PRELIMINARY DRAFT OF

Proposed Amendments to the Federal Rules of Bankruptcy and Civil Procedure

Request for Comment

Comments are sought on Amendments to:

Bankruptcy Rules	2002, 3002, 3007, 3012, 3015, 4003, 5005, 5009, 7001, 9006, and 9009, and Official Forms 17A, 17B, 17C, 22A-1, 22A-1Supp, 22A-2, 22B, 22C-1, 22C-2, 101, 101A, 101B, 104, 105, 106Sum, 106A/B, 106C, 106D, 106E/F, 106G, 106H, 106Dec, 107, 112, 113, 119, 121, 318, 423, and 427
Civil Rules	1, 4, 6, 16, 26, 30, 31, 33, 34, 36, 37, 55, 84, and Appendix of Forms

All Written Comments are Due by February 15, 2014

THE UNITED STATES COURTS

Prepared by the
Committee on Rules of Practice and Procedure of the
Judicial Conference of the United States

AUGUST 2013

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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: **THE BENCH, BAR, AND PUBLIC**

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

DATE: **August 15, 2013**

RE: **Request for Comments on Proposed Rules and Forms Amendments**

The Judicial Conference Advisory Committees on Bankruptcy and Civil Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The proposed amendments, rules committee reports, and other information are attached and posted on the Judiciary's website at <http://www.uscourts.gov/rulesandpolicies/rules.aspx/>.

Opportunity for Public Comment

All comments on these proposed amendments will be carefully considered by the rules committees, which are composed of experienced trial and appellate lawyers, judges, and scholars. Please provide any comments on the proposed amendments, whether favorable, adverse, or otherwise, as soon as possible but **no later than February 15, 2014**. Comments concerning the proposed amendments may be submitted electronically by following the instructions at <http://www.uscourts.gov/RulesAndPolicies/rules/proposed-amendments.aspx>. Hard copy submissions may be mailed to the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Suite 7-240, Washington, D.C., 20544. All comments are made part of the official record and are available to the public.

Members of the public who wish to present testimony may appear at public hearings on these proposals. The Advisory Committees on the Bankruptcy and Civil Rules will hold hearings on the proposed amendments on the following dates:

- Civil Rules in Washington, D.C., on November 7, 2013, in Phoenix, Arizona, on January 9, 2014, and in Dallas, Texas, on February 7, 2014;
- Bankruptcy Rules and Official Forms in Chicago, Illinois, on January 17, 2014, and in Washington, D.C., on January 31, 2014.

If you wish to testify, you must notify the Committee at the above addresses **at least 30 days before the scheduled hearing**.

After the public comment period, the Advisory Committees will decide whether to submit the proposed amendments to the Committee on Rules of Practice and Procedure. At this time, the Committee on Rules of Practice and Procedure has not approved these proposed amendments, except to authorize their publication for comment. The proposed amendments have not been submitted to or considered by the Judicial Conference or the Supreme Court.

The proposed amendments would become effective on December 1, 2015, if they are approved, with or without revision, by the relevant Advisory Committee, the Committee on Rules of Practice and Procedure, the Judicial Conference, and the Supreme Court, and if Congress does not act to defer, modify, or reject them. Except as otherwise noted, the revisions to the Official Bankruptcy Forms would become effective on December 1, 2014, if they are approved by the rules committees and the Judicial Conference.

If you have questions about the rulemaking process or pending rules amendments, please contact Jonathan C. Rose, Chief, Rules Committee Support Office, or Benjamin J. Robinson, Counsel, Committees on Rules of Practice and Procedure, at 202-502-1820 or visit <http://www.uscourts.gov/rulesandpolicies/rules.aspx/>.

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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

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.

* * * * *

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.

* * * * *

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

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."[1]

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 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

[1]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.

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.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE*

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

(a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), (*l*), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of:

* * * * *

(7) the time fixed for filing proofs of claims pursuant to Rule 3003(c); ~~and~~

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

15 (8) the time fixed for filing objections
16 and the hearing to consider confirmation of a
17 chapter 12 plan; and
18 (9) the time fixed for filing objections to
19 confirmation of a chapter 13 plan.
20 (b) TWENTY-EIGHT-DAY NOTICES TO
21 PARTIES IN INTEREST. Except as provided in
22 subdivision (*l*) of this rule, the clerk, or some other person
23 as the court may direct, shall give the debtor, the trustee, all
24 creditors and indenture trustees not less than
25 (1) 28 days' notice by mail of the time
26 fixed ~~(1)~~ for filing objections and the hearing to
27 consider approval of a disclosure statement or,
28 under §1125(f), to make a final determination
29 whether the plan provides adequate information so
30 that a separate disclosure statement is not necessary;
31 ~~and~~

32 (2) 28 days' notice by mail of the time
33 fixed for filing objections and the hearing to
34 consider confirmation of a chapter 9~~,~~ or chapter 11~~,~~
35 ~~or chapter 13~~ plan; and
36 (3) 28 days' notice by mail of the time
37 fixed for the hearing to consider confirmation of a
38 chapter 13 plan.
39 * * * * *

Committee Note

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days' notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

Rule 3002. Filing Proof of Claim or Interest

(a) NECESSITY FOR FILING. ~~An~~ A secured creditor, unsecured creditor, or an equity security holder must file a proof of claim or interest for the claim or interest to be allowed, except as provided in Rules 1019(3), 3003, 3004, and 3005. A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.

(b) PLACE OF FILING. A proof of claim or interest shall be filed in accordance with Rule 5005.

(c) TIME FOR FILING. In a voluntary chapter 7 ~~liquidation~~ case, chapter 12 ~~family farmer's debt adjustment~~ case, or chapter 13 ~~individual's debt adjustment~~ case, a proof of claim is timely filed if it is filed not later than ~~90~~ 60 days after the date the petition is filed or the date of the order of conversion to a chapter 12 or 13 case. In an involuntary chapter 7 case, a proof of claim is timely

18 filed if it is filed not later than 90 days after the order for
19 relief is entered, ~~the first date set for the meeting of~~
20 ~~creditors called under § 341(a) of the Code,~~ except as
21 follows:

22 * * * * *

23 (6) ~~If notice of the time to file a proof of~~
24 ~~claim has been mailed to a creditor at a foreign~~
25 ~~address, o~~On motion filed by ~~the~~ a creditor before
26 or after the expiration of the time to file a proof of
27 claim, the court may extend the time to file a proof
28 of claim by not more than 60 days from the date of
29 the order granting the motion. The motion may be
30 granted if the court finds that ~~the notice was~~
31 ~~insufficient under the circumstances to give the~~
32 ~~creditor a reasonable time to file a proof of claim~~
33 (A) the notice was insufficient
34 under the circumstances to give the creditor

35 a reasonable time to file a proof of claim
36 because the debtor failed to timely file the
37 list of creditors' names and addresses
38 required by Rule 1007(a), or
39 (B) the notice was insufficient
40 under the circumstances to give the creditor
41 a reasonable time to file a proof of claim,
42 and notice of the time to file a proof of claim
43 was mailed to the creditor at a foreign
44 address.
45 (7) A proof of claim filed by the holder
46 of a claim that is secured by a security interest in
47 the debtor's principal residence is timely filed if
48 (A) the proof of claim, together
49 with the attachments required by
50 Rule 3001(c)(2)(C), is filed not later than 60
51 days after the order for relief is entered, and

52 (B) any attachments required by
53 Rule 3001(c)(1) and (d) are filed as a
54 supplement to the holder's claim not later
55 than 120 days after the order for relief is
56 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 3007. Objections to Claims

(a) OBJECTIONS TO CLAIMS. An objection to the allowance of a claim shall be in writing and filed. ~~A~~ Except to the extent that the amount of a claim is determined under Rule 3012 in connection with plan confirmation in a chapter 12 or 13 case, a copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession and the trustee at least 30 days prior to the hearing.

* * * * *

Committee Note

Subdivision (a) is amended to provide that an objection to a claim is unnecessary if the determination of the amount of the claim is made through a chapter 12 or chapter 13 plan in accordance with Rule 3012.

Rule 3012. ~~Valuation of Security~~ Determination of the Amount of Secured and Priority Claims

~~The court may determine the value of a claim secured by a lien on property in which the estate has an interest on motion of any party in interest and after a hearing on notice to the holder of the secured claim and any other entity as the court may direct.~~

(a) DETERMINATION OF AMOUNT OF CLAIM. On request by a party in interest and after notice—to the holder of the claim and any other entity the court designates—and a hearing, the court may determine

(1) the amount of a secured claim under § 506(a) of the Code, or

(2) the amount of a claim entitled to priority under § 507 of the Code.

(b) REQUEST FOR DETERMINATION; HOW MADE. Except as provided in subdivision (c), a

18 request to determine the amount of a secured claim may be
19 made by motion, in a claim objection, or in a plan filed in a
20 chapter 12 or 13 case. A request to determine the amount
21 of a claim entitled to priority may be made by motion or in
22 a claim objection. The request shall be served on the
23 holder of the claim and any other entity the court designates
24 in the manner provided for service of a summons and
25 complaint by Rule 7004.
26 (c) CLAIMS OF GOVERNMENTAL UNITS.
27 A request to determine the amount of a secured claim of a
28 governmental unit may be made by motion or in a claim
29 objection after the governmental unit files a proof of claim
30 or after the time for filing one under Rule 3002(c)(1) has
31 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

(a) FILING OF CHAPTER 12 PLAN. The debtor may file a chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within the time prescribed by § 1221 of the Code.

(b) FILING OF CHAPTER 13 PLAN. The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct. If a case is converted to chapter 13, a plan shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct.

18 (c) ~~DATING. Every proposed plan and any~~
19 ~~modification thereof shall be dated.~~FORM OF CHAPTER
20 13 PLAN. The plan filed in a chapter 13 case shall be
21 prepared as prescribed by the appropriate Official Form.
22 Provisions not otherwise included in the Official Form or
23 deviating from the Official Form are effective only if they
24 are included in a section of the Official Form designated for
25 nonstandard provisions and are also identified in
26 accordance with any other requirements of the Official
27 Form.
28 (d) NOTICE~~ AND COPIES~~. If the plan ~~The~~
29 ~~plan or a summary of the plan shall be~~ is not included with
30 the ~~each~~ notice of the hearing on confirmation mailed
31 pursuant to Rule 2002, the debtor shall serve the plan on
32 the trustee and all creditors when it is filed with the court.
33 ~~If required by the court, the debtor shall furnish a sufficient~~

34 ~~number of copies to enable the clerk to include a copy of~~
35 ~~the plan with the notice of the hearing.~~
36 (e) TRANSMISSION TO UNITED STATES
37 TRUSTEE. The clerk shall forthwith transmit to the United
38 States trustee a copy of the plan and any modification
39 thereof filed pursuant to subdivision (a) or (b) of this rule.
40 (f) OBJECTION TO CONFIRMATION;
41 DETERMINATION OF GOOD FAITH IN THE
42 ABSENCE OF AN OBJECTION. An objection to
43 confirmation of a plan shall be filed and served on the
44 debtor, the trustee, and any other entity designated by the
45 court, and shall be transmitted to the United States trustee,
46 ~~before confirmation of the plan~~ at least seven days before
47 the hearing on confirmation. An objection to confirmation
48 is governed by Rule 9014. If no objection is timely filed,
49 the court may determine that the plan has been proposed in

50 good faith and not by any means forbidden by law without
51 receiving evidence on such issues.
52 (g) EFFECT OF CONFIRMATION. Any
53 determination made under Rule 3012 of the amount of a
54 secured claim under § 506(a) of the Code in a chapter 12 or
55 13 case is binding on the holder of the claim, even if the
56 holder files a contrary proof of claim under Rule 3002 or
57 the debtor schedules that claim under § 521(a) of the Code,
58 and regardless of whether any objection to the claim has
59 been filed under Rule 3007.
60 ~~(g)~~ (h) MODIFICATION OF PLAN AFTER
61 CONFIRMATION. A request to modify a plan pursuant to
62 § 1229 or § 1329 of the Code shall identify the proponent
63 and shall be filed together with the proposed modification.
64 The clerk, or some other person as the court may direct,
65 shall give the debtor, the trustee, and all creditors not less
66 than 21 days notice by mail of the time fixed for filing

67 objections and, if an objection is filed, the hearing to
68 consider the proposed modification, unless the court orders
69 otherwise with respect to creditors who are not affected by
70 the proposed modification. A copy of the notice shall be
71 transmitted to the United States trustee. A copy of the
72 proposed modification, or a summary thereof, shall be
73 included with the notice. ~~If required by the court, the~~
74 ~~proponent shall furnish a sufficient number of copies of the~~
75 ~~proposed modification, or a summary thereof, to enable the~~
76 ~~clerk to include a copy with each notice.~~ If a copy is not
77 included with the notice and the proposed modification is
78 sought by the debtor, a copy shall be served on the trustee
79 and all creditors in the manner provided for service of the
80 plan by subdivision (d) of this rule. Any objection to the
81 proposed modification shall be filed and served on the
82 debtor, the trustee, and any other entity designated by the
83 court, and shall be transmitted to the United States trustee.

84 An objection to a proposed modification is governed by
85 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.

1 **Rule 4003. Exemptions**

2 * * * * *

3 (d) AVOIDANCE BY DEBTOR OF
4 TRANSFERS OF EXEMPT PROPERTY. A proceeding by
5 the debtor to avoid a lien or other transfer of property
6 exempt under § 522(f) of the Code shall be commenced by
7 motion in the manner provided for by ~~in accordance with~~
8 Rule 9014, or by a chapter 12 or 13 plan served in the
9 manner provided by Rule 7004 for service of a summons
10 and complaint. Notwithstanding the provisions of
11 subdivision (b), a creditor may object to a motion or
12 chapter 12 or 13 plan provision filed under § 522(f) by
13 challenging the validity of the exemption asserted to be
14 impaired by the lien.

Committee Note

Subdivision (d) is amended to provide that a request under § 522(f) to avoid a lien or other transfer of exempt property may be made by motion or by a chapter 12 or

chapter 13 plan. A plan that proposes lien avoidance in accordance with this rule must be served as provided under Rule 7004 for service of a summons and complaint. Lien avoidance not governed by this rule requires an adversary proceeding.

NOTE CONCERNING PROPOSED AMENDMENT TO RULE 5005(a)

As approved for publication by the Committee on Rules of Practice and Procedure, the preliminary draft of the amendment to Rule 5005(a)(3)(B) includes alternative means of providing assurance that a scanned signature of an individual was actually part of the original document that is filed electronically. Some members of the Committee thought that it would be sufficient for the rule to state that the filing by a registered user of the court's electronic filing system is deemed a certification that the scanned signature was part of the original document. Others preferred that the assurance not be provided by the registered user (typically the lawyer for a debtor), but that certification by a notary public be required. In response to the latter suggestion, some members raised concerns about the practical inconvenience of requiring notarization of petitions and other documents that require the signature of a debtor.

The Committee therefore specifically invites public comment on the alternatives set out on lines 39-47 of the published draft. It is especially interested in comments on the following questions:

(1) Should the proposed amendment to Rule 5005(a) include a means of providing assurance—other than requiring a single filing—that a scanned signature page was actually part of the original document that is being filed?

(2) If so, is one of the listed options preferable?

(3) Is there a better means than the ones listed of providing assurance that the scanned signature page was executed as part of the original document?

Although calling attention to this particular part of the proposed amendment, the Committee looks forward to public comment on all of its aspects.

Rule 5005. Filing, Electronic Signatures, and Transmittal of Papers

(a) FILING and SIGNATURES.

(1) *Place of Filing.*

* * * * *

(2) *Filing by Electronic Means.* 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. A local rule may require filing by electronic means only if reasonable exceptions are allowed. A document filed by electronic means in compliance with a local rule constitutes a written paper ~~for the purpose of applying~~ under these rules~~, the Federal Rules of Civil Procedure made applicable by these rules,~~ and § 107 of the Code.

18 (3) *Signatures on Documents Filed by*
19 *Electronic Means*.
20 (A) *The Signature of a Registered*
21 *User*. The user name and password of an
22 individual who is registered to use the
23 court's electronic filing system serves as that
24 individual's signature on any electronically
25 filed document. The signature may be used
26 with the same force and effect as a written
27 signature under these rules and for any other
28 purpose for which a signature is required in
29 proceedings before the court.
30 (B) *Signature of Other*
31 *Individuals*. When an individual other than
32 a registered user of the court's electronic
33 filing system is required to sign a document
34 that is filed electronically, the registered

35 user shall include in a single filing with the
36 document a scanned or otherwise
37 electronically replicated copy of the
38 document's signature page bearing the
39 individual's original signature. **[Alt. 1: By**
40 **filing the document and signature page,**
41 **the registered user certifies that the**
42 **scanned signature was part of the original**
43 **document.] [Alt. 2: The document and**
44 **signature page shall be accompanied by**
45 **the acknowledgment of a notary public**
46 **that the scanned signature was part of the**
47 **original document.]** Once a document has
48 been properly filed under this rule, the
49 original document bearing the individual's
50 original signature need not be retained. The
51 electronic signature may then be used with

52 the same force and effect as a written
53 signature under these rules and for any other
54 purpose for which a signature is required in
55 proceedings before the court.
56 * * * * *

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

(a) CLOSING OF CASES UNDER CHAPTERS 7, 12, AND 13. If in a chapter 7, chapter 12, or chapter 13 case the trustee has filed a final report and final account and has certified that the estate has been fully administered, and if within 30 days no objection has been filed by the United States trustee or a party in interest, there shall be a presumption that the estate has been fully administered.

* * * * *

(d) ORDER DECLARING LIEN SATISFIED. In a chapter 12 or chapter 13 case, if a claim that was secured by property of the estate is subject to a lien under applicable nonbankruptcy law, the debtor may request entry of an order determining that the lien on that property has

20 been satisfied. The request shall be made by motion and
21 shall be served on the holder of the claim and any other
22 entity the court designates in the manner provided by
23 Rule 7004 for service of a summons and complaint. An
24 order entered under this subdivision is effective as a release
25 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.

1 **Rule 7001. Scope of Rules of Part VII**

2 An adversary proceeding is governed by the rules of
3 this Part VII. The following are adversary proceedings:

4 * * * * *

5 (2) a proceeding to determine the
6 validity, priority, or extent of a lien or other interest
7 in property, ~~other than~~ not including a proceeding
8 under Rule 3012 or Rule 4003(d);

9 * * * * *

Committee Note

Subdivision (2) is amended to provide that the determination of the validity, priority, or extent of a lien under Rule 3012 or Rule 4003(d) does not require an adversary proceeding. The determination of the amount of a secured claim may be sought through a chapter 12 or chapter 13 plan in accordance with Rule 3012. Thus, a debtor may propose to eliminate a wholly unsecured junior lien in a chapter 12 or chapter 13 plan without a separate adversary proceeding. Similarly, the avoidance of a lien on exempt property may be sought through a chapter 12 or chapter 13 plan in accordance with Rule 4003(d). An adversary proceeding continues to be required for lien avoidance not governed by Rule 4003(d).

1 **Rule 9006. Computing and Extending Time**

2 * * * * *

3 (f) ADDITIONAL TIME AFTER SERVICE
4 BY MAIL OR UNDER RULE 5(b)(2)(D), (E), OR (F) F.R.
5 CIV. P. When there is a right or requirement to act or
6 undertake some proceedings within a prescribed period
7 after ~~service~~ being served and that service is by mail or
8 under Rule 5(b)(2)(D), (E), or (F) F.R. Civ. P., three days
9 are added after the prescribed period would otherwise
10 expire under Rule 9006(a).

11 * * * * *

Committee Note

Subdivision (f) is amended to conform to a corresponding amendment of Civil Rule 6(d). The amendment clarifies 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.

1 **Rule 9009. Forms**

2 (a) OFFICIAL FORMS. ~~Except as otherwise~~
3 ~~provided in Rule 3016(d), the~~ The Official Forms
4 prescribed by the Judicial Conference of the United States
5 shall be ~~observed and~~ used ~~with alterations as may be~~
6 ~~appropriate~~ without alteration, except as otherwise
7 provided in these rules or in a particular Official Form.
8 Official Forms may be modified

9 (1) to use font faces substantially similar
10 to those prescribed, maintaining the prescribed size
11 and style;

12 (2) to expand the prescribed areas for
13 responses in order to permit complete responses;

14 (3) to delete space not needed for
15 responses;

16 (4) to delete items requiring detail in a
17 question or category if the filer indicates—either by

18 checking "no" or "none" or by stating in words—
19 that there is nothing to report on that question or
20 category; and
21 (5) for court orders in a particular case
22 only, to make any change that does not conflict with
23 an applicable rule or with an Official Form that the
24 order addresses or implements. ~~Forms may be~~
25 ~~combined and their contents rearranged to permit~~
26 ~~economies in their use.~~
27 (b) DIRECTOR'S FORMS. The Director of the
28 Administrative Office of the United States Courts may
29 issue additional forms for use under the Code.
30 (c) CONSTRUCTION. The forms shall be
31 construed to be consistent with 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.

NOTE CONCERNING THE MODERNIZED BANKRUPTCY FORMS

The forms included in this publication are the second set of modernized bankruptcy forms proposed for public comment by the Advisory Committee on Bankruptcy Rules. The proposed revisions are part of the Advisory Committee's ongoing forms modernization project (FMP), begun in 2008 with the aim to make the forms easier to understand and to improve the interface between the forms and the judiciary's next generation of Case Management and Electronic Case Filing software.

Early in the revision process, the Advisory Committee decided that the debtor forms for individuals and for entities other than individuals should be separated, because separate areas of inquiry apply to each group. Most of the forms in this publication will be used only in individual debtor cases. It is anticipated that the rest of the modernized bankruptcy forms, including the case opening forms for non-individual debtors, will be published in draft form for public comment in 2014. The need for different versions of case opening forms for individuals and non-individuals required the Advisory Committee 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, and
XXXX	Director's Forms.

A forms number conversion chart is also included in this publication.

Because the modernized forms are being renumbered and will replace existing forms, the effective date for most of the forms for individuals published for comment in August 2013 will be delayed so that the forms will go into effect at the same time as the forms for non-individuals that are projected to be published for comment in August 2014. This means that the bulk of the modernized forms will go into effect no earlier than December 1, 2015.

The following modernized forms, all published for comment in August 2012, are on track to go into effect *before* December 1, 2015, because they replace existing forms that apply only in individual cases: Official Forms 3A, 3B, 6I, 6J, 22A-1, 22A-1Supp, 22A-2, 22B, 22C-1, and 22C-2 (which will later be designated as Official Forms 103A, 103B, 106I, 106J, 108-1, 108-1Supp, 108-2, 109, 110-1, and 110-2, respectively). Proposed amendments to 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 revised in response to comments, and have been recommended for implementation this year, on December 1, 2013. Modernized versions of the means test forms (Official Forms 22A-1, 22A-1Supp, 22A-2, 22B, 22C-1, and 22C-2), were also revised in response to comments, but because of the nature and extent of the revisions, they are being republished. If approved after the publication period, the means test forms are projected to go into effect on December 1, 2014.

Current No.	Current title	New No.*	New title
Modernized Bankruptcy Forms Numbering Conversion Chart – Draft – 07292013			
B 1	Voluntary Petition	B101	Voluntary Petition for Individuals Filing for Bankruptcy *(incorporates exhibits, and replaces eviction judgment statement with new forms B101A and B)*
		B101A	Initial Statement About an Eviction Judgment Against You
		B101B	Statement About Payment of an Eviction Judgment Against You
		B201	Voluntary Petition for Non-Individuals Filing for Bankruptcy
	Exhibit A	B201A	Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11
	Exhibit C	B101 B201	Hazardous Property or Property That Needs Immediate Attention (*incorporated in Forms B101 and B201)*
	Exhibit D	B101	Individual Debtor's Statement of Compliance with Credit Counseling Requirement (*incorporated in Form B101)*
	[Chapter 15 questions from Voluntary Petition]	B401	Petition for Recognition of Foreign Proceeding *(if a separate form is developed)*
B 2	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 *(for petition, schedules, SOFA, etc.)*
B 3A	Application and Order to Pay Filing Fee in Installments	B103A	Application for Individuals to Pay the Filing Fee in Installments *(published as B3A)*
B 3B	Application for Waiver of Chapter 7 Filing Fee	B103B	Application to Have the Chapter 7 Filing Fee Waived *(published as B3B)*
B 4	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
		B204	For Chapter 11 Cases: The List of Creditors Who Have the 20 Largest Unsecured Claims Against You Who Are Not Insiders *(non-individuals)*
B 5	Involuntary Petition	B105	Involuntary Petition Against an Individual
		B205	Involuntary Petition Against a Non-Individual

*1XX = Individual Filing Package 2XX = Non-Individual Filing Package 3XX = Orders and Court Notices
4XX = Add. Official Forms XXXX = Director's Forms

Current No.	Current title	New No.*	New title
B6	Cover Sheet for Schedules	No coversheet created.	
B6	Summary of Schedules (Includes Statistical Summary of Certain Liabilities)	B106 -- Summary	Summary of Your Assets and Liabilities and Certain Statistical Information (*individuals)*
		B206 -- Summary	Summary of Your Assets and Liabilities (*non-individuals)*
B 6A	Schedule A - Real Property	B106A/B	Schedule A/B: Property (*combines real and personal property, individuals)*
B 6B	Schedule B - Personal Property	B206A/B	Schedule A/B: Property (*combines real and personal property, non-individuals)*
B 6C	Schedule C - Property Claimed as Exempt	B106C	Schedule C: The Property You Claim as Exempt (*individuals)*
B 6D	Schedule D - Creditors Holding Secured Claims	B106D	Schedule D: Creditors Who Hold Claims Secured By Property (*against individuals*)
		B206D	Schedule D: Creditors Who Hold Claims Secured By Property *(against non-individuals)*
B 6E	Schedule E - Creditors Holding Unsecured Priority Claims	B106E/F	Schedule E/F: Creditors Who Have Unsecured Claims *(against individuals, combines priority and non-priority)*
B 6F	Schedule F - Creditors Holding Unsecured Nonpriority Claims	B206E/F	Schedule E/F: Creditors Who Have Unsecured Claims (*against non-individuals, combines priority and non-priority)*
B 6G	Schedule G - Executory Contracts and Unexpired Leases	B106G	Schedule G: Executory Contracts and Unexpired Leases (*individuals)*
		B206G	Schedule G: Executory Contracts and Unexpired Leases (*non-individuals)*
B 6H	Schedule H - Codebtors	B106H	Schedule H: Your Codebtors (*individuals)*
		B206H	Schedule H: Your Codebtors (*non-individuals)*
B 6I	Schedule I - Current Income of Individual Debtor(s)	B106I	Schedule I: Your Income (*individuals – published as B6I)*
B 6J	Schedule J- Current Expenditures of Individual Debtor(s)	B106J	Schedule J: Your Expenses (*individuals- published as B6J)*

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Current No.	Current title	New No.*	New title
B 6	Declaration Concerning Debtor's Schedules	B106 -- Declaration	Declaration About an Individual Debtor's Schedules
		B202	Declaration Under Penalty of Perjury On Behalf of a Corporation or Partnership *(for petition, schedules, SOFA, etc)*
B 7	Statement of Financial Affairs	B107	Statement of Financial Affairs for Individuals Filing for Bankruptcy
		B207	Statement of Your Financial Affairs *(non-Individuals)*
B 8	Chapter 7 Individual Debtor's Statement of Intention	B112	Statement of Intention for Individuals Filing Under Chapter 7
	New	B113	Chapter 13 Plan
B 9	Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Deadlines	No coversheet created.	
B 9A	Chapter 7 Individual or Joint Debtor No Asset Case	B 309A	Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline *(for Individuals or Joint Debtors)*
B 9B	Chapter 7 Corporation/Partnership No Asset Case	B 309C	Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline Set *(for Corporations or Partnerships)*
B 9C	Chapter 7 Individual or Joint Debtor Asset Case	B 309B	Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set *(for Individuals or Joint Debtors)*
B 9D	Chapter 7 Corporation/Partnership Asset Case (12/11)	B 309D	Notice of Chapter 7 Bankruptcy Case – Proof of Claim Deadline Set *(for Corporations or Partnerships)*

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Current No.	Current title	New No.*	New title
B 9E	Chapter 11 Individual or Joint Debtor Case	B 309E	Notice of Chapter 11 Bankruptcy Case *(for Individuals or Joint Debtors; former Alt version combined with Form B309E)*
B 9E(Alt.)	Chapter 11 Individual or Joint Debtor Case		
B 9F	Chapter 11 Corporation/Partnership Case	B 309F	Notice of Chapter 11 Bankruptcy Case *(for Corporations or Partnerships; former Alt version combined with Form B309F)*
B 9F(Alt.)	Chapter 11 Corporation/Partnership Case		
B 9G	Chapter 12 Individual or Joint Debtor Family Farmer	B 309G	Notice of Chapter 12 Bankruptcy Case *(for Individuals or Joint Debtors)*
B 9H	Chapter 12 Corporation/Partnership Family Farmer	B 309H	Notice of Chapter 12 Bankruptcy Case *(for Corporations or Partnerships)*
B 9I	Chapter 13 Case	B 309I	Notice of Chapter 13 Bankruptcy Case
B 10	Proof Of Claim	B 410	Proof Of Claim
B 10A	Proof Of Claim, Attachment A	B 410A	Proof Of Claim, Attachment A
B 10S1	Proof Of Claim, Supplement 1	B 410S1	Proof Of Claim, Supplement 1
B 10S2	Proof Of Claim, Supplement 2	B 410S2	Proof Of Claim, Supplement 2
B 11A	General Power of Attorney	B 4011A	*(if converted to a Director's Form)*
B 11B	Special Power of Attorney	B 4011B	*(if converted to a Director's Form)*
B 12	Order and Notice for Hearing on Disclosure Statement	B 3012	*(if converted to a Director's Form)*
B 13	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof	B 3013	*(if converted to a Director's Form)*
B 14	Ballot for Accepting or Rejecting Plan	B 3014	*(if converted to a Director's Form)*
B 15	Order Confirming Plan	B 3015	*(if converted to a Director's Form)*
B 16A	Caption	B 416A	
B 16B	Caption (Short Title)	B 416B	

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Current No.	Current title	New No.*	New title
B 16C	[Abrogated]	N/A	
B 16D	Caption for Use in Adversary Proceeding other than for a Complaint Filed by a Debtor	B 416D	
B 17	Notice of Appeal under 28 U.S.C. §158(a) or (b) from a Judgment, Order or Decree of a Bankruptcy Court	B 417A	Notice Of Appeal And Statement Of Election *(Effective December 1, 2014)*
	New	B417B	Optional Appellee Statement of Election to Proceed in District Court *(effective December 1, 2014)*
	New	B417C	Certificate of Compliance With Rule 8015(a)(7)(B) or 8016(d)(2)) *(effective December 1, 2014)*
B 18	Discharge of Debtor	B 318	Discharge of Debtor in a Chapter 7 Case
B 19	Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer	B119	Bankruptcy Petition Preparer's Notice, Declaration, and Signature
B 20A	Notice of Motion or Objection	B 420A	Notice of Motion or Objection
B 20B	Notice of Objection to Claim	B 420B	Notice of Objection to Claim
B 21	Statement of Social Security Number	B 121	Statement About Your Social Security Numbers
B 22A	Statement of Current Monthly Income and Means Test Calculation (Chapter 7)	B 108-1	Chapter 7 Statement of Your Current Monthly Income *(published as B22A-1)*
		B 108-1Supp	Statement of Exemption from Presumption of Abuse Under § 707(b)(2) (*published as B22A-1Supp*)
		B 108-2	Chapter 7 Means Test Calculation *(published as B22A-2)*
B 22B	Statement of Current Monthly Income (Chapter 11)	B 109	Chapter 11 Statement of Your Current Monthly Income *(published as B22B)*
B 22C	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 *(published as B22C-1)*
		B 110-2	Chapter 13 Calculation of Your Disposable Income *(published as B22C-2)*
B 23	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	B 423	Certification About a Financial Management Course

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Current No.	Current title	New No.*	New title
B 24	Certification to Court of Appeals	B 424	
B 25A	Plan of Reorganization in Small Business Case under Chapter 11	B 425A	
B 25B	Disclosure Statement in Small Business Case under Chapter 11	B 425B	
B 25C	Small Business Monthly Operating Report	B 425C	
B 26	Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest	B 426	
B 27	Reaffirmation Agreement Cover Sheet	B427	Cover Sheet for Reaffirmation Agreement
	DIRECTOR'S FORMS		
	New	B 3206I	Schedule I: Income (*non-individuals)*
	New	B 3206J	Schedule J: Expenses (*non-individuals)*
B 13S	Order Conditionally Approving 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	B 1300S	
B 15S	Order Finally Approving Disclosure Statement and Confirming Plan	B 1500S	
B 18F	Discharge of Debtor After Completion of Chapter 12 Plan	B 1800F	
B 18FH	Discharge of Debtor Before Completion of Chapter 12 Plan	B 1800FH	
B 18J	Discharge of Joint Debtors (Chapter 7)	B 318	Order of Discharge *(combined with Forms B18 and B18JO)*
B 18JO	Discharge of One Joint Debtor (Chapter 7)	B 318	Order of Discharge *(combined with Forms B18 and B18J)*
B 18RI	Discharge of Individual Debtor in a Chapter 11 Case	B 1800RI	
B 18W	Discharge of Debtor After Completion of Chapter 13	B 1800W	

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Current No.	Current title	New No.*	New title
	Plan		
B 18WH	Order Discharging Debtor Before Completion of Chapter 13 Plan	B 1800WH	
B 104	Adversary Proceeding Cover Sheet	B 1040	
B 131	Exemplification Certificate	B 1310	
B 132	Application for Search of Bankruptcy Records	B 1320	
B 133	Claims Register	B 1330	
B 200	Required Lists, Schedules, Statements and Fees	B 2000	
B 201A	Notice to Individual Consumer Debtor	B 2010	
B 201B	Certification of Notice to Individual Consumer Debtor(s)	B 101	*(certification is included in the petition)*
B 202	Statement of Military Service	B 2020	
B 203	Disclosure of Compensation of Attorney for Debtor	B 2030	Attorney's Disclosure of Compensation
B 204	Notice of Need to File Proof of Claim Due to Recovery of Assets	B 2040	
B 205	Notice to Creditors and Other Parties in Interest	B 2050	
B 206	Certificate of Commencement of Case	B 2060	
B 207	Certificate of Retention of Debtor In Possession	B 2070	
B 210A	Transfer of Claim Other Than for Security	B 2100A	
B 210B	Notice of Transfer of Claim Other Than for Security	B 2100B	
B 230A	Order Confirming Chapter 12 Plan	B 2300A	
B 230B	Order Confirming Chapter 13 Plan	B 2300B	
B 231A	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 12 Plan	B 2310A	
B 231B	Order Fixing Time to Object to Proposed Modification of Confirmed Chapter 13 Plan	B 2310B	
B 240A	Reaffirmation Documents	B 2400A	

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Current No.	Current title	New No.*	New title
B 240B	Motion for Approval of Reaffirmation Agreement	B 2400B	
B 240C	Order on Reaffirmation Agreement	B 2400C	
B 240A/B ALT	Reaffirmation Agreement	B 2400A/B ALT	
B 240C ALT	Order on Reaffirmation Agreement	B 2400C ALT	
B 250A	Summons in an Adversary Proceeding	B 2500A	
B 250B	Summons and Notice of Pretrial Conference in an Adversary Proceeding	B 2500B	
B 250C	Summons and Notice of Trial in an Adversary Proceeding	B 2500C	
B 250D	Third-Party Summons	B 2500D	
B 250E	Summons to Debtor in Involuntary Case	B 2500E	
B 250F	Summons in a Chapter 15 Case Seeking Recognition of a Foreign Nonmain Proceeding	B 2500F	
B 253	Order for Relief in an Involuntary Case	B 2530	
B 254	Subpoena for Rule 2004 Examination	B 2540	Subpoena for Rule 2004 Examination
B 255	Subpoena in an Adversary Proceeding	B 2550	Subpoena to Appear and Testify at a Hearing or Trial in a Bankruptcy Case (or Adversary Proceeding) *(effective December 1, 2013)*
B 256	Subpoena in a Case Under the Bankruptcy Code	B 2560	Subpoena to Testify at a Deposition in a Bankruptcy Case (or Adversary Proceeding) *(effective December 1, 2013)*
		B2570	Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (or Adversary Proceeding) *(effective December 1, 2013)*
B 260	Entry of Default	B 2600	
B 261A	Judgment by Default	B 2610A	
B 261B	Judgment by Default	B 2610B	
B 261C	Judgment in an Adversary Proceeding	B 2610C	
B 262	Notice of Entry of Judgment	B 2620	

*1XX = Individual Filing Package 2XX = Non-Individual Filing Package 3XX = Orders and Court Notices
4XX = Add. Official Forms XXXX = Director's Forms

Current No.	Current title	New No.*	New title
B 263	Bill of Costs	B 2630	
B 264	Writ of Execution to the United States Marshal	B 2640	
B 265	Certification of Judgment for Registration in Another District	B 2650	
B 270	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	
B 271	Final Decree	B 2710	
B 280	Disclosure of Compensation of Bankruptcy Petition Preparer	B 2800	Disclosure of Compensation of Bankruptcy Petition Preparer
B 281	Appearance of Child Support Creditor or Representative	B 2810	
B 283	Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)	B 2830	

*1XX = Individual Filing Package 2XX = Non-Individual Filing Package 3XX = Orders and Court Notices
4XX = Add. Official Forms XXXX = Director's Forms

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.

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

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

	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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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. **Total.** 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/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 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. [ ]

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.

Name of the creditor	Does payment include taxes or insurance?	Average monthly payment
_____	❑ No ❑ Yes	$_____
_____	❑ No ❑ Yes	$_____
_____	❑ No ❑ Yes	+ $_____

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.

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.

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.

		Average monthly payment
	Mortgages on your home:	
33a.	Copy line 9b here ..... ➔	$_____
	Loans on your first two vehicles:	
33b.	Copy line 13b here. ..... ➔	$_____
33c.	Copy line 13e here. ..... ➔	$_____

	Name of each creditor for other secured debt	Identify property that secures the debt	Does payment include taxes or insurance?	
33d.	_____	_____	❑ No ❑ Yes	$_____
33e.	_____	_____	❑ No ❑ Yes	$_____
33f.	_____	_____	❑ No ❑ Yes	+ $_____

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

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

❑ No. Go to line 35.

❑ Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 34, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

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 $_____ **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 ➔** $_____

Determine Whether There Is a Presumption of Abuse

39. **Calculate monthly disposable income for 60 months**

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

39b. Copy line 38, *Total deductions*..... − $_____

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

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

39d. **Total**. Multiply line 39c by 60. ..... 39d. $_____ **Copy line 39d here➔** $_____

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

❑ **The line 39d is less than $7,475*.** On the top of page 1 of this form, check box 1, *There is no presumption of abuse.* Go to Part 5.

❑ **The line 39d is more than $12,475*.** On the top of page 1 of this form, check box 2, *There is a presumption of abuse.* You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

❑ **The line 39d is at least $7,475*, but not more than $12,475*.** Go to line 41.

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

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

38a. $_____

x .25

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

$_____ **Copy here➔** $_____

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

❑ **Line 39d is less than line 41b.** On the top of page 1 of this form, check box 1, *There is no presumption of abuse.* Go to Part 5.

❑ **Line 39d is equal to or more than line 41b.** On the top of page 1 of this form, check box 2, *There is a presumption of abuse.* You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

Give Details About Special Circumstances

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

❑ No. Go to Part 5.

❑ Yes. Fill in the following information. All figures should reflect your average monthly expense or income adjustment for each item. You may include expenses you listed in line 25.

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

Give a detailed explanation of the special circumstances	**Average monthly expense or income adjustment**
_____	$_____
_____	$_____
_____	$_____
_____	$_____

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

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

Date _____
MM / DD / YYYY

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

United States Bankruptcy Court 12/01/14

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.

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

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

	Column A **For Debtor 1**	*Column B* **Debtor 2 or non-filing spouse**
7. **Interest, dividends, and royalties**	$_____	$_____
8. **Unemployment compensation**	$_____	$_____
Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here:..... ↓		
For you ..... $_____		
For your spouse ..... $_____		
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act.	$_____	$_____
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.		
10a. _____	$_____	$_____
10b. _____	$_____	$_____
10c. Total amounts from separate pages, if any.	+ $_____	+ $_____
11. **Calculate your total 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: 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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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.

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

	Column A **For Debtor 1**	*Column B* **Debtor 2 or non-filing spouse**
7. **Interest, dividends, and royalties**	$_____	$_____
8. **Unemployment compensation**	$_____	$_____
Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here: ..... ➔		
For you ..... $_____		
For your spouse ..... $_____		
9. **Pension or retirement income.** Do not include any amount received that was a benefit under the Social Security Act.	$_____	$_____
10. **Income from all other sources not listed above.** Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total on line 10c.		
10a. _____	$_____	$_____
10b. _____	$_____	$_____
10c. Total amounts from separate pages, if any.	+ $_____	+ $_____
11. **Calculate your total average monthly income.** Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.	$_____ +	$_____ = $_____ **Total average monthly income**

Part 2: 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.

✘ _____ ✘ _____
Signature of Debtor 1 Signature of Debtor 2

Date _____ Date _____
MM / DD / YYYY 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)

Draft May 7, 2013

❑ 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.justice.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.

Name of the creditor	**Average monthly payment**
_____	$_____
_____	$_____
_____	+ $_____

9b. Total average monthly payment ..... $_____ **Copy line 9b here➔** – $_____ Repeat this amount on line 33a.

9c. Net mortgage or rent expense.

Subtract line 9b (*total average monthly payment*) from line 9a (*mortgage or rent expense*). If this 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.

Name of each creditor for Vehicle 1	Average monthly payment
_____	$_____

Copy13b here➔ — $_____ Repeat this 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.

Name of each creditor for Vehicle 2	Average monthly payment
_____	$_____

Copy here➔ — $_____ Repeat this 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, 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 $_____

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 for you and your dependents, such as pagers, call waiting, caller identification, special long distance, 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 5 of Official Form 22C-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. **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. $_____

    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 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			
33a. Copy line 9b here ..... ➔			$_____
Loans on your first two vehicles			
33b. Copy line 13b here. ..... ➔			$_____
33c. Copy line 13e here. ..... ➔			$_____
Name of each creditor for other secured debt	**Identify property that secures the debt**	**Does payment include taxes or insurance?**	
33d. _____	_____	No Yes	$_____
33e. _____	_____	No Yes	$_____
33f. _____	_____	No Yes	+ $_____
33g. Total average monthly payment. Add lines 33a through 33f.			$_____

Copy total here➔ $_____

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

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

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. **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.

Describe the special circumstances	Amount of expense
43a. _____	$_____
43b. _____	$_____
43c. _____	+ $_____
43d. **Total**. Add lines 43a through 43c	$_____

Copy 43d here ➔ + $_____

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.

Form	Line	Reason for change	Date of change	Increase or decrease?	Amount of change
❑ 22C–1 ❑ 22C–2	____	_____	_____	❑ Increase ❑ Decrease	$_____
❑ 22C–1 ❑ 22C–2	____	_____	_____	❑ Increase ❑ Decrease	$_____
❑ 22C–1 ❑ 22C–2	____	_____	_____	❑ Increase ❑ Decrease	$_____
❑ 22C–1 ❑ 22C–2	____	_____	_____	❑ Increase ❑ Decrease	$_____

Part 4: Sign Below

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

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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, *Chapter13 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, *Chapter13 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.

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):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	First name Middle name Last name Suffix (Sr., Jr., II, III)	First name Middle name Last name Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names.	First name Middle name Last name First name Middle name Last name	First name Middle name Last name First name Middle name Last name
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)	xxx – xx – ____ ____ ____ ____ OR 9xx – xx – ____ ____ ____ ____	xxx – xx – ____ ____ ____ ____ OR 9xx – xx – ____ ____ ____ ____

	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.) _____ _____ _____ _____	*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.) _____ _____ _____ _____

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

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

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

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

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

_____

17. Are you filing under Chapter 7?

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?

- ❑ No. I am not filing under Chapter 7. Go to line 18.
- ❑ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
  - ❑ No
  - ❑ Yes

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

❑ 1-49	❑ 1,000-5,000	❑ 25,001-50,000
❑ 50-99	❑ 5,001-10,000	❑ 50,001-100,000
❑ 100-199	❑ 10,001-25,000	❑ More than 100,000
❑ 200-999		

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

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

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

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

✘ _____ ✘ _____

Signature of Debtor 1 Signature of Debtor 2

Date _____ Date _____
MM / DD / YYYY MM / DD / YYYY

For your attorney, if you are represented by one

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

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

✘ _____ Date _____
Signature of Attorney for Debtor 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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

✘ _____
Signature of Debtor 2

Date _____
MM / DD / YYYY

Contact phone _____

Cell phone _____

Email address _____

COMMITTEE NOTE

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

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

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

Part 2, *Tell the Court About Your Bankruptcy Case*, line 7, removes choices for chapters 9 and 15 filings because they do not pertain to individuals. 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:

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 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)(22) 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) and the court's local website (go to 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).

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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:

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 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*).

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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) and the court's local website (go to http://www.uscourts.gov/Court_Locator.aspx to find your court's website) for any specific requirements that you might have to meet to serve this statement.

COMMITTEE NOTE

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

Official Form 101A explains that debtors need to complete and file the form only if their landlord has a judgment for possession or an eviction judgment against them and they 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
1	**What is the nature of the claim?** _____	$_____
Creditor's Name _____	**As of the date you file, the claim is:** Check all that apply.	
Number Street _____	❑ Contingent	
_____	❑ Unliquidated	
City State ZIP Code _____	❑ Disputed	
Contact _____	❑ None of the above apply	
Contact phone _____	**Does the creditor have a lien on your property?**	
	❑ No	
	❑ Yes. Total claim (secured and unsecured): $_____	
	Value of security: - $_____	
	Unsecured claim $_____	
2	**What is the nature of the claim?** _____	$_____
Creditor's Name _____	**As of the date you file, the claim is:** Check all that apply.	
Number Street _____	❑ Contingent	
_____	❑ Unliquidated	
City State ZIP Code _____	❑ Disputed	
Contact _____	❑ None of the above apply	
Contact phone _____	**Does the creditor have a lien on your property?**	
	❑ No	
	❑ Yes. Total claim (secured and unsecured): $_____	
	Value of security: - $_____	
	Unsecured claim $_____	

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

		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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ 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
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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ 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 $_____	$_____
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. ❑ Contingent ❑ Unliquidated ❑ Disputed ❑ None of the above apply **Does the creditor have a lien on your property?** ❑ No ❑ Yes. Total claim (secured and unsecured): $_____ Value of security: - $_____ Unsecured claim $_____	$_____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

			Unsecured claim
13	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 $_____	$_____
14	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 $_____	$_____
15	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 $_____	$_____
16	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 $_____	$_____
17	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 $_____	$_____

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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

Date _____
MM / DD / YYYY

COMMITTEE NOTE

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

Form 104 is reformatted to make it easier to complete and understand. 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 9xx – xx – ____ ____ ____ ____

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

❑ Unknown

__ __ – __ __ __ __ __ __ __
EIN

__ __ – __ __ __ __ __ __ __
EIN

6. Debtor's address

Principal residence

_____
Number Street

_____

_____
City State ZIP Code

_____
County

Principal place of business

_____
Number Street

_____

_____
City State ZIP Code

_____
County

Mailing address, if different from residence

_____
Number Street

_____

_____
City State ZIP Code

7. Type of business

❑ Debtor does not operate a business

Check one if the debtor operates a business:

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

8. Type of debt

Each petitioner believes:

❑ **Debts are primarily consumer debts.** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

❑ **Debts are primarily business debts.** *Business debts* are debts that were incurred to obtain money for a business or investment or through the operation of the business or investment.

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

❑ No

❑ Yes. Debtor _____ Relationship _____

District _____ Date filed _____ Case number, if known_____
MM / DD / YYYY

Debtor _____ Relationship _____

District _____ Date filed _____ Case number, if known_____
MM / DD / YYYY

Part 3: Report About the Case

10. Venue

Reason for filing in this court.

Check one:

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

11. Allegations

Each petitioner is eligible to file this petition under 11 U.S.C. § 303(b).

The debtor may be the subject of an involuntary case under 11 U.S.C. § 303(a).

At least one box must be checked:

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

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

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

13. Each petitioner's claim

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

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

Part 4: Request for Relief

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

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

Petitioners or Petitioners' Representative

✘ _____

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

✘ _____

Signature of attorney

_____

Printed name

_____

Firm name, if any

_____

Number Street

_____

City State ZIP Code

Date signed _____
MM / DD / YYYY

Contact phone _____ Email _____

✘ _____

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

✘ _____

Signature of Attorney

_____

Printed name

_____

Firm name, if any

_____

Number Street

_____

City State ZIP Code

Date signed _____
MM / DD / YYYY

Contact phone _____ Email _____

✘ _____

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

✘ _____

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. ***Schedule A/B: Property*** (Official Form 106A/B).	
1a. Copy line 55, Total real estate, from *Schedule A/B*	$ _____
1b. Copy line 62, Total personal property, from *Schedule A/B*	$ _____
1c. Copy line 63, Total of all property on *Schedule A/B*	$ _____

Part 2: Summarize Your Liabilities

	Your liabilities Amount you owe
2. *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D)	
2a. Copy the total you listed in Column A, *Amount of claim,* at the bottom of the last page of Part 1 of *Schedule D*	$ _____
3. *Schedule E/F: Creditors Who Have Unsecured Claims* (Official Form 106E/F)	
3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of *Schedule E/F*	$ _____
3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of *Schedule E/F*	+ $ _____
Your total liabilities	$ _____

Part 3: Summarize Your Income and Expenses

4. *Schedule I: Your Income* (Official Form 106I) Copy your combined monthly income from line 12 of *Schedule I*	$ _____
5. *Schedule J: Your Expenses* (Official Form 106J) Copy your monthly expenses from line 22, Column A, of *Schedule J*	$ _____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

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

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)

Other information you wish to add about this item, such as local property identification number: _____

If you own or have more than one, list here:

1.2. _____
Street address, if available, or other description

_____

_____
City State ZIP Code

_____
County

What is the property? Check all that apply.
❑ Single-family home
❑ Duplex or multi-unit building
❑ Condominium or cooperative
❑ Manufactured or mobile home
❑ Land
❑ Investment property
❑ Timeshare
❑ Other _____

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.*

Current value of the entire property? $_____

Current value of the portion you own? $_____

❑ **Check if this is community property** (see instructions)

Other information you wish to add about this item, such as local property identification number: _____

1.3. _____
Street address, if available, or other description

_____

_____
City State ZIP Code

_____
County

What is the property? Check all that apply.
- ❑ Single-family home
- ❑ Duplex or multi-unit building
- ❑ Condominium or cooperative
- ❑ Manufactured or mobile home
- ❑ Land
- ❑ Investment property
- ❑ Timeshare
- ❑ Other _____

Who is an owner of the property? Check one.
- ❑ Debtor 1 only
- ❑ Debtor 2 only
- ❑ Debtor 1 and Debtor 2 only
- ❑ At least one of the debtors and another

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)

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

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, describe here:

3.2. Make: _____
Model: _____
Year: _____
Mileage:
- ❑ 0-24,999
- ❑ 25,000-49,999
- ❑ 50,000-74,999
- ❑ 75,000 or more

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?**
$_____	$_____

3.3. Make: _____

Model: _____

Year: _____

Mileage: ❑ 0-24,999
❑ 25,000-49,999
❑ 50,000-74,999
❑ 75,000 or more

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:

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:

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:

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** ..... ➔ $_____

Part 3: Describe Your Personal and Household Items

Do you own or have any legal or equitable interest in any of the following items?	**Current value of the portion you own?** Do not deduct secured claims or exemptions.

6. **Household goods and furnishings**

Examples: Major appliances, furniture, linens, china, kitchenware

❑ No
❑ Yes. Describe..... $_____

7. **Electronics**

Examples: Televisions and radios; audio, video, stereo, and digital equipment; computers, printers, scanners; music collections; electronic devices including cell phones, cameras, media players, games

❑ No
❑ Yes. Describe..... $_____

8. **Collectibles of value**

Examples: Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; stamp, coin, or baseball card collections; other collections, memorabilia, collectibles

❑ No
❑ Yes. Describe..... $_____

9. **Equipment for sports and hobbies**

Examples: Sports, photographic, exercise, and other hobby equipment; bicycles, pool tables, golf clubs, skis; canoes and kayaks; carpentry tools; musical instruments

❑ No
❑ Yes. Describe..... $_____

10. **Firearms**

Examples: Pistols, rifles, shotguns, ammunition, and related equipment

❑ No
❑ Yes. Describe..... $_____

11. **Clothes**

Examples: Everyday clothes, furs, leather coats, designer wear, shoes, accessories

❑ No
❑ Yes. Describe..... $_____

12. **Jewelry**

Examples: Everyday jewelry, costume jewelry, engagement rings, wedding rings, heirloom jewelry, watches, gems, gold, silver

❑ No
❑ Yes. Describe..... $_____

13. **Non-farm animals**

Examples: Dogs, cats, birds, horses

❑ No
❑ Yes. Describe..... $_____

14. **Any other personal and household items you did not already list, including any health aids you did not list**

❑ No
❑ Yes. Give specific information. ..... $_____

15. **Add the dollar value of all of your entries from Part 3, including any entries for pages you have attached for Part 3. Write that number here** ..... ➔ $_____

Part 4: Describe Your Financial Assets

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

Current value of the portion you own?
Do not deduct secured claims or exemptions.

16. **Cash**
Examples: Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition

❑ No
❑ Yes ..... Cash: ..... $_____

17. **Deposits of money**
Examples: Checking, savings, or other financial accounts; certificates of deposit; shares in credit unions, brokerage houses, and other similar institutions. If you have multiple accounts with the same institution, list each.

❑ No
❑ Yes ..... Institution name:

17.1. Checking account: _____ $_____
17.2. Checking account: _____ $_____
17.3. Savings account: _____ $_____
17.4. Savings account: _____ $_____
17.5. Certificates of deposit: _____ $_____
17.6. Other financial account: _____ $_____
17.7. Other financial account: _____ $_____
17.8. Other financial account: _____ $_____
17.9. Other financial account: _____ $_____

18. **Bonds, mutual funds, or publicly traded stocks**
Examples: Bond funds, investment accounts with brokerage firms, money market accounts

❑ No
❑ Yes ..... Institution 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.

- ❑ No
- ❑ Yes. Give specific information about them..... Issuer name:

_____ $_____
_____ $_____
_____ $_____

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

- ❑ No
- ❑ Yes. List each account separately.

Type of account:	Institution name:	
401(k) or similar plan:	_____	$_____
Pension plan:	_____	$_____
IRA:	_____	$_____
Retirement account:	_____	$_____
Keogh:	_____	$_____
Additional account:	_____	$_____
Additional account:	_____	$_____

22. **Security deposits and prepayments**

Your share of all unused deposits you have made so that you may continue service or use from a company
Examples: Agreements with landlords, prepaid rent, public utilities (electric, gas, water), telecommunications companies, or others

- ❑ No
- ❑ Yes.....

	Institution name or individual:	
Electric:	_____	$_____
Gas:	_____	$_____
Heating oil:	_____	$_____
Security deposit on rental unit:	_____	$_____
Prepaid rent:	_____	$_____
Telephone:	_____	$_____
Water:	_____	$_____
Rented furniture:	_____	$_____
Other:	_____	$_____

23. **Annuities** (A contract for a periodic payment of money to you, either for life or for a number of years)

- ❑ No
- ❑ Yes..... Issuer name and description:

_____ $_____
_____ $_____
_____ $_____

24. **Interests in an education IRA** as defined in 26 U.S.C. § 530(b)(1) or under a qualified state tuition plan as defined in 26 U.S.C. § 529(b)(1).

❑ No

❑ Yes ..... Institution name and description. Separately file the records of any interests.11 U.S.C. § 521(c):

_____ $_____

_____ $_____

_____ $_____

25. **Trusts, equitable or future interests in property (other than anything listed in line 1), and rights or powers exercisable for your benefit**

❑ No

❑ Yes. Give specific information about them.... $_____

26. **Patents, copyrights, trademarks, trade secrets, and other intellectual property**
Examples: Internet domain names, websites, proceeds from royalties and licensing agreements

❑ No

❑ Yes. Give specific information about them.... $_____

27. **Licenses, franchises, and other general intangibles**
Examples: Building permits, exclusive licenses, cooperative association holdings, liquor licenses, professional licenses

❑ No

❑ Yes. Give specific information about them.... $_____

Money or property owed to you?

Current value of the portion you own?
Do not deduct secured claims or exemptions.

28. **Tax refunds owed to you**

❑ No

❑ Yes. Give specific information about them, including whether you already filed the returns and the tax years. .....

Federal: $_____

State: $_____

Local: $_____

29. **Family support**
Examples: Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement

❑ No

❑ Yes. Give specific information.....

Alimony: $_____

Maintenance: $_____

Support: $_____

Divorce settlement: $_____

Property settlement: $_____

30. **Other amounts someone owes you**
Examples: Unpaid wages, disability insurance payments, disability benefits, sick pay, vacation pay, workers' compensation, Social Security benefits; unpaid loans you made to someone else

❑ No

❑ Yes. Give specific information..... $_____

31. **Interests in insurance policies**
Examples: Health, disability, or life insurance; health savings account (HSA); credit, homeowner's, or renter's insurance

❑ No
❑ Yes. Name the insurance company of each policy and list its value. ...

Company name:	Beneficiary:	Surrender or refund value:
_____	_____	$_____
_____	_____	$_____
_____	_____	$_____

32. **Any interest in property that is due you from someone who has died**
If you are the beneficiary of a living trust, expect proceeds from a life insurance policy, have inherited something from an existing estate

❑ No
❑ Yes. Give specific information..... $_____

33. **Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment**
Examples: Accidents, employment disputes, insurance claims, or rights to sue

❑ No
❑ Yes. Describe each claim. ..... $_____

34. **Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims**

❑ No
❑ Yes. Describe each claim. ..... $_____

35. **Any financial assets you did not already list**

❑ No
❑ Yes. Give specific information..... $_____

36. **Add the dollar value of all of your entries from Part 4, including any entries for pages you have attached for Part 4. Write that number here** ..... ➔ $_____

Part 5: Describe Any Business-Related Property You Own or Have an Interest In. List any real estate in Part 1.

37. **Do you own or have any legal or equitable interest in any business-related property?**

❑ No. Go to Part 6.
❑ Yes. Go to line 38.

Current value of the portion you own?
Do not deduct secured claims or exemptions.

38. **Accounts receivable or commissions you already earned**

❑ No
❑ Yes. Describe..... $_____

39. **Office equipment, furnishings, and supplies**
Examples: Business-related computers, software, modems, printers, copiers, fax machines, rugs, telephones, desks, chairs, electronic devices

❑ No
❑ Yes. Describe..... $_____

40. **Machinery, fixtures, equipment, supplies you use in business, and tools of your trade**

❑ No
❑ Yes. Describe..... $_____

41. **Inventory**

❑ No
❑ Yes. Describe..... $_____

42. **Interests in partnerships or joint ventures**

❑ No
❑ Yes. Describe.....

Name of entity:	% of ownership:	
_____	_____%	$_____
_____	_____%	$_____
_____	_____%	$_____

43. **Customer lists, mailing lists, or other compilations**

❑ No
❑ Yes. **Do your lists include personally identifiable information** (as defined in 11 U.S.C. § 101(41A))**?**

❑ No
❑ Yes. Describe..... $_____

44. **Any business-related property you did not already list**

❑ No
❑ Yes. Give specific information .....

_____ $_____
_____ $_____
_____ $_____
_____ $_____
_____ $_____
_____ $_____

45. **Add the dollar value of all of your entries from Part 5, including any entries for pages you have attached for Part 5. Write that number here** ..... ➔ $_____

Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In.

If you own or have an interest in farmland, list it in Part 1.

46. **Do you own or have any legal or equitable interest in any farm- or commercial fishing-related property?**

❑ No. Go to Part 7.
❑ Yes. Go to line 47.

Current value of the portion you own?
Do not deduct secured claims or exemptions.

47. **Farm animals**

Examples: Livestock, poultry, farm-raised fish

❑ No
❑ Yes..... $_____

48. **Crops—either growing or harvested**

❑ No
❑ Yes. Give specific information. ..... $_____

49. **Farm and fishing equipment 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** Copy the value from *Schedule A/B*	**Amount of the exemption you claim** *Check only one box for each exemption.*	**Specific laws that allow exemption**
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 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

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

Part 2: Additional Page

Brief description of the property and line on *Schedule A/B* that lists this property	**Current value of the portion you own** Copy the value from *Schedule A/B*	**Amount of the exemption you claim** *Check only one box for each exemption*	**Specific laws that allow exemption**
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 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.

		Column A **Amount of claim** Do not deduct the value of collateral.	*Column B* **Value of collateral that supports this claim**	*Column C* **Unsecured portion** If any
2.1 _____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code **Who owes the debt?** Check one. ❑ Debtor 1 only ❑ Debtor 2 only ❑ Debtor 1 and Debtor 2 only ❑ At least one of the debtors and another ❑ **Check if this is a community claim** **Date debt was incurred** _____	**Describe the property that is collateral:** **As of the date you file, the claim is:** Check all that apply. ❑ Contingent ❑ Unliquidated ❑ Disputed ❑ None of the above apply **Nature of lien**. Check all that apply. ❑ An agreement you made (such as mortgage or secured car loan) ❑ Statutory lien (such as tax lien, mechanic's lien) ❑ Judgment lien from a lawsuit ❑ Other _____ **Last 4 digits of account number** ___ ___ ___ ___	$_____	$_____	$_____
2.2 _____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code **Who owes the debt?** Check one. ❑ Debtor 1 only ❑ Debtor 2 only ❑ Debtor 1 and Debtor 2 only ❑ At least one of the debtors and another ❑ **Check if this is a community claim** **Date debt was incurred** _____	**Describe the property that is collateral:** **As of the date you file, the claim is:** Check all that apply. ❑ Contingent ❑ Unliquidated ❑ Disputed ❑ None of the above apply **Nature of lien**. Check all that apply. ❑ An agreement you made (such as mortgage or secured car loan) ❑ Statutory lien (such as tax lien, mechanic's lien) ❑ Judgment lien from a lawsuit ❑ Other _____ **Last 4 digits of account number** ___ ___ ___ ___	$_____	$_____	$_____
Add the dollar value of your entries in Column A on this page. Write that number here:		$_____		

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

Part 1: Additional Page

After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.

		Column A **Amount of claim** Do not deduct the value of collateral.	*Column B* **Value of collateral that supports this claim**	*Column C* **Unsecured portion** If any
☐ _____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code **Who owes the debt?** Check one. ☐ Debtor 1 only ☐ Debtor 2 only ☐ Debtor 1 and Debtor 2 only ☐ At least one of the debtors and another ☐ **Check if this is a community claim** **Date debt was incurred** _____	**Describe the property that is collateral:** **As of the date you file, the claim is:** Check all that apply. ☐ Contingent ☐ Unliquidated ☐ Disputed ☐ None of the above apply **Nature of lien**. Check all that apply. ☐ An agreement you made (such as mortgage or secured car loan) ☐ Statutory lien (such as tax lien, mechanic's lien) ☐ Judgment lien from a lawsuit ☐ Other _____ **Last 4 digits of account number** ___ ___ ___ ___	$_____	$_____	$_____
☐ _____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code **Who owes the debt?** Check one. ☐ Debtor 1 only ☐ Debtor 2 only ☐ Debtor 1 and Debtor 2 only ☐ At least one of the debtors and another ☐ **Check if this is a community claim** **Date debt was incurred** _____	**Describe the property that is collateral:** **As of the date you file, the claim is:** Check all that apply. ☐ Contingent ☐ Unliquidated ☐ Disputed ☐ None of the above apply **Nature of lien**. Check all that apply. ☐ An agreement you made (such as mortgage or secured car loan) ☐ Statutory lien (such as tax lien, mechanic's lien) ☐ Judgment lien from a lawsuit ☐ Other _____ **Last 4 digits of account number** ___ ___ ___ ___	$_____	$_____	$_____
☐ _____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code **Who owes the debt?** Check one. ☐ Debtor 1 only ☐ Debtor 2 only ☐ Debtor 1 and Debtor 2 only ☐ At least one of the debtors and another ☐ **Check if this is a community claim** **Date debt was incurred** _____	**Describe the property that is collateral:** **As of the date you file, the claim is:** Check all that apply. ☐ Contingent ☐ Unliquidated ☐ Disputed ☐ None of the above apply **Nature of lien**. Check all that apply. ☐ An agreement you made (such as mortgage or secured car loan) ☐ Statutory lien (such as tax lien, mechanic's lien) ☐ Judgment lien from a lawsuit ☐ Other _____ **Last 4 digits of account number** ___ ___ ___ ___	$_____	$_____	$_____

Add the dollar value of your entries in Column A on this page. Write that number here: $_____

If this is the last page of your form, add the dollar value totals from all pages. Write that number here: $_____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

Part 2: List Others to Be Notified for a Debt That You Already Listed

Use this page only if you have others to be notified about your bankruptcy for a debt that you already listed in Part 1. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the creditor in Part 1, and then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Part 1, list the additional creditors here. If you do not have additional persons to be notified for any debts in Part 1, do not fill out or submit this page.

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

☐ _____
Name
_____
Number Street
_____
_____
City State ZIP Code

On which line in Part 1 did you enter the creditor? _____

Last 4 digits of account number ___ ___ ___ ___

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

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

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

Case number _____
(If known)

Draft April 19, 2013

❑ 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 **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 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 _____	$_____	$_____	$_____
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**	**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 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 _____	$_____	$_____	$_____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

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
	$_____	$_____	$_____
	$_____	$_____	$_____
	$_____	$_____	$_____
	$_____	$_____	$_____

_____
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**

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 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 _____

_____
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**

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 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 _____

_____
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**

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 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 _____

_____
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**

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 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

4.1

_____
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 _____

4.2

_____
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 _____

4.3

_____
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 _____

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 _____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

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_____

_____
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_____

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

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

Line _____ of (*Check one*): ❑ Part 1: Creditors with Priority Unsecured Claims
❑ Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number ___ ___ ___ ___

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

Line _____ of (*Check one*): ❑ Part 1: Creditors with Priority Unsecured Claims
❑ Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number ___ ___ ___ ___

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

Line _____ of (*Check one*): ❑ Part 1: Creditors with Priority Unsecured Claims
❑ Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number ___ ___ ___ ___

Name

Number Street

City State ZIP Code

On which entry in Part 1 or Part 2 did you list the original creditor?

Line _____ of (*Check one*): ❑ Part 1: Creditors with Priority Unsecured Claims
❑ Part 2: Creditors with Nonpriority Unsecured Claims

Last 4 digits of account number ___ ___ ___ ___

Part 4: Add the Amounts for Each Type of Unsecured Claim

6. Total the amounts of certain types of unsecured claims for statistical reporting purposes. For reporting purposes, add the amounts for each type of unsecured claim.

			Total claim
Total claims from Part 1	6a. **Domestic support obligations**	6a.	$_____
	6b. **Taxes and certain other debts you owe the government**	6b.	$_____
	6c. **Claims for death or personal injury while you were intoxicated**	6c.	$_____
	6d. **Other.** Add all other priority unsecured claims. Write that amount here.	6d.	+ $_____
	6e. **Total.** Add lines 6a through 6d.	6e.	$_____

			Total claim
Total claims from Part 2	6f. **Student loans**	6f.	$_____
	6g. **Obligations arising out of a separation agreement or divorce that you did not report as priority claims**	6g.	$_____
	6h. **Debts to pension or profit-sharing plans, and other similar debts**	6h.	$_____
	6i. **Other.** Add all other nonpriority unsecured claims. Write that amount here.	6i.	+ $_____
	6j. **Total.** Add lines 6f through 6i.	6j.	$_____

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
1	Name Number Street City State ZIP Code	
2	Name Number Street City State ZIP Code	
3	Name Number Street City State ZIP Code	
4	Name Number Street City State ZIP Code	
5	Name Number Street City State ZIP Code	

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

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
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
Name Number Street City State ZIP Code	
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	Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
2	Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
3	Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

Additional Page to List More Codebtors

Column 1: **Your codebtor**	*Column 2:* **The creditor to whom you owe the debt**
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR `Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____
Name Number Street City State ZIP Code	Line from *Schedule D:* _____ OR Line from *Schedule E/F:* _____

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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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 codebters, 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
		❑ Same as Debtor 1	❑ Same as Debtor 1
_____ Number Street _____ _____ City State ZIP Code	From _____ To _____	_____ Number Street _____ _____ City State ZIP Code	From _____ To _____
		❑ Same as Debtor 1	❑ Same as Debtor 1
_____ Number Street _____ _____ City State ZIP Code	From _____ To _____	_____ Number Street _____ _____ City State ZIP Code	From _____ To _____

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)
From January 1 of current year until the date you filed for bankruptcy:	❑ Wages, commissions, bonuses, tips ❑ Operating a business	$_____	❑ Wages, commissions, bonuses, tips ❑ Operating a business	$_____
For last calendar year: (January 1 to December 31, _____) YYYY	❑ Wages, commissions, bonuses, tips ❑ Operating a business	$_____	❑ Wages, commissions, bonuses, tips ❑ Operating a business	$_____
For the calendar year before that: (January 1 to December 31, _____) YYYY	❑ Wages, commissions, bonuses, tips ❑ Operating a business	$_____	❑ Wages, commissions, bonuses, tips ❑ 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)
From January 1 of current year until the date you filed for bankruptcy:	_____	$_____	_____	$_____
	_____	$_____	_____	$_____
	_____	$_____	_____	$_____
For last calendar year: (January 1 to December 31, _____) YYYY	_____	$_____	_____	$_____
	_____	$_____	_____	$_____
	_____	$_____	_____	$_____
For the calendar year before that: (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.

	Dates of payment	Total amount paid	Amount you still owe	Was this payment for…
_____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code	_____ _____ _____	$_____	$_____	❑ Mortgage ❑ Car ❑ Credit card ❑ Loan repayment ❑ Suppliers or vendors ❑ Other _____
_____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code	_____ _____ _____	$_____	$_____	❑ Mortgage ❑ Car ❑ Credit card ❑ Loan repayment ❑ Suppliers or vendors ❑ Other _____
_____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code	_____ _____ _____	$_____	$_____	❑ Mortgage ❑ Car ❑ Credit card ❑ Loan repayment ❑ Suppliers or vendors ❑ Other _____

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_____ _____ Case number _____		_____ Court Name _____ Number Street _____ City State ZIP Code	❑ Pending ❑ On appeal ❑ Concluded
Case title_____ _____ Case number _____		_____ Court Name _____ Number Street _____ City State ZIP Code	❑ Pending ❑ On appeal ❑ 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	**Explain what happened** ❑ Property was repossessed. ❑ Property was foreclosed. ❑ Property was garnished. ❑ Property was attached, seized, or levied.	_____	$_____
_____ Creditor's Name _____ Number Street _____ _____ City State ZIP Code	**Explain what happened** ❑ Property was repossessed. ❑ Property was foreclosed. ❑ Property was garnished. ❑ 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 Include the amount that insurance has paid. List pending insurance claims on line 33 of *Schedule A/B: Property.*	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.

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
_____ Person Who Was Paid _____ Number Street _____ _____ City State ZIP Code _____ Email or website address _____ Person Who Made the Payment, if Not You		_____ _____	$_____ $_____

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
_____ Person Who Was Paid _____ Number Street _____ _____ City State ZIP Code _____ Email or website address _____ Person Who Made the Payment, if Not You		_____ _____	$_____ $_____

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.

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
_____ Person Who Was Paid _____ Number Street _____ _____ City State ZIP Code		_____ _____	$_____ $_____

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–___ ___ ___ ___	❑ Checking ❑ Savings ❑ Money market ❑ Brokerage ❑ Other_____	_____	$_____
Name of Financial Institution Number Street City State ZIP Code	XXXX–___ ___ ___ ___	❑ Checking ❑ Savings ❑ Money market ❑ Brokerage ❑ 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		❑ No ❑ 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		❑ No ❑ 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	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	Governmental unit 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	Governmental unit 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.

	Court or agency	Nature of the case	Status of the case
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.

	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
_____ Business Name _____ Number Street		EIN: ___ ___ – ___ ___ ___ ___ ___ ___ ___
_____ _____ City State ZIP Code	**Name of accountant or bookkeeper**	**Dates business existed** From _____ To _____
	Describe the nature of the business	**Employer Identification number** Do not include Social Security number or ITIN.
_____ Business Name _____ Number Street		EIN: ___ ___ – ___ ___ ___ ___ ___ ___ ___
_____ _____ City State ZIP Code	**Name of accountant or bookkeeper**	**Dates business existed** From _____ To _____
	Describe the nature of the business	**Employer Identification number** Do not include Social Security number or ITIN.
_____ Business Name _____ Number Street		EIN: ___ ___ – ___ ___ ___ ___ ___ ___ ___
_____ _____ City State ZIP Code	**Name of accountant or bookkeeper**	**Dates business existed** 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.

✘ _____
Signature of Debtor 1

Date _____

✘ _____
Signature of Debtor 2

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.

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:	❑ Give the property to the creditor. ❑ Keep the property. *Check one*: ❑ I will redeem the property. ❑ I will sign a *Reaffirmation Agreement*. ❑ Other. Explain: _____	❑ No ❑ Yes
Creditor's name: Description of property securing debt:	❑ Give the property to the creditor. ❑ Keep the property. *Check one*: ❑ I will redeem the property. ❑ I will sign a *Reaffirmation Agreement*. ❑ Other. Explain: _____	❑ No ❑ Yes
Creditor's name: Description of property securing debt:	❑ Give the property to the creditor. ❑ Keep the property. *Check one*: ❑ I will redeem the property. ❑ I will sign a *Reaffirmation Agreement*. ❑ Other. Explain: _____	❑ No ❑ Yes
Creditor's name: Description of property securing debt:	❑ Give the property to the creditor. ❑ Keep the property. *Check one*: ❑ I will redeem the property. ❑ I will sign a *Reaffirmation Agreement*. ❑ Other. Explain: _____	❑ No ❑ Yes

Your name _____
First Name Middle Name Last Name

Case number (*If known*)_____

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:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ Yes
Lessor's name: Description of leased property:	❑ No ❑ 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.

✘ _____
Signature of Debtor 1

Date _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

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)

Draft May 3, 2013

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.

_____ Date _____
Signature of Debtor 1 acknowledging receipt of this notice MM / DD / YYYY

_____ Date _____
Signature of Debtor 2, acknowledging receipt of this notice 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:

- ❑ Voluntary Petition (Form 101)
- ❑ Statement About Your Social Security Numbers (Form 121)
- ❑ Your Assets and Liabilities and Certain Statistical Information (Form 106Sum)
- ❑ Schedule A/B (Form 106A/B)
- ❑ Schedule C (Form 106C)
- ❑ Schedule D (Form 106D)
- ❑ Schedule E/F (Form 106E/F)
- ❑ Schedule G (Form 106G)
- ❑ Schedule H (Form 106H)
- ❑ Schedule I (Form 106I)
- ❑ Schedule J (Form 106J)
- ❑ Declaration About an Individual Debtor's Schedules (Form 106Dec)
- ❑ Statement of Financial Affairs (Form 107)
- ❑ Statement of Intention for Individuals Filing Under Chapter 7 (Form 112)
- ❑ Chapter 7 Statement of Your Current Monthly Income (Form 108-1)
- ❑ Statement of Exemption from Presumption of Abuse Under § 707(b)(2) (Form 108-1Supp)
- ❑ Chapter 7 Means Test Calculation (Form 108-2)
- ❑ Chapter 11 Statement of Your Current Monthly Income (Form 109)
- ❑ Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (Form 110-1)
- ❑ Chapter 13 Calculation of Your Disposable Income (Form 110-2)
- ❑ Application to Pay Filing Fee in Installments (Form 103A)
- ❑ Application to Have Chapter 7 Filing Fee Waived (Form 103B)
- ❑ A list of names and addresses of all creditors (*creditor or mailing matrix*)
- ❑ Other _____

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.

_____ ___ ___ ___ -- ___ ___ -- ___ ___ ___ ___ Date _____
Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner Social Security number of person who signed MM / DD / YYYY

_____
Printed name

_____ ___ ___ ___ -- ___ ___ -- ___ ___ ___ ___ Date _____
Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner Social Security number of person who signed 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):
1. Your name	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

2. All Social Security Numbers you have used	___ ___ ___ – ___ ___ – ___ ___ ___ ___	___ ___ ___ – ___ ___ – ___ ___ ___ ___
	___ ___ ___ – ___ ___ – ___ ___ ___ ___	___ ___ ___ – ___ ___ – ___ ___ ___ ___
	❑ You do not have a Social Security number.	❑ You do not have a Social Security number.
3. All federal Individual Taxpayer Identification Numbers (ITIN) you have used	9 ___ ___ – ___ ___ – ___ ___ ___ ___	9 ___ ___ – ___ ___ – ___ ___ ___ ___
	9 ___ ___ – ___ ___ – ___ ___ ___ ___	9 ___ ___ – ___ ___ – ___ ___ ___ ___
	❑ You do not have an ITIN.	❑ You do not have an ITIN.

Part 3: Sign Below

Under penalty of perjury, I declare that the information I have provided in this form is true and correct.	Under penalty of perjury, I declare that the information I have provided in this form is true and correct.
✘ _____	✘ _____
Signature of Debtor 1	Signature of Debtor 2
Date _____ MM / DD / YYYY	Date _____ MM / DD / YYYY

COMMITTEE NOTE

Official Form 121, *Statement About Your Social Security Numbers*, is revised as part of the Forms Modernization Project. The form, which applies only in cases of individual debtors, replaces former Official Form 21, *Statement of Social Security Number(s)*. It is renumbered to distinguish it from the forms used by non-individual debtors, such as corporations and partnerships.

To make Form 121 easier to understand and complete, the form is divided into three sections, and directions on the form are simplified. The debtors' Employer Tax-Identification number (EIN) is eliminated from the form, and the debtor's name is moved from the caption to the body of the form.

Information to identify the case:

Debtor 1 _____
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:

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 April 19, 2013

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.

_____ _____ Date _____
Signature of debtor named on certificate Printed name of debtor 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. **Using information from *Schedule I: Your Income*** (Official Form 106I) **and *Schedule J: Your Expenses*** (Official Form 106J)**, fill in the amounts.**

Income and expenses reported on Schedules 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. **Scheduled net monthly income** Subtract lines 6b and 6c from 6a. If the total is less than 0, put the number in brackets.	$ _____	6h. **Present net monthly income** Subtract lines 6f and 6g from 6e. If the total is less than 0, put the number in brackets.	$ _____

Debtor 1 _____ Case number (*if known*)_____
First Name Middle Name Last Name

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**

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.

I certify that each explanation on lines 7-9 is true and correct.

✘ _____
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

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

  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.

If you file under chapter 7, you must also file:

- ❑ *Statement of Intention for Individuals Filing Under Chapter 7* (Official Form 112)
- ❑ *Chapter 7 Statement of Your Current Monthly Income* (Official Form 108-1)
- ❑ If necessary, *Chapter 7 Means Test Calculation* (Official Form 108-2).

If you file under chapter 11, you must also file:

- ❑ *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109)

If you file under chapter 11 and are a small business debtor (that is, if you are self-employed and your debts are less than $2,490,925*), within 7 days after you file your bankruptcy forms to open your case, you must also file your most recent:

- ❑ Balance sheet
- ❑ Statement of operations
- ❑ Cash-flow statement
- ❑ Federal income tax return

If you do not have these documents, you must file a statement made under penalty of perjury that you have not prepared either a balance sheet, statement of operations, or cash-flow statement or you have not filed a federal tax return.

If you file under chapter 11, you must 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.

If you file under chapter 12, you must also file:

- ❑ Chapter 12 Plan (within 90 days after you file your bankruptcy forms to open your case)

If you file under chapter 13, you must also file:

- ❑ *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)

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.

Chapter 7: Liquidation

	$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.

Chapter 11: Reorganization

	$1,167	filing fee
+	$46	administrative fee
	$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.

Chapter 12: Repayment plan for family farmers or fishermen

	$200	filing fee
+	$46	administrative fee
	$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.

Chapter 13: Repayment plan for individuals with regular income

	$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.

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)

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)

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)

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	first mortgage
	$100,000	remaining property value
	$150,000	second mortgage
-	$100,000	remaining property value
	$ 50,000	unsecured portion of second mortgage

Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F)

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

What are priority unsecured claims?

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.

What are nonpriority unsecured claims?

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.

What if a claim has both priority and nonpriority amounts?

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.

What is needed for statistical purposes?

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)

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)

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)

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.

Example for weekly payments:

If you are paid $1,000 every week, figure your monthly income in this way:

	$1,000	income every week
X	52	number of pay periods in the year
	$52,000	total income for the year

$52,000 (*income for year*) / 12 (number of months in year) = $4,333 monthly income

Example for bi-weekly payments:

If you are paid $2,500 every other week, figure your monthly income in this way:

	$2,500	income every other week
X	26	number of pay periods in the year
	$65,000	total income for the year

$65,000 (income for year) / 12 (number of months in year) = $5,417 monthly income

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:

	$75	income a day
X	96	days a year
	$7,200	total income for the year

$7,200 (income for year) / 12 (number of months in year) = $600 monthly income

or this way:

	$75	income a day
X	8	payments a month
	$600	income for the month

Example for quarterly payments:

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

$60,000 (income for year) / 12 (number of months in year) = $5,000 monthly income

Example for irregular payments:

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

$32,000 (income for year) / 12 (number of months in year) = $2,667 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)

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)

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)

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)

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)

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

You must file the *Chapter 11 Statement of Your Current Monthly Income* (Official Form 109) if you are an individual filing for bankruptcy under chapter 11.

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

Chapter 13 Statement of Your Current Monthly Income, Calculation of Commitment Period and Chapter 13 Calculation of Your Disposable Income
(Official Forms 110–1 and 110–2)

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

Official Forms 110─1 and 110─2 determine the commitment period for your payments to creditors, how the amount you may be required to pay to creditors is established, and, in some situations, how much you must pay.

You must file 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, *Chapter13 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)

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)

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)

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)
	$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

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.

Draft - 05/13/2013

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

Part 3: Treatment of Secured Claims

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:				
_____	_____	❑ Trustee				
_____	_____	❑ Debtor(s)				
_____	_____	$_____	$_____	_____	$_____	$_____
_____	_____	Disbursed by:				
_____	_____	❑ Trustee				
_____	_____	❑ 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: ❑ Trustee ❑ Debtor(s)	$_____
_____ _____ _____	_____ _____ _____	$_____	_____	$_____ Disbursed by: ❑ Trustee ❑ 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:		
_____	❑ Trustee		
	❑ Debtor(s)		
_____	$_____	$_____	$_____
_____	Disbursed by:		
_____	❑ Trustee		
	❑ 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: ❑ Trustee ❑ Debtor(s)	$_____	$_____
_____ _____	_____ _____	_____ _____	$_____ Disbursed by: ❑ Trustee ❑ 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 revest 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)

✘ _____ Date _____
Signature of debtor MM / DD / YYYY

✘ _____ Date _____
Signature of debtor MM / DD / YYYY

Debtors' Attorney

✘ _____ Date_____
Signature of debtor's attorney MM / DD / YYYY

Chapter 13 Plan Exhibits

12/15

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	$_____
			e. Value of debtor's interest in property	$_____
			f. Subtract line e from line d	$_____
			Extent of exemption impairment (*Check applicable box*): ❑ **Line f is equal to or greater than line a**. The entire lien is avoided. ❑ **Line f is less than line a.** A portion of the lien is avoided.	
			Amount of lien not avoided Subtract line f from line a	$_____

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. **Current installment and arrearage payments on secured claims** (*Part 3, Section 3.1 total*): $_____

b. **Allowed secured claims** (*Part 3, Section 3.2 total*): $_____

c. **Secured claims not subject to 11 U.S.C. § 506** (*Part 3, Section 3.3 total*): $_____

d. **Judicial liens or security interests not avoided** (*Part 3, Section 3.4 total*): $_____

e. **Administrative and other priority claims** (*Part 4 total*): $_____

f. **Current installment payments and arrearage payments on unsecured debts** (*Part 5, Section 5.1 total*): $_____

g. **Separately classified unsecured claims** (*Part 5, Section 5.2 total*): $_____

h. **Nonpriority unsecured claims** (*Part 5, Section 5.3 total*): $_____

i. **Interest on allowed unsecured claims** (*Part 5, Section 5.4 total*): $_____

j. **Arrearage payments on executory contracts and unexpired leases** (*Part 6, Section 6.1 total*): $_____

Total of lines a through j ..... $_____

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 revest 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.

Draft: May 10, 2013

[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

_____ Date: _____

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

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).

Draft: May 10, 2013

[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).

_____ Date: _____
Signature

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.

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

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EVIDENCE RULES

MEMORANDUM

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

From: Honorable David G. Campbell, Chair
Advisory Committee on Civil Rules

Date: May 8, 2013, as supplemented June 2013

Re: Report of the Advisory Committee on Civil Rules

INTRODUCTION

This report accompanies publication for comment of proposed amendments to Civil Rules 1, 4, 16, 26, 30, 31, 33, 34, 36, and 37, and abrogation of Rule 84 and the Rule 84 official forms. These amendments were approved for publication at the January 2013, and June 2013 meetings of the Committee on Rules of Practice and Procedure (the Standing Committee), and the explanation of the proposals is taken from the Advisory Committee's May 8, 2013, report to the Standing Committee.

The Civil Rules Advisory Committee met at the University of Oklahoma College of Law on April 11-12, 2013.* * * This report has been prepared by Professor Cooper, Committee Reporter, with Professor Marcus, Associate Reporter, and various subcommittee chairs.

Part I.A. of this Report presents for action a proposal recommending publication for comment of revisions to Rules 1, 4, 16, 26, 30, 31, 33, 34, 36, and 37. These recommendations are little changed from the proposals that were presented for discussion, but not for action, at the January meeting of the Standing Committee. They form a package developed in response to the central themes that emerged from the conference held at the Duke Law School in May 2010.

Participants urged the need for increased cooperation; proportionality in using procedural tools, most particularly discovery; and early, active judicial case management.

Part I.B. presents for action a proposal recommending publication for comment of a revised Rule 37(e). Publication was approved at the January 2013 meeting of the Standing Committee, recognizing that the Advisory Committee would consider several matters discussed at the January meeting and report back to this June meeting. The revisions provide both remedies and sanctions for failure to preserve discoverable information that should have been preserved. In addition, they describe factors to be considered both in determining whether information should have been preserved and also in determining whether a failure was willful or in bad faith. This report restates the reasons for the recommendation, describes the outcome of deliberations by the Discovery Subcommittee and Advisory Committee in addressing the matters raised at the January meeting, and also lists the questions that will be specifically flagged in the request for public comment.

Part I.C. presents for action a recommendation to approve for publication a proposal that would abrogate Rule 84 and the Rule 84 official forms. This proposal includes amendments of Rule 4(d)(1)(C) and (D) that direct use of official Rule 4 Forms that adopt what now are the Form 5 request to waive service and the Form 6 waiver.

* * * * *

PART I: ACTION ITEMS

A. RULES 1, 4, 16, 26, 30, 31, 33, 34, 36, 37: ACTION TO RECOMMEND PUBLICATION OF "DUKE RULES" PACKAGE

The 2010 Duke Conference bristled with ideas for reducing cost and delay in civil litigation, including many that seem suitable subjects for incorporation in the rules. Advanced drafts were discussed at the January meeting of the Standing Committee. Suggestions made during the meeting and other refinements were explored in two conference calls of the Duke Conference Subcommittee. The Advisory Committee recommends publication for comment of the package presented to it by the Subcommittee.

In January, Judge Koeltl, chair of the Duke Conference Subcommittee, recalled that three main themes were repeatedly stressed at the Duke Conference. Proportionality in discovery, cooperation among lawyers, and early and active judicial case management are highly valued and, at times, missing in action. The Subcommittee worked on various means of advancing these goals. The package of rules changes has evolved over a period of nearly three years through many drafts and meetings and discussions in Advisory Committee meetings. The Committee is unanimous in proposing that each part of the amendments be recommended for publication.

The rules proposals are grouped in three sets. One set looks to improve early and effective judicial case management. The second seeks to enhance the means of keeping discovery proportional to the action. The third hopes to advance cooperation. The rules involved in these

three sets overlap. The changes are described first, set-by-set. The rules texts showing the changes follow, along with Committee Notes.

Case-management Proposals

The case-management proposals reflect a perception that the early stages of litigation often take far too long. "Time is money." The longer it takes to litigate an action, the more it costs. And delay is itself undesirable. The most direct aim at early case management is reflected in Rules 4(m) and 16(b). Another important proposal relaxes the Rule 26(d)(1) discovery moratorium to permit early delivery of Rule 34 requests to produce, setting the time to respond to begin at the first Rule 26(f) conference.

Rule 4(m): Rule 4(m) would be revised to shorten the time to serve the summons and complaint from 120 days to 60 days. The effect will be to get the action moving in half the time. The amendment responds to the commonly expressed view that four months to serve the summons and complaint is too long. Concerns that circumstances occasionally justify a longer time to effect service are met by the court's duty, already in Rule 4(m), to extend the time if the plaintiff shows good cause for the failure to serve within the specified time.

The Department of Justice has reacted to this proposal by suggesting that shortening the time to serve will exacerbate a problem it now encounters in condemnation actions. Rule 71.1(d)(3)(A) directs that service of notice of the proceeding be made on defendant-owners "in accordance with Rule 4." This wholesale incorporation of Rule 4 may seem to include Rule 4(m). Invoking Rule 4(m) to dismiss a condemnation proceeding for failure to effect service within the required time, however, is inconsistent with Rule 71.1(i)(C), which directs that if the plaintiff "has already taken title, a lesser interest, or possession of" the property, the court must award compensation. This provision protects the interests of owners, who would be disserved if the proceeding is dismissed without awarding compensation but leaving title in the plaintiff. The Department regularly finds it necessary to explain to courts that dismissal under Rule 4(m) is inappropriate in these circumstances, and fears that this problem will arise more frequently because it is frequently difficult to identify and serve all owners even within 120 days.

The need to better integrate Rule 4(m) with Rule 71.1 is met by amending Rule 4(m)'s last sentence: "This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1) or to service of a notice under Rule 71.1(d)(3)(A)." The Department of Justice believes that this amendment will resolve the problem. The Department does not believe that there is any further need to consider the integration of Rule 4 with Rule 71.1(d)(3)(A).

Rule 16(b)(2): Time for Scheduling Order: Rule 16(b)(2) now provides that the judge must issue the scheduling order within the earlier of 120 days after any defendant has been served or 90 days after any defendant has appeared. Several Subcommittee drafts cut these times in half, to 60 days and 45 days. The recommended revision, however, cuts the times to 90 days after any defendant is served or 60 days after any defendant appears. The reduced reductions reflect concerns that in many cases it may not be possible to be prepared adequately for a productive scheduling conference in a shorter period. These concerns are further reflected in the addition of a new provision that allows the judge to extend the time on finding good cause for delay. The

Committee believes that even this modest reduction in the presumed time will do some good, while affording adequate time for most cases.

The Department of Justice, however, expressed some concerns about accelerating time lines at the onset of litigation. Many of the reasons are much the same as those that underlie the Rule 12 provisions allowing it 60 days to answer. It is not just that the Department is a vast and intricate organization. Its clients often are other vast and intricate government agencies. The time required to designate the right attorneys in the Department is followed by the time required to identify the right people in the client agency to work with the attorneys and to begin gathering the information necessary to litigate. More generally, the Department has expressed the view that shortening the time to serve and the time to enter a scheduling order will not do much to advance things. It is important that lawyers have time at the beginning of an action to think about the case, and to discuss it with each other. More time to prepare will make for a better scheduling conference, and for more effective discovery in the end. The Note should reflect that extensions should be liberally granted for the sake of better overall efficiency.

Other attorneys have expressed similar concerns that there are cases in which it is not feasible to prepare for a meaningful scheduling conference on an accelerated schedule. A defendant may take time to select its attorneys, compressing the apparent schedule. And some cases are inherently too complex to allow even a preliminary working grasp of likely litigation needs in the presumptive times allowed.

These concerns persuaded the Subcommittee to relax its initial proposal, which would have cut the present times in half, to 60 days after service or 45 days after an appearance. They also were responsible for adding the new provision that authorizes the court to delay the scheduling order beyond the specified times for good cause. This provision would provide more time than the current rule, but only in appropriate cases, and seems protection enough, both for complex cases in general and for the special needs of the Department of Justice.

<u>Rule 16(b): Actual Conference</u>: Present Rule 16(b)(1)(B) authorizes issuance of a scheduling order after receiving the parties' Rule 26(f) report or after consulting "at a scheduling conference by telephone, mail, or other means."

The Committee believes that an actual conference by direct communication among the parties and court is very valuable. It considered a proposal that would require an actual conference in all actions, except those in exempted categories. This proposal was rejected in the end after hearing from several judges and lawyers at the mini-conference hosted by the Subcommittee in Dallas that there are cases in which the judge is confident that a Rule 26(f) report prepared by able lawyers provides a sound basis for a scheduling order without further ado. But if there is to be a scheduling conference, the Committee believes it should be by direct communication; "mail, or other means" are not effective. This change is effected by requiring consultation "at a scheduling conference," striking "by telephone, mail, or other means." The Committee Note makes it clear that a conference can be held face-to-face, by telephone, or by other means of simultaneous communication.

A separate issue has been held in abeyance. Rule 16(b)(1) exempts "categories of actions exempted by local rule" from the scheduling order requirement. It may be attractive to substitute a uniform national set of exemptions, uniform not only for Rule 16(b) but integrated with the exemptions from initial disclosure. Actions exempt from initial disclosure also are exempt from the discovery moratorium in Rule 26(d) and the parties' conference required by Rule 26(f). Exempting the same categories of actions from the scheduling order requirement would simplify the rules and should respond to similar concerns. But it has seemed better to await further inquiry into the categories now exempted by local rules, and to explore the reasons for exemptions not now made in Rule 26(a)(1)(B). This topic is being developed for possible future action.

Rules 16(b)(3), 26(f): Additional Subjects: Three subjects are proposed for addition to the Rule 16(b)(3) list of permitted contents of a scheduling order. Two of them are also proposed for the list of subjects in a Rule 26(f) discovery plan. Those two are described here; the third is noted separately below.

The proposals would permit a scheduling order and discovery plan to provide for the preservation of electronically stored information and to include agreements reached under Rule 502 of the Federal Rules of Evidence. Each is an attempt to remind litigants that these are useful subjects for discussion and agreement. The Evidence Rules Committee is concerned that Rule 502 remains underused; an express reference in Rule 16 may promote its more effective use.

Rule 16(b)(3): Conference Before Discovery Motion: This proposal would add a new Rule 16(b)(3)(v), permitting a scheduling order to "direct that before moving for an order relating to discovery the movant must request a conference with the court."

Many courts, but less than a majority, now have local rules similar to this proposal. Experience with these rules shows that an informal pre-motion conference with the court often resolves a discovery dispute without the need for a motion, briefing, and order. The practice has proved highly effective in reducing cost and delay.

The Subcommittee considered an alternative that would have required a conference with the court before any discovery motion. In the end, it concluded that at present it is better simply to encourage this practice. Many judges do not require a pre-motion conference now. It is possible that local conditions and practices in some courts establish effective substitutes. Absent a stronger showing of need, it seems premature to adopt a mandate, but the consideration of this practice should encourage its use.

Rule 26(d)(1): Early Rule 34 Requests: The Subcommittee considered at length a variety of proposals that would allow discovery requests to be made before the parties' Rule 26(f) conference. The purpose of the early requests would not be to start the time to respond. Instead, the purpose is to facilitate the conference by allowing consideration of actual requests, providing a focus for specific discussion. In the end, the proposal has been limited to Rule 34 requests to produce.

The proposal adds a new Rule 26(d)(2), better set out in full than summarized:

(2) *Early Rule 34 Requests.*

(A) *Time to Deliver.* More than 21 days after the summons and complaint are served on any party, a request under Rule 34 may be delivered:

(i) to that party by any other party, and

(ii) by that party to any plaintiff or to any other party that has been served.

(B) *When Considered Served.* The request is considered as served at the first Rule 26(f) conference.

A corresponding change would be made in Rule 34(b)(2)(A), setting the time to respond to a request delivered under Rule 26(d)(2) within 30 days after the parties' first Rule 26(f) conference.

Some participants in the mini-conference — particularly those who typically represent plaintiffs — said they would take advantage of this procedure to advance the Rule 26(f) conference and early discovery planning. Concrete disputes as to the scope of discovery could then be brought to the attention of the court at a Rule 16 conference. Others expressed skepticism, wondering why anyone would want to expose discovery strategy earlier than required and fearing that initial requests made before the conference are likely to be unreasonably broad and to generate an inertia that will resist change at the conference.

After considering these concerns, the Subcommittee concluded that the opportunity should be made available to advance the Rule 26(f) conference by providing a specific focus for discussion of Rule 34 requests, which often involve heavy discovery burdens. Little harm will be done if parties fail to take advantage of the opportunity, and real benefit may be gained if they do.

Proportionality: Discovery Proposals

Several proposals seek to promote responsible use of discovery proportional to the needs of the case. The most important address the scope of discovery directly by amending Rule 26(b)(1), and by promoting clearer responses to Rule 34 requests to produce. Others tighten the presumptive limits on the number and duration of depositions and the number of interrogatories, and for the first time add a presumptive limit of 25 to the number of requests for admission other than those that relate to the genuineness of documents. Yet another explicitly recognizes the present authority to issue a protective order specifying an allocation of expenses incurred by discovery.

<u>Rule 26(b)(1): Proportionality By Adopting Rule 26(b)(2)(C)(iii) Cost-Benefit Analysis</u>: In 1983, the Committee thought to have solved the problems of disproportionate discovery by adding the provision that has come to be lodged in present Rule 26(b)(2)(C)(iii). This rule directs that "on motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed

by these rules if it determines that * * * (iii) the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues." The final sentence of present Rule 26(b)(1) also provides explicitly that "All discovery is subject to the limitations imposed by Rule 26(b)(2)(C)."

Although the rule now directs that the court "must" limit discovery, on its own and without motion, it cannot be said to have realized the hopes of its authors. Surveys produced in connection with the Duke Conference by various groups, including the Federal Judicial Center, the ABA Section of Litigation, the National Employment Lawyer's Association, and Lawyers for Civil Justice, indicate that excessive discovery occurs in a worrisome number of cases, particularly those that are complex, involve high stakes, and generate contentious adversary behavior. The number of these cases and the burdens they impose present serious problems. These problems have not yet been solved.

Several proposals were considered to limit the general scope of discovery provided by Rule 26(b)(1) by adding a requirement of "proportionality." Addition of this term without definition, however, generated concerns that it would be too open-ended to support uniform or even meaningful implementation. Limiting it to "reasonably proportional" did not allay those concerns. At the same time, many participants in the mini-conference expressed respect for the principles embodied in Rule 26(b)(2)(C)(iii), finding it suitably nuanced and balanced. The problem is not with the rule text but with its implementation — it is not invoked often enough to dampen excessive discovery demands.

These considerations frame the proposal to revise the scope of discovery defined in Rule 26(b)(1) by transferring the analysis required by present Rule 26(b)(2)(C)(iii) to become a limit on the scope of discovery, so that discovery must be

> proportional to the needs of the case considering the amount in controversy, the importance of the issues at stake in the action, the parties's resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

A corresponding change is made by amending Rule 26(b)(2)(C)(iii) to cross-refer to (b)(1): the court remains under a duty to limit the frequency or extent of discovery that exceeds these limits, on motion or on its own.

Other changes as well are made in Rule 26(b)(1). The rule was amended in 2000 to introduce a distinction between party-controlled discovery and court-controlled discovery. Party-controlled discovery is now limited to "matter that is relevant to any party's claim or defense." That provision is carried forward in proposed Rule 26(b)(1). Court-controlled discovery is now authorized to extend, on court order for good cause, to "any matter relevant to the subject matter involved in the action." The Committee Note made it clear that the parties' claims or defenses are those identified in the pleadings. The proposed amendment deletes the "subject matter involved in the action" from the scope of discovery. Discovery should be limited to the parties' claims or defenses. If discovery of information relevant to the claims or defenses identified in

the pleadings shows support for new claims or defenses, amendment of the pleadings may be allowed when appropriate.

Rule 26(b)(1) also would be amended by revising the penultimate sentence: "Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." This provision traces back to 1946, when it was added to overcome decisions that denied discovery solely on the ground that the requested information would not be admissible in evidence. A common example was hearsay. Although a witness often could not testify that someone told him the defendant ran through a red light, knowing who it was that told that to the witness could readily lead to admissible testimony. This sentence was amended in 2000 to add "Relevant" as the first word. The 2000 Committee Note reflects concern that the "reasonably calculated" standard "might swallow any other limitation on the scope of discovery." "Relevant" was added "to clarify that information must be relevant to be discoverable * * *." Despite the 2000 amendment, many cases continue to cite the "reasonably calculated" language as though it defines the scope of discovery, and judges often hear lawyers argue that this sentence sets a broad standard for appropriate discovery.

To offset the risk that the provision addressing admissibility may defeat the limits otherwise defining the scope of discovery, the proposal is to revise this sentence to read: "Information within this scope of discovery need not be admissible in evidence to be discoverable." The limits defining the scope of discovery are thus preserved. The purpose of the amendment is to carry through the purpose underlying the 2000 amendment, with the hope that this further change will at last overcome the inertia that has thwarted this purpose.

A portion of present Rule 26(b)(1) is omitted from the proposed revision. After allowing discovery of any matter relevant to any party's claim or defense, the present rule adds: "including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter." Discovery of such matters is so deeply entrenched in practice that it is no longer necessary to clutter the rule text with these examples.

Several discovery rules cross-refer to Rule 26(b)(2) as a reminder that it applies to all methods of discovery. Transferring the restrictions of (b)(2)(C)(iii) to become part of (b)(1) makes it appropriate to revise the cross-references to include both (b)(1) and (b)(2). The revisions are shown throughout the proposed rules.

<u>Proportionality: Rule 26(c): Allocation of Expenses</u>: Another proposal adds to Rule 26(c)(1)(B) an explicit recognition of the authority to enter a protective order that allocates the expenses of discovery. This power is implicit in present Rule 26(c), and is being exercised with increasing frequency. The amendment will make the power explicit, avoiding arguments that it is not conferred by the present rule text. The Committee soon will begin to focus on proposals advanced by some groups that greater changes should be made in the general presumption that the responding party should bear the costs imposed by discovery requests. It will be some time, however, before the Committee determines whether any broader recommendations might be made.

Proportionality: Rules 30, 31, 33, and 36: Presumptive Numerical Limits: Rules 30 and 31 establish a presumptive limit of 10 depositions by the plaintiffs, or by the defendants, or by third-party defendants. Rule 30(d)(1) establishes a presumptive time limit of 1 day of 7 hours for a deposition by oral examination. Rule 33(a)(1) sets a presumptive limit of "no more than 25 written interrogatories, including all discrete subparts." There are no presumptive numerical limits for Rule 34 requests to produce or for Rule 36 requests to admit. The proposals reduce the limits in Rules 30, 31, and 33. They add to Rule 36, for the first time, presumptive numerical limits. A presumptive limit of 25 Rule 34 requests to produce was studied at length but ultimately abandoned.

The proposals would reduce the presumptive limit on the number of depositions from 10 to 5, and would reduce the presumptive duration to 1 day of 6 hours. Rules 30 and 31 continue to provide that the court must grant leave to take more depositions "to the extent consistent with Rule 26(b)(1) and (2)."

Reducing the presumptive limit on the number of depositions was considered at length. Some judges at the Duke Conference expressed the view that civil litigators over-use depositions, apparently holding the view that every witness who testifies at trial must be deposed beforehand. These judges noted that they regularly see lawyers effectively cross-examine witnesses in criminal trials without the benefit of depositions, a practice widely viewed as sufficient to satisfy the demands of due process. The judges also observed that they rarely, if ever, see witnesses effectively impeached with deposition transcripts. At the same time, many parties are opting to resolve their disputes through private arbitration or mediation services that are less expensive than civil litigation because they do not involve depositions, and yet these alternatives are thought sufficient to reach resolution of important disagreements.

Research by the FJC further supports these concerns, and also suggests that a presumptive limit of 5 depositions will have no effect in most cases. Emery Lee returned to the data base compiled for the 2010 FJC study to measure the frequency of cases with more than 5 depositions by plaintiffs or by defendants. The data base itself was built by excluding several categories of actions that are not likely to have discovery. The data for numbers of depositions were further limited by counting only cases in which there was at least one deposition. Drawing from reports by plaintiffs of how many depositions the plaintiffs took and how many depositions the defendants took, and parallel reports by defendants, the numbers ranged from 14% to 23% of cases with more than 5 depositions by the plaintiff or by the defendant. With one exception, the estimates were that 78% or 79% of these cases had 10 or fewer depositions. Other findings are that each additional deposition increases the cost of an action by about 5%, and that estimates that discovery costs were "too high" increase with the number of depositions. While a causal relationship cannot be established, when both plaintiffs and defendants take more than five depositions, about 43% of plaintiffs' lawyers and 45% of defendants' lawyers report that they consider the discovery costs to be too high relative to their clients' stakes in the litigation.

On the other hand, many comments say that the present limit of 10 depositions works well — that leave is readily granted when there is good reason to take more than 10, and that parties do not wantonly take more than 5 depositions simply because the presumptive limit is 10.

More pointedly, some lawyers who represent individual plaintiffs in employment discrimination cases have urged that they commonly need more than 5 depositions to establish their claims.

In short, it appears that less than one-quarter of federal court civil cases result in more than five depositions, and even fewer in more than ten. The question is whether it will be useful to revise Rules 30 and 31 to establish a lower presumptive threshold for potential judicial management. Reducing the presumptive limit from 10 to 5 depositions per side will not affect the great bulk of litigation. On the other hand it will affect litigation where the discovery costs are highest and the complaints about disproportionate discovery are greatest. Setting the limit at 5 does not mean that motions and orders must be made in every case that deserves more than 5 — the parties can be expected to agree, and should manage to agree, in most of these cases. But the lower limit can be useful in inducing reflection on the need for depositions, in prompting discussions among the parties, and — when those avenues fail — in securing court supervision. The Committee Note addresses the concerns expressed by those who oppose the new limit by stressing that leave to take more than 5 depositions must be granted when appropriate. The fear that lowering the threshold will raise judicial resistance seems ill-founded. Courts are willing now to grant leave to take more than 10 depositions per side in actions that warrant a greater number. The argument that they will become reluctant to grant leave to take more than 5, or more than 10, is not persuasive.

Considering judicial experience and the FJC findings, and aiming to decrease the cost of civil litigation, making it more accessible for average citizens, the Committee is persuaded that the presumptive number of depositions should be reduced. Hopefully, the change will result in an adjustment of expectations concerning the appropriate amount of civil discovery.

Shortening the presumptive length of a deposition from 7 hours to 6 hours reflects revision of earlier drafts that would have reduced the time to 4 hours. The 4-hour limit was prompted by experience in some state courts. Arizona, for example, adopted a 4-hour limit several years ago. Judges in Arizona federal courts often find that parties stipulate to 4-hour limits based on their favorable experience with the state rule. But several comments have suggested that for many depositions, 4 hours do not suffice. At the same time, several others have observed that squeezing 7 hours of deposition time into one day, after accounting for lunch time and other breaks, often means that the deposition extends well into the evening. Judges also have noted that 6 hours of trial time makes for a very full day when lunch and breaks are considered. The reduction to 6 hours is intended to reduce the burden of deposing a witness for 7 hours in one day, but without sacrificing the opportunity to conduct a complete examination.

The proposal to reduce the presumptive number of Rule 33 interrogatories to 15 has not attracted much concern. There has been some concern that 15 interrogatories are not enough even for some relatively small-stakes cases. As with Rules 30 and 31, the Subcommittee has concluded that 15 will meet the needs of most cases, and that it is advantageous to provide for court supervision when the parties cannot reach agreement in the cases that may justify a greater number.

Rule 36 requests to admit are an established part of the rules, whether they be regarded as true “discovery” devices or as a device for framing the issues more directly than is accomplished

even by contention interrogatories. The proposal to add a presumptive limit of 25 expressly exempts requests to admit the genuineness of documents, avoiding any risk that the limit might cause problems in document-heavy litigation. This proposal did not draw much criticism from those who commented on Subcommittee deliberations. (The Subcommittee also considered provisions that would generally defer the time for admissions to the completion of other discovery, but in the end decided that early requests can be useful.)

Proportionality: Rule 34 Objections and Responses: Discovery burdens can be pushed out of proportion to the reasonable needs of a case by those asked to respond, not only those who make requests. The Subcommittee considered adding to Rule 26(g) a provision that signing a discovery request, response, or objection certifies that it is "not evasive." That proposal was put aside in the face of concerns that "evasive" is a malleable concept, and that malleability will invite satellite litigation.

More specific concerns underlie Rule 34 proposals addressing objections and actual production. Objections are addressed in two ways. First, Rule 34(b)(2)(B) would require that the grounds for objecting to a request be stated with specificity. This language is borrowed from Rule 33(b)(4), where it has served well. Second, Rule 34(b)(2)(C) would require that an objection "state whether any responsive materials are being withheld on the basis of that objection." This provision responds to the common lament that Rule 34 responses often begin with a "laundry list" of objections, then produce volumes of materials, and finally conclude that the production is made subject to the objections. The requesting party is left uncertain whether anything actually has been withheld. Providing that information can aid the decision whether to contest the objections. The Committee Note also explains that it is proper to state limits on the extent of the search without further elaboration — for example, that the search was limited to documents created on or after a specified date, or maintained by identified sources.

Actual production is addressed by new language in Rule 34(b)(2)(B) and a corresponding addition to Rule 37(a)(3)(B)(iv). Present Rule 34 recognizes a distinction between permitting inspection of documents, electronically stored information, or tangible things, and actually producing copies. The distinction, however, is not clearly developed in the rule. If a party elects to produce materials rather than permit inspection, the current rule does not indicate when such production is required to be made. The new provision directs that a party electing to produce must state that copies will be produced, and directs that production be completed no later than the time for inspection stated in the request or a later reasonable time stated in the response. The Committee Note recognizes the value of "rolling production" that makes production in discrete batches. Rule 37 is amended by adding authority to move for an order to compel production if "a party fails to produce documents."

Cooperation

Reasonable cooperation among adversaries is vitally important to successful use of the resources provided by the Civil Rules. Participants at the Duke Conference regularly pointed to the costs imposed by hyperadversary behavior and wished for some rule that would enhance cooperation.

It would be possible to impose a duty of cooperation by direct rule provisions. The provisions might be limited to the discovery rules alone, because discovery behavior gives rise to many of the laments, or could apply generally to all litigation behavior. Consideration of drafts that would impose a direct and general duty of cooperation faced several concerns. Cooperation is an open-ended concept. It is difficult to identify a proper balance of cooperation with legitimate, even essential, adversary behavior. A general duty might easily generate excessive collateral litigation, similar to the experience with an abandoned and unlamented version of Rule 11. And there may be some risk that a general duty of cooperation could conflict with professional responsibilities of effective representation. These drafts were abandoned.

What is proposed is a modest addition to Rule 1. The parties are made to share responsibility for achieving the high aspirations expressed in Rule 1: "[T]hese rules should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." The Note observes that most lawyers and parties conform to this expectation, and notes that "[e]ffective advocacy is consistent with — and indeed depends upon — cooperative and proportional use of procedure."

As amended, Rule 1 will encourage cooperation by lawyers and parties directly, and will provide useful support for judicial efforts to elicit better cooperation when the lawyers and parties fall short. It cannot be expected to cure all adversary excesses, but it will do some good.

Package

These proposals constitute a whole that is greater than the sum of its parts. Together, these proposals can do much to reduce cost and delay. Still, each part must be scrutinized and stand, be modified, or fall on its own. The proposals are not interdependent in the sense that all must be adopted to achieve meaningful gains.

* * * * *

B. RULE 37(e): ACTION TO RECOMMEND PUBLICATION OF REVISED RULE 37(e)

The Civil Rules Advisory Committee began working on preservation and sanctions shortly after the May 2010, Duke Conference. During that conference, the E-Discovery Panel recommended adoption of rule provisions to address these concerns. That work has involved one full-day conference, repeated discussions during Advisory Committee meetings, and approximately twenty lengthy conference calls by the Advisory Committee's Discovery Subcommittee. At its November 2012, meeting the Advisory Committee voted to recommend that the Standing Committee approve the resulting draft amendment to Rule 37(e) for publication in August 2013, in conjunction with the expected publication of the package of case-management and related proposals presented in Part I.A. The Standing Committee considered Rule 37(e) at its January, 2013, meeting and preliminarily approved publication subject to consideration of several issues raised during that meeting. The Advisory Committee reviewed those issues and made several modifications to the draft amendment. The revised draft was presented to the Standing Committee at its June 2013, meeting and approved for publication for public comment.

This section of the report provides background on the proposed amendment and identifies several questions on which the Advisory Committee particularly invites public comment.

Need for Action

The Advisory Committee was first advised of the emerging difficulties presented by discovery of electronically stored information in 1997, but the nature of those problems and the ways in which rules might respond productively to them remained uncertain for some time. Eventually, about a decade ago, it decided to proceed to try to draft rule amendments that addressed a variety of issues on which concern had then focused, leading to the 2006 E-Discovery amendments to the Civil Rules.

One of those amendments was a new Rule 37(e), which provided protection against sanctions "under these rules" for loss of electronically stored information due to the "routine, good-faith operation of an electronic information system." The Committee Note to that rule observed that the routine operation might need to be altered due to the prospect of litigation, and mentioned that a "litigation hold" would sometimes be needed.

The amount and variety of digital information has expanded enormously in the last decade, and the costs and burdens of litigation holds have escalated as well. On December 13, 2011, the House Judiciary Committee held a hearing on the costs of American discovery that largely focused on the costs of preservation. Those costs warrant attention.

The Discovery Subcommittee developed three general models of possible rule-amendment approaches which it presented to the participants in its full-day mini-conference in September, 2011, and summarized as follows:

> Category 1: A preservation rule incorporating considerable specificity about when and how information must be preserved in anticipation of litigation. Submissions the Committee received from various interested parties provided a starting point in drafting some such specifics. A basic question is whether a single rule with very specific preservation provisions could reasonably apply to the wide variety of civil cases filed in federal court. A related issue is whether changing technology would render such a rule obsolete by the time it became effective, or soon thereafter. Even worse, it might be counter-productive. For example, a rule triggering a duty to preserve when a prospective party demands that another prospective party begin preservation measures (among the triggers suggested) could lead to overreaching demands, counter-demands, and produce an impasse that could not be resolved by a court because no action had yet been filed.
>
> Category 2: A more general preservation rule could address a variety of preservation concerns, but only in more general terms. It would, nonetheless, be a "front end" proposal that would attempt to establish reasonableness and proportionality as touchstones for assessing preservation obligations. Compared to Category 1 rules, then, the question would be whether something along these lines would really provide value at all. Would it be too general to be helpful?

Category 3: This approach would address only sanctions, and would in that sense be a "back end" rule. It would likely focus on preservation decisions, making the most serious sanctions unavailable if the party who lost information acted reasonably. In form, however, this approach would not contain any specific directives about when a preservation obligation arises or the scope of the obligation. By articulating what would be "reasonable," however, it might cast a long shadow over preservation without purporting directly to regulate it. It could also be seen as offering "carrots" to those who act reasonably, rather than relying mainly on "sticks," as a sanctions regime might be seen to do.

All three categories were presented during the September, 2011, mini-conference on preservation and sanctions. This conference gathered together about 25 practicing lawyers and judges from around the country with extensive experience on these topics. Building on that knowledge, the Subcommittee decided to focus on the Category 3 approach. The Category 1 approach was too rigid, and failed to take account of the wide variety of litigation in federal courts. The Category 2 approach could produce the problems that result from rigid rules, but provide no certitude about what would be "enough" preservation.

A central objective of the proposed new Rule 37(e) is to replace the disparate treatment of preservation/sanctions issues in different circuits by adopting a single standard. In addition, the amended rule makes it clear that — in all but very exceptional cases in which failure to preserve "irreparably deprived a party of any meaningful opportunity to present or defend against the claims in the litigation" — sanctions (as opposed to curative measures) could be employed only if the court finds that the failure to preserve was willful or in bad faith, and that it caused substantial prejudice in the litigation. The proposed rule therefore rejects *Residential Funding Corp. v. DeGeorge Fin. Corp.*, 306 F.3d 99 (2d Cir. 2002), which stated that negligence is sufficient culpability to support sanctions.

The proposed amendment seeks to further uniformity in another way. Current Rule 37(e) only precludes "sanctions under these rules." It does not address resort to inherent power. Because the proposed amendment affirmatively provides authority for sanctions for failure to preserve discoverable information, it should remove any occasion to rely on inherent power. Similarly, there would be no need to worry under the amended rule about whether the failure to retain information violated a court order even though Rule 37(b) sanctions ordinarily can be imposed only for violation of an order. Finally, unlike current Rule 37(e), the proposed amendment applies to all discoverable information, not just electronically stored information.

Another central focus of the proposed amendment is to encourage use of curative measures. Thus, Rule 37(e)(1)(A) authorizes a variety of measures to reduce or cure the consequences of loss of information, and the Committee Note repeatedly recognizes that those measures should be preferred to imposing sanctions if they can substantially undo the litigation harm resulting from the failure to preserve.

Required Finding of Willfulness or Bad Faith

Rule 37(e)(1)(B)(i) provides a uniform national standard permitting a court to impose sanctions or give an adverse inference jury instruction only on a finding that the party to be sanctioned has acted willfully or in bad faith. It should provide significantly more protection than has been true in some circuits.

Some thought was given to whether it would be helpful to try in the Note to define willfulness or bad faith, but the conclusion was that it would not be useful. The courts have considerable experience dealing with these concepts, and efforts to capture that experience in Note language seemed more likely to produce problems than provide help. As noted below, the Committee invites public comments on whether an effort should be made to provide a definition of these terms, and if so what that definition should include.

Even if the court finds willfulness or bad faith, the rule permits sanctions only if the loss caused "substantial prejudice" in the litigation. This prejudice need not be as cataclysmic as the prejudice that would justify sanctions under (B)(ii) in the absence of willfulness or bad faith, but it is still a significant additional finding the court must make before imposing a sanction. As pointed out in the Committee Note, using alternative sources of information or other curative measures may often reduce any prejudice sufficiently to preclude sanctions. Another question on which the Committee invites public comment is whether an additional definition of "substantial prejudice" would be helpful, and if so what it should say.

Sanctions in Absence of Willfulness or Bad Faith

In a very narrow group of cases, Rule 37(e)(1)(B)(ii) permits sanctions in the absence of a finding of willfulness or bad faith. The stimulus behind this provision is that there is a body of cases that appear to support such sanctions in exceptional circumstances. *See, e.g.*, *Flury v. Daimler Chrysler Corp.*, 427 F.3d 939 (11th Cir. 2005) (reversing district court's failure to dismiss action after plaintiff disposed of allegedly defective car before defendant could examine it); *Silvestri v. General Motors Corp.*, 271 F.3d 583 (4th Cir. 2001) (affirming dismissal of action because plaintiff failed to retain allegedly defective air bag to permit defendant to examine it).

Rule 37(e)(1)(B)(ii) permits sanctions when the loss of information "irreparably deprived a party of any meaningful opportunity to present or defend against the claims in the litigation." That is a more demanding requirement than the "substantial prejudice" that must be found to justify sanctions under (B)(i) when willfulness or bad faith is proved. The rule is further narrowed by the requirement that the court look to all the claims or defenses in the actions; such a crippling loss of evidence justifies sanctions only if the affected claim or defense was central to the litigation.

Finally, the rule focuses on whether the catastrophic loss was caused by "the party's actions." If the loss occurs even though the party took reasonable steps to preserve information, due perhaps to a natural disaster or malicious action of a third person, curative measures may be warranted but sanctions are not.

As noted below, one question on which the Committee invites public comment is whether this provision should be retained in the rule. Removing (B)(ii) from the rule would likely prevent sanctions in the absence of a finding of willfulness or bad faith, even in cases like the ones cited above. Limiting the rule to electronically stored information might lessen that effect.

Applying to All Discoverable Information

Current Rule 37(e) is limited to loss of electronically stored information. The amended rule, however, applies to sanctions for loss of any discoverable information. As noted below, one issue on which the Committee invites public comment is whether it would be better to limit the rule's protections to loss of electronically stored information. If so, it might be possible to remove (B)(ii), which authorizes sanctions in the absence of a finding of willfulness or bad faith.

One argument for limiting the rule to electronically stored information is that the sort of catastrophic litigation effect that would warrant imposing sanctions in the absence of willfulness or bad faith usually occurs only with tangible evidence, such as the instrumentality that inflicted harm. But it is unclear whether that is universally true now, and whether that will continue to be true in the future. In addition, there could be substantial difficulties drawing a meaningful dividing line between electronically stored information and other discoverable information.

Replacing Current Rule 37(e)

When Rule 37(e) was added in 2006 to provide some protection against sanctions for failure to preserve, some objected that it would not provide significant protection. Since then, the rule has been invoked only rarely. Some say it has provided almost no relief from growing preservation burdens. The recommendation is to abrogate current Rule 37(e) and replace it entirely with the amended rule.

As pointed out in the Committee Note, the proposed amendment is designed to provide more protection against sanctions than current Rule 37(e). It should provide protection in any situation in which the current rule would provide protection. In addition, because it is not limited to “sanctions under these rules,” the amended rule would protect against a wider variety of possible grounds for sanctions.

As noted below, one question on which the Committee invites comment is whether there is a reason to retain the provisions of current Rule 37(e) if proposed Rule 37(e) is adopted.

Guidance Regarding Preservation

As mentioned above, there was early consideration of rule provisions including precise directives about trigger, scope, duration and other aspects of preservation, but the difficulties of providing such specifics led to a rule proposal focusing on sanctions. The rule does not attempt to prescribe new or different rules on what must be preserved. As the Committee Note states, that obligation was not created by rule, but recognized by many court decisions. The amendment does not seek to change the obligation.

Rule 37(e)(2) does attempt, however, to provide general guidance for parties contemplating their preservation obligations. It lists a variety of considerations that a court should take into account in making a determination both about whether the party failed to preserve information "that should have been preserved" and also whether that failure was willful or in bad faith. One goal of Rule 37(e)(2) is to provide the parties with guidance on how to approach preservation decisions.

Invitation for Public Comment

The Committee looks forward to public comment on all aspects of the proposed amendment to Rule 37(e). It invites comments on the following questions:

1. Should the rule be limited to sanctions for loss of electronically stored information? Current Rule 37(e) is so limited, and much commentary focuses on the preservation problems resulting from the proliferation of such information. But the dividing line between "electronically stored information" and other discoverable matter may be uncertain, and may become more uncertain in the future, and loss of tangible things or documents important in litigation is a recurrent concern in litigation today.

2. Should Rule 37(b)(1)(B)(ii) be retained in the rule? This provision is focused on the possibility that one side's failure to preserve evidence may catastrophically deprive the other side of any meaningful opportunity to litigate, and permits imposition of sanctions even absent a finding of willfulness or bad faith. It has been suggested that limiting the rule to loss of electronically stored information would make (B)(ii) unnecessary. Does this provision add important flexibility to the rule?

3. Should the provisions of current Rule 37(e) be retained in the rule? As stated in the Committee Note, the amended rule appears to provide protection in any situation in which current Rule 37(e) would apply.

4. Should there be an additional definition of "substantial prejudice" under Rule 37(e)(1)(B)(i)? One possibility is that the rule could be augmented by directing that the court should consider all factors, including the availability of reliable alternative sources of the lost or destroyed information, and the importance of the lost information to the claims or defenses in the case.

5. Should there be an additional definition of willfulness or bad faith under Rule 37(e)(1)(B)(i)? If so, what should be included in that definition?

C. RULE 84: ACTION TO RECOMMEND PUBLICATION OF PROPOSED ABROGATION, AMENDMENT TO RULE 4(d)(1)(D)

The Committee recommends approval to publish for comment proposals that would abrogate Rule 84 and the Official Forms, amending Rule 4(d)(1)(D) to incorporate present Forms 5 and 6 as official Rule 4 Forms.

Official forms are attached to the Appellate, Bankruptcy, and Civil Rules. The Appellate and Civil Forms have been generated through the full Enabling Act Process. Bankruptcy Rule 9009 distinguishes two types of forms. "Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate." These Forms are developed through the Enabling Act committees, but the final step is approval by the Judicial Conference without going on to the Supreme Court or Congress. Rule 9009 further recognizes that the Director of the Administrative Office "may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code." The Administrative Office produces forms for use in criminal prosecutions, but these forms are not "official." (Former Criminal Rule 58 and the official forms were abrogated in 1983; the Committee Note explained that they were unnecessary.) A subcommittee formed of representatives of the advisory committees examined these differences. It reported that forms play different roles in the different forms of litigation, and that there is no apparent reason to adopt a uniform approach across the different sets of rules and advisory committees.

With this reassurance of independence, the Rule 84 Subcommittee was formed to study Rule 84 and Rule 84 forms. It gathered information about the general use of the forms by informal inquiries that confirmed the initial impressions of Subcommittee members. Lawyers do not much use these forms, and there is little indication that they often provide meaningful help to pro se litigants. And as discussed further below, the pleading forms live in tension with recently developing approaches to general pleading standards.

From this beginning, the Subcommittee considered several alternative approaches. The simplest would be to leave Rule 84 and the Rule 84 forms where they lie. The most burdensome would be to take on full responsibility for maintaining the forms in a way that ensures a good fit with contemporary practice and needs, and perhaps developing additional forms to address many of the subjects that are not now illustrated by the forms. The work required to maintain the forms through the full Enabling Act process would divert the energies of all actors in the process from other work that, over the years, has seemed more important. Other approaches also were considered.

The Subcommittee came to believe that the best approach is to abrogate Rule 84 and the Rule 84 forms. Several considerations support this conclusion. One important consideration is the amount of work that would be required to assume full responsibility for maintaining the forms. Another consideration is that many alternative sources provide excellent forms. One source is the Administrative Office.

A further reason to abrogate Rule 84 is the tension between the pleading forms and emerging pleading standards. The pleading forms were adopted in 1938 as an important means of educating bench and bar on the dramatic change in pleading standards effected by Rule 8(a)(2). They — and all the other forms — were elevated in 1948 from illustrations to a status that "suffice[s] under these rules." Whatever else may be said, the ranges of topics covered by the pleading forms omit many of the categories of actions that comprise the bulk of today's federal docket. And some of the forms have come to seem inadequate, particularly the Form 18 complaint for patent infringement. Attempting to modernize the existing forms, and perhaps to create new forms to address such claims as those arising under the antitrust laws (*Twombly v.*

Bell Atlantic, 550 U.S. 544 (2007)) or implicating official immunity (*Ashcroft v. Iqbal*, 129 S.Ct. 1937 (2009)), would be an imposing and precarious undertaking. Such an undertaking might be worthwhile if in recent years the pleading forms had provided meaningful guidance to the bar in formulating complaints, but they have not. The Committee's work has suggested that few if any lawyers consult the forms when drafting complaints.

Abrogation need not remove the Enabling Act committees entirely from forms work. The Administrative Office has a working group on forms that includes six judges and six court clerks. They have produced a number of civil forms that are quite good. The forms are available on the Administrative Office web site, some of them in a format that can be filled in, and others in a format that can be downloaded for completion by standard word-processing programs. The working group is willing to work in conjunction with the Advisory Committee. If Rule 84 is abrogated, a conservative initial approach would be to appoint a liaison from the Advisory Committee to work with the working group. New and revised forms could be reviewed, perhaps by a Forms Subcommittee. Experience with this process would shape the longer-term relationships. The forms for criminal prosecutions have been developed successfully with only occasional review by the Criminal Rules Committee. Similar success may be hoped for with the Civil Rules. The Administrative Office forms, moreover, would have to win their way by intrinsic merit, unaided by official status. A court dissatisfied with a particular form would not be obliged to accept it.

Two forms require special consideration. Rule 4(d)(1)(D) requires that a request to waive service of process be made by Form 5. The Form 6 waiver is not required, but is closely tied to Form 5. It would be possible simply to remove this requirement, perhaps substituting a recital in the rule of the elements that must be included in the request and in the waiver. The corresponding Administrative Office forms are identical to Form 5 and virtually identical to Form 6. But without something in Rule 4(d) to mandate their use, the Administrative Office forms might not be uniformly employed. An alternative would be to adopt a request form and a waiver form, as part of Rule 4. These forms were carefully developed as part of creating Rule 4(d), and might be carried forward into Rule 4 without change.

These questions were discussed with the Standing Committee last January. With the support provided by that discussion, the Advisory Committee has concluded that the best course is to abrogate Rule 84. Forms 5 and 6 should be preserved by amending Rule 4(d)(1)(D) to incorporate them, recast as Rule 4 Forms and attached directly to Rule 4. These changes are accomplished by the rule texts, Committee Notes, and Forms set out below. The Committee recommends that they be approved for publication this summer.

* * * * *

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

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SIDNEY A. FITZWATER
EVIDENCE RULES

MEMORANDUM

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

From: Honorable David G. Campbell, Chair
Advisory Committee on Civil Rules

Date: December 5, 2012, as supplemented June 2013

Re: Report of the Advisory Committee on Civil Rules

INTRODUCTION

This report accompanies publication for comment of proposed amendments to Rules 6(d) and 55(c) of the Federal Rules of Civil Procedure. These amendments were approved for publication at the January 2013 meeting of the Committee on Rules of Practice and Procedure (the Standing Committee), and the explanation of the proposals is taken from the Advisory Committee's December 5, 2012, report to the Standing Committee.

The Civil Rules Advisory Committee met at the Administrative Office of the United States Courts in Washington, D.C., on November 2, 2012.* * * This report has been prepared by Professor Cooper, Committee Reporter, with Professor Marcus, Associate Reporter, and various subcommittee chairs.

* * * * *

Three other items are presented for action. One seeks approval to publish an amendment of Rule 6(d) to correct an inadvertent oversight in conforming former rule text to style conventions. The second seeks approval to publish a modest revision of Rule 55(c) to clarify a

latent ambiguity that has caused some confusion. Both of these proposals seek approval for publication when they can be included in a package with more substantial rule proposals.

* * * * *

PART I: ACTION ITEMS

* * * * *

B. RULE 6(d): ACTION TO RECOMMEND PUBLICATION OF REVISED RULE 6(d)

The Committee recommends * * * revision of Rule 6(d) for publication at an appropriate time. * * * The purpose of the revision is to defeat the argument that a party who must act within a specified time after making service can extend the time to act by choosing a method of service that provides added time.

Before Rule 6(d) was amended in 2005 it provided the extra time to act when a party had a right or was required to act within a prescribed period after service "upon the party" if the paper or notice "is served upon the party" by the designated means. Only the party served, not the party making service, could claim the extra three days.

When Rule 6(d) was revised in 2005 for other purposes, it was restyled according to the conventions adopted for the Style Project. "[A]fter service" seemed a useful economy of words. The problem is that at least three rules allow a party to act within a specified time after making service.

Rule 14(a)(1) requires permission to serve a third-party complaint only if the third-party plaintiff files the complaint "more than 14 days after serving its original answer." Rule 15(a)(1)(A) allows a party to amend a pleading once as a matter of course "within * * * 21 days after serving it" if the pleading is not one to which a responsive pleading is required. Rule 38(b)(1) allows a party to demand a jury trial by "serving the other parties with a written demand * * * no later than 14 days after the last pleading directed to the issue is served."

A literal reading of present Rule 6(d) would, for example, allow a defendant to extend the Rule 15(a)(1)(A) period to amend once as a matter of course to 24 days by choosing to serve the answer by any of the means specified in Rule 6(d).

It seems worthwhile to correct this unintended artifact of drafting, although the reason may be no more than to undo an unintended change. Allowing the 3 extra days does not seem a matter of great moment. There is no sign that the present rule has caused any problems in practice; it was pointed out in a law review article,[1] not by anguished courts or litigants. It is

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[1] James J. Duane, *The Federal Rule of Civil Procedure That Was Changed by Accident: A Lesson in the Perils of Stylistic Revision*, 62 S.C.L. Rev. 41 (2010).

possible to read the present rule to allow 3 added days only after being served, looking back to the pre-2005 language. That possibility, however, may be the best reason to amend to make "being served" explicit. A defendant, for example, might read the present rule literally, and deliberately take 24 days to amend an answer. Reading "being served" into the rule might prove a trap for the wary. Even then, it seems unlikely that a court would deny leave to amend — or to implead, or demand jury trial — over a 3-day delay in presenting a plausible position.

C. RULE 55(c): ACTION TO RECOMMEND PUBLICATION OF REVISED RULE 55(c)

A latent ambiguity may be found in the interplay of Rule 55(c) with Rules 54(b) and 60(b). The question arises when a default judgment does not dispose of all claims among all parties to an action. Rule 54(b) directs that the judgment is not final unless the court directs entry of final judgment. Rule 54(b) also directs that the "judgment" "may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Rule 55(c) provides simply that the court "may set aside a default judgment under Rule 60(b)." Rule 60(b), in turn provides a list of reasons to "relieve a party * * * from a final judgment, order, or proceeding * * *."

Close reading of the three rules together establishes that relief from a default judgment is limited by the demanding standards of Rule 60(b) only if the default judgment is made final under Rule 54(b) or when there is a final judgment adjudicating all claims among all parties. Several cases described in a memorandum by Judge Arthur I. Harris, however, show that several courts have recognized the risk that unreflected reading of Rule 55(c) may lead a court astray.

Rule 55(c) is easily clarified by adding a single word. If the question had been recognized at the time, the change would have been suitable for the Style Project. The change can be recommended now, although it may be better to schedule publication for comment with a suitable package of proposals.

* * * * *

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE*

1 **Rule 1. Scope and Purpose**

2 These rules govern the procedure in all civil actions
3 and proceedings in the United States district courts, except
4 as stated in Rule 81. They should be construed, ~~and~~
5 administered, and employed by the court and the parties to
6 secure the just, speedy, and inexpensive determination of
7 every action and proceeding.

Committee Note

Rule 1 is amended to emphasize that just as the court should construe and administer these rules to secure the just, speedy, and inexpensive determination of every action, so the parties share the responsibility to employ the rules in the same way. Most lawyers and parties cooperate to achieve these ends. But discussions of ways to improve the administration of civil justice regularly include pleas to discourage overuse, misuse, and abuse of procedural tools that increase cost and result in delay. Effective advocacy is consistent with — and indeed depends upon — cooperative and proportional use of procedure.

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

1 **Rule 4. Summons**

2 * * * * *

3 **(m) Time Limit for Service.** If a defendant is not served
4 within ~~120~~60 days after the complaint is filed, the court—
5 on motion or on its own after notice to the plaintiff—must
6 dismiss the action without prejudice against that defendant
7 or order that service be made within a specified time. But
8 if the plaintiff shows good cause for the failure, the court
9 must extend the time for service for an appropriate period.
10 This subdivision (m) does not apply to service in a foreign
11 country under Rule 4(f) or 4(j)(1) or to service of a notice
12 under Rule 71.1(d)(3)(A).

13 * * * * *

Committee Note

The presumptive time for serving a defendant is reduced from 120 days to 60 days. This change, together with the shortened times for issuing a scheduling order set by amended Rule 16(b)(2), will reduce delay at the beginning of litigation.

The final sentence is amended to make it clear that the reference to Rule 4 in Rule 71.1(d)(3)(A) does not include Rule 4(m). Dismissal under Rule 4(m) for failure to make timely service would be inconsistent with the limits on dismissal established by Rule 71.1(i)(C).

Rule 16. Pretrial Conferences; Scheduling; Management

* * * * *

(b) Scheduling.

(1) ***Scheduling Order*.** Except in categories of actions exempted by local rule, the district judge — or a magistrate judge when authorized by local rule — must issue a scheduling order:

(A) after receiving the parties' report under Rule 26(f); or

(B) after consulting with the parties' attorneys and any unrepresented parties at a scheduling conference ~~by telephone, mail, or other means~~.

(2) ***Time to Issue*.** The judge must issue the scheduling order as soon as practicable, but

~~in any event~~ unless the judge finds good cause for delay, the judge must issue it within the earlier of ~~120~~90 days after any defendant has been served with the complaint or ~~90~~60 days after any defendant has appeared.

(3) ***Contents of the Order*.**

* * * * *

(B) *Permitted Contents.* The scheduling order may:

* * * * *

(iii) provide for disclosure, ~~or~~ discovery, or preservation of electronically stored information;

(iv) include any agreements the parties reach for asserting

35 claims of privilege or of
36 protection as trial-preparation
37 material after information is
38 produced, including
39 agreements reached under
40 Federal Rule of Evidence
41 502;
42 **(v)** direct that before moving for
43 an order relating to
44 discovery, the movant must
45 request a conference with the
46 court;[†]
47 * * * * *

Committee Note

The provision for consulting at a scheduling conference by "telephone, mail, or other means" is deleted. A scheduling conference is more effective if the court and

[†] Present (v) and (vi) would be renumbered.

parties engage in direct simultaneous communication. The conference may be held in person, by telephone, or by more sophisticated electronic means.

The time to issue the scheduling order is reduced to the earlier of 90 days (not 120 days) after any defendant has been served, or 60 days (not 90 days) after any defendant has appeared. This change, together with the shortened time for making service under Rule 4(m), will reduce delay at the beginning of litigation. At the same time, a new provision recognizes that the court may find good cause to extend the time to issue the scheduling order. In some cases it may be that the parties cannot prepare adequately for a meaningful Rule 26(f) conference and then a scheduling conference in the time allowed. Because the time for the Rule 26(f) conference is geared to the time for the scheduling conference or order, an order extending the time for the scheduling conference will also extend the time for the Rule 26(f) conference. But in most cases it will be desirable to hold at least a first scheduling conference in the time set by the rule.

Three items are added to the list of permitted contents in Rule 16(b)(3)(B).

The order may provide for preservation of electronically stored information, a topic also added to the provisions of a discovery plan under Rule 26(f)(3)(C). Parallel amendments of Rule 37(e) recognize that a duty to preserve discoverable information may arise before an action is filed, and may be shaped by prefiling requests to preserve and responses to them.

The order also may include agreements incorporated in a court order under Evidence Rule 502 controlling the effects of disclosure of information covered by attorney-client privilege or work-product protection, a topic also added to the provisions of a discovery plan under Rule 26(f)(3)(D).

Finally, the order may direct that before filing a motion for an order relating to discovery the movant must request a conference with the court. Many judges who hold such conferences find them an efficient way to resolve most discovery disputes without the delay and burdens attending a formal motion, but the decision whether to require such conferences is left to the discretion of the judge in each case.

1 **Rule 26. Duty to Disclose; General Provisions**
2 **Governing Discovery**

3 * * * * *

4 **(b) Discovery Scope and Limits.**

5 **(1)** ***Scope in General***. Unless otherwise limited
6 by court order, the scope of discovery is as
7 follows: Parties may obtain discovery
8 regarding any nonprivileged matter that is
9 relevant to any party's claim or defense and
10 proportional to the needs of the case,
11 considering the amount in controversy, the
12 importance of the issues at stake in the
13 action, the parties' resources, the importance
14 of the discovery in resolving the issues, and
15 whether the burden or expense of the
16 proposed discovery outweighs its likely
17 benefit. Information within this scope of

18 discovery need not be admissible in
19 evidence to be discoverable. ~~— including~~
20 ~~the existence, description, nature, custody,~~
21 ~~condition, and location of any documents or~~
22 ~~other tangible things and the identity and~~
23 ~~location of persons who know of any~~
24 ~~discoverable matter. For good cause, the~~
25 ~~court may order discovery of any matter~~
26 ~~relevant to the subject matter involved in the~~
27 ~~action. Relevant information need not be~~
28 ~~admissible at the trial if the discovery~~
29 ~~appears reasonably calculated to lead to the~~
30 ~~discovery of admissible evidence. All~~
31 ~~discovery is subject to the limitations~~
32 ~~imposed by Rule 26(b)(2)(C).~~
33 **(2)** ***Limitations on Frequency and Extent.***

34 **(A)** *When Permitted.* By order, the court
35 may alter the limits in these rules on
36 the number of depositions, ~~and~~
37 interrogatories, and requests for
38 admissions, or on the length of
39 depositions under Rule 30. ~~By order~~
40 ~~or local rule, the court may also limit~~
41 ~~the number of requests under~~
42 ~~Rule 36.~~
43 * * * * *
44 **(C)** *When Required.* On motion or on its
45 own, the court must limit the
46 frequency or extent of discovery
47 ~~otherwise allowed by these rules or~~
48 ~~by local rule~~ if it determines that:
49 * * * * *

50 **(iii)** the ~~burden or expense of the~~
51 proposed discovery is outside
52 the scope permitted by
53 Rule 26(b)(1) ~~outweighs its~~
54 ~~likely benefit, considering the~~
55 ~~needs of the case, the amount~~
56 ~~in controversy, the parties'~~
57 ~~resources, the importance of~~
58 ~~the issues at stake in the~~
59 ~~action, and the importance of~~
60 ~~the discovery in resolving the~~
61 ~~issues.~~
62 * * * * *
63 **(c) Protective Orders.**
64 **(1) In General.** * * * The court may, for good
65 cause, issue an order to protect a party or
66 person from annoyance, embarrassment,

67 oppression, or undue burden or expense,
68 including one or more of the following:
69 * * * * *
70 **(B)** specifying terms, including time and
71 place or the allocation of expenses,
72 for the disclosure or discovery;
73 * * * * *
74 **(d) Timing and Sequence of Discovery.**
75 **(1)** ***Timing.*** A party may not seek discovery
76 from any source before the parties have
77 conferred as required by Rule 26(f), except:
78 **(A)** in a proceeding exempted from
79 initial disclosure under
80 Rule 26(a)(1)(B)~~,~~; or
81 **(B)** when authorized by these rules,
82 including Rule 26(d)(2), by
83 stipulation, or by court order.

84 **(2) *Early Rule 34 Requests.***

85 **(A)** *Time to Deliver*. More than 21 days
86 after the summons and complaint are
87 served on a party, a request under
88 Rule 34 may be delivered:

89 **(i)** to that party by any other
90 party, and

91 **(ii)** by that party to any plaintiff
92 or to any other party that has
93 been served.

94 **(B)** *When Considered Served*. The
95 request is considered as served at the
96 first Rule 26(f) conference.

97 **(~~2~~3)** ***Sequence.*** Unless~~, on motion,~~ the parties
98 stipulate or the court orders otherwise for
99 the parties' and witnesses' convenience and
100 in the interests of justice:

101 **(A)** methods of discovery may be used in
102 any sequence; and
103 **(B)** discovery by one party does not
104 require any other party to delay its
105 discovery.
106 * * * * *
107 **(f) Conference of the Parties; Planning for Discovery.**
108 * * * * *
109 **(3)** ***Discovery Plan*.** A discovery plan must
110 state the parties' views and proposals on:
111 * * * * *
112 **(C)** any issues about disclosure, ~~or~~
113 discovery, or preservation of
114 electronically stored information,
115 including the form or forms in which
116 it should be produced;

117 **(D)** any issues about claims of privilege
118 or of protection as trial-preparation
119 materials, including — if the parties
120 agree on a procedure to assert these
121 claims after production — whether
122 to ask the court to include their
123 agreement in an order under Federal
124 Rule of Evidence 502;
125 * * * * *

Committee Note

The scope of discovery is changed in several ways. Rule 26(b)(1) is revised to limit the scope of discovery to what is proportional to the needs of the case. The considerations that bear on proportionality are moved from present Rule 26(b)(2)(C)(iii). Although the considerations are familiar, and have measured the court's duty to limit the frequency or extent of discovery, the change incorporates them into the scope of discovery that must be observed by the parties without court order.

The amendment deletes the former provision authorizing the court, for good cause, to order discovery of any matter relevant to the subject matter involved in the

action. Proportional discovery relevant to any party's claim or defense suffices. Such discovery may support amendment of the pleadings to add a new claim or defense that affects the scope of discovery.

The former provision for discovery of relevant but inadmissible information that appears reasonably calculated to lead to the discovery of admissible evidence is also amended. Discovery of nonprivileged information not admissible in evidence remains available so long as it is otherwise within the scope of discovery. Hearsay is a common illustration. The qualifying phrase — "if the discovery appears reasonably calculated to lead to the discovery of admissible evidence" — is omitted. Discovery of inadmissible information is limited to matter that is otherwise within the scope of discovery, namely that which is relevant to a party's claim or defense and proportional to the needs of the case. The discovery of inadmissible evidence should not extend beyond the permissible scope of discovery simply because it is "reasonably calculated" to lead to the discovery of admissible evidence.

Rule 26(b)(2)(A) is revised to reflect the addition of presumptive limits on the number of requests for admission under Rule 36. The court may alter these limits just as it may alter the presumptive limits set by Rules 30, 31, and 33.

Rule 26(b)(2)(C)(iii) is amended to reflect the transfer of the considerations that bear on proportionality to Rule 26(b)(1). The court still must limit the frequency or extent of proposed discovery, on motion or on its own, if it is outside the scope permitted by Rule 26(b)(1).

Rule 26(b)(2)(C) is further amended by deleting the reference to discovery "otherwise allowed by these rules or local rule." Neither these rules nor local rules can "otherwise allow" discovery that exceeds the scope defined by Rule 26(b)(1) or that must be limited under Rule 26(b)(2)(C).

Rule 26(c)(1)(B) is amended to include an express recognition of protective orders that specify terms allocating expenses for disclosure or discovery. Authority to enter such orders is included in the present rule, and courts are coming to exercise this authority. Explicit recognition will forestall the temptation some parties may feel to contest this authority.

Rule 26(d)(1)(B) is amended to allow a party to deliver Rule 34 requests to another party more than 21 days after that party has been served even though the parties have not yet had a required Rule 26(f) conference. Delivery may be made by any party to the party that has been served, and by that party to any plaintiff and any other party that has been served. Delivery does not count as service; the requests are considered to be served at the first Rule 26(f) conference. Under Rule 34(b)(2)(A) the time to respond runs from service. This relaxation of the discovery moratorium is designed to facilitate focused discussion during the Rule 26(f) conference. Discussion at the conference may produce changes in the requests. The opportunity for advance scrutiny of requests delivered before the Rule 26(f) conference should not affect a decision whether to allow additional time to respond.

Former Rule 26(d)(2) is renumbered as (d)(3) and amended to recognize that the parties may stipulate to case-specific sequences of discovery.

Rule 26(f)(3) is amended in parallel with Rule 16(b)(3) to add two items to the discovery plan — issues about preserving electronically stored information and court orders on agreements to protect against waiver of privilege or work-product protection under Evidence Rule 502. Parallel amendments of Rule 37(e) recognize that a duty to preserve discoverable information may arise before an action is filed, and may be shaped by prefiling requests to preserve and responses to them.

1 **Rule 30. Depositions by Oral Examination**

2 **(a) When a Deposition May Be Taken.**

3 * * * * *

4 **(2)** ***With Leave.*** A party must obtain leave of

5 court, and the court must grant leave to the

6 extent consistent with Rule 26(b)(1) and (2):

7 **(A)** if the parties have not stipulated to

8 the deposition and:

9 **(i)** the deposition would result in

10 more than ~~10~~5 depositions

11 being taken under this rule or

12 Rule 31 by the plaintiffs, or

13 by the defendants, or by the

14 third-party defendants;

15 * * * * *

16 **(d) Duration; Sanction; Motion to Terminate or**

17 **Limit.**

18 **(1)** ***Duration.*** Unless otherwise stipulated or
19 ordered by the court, a deposition is limited
20 to one day of ~~7~~ 6 hours. The court must
21 allow additional time consistent with
22 Rule 26(b)(1) and (2) if needed to fairly
23 examine the deponent or if the deponent,
24 another person, or any other circumstance
25 impedes or delays the examination.

26 * * * * *

27 **Committee Note**

Rule 30 is amended to reduce the presumptive number of depositions to 5 by the plaintiffs, or by the defendants, or by the third-party defendants. Rule 30(a)(2), however, continues to direct that the court must grant leave to take more depositions to the extent consistent with Rule 26(b)(1) and (2). And Rule 30(a)(2)(A) continues to recognize that the parties may stipulate to a greater number. Just as cases frequently arise in which one or all sides reasonably need more than 10 depositions, so there will be still more cases that reasonably justify more than 5. First-line reliance continues to rest on the parties to recognize the cases in which more depositions are required, acting in accord with Rule 1. But if the parties fail to agree, the court

is responsible for identifying the cases that need more, recognizing that the context of particular cases often will justify more. The court's determination is guided by the scope of discovery defined in Rule 26(b)(1) and the limiting principles stated in Rule 26(b)(2).

Rule 30(d) is amended to reduce the presumptive limit of a deposition to one day of 6 hours. Experience with the present 7-hour presumptive limit suggests that a deposition begun in the morning often runs into evening hours after accounting for breaks. Six hours should suffice for most depositions, and encourage efficient use of the time while providing a less arduous experience for the deponent.

1 **Rule 31. Depositions by Written Questions**

2 **(a) When a Deposition May Be Taken**.

3 * * * * *

4 **(2)** ***With Leave.*** A party must obtain leave of

5 court, and the court must grant leave to the

6 extent consistent with Rule 26(b)(1) and (2):

7 **(A)** if the parties have not stipulated to

8 the deposition and:

9 **(i)** the deposition would result in

10 more than ~~10~~5 depositions

11 being taken under this rule or

12 Rule 30 by the plaintiffs, or

13 by the defendants, or by the

14 third-party defendants;

15 * * * * *

Committee Note

Rule 31 is amended to adopt for depositions by written questions the same presumptive limit of 5 depositions by the plaintiffs, or by the defendants, or by the third-party defendants as is adopted for Rule 30 depositions by oral examination.

1 **Rule 33. Interrogatories to Parties**

2 **(a) In General.**

3 **(1)** ***Number.*** Unless otherwise stipulated or
4 ordered by the court, a party may serve on
5 another party no more than ~~25~~15
6 interrogatories, including all discrete
7 subparts. Leave to serve additional
8 interrogatories may be granted to the extent
9 consistent with Rule 26(b)(1) and (2).

10 * * * * *

Committee Note

Rule 33 is amended to reduce from 25 to 15 the presumptive limit on the number of interrogatories to parties. As with the reduction in the presumptive number of depositions under Rules 30 and 31, the purpose is to encourage the parties to think carefully about the most efficient and least burdensome use of discovery devices. There is no change in the authority to increase the number by stipulation or by court order. As with other numerical limits on discovery, the court should recognize that some cases will require a greater number of interrogatories, and set a limit consistent with Rule 26(b)(1) and (2).

1 **Rule 34. Producing Documents, Electronically**
2 **Stored Information, and Tangible Things, or Entering**
3 **onto Land, for Inspection and Other Purposes**

4 * * * * *

5 **(b) Procedure.**

6 * * * * *

7 **(2)** ***Responses and Objections.***

8 * * * * *

9 **(A)** *Time to Respond.* The party to
10 whom the request is directed must
11 respond in writing within 30 days
12 after being served or — if the request
13 was delivered under Rule 26(d)(2)
14 — within 30 days after the parties'
15 first Rule 26(f) conference. A shorter
16 or longer time may be stipulated to
17 under Rule 29 or be ordered by the
18 court.

19 **(B)** *Responding to Each Item.* For each
20 item or category, the response must
21 either state that inspection and
22 related activities will be permitted as
23 requested or state ~~an objection to the~~
24 ~~request~~ the grounds for objecting to
25 the request with specificity,
26 including the reasons. The
27 responding party may state that it
28 will produce copies of documents or
29 of electronically stored information
30 instead of permitting inspection. The
31 production must then be completed
32 no later than the time for inspection
33 stated in the request or a later
34 reasonable time stated in the
35 response.

36 **(C)** *Objections*. An objection must state
37 whether any responsive materials are
38 being withheld on the basis of that
39 objection. An objection to part of a
40 request must specify the part and
41 permit inspection of the rest.
42 * * * * *

Committee Note

Several amendments are made in Rule 34, aimed at reducing the potential to impose unreasonable burdens by objections to requests to produce.

Rule 34(b)(2)(A) is amended to fit with new Rule 26(d)(2). The time to respond to a Rule 34 request delivered before the parties' Rule 26(f) conference is 30 days after the first Rule 26(f) conference.

Rule 34(b)(2)(B) is amended to make it clear that objections to Rule 34 requests must be stated with specificity. This provision adopts the language of Rule 33(b)(4), eliminating any doubt that less specific objections might be suitable under Rule 34.

Rule 34(b)(2)(B) is further amended to reflect the common practice of producing copies of documents or

electronically stored information rather than simply permitting inspection. The response to the request must state that copies will be produced. The production must be completed either by the time for inspection stated in the request or by a later reasonable time specifically identified in the response. When it is necessary to make the production in stages the response should specify the beginning and end dates of the production.

Rule 34(b)(2)(C) is amended to provide that an objection to a Rule 34 request must state whether anything is being withheld on the basis of the objection. This amendment should end the confusion that frequently arises when a producing party states several objections and still produces information, leaving the requesting party uncertain whether any relevant and responsive information has been withheld on the basis of the objections. An objection that states the limits that have controlled the search for responsive and relevant materials qualifies as a statement that the materials have been "withheld." Examples would be a statement that the search was limited to materials created during a defined period, or maintained by identified sources.

1 **Rule 36. Requests for Admission**

2 **(a) Scope and Procedure.**

3 **(1)** ***Scope.*** A party may serve on any other
4 party a written request to admit, for purposes
5 of the pending action only, the truth of any
6 matters within the scope of Rule 26(b)(1)
7 relating to:

8 **(A)** facts, the application of law to fact,
9 or opinions about either; and

10 **(B)** the genuineness of any described
11 document.

12 **(2)** ***Number.*** Unless otherwise stipulated or
13 ordered by the court, a party may serve no
14 more than 25 requests to admit under
15 Rule 36(a)(1)(A) on any other party,
16 including all discrete subparts. The court
17 may grant leave to serve additional requests

18 to the extent consistent with Rule 26(b)(1)

19 and (2).[‡]

20 * * * * *

Committee Note

For the first time, a presumptive limit of 25 is introduced for the number of Rule 36(a)(1)(A) requests to admit the truth of facts, the application of law to fact, or opinions about either. "[A]ll discrete subparts" are included in the count, to be determined in the same way as under Rule 33(a)(1). The limit does not apply to requests to admit the genuineness of any described document under Rule 36(a)(1)(B). As with other numerical limits on discovery, the court should recognize that some cases will require a greater number of requests, and set a limit consistent with the limits of Rule 26(b)(1) and (2).

[‡] Present (2), (3), (4), (5), and (6) would be renumbered.

1 **Rule 37. Failure to Make Disclosures or to Cooperate**
2 **in Discovery; Sanctions**

3 **(a) Motion for an Order Compelling Disclosure or**
4 **Discovery.**

5 * * * * *

6 **(2)** ***Specific Motions.***

7 * * * * *

8 **(B)** *To Compel a Discovery Response.* A
9 party seeking discovery may move
10 for an order compelling an answer,
11 designation, production, or
12 inspection. This motion may be
13 made if:

14 * * * * *

15 **(iv)** a party fails to produce
16 documents or fails to respond
17 that inspection will be

18 permitted — or fails to
19 permit inspection — as
20 requested under Rule 34.
21 * * * * *

Committee Note

Rule 37(a)(3)(B)(iv) is amended to reflect the common practice of producing copies of documents or electronically stored information rather than simply permitting inspection. This change brings item (iv) into line with paragraph (B), which provides a motion for an order compelling "production, or inspection."

1 **Rule 37. Failure to Make Disclosures or to Cooperate**
2 **in Discovery; Sanctions**

3 * * * * *

4 ~~**(e) Failure to Provide Electronically Stored**~~
5 ~~**Information.** Absent exceptional circumstances, a~~
6 ~~court may not impose sanctions under these rules on~~
7 ~~a party for failing to provide electronically stored~~
8 ~~information lost as a result of the routine, good-faith~~
9 ~~operation of an electronic information system.~~

10 **(e) Failure to Preserve Discoverable Information.**

11 **(1)** ***Curative measures; sanctions*****.** If a party
12 failed to preserve discoverable information
13 that should have been preserved in the
14 anticipation or conduct of litigation, the
15 court may:

16 **(A)** permit additional discovery, order
17 curative measures, or order the party

18 to pay the reasonable expenses,
19 including attorney's fees, caused by
20 the failure; and
21 **(B)** impose any sanction listed in Rule
22 37(b)(2)(A) or give an adverse-
23 inference jury instruction, but only if
24 the court finds that the party's
25 actions:
26 **(i)** caused substantial prejudice
27 in the litigation and were
28 willful or in bad faith; or
29 **(ii)** irreparably deprived a party
30 of any meaningful
31 opportunity to present or
32 defend against the claims in
33 the litigation.

34 **(2)** ***Factors to be considered in assessing a***
35 ***party's conduct.*** The court should consider
36 all relevant factors in determining whether a
37 party failed to preserve discoverable
38 information that should have been preserved
39 in the anticipation or conduct of litigation,
40 and whether the failure was willful or in bad
41 faith. The factors include:
42 **(A)** the extent to which the party was on
43 notice that litigation was likely and
44 that the information would be
45 discoverable;
46 **(B)** the reasonableness of the party's
47 efforts to preserve the information;
48 **(C)** whether the party received a request
49 to preserve information, whether the
50 request was clear and reasonable,

51 and whether the person who made it
52 and the party consulted in good faith
53 about the scope of preservation;
54 **(D)** the proportionality of the
55 preservation efforts to any
56 anticipated or ongoing litigation; and
57 **(E)** whether the party timely sought the
58 court's guidance on any unresolved
59 disputes about preserving
60 discoverable information.
61 * * * * *

Committee Note

In 2006, Rule 37(e) was added to provide protection against sanctions for loss of electronically stored information under certain limited circumstances, but preservation problems have nonetheless increased. The Committee has been repeatedly informed of growing concern about the increasing burden of preserving information for litigation, particularly with regard to electronically stored information. Many litigants and prospective litigants have emphasized their uncertainty

about the obligation to preserve information, particularly before litigation has actually begun. The remarkable growth in the amount of information that might be preserved has heightened these concerns. Significant divergences among federal courts across the country have meant that potential parties cannot determine what preservation standards they will have to satisfy to avoid sanctions. Extremely expensive overpreservation may seem necessary due to the risk that very serious sanctions could be imposed even for merely negligent, inadvertent failure to preserve some information later sought in discovery.

This amendment to Rule 37(e) addresses these concerns by adopting a uniform set of guidelines for federal courts, and applying them to all discoverable information, not just electronically stored information. The amended rule is not limited, as is the current rule, to information lost due to "the routine, good-faith operation of an electronic information system." The amended rule is designed to ensure that potential litigants who make reasonable efforts to satisfy their preservation responsibilities may do so with confidence that they will not be subjected to serious sanctions should information be lost despite those efforts. It does not provide "bright line" preservation directives because bright lines seem unsuited to a set of problems that is intensely context-specific. Instead, the rule focuses on a variety of considerations that the court should weigh in calibrating its response to the loss of information.

Amended Rule 37(e) supersedes the current rule because it provides protection for any conduct that would be protected under the current rule. The current rule

provides: "Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system." The routine good faith operation of an electronic information system should be respected under the amended rule. As under the current rule, the prospect of litigation may call for altering that routine operation. And the prohibition of sanctions in the amended rule means that any loss of data that would be insulated against sanctions under the current rule would also be protected under the amended rule.

Amended Rule 37(e) applies to loss of discoverable information "that should have been preserved in the anticipation or conduct of litigation." This preservation obligation was not created by Rule 37(e), but has been recognized by many court decisions. It may in some instances be triggered or clarified by a court order in the case. Rule 37(e)(2) identifies many of the factors that should be considered in determining, in the circumstances of a particular case, when a duty to preserve arose and what information should have been preserved.

Except in very rare cases in which a party's actions cause the loss of information that irreparably deprives another party of any meaningful opportunity to present or defend against the claims in the litigation, sanctions for loss of discoverable information may only be imposed on a finding of willfulness or bad faith, combined with substantial prejudice.

The amended rule therefore forecloses reliance on inherent authority or state law to impose litigation sanctions in the absence of the findings required under Rule 37(e)(1)(B). But the rule does not affect the validity of an independent tort claim for relief for spoliation if created by the applicable law. The law of some states authorizes a tort claim for spoliation. The cognizability of such a claim in federal court is governed by the applicable substantive law, not Rule 37(e).

An amendment to Rule 26(f)(3) directs the parties to address preservation issues in their discovery plan, and an amendment to Rule 16(b)(3) recognizes that the court's scheduling order may address preservation. These amendments may prompt early attention to matters also addressed by Rule 37(e).

Subdivision (e)(1)(A). When the court concludes that a party failed to preserve information that should have been preserved in the anticipation or conduct of litigation, it may adopt a variety of measures that are not sanctions. One is to permit additional discovery that would not have been allowed had the party preserved information as it should have. For example, discovery might be ordered under Rule 26(b)(2)(B) from sources of electronically stored information that are not reasonably accessible. More generally, the fact that a party has failed to preserve information may justify discovery that otherwise would be precluded under the proportionality analysis of Rule 26(b)(1) and (2)(C).

In addition to, or instead of, ordering further discovery, the court may order curative measures, such as

requiring the party that failed to preserve information to restore or obtain the lost information, or to develop substitute information that the court would not have ordered the party to create but for the failure to preserve. The court may also require the party that failed to preserve information to pay another party's reasonable expenses, including attorney fees, caused by the failure to preserve. Such expenses might include, for example, discovery efforts caused by the failure to preserve information. Additional curative measures might include permitting introduction at trial of evidence about the loss of information or allowing argument to the jury about the possible significance of lost information.

Subdivision (e)(1)(B)(i). This subdivision authorizes imposition of the sanctions listed in Rule 37(b)(2)(A) for willful or bad-faith failure to preserve information, whether or not there was a court order requiring such preservation. Rule 37(e)(1)(B)(i) is designed to provide a uniform standard in federal court for sanctions for failure to preserve. It rejects decisions that have authorized the imposition of sanctions -- as opposed to measures authorized by Rule 37(e)(1)(A) -- for negligence or gross negligence. It borrows the term "sanctions" from Rule 37(b)(2), and does not attempt to prescribe whether such measures would be so regarded for other purposes, such as an attorney's professional responsibility.

This subdivision protects a party that has made reasonable preservation decisions in light of the factors identified in Rule 37(e)(2), which emphasize both reasonableness and proportionality. Despite reasonable efforts to preserve, some discoverable information may be

lost. Although loss of information may affect other decisions about discovery, such as those under Rule 26(b)(1), (b)(2)(B), and (b)(2)(C), sanctions may be imposed only for willful or bad faith actions, unless the exceptional circumstances described in Rule 37(e)(1)(B)(ii) are shown.

The threshold under Rule 37(e)(1)(B)(i) is that the court find that lost information should have been preserved; if so, the court may impose sanctions only if it can make two further findings. First, the court must find that the loss of information caused substantial prejudice in the litigation. Because digital data often duplicate other data, substitute evidence is often available. Although it is impossible to demonstrate with certainty what lost information would prove, the party seeking sanctions must show that it has been substantially prejudiced by the loss. Among other things, the court may consider the measures identified in Rule 37(e)(1)(A) in making this determination; if these measures can sufficiently reduce the prejudice, sanctions would be inappropriate even when the court finds willfulness or bad faith. Rule 37(e)(1)(B)(i) authorizes imposition of Rule 37(b)(2) sanctions in the expectation that the court will employ the least severe sanction needed to repair the prejudice resulting from loss of the information.

Second, it must be established that the party that failed to preserve did so willfully or in bad faith. This determination should be made with reference to the factors identified in Rule 37(e)(2).

Subdivision (e)(1)(B)(ii). This subdivision permits

the court to impose sanctions in narrowly limited circumstances without making a finding of either bad faith or willfulness. The need to show bad faith or willfulness is excused only by finding an impact more severe than the substantial prejudice required to support sanctions under Rule 37(e)(1)(B)(i). It still must be shown that a party failed to preserve discoverable information that should have been preserved. In addition, it must be shown that the party's actions irreparably deprived a party of any meaningful opportunity to present or defend against the claims in the litigation.

The first step under this subdivision is to examine carefully the apparent importance of the lost information. Particularly with electronically stored information, alternative sources may often exist. The next step is to explore the possibility that curative measures under subdivision (e)(1)(A) can reduce the adverse impact. If a party loses readily accessible electronically stored information, for example, the court may direct the party to attempt to retrieve the information by alternative means. If such measures are not possible or fail to restore important information, the court must determine whether the loss has irreparably deprived a party of any meaningful opportunity to present or defend against the claims in the litigation.

The "irreparably deprived" test is more demanding than the "substantial prejudice" that permits sanctions under Rule 37(e)(1)(B)(i) on a showing of bad faith or willfulness. Examples might include cases in which the alleged injury-causing instrumentality has been lost. A plaintiff's failure to preserve an automobile claimed to have defects that caused injury without affording the defendant

manufacturer an opportunity to inspect the damaged vehicle may be an example. Such a situation led to affirmance of dismissal, as not an abuse of discretion, in *Silvestri v. General Motors Corp.*, 271 F.3d 583 (4th Cir. 2001). Or a party may lose the only evidence of a critically important event. But even such losses may not irreparably deprive another party of any meaningful opportunity to litigate. Remaining sources of evidence and the opportunity to challenge the evidence presented by the party who lost discoverable information that should have been preserved, along with possible presentation of evidence and argument about the significance of the lost information, should often afford a meaningful opportunity to litigate.

The requirement that a party be irreparably deprived of any meaningful opportunity to present or defend against the claims in the litigation is further narrowed by looking to all the claims in the litigation. Lost information may appear critical to litigating a particular claim or defense, but sanctions should not be imposed — or should be limited to the affected claims or defenses — if those claims or defenses are not central to the litigation.

A special situation arises when discoverable information is lost because of events outside a party's control. A party may take the steps that should have been taken to preserve the information, but lose it to such unforeseeable circumstances as flood, earthquake, fire, or malicious computer attacks. Curative measures may be appropriate in such circumstances — this is information that should have been preserved — but sanctions are not. The loss is not caused by "the party's actions" as required by (e)(1)(B).

Subdivision (e)(2). These factors guide the court when asked to adopt measures under Rule 37(e)(1)(A) due to loss of information or to impose sanctions under Rule 37(e)(1)(B). The listing of factors is not exclusive; other considerations may bear on these decisions, such as whether the information not retained reasonably appeared to be cumulative with materials that were retained. With regard to all these matters, the court's focus should be on the reasonableness of the parties' conduct.

The first factor is the extent to which the party was on notice that litigation was likely and that the information lost would be discoverable in that litigation. A variety of events may alert a party to the prospect of litigation. But often these events provide only limited information about that prospective litigation, so that the scope of discoverable information may remain uncertain.

The second factor focuses on what the party did to preserve information after the prospect of litigation arose. The party's issuance of a litigation hold is often important on this point. But it is only one consideration, and no specific feature of the litigation hold -- for example, a written rather than an oral hold notice -- is dispositive. Instead, the scope and content of the party's overall preservation efforts should be scrutinized. One focus would be on the extent to which a party should appreciate that certain types of information might be discoverable in the litigation, and also what it knew, or should have known, about the likelihood of losing information if it did not take steps to preserve. The court should be sensitive to the party's sophistication with regard to litigation in evaluating preservation efforts; some litigants, particularly individual

litigants, may be less familiar with preservation obligations than other litigants who have considerable experience in litigation. Although the rule focuses on the common law obligation to preserve in the anticipation or conduct of litigation, courts may sometimes consider whether there was an independent requirement that the lost information be preserved. The court should be sensitive, however, to the fact that such independent preservation requirements may be addressed to a wide variety of concerns unrelated to the current litigation. The fact that some information was lost does not itself prove that the efforts to preserve were not reasonable.

The third factor looks to whether the party received a request to preserve information. Although such a request may bring home the need to preserve information, this factor is not meant to compel compliance with all such demands. To the contrary, reasonableness and good faith may not require any special preservation efforts despite the request. In addition, the proportionality concern means that a party need not honor an unreasonably broad preservation demand, but instead should make its own determination about what is appropriate preservation in light of what it knows about the litigation. The request itself, or communication with the person who made the request, may provide insights about what information should be preserved. One important matter may be whether the person making the preservation request is willing to engage in good faith consultation about the scope of the desired preservation.

The fourth factor emphasizes a central concern -- proportionality. The focus should be on the information

needs of the litigation at hand. That may be only a single case, or multiple cases. Rule 26(b)(1) is amended to make proportionality a central factor in determining the scope of discovery. Rule 37(e)(2)(D) explains that this calculation should be made with regard to "any anticipated or ongoing litigation." Prospective litigants who call for preservation efforts by others (the third factor) should keep those proportionality principles in mind.

Making a proportionality determination often depends in part on specifics about various types of information involved, and the costs of various forms of preservation. The court should be sensitive to party resources; aggressive preservation efforts can be extremely costly, and parties (including governmental parties) may have limited resources to devote to those efforts. A party may act reasonably by choosing the least costly form of information preservation, if it is substantially as effective as more costly forms. It is important that counsel become familiar with their clients' information systems and digital data -- including social media -- to address these issues. A party urging that preservation requests are disproportionate may need to provide specifics about these matters in order to enable meaningful discussion of the appropriate preservation regime.

Finally, the fifth factor looks to whether the party alleged to have failed to preserve as required sought guidance from the court if agreement could not be reached with the other parties. Until litigation commences, reference to the court may not be possible. In any event, this is not meant to encourage premature resort to the court; amendments to Rule 26(f)(3) direct the parties to address

preservation in their discovery plan, and amendments to Rule 16(c)(3) invite provisions on this subject in the scheduling order. Ordinarily the parties' arrangements are to be preferred to those imposed by the court. But if the parties cannot reach agreement, they should not forgo available opportunities to obtain prompt resolution of the differences from the court.

1 **Rule 84. Forms**

2 **[Abrogated (Apr. __, 2015, eff. Dec. 1, 2015).]**

3 ~~The forms in the Appendix suffice under these rules~~

4 ~~and illustrate the simplicity and brevity that these rules~~

5 ~~contemplate.~~

Committee Note

Rule 84 was adopted when the Civil Rules were established in 1938 "to indicate, subject to the provisions of these rules, the simplicity and brevity of statement which the rules contemplate." The purpose of providing illustrations for the rules, although useful when the rules were adopted, has been fulfilled. Accordingly, recognizing that there are many excellent alternative sources for forms, including the Administrative Office of the United States Courts, Rule 84 and the Appendix of Forms are no longer necessary and have been abrogated.

1 **APPENDIX OF FORMS**

2 **Abrogated [(Apr. __, 2015, eff. Dec. 1, 2015).]**

1 **Rule 4. Summons**

2 * * * * *

3 **(d) Waiving Service.**

4 **(1)** ***Requesting a Waiver.*** * * * The plaintiff
5 may notify such a defendant that an action
6 has been commenced and request that the
7 defendant waive service of a summons. The
8 notice and request must:

9 * * * * *

10 **(C)** be accompanied by a copy of the
11 complaint, 2 copies of ~~a~~ the waiver
12 form appended to this Rule 4, and a
13 prepaid means for returning the
14 form;

15 **(D)** inform the defendant, using ~~text~~
16 ~~prescribed in Form 5~~ the form
17 appended to this Rule 4, of the

consequences of waiving and not waiving service;

* * * * *

~~Form 5.~~Rule 4 Notice of a Lawsuit and Request to Waive Service of Summons.

(Caption~~ — See Form 1~~.)

To (*name the defendant or — if the defendant is a corporation, partnership, or association — name an officer or agent authorized to receive service*):

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within (*give at least 30 days or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

42 **What happens next?**

43 If you return the signed waiver, I will file it with the
44 court. The action will then proceed as if you had been
45 served on the date the waiver is filed, but no summons will
46 be served on you and you will have 60 days from the date
47 this notice is sent (see the date below) to answer the
48 complaint (or 90 days if this notice is sent to you outside
49 any judicial district of the United States).

50 If you do not return the signed waiver within the
51 time indicated, I will arrange to have the summons and
52 complaint served on you. And I will ask the court to
53 require you, or the entity you represent, to pay the expenses
54 of making service.

55 Please read the enclosed statement about the duty to
56 avoid unnecessary expenses.

57 I certify that this request is being sent to you on the
58 date below.

59 ~~(Date and sign – See Form 2.)~~

60 Date: _____

61 _____
62 (Signature of the attorney
63 or unrepresented party)

64 _____
65 (Printed name)

66 _____
67 (Address)

68 _____
69 (E-mail address)

70 _____
71 (Telephone number)

72 ~~Form 6.~~Rule 4 Waiver of the Service of Summons.

73 (Caption ~~— See Form 1.~~)

74 To (*name the plaintiff's attorney or the unrepresented*
75 *plaintiff*):

76 I have received your request to waive service of a
77 summons in this action along with a copy of the complaint,
78 two copies of this waiver form, and a prepaid means of
79 returning one signed copy of the form to you.

80 I, or the entity I represent, agree to save the expense
81 of serving a summons and complaint in this case.

82 I understand that I, or the entity I represent, will
83 keep all defenses or objections to the lawsuit, the court's
84 jurisdiction, and the venue of the action, but that I waive
85 any objections to the absence of a summons or of service.

86 I also understand that I, or the entity I represent,
87 must file and serve an answer or a motion under Rule 12
88 within 60 days from _____, the date
89 when this request was sent (or 90 days if it was sent outside

90 the United States). If I fail to do so, a default judgment will
91 be entered against me or the entity I represent.

92 ~~(Date and sign – See Form 2.)~~

93 Date: _____

94 _____
95 (Signature of the attorney
96 or unrepresented party)

97 _____
98 (Printed name)

99 _____
100 (Address)

101 _____
102 (E-mail address)

103 _____
104 (Telephone number)

105 (Attach the following ~~to Form 6~~)

106 **Duty to Avoid Unnecessary Expenses of Serving a**
107 **Summons**

108 Rule 4 of the Federal Rules of Civil Procedure
109 requires certain defendants to cooperate in saving
110 unnecessary expenses of serving a summons and complaint.
111 A defendant who is located in the United States and who
112 fails to return a signed waiver of service requested by a

113 plaintiff located in the United States will be required to pay
114 the expenses of service, unless the defendant shows good
115 cause for the failure.

116 "Good cause" does *not* include a belief that the
117 lawsuit is groundless, or that it has been brought in an
118 improper venue, or that the court has no jurisdiction over
119 this matter or over the defendant or the defendant's
120 property.

121 If the waiver is signed and returned, you can still
122 make these and all other defenses and objections, but you
123 cannot object to the absence of a summons or of service.

124 If you waive service, then you must, within the time
125 specified on the waiver form, serve an answer or a motion
126 under Rule 12 on the plaintiff and file a copy with the
127 court. By signing and returning the waiver form, you are
128 allowed more time to respond than if a summons had been
129 served.

130 ~~(Date and sign – See Form 2.)~~

Committee Note[§]

Abrogation of Rule 84 and the other official forms requires that former Forms 5 and 6 be directly incorporated into Rule 4.

[§] For this publication and solicitation of public comment, new material is underlined in red (but not italics), material directly incorporated into Rule 4 from current Forms 5 and 6 appears in black, and matter to be omitted from current Forms 5 and 6 is lined through.

1 **Rule 6. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 **(d) Additional Time After Certain Kinds of Service.**

5 When a party may or must act within a specified
6 time after ~~service~~ being served and service is made
7 under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are
8 added after the period would otherwise expire under
9 Rule 6(a).

Committee Note

What is now Rule 6(d) was amended in 2005 "to remove any doubt as to the method for calculating the time to respond after service by mail, leaving with the clerk of court, electronic means, or by other means consented to by the party served." A potential ambiguity was created by substituting "after service" for the earlier references to acting after service "upon the party" if a paper or notice "is served upon the party" by the specified means. "[A]fter service" could be read to refer not only to a party that has been served but also to a party that has made service. That reading would mean that a party who is allowed a specified time to act after making service can extend the time by choosing one of the means of service specified in the rule, something that was never intended by the original rule or

the amendment. Rules setting a time to act after making service include Rules 14(a)(1), 15(a)(1)(A), and 38(b)(1). "[A]fter being served" is substituted for "after service" to dispel any possible misreading.

1 **Rule 55. Default; Default Judgment**

2 * * * * *

3 (**c**) **Setting Aside a Default or a Default Judgment.**

4 The court may set aside an entry of default for good

5 cause, and it may set aside a final default judgment

6 under Rule 60(b).

7 * * * * *

Committee Note

Rule 55(c) is amended to make plain the interplay between Rules 54(b), 55(c), and 60(b). A default judgment that does not dispose of all of the claims among all parties is not a final judgment unless the court directs entry of final judgment under Rule 54(b). Until final judgment is entered, Rule 54(b) allows revision of the default judgment at any time. The demanding standards set by Rule 60(b) apply only in seeking relief from a final judgment.

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Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees

(as codified in *Guide to Judiciary Policy*, Vol. 1, § 440)

§ 440 Procedures for Committees on Rules of Practice and Procedure

This section contains the "Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees," last amended in September 2011. JCUS-SEP 2011, p. __.

§ 440.10 Overview

The Rules Enabling Act, 28 U.S.C. §§ 2071–2077, authorizes the Supreme Court to prescribe general rules of practice and procedure and rules of evidence for the federal courts. Under the Act, the Judicial Conference must appoint a standing committee, and may appoint advisory committees to recommend new and amended rules. Section 2073 requires the Judicial Conference to publish the procedures that govern the work of the Committee on Rules of Practice and Procedure (the "Standing Committee") and its advisory committees on the Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure and on the Evidence Rules. *See* 28 U.S.C. § 2073(a)(1). These procedures do not limit the rules committees' authority. Failure to comply with them does not invalidate any rules committee action. *Cf.* 28 U.S.C. § 2073(e).

§ 440.20 Advisory Committees

§ 440.20.10 Functions

Each advisory committee must engage in "a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use" in its field, taking into consideration suggestions and recommendations received from any source, new statutes and court decisions affecting the rules, and legal commentary. *See* 28 U.S.C. § 331.

§ 440.20.20 Suggestions and Recommendations

Suggestions and recommendations on the rules are submitted to the Secretary of the Standing Committee at the Administrative Office of the United States Courts, Washington, D.C. The Secretary will acknowledge the suggestions or recommendations and refer them to the appropriate advisory committee. If the Standing Committee takes formal action on them, that action will be reflected in the Standing Committee's minutes, which are posted on the judiciary's rulemaking website.

§ 440.20.30 Drafting Rule Changes

(a) Meetings

Each advisory committee meets at the times and places that the chair designates. Advisory committee meetings must be open to the public, except when the committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the judiciary's rulemaking website, sufficiently in advance to permit interested persons to attend.

(b) Preparing Draft Changes

The reporter assigned to each advisory committee should prepare for the committee, under the direction of the committee or its chair, draft rule changes, committee notes explaining their purpose, and copies or summaries of written recommendations and suggestions received by the committee.

(c) Considering Draft Changes

The advisory committee studies the rules' operation and effect. It meets to consider proposed new and amended rules (together with committee notes), whether changes should be made, and whether they should be submitted to the Standing Committee with a recommendation to approve for publication. The submission must be accompanied by a written report explaining the advisory committee's action and its evaluation of competing considerations.

§ 440.20.40 Publication and Public Hearings

(a) Publication

Before any proposed rule change is published, the Standing Committee must approve publication. The Secretary then arranges for printing and circulating the proposed change to the bench, bar, and public. Publication should be as wide as possible. The proposed change must be published in the *Federal Register* and on the judiciary's rulemaking website. The Secretary must:

(1) notify members of Congress, federal judges, and the chief justice of each state's highest court of the proposed change, with a link to the judiciary's rulemaking website; and

(2) provide copies of the proposed change to legal-publishing firms with a request to timely include it in publications.

(b) Public Comment Period

A public comment period on the proposed change must extend for at least six months after notice is published in the *Federal Register*, unless a shorter period is approved under paragraph (d) of this section.

(c) Hearings

The advisory committee must conduct public hearings on the proposed change unless eliminating them is approved under paragraph (d) of this section or not enough witnesses ask to testify at a particular hearing. The hearings are held at the times and places that the advisory committee's chair determines. Notice of the times and places must be published in the *Federal Register* and on the judiciary's rulemaking website. The hearings must be recorded. Whenever possible, a transcript should be produced by a qualified court reporter.

(d) Expedited Procedures

The Standing Committee may shorten the public comment period or eliminate public hearings if it determines that the administration of justice requires a proposed rule change to be expedited and that appropriate notice to the public can still be provided and public comment obtained. The Standing Committee may also eliminate public notice and comment for a technical or conforming amendment if the Committee determines that they are unnecessary. When an exception is made, the chair must advise the Judicial Conference and provide the reasons.

§ 440.20.50 Procedures After the Comment Period

(a) Summary of Comments

When the public comment period ends, the reporter must prepare a summary of the written comments received and of the testimony presented at public hearings. If the number of comments is very large, the reporter may summarize and aggregate similar individual comments, identifying the source of each one.

(b) Advisory Committee Review; Republication

The advisory committee reviews the proposed change in light of any comments and testimony. If the advisory committee makes substantial changes, the proposed rule should be republished for an additional period of public comment unless the advisory committee determines that republication would not be necessary to achieve adequate public comment and would not assist the work of the rules committees.

(c) Submission to the Standing Committee

The advisory committee submits to the Standing Committee the proposed change and committee note that it recommends for approval. Each submission must:

(1) be accompanied by a separate report of the comments received;

(2) explain the changes made after the original publication; and

(3) include an explanation of competing considerations examined by the advisory committee.

§ 440.20.60 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The advisory committee's chair arranges for preparing the minutes of the committee meetings.

(b) Records

The advisory committee's records consist of:

- written suggestions received from the public;
- written comments received from the public on drafts of proposed rules;
- the committee's responses to public suggestions and comments;
- other correspondence with the public about proposed rule changes;
- electronic recordings and transcripts of public hearings (when prepared);
- the reporter's summaries of public comments and of testimony from public hearings;
- agenda books and materials prepared for committee meetings;
- minutes of committee meetings;

- approved drafts of rule changes; and
- reports to the Standing Committee.

(c) Public Access to Records

The records must be posted on the judiciary's rulemaking website, except for general public correspondence about proposed rule changes and electronic recordings of hearings when transcripts are prepared. This correspondence and archived records are maintained by the Administrative Office of the United States Courts and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under § 440.20.30(a).

§ 440.30 Standing Committee

§ 440.30.10 Functions

The Standing Committee's functions include:

(a) coordinating the work of the advisory committees;

(b) suggesting proposals for them to study;

(c) considering proposals they recommend for publication for public comment; and

(d) for proposed rule changes that have completed that process, deciding whether to accept or modify the proposals and transmit them with its own recommendation to the Judicial Conference, recommit them to the advisory committee for further study and consideration, or reject them.

§ 440.30.20 Procedures

(a) Meetings

The Standing Committee meets at the times and places that the chair designates. Committee meetings must be open to the public, except when the Committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the judiciary's rulemaking website, sufficiently in advance to permit interested persons to attend.

(b) Attendance by the Advisory Committee Chairs and Reporters

The advisory committees' chairs and reporters should attend the Standing Committee meetings to present their committees' proposed rule changes and committee notes, to inform the Standing Committee about ongoing work, and to participate in the discussions.

(c) Action on Proposed Rule Changes or Committee Notes

The Standing Committee may accept, reject, or modify a proposed change or committee note, or may return the proposal to the advisory committee with instructions or recommendations.

(d) Transmission to the Judicial Conference

The Standing Committee must transmit to the Judicial Conference the proposed rule changes and committee notes that it approves, together with the advisory committee report. The Standing Committee's report includes its own recommendations and explains any changes that it made.

§ 440.30.30 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The Secretary prepares minutes of Standing Committee meetings.

(b) Records

The Standing Committee's records consist of:

- the minutes of Standing Committee and advisory committee meetings;
- agenda books and materials prepared for Standing Committee meetings;
- reports to the Judicial Conference; and
- official correspondence about rule changes, including correspondence with advisory committee chairs.

(c) Public Access to Records

The records must be posted on the judiciary's rulemaking website, except for official correspondence about rule changes. This correspondence and archived records are maintained by the Administrative Office of the United

States Courts and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under § 440.30.20(a).

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