



PREPARING THE PETITION, SCHEDULES, STATEMENT OF FINANCIAL AFFAIRS, MEANS TEST (FORM 22C) AND CHAPTER 13 PLAN

THE PETITION

Provide complete information for each debtor.

Full name

Any “aka”, “dba” or “fdba”

Complete mailing address and street address

Location of principal assets

All prior bankruptcy petitions filed in the previous eight years regardless of the disposition of the case(s).

STATEMENT OF SOCIAL SECURITY NUMBER

Make sure the Statement of Social Security Number accurately reflects each debtor’s social security number. Inaccurate information must be corrected by filing an amended Statement of Social Security Number and by giving notice of the correction to the three major credit reporting agencies.

THE SCHEDULES

Schedule A

List all real property the debtors own or have an interest in and the current value of the debtors’ interest in the property. This includes any real estate the debtors intend to surrender.

If the debtors have less than a 100% interest in the real property, specify the debtors’ share and who holds the remaining interest. List the current value of the debtors’ interest under the column “Current Value of Debtors’ Interest in Property Without Deducting any Secured Claim or Exemption”. Under the Description and Location of the Property, list the total market value of the property.

Under the column “Amount of Secured Claim”, list the total amount owing on all liens attached to the property.

Schedule B

List all personal property the debtors own or have an interest in. If the debtor is married, but the spouse is not a joint petitioner, be sure to list all community assets.

Cash on hand – no matter how minimal

Bank accounts – specifying the balances as of the date the petition is filed. Provide the balance according to the bank, not the amount in the debtors’ checking account register.

Household goods – either itemize on the schedule or attach a detailed itemization

Wearing apparel

Furs and Jewelry – this includes costume jewelry

Term and Whole life insurance policies

Any and all pensions, IRAs, 401(k)s – this includes ERISA qualified funds

Any and all licenses – this includes liquor licenses, day care licenses and any other professional licenses.

Vehicles – provide a detailed description including year, make, model, mileage and condition.

Schedule C

California has “opted out” of the federal exemptions. You must use the state exemptions provided in the California Code of Civil Procedures. You may elect to use either the set of exemptions found under C.C.P. §703 or C.C.P. §704, but you may not combine the two.

If the debtor is married and the spouse is not a debtor in the case and the debtor is claiming exemptions under C.C.P. §703, the non-debtor spouse must file a Spousal Waiver of Right to Claim Exemptions Pursuant to C.C.P. §703.140(a)(2). This form is available free of charge on the court’s website at www.caeb.uscourts.gov.

Do not exceed the maximum allowance for any exemption.

Use the proper exemption for the property you wish to exempt.

Schedule D

List all secured debts, regardless of the debtors’ intention to surrender the collateral and/or avoid the judicial lien. If the debtor is married, but the spouse is not a joint petitioner, be sure to list all community debts.

Provide all information necessary to clarify the nature of the lien, description of the property (i.e. “2005 Honda Accord” rather than “vehicle”) and the value of the property.

Property taxes are usually secured by real property and should be listed on Schedule D, not Schedule E.

Avoid listing any claim amount as “unknown”.

Do not include leases on Schedule D. Leases and executory contracts should be listed on Schedule G only.

Schedule E

Schedule E is exclusively for priority debts as defined under 11 U.S.C. §507 (i.e. taxes and domestic support obligations). Student loans are not entitled to treatment as priority debts and should be listed on Schedule F, not Schedule E.

It is not necessary to enter separate entries for each tax year the debtors owe taxes. The total

amount for all tax years owing may be listed as a single entry for each taxing agency. You must provide a separate entry for each taxing agency (i.e. one entry for the Internal Revenue Service for all tax years owing and a separate entry for the Franchise Tax Board for all tax years owing).

Schedule F

Provide as much information as necessary to be clear as to the date the debt was incurred and the consideration for the debt. If the debt was incurred over a period of time (i.e. a revolving credit card account), provide the years the card was used.

Avoid listing any claim amount as “unknown”. Provide an estimate based on the most recent billing statement the debtors received. If the amount is truly unknown to the debtors, provide an explanation why the debtors do not know how much is owed.

Schedule G

List all leases and executory contracts on Schedule G, not Schedule D. State whether the debtors are the lessors or the lessees.

Schedule H

Provide complete and accurate information regarding any person or entity other than the spouse in a joint case, who is also liable on any debts owed by the debtors (i.e. co-signed vehicle loans for a friend or relative).

Schedule I

Provide the ages of all dependents and their relationship to the debtors. Do not provide the names of the dependents.

Provide complete information regarding each debtor’s employment status.

Provide accurate information regarding the debtor’s marital status. If the debtor was married, but is now divorced, the appropriate marital status is divorced, not single.

If a debtor derives income from more than one source, the incomes should be broken out, not lumped together. Income should be entered on the correct line as to the source of income (i.e. income from the operation of a business should not be listed at line 1 for monthly gross wages, salary and commissions).

Payroll deductions should not be lumped together. Itemize tax withholdings, insurance withholdings, union dues withholdings and retirement withholdings separately.

Provide sources and amounts of any and all income each debtor receives – no matter how minimal.

At line 17, describe in detail any increase or decrease in income that the debtor anticipates to occur within the year following the filing date of the petition. This information is especially important when the plan proposes increases or decreases in monthly plan payments.

Schedule J

If real estate taxes and/or homeowner's insurance is included in the mortgage payment, check the appropriate box.

Please provide a detailed explanation for any expenses listed under "other".

If the debtors have expenses related to multiple real properties, the income and expenses for each property should be itemized, not lumped together.

If the plan calls for the mortgage payment to be paid as a Class 1 claim, do not include the monthly expense on Schedule J. If the plan calls for secured debts to be paid through the plan in Class 2, do not include these monthly expenses on Schedule J. If the plan calls for priority debts to be paid in Class 5, do not include these monthly expenses on Schedule J.

List all other monthly expenses that are reasonable and necessary for the maintenance and support of the debtors and their dependents.

STATEMENT OF FINANCIAL AFFAIRS (SOFA)

SOFA 1 – provide gross income separately for each debtor for the current year and the previous two years. Provide the source of income for each year. You must provide the non-debtor spouse's income (if any) for the current year and the previous two years as well.

SOFA 2 – provide any and all other income the debtors received in the current year and the previous two years.

SOFA 3 – provide information for any and all payments made by the debtors on any credit accounts during the 90 day period immediately preceding the filing date of the petition if the total payment on any one account during the 90 day period is at least \$600.00.

SOFA 4 – list any and all lawsuits to which the debtors were a party during the one year period prior to the filing date of the petition.

SOFA 5 – list all property that has been repossessed, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or otherwise voluntarily surrendered to the lender within one year of the filing of the petition.

SOFA 7 – list all charitable contributions made within one year prior to the filing of the petition. There are often projected charitable contributions listed in schedule J with no historical information provided on SOFA 7.

SOFA 9 – be sure the information matches the information regarding any retainer listed on the plan, Disclosure of Compensation of Attorney -2016(b) statement, and the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys.

SOFA 10 – list any all property transferred in the two year period prior to the filing of the petition other than property transferred in the ordinary course of the debtors' business.

SOFA 14 – list all property the debtor holds or controls that is owned by another party.

SOFA 16 – list the full names of all spouses and former spouses of the debtors within the eight year period prior to the filing of the petition.

SOFA 18 through 25 – these questions must be answered if the debtors are self-employed.

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR – 2016(b) STATEMENT

This statement must be filed in any case where the debtor is represented by an attorney.

Provide clear and complete information as to the total fee being charged, the pre-petition retainer received and the balance due. Make certain that the information provided matches the information contained in the plan, SOFA 9 and the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys.

STATEMENT OF CURRENT MONTHLY INCOME – MEANS TEST - FORM 22C

All figures must reflect average monthly income from all sources received during the six month period prior to the filing of the petition. If the amounts are significantly different that the amounts projected on Schedule I, attach a detailed explanation for the discrepancy. List all sources of income in the appropriate tables.

If the debtor has included a marital adjustment, include a detailed explanation for the income of the non-debtor spouse that was not regularly contributed to the household expenses.

The Census Bureau information regarding the applicable median family income, the Internal Revenue Service expense standards and the list of Administrative Expenses are available free of charge on the court's website at www.caeb.uscourts.gov with a link to the United States Trustee Program/Means Testing Information. Be sure to use the applicable standards based on the debtors' income, household size and county of residence.

Housing and Utilities adjustment – you must state a basis for any amount claimed over the local standards housing and utilities expense. You may not claim an additional expense over the standard on the basis that the debtors' actual rent expense is higher than the allowance.

Other necessary expenses: taxes – if the tax expense on Form 22C is significantly different than the projected withholdings on Schedule I and/or the projected estimated taxes on Schedule J, attach a detailed explanation for the discrepancy.

Chapter 13 administrative expense – the administrative expense for the purposes of Form 22C is based solely on the current multiplier as determined by the Executive Office of the United States Trustee. You may not use the current percentage fee actually being charged by the standing chapter 13 trustee.

Monthly Disposable Income Under §1325(b)(2) – the figure listed on this line represents the amount that must be paid to unsecured creditors each month. The applicable commitment period is five years if annualized current monthly income is greater than the applicable median family income. The amount of monthly disposable income is therefore multiplied by 60. This constitutes the total amount that must be paid to general unsecured creditors in order for the plan to pass the Means Test.

CHAPTER 13 PLAN

The standard form plan is attached to General Order 05-03 which is available free of charge on the court's website at www.caeb.uscourts.gov.

If the trustee does not receive the plan prior to mailing the notice of the meeting of creditors, the debtor or debtor's attorney shall serve a copy of the plan and a duplicate of the Notice of Chapter 13 Bankruptcy Case on all parties at least 18 days prior to the Meeting of Creditors. If this is not done, the debtor or debtor's attorney shall file a stand-alone motion to confirm the plan and set the matter for hearing using the court's self-set calendar. The motion must be served on all parties and at least 39 days notice of the motion must be given. Please refer to Local Bankruptcy Rule 9014-1 which is available free of charge on the court's website.

Correctly complete Section I based on the information provided on the Means Test – Form 22C.

Section II – provide clear and concise terms for the monthly plan payment and commitment period. If the debtors wish to make plan payments that increase or decrease periodically, provide detailed information for each plan payment amount and each period in the Additional Provisions.

Section III – make certain that the attorney's fees being charged match the information provided on SOFA 9, the 2016(b) statement and the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys. Make certain that the fees being charged do not exceed the permissible limit pursuant to the Guidelines for Payment of Attorney's Fees in Chapter 13 Cases (which is also available free of charge on the court's website at www.caeb.uscourts.gov). You may elect to opt-out of the Guidelines for Payment of Attorney's Fees in Chapter 13 Cases. If you do so, do not file the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys, keep accurate time records and file and set for hearing any and all motions for approval of attorney's fees. All motions are self-set and available dates are posted on the court's website. Please refer to Local Bankruptcy Rule 9014-1 which is also available free of charge on the court's website.

Class 1 – long-term secured debts that were delinquent when the petition was filed (usually mortgages). Specify the monthly contract installment amount, the late charge, the pre-petition arrearage amount, the interest rate and the monthly dividend on the pre-petition arrearage portion of the claim. If you wish to propose no interest on the pre-petition arrearage, specify 0%. Do not leave the column blank. If the provision for interest is left blank, interest at the rate of 10% per year will accrue. Provide the trustee with a Class 1 Authorization and Checklist in accordance with Paragraph 5(c)(2) of General Order 05-03. The authorization and checklist should be provided to the trustee at least 10 days prior to the Meeting of Creditors. This form is available free of charge on the court's website. If the first and second mortgage are held by the same company, list each mortgage as a separate entry on Class 1.

Class 2 – secured claims that are modified by the plan or that have matured or will mature before the plan is completed (usually automobile loans or loans on electronics, furniture or jewelry). Specify whether or not the loan is a Purchase Money Security Interest, if the claim is subject to §506(a), the claim amount, the interest rate (which should be consistent with In Re Till), and the monthly dividend. Real estate tax arrearages are also usually provided for in Class 2.

Class 3 – secured debts that will be satisfied by the surrender of collateral. If more than

one lien is attached to the property, provide a separate entry on the Class 3 table for each lien.

Class 4 – secured debts that are current and will mature after the completion of the plan and will be paid directly by the debtors (usually mortgages or long term vehicle loans) or secured debts that are being paid directly by a third party (usually a co-debtor). If the debtor owes more than one debt to the same company, list each debt as a separate entry.

Class 5 – debts that are entitled to priority under §507. Student loans are not entitled to priority and should not be included in Class 5.

Class 6 – special unsecured debts that will be paid in full even if all other unsecured debts (in Class 7) are not paid in full. The most common special unsecured debt is an unsecured debt with a co-signer. Student loans are not entitled to special treatment and should not be included in Class 6.

Class 7 – Specify a dividend to the general unsecured creditors and the total amount of unsecured debts.

Section IV - Executory Contracts and Unexpired Leases – Any lease listed on Schedule G that the debtors intend to assume must be listed on this table. Any lease listed on Schedule G that the debtors intend to reject should not be listed on this table.

Section V - Distribution of Plan Payment – specify a monthly amount for administrative expenses in Section 5.02(c).

Each month, the plan payment must equal at least the aggregate of the monthly contract installments for Class 1 debts, the monthly dividends for Class 1 and Class 2 debts, the monthly payment for administrative expenses and the trustee's fee. To calculate this figure, add up all the monthly dividends and contract installments and divide that figure by .9. The monthly plan payment must be at least this amount.

Attachments to the plan -- Attachments M-1 and M-2 are for motions to avoid judicial liens or non-possessory, nonpurchase-money liens. Attachment M-3 is for motions to value collateral. If any such motion is attached to the plan, the debtor or debtor's attorney must serve the motion and plan on the interested party at least 18 days prior to the Meeting of Creditors. A separate notice must be included which complies with Paragraph 3(b) of General Order 05-03. If no such notice is given or if the notice is deficient, the debtor or debtor's attorney must file a separate stand-alone motion which must be set for hearing using the court's self-set calendar which is available free of charge on the court's website. Please refer to Local Bankruptcy Rule 9014-1 which is also available free of charge on the court's website.