court has granted my motion for a waiver of the requirement based on (check one):

- Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.
- Disability.** My physical disability causes me to be unable to complete a course in personal financial management in person, by phone, or through the internet, even after I reasonably tried to do so.
- Active duty.** I am currently on active military duty in a military combat zone.
- Residence.** I live in a district in which the United States trustee (or bankruptcy administrator) has determined that the approved instructional courses cannot adequately meet my needs.

Part 2: Sign Here

I certify that the information I have provided is true and correct.

\_\_\_\_\_  
 Signature of debtor named on certificate

\_\_\_\_\_  
 Printed name of debtor

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

## COMMITTEE NOTE

Official Form 423, *Certification About a Financial Management Course*, is revised as part of the Forms Modernization Project. The form replaces former Official Form 23, *Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management*. Form 423 is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations and partnerships.

To make Form 423 easier to understand, legal terms are explained more fully or replaced with commonly understood terms, and the form is reformatted. Part 1, *Tell the Court About the Required Course*, provides definitions for “incapacity” and “disability,” rather than providing statutory citations.

A statement is added that, in some cases, the court can waive the requirement to complete the financial management course. To have the requirement waived, the debtor must file a motion with the court and obtain a court order.

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

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

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

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

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

Draft May 3, 2013

**Official Form 427**  
**Cover Sheet for Reaffirmation Agreement**

12/15

**Anyone who is a party to a reaffirmation agreement may fill out and file this form. Fill it out completely, attach it to the reaffirmation agreement, and file the documents within the time set under Bankruptcy Rule 4008.**

**Part 1: Explain the Repayment Terms of the Reaffirmation Agreement**

1. **Who is the creditor?** \_\_\_\_\_  
Name of the creditor

2. **How much is the debt?**

On the date that the bankruptcy case was 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?**

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. <b>Using information from Schedule I: Your Income (Official Form 106I) and Schedule J: Your Expenses (Official Form 106J), fill in the amounts.</b>	Income and expenses reported on Schedules I and J		Income and expenses stated on the reaffirmation agreement	
	6a. Combined monthly income from line 12 of Schedule I	\$ _____	6e. Monthly income from all sources after payroll deductions	\$ _____
6b. Monthly expenses from line 22 of Schedule J	— \$ _____	6f. Monthly expenses	— \$ _____	
6c. Monthly payments on all reaffirmed debts not listed on Schedule J	— \$ _____	6g. Monthly payments on all reaffirmed debts not included in monthly expenses	— \$ _____	
6d. <b>Scheduled net monthly income</b> Subtract lines 6b and 6c from 6a. If the total is less than 0, put the number in brackets.	\$ _____	6h. <b>Present net monthly income</b> Subtract lines 6f and 6g from 6e. If the total is less than 0, put the number in brackets.	\$ _____	

Debtor 1

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

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

7. Are the income amounts on lines 6a and 6e different?  No  Yes. Explain why they are different, and complete line 10. \_\_\_\_\_

8. Are the expense amounts on lines 6b and 6f different?  No  Yes. Explain why they are different, and complete line 10. \_\_\_\_\_

9. Is the net monthly income on line 6h less than 0?  No  Yes. A presumption of hardship arises (unless the creditor is a credit union). Explain how the debtor will make monthly payments on the reaffirmed debt and pay other living expenses. Complete line 10.

10. Debtor's certification about lines 7-9 I certify that each explanation on lines 7-9 is true and correct.  
If any answer on lines 7-9 is Yes, the debtor must sign here.  \_\_\_\_\_  \_\_\_\_\_  
If all the answers on lines 7-9 are No, go to line 11. Signature of Debtor 1 Signature of Debtor 2 (Spouse Only in a Joint Case)

11. Did counsel represent the debtor in negotiating the reaffirmation agreement?  No  Yes. Has counsel executed a declaration or an affidavit to support the reaffirmation agreement?  No  Yes

**Part 2:** Sign Below

Whoever fills out this form must sign here. I certify that the attached agreement is a true and correct copy of the reaffirmation agreement between the parties identified on this Cover Sheet for Reaffirmation Agreement.

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

\_\_\_\_\_  
Printed Name

Check one:  
 Debtor or Debtor's Attorney  
 Creditor or Creditor's Attorney

## COMMITTEE NOTE

Official Form 427, *Cover Sheet for Reaffirmation Agreement*, is revised and renumbered as part of the Forms Modernization Project. The form replaces former Official Form 27, *Reaffirmation Agreement Cover Sheet*. To make it easier to understand, the form is reformatted, and legal terms are explained more fully or replaced with commonly understood terms.

The calculation of the debtor's net monthly income is expanded to include the debtor's net monthly income at the time the bankruptcy petition is filed, as well as the debtor's net monthly income at the time of the reaffirmation agreement. Rather than requiring filers to state their relationship to the case, checkboxes are provided for the debtor or the debtor's attorney and for the creditor or the creditor's attorney.

# Instructions

## Bankruptcy Forms for Individuals

U.S. Bankruptcy Court

|

December 2015

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# About this Booklet of Instructions

This booklet provides instructions for completing selected forms that individuals filing for bankruptcy must submit to the U.S. Bankruptcy Court. You can download all of the required forms without charge from:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

The instructions are designed to accompany the forms and are intended to help you understand what information is required to properly file.

Completing the forms is only a part of the bankruptcy process. You are strongly encouraged to hire a qualified attorney not only to help you complete the forms but also to give you general advice about bankruptcy and to represent you in your bankruptcy case. If you cannot afford to pay an attorney, you might qualify for free legal services if they are provided in your area. Contact your state or local bar association for help in obtaining free

legal services or in hiring an attorney. **Note: It is particularly difficult to succeed in a chapter 11, 12, or 13 case without an attorney.**

If an attorney represents you, you must provide information so the attorney can prepare your forms. Once the attorney prepares the forms, you must make sure that the forms are accurate and complete. These instructions may help you perform those tasks. If you are filing for bankruptcy without the help of an attorney, this booklet tells you which forms must be filed and provides information about them.

You should carefully read this booklet and keep it with your records. Review the individual forms as you read the instructions for each.

Although bankruptcy petition preparers can help you type the bankruptcy forms, they cannot file the documents for you and cannot give you legal advice. Court employees cannot give you legal advice either.

## Read This Important Warning

**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 misstep 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 may not file bankruptcy if you are not eligible to file or if you do not intend to file the documents necessary to complete the bankruptcy.**

**Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. If you deliberately make a false statement, you could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.**

## About the bankruptcy forms and filing bankruptcy

Use the forms that are numbered in the 100 series to file bankruptcy for individuals or married couples. Use the forms that are numbered in the 200 series if you are preparing a bankruptcy on behalf of a non-individual, such as a corporation, partnership, or limited liability company (LLC). Sole proprietors must use the forms that are numbered in the 100 series.

When a bankruptcy is filed, the U.S. Bankruptcy Court opens a case. It is important that the answers to the questions on the forms be complete and accurate so that the case proceeds smoothly. A person filing bankruptcy who gives false information could be charged with a federal crime or could lose all the benefits of filing for bankruptcy.

You should understand that filing a bankruptcy case is not private. Anyone has a right to see your bankruptcy forms after you file them. However, in some circumstances, if a court issues a protective order to keep your address, telephone number, or other information from being disclosed to the public, it may be possible to protect your information under 11 U.S.C. § 107 and Bankruptcy Rule 9037.

## Understand the terms used in the forms

The forms for individuals use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, “Do you own a car?” the answer would be *yes* if either debtor owns a car. When information is needed

about the spouses separately, the forms use *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

To understand other terms used in the forms and the instructions, see the *Glossary* at the end of this booklet.

## Things to remember when filling out these forms

- Do not file these instructions with the bankruptcy forms that you file with the court.
- Be as complete and accurate as possible.
- If more space is needed, attach a separate sheet to the form. On the top of any additional pages, write your name and case number (if known). Also identify the form and line number to which the additional information applies.
- If two married people are filing together, both are equally responsible for supplying correct information.
- Do not list a minor child’s full name. Instead, fill in only the child’s initials and the full name and address of the child’s parent or guardian. For example, write A.B., a minor child (*John Doe, parent, 123 Main St., City, State*). 11 U.S.C. § 112; Bankruptcy Rule 1007(m) and 9037.
- For your records, be sure to keep a copy of your bankruptcy documents and all attachments that you file.

On what date was a debt incurred?

When a debt was incurred on a single date, fill in the actual date that the debt was incurred.

When a debt was incurred on multiple dates, fill in the range of dates. For example, if the debt is from a credit card, fill in the month and year of the first and last transaction, if known.

# About the Process for Filing a Bankruptcy Case for Individuals

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## Before you file your bankruptcy case

Before you file for bankruptcy, you must do several things:

- ❑ **Receive a briefing about credit counseling from an approved agency** within 180 days before you file. (If you and your spouse are filing together, each of you must receive a briefing before you file. Failure to do so will almost certainly result in the dismissal of your case.) You may have a briefing about credit counseling one-on-one or in a group, by telephone, or by internet.

For a list of approved providers, go to:  
[http://www.justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm)

In Alabama and North Carolina, go to:  
<http://www.uscourts.gov>.

After you finish the briefing, you will receive a certificate that you will need to file in your bankruptcy case.

- ❑ **Find out in which bankruptcy court you must file your bankruptcy case.** It is important that you file in the correct district within your state. To find out which district you are in, go to:  
<http://www.uscourts.gov/courtlinks>

- ❑ **Check the court's local website** for any specific local requirements that you might have to meet. Go to:

<http://www.uscourts.gov/courtlinks>

- ❑ **Find out which chapters of the Bankruptcy Code you are eligible for.** For descriptions of each chapter, review the information contained in the notice, *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form B2010), which is included in this booklet.

**Note: It is particularly difficult to succeed in a chapter 11, 12, or 13 case without an attorney.**

To file for bankruptcy, you must give the court several forms and documents. Some must be filed at the time you file the case. Others may be filed up to 14 days later.

## When you file your bankruptcy case

You must file the forms listed below on the date you open your bankruptcy case. For copies of the forms listed here, go to <http://www.uscourts.gov>. (The list continues on the next page.):

- ❑ *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). This form opens the case. Directions for filling it out are included in the form itself.
- ❑ *Statement About Your Social Security Numbers* (Official Form 121). This form gives the court your full Social Security number or federal Individual Taxpayer Identification number. To protect your privacy, the court will make only the last four digits of your number known to the general public. However, the court will make your full number available to your creditors, the U.S. trustee or bankruptcy administrator, and the trustee assigned to your case. This form has no separate instructions.
- ❑ Your filing fee. If you cannot pay the entire filing fee, you must also include:
  - ❑ *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 103A), or
  - ❑ *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B). Use this form only if you are filing under chapter 7 and you meet the criteria to have the chapter 7 filing fee waived.
- ❑ A list of names and addresses of all of your creditors, formatted as a mailing list according to instructions from the bankruptcy court in which you file. (Your court may call this a *creditor matrix* or *mailing matrix*.)
- ❑ Your credit counseling certificate from an approved credit counseling agency. (See *Before you file your bankruptcy case*, above). If you have received the briefing about credit counseling but have not yet received the certificate, file it when you receive it. If you have not already received the briefing and believe you are entitled to a temporary waiver from receiving it or that you are not required to receive the briefing, see line 15 of the *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). Waivers are rare and if you do not qualify for a waiver, your case will be dismissed.
- ❑ *For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders* (Official Form 104). Fill out this form only if you file under chapter 11.
- ❑ *Initial Statement About an Eviction Judgment Against You* (Official Form 101A) and *Statement About Payment of an Eviction Judgment Against You* (Official Form 101B). Use these forms if your landlord has an eviction judgment against you and you want to stay in your residence after you file your forms to open your bankruptcy case.
- ❑ *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119) and *Disclosure of Compensation of Bankruptcy Petition Preparer* (Form 2800). Use these forms if a bankruptcy petition preparer helped you fill out your forms.

## When you file your bankruptcy case or within 14 days after you file

You must file the forms listed below either when you file your bankruptcy case or within 14 days after you file your *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). If you do not do so, your case may be dismissed. Although it is possible to open your case by submitting only the documents that are listed under *When you file your bankruptcy case*, you should file the entire set of forms at one time to help your case proceed smoothly.

Although some forms may ask you similar questions, you must fill out all of the forms completely to protect your legal rights.

The list below shows the forms that all individuals must file as well as the forms that are specific to each chapter. For copies of the official forms listed here, go to <http://www.uscourts.gov>.

### All individuals who file for bankruptcy must file these forms and the forms for the specific chapter:

- Schedules of Assets and Liabilities* (Official Form 106) which includes these forms:
  - Schedule A/B: Property* (Official Form 106A/B)
  - Schedule C: The Property You Claim as Exempt* (Official Form 106C)
  - Schedule D: Creditors Who Hold Claims Secured by Your Property* (Official Form 106D)
  - Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F)
  - Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G)
  - Schedule H: Your Codebtors* (Official Form 106H)
  - Schedule I: Your Income* (Official Form 106I)
  - Schedule J: Your Expenses* (Official Form 106J)
- Summary of Your Assets and Liabilities and Certain Statistical Information* (Official Form 106Sum). This form gives an overview of the totals on the schedules
- Declaration About an Individual Debtor's Schedules* (Official Form 106Dec)
- Statement of Financial Affairs for Individuals Filing for Bankruptcy* (Official Form 107)
- Disclosure of Compensation to Debtor's Attorney* — Unless local rules provide otherwise, Director's Form 2030 may be used.
- Credit counseling certificate that you received from an approved credit counseling agency
- Copies of all payment advices (*pay stubs*) or other evidence of payment that you received within 60 days before you filed your bankruptcy case. Some local courts may require that you submit these documents to the trustee assigned to your case rather than filing them with the court. Check the court's local website to find out if local requirements apply. Go to <http://www.uscourts.gov/courtlinks>.

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**If you file under chapter 7, you must also file:**

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- Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112)
- Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1)
- If necessary, *Chapter 7 Means Test Calculation* (Official Form 108-2).

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**If you file under chapter 11, you must also file:**

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- Chapter 11 Statement of Your Current Monthly Income* (Official Form 109)

If you file under chapter 11 and are a small business debtor (that is, if you are self-employed and your debts are less than \$2,490,925\*), within 7 days after you file your bankruptcy forms to open your case, you must also file your most recent:

- Balance sheet
- Statement of operations
- Cash-flow statement
- Federal income tax return

If you do not have these documents, you must file a statement made under penalty of perjury that you have not prepared either a balance sheet, statement of operations, or cash-flow statement or you have not filed a federal tax return.

If you file under chapter 11, you must also file additional documents.

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

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**If you file under chapter 12, you must also file:**

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- Chapter 12 Plan (within 90 days after you file your bankruptcy forms to open your case)

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**If you file under chapter 13, you must also file:**

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- Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1)
- If necessary, *Chapter 13 Calculation of Your Disposable Income* (Official Form 110-2)
- Chapter 13 Plan (Many bankruptcy courts require you to use a local form plan. Check the court's local website for any specific form that you might have to use. Go to <http://www.uscourts.gov/courtlinks>.)

# Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)

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## This notice is for you if:

**You are an individual filing for bankruptcy,**  
and

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

The types of bankruptcy that are  
available to individuals

Individuals who meet the qualifications may file  
under one of four different chapters of the  
Bankruptcy Code:

- Chapter 7 — Liquidation
- Chapter 11— Reorganization
- Chapter 12— Voluntary repayment plan  
for family farmers or  
fishermen
- Chapter 13— Voluntary repayment plan  
for individuals with regular  
income

**You should have an attorney review your  
decision to file for bankruptcy and the choice of  
chapter.**

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## Chapter 7: Liquidation

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	\$245	filing fee
	\$46	administrative fee
+	\$15	trustee surcharge
	\$306	total fee

Chapter 7 is for individuals who have financial  
difficulty and cannot pay their debts. The  
primary purpose for a debtor to file under  
chapter 7 is to have your debts discharged. The  
bankruptcy discharge relieves you from having  
to pay any of your pre-bankruptcy debts unless  
an exception to discharge applies to particular  
debts.

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 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 properly listed in  
your bankruptcy papers.

You may also be required to pay debts arising from:

- fraud or theft;
- breach of fiduciary duty;
- 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 income to repay creditors a certain amount. You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108–1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to fill out the second form *Chapter 7 Means Test Calculation* (Official Form 108–2).

If your income is above the median for your state, you must file that form. 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 bankruptcy, the law may allow you to keep some property, or it may entitle you to part of the proceeds if the property is sold after your case is filed. Property that the law permits you to keep is called *exempt property*. For example, exemptions may enable you to keep your home, a car, clothing, and household items.

Exemptions are not automatic. To be considered exempt, you must list the property on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

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## Chapter 11: Reorganization

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	\$1,167	filing fee
+	<u>\$46</u>	<u>administrative fee</u>
	\$1,213	total fee

Chapter 11 is for reorganizing a business but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

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## Chapter 12: Repayment plan for family farmers or fishermen

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	\$200	filing fee
+	<u>\$46</u>	<u>administrative fee</u>
	\$246	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.

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### Chapter 13: Repayment plan for individuals with regular income

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	\$235	filing fee
+	\$46	administrative fee
	\$281	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. You are only eligible for chapter 13 if your debts are not more than certain dollar amounts set 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, using your future earnings. The court must approve your plan and may allow you to repay your debts within 3 years or 5 years, depending on your income and other factors.

After you make the payments under your plan, your debts are generally discharged. However, you may still be responsible to pay:

- domestic support obligations,
- most student loans,
- certain taxes,
- most criminal fines and restitution obligations,
- certain debts that are not properly listed in your bankruptcy papers,
- certain debts for acts that caused death or personal injury, and
- certain long-term secured obligations.

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.

#### Warning: File Your Forms on Time

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to:  
[http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

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). 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.

The clerk of the bankruptcy court has a list of approved agencies. If you are filing a joint case, both spouses must receive the briefing.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional course before you can receive a discharge. The clerk also has a list of approved financial management instructional courses. If you are filing a joint case, both spouses must complete the course.

### Read This Warning

**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. An attorney can explain to you 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. Bankruptcy petition preparers can only help you type the forms required; they cannot give you legal advice of any kind.**

**Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it extremely difficult to represent themselves successfully. The rules are very technical, and a misstep or inaction may affect your rights. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.**

**You may not file bankruptcy if you are not eligible to file or if you do not intend to file the documents necessary to complete the bankruptcy.**

**Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. If you make a false statement, you could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.**

# Instructions for Selected Forms

## Schedule A/B: Property (Official Form 106A/B)

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*Schedule A/B: Property* (Official Form 106A/B) lists property interests that are involved in a bankruptcy case. All individuals filing for bankruptcy must honestly list everything they own or have a legal or equitable interest in. *Legal or equitable interest* is a broad term and includes all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

The information in this form is grouped by category and includes several examples for many items. Note that those examples are meant to give you an idea of what to include in the categories. They are not intended to be complete lists of everything within that category. Make sure you list everything you own or have an interest in.

You must verify under penalty of perjury that the information you provide is complete and accurate. If you fail to list any property, you may lose the property, lose your bankruptcy discharge, be fined up to \$250,000, and be imprisoned for up to 5 years. 11 U.S.C. §§ 554, 727; 18 U.S.C. §§ 152, 157, 3559, 3571, and 3581.

### Understand the terms used in this form

**Community property** — Type of property ownership available in certain states for property owned by spouses and, in some instances, legal equivalents of spouses. Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

**Current value** — In this form, report the *current value* of the property that you own in each category. *Current value* is sometimes called *fair market value* and, for this form, is the fair market value as of the date of the filing of the petition. *Current value* is how much the property is worth, which may be more or less than when you purchased the property. *Property you own* includes property you have purchased, even if you owe money on it, such as a home with a mortgage or an automobile with a lien.

### Report the current value of the portion you own

For each question, report the current value of the portion of the property that you own. To do this, you would usually determine the current value of the entire property and the percentage of the property that you own. Multiply the current value of the property by the percentage that you own. Report the result where the form asks for *Current value of the portion you own*. For example:

- If you own a house by yourself, you own 100% of that house. Report the entire current value of the house.
- If you and a sister own the house equally, report 50% of the value of the house (or half of the value of the house).

In certain categories, current value may be difficult to figure out. When you cannot find the value from a reputable source (such as a pricing guide for your car), estimate the value and be prepared to explain how you determined it.

### List items once on this form

List items only once on this form; do not list them in more than one category. List all real estate in Part 1 and other property in the other parts of the form.

Where you list similar items of minimal value (such as clothing), add the value of the items and report a total.

Be specific when you describe each item. If you have an item that you think could fit into more than one category, select the most suitable category and list the item there.

Separately describe and list individual items worth more than \$500.

### Match the values to the other schedules

Make sure that the values you report on this form match the values you report on *Schedule D: Creditors Who Hold Claims Secured by Your Property* (Official Form 106D) and *Schedule C: The Property You Claim as Exempt* (Official Form 106C).

On this form, do not list any interests you may have in executory contracts (for example, an unexpired lease for your apartment, a contract for improvements or repairs for your home, a real estate listing agreement, or a lease for your car). List those contracts or leases on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G).

# Schedule C: The Property You Claim as Exempt (Official Form 106C)

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## How exemptions work

If you are an individual filing for bankruptcy, the law may allow you to keep some property, or it may entitle you to part of the proceeds if the property is sold after your case is filed. Property that the law permits you to keep is called *exempt* property. For example, exemptions may enable you to keep your home, a car, clothing, and household items.

Exemptions are not automatic. To be considered exempt, you must list the property on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

**You may unnecessarily lose property if you do not claim exemptions to which you are entitled. You are strongly encouraged to hire a qualified attorney to advise you.**

## Determine which set of exemptions you will use

Before you fill out this form, you must learn which set of exemptions you can use. In general, exemptions are determined on a state-by-state basis. Some states permit you to use the exemptions provided by the Bankruptcy Code. 11 U.S.C. § 522.

The Bankruptcy Code provides that you use the exemptions in the law of the state where you had your legal home for 730 days before you file for bankruptcy. Special rules may apply if you did not have the same home state for 730 days before you file.

You may lose property if you do not use the best set of exemptions for your situation.

If your spouse is filing with you and you are filing in a state in which you may choose between state and federal sets of bankruptcy exemptions, you both must use the same set of exemptions.

## Claiming exemptions

Using the property and values that you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list on this form the property that you claim as exempt.

## Listing the amount of each exemption

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. Usually, a specific dollar amount is claimed as exempt, but in some circumstances, the amount of the exemption claimed might be indicated as 100% of fair market value. For example, a debtor might claim 100% of fair market value for an exemption that is unlimited in dollar amount, such as some exemptions for health aids.

## Listing which laws apply

In the last column of the form, you must identify the laws that allow you to claim the property as exempt. If you have questions about exemptions, consult a qualified attorney.

## Schedule D: Creditors Who Hold Claims Secured by Property (Official Form 106D)

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The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. When you file for bankruptcy, the court needs to know who all your creditors are and what types of claims they have against you.

Typically in bankruptcy cases, there are more debts than assets to pay those debts. The court must know as much as possible about your creditors to make sure that their claims are properly treated according to the rules.

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. That property is sometimes called *collateral* for your debt and could include items such as your house, your car, or your furniture. Creditors with unsecured claims do not have rights against specific property.

Many claims have a specific amount, and you clearly owe them. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must list all claims in your schedules, even if the claims are contingent, unliquidated, or disputed.

### Claims may be contingent, unliquidated, or disputed

Claims may be:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

A claim is *disputed* if you disagree about whether you owe the debt. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

A single claim can have one, more than one, or none of these characteristics.

On *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D), list all creditors who have a claim that is secured by your property.

## Do not leave out any secured creditors

In alphabetical order, list anyone who has judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests against your property. When listing creditors who hold secured claims, be sure to include all of them. For example, include the following:

- Your relatives or friends who hold a lien or security interest in your property;
- Car or truck lenders, stores, banks, credit unions, and others who made loans to enable you to finance the purchase of property and who have a lien against that property;
- Anyone who holds a mortgage or deed of trust on real estate that you own;
- Contractors or mechanics who have liens on property you own because they did work on the property and were not paid;
- Someone who won a lawsuit against you and has a judgment lien;
- Another parent or a government agency that has a lien for unpaid child support;
- Doctors or attorneys who have liens on the outcome of a lawsuit;
- Federal, state, or local government agencies such as the IRS that have tax liens against property for unpaid taxes; and
- Anyone who is trying to collect a secured debt from you, such as collection agencies and attorneys.

List the debt in Part 1 only once and list any others that should be notified about that debt in Part 2. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the person to whom you owe the debt in Part 1, and list the collection agency in Part 2. If you are not sure who the creditor is, list the person you are paying in Part 1 and list anyone else who has contacted you about this debt in Part 2.

If a creditor's full claim is more than the value of your property securing that claim—for instance, a car loan in an amount greater than the value of the car—the creditor's claim may be partly secured and partly unsecured. In that situation, list the claim only once on *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D). Do not repeat it on *Schedule E/F: Creditors Who Hold Unsecured Claims* (Official Form 106E/F). List a creditor in *Schedule D* even if it appears that there is no value to support that creditor's secured claim.

## Determine the unsecured portion of secured claims

To determine the amount of a secured claim, compare the amount of the claim to the value of your portion of the property that supports the claim. If that value is greater than the amount of the claim, then the entire amount of the claim is secured. But if that value is less than the amount of the claim, the difference is an *unsecured portion*. For example, if the outstanding balance of a car loan is \$10,000 and the car is worth \$8,000, the car loan has a \$2,000 unsecured portion.

If there is more than one secured claim against the same property, the claim that is entitled to be paid first must be subtracted from the property value to determine how much value remains for the next claim. For example, if a home worth \$300,000 has a first mortgage of \$200,000 and a second mortgage of \$150,000, the first mortgage would be fully secured, and there would be \$100,000 of property value for the second mortgage, which would have an unsecured portion of \$50,000.

\$300,000	value of a home
- \$200,000	<u>first mortgage</u>
\$100,000	remaining property value
\$150,000	second mortgage
- \$100,000	<u>remaining property value</u>
\$ 50,000	unsecured portion of second mortgage

# Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)

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The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. When you file for bankruptcy, the court needs to know who all your creditors are and what types of claims they have against you.

Typically in bankruptcy cases, there are more debts than assets to pay those debts. The court must know as much as possible about your creditors to make sure that their claims are properly treated according to the rules.

Use *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F) to identify everyone who holds an unsecured claim against you when you file your bankruptcy petition, unless you have already listed them on *Schedule D: Creditors Who Hold Claims Secured by Your Property* (Official Form 106D).

Creditors may have different types of claims:

- **Secured claims.** Report these on *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D).
- **Unsecured claims.** Report these on *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. That property is sometimes called *collateral* for your debt and could include items such as your

house, your car, or your furniture. Creditors with unsecured claims do not have rights against specific property.

Many claims have a specific amount, and you clearly owe them. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must list all claims in your schedules, even if the claims are contingent, unliquidated, or disputed.

## Claims may be contingent, unliquidated, or disputed

Claims may be:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

A claim is *disputed* if you disagree about whether you owe the debt. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

A single claim can have one, more than one, or none of these characteristics.

Creditors with unsecured claims do not have liens on or other security interests in your property. Secured creditors have a right to take property if you do not pay them. Common examples are lenders for your car, your home, or your furniture.

### **Do not leave out any unsecured creditors**

List all unsecured creditors in each part of the form in alphabetical order. Even if you plan to pay a creditor, you must list that creditor. When listing creditors who hold unsecured claims, be sure to include all of them. For instance, include the following:

- Your relatives or friends to whom you owe money;
- Your ex-spouse, if you are still obligated under a divorce decree or settlement agreement to pay joint debts;
- A credit card company, even if you intend to fully pay your credit card bill;
- A lender, even if the loan is cosigned;
- Anyone who holds a loan or promissory note that you cosigned for someone else;
- Anyone who has sued or may sue you because of an accident, dispute, or similar event that has occurred; or
- Anyone who is trying to collect a debt from you such as a bill collector or attorney.

## **Unsecured claims could be priority or nonpriority claims**

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### **What are priority unsecured claims?**

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In bankruptcy cases, *priority unsecured claims* are those debts that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common priority unsecured claims are certain income tax debts and past due alimony or child support. Priority unsecured claims include those you owe for:

- **Domestic support obligations**—If you owe domestic support to a spouse or former spouse; a child or the parent, legal guardian, or responsible relative of a child; or a governmental unit to whom such a domestic support claim has been assigned.  
11 U.S.C. § 507(a)(1).
- **Taxes and certain other debts you owe the government**—If you owe certain federal, state, or local government taxes, customs duties, or penalties.  
11 U.S.C. § 507(a)(8).
- **Claims for death or personal injury that you caused while you were intoxicated**—If you have a claim against you for death or personal injury that resulted from your unlawfully operating a motor vehicle or vessel while you were unlawfully intoxicated from alcohol, drugs, or another substance. This priority does not apply to claims for property damage.  
11 U.S.C. § 507(a)(10).

■ **Other:**

- ❑ **Deposits by individuals**—If you took money from someone who planned to purchase, lease, or rent your property or use your services but you never delivered or performed. For the debt to have priority, the property or services must have been intended for personal, family, or household use (only the first \$2,775\* per person is a priority debt). 11 U.S.C. § 507(a)(7).
- ❑ **Wages, salaries, and commissions**—If you owe wages, salaries, and commissions, including vacation, severance, and sick leave pay and those amounts were earned within 180 days before you open your bankruptcy case or ceased business. In either instance, only the first \$12,475\* per claim is a priority debt. 11 U.S.C. § 507(a)(4).
- ❑ **Contributions to employee benefit plans**—If you owe contributions to an employee benefit plan for services an employee rendered within 180 days before you file your bankruptcy petition, or within 180 days before your business ends. Count only the first \$12,475\* per employee, less any amounts owed for wages, salaries, and commissions. 11 U.S.C. § 507(a)(5).
- ❑ **Certain claims of farmers and fishermen**—Only the first \$6,150\* per farmer or fisherman is a priority debt. 11 U.S.C. § 507(a)(6).

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

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**What are nonpriority unsecured claims?**

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*Nonpriority unsecured claims* are those debts that generally will be paid after priority unsecured claims are paid. The most common examples of nonpriority unsecured claims are credit card bills, medical bills, and educational loans.

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**What if a claim has both priority and nonpriority amounts?**

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If a claim has both priority and nonpriority amounts, list that claim in Part 2 and show both priority and nonpriority amounts. Do not list it again in Part 3.

In Part 3, list all of the creditors you have not listed before. You must list every creditor that you owe, regardless of the amount you owe and even if you plan to pay a particular debt. If you do not list a debt, it may not be discharged.

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**What is needed for statistical purposes?**

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For statistical reasons, the court must collect information about some specific categories of unsecured claims.

The categories for priority unsecured claims are:

- **Domestic support obligations**
- **Taxes and certain other debts you owe the government**
- **Claims for death or personal injury that you caused while you were intoxicated**

The categories for nonpriority unsecured claims are:

- **Student loans**—If you owe money for any loans that you used to pay for your education;
- **Obligations arising out of a separation agreement or divorce that you did not report**

**as priority claims**—If you owe debts for separation or divorce agreements or for domestic support and you did not report those debts in Part 2; and

- **Debts to pension or profit-sharing plans and other similar debts**—If you owe money to a pension or profit-sharing plan.

## Schedule G: Executory Contracts and Unexpired Leases (Official Form 106G)

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Use *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G) to identify your ongoing leases and certain contracts. List all of your executory contracts and unexpired leases.

*Executory contracts* are contracts between you and someone else in which neither you nor the other party has performed all of the requirements by the time you file for bankruptcy. *Unexpired leases* are leases that are still in effect; the lease period has not yet ended.

You must list all agreements that may be executory contracts or unexpired leases, even if they are listed on *Schedule A/B: Property* (Official Form 106A/B), including the following:

- Residential leases (for example, a rental agreement for a place where you live or vacation, even if it is only a verbal or month-to-month arrangement);
- Service provider agreements (for example, contracts for cell phones and personal electronic devices);
- Internet and cable contracts;
- Vehicle leases;
- Supplier or service contracts (for example, contracts for lawn care or home alarm or security systems);
- Timeshare contracts or leases;
- Rent-to-own contracts;
- Employment contracts;
- Real estate listing agreements;
- Contracts to sell a residence, building, land, or other real property;
- Equipment leases;
- Leases for business or investment property;
- Supplier and service contracts for your business;
- Copyright and patent license agreements; and
- Development contracts.

## Schedule H: Your Codebtors (Official Form 106H)

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If you have any debts that someone else may also be responsible for paying, these people or entities are called *codebtors*. Use *Schedule H: Your Codebtors* (Official Form 106H) to list any codebtors who are responsible for any debts you have listed on the other schedules.

To help fill out this form, use both *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D) and *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

List all of your codebtors and the creditors to whom you owe the debt. For example, if someone cosigned for the car loan that you owe, you must list that person on this form.

**If you are filing a joint case, do not list either spouse as a codebtor.**

Other codebtors could include the following:

- Cosigner;
- Guarantor;
- Former spouse;
- Unmarried partner;
- Joint contractor; or
- Nonfiling spouse—even if not the spouse a cosigner—where the debt is for necessities (such as food or medical care) if state law makes the nonfiling spouse legally responsible for debts for necessities.

# Schedule I: Your Income (Official Form 106I)

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In *Schedule I: Your Income* (Official Form 106I), you will give the details about your employment and monthly income as of the date you file this form. If you are married and your spouse is living with you, include information about your spouse even if your spouse is not filing with you. If you are separated and your spouse is not filing with you, do not include information about your spouse.

## How to report employment and income

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

In Part 1, line 1, fill in employment information for you and, if appropriate, for a non-filing spouse. If either person has more than one employer, attach a separate page with information about the additional employment.

In Part 2, give details about the monthly income you currently expect to receive. Show all totals as monthly payments, even if income is not received in monthly payments.

If your income is received in another time period, such as daily, weekly, quarterly, annually, or irregularly, calculate how much income would be by month, as described below.

If either you or a non-filing spouse has more than one employer, calculate the monthly amount for each employer separately, and then combine the income information for all employers for that person on lines 2-7.

One easy way to calculate how much income per month is to total the payments earned in a year, then divide by 12 to get a monthly figure. For example, if you are paid seasonally, you would simply divide the amount you expect to earn in a year by 12 to get the monthly amount

Below are other examples of how to calculate monthly amount.

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### Example for weekly payments:

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If you are paid \$1,000 every week, figure your monthly income in this way:

$$\begin{array}{r} \$1,000 \quad \text{income every week} \\ \times \quad 52 \quad \text{number of pay periods in the year} \\ \hline \$52,000 \quad \text{total income for the year} \end{array}$$

$$\frac{\$52,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$4,333 \text{ monthly income}$$

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### Example for bi-weekly payments:

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If you are paid \$2,500 every other week, figure your monthly income in this way:

$$\begin{array}{r} \$2,500 \quad \text{income every other week} \\ \times \quad 26 \quad \text{number of pay periods in the year} \\ \hline \$65,000 \quad \text{total income for the year} \end{array}$$

$$\frac{\$65,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,417 \text{ monthly income}$$

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**Example for daily payments:**

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If you are paid \$75 a day and you work about 8 days a month, figure your monthly income in this way:

\$75	income a day
X 96	days a year
\$7,200	total income for the year

$\frac{\$7,200 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$600 \text{ monthly income}$

or this way:

\$75	income a day
X 8	payments a month
\$600	income for the month

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**Example for quarterly payments:**

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If you are paid \$15,000 every quarter, figure your monthly income in this way:

\$15,000	income every quarter
X 4	pay periods in the year
\$60,000	total income for the year

$\frac{\$60,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$5,000 \text{ monthly income}$

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**Example for irregular payments:**

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If you are paid \$4,000 8 times a year, figure your monthly income in this way:

\$4,000	income a payment
X 8	payments a year
\$32,000	income for the year

$\frac{\$32,000 \text{ (income for year)}}{12 \text{ (number of months in year)}} = \$2,667 \text{ monthly income}$

In Part 2, line 11, fill in amounts that other people provide to pay the expenses you list on Schedule J: Your Expenses. For example, if you and a person to whom you are not married pay all household expenses together and you list all your joint household expenses on Schedule J, you must list the amounts that person contributes monthly to pay the household expenses on line 11. If you have a roommate and you divide the rent and utilities, do not list the amounts your roommate pays on line 11 if you have listed only your share of those expenses on Schedule J. Do not list on line 11 contributions that you already disclosed elsewhere on the form.

Note that the income you report on *Schedule I* may be different from the income you report on other bankruptcy forms. For example, the *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1), *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109), and the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1) all use a different definition of income and apply that definition to a different period of time. *Schedule I* asks about the income that you are now receiving, while the other forms ask about income you received in the applicable time period before filing. So the amount of income reported in any of those forms may be different from the amount reported here.

If, after filing Schedule I, you need to file an estimate of income in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental Schedule I. To do so you must check the “supplement” box at the top of the form and fill in the date.

## Schedule J: Your Expenses (Official Form 106J)

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*Schedule J: Your Expenses* (Official Form 106J) provides an estimate the monthly expenses, as of the date you file for bankruptcy, for you, your dependents, and the other people in your household whose income is included on *Schedule I: Your Income* (Official Form 106I). On your initial filing in Part 2 select “Initial estimate at the beginning of the case”.

If you are married and are filing individually, include your non-filing spouse’s expenses unless you are separated.

If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.

Do not include expenses that other members of your household pay directly from their income if you did not include that income on *Schedule I*. For example, if you have a roommate and you divide the rent and utilities and you have not listed your roommate’s contribution to household expenses in line 11 of *Schedule I*, you would list only your share of these expenses on *Schedule J*.

Show all totals as monthly payments. If you have weekly, quarterly, or annual payments, calculate how much you would spend on those items every month.

Do not list as expenses any payments on credit card debts incurred before filing bankruptcy.

Do not include business expenses on this form. You have already accounted for those expenses as part of determining net business income on *Schedule I*.

On line 20, do not include expenses for your residence or for any rental or business property. You have already listed expenses for your residence on lines 4 and 5 of this form. You listed the expenses for your rental and business property as part of the process of determining your net income from that property on *Schedule I* (line 8a).

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

If, after filing *Schedule J*, you need to file an estimate of expenses in a chapter 13 case for a date after your bankruptcy, you may complete a supplemental *Schedule J*. To do so you must check the “supplement” box at the top of the form and fill in the date.

# Summary of Your Assets and Liabilities and Certain Statistical Information (Official Form 106Sum)

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When you file for bankruptcy, you must summarize certain information from the following forms:

- *Schedule A/B: Property* (Official Form 106A/B)
- *Schedule D: Creditors Who Have Claims Secured by Property* (Official Form 106D)
- *Schedule E/F: Creditors Who Hold Unsecured Claims* (Official Form 106E/F)
- *Schedule I: Your Income* (Official Form 106I)
- *Schedule J: Your Expenses* (Official Form 106J)
- *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1), *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109), or *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110-1)

After you fill out all of the forms, complete *Summary of Your Assets and Liabilities and Certain Statistical Information* (Official Form 106Sum) to report the totals of certain information that you listed in the forms.

If you are filing an amended version of any of these forms at some time after you file your original forms, you must fill out a new *Summary* to ensure that your information is up to date and you must check the box at the top.

# Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)

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*Your Statement of Financial Affairs for Individuals Filing for Bankruptcy*, provides a summary of your financial history over certain periods of time before you file for bankruptcy. If you are an individual in a bankruptcy case, you must fill out this statement. 11 U.S.C. § 521(a) and Bankruptcy Rule 1007(b)(1).

If you are married and your spouse is not filing this case with you, you need only provide information on this form about your spouse if you are filing under chapter 12 or chapter 13 and are not separated from your spouse.

If you are in business as a sole proprietor, partner, family farmer, or self-employed

professional, you must provide the information about all of your business and personal financial activities.

Although this statement may ask you questions that are similar to some questions on the schedules, you must fill out all of the forms completely to protect your legal rights.

## **Understand the terms used in this form**

**Legal equivalent of a spouse** — A person whom applicable nonfederal law recognizes as having a relationship with the debtor that grants legal rights and responsibilities equivalent, in whole or in part, to those granted to a spouse.

# Chapter 7 Statement of Your Current Monthly Income and Means Test Calculation (Official Forms 108-1 and 108-2)

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

Official Forms 108-1 and 108-2 determine whether your income and expenses create a presumption of abuse that may prevent you from obtaining relief from your debts under chapter 7 of the Bankruptcy Code. Chapter 7 relief can be denied to a person who has primarily consumer debts if the court finds that the person has enough income to repay creditors a portion of their claims according to a formula set out in the Bankruptcy Code.

You must file Official Form 108-1, the *Chapter 7 Statement of Your Current Monthly Income* if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income for households of the same size in your state. If your income is not above the median, there is no presumption of abuse and you will not have to fill out the second form.

If your income is above the median, you must file the second form, Official Form 108-2, *Chapter 7 Means Test Calculation*. The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay other debts. If this amount is high enough, it will

give rise to a *presumption of abuse*. A presumption of abuse does not mean you are actually trying to abuse the bankruptcy system. Rather, the presumption simply means that you are presumed to have enough income that you should not be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

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

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

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

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

If you and your spouse are filing together, you and your spouse may file a single statement. However, if an exclusion in Parts 1 or 2 applies to either of you, separate statements may be required. 11 U.S.C. § 707(b)(2)(C).

# Chapter 11 Statement of Your Current Monthly Income (Official Form 109)

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

You must file the *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109) if you are an individual filing for bankruptcy under chapter 11.

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

# Chapter 13 Statement of Your Current Monthly Income, Calculation of Commitment Period and Chapter 13 Calculation of Your Disposable Income (Official Forms 110–1 and 110–2)

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

Official Forms 110–1 and 110–2 determine the commitment period for your payments to creditors, how the amount you may be required to pay to creditors is established, and, in some situations, how much you must pay.

You must file 110–1, the *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period* (Official Form 110–1) if you are an individual and you are filing under chapter 13. This form will report your current monthly income and determine whether your income is at or below the median income for households of the same size in your state. If your income is equal to or less than the median, you will not have to fill out the second form. Form 110-1 also will determine your applicable commitment period—the time period for making payments to your creditors.

If your income is above the median, you must file the second form, 110–2, *Chapter 13 Calculation of Your Disposable Income*. The calculations on this form—sometimes called the *Means Test*—reduce your income by living expenses and payment of certain debts, resulting in an amount available to pay unsecured debts. Your chapter 13 plan may be required to provide for payment of this amount toward unsecured debts.

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

Some of the questions require you to go to other sources for information. In those cases, the form has instructions for where to find the information you need.

Generally, if you and your spouse are filing together, you should file one statement together.

# Statement of Intention for Individuals Filing Under Chapter 7 (Official Form 112)

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**If you are filing under chapter 11, 12, or 13, do not fill out this form.**

You must fill out the *Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112) if you are an individual filing under chapter 7 or if your case has been converted to chapter 7 and creditors have claims secured by your property or you have any unexpired leases of personal property. The Bankruptcy Code requires you to state your intentions about such claims and provides for early termination of the automatic stay as to personal property if the statement is not timely filed. The same early termination of the automatic stay applies to any unexpired lease of personal property unless you state that you intend to assume the unexpired lease if the trustee does not do so.

To help fill out this form, use the information you have already provided on the following forms:

- *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D),
- *Schedule C: The Property You Claim as Exempt* (Official Form 106C), and
- *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G).

## **Explain what you intend to do with your property that is collateral for a claim**

If you have property that is collateral (or security) for a claim, you must state what you intend to do with that property.

You may choose to either give the property to the creditor, or keep the property. Below is more information about each of these options.

**You may give the property to the creditor.** If you give the property to the creditor (*you surrender the property*), your bankruptcy discharge will protect you from any claim for a deficiency if the property is worth less than what you owe the creditor, unless the court determines that the debt is non-dischargeable.

**You may want to keep the property.** If you want to keep your secured personal property, you may be able to reaffirm the debt, redeem the property, or take other action (for example, avoid a lien using 11 U.S.C. 522(f)).

- **You may be able to reaffirm the debt.** You may decide to remain legally obligated to pay a debt so that you can keep the property securing the debt. This is called *reaffirming a debt*. You may reaffirm the debt in full on its original terms or you and the creditor may agree to change the terms. For example, if you want to keep your car, you may reaffirm a car loan, stating that you will continue to make monthly payments for it. **Only reaffirm those debts that you are confident you can repay.** You may seek to reaffirm the debt if you sign a *Reaffirmation Agreement*, which is a contract between you and a creditor and you follow the proper

procedure for the *Reaffirmation Agreement*. 11 U.S.C. § 524. The procedure is explained in greater detail in the Disclosures that are part of the reaffirmation documents.

- **You may be able to redeem your property.** 11 U.S.C. § 722. You can redeem property only if all of the following apply:
  - ❑ The property secures a debt that is a *consumer debt* — you incurred the debt primarily for personal, family, or household use.
  - ❑ The property is *tangible personal property* — the property is physical, such as furniture, appliances, and cars.
  - ❑ You are either claiming the property as exempt or the trustee has abandoned it.

To obtain court authorization to redeem your property, you must file a motion to redeem. If the court grants your motion, you pay the creditor the value of the property or the amount of the claim, whichever is less. The payment will be a single lump-sum payment.

## **Explain what you intend to do with your leased personal property**

If you lease personal property such as your car, you may be able to continue your lease if the trustee does not assume the lease. To continue your lease, you can write to the lessor that you want to assume your lease. The creditor may respond by telling you whether it agrees that you may assume the lease and may require you to pay any past-due amounts before you can do so. If the lessor agrees to your request to assume the lease, you must write to the lessor within 30 days stating that you assume the lease.

11 U.S.C. § 365(p)(2).

## **File the *Statement of Intention* before the deadline**

You must file this form either within 30 days after you file your bankruptcy petition or by the date set for the meeting of creditors, whichever is earlier. You must also deliver copies of this statement to the creditors and lessors you listed on the form. Bankruptcy Rule 1007(b)(2).

If two married people are filing together in a joint case, both are equally responsible for supplying correct information. Both debtors must sign and date the form.

## Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A)

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If you cannot afford to pay the full filing fee when you first file for bankruptcy, you may pay the fee in installments. However, in most cases, you must pay the entire fee within 120 days after you file, and the court must approve your payment timetable. Your debts will not be discharged until you pay your entire fee.

Do not file this form if you can afford to pay your full fee when you file.

If you are filing under chapter 7 and cannot afford to pay the full filing fee at all, you may be qualified to ask the court to waive your filing fee.

See *Application to Have Your Chapter 7 Filing Fee Waived* (Official Form 103B).

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out the *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119); include a copy of it when you file this application.

# Application to Have the Chapter 7 Filing Fee Waived (Official Form 103B)

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The fee for filing a bankruptcy case under chapter 7 is \$306. If you cannot afford to pay the entire fee now in full or in installments within 120 days, use this form. If you can afford to pay your filing fee in installments, see *Application for Individuals to Pay the Filing Fee in Installments* (Official Form 103A).

If you file this form, you are asking the court to waive your fee. After reviewing your application, the court may waive your fee, set a hearing for further investigation, or require you to pay the fee in installments or in full.

**For your fee to be waived, all of these statements must be true:**

- You are filing for bankruptcy under chapter 7.
- You are an individual.
- The total combined monthly income for your family is less than 150% of the official poverty guideline last published by the U.S. Department of Health and Human Services (DHHS). (For more information about the guidelines, go to <http://www.uscourts.gov>.)
- You cannot afford to pay the fee in installments.

*Your family* includes you, your spouse, and any dependents listed on *Schedule I*. Your family may be different from your *household*, referenced on *Schedules I* and *J*. Your household may include your unmarried partner and others who live with you and with whom you share income and expenses.

If a bankruptcy petition preparer helped you complete this form, make sure that person fills out *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119); include a copy of it when you file this application.

If you have already completed the following forms, the information on them may help you when you fill out this application:

- *Schedule A/B: Property* (Official Form 106A/B)
- *Schedule I: Your Income* (Official Form 106I)
- *Schedule J: Your Expenses* (Official Form 106J)

# For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders (Official Form 104)

**If you are filing under chapter 7, 12, or 13, do not fill out this form.**

The people or organizations to whom you owe money are called your *creditors*. A *claim* is a creditor's right to payment. If you are an individual filing for bankruptcy under chapter 11, you must fill out *For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders* (Official Form 104).

Creditors may have different types of claims:

- Secured claims, or
- Unsecured claims.

If your debts are not paid, creditors with secured claims may be able to get paid from specific property in which that creditor has an interest, such as a mortgage or a lien. If a creditor has security in your property, but the value of the security available to pay the creditor is less than the amount you owe the creditor, the creditor has both a secured and unsecured claim against you. The amount of the unsecured claim is the total claim minus the value of the security that is available to pay the creditor.

Generally, creditors with unsecured claims do not have rights against specific property, or the specific property in which the creditor has rights is not worth enough to pay the creditor in

full. For example, if you owe a creditor \$30,000 for your car and the creditor has a security interest in your car but the car is worth only \$20,000, the creditor has a \$20,000 secured claim and a \$10,000 unsecured claim.

\$30,000	Total amount you owe creditor
– \$20,000	Amount your car is worth (amount of secured claim)
<hr/>	
\$10,000	Amount of unsecured claim

Many claims have a specific amount, and you clearly owe them. However, some claims are uncertain when you file for bankruptcy, or they become due only after you file. You must include such claims when listing your 20 largest unsecured claims on this list.

## **Claims may be contingent, unliquidated, or disputed.**

The form asks you to identify claims that are:

- Contingent claims,
- Unliquidated claims, or
- Disputed claims.

A claim is *contingent* if you are not obligated to pay it unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

A claim is *unliquidated* if the amount of the debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the amount has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

A claim is *disputed* if you do not agree that you owe the debt. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

A single claim can have one, more than one, or none of these characteristics.

### **On this form, list the creditors with the 20 largest unsecured claims who are not insiders**

You must file this form when you file your chapter 11 bankruptcy case with the court.

When you list the 20 largest unsecured creditors, include all unsecured creditors, except for the following two types of creditors, even if you plan to pay them. Do not include:

- Anyone who is an *insider*. *Insiders* include relatives; general partners of you or your relatives; corporations of which you are an officer, director, or person in control; and any managing agent. 11 U.S.C. § 101(31).
- Secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Make sure that all of the creditors listed on this form are also listed on either *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D) or *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F).

On the form, you will fill in what the claim is for. Examples include trade debts, bank loans, professional services, and government contracts.

# Glossary

# Definitions Used in the Forms for Individuals Filing for Bankruptcy

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Here are definitions for some of the important terms used in the forms for individuals who are filing for bankruptcy. See *Bankruptcy Basics* (<http://www.uscourts.gov/FederalCourts>) for more information about filing for bankruptcy and other important terms you should know.

**Annuity** — A contract for the periodic payment of money to you, either for life or for a number of years.

**Bankruptcy petition preparer** — Any person or business, other than a lawyer or someone who works for a lawyer, that charges a fee to prepare bankruptcy documents. Under your direction and control, the bankruptcy petition preparer generates bankruptcy forms for you to file by typing them. Because they are not attorneys, they cannot give legal advice or represent you in bankruptcy court. Also called *typing services*.

**Business debt** — Debt that you incurred to obtain money for a business or investment or through the operation of the business or investment.

**Claim** — A creditor's right to payment, even if contingent, disputed, unliquidated, or unmatured.

**Codebtor** — A person or entity that may also be responsible for paying a claim against the debtor.

**Collateral for your debt** — If your debts are not paid, creditors with secured claims such as a mortgage or a lien may be able to get paid from specific property in which that creditor has an interest.

**Community property** — Type of property ownership available in certain states for property owned by spouses and, in some instances, legal equivalents of spouses. Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.

**Consumer debt** — Debt incurred by an individual primarily for a personal, family, or household purpose.

**Contingent claim** — Debt you are not obligated to pay unless a particular event occurs after you file for bankruptcy. You owe a contingent claim, for example, if you cosigned someone else's loan. You may not have to pay unless that person later fails to repay the loan.

**Creditor matrix or mailing matrix** — A list of names and addresses of all of your creditors, formatted as a mailing list according to instructions from the bankruptcy court in which you file.

**Creditor** — The person or organization to whom you owe money.

**Creditor with secured claims** — Creditors who have a right to take property if you do not pay them. Common examples are lenders for your car, your home, or your furniture.

**Creditor with unsecured claims** — Creditor who does not have lien on or other security interest in your property.

**Current value, fair market value, or value** — Generally, the fair market value as of the date of the filing of the petition. It is how much the property is worth, which may be more or less than when you purchased the property. See the instructions for specific forms regarding whether the value requested is as of the date of the filing of the petition, the date you complete the form, or some other date.

**Debtor 1** — A debtor filing alone or one person in married couple who is filing a bankruptcy case with a spouse.

**Debtor 2** — The second person in a married couple who is filing a bankruptcy case with a spouse.

**Dependent** — The term *dependent* generally means people who are economically dependent on the debtor regardless of whether they can be claimed as a dependent on the debtor's federal tax return. However, *Chapter 7 Means Test Calculation*, (Official Form 108-2) and *Chapter 13 Calculation of Your Disposable Income*, (Official Form 110-2) use the term in a more limited way. See the instructions on those forms.

**Discharge** — A discharge in bankruptcy relieves you from having to pay debts that you owed before you filed your bankruptcy case. Most debts are covered by the discharge, but not all. (The instruction booklet explains more about common debts that are excepted from discharge.)

Only your personal liability is removed by the discharge; creditors with discharged debts cannot sue you, garnish your wages, assert a deficiency against you, or otherwise try to collect from you personally.

But a discharge does not stop creditors from collecting debts from any property in which they have a security interest—such as foreclosing a home mortgage or repossessing an automobile. Similarly, a discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as a relative who cosigned or guaranteed a loan.

Even if a debt has been discharged, you can choose to repay it by either *reaffirming the debt* (see the definition below) or by voluntarily paying the debt. The creditor may negotiate a reaffirmation agreement with you, but may not suggest that you make voluntary payments.

**Disputed claim** — If you disagree about whether you owe a debt. For instance, your claim is disputed if a bill collector demands payment for a bill you believe you already fully paid.

**Eviction judgment** — Your landlord has obtained a judgment for possession in an eviction, unlawful detainer action, or similar proceeding.

**Executory contract** — Contract between you and someone else in which neither you nor the other party has performed all of the requirements by the time you file for bankruptcy.

**Exempt property** — Property that the law permits you to keep.

**Individual debtor** — You are a person who is filing for bankruptcy by yourself or with your spouse.

**Joint case** — A single case filed by a married couple.

**Legal equivalent of a spouse** — A person whom applicable nonfederal law recognizes as having a relationship with the debtor that grants legal rights and responsibilities equivalent, in whole or in part, to those granted to a spouse.

**Legal or equitable interest** — A broad term that includes all kinds of property interests in both tangible and intangible property, whether or not anyone else has an interest in that property.

**Negotiable instrument** — Include personal checks, cashiers' checks, promissory notes, and money orders.

**Non-individual debtor** — You are filing for bankruptcy on behalf of a non-individual, such as a corporation, partnership, or limited liability company (LLC).

**Non-negotiable instrument** — Financial instrument that you cannot transfer to someone by signing or delivering it.

**Nonpriority unsecured claim** — Debt that generally will be paid after priority unsecured claims are paid. The most common examples are credit card bills, medical bills, and educational loans.

**Payment advice** — A statement such as a pay stub or earnings statement from your employer that shows all earnings and deductions from your pay.

**Presumption of abuse** — A legal determination meaning you may have too much income to be granted relief under chapter 7. You may overcome the presumption by showing special circumstances that reduce your income or increase your expenses.

**Priority unsecured claim** — Debt that the Bankruptcy Code requires to be paid before most other unsecured claims are paid. The most common examples are certain income tax debts and past due alimony or child support.

**Property you own** — Includes property you have purchased, even if you owe money on it, such as a home with a mortgage or an automobile with a lien.

**Reaffirming a debt** — You may agree to repay a debt that would otherwise be discharged by entering into a reaffirmation agreement with the creditor. A reaffirmation agreement may allow you to keep property that a creditor has the right to take from you because it secures the debt being reaffirmed. For a reaffirmation agreement to be effective, you must enter into it before discharge. You may ask the court to delay your discharge if you need more time to complete your reaffirmation agreement. The court may have to find that the agreement is not an undue burden on you before it can become effective.

**Secured claim** — A claim that may be satisfied in whole or in part either

- through a charge against or an interest in the debtor's property, or
- through a right of setoff.

**Sole proprietorship** — A business you own as an individual, rather than a separate legal entity such as a corporation, partnership, or LLC. Sole proprietors must use the bankruptcy forms that are numbered in the 100 series.

**Unexpired lease** — Unexpired leases are leases that are in effect at the time of the bankruptcy filing.

**Unliquidated claim** — If the amount of a debt cannot be readily determined, such as by referring to an agreement or by a simple computation. An unliquidated claim is one for which there may be a definite liability but where the value has not been set. For instance, if you were involved in a car accident, the victim may have an unliquidated claim against you because the amount of damages has not been set.

**You** — A debtor filing alone or one person in married couple who is filing a bankruptcy case with a spouse.

# APPENDIX B.4

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United States Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_

Debtor(s): \_\_\_\_\_

Case No.: \_\_\_\_\_

Date: \_\_\_\_\_

Check if this is an amended plan

Official Form 113

Chapter 13 Plan

12/15

Part 1: Notice to Interested Parties

Check all that apply:

- The plan seeks to limit the amount of a secured claim, as set out in Part 3, Section 3.2, which may result in a partial payment or no payment at all to the secured creditor.
- The plan requests the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as set out in Part 3, Section 3.4.
- The plan sets out nonstandard provisions in Part 9.

**Important Notice: Your rights may be affected. Your claim may be reduced, modified, or eliminated.**

You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you must file a proof of claim—or one must be filed on your behalf—in order for you to be paid under any plan that may be confirmed.

Part 2: Plan Payments and Length of Plan

2.1 Debtor(s) will pay to the trustee \$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months, and  
 \$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months.

2.2 Payments to the trustee will be made from future earnings in the following manner:

Check all that apply:

- Debtor(s) will make payments pursuant to a payroll deduction order.
- Debtor(s) will make payments directly to the trustee.

2.3 Additional payments to the trustee will be made as follows:

Check all that apply:

- Debtor(s) will turn over to the trustee:
  - any tax refunds received during the plan term.
  - any tax refunds in excess of \$ \_\_\_\_\_ received during the plan term.

On or before April 20 of the year following the filing of this case and each year thereafter, Debtor(s) will submit to the trustee a copy of the federal tax return filed for the prior year.

- Other sources of funding, including the sale of property. Describe the source, amount, and date when available:

\_\_\_\_\_

2.4 The estimated total amount of plan payments is \$ \_\_\_\_\_.

- 2.5 The applicable commitment period is:
- 36 months
  - 60 months

**3.1 Maintenance of payments and cure of any default**

**None** [If "none" is checked, the rest of § 3.1 need not be completed or reproduced]

The debtor(s) will maintain the contractual installment payments and cure any default in payments on the secured claims listed below. The allowed claim for any arrearage amount will be paid under the plan, with interest, if any, at the rate stated. Unless otherwise ordered by the court, (1) the amounts listed on the proof of claim control over any contrary amounts listed below as to the current installment payment and arrearage, and (2) if relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, all payments under this plan as to that collateral will cease and all claims as to that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Current installment payment (including escrow payment)	Estimated amount of arrearage	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage or other payment arrangement	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	_____	\$ _____	\$ _____
_____	_____	Disbursed by:				
_____	_____	<input type="checkbox"/> Trustee				
_____	_____	<input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	_____	\$ _____	\$ _____
_____	_____	Disbursed by:				
_____	_____	<input type="checkbox"/> Trustee				
_____	_____	<input type="checkbox"/> Debtor(s)				

**3.2 Request for valuation of security and claim modification**

**None** [If checked, the rest of § 3.2 need not be completed or reproduced]

***This paragraph will be effective only if the applicable box in Part 1 of this plan is checked.***

The debtor(s) request that the court determine the value of the secured claims listed below, except for the claims of governmental units. For each non-governmental secured claim as to which a proof of claim has been filed in accordance with Bankruptcy Rule 3002, the debtors state that the value of the secured claim should be as stated below in the column headed "Amount of secured claim." For secured claims of governmental units, unless otherwise ordered by the court, the amounts listed in proofs of claim filed in accordance with Bankruptcy Rule 3002 control over any contrary amounts listed below. For each listed secured claim, the controlling amount of the claim will be paid in full under the plan with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's claim listed on the proof of claim controls over any contrary amounts listed under Part 5 as to the unsecured portion, if any, of the claim.

The holder of any claim listed below as having value in the column headed "Amount of secured claim" will retain the lien until the earlier of:

- (a) payment of the underlying debt determined under nonbankruptcy law, or
- (b) discharge under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor. See Bankruptcy Rule 3015.

- Debtor(s) will be eligible to receive a discharge in this case.
- Debtor(s) will not be eligible to receive a discharge in this case.

Name of creditor	Estimated amount of creditor's claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	_____	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	_____	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	_____	\$ _____	\$ _____

**3.3 Secured claims excluded from 11 U.S.C. § 506**

**None** [If checked, the rest of § 3.3 need not be completed or reproduced]

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. Unless otherwise ordered by the court, the claim amount listed on the proof of claim controls over any contrary amounts listed below. The final column includes only payments disbursed by trustee rather than by the debtor.

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____			Disbursed by:	
_____	_____			<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____			Disbursed by:	
_____	_____			<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	

**3.4 Lien avoidance**

**None** [If "None" is checked, the rest of Section § 3.4 need not be completed or reproduced]

*This paragraph will be effective only if the applicable box on Part 1 of this plan is checked.*

The judicial liens or nonpossessory, nonpurchase-money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). A judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of the order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 5. The calculation of the amount of the judicial lien or security interest that is avoided is shown on Exhibit A, which is attached to this plan and incorporated herein by reference. The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d).

Name of creditor	Collateral	Amount of secured claim after avoidance	Interest rate (if applicable)	Monthly plan payment (if applicable)	Estimated total amount of secured claim
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____				
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____				

**3.5 Surrender of collateral**

**None** [if "None" is checked, the rest of § 3.5 need not be completed or reproduced]

The debtor(s) elect to surrender to the creditors listed below the personal or real property that is collateral for the claim. The debtor(s) consent to termination of the stay under 11 U.S.C. § 362(a) and § 1301 with respect to the collateral upon confirmation of the plan. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Name of creditor	Collateral
_____	_____
_____	_____

**Part 4:** Treatment of Trustee's Fees and Administrative and Other Priority Claims

**4.1 General**

All allowed priority claims other than those treated in § 4.5 will be paid in full without interest, unless otherwise stated.

**4.2 Trustee's fees**

These fees are estimated to be \_\_\_\_\_% of plan payments; and during the plan term, they are estimated to total \$\_\_\_\_\_.

**4.3 Attorney's fees**

The balance of the fees owed to the attorney of the debtor(s) is estimated to be \$\_\_\_\_\_.

**4.4 Other priority claims**

**None** [If "None" is checked, the rest of § 4.4 need not be completed or reproduced]

The following are the debtor's estimates of the amount of such claims.

Name of creditor	Basis for priority treatment	Estimated amount of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$_____	_____	\$_____
_____	_____	\$_____	_____	\$_____

**4.5 Domestic support obligations assigned to a governmental unit and paid less than full amount**

**None** [If "None" is checked, the rest of § 4.5 need not be completed or reproduced]

The allowed priority claims listed below are based on a domestic support obligation that has been assigned to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4).

Name of creditor	Amount of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	\$_____	_____	\$_____
_____	\$_____	_____	\$_____

**Part 5:** Treatment of Nonpriority Unsecured Claims

**5.1 Maintenance of payments and cure of any default**

**None** [If "None" is checked, the rest of § 5.1 need not be completed or reproduced]

The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. The allowed claim for the arrearage amount will be paid under the plan.

Name of creditor	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	\$_____	\$_____	\$_____
_____	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		
_____	\$_____	\$_____	\$_____
_____	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		

**5.2 Separately classified nonpriority unsecured claims**

**None** [If "None" is checked, the rest of § 5.2 need not be completed or reproduced]

The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows:

Name of creditor	Basis for separate classification and treatment	Amount of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____	\$ _____
_____	_____			
_____	_____	\$ _____	_____	\$ _____
_____	_____			

**5.3 Nonpriority unsecured claims**

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata, up to the full amount of the claims, as follows:

Check all that apply:

- the sum of \$ \_\_\_\_\_, unless a greater amount is required under another checked option;
- \_\_\_\_\_% of the total amount of these claims;
- the funds remaining after disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7 nonpriority unsecured claims would be paid approximately \$ \_\_\_\_\_. Payments on allowed nonpriority unsecured claims will not be less than this amount.

**5.4 Interest**

Interest on allowed unsecured claims, other than separately classified nonpriority unsecured claims, will (Check the applicable box):

- not be paid.
- be paid at an annual percentage rate of \_\_\_\_\_% under 11 U.S.C. § 1325(a)(4), and is estimated to total \$ \_\_\_\_\_.

**Part 6: Executory Contracts and Unexpired Leases**

**6.1 All executory contracts and unexpired leases are rejected, except those listed below, which are assumed and will be treated as provided for below or under another specified provision of the plan.**

**None to be assumed** [If checked, the rest of § 6.1 need not be completed or reproduced]

The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Property description	Treatment (Refer to other plan section if applicable)	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	Disbursed by:		
			<input type="checkbox"/> Trustee		
			<input type="checkbox"/> Debtor(s)		
_____	_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	Disbursed by:		
			<input type="checkbox"/> Trustee		
			<input type="checkbox"/> Debtor(s)		

**Part 7:** Order of Distribution of Trustee Payments

**7.1 The trustee will make payments in the estimated amounts shown on Exhibit B, in the following order:**

- a. Trustee's fees
- b. Monthly payments on secured claims
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_
- f. \_\_\_\_\_
- g. \_\_\_\_\_
- h. \_\_\_\_\_

**Part 8:** Vesting of Property of the Estate

**8.1 Property of the estate shall revert in the debtor(s) upon**

Check the applicable box:

- Plan confirmation
- Closing of case
- Other: \_\_\_\_\_

**Part 9:** Nonstandard Plan Provisions

*Under Bankruptcy Rule 3015(c), nonstandard provisions are required to be set forth below. These plan provisions will be effective only if the applicable box in Part 1 of this plan is checked.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part 10:** Signatures

The debtor's attorney (or debtor, if not represented by an attorney) certifies that all provisions of this plan are identical to the Official Form 113, except for language contained in Part 9: Nonstandard Plan Provisions.

**Debtors**  
(Sign if not represented by an attorney)

**X** \_\_\_\_\_  
Signature of debtor

Date \_\_\_\_\_  
MM / DD / YYYY

**X** \_\_\_\_\_  
Signature of debtor

Date \_\_\_\_\_  
MM / DD / YYYY

**Debtors' Attorney**

**X** \_\_\_\_\_  
Signature of debtor's attorney

Date \_\_\_\_\_  
MM / DD / YYYY

**Exhibit A** Calculation of lien avoidance

**A.1** The judicial lien or nonpossessory, nonpurchase-money security interest provided for in Section 3.4 is avoided to the extent listed below: *Do not complete if the plan involves no lien avoidance; if more than one lien is to be avoided, provide the information for each lien.*

Name of creditor	Collateral	Judgment lien information (such as judgment date, date of lien recording, book and page number)	Calculation of lien avoidance
			a. Amount of lien \$ _____
			b. Amount of all other liens \$ _____
			c. Value of claimed exemptions \$ _____
			d. Total: Lines a + b + c = line d <span style="border: 1px solid black; padding: 2px;">\$ _____</span>
			e. Value of debtor's interest in property \$ _____
			f. Subtract line e from line d <span style="border: 1px solid black; padding: 2px;">\$ _____</span>
			Extent of exemption impairment (Check applicable box):
			<input type="checkbox"/> <b>Line f is equal to or greater than line a.</b> The entire lien is avoided.
			<input type="checkbox"/> <b>Line f is less than line a.</b> A portion of the lien is avoided.
			<b>Amount of lien not avoided</b> Subtract line f from line a <span style="border: 1px solid black; padding: 2px;">\$ _____</span>

**Exhibit B** Estimated amounts of trustee payments

**B.1** The trustee will make the following estimated payments on allowed claims in the order set forth in Section 7.1:

a. <b>Current installment and arrearage payments on secured claims</b> (Part 3, Section 3.1 total):	\$ _____
b. <b>Allowed secured claims</b> (Part 3, Section 3.2 total):	\$ _____
c. <b>Secured claims not subject to 11 U.S.C. § 506</b> (Part 3, Section 3.3 total):	\$ _____
d. <b>Judicial liens or security interests not avoided</b> (Part 3, Section 3.4 total):	\$ _____
e. <b>Administrative and other priority claims</b> (Part 4 total):	\$ _____
f. <b>Current installment payments and arrearage payments on unsecured debts</b> (Part 5, Section 5.1 total):	\$ _____
g. <b>Separately classified unsecured claims</b> (Part 5, Section 5.2 total):	\$ _____
h. <b>Nonpriority unsecured claims</b> (Part 5, Section 5.3 total):	\$ _____
i. <b>Interest on allowed unsecured claims</b> (Part 5, Section 5.4 total):	\$ _____
j. <b>Arrearage payments on executory contracts and unexpired leases</b> (Part 6, Section 6.1 total):	\$ _____
<b>Total of lines a through j</b> .....	\$ _____

## COMMITTEE NOTE

Official Form 113 is new and is the required plan form in all chapter 13 cases. See Bankruptcy Rule 3015. Alterations to the text of the form or the order of its provisions, except as indicated on the form itself, are prohibited. See Bankruptcy Rule 9009. As the form explains, spaces for responses may be expanded or collapsed as appropriate, and sections that are inapplicable do not need to be reproduced.

*Part 1.* This part is intended to highlight some provisions of the plan for the benefit of interested parties and the court. For that reason, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 9 of the plan proposes a provision not included in, or contrary to, the Official Form, then that nonstandard provision will be ineffective if the appropriate check box is not selected.

*Part 2.* This part states the proposed periodic plan payments, plan length, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments accordingly, that should be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make payments. The debtor may also make payments through a designated third party, such as an electronic funds transfer program.

*Part 3.* This part provides for the treatment of secured claims.

Section 3.1 provides for the treatment of claims under Code § 1322(b)(5) (maintaining current payments and curing any arrearage). For the claim of a secured creditor listed in § 3.1, an estimated arrearage amount should be given. A contrary arrearage amount listed on the creditor's proof of claim, unless contested by objection or motion, will control over the amount given in the plan.

In § 3.2, the plan may propose to determine under Code § 506(a) the value of a secured claim for which a proof of claim has been filed. For example, the plan could seek to reduce the secured portion of a creditor's claim to the value of the collateral securing it. For the secured claim of a nongovernmental creditor, that determination would be binding upon confirmation of the plan. For the secured claim of a governmental unit, however, a contrary valuation listed on the creditor's proof of claim, unless contested by objection or motion, would control over the valuation given in the plan. See Bankruptcy Rule 3012. Although § 3.2 applies to secured claims for which a proof of claim has been filed in accordance with Bankruptcy Rule 3002, that rule contemplates that a debtor, the trustee, or another entity may file a proof of claim if the creditor does not do so in a timely manner. See Bankruptcy Rules 3004 and 3005. Section 3.2 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.3 deals with secured claims that may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for an interest rate other than the contract rate to be applied to payments on such a claim.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). A separate exhibit shows the calculation of the amount of the judicial lien or

security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. See Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.5 provides for elections to surrender collateral and consent to termination of the stay under § 362(a) and § 1301 with respect to the collateral surrendered. Termination will be effective upon confirmation of the plan.

*Part 4.* This part provides for the treatment of claims entitled to priority status. In § 4.4, the plan calls for an estimated amount of each such claim. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in the plan.

*Part 5.* This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.3, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or also provide that a defined percentage of the total amount of unsecured claims will be paid.

*Part 6.* This part provides for executory contracts and unexpired leases. An executory contract or unexpired lease is rejected unless it is listed in this part.

*Part 7.* This part provides an order of distribution of payments under the plan. Other than the trustee's fees and monthly payments to secured creditors, the order of distribution is left to be completed by the debtor in keeping with the requirements of the Code. A separate exhibit lists the estimated amounts of these distributions.

*Part 8.* This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon closing the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

*Part 9.* This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or are contrary to, the Official Form. All such nonstandard provisions must be set forth in this part and nowhere else in the plan. This part will not be effective unless the appropriate check box in Part 1 is selected. See Bankruptcy Rule 3015.

*Part 10.* The plan must be signed by the attorney for the debtor or debtors, unless the debtor or debtors are not represented by an attorney, in which case the plan must be signed by the debtor or debtors. The signature in this part is a certification to the court that the plan's provisions are identical to the Official Form, except for any nonstandard provisions contained in Part 9.

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# APPENDIX B.5

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*[Caption as in Form 16A, 16B, or 16D, as appropriate]*

## NOTICE OF APPEAL AND STATEMENT OF ELECTION

### **Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): \_\_\_\_\_

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- Plaintiff
- Defendant
- Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- Debtor
- Creditor
- Trustee
- Other (describe) \_\_\_\_\_

### **Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: \_\_\_\_\_

2. State the date on which the judgment, order, or decree was entered: \_\_\_\_\_

### **Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Party: \_\_\_\_\_ Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**

\_\_\_\_\_  
Signature of attorney for appellant(s) (or appellant(s)  
if not represented by an attorney)

Date: \_\_\_\_\_

Name, address, and telephone number of attorney  
(or appellant(s) if not represented by an attorney):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

## COMMITTEE NOTE

The form is amended and renumbered. It is amended to add to the Notice of Appeal an optional Statement of Election to have the appeal heard by the district court rather than by the bankruptcy appellate panel. Current Rule 8005(a) eliminates the requirement, imposed by former Rule 8001(e), that a separate document be used in making an election to have an appeal heard by the district court rather than the bankruptcy appellate panel. It instead requires a statement that conforms substantially to the Official Form for such an election. Form 17A effectuates Rule 8005(a)'s requirement for election by an appellant by combining the notice of appeal and statement of election. It thereby facilitates compliance with the statutory requirement that an appellant wishing to make an election do so at the time of filing the appeal. 28 U.S.C. § 158(c)(1)(A).

The statement of election in Part 4 is applicable only in districts for which appeals to a bankruptcy appellate panel have been authorized. If an appeal is being taken from a bankruptcy court located in a circuit that does not have a bankruptcy appellate panel or in a district that has not authorized appeals to be heard by the circuit's bankruptcy appellate panel, the appellant should not complete Part 4.

When a bankruptcy appellate panel is available to hear an appeal, completion of Part 4 is optional. An appellant that wants its appeal heard by the bankruptcy appellate panel should not complete this part.

The form is renumbered as Official Form 17A because a new companion form—Optional Appellee Statement of Election to Proceed in the District Court—is designated as Official Form 17B, and another bankruptcy appellate form—Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2)—is designated as Official Form 17C.

The fixed caption has been deleted because the short title caption on the current form is not appropriate if the debtor is the appellant or if the appeal is in an adversary proceeding. *See* 11 U.S.C. § 342(c); Rule 7008; Rule 9004(b). The form should be captioned as in Official Form 16A, Caption (Full); Official Form 16B, Caption (Short Title); or Official Form 16D, Caption for Use in Adversary proceeding, as appropriate.

Draft: May 10, 2013

[Caption as in Form 16A, 16B, or 16D, as appropriate]

### OPTIONAL APPELLEE STATEMENT OF ELECTION TO PROCEED IN DISTRICT COURT

This form should be filed only if all of the following are true:

- this appeal is pending in a district served by a Bankruptcy Appellate Panel,
- the appellant(s) did not elect in the Notice of Appeal to proceed in the District Court rather than in the Bankruptcy Appellate Panel,
- no other appellee has filed a statement of election to proceed in the district court, and
- you elect to proceed in the District Court.

#### **Part 1: Identify the appellee(s) electing to proceed in the District Court**

1. Name(s) of appellee(s):

\_\_\_\_\_

2. Position of appellee(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

- Plaintiff
- Defendant
- Other (describe) \_\_\_\_\_

For appeals in a bankruptcy case and not in an adversary proceeding.

- Debtor
- Creditor
- Trustee
- Other (describe) \_\_\_\_\_

#### **Part 2: Election to have this appeal heard by the District Court (applicable only in certain districts)**

I (we) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

#### **Part 3: Sign below**

\_\_\_\_\_  
Signature of attorney for appellee(s) (or appellee(s) if not represented by an attorney)

Date: \_\_\_\_\_

\_\_\_\_\_  
Name, address, and telephone number of attorney (or appellee(s) if not represented by an attorney):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## COMMITTEE NOTE

This form is new. It is the Official Form for an appellee to state its election to have an appeal heard by the district court rather than by the bankruptcy appellate panel. If an appellee desires to make that election and the appellant or another appellee has not already done so, the appellee must file a statement that conforms substantially to this form within 30 days of service of the Notice of Appeal. 28 U.S.C. § 158(c)(1)(B).

The form is applicable only in districts for which appeals to a bankruptcy appellate panel have been authorized. If an appeal is being taken from a bankruptcy court located in a circuit that does not have a bankruptcy appellate panel or in a district that has not authorized appeals to be heard by the circuit's bankruptcy appellate panel, the appellee should not complete this form.

When a bankruptcy appellate panel is available to hear an appeal, completion of the form is optional. An appellee that wants its appeal heard by the bankruptcy appellate panel should not complete this form.

The form should be captioned as in Official Form 16A, Caption (Full); Official Form 16B, Caption (Short Title); or Official Form 16D, Caption for Use in Adversary proceeding, as appropriate. *See* 11 U.S.C. § 342(c); Rule 7008; Rule 9004(b).

*[This certification must be appended to your brief if the length of your brief is calculated by maximum number of words or lines of text rather than number of pages.]*

**Certificate of Compliance With Rule 8015(a)(7)(B) or 8016(d)(2)**

This brief complies with the type-volume limitation of Rule 8015(a)(7)(B) or 8016(d)(2) because:

- this brief contains [*state the number of*] words, excluding the parts of the brief exempted by Rule 8015(a)(7)(B)(iii) or 8016(d)(2)(D), or
- this brief uses a monospaced typeface having no more than 10½ characters per inch and contains [*state the number of*] lines of text, excluding the parts of the brief exempted by Rule 8015(a)(7)(B)(iii) or 8016(d)(2)(D).

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Print name of person signing certificate of compliance:  
\_\_\_\_\_

## **COMMITTEE NOTE**

This form is new. When the length of a brief is calculated by the maximum number of words or lines of text rather than by number of pages, Rules 8015(a)(7)(C) and 8016(d)(3) require an attorney or unrepresented party to certify that the brief complies with the applicable type-volume limitation. Completion of this form satisfies that certification requirement. This form is not needed if the brief meets the applicable page limitation under Rule 8015(a)(7)(A) or 8016(d)(1).

The form does not include a caption because it is included in the brief.

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# APPENDIX C

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ADVISORY COMMITTEE ON BANKRUPTCY RULES  
Meeting of April 2–3, 2013  
New York, New York

Draft Minutes

The following members attended the meeting:

Bankruptcy Judge Eugene R. Wedoff, Chair  
Circuit Judge Sandra Segal Ikuta  
Circuit Judge Adalberto Jordan (by telephone)  
District Judge Karen Caldwell  
District Judge Jean Hamilton  
District Judge Robert James Jonker  
Bankruptcy Judge Arthur I. Harris  
Bankruptcy Judge Elizabeth L. Perris  
Bankruptcy Judge Judith H. Wizmur  
Professor Edward R. Morrison  
Michael St. Patrick Baxter, Esquire  
Richardo I. Kilpatrick, Esquire  
J. Christopher Kohn, Esquire  
David A. Lander, Esquire  
Jill Michaux, Esquire

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter  
Professor Troy A. McKenzie, assistant reporter  
Roy T. Englert, Jr., Esq., liaison from the Committee on Rules of Practice and  
Procedure (Standing Committee)  
Bankruptcy Judge Erithe A. Smith, liaison from the Committee on Bankruptcy  
Administration  
Jonathan Rose, secretary of the Standing Committee and Chief, Rules Committee  
Support Office  
Patricia S. Ketchum, advisor to the Advisory Committee  
Ramona D. Elliott, Deputy Director /General Counsel, Executive Office for U.S.  
Trustees (EOUST) (by telephone)  
Lisa Tracy, Associate General Counsel, EOUST (by telephone)  
James J. Waldron, Clerk, U.S. Bankruptcy Court for the District of New Jersey  
Peter G. McCabe, Assistant Director, Office of Judges Programs, Administrative  
Office of the U.S. Courts (Administrative Office)  
Benjamin Robinson, Deputy Rules Officer  
James H. Wannamaker, Administrative Office  
Scott Myers, Administrative Office  
Bridget Healy, Administrative Office  
Molly Johnson, Federal Judicial Center  
Michael T. Bates, Senior Company Counsel, Wells Fargo  
Eric Donowho, Chief Administrative Officer, Barrett, Daffin, Frappier, Turner &  
Engel, LLP

Marcy J. Ford, Executive Vice President and Managing Partner Bankruptcy  
Department, Trott & Trott, PC  
Craig Goldblatt, WilmerHale LLP  
Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy  
Trustees  
Anita M. Warner, Vice President, Assistant General Counsel, Chase  
Daniel A. West, Shareholder/Managing Attorney, South & Associates

The following summary of matters discussed at the meeting is written in the order of the meeting agenda unless otherwise specified, not necessarily in the order actually discussed. It should be read in conjunction with the agenda materials and other written materials referred to, all of which are on file in the office of the Secretary of the Standing Committee.

An electronic copy of the agenda materials, other than materials distributed at the meeting after the agenda materials were published, is available at <http://www.uscourts.gov/RulesAndPolicies/rules/archives/agenda-books/committee-rules-bankruptcy-procedure.aspx>. Votes and other action taken by the Advisory Committee and assignments by the Chair appear in **bold**.

#### Introductory Items

1. Greetings; welcome to new member Jill Michaux, Esq., and new liaison representatives Roy T. Englert, Jr., Esq., and Judge Erithe A. Smith; and recognition of the service of former committee member Jerry Patchan.

The Chair welcomed the Advisory Committee's newest member, Jill Michaux, Esq., and its new liaisons from the Standing Rules Committee, Roy Englert, and from the Committee on Bankruptcy Administration, Judge Erithe Smith.

At the Chair's request, Ms. Ketchum and Mr. McCabe recognized the service of former member Jerry Patchan, who recently passed away. Ms. Ketchum noted that it was ironic to honor Mr. Patchan at this time in light of the many comments the Advisory Committee received in response to publication of the first set forms produced as part of the Forms Modernization Project. Mr. Patchan, she said, was the first chair of the Advisory Committee's Forms Subcommittee and he presided over the last major overhaul of bankruptcy forms in the late 1980s. Mr. Patchan was a former bankruptcy judge, became a private attorney and joined the Advisory Committee, and later was director of the Executive Office for United States trustees.

2. Approval of minutes of Portland meeting of September 20–21, 2012.

**The draft minutes were approved with minor edits.**

3. Oral reports on meetings of other committees:
  - (A) January 2013 meeting of the Advisory Committee on Rules of Practice and Procedure.

The Chair said that the Standing Committee was asked to comment on the modernized bankruptcy forms for individuals at its January meeting, and that there was general approval of the new forms. There were some concerns, however, about the Advisory Committee's attempt to

incorporate the Supreme Court's holding in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010) into the exemption schedule. The Chair said that the Joint Consumer Forms Subcommittee has amended the exemption schedule to address the Standing Committee's concerns, and that the revised form would be considered at Agenda Item 7(A).

The Chair said the Standing Committee asked the Advisory Committee to move forward in its consideration of a rule for electronic signatures and that the proposal of the Subcommittee on Technology and Cross Border Insolvency on that issue would be considered at Agenda Item 10.

- (B) January 2013 meeting of the Advisory Committee on the Administration of the Bankruptcy System.

Judge Smith reported on the most recent meeting of the Advisory Committee on the Administration of the Bankruptcy System, which she said focused largely on budget matters.

- (C) November 2012 meeting of the Advisory Committee on Civil Rules, including the Civil Rules Committee's approval of an amendment of Civil Rule 6(d) for future publication.

Judge Harris said there was one matter before the Committee on Civil Rules that has near term bankruptcy rules implications. The Civil Rules Committee voted to approve a proposed amendment to Rule 6(d), he said, that would clarify that only the party being served (not the party serving) by certain means described in the rule could add 3 days to a time period. Judge Harris moved for the Advisory Committee to recommend publication of the same change to Bankruptcy Rule 9006(f), which incorporates the language from Rule 6(d), so that counting under the two rules remains the same. **The Advisory Committee recommended the following amendment Rule 9006(f) for publication:** Replace the word "service" with "being served."

Mr. McCabe added that a pending change to the Rule 45 on track to take effect December 1, 2013, which is incorporated into Bankruptcy Rule 9016, would require changes to the bankruptcy subpoena forms. **The Chair asked the Forms Subcommittee to consider needed changes this summer, and to report back at the fall meeting.**

- (D) October 2012 meeting of the Advisory Committee on Evidence.

Judge Wizmur reported on the work of the Advisory Committee on Evidence.

- (E) September 2012 meeting of the Advisory Committee on Appellate Rules.

Judge Jordon reported on the work of the Advisory Committee on Appellate Rules.

- (F) Bankruptcy Next Generation of CM/ECF Working Group.

Judge Perris reported on the progress of Next Generation of CM/ECF at Agenda item 7.

Subcommittee Reports and Other Action Items

4. Report by the Subcommittee on Consumer Issues.

- (A) Oral report concerning Suggestion 12-BK-I by Judge John E. Waites (on behalf of the Bankruptcy Judges Advisory Group) to amend Rule 1006(b) to provide that courts may require a minimum initial payment with requests to pay filing fees in installments.

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that, although the Subcommittee did not fully discuss the suggestion, there was concern expressed by some members that requiring an initial installment payment at the time of filing might encourage eligible debtors in chapter 7 to file an application to waive the filing fee instead an application to pay in installments.

- (B) Oral report concerning Suggestion 12-BK-B by Matthew T. Loughney (on behalf of the Bankruptcy Noticing Working Group) to amend Rule 2002(f)(7) to require notice of the confirmation of the debtor's chapter 13 plan.

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that the Subcommittee will attempt to ascertain and review current practice to determine how many courts already require notice of confirmation of the debtor's chapter 13 plan and who does the notice (i.e., court, debtor or trustee).

- (C) Recommendation concerning Suggestion 12-BK-D by Judge S. Martin Teel, Jr., to amend Rule 7001(1) as it concerns compelling the debtor to deliver the value of property to the trustee.

Professor Gibson gave the report. She said that the Subcommittee had concluded that the proposed amendment should not be pursued for two reasons. First, the issue that provoked Judge Teel's suggestion does not appear to have caused much confusion in the courts. There is agreement that a trustee may proceed by motion to seek a turnover from the debtor of property of the estate or proceeds of the property and, when that property is money that the debtor no longer possesses, the turnover of an equivalent amount of money. The only disagreement concerns whether the trustee must proceed by way of an adversary proceeding to recover a money judgment for the value of non-cash property of the estate when neither the property nor its proceeds remain in the debtor's possession at the time of the turnover action. There is little case law on the question. The one decision that created the issue, *Price*, was an unpublished decision in 2006 that has not been cited for its procedural ruling in any other opinions.

Second, the Subcommittee concluded that a basis exists for limiting the Rule 7001(1) exception to "a proceeding to compel the debtor to deliver property to the trustee." A proceeding to recover a judgment against the debtor for the *value* of property that the debtor no longer possesses results in a money judgment that is enforceable by execution and levy on any of the debtor's non-exempt property. The Subcommittee concluded that there is a reasonable basis for treating such an action like most other proceedings to recover money or property—with the greater formalities required for an adversary proceeding. No member objected to the Subcommittee's recommendation. No further action will be taken.

- (D) Oral report concerning Comment 11-BK-12 by Judge Frank regarding the negative notice procedure for objections to claims in the proposed amendment to Rule 3007 that was published (and withdrawn).

Judge Harris said that in light of the amount of material currently being considered by the Advisory Committee, the Subcommittee decided to table this issue for now. He added that in preliminary discussions, members on the Subcommittee were concerned about changing the burden of proof in a negative notice process, and whether negative notice would be sufficient if service was made only on the name and address on the filed proof of claim.

5. Report by the Chapter 13 Plan Form Working Group.

Recommendation by the Subcommittees on Consumer Issues and Forms concerning adopting a national chapter 13 plan form and amending Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009 in connection with adopting a plan form.

The Chair, Judge Perris and Professor McKenzie presented the recommendation of the Joint Subcommittee on Consumer Issues and Forms for publication of a national chapter 13 plan form and related rule amendments. Judge Perris said that the original suggestions for a national form for chapter 13 plans came from a bankruptcy judge and a group of state attorneys general. Bankruptcy judges were polled and most responded that a national form would be a good idea, and many recommended that the national form be based upon the local version currently in effect in their districts.

A central goal of the plan form is to improve procedures in chapter 13 practice. That goal has taken on heightened importance with the Supreme Court's decision in *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367 (2010), which held that an order confirming a procedurally improper chapter 13 plan is nevertheless *res judicata*, and which emphasized the duty of bankruptcy judges to review chapter 13 plans for compliance with the law.

At its September 2012 meeting in Portland, Oregon, the Advisory Committee discussed drafts of the plan form and rule amendments prepared by the Advisory Committee's Chapter 13 Plan Form Working Group (Working Group). The Advisory Committee also approved a recommendation to hold a mini-conference on the draft plan and rules. That mini-conference, held in January 2013, brought together participants from a broad cross-section of groups interested in the chapter 13 process. The participants included chapter 13 trustees, bankruptcy judges, a court clerk, and representatives of creditors and consumer debtors. The Working Group incorporated the input received during the mini-conference, and the joint Subcommittees on Consumer Issues and Forms (Joint Subcommittee) provided additional input on the draft plan and rules.

Professor McKenzie said that the plan form contains three features that will be highlighted at the beginning of the document. First, it permits the debtor to limit the amount of a secured claim under § 506(a) of the Code, subject to a creditor's objection to confirmation. Second, the plan also permits the debtor to request the avoidance of certain liens impairing exemptions under Code § 522(f). Third, the plan includes a space in which the debtor may propose nonstandard provisions—that is, provisions not included in, or contrary to, the plan form. None of these features will be effective unless the debtor indicates, in the first part of the

document, that the plan contains that feature. One member suggested that a requirement to both complete the relevant section and then indicate that section had been completed at the beginning of the plan creates the possibility of inconsistencies, but other members pointed out that highlighting these three issues at the beginning of the plan provides heightened notice to the affected party, and that the plan is clear about what needs to be completed to make a provision effective.

The Joint Subcommittee concluded that effective implementation of the plan form will require conforming amendments to Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009. The amendments fall into three categories.

First, there are amendments that would affect the filing, processing, and treatment of claims. Rule 3002(a) would be amended to require a secured creditor to file a proof of claim in order to have an allowed claim. Rule 3002(c) changes the deadline for filing proofs of claim in chapter 13 cases to 60 days after the petition date so that the confirmation hearing date established by § 1324(b) of the Code could be set after all non-governmental proofs of claim are filed. The sixty-day period is extended to allow the filing of documentation required under Rule 3001(c)(1) and (d) for certain mortgage claims.

Several interrelated rule amendments would provide for circumstances when the plan will control over a contrary proof of claim. Amendments to Rules 3012 and 3015 provide that the plan may make a binding determination of the amount of a secured claim subject to ultimate resolution at the confirmation hearing. Amended Rule 3007, in turn, provides an exception to the need to file a claim objection if claim allowance is resolved under Rule 3012. Similarly, amended Rule 4003(d) makes clear that a plan may provide for avoidance of liens under 11 U.S.C. § 522(f). And amended Rule 7001 makes clear that an adversary proceeding is not necessary to determine the validity, priority, or extent of a lien resolved through a plan. Relatedly, if a lien encumbering property of the estate has been satisfied, amended Rule 5009(d) provides that the debtor may request an order documenting that the lien has been satisfied.

Second, several proposed rule amendments concern service and notice in chapter 13 cases. Amendments to Rule 3015 are intended to ensure that creditors receive a copy of the plan before confirmation and that any objections to confirmation are filed and served seven days before the confirmation hearing. Similarly, Rule 2002 would be amended to clarify the notice period before a confirmation hearing (28 days) and the deadline for filing objections to confirmation (21 days).

Some of the amendments require enhanced service. Rule 3012 would be amended to provide that a request to determine the amount of a secured claim under a plan must be served in accordance with Rule 7004's requirements for adversary proceedings. Similar service requirements are included in amended Rule 4003(d), which concerns a plan proposing lien avoidance under Code § 522(f). If a debtor requests an order declaring a lien satisfied under amended Rule 5009(d), service in accordance with Rule 7004 is also required.

Third, the Advisory Committee is proposing amendments to the Bankruptcy Rules that would limit deviations from the Official Form chapter 13 plan.

Rule 3015(c) would be amended to require the use of the Official Form plan and to make clear that provisions deviating from the Official Form are not effective unless they are placed in the part of the Official Form for nonstandard provisions (and identified accordingly).

The Advisory Committee considered alternative proposed revisions to Rule 9009, which were set out beginning at page 147 of the Agenda Book. Both versions would prohibit alterations of an Official Form, except when the Bankruptcy Rules or an Official Form itself would permit modification, and except for Official Form orders, which could be modified by a court in individual cases unless a Bankruptcy Rule or the Official Form itself provided otherwise. Both versions of proposed Rule 9009 also provide for alterations to forms with respect to fonts, and for the addition or deletion of spaces, as the case may be, when responding to an item.

The two versions of the proposed Rule 9009 differed, however, on whether a court could permissively adopt a localized version of a national form—to, for example, add a certificate of service to a form that must be served. The first version of the rule, on page 147 of the Agenda Book, would not allow such localization. Instead, the local court could adopt a supplemental form to handle the local requirement. The alternate variation, on page 149 of the Agenda Book, would permit but not allow a court to require that filers to use a localized version of an Official Form. **The Advisory Committee voted 7–5 to recommend publishing the first version of Rule 9009, as set out at page 147 of the Agenda Book, subject to review by the Style Subcommittee. The Advisory Committee voted unanimously to recommend publication of the proposed plan form and accompanying rule amendments.**

6. Joint Report by the Subcommittees on Consumer Issues and Forms.

- (A) Status report on mortgage rules and forms amendments discussed at the mini-conference in Portland, including requiring a detailed loan history and amending Rule 9009 to specify the extent to which Official Forms may be modified.

The Reporter gave a status report on the mortgage forms mini-conference. She said that several issues were raised at the meeting, including the possible need to adopt a national form detailing the loan payment history. There are still questions, she said, about the time frame any loan history should start, and servicers were concerned about local courts modifying any a national loan history form if one is adopted. Proposed revisions to Rule 9009, however, which are to be published this fall in connection with the nation chapter 13 plan discussed at Agenda Item 5 above, would limit the types of modifications that can be made to official bankruptcy forms. Accordingly, the Joint Subcommittee decided to wait until after the Rule 9009 comment period ends before considering further changes to the mortgage rules and forms. No recommendation is being made at this time.

- (B) Recommendation concerning Suggestion 11-BK-N by David S. Yen for a rule and form for applications to waive fees other than filing fees, under 28 U.S.C. § 1930(f)(2) and (f)(3).

Judge Harris gave the report. He said that the Joint Subcommittee had been asked at the September 2012 meeting to consider a Director’s Form for fee waivers under 28 U.S.C. § 1930(f)(2) and (f)(3). He said the Joint Subcommittee concluded that there is not a pressing need for a special form to request fee waivers under 28 U.S.C. § 1930(f)(2). There is already an official form that a chapter 7 debtor may use to request a waiver of the filing fee under 28 U.S.C. § 1930(f)(1). The information on that form would generally be relevant, or could be updated, if the chapter 7 debtor seeks a waiver of other fees under Section 1930(f)(2) later in the case.

Judge Harris said that 28 U.S.C. § 1930(f)(3) refers to fee waivers “in accordance with Judicial Conference policy.” The current Judicial Conference policy on fee waivers is limited to chapter 7 debtors. In 2005 the Judicial Conference adopted Interim Procedures Regarding Chapter 7 Fee Waiver Provisions. The procedures primarily address fee waivers under § 1930(f)(1), but they also state that “[o]ther fees scheduled by the Judicial Conference under 28 U.S.C. §§ 1930(b) and (c) may be waived in the discretion of the bankruptcy court or district court for individual debtors whose filing fee has been waived.” The interim procedures do not contain any reference to waiver of fees for creditors or for debtors who are not entitled to a fee waiver under § 1930(f)(1).

Judge Harris said that the Judicial Conference’s Committee on the Administration of the Bankruptcy System is currently considering a revision of the interim fee waiver procedures. The most recent draft of the revision does not address fee waivers under § 1930(f)(3). In light of the ongoing revisions of the fee waiver guidelines and the current absence of any Judicial Conference policy for waivers under § 1930(f)(3), the Joint Subcommittee recommends that the Advisory Committee refrain from acting further on a Director’s Form for fee waivers under § 1930(f)(3) until a Judicial Conference policy on this type of waiver is issued.

7. Report by the Subcommittee on Forms and the Forms Modernization Project.
  - (A) Report on the status of the Forms Modernization Project and recommendation concerning publication of the remaining new individual forms developed by the project, including revision of the exemption schedule as a result of the Supreme Court’s holding in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010).

*Forms Modernization Project and the Next Generation of CM/ECF*

Judge Perris gave an overview of the Forms Modernization Project (FMP) and how the FMP’s work has been coordinated with development of the next generation of case management and electronic case filing software (Next Gen).

The FMP is a working group of the Advisory Committee and consists of current and former members of the Forms Subcommittee, advisors from other Judicial Conference groups such as the Bankruptcy Judges Advisory Group and the Bankruptcy Clerks Advisory Group, advisors from the Federal Judicial Center, the Executive Office for United States Trustees, and a Bankruptcy Administrator. The FMP began its work modernizing the official bankruptcy forms in 2008. The dual goals of the FMP are to improve the language and format of official bankruptcy forms and to improve the interface between the forms and available technology, including the enhanced technology that will become available through the judiciary’s Next Gen program.

From a forms perspective, the major change in Next Gen will be the ability to store all information on forms as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose. Judge Perris said that the initial release of Next Gen, which would include report generating tools for internal court users, is planned for 2014.

As an initial matter, the FMP separated case opening forms for individual and non-individual debtors. Drafting of the individual forms is complete, and a subset of those forms (3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1 and 22C-2), were published for public comment in August

2012. The comments and recommendations for those nine forms are discussed at Agenda Items 7(B) and 7(C) below.

Judge Perris said there were several reasons the Advisory Committee published only a subset of individual forms in 2012, including the need for further refinements on some forms. A more important concern, however, was that it was unclear in 2012 whether Next Gen would be in place when the new forms were projected to go into effect on December 1, 2013. Putting all of the new forms into effect before the Next Gen report writing functions are available to the courts would likely increase the difficulty of transitioning to the new forms. On the other hand, having a small subset in place when Next Gen goes into effect will allow for fuller testing of the new forms before other modernized forms are approved.

Judge Perris said that the remaining individual debtor forms were presented to the Advisory Committee at its fall 2012 meeting and to the Standing Rules Committee at its winter 2012 meeting with a request for preliminary comments prior to publication. She said that those forms, set out in the Supplement to the Agenda Book beginning at page 91, have been revised to reflect the preliminary comments from the Advisory Committee and Standing Committee and also reflect formatting changes that were made as a result of general comments about the nine FMP forms that were published last August. The most significant formatting change since the Advisory Committee and Standing Committee last saw the forms that will be recommended for publication this year, she said, was a reduction in the use of shading and long black bars to separate the parts and sections on the new forms.

Judge Perris said that the non-individual forms are on track to be published for comment in August 2014. The FMP has completed initial drafts of most of the non-individual forms, she said, and has begun prepublication testing with groups of law clerks, law students, lawyers and judges.

Judge Perris said three issues needed to be resolved prior to a motion for publication of the remaining individual FMP forms in August 2013: (1) a revision of the proposal to modify the exemption schedule to account for the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010); (2) a request to change the lettering of the new schedules (discussed at Agenda Item 7(D) below); and (3) a recommendation for a delayed effective date of the renumbered individual forms.

#### Schwab v. Reilly and the Individual Debtor's Exemption Schedule

The Chair spoke about the proposed *Schwab* changes to the exemption schedule. He said that some members of the Standing Committee had been concerned that the proposal recommended by the Advisory Committee was unclear. As submitted to the Standing Committee, the exemption schedule had a blank line in the value column and an instruction at the top of the form that an exemption amount could be put in on the line, or the debtor could write on the line "full fair market value." The Chair said that as a result of the Standing Committee's concerns, the Joint Subcommittee recommended revising the exemption schedule to include two checkboxes: one checkbox that would allow the debtor to specify a dollar amount for the exemption, and a second checkbox that would allow the debtor to exempt "100% fair market value *up to the applicable statutory limit.*" The italicized language, he said, addressed a concern previously raised by case trustees that if a checkbox simply allowed the debtor to exempt "100% of full market value," debtors would routinely check the box without considering whether the exemption had a dollar limit specified by statute. By limiting the checkbox

exemption to 100% of full market value up to any applicable statutory limit, the Chair said, a debtor would be easily able to follow *Schwab* without prompting unnecessary objections from case trustees. **After a short discussion, the Advisory Committee recommended the revised exemption schedule for publication.**

Motion for delayed effective date of the remaining individual forms

Judge Perris explained that, depending on the Advisory Committee's decisions at Agenda Items 7(B) and 7(C), the forms published last fall (3A, 3B, 6I, 6J, 22A-1, 22A-2, 22B, 22C-1 and 22C-2) are on track to go into effect December 1, 2013, and December 1, 2014. She said that there is no problem with the proposed effective dates for those forms because they are projected to replace existing versions that are used exclusively by individuals. Most of the forms to be published this August, however, are individual debtor versions of forms that are currently used by all debtors. Official Form 1, the current voluntary petition, for example, will be replaced by two FMP versions: one version for individual-debtors, Official Form 101, and another version for non-individual debtors, Official Form 201. Only the individual debtor version of the voluntary petition is complete and ready to be published this year, however.

Like the petition, there will be different versions of the schedules and the statement of financial affairs for individuals and non-individuals. The need for different versions of case opening forms for individuals and non-individuals required the FMP to develop a new numbering system for all the bankruptcy forms that both organizes the bankruptcy forms in a logical way and has some relationship to current form numbers. The basic numbering protocol for the new forms is:

1XX – Forms for Individuals Filing for Bankruptcy

2XX – Forms for Non-individual Filing for Bankruptcy

3XX – Orders and Court Notices

4XX – Additional Official Forms

XXXX - Director's Forms

The new numbering system will make it difficult, Judge Perris said, to introduce renumbered forms piecemeal. She explained that the normal effective date for the renumbered individual-debtor forms to be published this August would be December 1, 2014. The Subcommittee recommended delaying the effective date until at least December 1, 2015, so that they can go into effect at the same time as the non-individual versions of the forms—which are about a year behind in development.

Judge Perris said that there are two reasons to synchronize the effective date of the individual and non-individual forms. First, as explained above, many of the individual-debtor forms being published this August are revisions of forms that currently apply in all bankruptcy cases, individual and non-individual. To avoid overlap and confusion, the non-individual forms should not go into effect until the current forms have been replaced for all cases. Second, the forms that will be published this August implement the new forms-numbering scheme described above. Delaying the effective date of the non-individual forms will allow there to be a uniform numbering scheme for all of the bankruptcy forms. The delay will also permit the bulk of the

modernized forms to go into effect after the first release of the Next Gen is fully operational, thus making it easier for court personnel to take advantage of the improved technology and interface.

In the meantime, courts will be able to work with a smaller subset of the new forms (3A, 3B, 6I and 6J scheduled to take effect December 1, 2013, and the means-test forms scheduled to take effect December 1, 2014), allowing time to adjust to the new format and technology features.

**A motion to publish the remaining individual forms, with a proposed effective date no earlier than December 1, 2015, passed without opposition.**

**NOTE:** The remaining individual-debtor forms to be published are set out beginning at page 91 of the Supplement to the Agenda Book. As set out in the Supplement, they are Official Forms 101, 101A, 101B, 104, 105, 107, 112, 119, 121, 318, 423, 427, and the debtor's schedules – 106A, 106B, 106, C, 106D, 106E, 106F, 106Dec, and 106Sum. As revised at Agenda Item 7(D), however, the schedules to be published will be labeled 106A/B, 106C, 106D, 106E/F, 106G, 106Dec, and 106Sum. A form number conversion chart for the individual-debtor forms is attached to these minutes.

- (B) Recommendation concerning comments received on the published amendments to Official Forms 3A, 3B, 6I, and 6J.

Judge Perris highlighted the more significant comments for proposed Official Forms 3A, 3B, 6I, and 6J. She added that the comments were more fully discussed in the agenda materials.

Judge Perris said that Official Forms 3A (Application for Individuals to Pay the Filing Fee in Installments), 3B (Application to Have the Chapter 7 Filing Fee Waived), 6I (Schedule I: Your Income), and 6J (Schedule J: Your Expenses) were selected for the initial implementation stage of the FMP because they make no significant change in substantive content and simply replace existing forms, which already apply only in individual-debtor cases. The restyled forms all involve the debtors' income and expenses, and they are employed by a range of users: the courts, U.S. trustees, and case trustees, for varied purposes.

In response to the publication of these forms—and of Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, discussed at Agenda Item 7(C) below—29 sets of comments were submitted, and one letter was informally submitted. Judge Perris said that the comments on the overall project and the published forms in general fell primarily into the following categories:

- support for the new forms;
- dislike of the new forms and a preference for maintaining the current forms;
- concern that the forms contain too much shading, too much white space, and too many pages, all of which will increase printing, mailing, and electronic transmission costs;
- concern that the forms will encourage *pro se* filings, to the detriment of the debtors and the courts; and
- the need for a clear statement about the extent to which software-generated forms can deviate from the graphic and formatting styles of the proposed forms, including the omission of instructions that are provided in the format of checkboxes and the omission or collapsing of inapplicable sections.

Judge Perris first discussed the most fundamental question—whether the project should proceed notwithstanding the preference of some commenters for the current forms. **After reviewing the reasons for the project and the guiding principles behind the redesign, the Advisory Committee unanimously concluded that the project should proceed.**

In response to the numerous comments about shading, **the Advisory Committee voted to accept the FMP's recommendation that shading should largely be eliminated.** The Advisory Committee also agreed with the FMP's proposed redesign of the forms, which retains the black banner for the "part" designation but uses a different format for the title of each part. Shading was largely eliminated from the balance of each of the forms. Members commented that these changes will reduce toner usage and increase the ease with which forms are printed and reproduced.

Judge Perris said that the increase in the length of the forms is a function of several factors. First, in an effort to increase accuracy and ease of use, and to create a form whose answers can populate a usable database of answers, more specific questions are asked, and the debtor is often prompted to provide an answer by selecting from a list of choices. Second, rather than providing a dense set of instructions at the beginning of a form and then blank spaces for the answers, many instructions are integrated throughout the form where the debtor is likely to need them. Third, more space is provided to answer some of the questions. Finally, examples are often included to help the debtor understand what information is being requested.

Judge Perris added that evaluating the length of the new forms before they are completed with debtor information is misleading because proposed revisions to Rule 9009, which is part of the chapter 13 plan form and rules package presented at this meeting for publication, will allow the filer to "collapse" question answers that do not require all the white space provided on the forms. In discussing this issue, members agreed that new design is likely to provide more accurate, usable information.

Judge Perris said that proposed Rule 9009 also provides guidance regarding the extent to which software-generated forms may deviate from the official forms.

Judge Perris said that whether the use of plain English and a more user-friendly design will encourage more *pro se* filings has been the subject of discussion since the beginning of the project. She said that FMP believes that the preparation of comprehensive instructions that explain the impact and complexity of a bankruptcy case and provide extensive warnings about the significance of filing for bankruptcy will discourage, not encourage, *pro se* filings. In addition, the FMP believes that it is important that forms be understandable by all debtors, including those who are represented, because debtors are required to sign the forms under penalty of perjury. The comments did not change those views.

*Comments on Official Form 3A.* Two sets of comments addressed this form specifically. Both suggested adding an option to the form allowing for payment a chapter 13 filing fee through the debtor's plan. Districts differ on whether they permit this practice, and the current form does not expressly provide this option. Because the practice is not universal and the bankruptcy system has historically been able to accommodate the practice where it is allowed, the Subcommittee recommends that the form should remain silent regarding that option. The Advisory Committee agreed with the Subcommittee.

Line 2 of the published form stated that a debtor may ask the court to extend the deadline for payment of the final fee installment and that the debtor must explain why an extension is needed. One comment noted that no space was provided on the form for the explanation. Judge Perris said that the FMP contemplated that such an extension would require a separate application at a later time, and in order to avoid any confusion, recommended moving the statement about the possibility of an extension from the form to the separate form instructions. Judge Perris said that the change is consistent with the form currently in effect, which merely informs the debtor of the possibility of obtaining an extension “for cause shown” and does not ask the debtor to provide reasons for the extension as part of the application. **The Advisory Committee agreed with the proposed change.**

One comment suggested deleting the instruction in the signature box not to pay “anyone else in connection with your bankruptcy case” until the entire filing fee is paid because it would prohibit a debtor from making payments to a chapter 13 trustee before all of the installment payments are made. A member noted that current Official Form 3A includes the statement, “Until the filing fee is paid in full, I will not make any additional payment or transfer any additional property to an attorney or any other person *for services* in connection with this case” (emphasis added). **The Advisory Committee agreed with the FMP that the comment should be addressed by reinserting “for services” in the statement.**

*Comments on Official Form 3B.* Five comments were submitted regarding this form. Several of them stated that certain information asked for on the proposed form should be omitted because of its irrelevance to the waiver decision. The following information was suggested for deletion:

- line 3, non-cash government assistance;
- lines 12–16, various assets that the debtor owns;
- line 19, payment for bankruptcy services by someone else; and
- line 20, prior bankruptcy filings by the debtor or the debtor’s spouse.

The current version of the form asks for the second and third items of information listed above, and the Advisory Committee decided to continue requesting that information. The current form also asks for prior bankruptcy filings by the debtor, but not by the debtor’s spouse unless the spouse is also filing. Upon consideration of the comments, the FMP recommended deleting the request for information about prior filings of a non-filing spouse. **The Advisory Committee agreed with the FMP.**

Judge Perris said that the decision about how to respond to the first item, non-cash government assistance, was more complicated. The amount of non-cash government assistance may be relevant to determining whether a debtor is able to pay the filing fee in installments, since it may reduce the debtor’s other expenses, but it is not specifically asked for on current Official Form 3B. Instead, the current form simply asks for the total combined monthly income as computed on Schedule I. Restyled Schedule I as published asked debtors to include the value of “[o]ther government assistance.” Immediately preceding that question, it asked for “unemployment compensation” and “Social Security,” which might have suggested to some debtors that “other government assistance” referred only to other forms of cash assistance. At the same time, non-cash governmental assistance should not be counted in determining whether the debtor meets an income threshold for waiver eligibility. The interim procedures of the Judicial

Conference regarding chapter 7 fee waivers direct that “Non-cash governmental assistance (such as food stamps or housing subsidies) is not included [in income].”

Judge Perris said that, as a result of the comments, the FMP recommends rephrasing the requests for information about governmental assistance on both Official Form 3B and Schedule I to harmonize the two forms. In completing Official Form 3B, the debtor is permitted to use the income calculated on Schedule I. As revised, however, the income on Schedule I includes non-cash governmental assistance in income to the extent that the debtor knows the value of such assistance. Accordingly, on Official Form 3B it was necessary to have the debtor first report the amount of income including the value of non-cash assistance, and then deduct the value of such assistance to determine the amount of income for purposes of the fee waiver application. In addition, the FMP recommended revising both forms to clarify that the debtor only needs to include the value of non-cash governmental assistance to the extent known. **The Advisory Committee approved the changes recommended by the FMP.**

*Comments on Official Form 6I.* Judge Perris said that 14 comments specifically addressed this form. Several of them raised questions about when income information must be provided about non-filing spouses. In order to clarify the requirement, the FMP added the following instruction at the beginning of the form: “If you are married, 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.” The form specifically asks for information about both spouses when they file jointly. **The Advisory Committee agreed with the FMP.**

In addition to the changes needed to coordinate Schedule I with Official Form 3A (discussed above) the FMP recommended two changes to the form’s list of payroll deductions. As revised in the agenda materials, Schedule I was amended to ask separately about mandatory and voluntary contributions to retirement plans. And a new specific payroll deduction for “domestic support obligations” was added in response to a comment that these deductions are sufficiently common to justify a specific listing. **The Advisory Committee approved the changes.**

*Comments on Official Form 6J.* Fifteen comments specifically addressed Schedule J. Judge Perris said that the part of the proposed form drawing the most comment was the inclusion in part 2 of column B (“For Chapter 13 Only – What your expenses will be if your current plan is confirmed”). Many commenters were uncertain about the purpose of that column and doubted whether debtors would provide useful information. The FMP recommended two changes in response to those comments. First, column B was eliminated. Second, in order to permit districts that currently allow debtors to use Schedules I and J to update their income and expense information, a new checkbox was added to both forms where a debtor can indicate that the information on the form is a “supplement as of the following post-petition date: \_\_\_\_\_.” **The Advisory Committee approved the changes recommended by the FMP.**

One commenter questioned the reason for the question, “Does anyone else live in your household?” Judge Perris said that the FMP concluded that the question was too broad, and recommended the following changes to Part 1 of Schedule J. First, questions 1 and 2 on the published form were combined into a single question asking about all of the debtor’s dependents, regardless of whether the dependents live with the debtor. Second, question 3 was revised to make its financial purpose clear. In the published version of the form, question 3 asked, “Does anyone else live in your household?” This was amended to read “Do your expenses include

expenses of people other than yourself and your dependents?” The question has been converted to a simple “yes/no” format. If the debtor’s Schedule J reveals that it includes expenses for people other than the debtor and the debtor’s dependents, interested parties may investigate further if warranted. **The Advisory Committee approved the changes.**

Several comments questioned the inclusion of student loan payments as an expense deduction in Schedule J. They argued that explicitly listing this deduction represented a policy decision that student loans can continue to be paid during a chapter 13 case without constituting unfair discrimination against other unsecured claims that are not being paid in full. Another comment contrasted the treatment of student loans with other nondischargeable debts that are not treated as deductions. In response, the category of student loans as a distinct line item was eliminated. Now debtors who are paying student loans as an expense may list those payments as an “other” installment payment on line 17 of the form. **The Advisory Committee approved the changes.**

Just as with Schedule I, some comments questioned the treatment of non-filing spouses on Schedule J. To eliminate the confusion, the FMP added the following instructions: “If you are married and are filing individually, include your non-filing spouse’s expenses unless you are separated. If you are filing jointly and Debtor 1 and Debtor 2 keep separate households, fill out a separate *Schedule J* for each debtor. Check the box at the top of page 1 of the form for Debtor 2 to show that a separate form is being filed.” New question 1 affirmatively asks if debtor 2 lives in a separate household. If so, that debtor is directed to file a separate Schedule J. **The Advisory Committee approved the changes.**

**After approving the changes listed above, the Advisory Committee recommended that Official Forms 3A, 3B, 6I and 6J become effective on December 1, 2013.**

- (C) Recommendation concerning comments received on the published amendments to Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2.

The Chair discussed Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, the restyled means-test forms for individual debtors under chapter 7, 11, and 13, that were published for comment in August 2012. Eighteen sets of comments on the means-test forms were officially submitted, and one person informally provided the Advisory Committee with a detailed review of the forms. The Chair said that the comments ranged from suggestions and critiques regarding wording, style, and formatting of the forms to ones raising questions about interpretations of the Bankruptcy Code and case law. The FMP and the Forms Subcommittee carefully considered all of the comments. The Subcommittee determined that several of the comments were well taken, and recommended the following changes to the forms in response.

Creation of a separate form for chapter 7 means-test exemption and harmonizing the line numbers across the means-test forms.

The Chair explained that 11 U.S.C. § 707(b)(2)(D) exempts—either permanently or for a specified period—a small percentage of chapter 7 debtors from being subject to the means test. In the current chapter 7 means-test form (Official Form 22A) and the revised form that was published last summer (proposed Official Form 22A-1), information about eligibility for an exemption is asked for at the beginning of the form. Because of the complexity of the qualifying

requirements, this portion of the form occupies multiple line numbers and the entire first page of the form.

The Chair said that several comments were submitted regarding this part of the published form, and one comment suggested that because of its limited applicability, the questions that pertain to exemptions based on certain types of military service should be moved to the separate form. The Subcommittee agreed with the proposal and recommends that a separate supplement to Official Form 22A-1 be created, listing all exemption questions, to be used only when applicable. The Chair explained that the proposal would serve two purposes: It would unclutter Official Form 22A-1 by removing questions that are only occasionally applicable, and it would allow the Advisory Committee to address another criticism by adopting uniform line numbering in the three means-test forms dealing with income (22A-1, 22B, and 22C-1). Currently, the initial questions that were only in the chapter 7 form caused a misalignment of line numbers covering similar topics across the forms. **The Advisory Committee agreed with the Subcommittee's recommendation.**

New instruction about a domestic support obligation paid by one joint debtor or non-filing spouse to the other debtor.

The Chair said that a comment suggested that in any case where the income of both spouses is set out, there should not be a separate income item for the payment of a domestic support obligation from one spouse to the other. He said that the Subcommittee recommends adding an instruction to the relevant questions in order to prevent double reporting of the same income. **The Advisory Committee agreed.**

Changes to implement the *Hamilton v. Lanning* decision.

In *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), the Supreme Court held that the calculation of a chapter 13 debtor's projected disposable income under § 1325(b) requires consideration of changes to income or expenses reported elsewhere on Official Form 22C that, at the time of plan confirmation, had occurred or were virtually certain to occur. As published last summer, the Chair explained, proposed Official Form 22C-2 included a section that asked the debtor to report any income or expense listed on the form that "has changed or is virtually certain to change during the 12 months after the date you filed your bankruptcy petition."

The Chair said that two comments stated that the 12-month limitation should be eliminated because the *Lanning* decision does not support such a limitation. **The Advisory Committee agreed that the 12-month limitation should be eliminated from Official Form 22C-2. After the meeting, the *Lanning* instruction was revised to direct the debtor to indicate if reported income or expenses "have changed or are virtually certain to change after the date that you filed your bankruptcy petition and during the time your case will be open."**

The Chair said that another issue raised by the comments was whether Official Forms 22C-1 and 22C-2 should introduce an adjustment for changes in income, under the *Lanning* decision, for determining the applicable commitment period under 11 U.S.C. § 1325(b)(4). He said that at least one decision has accepted the argument that a change in the debtor's income from the calculation of current monthly income should similarly allow a change in the applicable commitment period. *In re Ducret*, 2011 WL 2621329 (Bankr. S.D. Fla. 2011). However, this decision was reversed on appeal, in a decision finding that the definition of § 101(10A) is

controlling, and that the *Lanning* decision is inapposite. *In re Ducret*, 2012 WL 4468376 at \*4 (S.D. Fla. 2012).

One member was in favor of an explicit adjustment. Another member said that the applicable commitment period could vary from the result stated in the form if the debtor's "current monthly income were calculated under § 101(10A)(A)(ii) of the Code rather than under § 101(10A)(A)(i), the method applicable where the debtor has timely filed the required income statement. **After a discussion, the Advisory Committee voted to add to the direction on the form for specifying the three-year commitment, "Unless otherwise ordered by the court . . ."**

The Chair said that another issue presented by the comments was whether the means test forms should continue to reject the holding in *Drummond v. Wiegand (In re Wiegand)*, 386 B.R. 238 (9th Cir. BAP 2008), that gross business and rental receipts are to be counted as "current monthly income" under § 101(10A).

The Chair said that the Advisory Committee rejected the logic of *Wiegand* when the means test forms were developed and had revisited the issue several times since then without changing the forms. *Wiegand*, he pointed out, is limited to chapter 13 cases, and is based on language in § 1325(b) that, before the means test was introduced in the 2005 Code amendments, allowed the deduction of business expenses from the income that a debtor could be required to pay into a chapter 13 plan. However, there is no indication that Congress considered this provision when it included the definition of current monthly income as part of the means test, which it made applicable to both chapter 7 and chapter 13 cases. Among other things, the Chair said, counting gross business receipts as "current monthly income" creates unreasonable distinctions between similarly situated debtors, giving a sole proprietor current monthly income based on the business's gross receipts, while giving the sole owner of an LLC or Chapter S corporation only the net profits of the business. Moreover, the Census Bureau's median state income, to which the debtor's current monthly income is compared, itself includes only net business income. And finally, the chapter 7 means test includes no deduction for business expenses, which would result in nearly all chapter 7 debtors operating a business having a presumption of abuse.

Since *Wiegand* was decided, the Chair said, three courts other than those in the Ninth Circuit have adopted the Ninth Circuit BAP's decision, and two courts have rejected it. One member suggested creating a supplement to deal with *Wiegand* but another member pointed out the case has been in effect in the Ninth Circuit for five years now, and bankruptcy practice appears to have adapted in that circuit without a change to the forms. After further discussion, only one member was in favor of adding a line to Official Form 22C-1 to report gross income for a debtor that operates a business.

The Chair said that another legal issue raised by the comments was whether Official Forms 22A-2, and 22C-2 should allow the use the *Johnson v. Zimmer* formula for determining the number of persons used in calculating National and Local IRS expense allowances. The current forms, the Chair said, incorporate the rule from the IRS Collection Financial Standards providing that the number of persons used to calculate IRS expense allowances should be the number that would be allowed as exemptions on the debtor's federal income tax return, plus the number of any additional dependents that the debtor supports. *Johnson v. Zimmer*, 686 F.3d 224 (4th Cir. 2012), the Chair said, uses a different, fractional economic unit approach. The Chair noted that there have been no reported decisions to date that follow the *Johnson v.*

*Zimmer* approach. After a discussion, no member favored changes to the forms to account for *Johnson v. Zimmer*.

**After the meeting, by email vote, the Advisory Committee approved for republication revised versions of Official Forms 22A-1, 22A-2, 22B, 22C-1, and 22C-2, and new Official Form 22A-1Supp with the changes recommended in bold above.**

- (D) Alternative proposal by Judge Harris and Ms. Michaux to reletter proposed new Forms 106A, 106B, 106C, 106D, 106E, 106F, 106G, and 106H.

Committee members Judge Harris and Ms. Michaux presented an alternative to the relettering scheme proposed by the Advisory Committee for the new FMP schedules. Mr. Myers explained that early in its revision process, the FMP concluded that the existing order of schedules—listing property, then exemptions, and then debts was illogical, because a debtor first needs to know whether there is equity available in an asset before applying an exemption to that asset. The more logical approach, the FMP concluded, would be to list property, then claims—which allows the debtor to calculate equity, and then list exemptions. This reordering, however, plus the FMP’s decision to combine related schedules (personal and secured property schedules are combined into a single two-part property, and priority and non-priority claims are combined into a single two-part claims schedule), meant that the proposed new lettering scheme would not track the existing lettering scheme.

Judge Harris and Ms. Michaux suggested an alternative: representing the newly combined schedules by both letters of the schedules they were derived from (i.e., the FMP property schedule for individuals would be lettered 106A/B to show to it is derived from existing Schedules 6A and 6B, and the claims schedule for individuals would be lettered 106E/F to show it was derived from existing schedules 6E and 6F). Under this proposal, the remaining schedules would retain their existing letter designations. Judge Harris and Ms. Michaux argued that their proposal would make the transition to the new forms much less disruptive since existing letter designations have become highly ingrained over the past 30 years.

**After discussing the alternatives, the Advisory Committee voted 7 to 5 in favor of the alternative proposal for renumbering.**

- (E) Report on automatic dollar adjustments to Official Forms 1, 6C, 6E, 7, 10, 22A, and 22C and Director’s Procedural Forms 200 and 283 on April 1, 2013, to conform to the dollar adjustments in the Bankruptcy Code, as provided in Section 104(a) of the Code.

Mr. Myers explained that under Section 104(a) of the Bankruptcy Code, certain dollar amounts stated in Bankruptcy Code sections are automatically updated to reflect changes in the consumer price index over the prior three years. The most recent adjustment, he said, which occurred on April 1, 2013, required adjustments to dollar amounts listed in the seven official bankruptcy forms and two director’s forms listed above. None of the changes require action by the Advisory Committee, Mr. Myers said, and the revised forms have already been posted on the court’s public website.

- 8. Report by the Subcommittee on Business Issues.

Recommendation concerning comments received on published amendments to Rules 7008, 7012, 7016, 9027, and 9033 which were proposed in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011).

Judge Wizmur gave the report. She explained that currently the Bankruptcy Rules follow the division between core and non-core proceedings set forth in 28 U.S.C. § 157. With respect to proceedings that are core under the statute, she said, the rules contemplate that the bankruptcy judge may enter a final judgment. If a proceeding is non-core, on the other hand, the rules and statute contemplate that the bankruptcy judge will issue a report and recommendation to the district court, unless all parties consent to entry of a final judgment by the bankruptcy judge.

*Stern* held that a bankruptcy judge did not have authority under Article III of the Constitution to enter final judgment in a proceeding that was listed as core under 28 U.S.C. § 157(b)(2). Accordingly, reference in the rules to core and non-core no longer clarify whether the bankruptcy court has authority to enter a final judgment. As a result of *Stern*, the Advisory Committee proposed to amend the Bankruptcy Rules in three respects. First, the terms core and non-core would be removed from Rules 7008, 7012, 9027, and 9033 to avoid possible confusion in light of *Stern*. Second, in all bankruptcy proceedings (including removed actions), the parties would need to state whether they do or do not consent to entry of final orders or judgment by the bankruptcy judge. Third, Rule 7016, which governs pretrial procedures, would be amended to direct bankruptcy courts to decide the proper treatment of proceedings.

The Advisory Committee received eight comments on all or part of these proposed amendments. In the main, the comments expressed support for the amendments but raised five issues:

- (1) whether to retain the terms “core” and “non-core”;
- (2) whether references to the “bankruptcy court” in the published amendments should revert to the “bankruptcy judge,” the term that is currently used;
- (3) whether to provide procedures for treating as proposed findings and conclusions a bankruptcy judge's decision entered as a final order or judgment when that decision is later determined to be beyond the bankruptcy judge's final adjudicatory power;
- (4) whether to require a statement as to consent when a litigant proceeds by motion before filing a formal pleading; and
- (5) whether to provide that a litigant may consent to final adjudication by a bankruptcy judge with respect to part, but not the whole, of a proceeding.

**After reviewing the comments, the Advisory Committee voted unanimously to recommend final approval of the published amendments.** With respect to the first three issues raised by the comments, these points were thoroughly considered before publication of the amendments. The Advisory Committee did not find that the comments raised new concerns that would justify revisiting those issues. Issues (4) and (5), on the other hand, were not considered previously. The Advisory Committee nevertheless concluded that the comments raising those issues, although presenting possible suggestions for future rulemaking, did not require alteration of the published amendments. Similarly, the Advisory Committee concluded that a comment by the Bankruptcy Clerks Advisory Group regarding the requirement of service of notice by mail

under current Rules 9027 and 9033 might be considered for future rulemaking but was beyond the scope of the *Stern*-related amendments.

9. Report by the Subcommittee on Privacy, Public Access, and Appeals.

- (A) Recommendation concerning comments received on published amendments to Rules 8001–8028, the proposed revision of the bankruptcy appellate rules, and to Rules 9023 and 9024, amended to refer to the procedure in proposed new Rule 8008 governing indicative rulings.

The Reporter first addressed the proposed revisions to Rules 9023 and 9024 to incorporate a cross-reference to Rule 8008 regarding indicative rulings. The National Bankruptcy Conference suggested adding the cross reference to committee notes for Rules 9023 and 9024, instead of in the rules themselves, but committee notes are historical and can only be added when rules are updated, **so the Advisory Committee recommended Rules 9023 and 9024 for final approval as published.**

The Reporter explained that published revisions to Rules 8001–8028 (Part VIII of the Bankruptcy Rules) are the products of a comprehensive revision of the rules governing bankruptcy appeals to district courts, bankruptcy appellate panels, and, with respect to some procedures, courts of appeals. They result from a multi-year project to bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure (FRAP); to incorporate a presumption favoring the electronic transmission, filing, and service of court documents; and to adopt a clearer style. Existing rules were reorganized and renumbered, some rules were combined, and provisions of other rules were moved to new locations. Much of the language of the existing rules was restyled.

She said that 14 sets of comments were submitted in response to the publication of these rules. Many of the comments were lengthy and detailed and demonstrated the commenters' careful review of the published rules and provided suggestions on issues of style, organization, and substance. The Reporter said that in considering the comments, the Subcommittee was guided by the goal of maintaining close adherence to the FRAP, except where those rules are incompatible with bankruptcy appeals. It also recommended postponing for future consideration a number of suggestions that would change existing practice or raise policy issues requiring careful consideration.

In general, the Reporter said, the comments displayed a positive response to the proposed revision of the Part VIII rules. She discussed the more significant comments, as set forth below, and noted that a more complete listing of comments and changes recommended by the Subcommittee was included in the agenda materials.

*General Comments.* Two bankruptcy judges and the National Conference of Bankruptcy Judges praised the revision of the Part VIII rules, stating that it would lead to improved quality of bankruptcy appellate practice, reduce confusion, and yield a more efficient and effective bankruptcy appellate practice.

*Rule 8002.* Two comments expressed concern about the inclusion of an inmate mailbox rule, which deems a notice of appeal by an inmate timely filed if it is deposited in the institution's internal mail system on or before the last day for filing. The commenters stated that this rule could delay for several days the determination that a bankruptcy court order or judgment

has become final. The Subcommittee continued to support the inclusion of this provision in order to mirror FRAP 4(c). It believed that, given the rarity of inmate appeals in bankruptcy cases, the impact of the provision on finality will be limited. **A motion to change the title of 8002(b)(3) to “Appealing the Ruling on the Motion” was approved.**

*Rule 8003.* Several comments pointed out that the provision in subdivision (d) directing the clerk of the appellate court to docket an appeal “under the title of the bankruptcy court action” was unclear since “action” might refer to the overall bankruptcy case or to an adversary proceeding within the case. The Subcommittee agreed that this was an instance in which the FRAP language needs to be modified for the bankruptcy context. **The Advisory Committee voted to change the wording in Rule 8003(d)(2) and the parallel provision in Rule 8004(c)(2) to “under the title of the bankruptcy case and the title of any adversary proceeding.”**

*Rule 8004.* The clerk of a bankruptcy appellate panel (“BAP”) commented on the provision of subdivision (c)(3) that directed the dismissal of an appeal if leave to appeal is denied. She stated that appellants sometimes file a motion for leave to appeal when leave is not required and in that situation, although the motion is denied, dismissal is not appropriate. **The Advisory Committee voted to delete the sentence in question, which is not contained in either the current bankruptcy rule or the FRAP rule from which the proposed rule is derived.**

One comment pointed out an inconsistency between proposed Rule 8003 and Rule 8004. Rule 8003(c) requires the bankruptcy clerk to serve the notice of appeal, whereas Rule 8004(a) places that duty on the appellant (along with the motion for leave to appeal). This difference is a carryover from existing practice. **The Advisory Committee decided to consider in the future whether the service requirement should be the same in both rules.**

*Rule 8005.* Several comments questioned whether an election to have an appeal heard by the district court, rather than the BAP, must still be made by a statement in a separate document. Subdivision (a) of the proposed rule refers to an official form that did not exist at the time the rule was published, and some comments also expressed confusion about that reference. At Agenda Item 9(B) below, the Advisory Committee recommended publication an amendment to the notice of appeal form, Official Form 17A, that will include a section for making an election under this rule. That form, which if approved will take effect on the same date as the rule, will clarify that the separate-document rule no longer applies. The Subcommittee also recommended updating the committee note to indicate that a statement electing to have the appeal heard by the district court “must be made using the appropriate Official Form.” One member noted, however, that the Official Form would be created by attorneys using word processors, not simply downloaded of the public website and filled out, and suggested retaining the committee note as published on this point to say “the statement must *conform substantially* to the appropriate Official Form.” **The motion to retain “conform substantially” was approved.**

Two comments addressed the procedure that should apply when an appellee elects to have the district court hear an appeal that was initially sent to the BAP. The Subcommittee agreed with one of the comments that the BAP clerk should notify the bankruptcy clerk if an appeal is transferred to the district court, and it voted to add a sentence to that effect in subdivision (b) as set forth in the agenda materials. **The Advisory Committee approved the addition.**

*Rule 8006.* Two comments stated that the proposed rule does not give the bankruptcy court sufficient time to certify a direct appeal to the court of appeals. Under subdivision (b), a matter is deemed to remain pending in the bankruptcy court for purposes of this rule for 30 days after the effective date of the first notice of appeal. The Subcommittee decided that this time limit strikes an appropriate balance between giving the bankruptcy court time to decide whether to certify a direct appeal and letting the district court or BAP know at a reasonably early time that a certification for direct appeal will not be coming from the bankruptcy court. However, the Subcommittee did add cross-references to Rule 8002 and FRAP 6(c), and deleted a cross-reference to 9014. **The Advisory Committee approved the changes.**

*Rule 8007.* Two comments questioned the provision of the published rule that appeared to permit a party to seek a stay pending appeal in an appellate court before a notice of appeal has been filed. The comments took the position that, until a notice of appeal is filed, the appellate court lacks jurisdiction to rule on a stay motion. The Subcommittee agreed and recommended deleting “or where it will be taken” from 8007(b)(2) to eliminate a possible reading of the rule that would permit the filing a motion for a stay in the appellate court prior to the filing of a notice of appeal. **The Advisory Committee approved the change.**

*Rule 8009.* Two bankruptcy judges and the Bankruptcy Clerks Advisory Group submitted comments stating that the practice of having the parties designate the record on appeal is now outdated and that the 8th Circuit BAP’s rule regarding the record should be adopted. Under that rule the record before the bankruptcy court is the record on appeal, and parties refer by number to the appropriate bankruptcy court docket entries in their appellate briefs. BAP judges are able to review the entire bankruptcy court record electronically. The Subcommittee recommended that the rule should remain as published but that this issue should be taken up for consideration in the future. **The Advisory Committee agreed to consider the issue in the future.**

Several comments objected to two FRAP provisions that were included in this rule: subdivision (c) that permits a statement of the evidence when a transcript is unavailable, and subdivision (d) that permits an agreed statement as the record on appeal. As to both, the Subcommittee and the Advisory Committee favored remaining consistent with the parallel FRAP provisions.

**The Advisory Committee approved the addition of language clarifying the designation of the bankruptcy record should be filed with the bankruptcy clerk.**

*Rule 8010.* Three comments noted that, while subdivision (b)(1) directs the bankruptcy clerk to transmit the record to the appellate clerk when it is complete, it does not specify what the clerk should do if the record is never completed. **The Advisory Committee voted to add this issue to the list of matters for future consideration.**

*Rule 8013.* One comment suggested that district courts be allowed to require a notice of motion in bankruptcy appeals if they otherwise follow that practice in their court. Another comment made a similar suggestion concerning proposed orders. **The Advisory Committee agreed with these comments and added “Unless the court orders otherwise” to subdivision (a)(2)(D)(ii).**

Another comment questioned why a rule allowing intervention on appeal is necessary and whether a party moving to intervene would have standing. The Subcommittee concluded that it is not always clear who is a party to a contested matter, so someone affected by an order being

appealed may want to intervene to participate in the appeal. Likewise, a United States trustee may need this authority to participate in some appeals.

*Rule 8016.* Two comments raised questions about subdivision (f), which addressed the consequences of failing to file a brief on time. It was unclear why the provision was located in the rule governing cross-appeals, and it seemed to be inconsistent with a provision in Rule 8018. **The Advisory Committee thought that the comments were well taken, and it voted to delete the subdivision.**

*Rule 8017.* The States' Association of Bankruptcy Attorneys commented that all governmental units, not just the United States and states, should be permitted to file an amicus brief without consent or leave of court. The Advisory Committee made no change, adhering to the decision to make the bankruptcy rule consistent with FRAP 29.

*Rule 8018.* A bankruptcy judge commented that the authorization in subdivision (f) for dismissal of an appeal or cross-appeal should require notice and an opportunity to show cause why the appeal should not be dismissed. **The Advisory Committee voted to reword the provision to clarify that dismissal can occur only upon motion of a party or on the court's own motion, after which the appellant would have an opportunity to respond.**

*Rule 8019.* One comment stated that there should not be a presumption in favor of oral argument and that the grounds for not allowing it should not be limited. The Advisory Committee made no change to the proposed rule, which is consistent with current Rule 8012 and FRAP 34(a)(2).

Another comment asserted that there is an inconsistency between subdivision (b), which requires a unanimous vote of a BAP panel to dispense with oral argument, and subdivision (g), which allows a BAP panel by majority vote to require oral argument when the parties agree to submit the case on the briefs. The Advisory Committee concluded that these provisions are consistent with FRAP 34(a)(2) and (f) and with the presumption in favor of oral argument.

*Rule 8021.* The States' Association of Bankruptcy Attorneys commented that subdivision (b), which permits the assessment of costs for or against the United States, its agencies, and officers only if authorized by law, should apply to all governmental units. The Advisory Committee made no change to this provision, which is consistent with FRAP 39(b).

*Rule 8023.* The National Conference of Bankruptcy Judges (NCBJ) suggested two issues for future consideration by the Advisory Committee relating to this rule, which governs voluntary dismissals of appeals. (1) In the bankruptcy court, Rule 7041 requires a plaintiff seeking to dismiss an adversary proceeding objecting to the debtor's discharge to provide notice to certain parties and obtain a court order containing appropriate terms and conditions. The NCBJ suggests the need for similar safeguards when that type of proceeding is voluntarily dismissed on appeal. (2) Under Rule 9019 a trustee is required to obtain court approval of any compromise or settlement. The NCBJ stated that it is not clear how Rule 9019 relates to this rule. **The Advisory Committee added these issues to its list of matters for future consideration.**

*Rule 8024.* The NCBJ commented that the rule carries forward a problem in current Rule 8016: It does not provide for the issuance of a mandate by the appellate court and thus does not make clear when jurisdiction reverts in the bankruptcy court after the conclusion of an appeal. While the existing rule does not appear to be disrupting bankruptcy administration unduly, the

comment suggested that the Advisory Committee consider this issue in the future. **The Advisory Committee agreed to do so.**

**The Advisory Committee unanimously recommended the revised Part VIII Rules for final approval with the post-publication changes set forth in the agenda materials and as further revised at the meeting.**

- (B) Recommendation by Judge Perris and Professor Gibson concerning revising and renumbering Official Form 17A, Notice of Appeal, to include an election by the appellant to have an appeal heard by the district court; adopting new Official Form 17B, Statement of Election by Appellee(s); and adopting new Official Form 17C, Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2).

Judge Perris discussed the proposed forms.

Proposed Official Form 17A would include in the Notice of Appeal a section for the appellant's optional statement of election to have the appeal heard by the district court rather than by the bankruptcy appellate panel. It would only be applicable in districts for which appeals to a bankruptcy appellate panel have been authorized. Inclusion of the statement in the notice of appeal would ensure compliance with the statutory requirement that an appellant make its election to have the district court hear its appeal "at the time of filing the appeal." 28 U.S.C. § 158(c)(1)(A).

New Official Form 17B—the Optional Appellee Statement of Election to Proceed in the District Court—would be the form that an appellee would file if it wanted the appeal to be heard by the district court and the appellant or another appellee had not made that election. To comply with § 158(c)(1)(B), the appellee would have to file the form within 30 days after service of the notice of appeal.

New Official Form 17C—Certificate of Compliance with Rule 8015(a)(7)(B) or 8016(d)(2)—would provide a means for a party to certify compliance with the provisions of the bankruptcy appellate rules that prescribe limitations on brief length based on number of words or lines of text (the "type-volume limitation"). It is based on Appellate Form 6, which implements the parallel provisions of FRAP 32(a)(7)(B).

**The Advisory Committee voted to recommend that the appellate forms be published this August so that they will be on track to go into effect on December 1, 2014, the same anticipated effective date for the revised Part VIII rules.**

10. Report by the Subcommittee on Technology and Cross Border Insolvency.

Recommendation concerning adopting a bankruptcy rule establishing standards for electronic signatures.

Mr. Baxter gave the report. A request for a national rule governing electronic signature came to the Advisory Committee from the Forms Modernization Project and from the Court Administration and Case Management Committee (CACM). He referred members to the Reporter's memo of March 13, 2013, at page 321 of the Agenda Book for further background.

The need for a national rule governing electronic signatures, which would change the practice currently existing in many districts, was prompted by several concerns: the lack of uniformity of retention periods required by local rules, the burden placed on lawyers and courts to retain a large volume of paper, and potential conflicts of interest imposed on lawyers who are required to retain documents that could be used as evidence against their clients. At its fall 2012 meeting, the Advisory Committee referred the matter to the Subcommittee.

The Subcommittee, Mr. Baxter said, considered various options and ultimately recommended for publication an amendment to Rule 5005 that would prescribe the circumstances under which electronic signatures may be treated in the same manner as handwritten signatures without the need for anyone to retain paper documents with original signatures. The amended rule would supersede any conflicting local rules.

A new subdivision (a)(3) would be added to Rule 5005 to address the effect of signatures in documents that are electronically filed. One provision would apply to persons who are registered users of a court's electronic filing system and would adopt as the national rule the practice that currently exists in virtually all districts: the user name and password of an individual who is registered to use the CM/ECF system would be treated as that person's signature for all documents that are electronically filed. That signature could then be treated the same as a handwritten signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

The other proposed provision would apply to the signatures of debtors or other persons who are not registered to file electronically. When a document (such as petitions, schedules, and declarations) is signed by someone who is not a registered user of CM/ECF, it could be filed electronically along with a scanned image of the signature page bearing the individual's actual signature. The document would then be stored electronically by the court, and neither the court nor the filing attorney would be required to retain a paper copy. Moreover, scanned signature pages, filed electronically in accordance with the proposed new rule, could be treated the same as a handwritten signature for purposes of the Bankruptcy Rules and for any other purpose for which a signature is required in court proceedings.

The Advisory Committee discussed the Subcommittee's recommendation, and reviewed the proposed new language to Rule 5005. Mr. Kohn said that he spoke with several lawyers from the Department of Justice and that there was concern about verification of the scanned signature. Some prosecutors, he said, would prefer that the actual signature be maintained by someone, or that some other authentication system be built in—for example notarization, or authentication by the case trustee at the 341 meeting of creditors. He suggested that the Advisory Committee defer for now, and perhaps work on the rule with the Advisory Committee on Evidence.

Judge Wedoff said that at the Standing Committee's January 2013 meeting, he explained that the Subcommittee was considering a rule change that would allow the scanned image of the signature of a debtor to be treated as a valid signature without the need for retention of the original hand-signed document by the court or the attorney. He said that there were no objections to continued consideration of a bankruptcy rule along these lines. He said he thought publication would be an opportunity for comments from those concerned about not retaining hand-signed documents.

Dr. Molly Johnson said that in conducting research on the current use of scanned signature, she received feedback from U.S. trustees, chapter 7 case trustees, and the Executive

Office for United States Attorneys (EOUSA). She said that feedback was consistent with Mr. Kohn's comments and that there was a preference for handwritten signatures affixed to original documents, but that there was also a recognition that scanned images of signature might work. The EOUSA was unwilling to provide written feedback considering possible alternatives being considered, preferring instead to withhold comments until a proposed rule is published.

**After additional discussion, the Advisory Committee voted unanimously to recommend publication of the proposed amendments to Rule 5005 in August 2013.**

11. Recommendations concerning comments received on published amendments to Rules 1014(b), 7004(e), 7008(b), and 7054. [

*Bankruptcy Rule 1014(b).*

Professor Gibson reviewed the comments on the proposed amendment to Rule 1014(b). That rule, she explained, governs the procedure for determining where cases will proceed if petitions are filed in different districts by, against, or regarding the same debtor or related debtors. As revised, the rule would address uncertainty about what events trigger the stay in a subsequently filed petition by requiring an order from the first court. It would also permit a judicial determination—not just a party's assertion—that the rule applied and that a stay of other proceedings was needed.

Professor Gibson said four sets of comments were submitted. The comments raised issues about (1) whether the first court has authority to enjoin parties to cases in other courts; (2) whether the first court has the exclusive authority to determine the venue of the related cases; (3) who may seek a venue determination in the first court; and (4) whether the proposed rule would reduce inter-court cooperation. Some of the comments also suggested wording changes. For reasons discussed in Professor Gibson's March 22, 2013 memo at page 471 of the Supplemental Materials, she recommended that the amendment go into effect as published, with the following exception: at line 16 of the proposed rule (on page 477 of the Supplemental materials) replace the word "these" with "the effected cases." **The proposed revision was approved, and a recommendation for final approval passed without objection.**

*Bankruptcy Rule 7004(e).*

Professor McKenzie said that the Advisory Committee there were four comments on the amendment to Rule 7004(e). The proposed amendment would shorten the time during which a summons is valid from 14 days to 7 days after it is issued. The change is intended to ensure that the defendant has sufficient time to respond to a complaint in bankruptcy litigation. Although Rule 7012(a) gives a defendant (other than a United States officer or agency) 30 days to answer a complaint, the time period is measured from the date the summons is issued, not when it is served. Accordingly, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond in a bankruptcy proceeding.

Professor McKenzie said that each of the four comments raise the same issue—that a 7-day window to serve a summons may be too short in some circumstances. The Business Subcommittee considered this possibility when it suggested the amendment. At that time, it concluded that a 7-day window would be sufficient in the vast majority of cases, and that the infrequent situations where a longer period is needed could be best handled through a request for

an enlargement of time under Rule 9006. Professor McKenzie said that the comments did not change that view.

**After discussing the comments, the Advisory Committee recommended final approval of Rule 7004(e) as published. It also approved the concept of adding a sentence to the committee note that highlights the opportunity to seek an extension of time under Rule 9006 in appropriate circumstances.**

*Bankruptcy Rules 7008(b) and 7054.*

The Reporter reviewed the comments on Bankruptcy Rules 7054 and 7008. She said that the proposed amendments to those rules would change the procedure for seeking attorney's fees in bankruptcy proceedings. Rule 7054 would be amended to include much of the substance of Civil Rule 54(d)(2). Rule 7008(b), which currently addresses attorney's fees, would be deleted. By bringing the bankruptcy rules into closer alignment with the civil rules, the amendments would eliminate a potential trap for an attorney, particularly one familiar with the civil rules, who might overlook the Rule 7008(b) requirement to plead a request for attorney's fees as a claim in the complaint, answer, or other pleading. As under the civil rules, the procedure for seeking an award of attorney's fees would be governed exclusively by Rule 7054, unless the governing substantive law requires the fees to be proved at trial as an element of damages.

Professor Gibson said that there were two comments on the proposal. Comment 12-BK-044 supported the changes. Comment 12-BK-010, submitted by the State's Association of Bankruptcy Attorneys ("SABA"), did not address the proposed changes. Instead, the SABA comment addressed the sentence in Rule 7054(b)(1) that permits the award of costs against the United States, its officers and agencies only to the extent permitted by law. SABA suggested that the provision be broadened to apply to all governmental units.

After a short discussion, the Advisory Committee decided not to take up the SABA suggestion, and **voted to recommend final approval of the proposed attorney fee changes to Rules 7008 and 7054 as published.**

12. Oral report by the Subcommittee on Attorney Conduct and Health Care.

Judge Jonker said that there was no business before the Subcommittee since the last Advisory Committee meeting.

#### Discussion Items

13. Oral report on Suggestion 13-BK-A by David W. Ostrander to include the debtor's age on the Statement of Financial Affairs or the Schedules of Assets and Liabilities.

Assigned to the Forms Subcommittee.

14. Oral report on Suggestion 13-BK-B by Judges Eric L. Frank and Bruce I. Fox to amend Official Form 1, the Voluntary Petition, to include checkboxes for the documents Section 1116(1) of the Bankruptcy Code requires small business debtors to file.

Assigned to the Forms Subcommittee.

15. Oral report on Suggestion 12-BK-M by Judge Scott W. Dales to amend Rule 2002(h) to mitigate the cost of giving notice to creditors who have not filed proofs of claim.

Assigned to the Consumer Subcommittee.

16. Oral report on Suggestion 13-BK-C by the American Bankruptcy Institute's Task Force on National Ethics Standards to amend Rule 2014 to specify the relevant connections that must be described in the verified statement accompanying an application to employ professionals.

Assigned to the Subcommittee on Attorney Conduct and Health Care.

17. Oral report on Judge William G. Young's suggestion to abolish Bankruptcy Appellate Panels (BAPs) and to assign bankruptcy appeals from courts with high caseloads to courts with low caseloads.

The Chair explained that this issue, which would likely require changes to the Bankruptcy Code and Rules if implemented, is being considered by the Advisory Committee on the Administration of the Bankruptcy System.

#### Information Items

18. Oral report on the status of bankruptcy-related legislation.

Mr. Wannamaker reviewed bankruptcy-related legislation currently pending in Congress.

19. Oral update on opinions interpreting Section 109(h) of the Bankruptcy Code.

The Reporter said that there are now three cases that have addressed the 2010 technical update to 11 U.S.C. § 109(h) that appear to allow an individual to take the required credit counseling course *after* the petition is filed, so long as the course is taken on the same day. She said each of three courts reviewing the new language, however, have concluded that the course must be taken *before* the case is filed. **The Advisory Committee agreed that further reports would be unnecessary unless a split of authority among courts develops.**

20. *Bull Pen.*

Amendment to Official Form 23 to implement the proposed amendment to Rule 1007(b)(7) which would authorize providers of financial management course providers to file notification of the debtor's completion of the course, approved at September 2010 meeting.

**The Advisory Committee recommended that Official Form 23 be removed from the bull pen and go into effect December 1, 2013, along with the related amendment to Rule 1007(b)(7) that is scheduled to take effect December 1, 2013.**

21. Rules Docket.

Mr. Wannamaker asked members to review the Rules Tracking Docket and to email him with any needed changes.

22. Future meetings: Fall 2013 meeting, September 24–25, in Minneapolis. Possible locations for the spring 2014 meeting.

The Chair suggested Austin, Texas, for the spring 2014 meeting.

23. New business.

No new business.

24. Adjourn.

Respectfully submitted,

Scott Myers

## Conversion Chart for Modernized Bankruptcy Forms for Individual Debtors

Current Schedule Number	Current schedule name	FMP schedule name	FMP label (agenda book)	FMP label (revised)	Proposed effective date
1	Voluntary Petition – including Exhibits A, C and D	Voluntary Petition for Individuals Filing for Bankruptcy ( <i>incorporates former exhibits</i> )	101	same	12/15
		Initial Statement About an Eviction Judgment Against You ( <i>formally part of petition</i> ).	101A	same	12/15
		Statement About Payment of an Eviction Judgment Against You ( <i>formally part of petition</i> ).	101B	same	12/15
3A	Application and Order to Pay Filing Fee in Installments	Application for Individuals to Pay the Filing Fee in Installments	103A (pub as 3A in 2012)	same	12/13 as 3A; 12/15 as 103A
3B	Application for Waiver of Chapter 7 Filing Fee	Application to Have the Chapter 7 Filing Fee Waived	103B (pub as 3B in 2012)	same	12/13 as 3B; 12/15 as 103B
4	List of Creditors Holding 20 Largest Unsecured Claims	For Individual Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders ( <i>individuals</i> )	104	same	12/15
5	Involuntary Petition	Involuntary Petition Against an Individual	105	same	12/15
6A	Real Property	Property ( <i>combines real and personal property, individuals</i> )	106A	106A/B	12/15
6B	Personal Property				
6C	Property Claimed as Exempt				
6D	Creditors Holding Secured Claims	Creditors Who Hold Claims Secured By Property ( <i>against individuals</i> )	106B	106D	12/15
6E	Creditors Holding Unsecured Priority Claims	Creditors Who Have Unsecured Claims ( <i>against individuals, combines priority and non-priority</i> )	106C	106E/F	12/15
6F	Creditors Holding Unsecured Nonpriority Claims				
6G	Executory Contracts and Unexpired Leases	Executory Contracts and Unexpired Leases ( <i>individuals</i> )	106E	106G	12/15
6H	Codebtors	Your Codebtors ( <i>individuals</i> )	106F	106H	12/15
6I	Executory Contracts and Unexpired Leases	Your Income ( <i>individuals</i> )	106G (pub as 6I in 2012)	106I	12/13 as 6I; 12/1/15 as 106I
6J	Current Income of Individual Debtor(s)	Your Expenses ( <i>individuals</i> )	106H (pub as 6J in 2012)	106J	12/13 as 6J; 12/1/15 as 106J
7	Statement of Financial Affairs	Statement of Financial Affairs for Individuals Filing for Bankruptcy	107	same	12/1/15
22A	Statement of Current Monthly Income and Means Test Calculation (Chapter 7)	Chapter 7 Statement of Your Current Monthly Income and Means-Test Calculation ( <i>published as 22A-1</i> )	108-1	same	12/14 as 22A-1; 12/15 as 108-1
		Chapter 7 means test exclusion attachment ( <i>published as 22A-1Supp</i> )	108-1Supp	same	12/14 as 22A-1Supp; 12/15 as 108-1Supp
		Chapter 7 Means Test Calculation ( <i>published as 22A-2</i> )	108-2	same	12/14 as 22A-2; 12/15 as 108-2

Current Schedule Number	Current schedule name	FMP schedule name	FMP label (agenda book)	FMP label (revised)	Proposed effective date
22B	Statement of Current Monthly Income (Chapter 11)	Chapter 11 Statement of Your Current Monthly Income ( <i>published as 22B</i> )	<b>109</b>	same	<b>12/14 as 22B;</b> 12/15 as 109
22C	Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period ( <i>published as 22C-1</i> )	<b>110-1</b>	same	<b>12/14 as 22C-1;</b> 12/15 as 110-1
		Chapter 13 Calculation of Your Disposable Income ( <i>published as 22C-2</i> )	<b>110-2</b>	same	<b>12/14 as 22C-2;</b> 12/15 as 110-2
8	Chapter 7 Individual Debtor's Statement of Intention	Statement of Intention for Individuals Filing Under Chapter 7	<b>112</b>	same	12/1/15
19	Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer	Bankruptcy Petition Preparer's Notice, Declaration and Signature	<b>119</b>	same	12/1/15
21	Statement of Social Security Number	Your Statement About Your Social Security Numbers	<b>121</b>	same	12/1/15
18	Discharge of Debtor	Order of Discharge	<b>318</b>	same	12/1/15
23	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	Certification About a Financial Management Course	<b>423</b>	same	12/1/15
27	Reaffirmation Agreement Cover Sheet	Cover Sheet for Reaffirmation Agreement	<b>427</b>	same	12/1/15