

STANDING PANEL OF
BANKRUPTCY TRUSTEES
SOUTHERN DISTRICT OF CALIFORNIA
STANDING ADMINISTRATION GUIDELINES

I

Debtor's Representation and Attendance at Meeting of Creditors

A. Attendance at Section 341 Meeting : Debtors must attend the initial Section 341 Meeting and, unless excused by the United States Trustee, any continued Section 341 Meeting. Panel Trustees do not have the authority to excuse the debtor from attending his or her Section 341 Meeting.

B. Identification: At the §341(a) Meeting, pursuant to 11 USC 521(h)(1) and (2), each individual debtor must present original government issued photo identification and confirmation of the full social security number. Any document used must be an original except that a copy of a W-2 Form, an IRS Form 1099, or a recent payroll advice may be accepted to confirm debtor's social security number.

C. Alternative Meetings: Debtor's attorney or the debtor in pro per must independently contact the United States Trustee (619-557-5013) for consideration of alternative procedures, i.e., telephonic, etc. Debtor's attorney must be physically present at the time of the alternative procedure for appearance for conducting the Creditors Meeting, with a completed Questionnaire authenticated and executed by the debtor.

II.

Supporting Documentation

Certain supporting documentation is required in each case to allow the Trustee to fulfill his or her fiduciary duty and due diligence in investigating the financial affairs of the debtor pursuant to 11 USC 704. The method of delivery is the E-DOCS method. The debtor, and/or the debtor's attorney, must provide, **in addition to debtor's duties as set forth in 11 USC 521 and FRBP 4002.**

1. *Mean's Test Income*

- a) If a summary of debtor's income for the six (6) month period prior to case filing was not submitted as an exhibit to Schedule B-22, completion of the Form attached as Exhibit "A" or alternatively "A-1" showing six (6) months computations prepared for means test, **including signature by attorney certifying review of those representations by debtors.**
- b) Self-employed: Completion of a Profit and Loss Statement showing gross income and gross expenses for the six (6) months prior to case filing, with specificity, as to expenses to enable the Trustee to fully analyze the business operations of the debtor.

2. Value of Vehicles: Written documentation as to the basis for valuation of motor vehicles. In this regard a Statement of Value can be easily obtained via the Internet at www.kbb.com or www.nadaguides.com and is the preferred form of valuation.

3. Vehicles:

- a) Copy of current vehicle registration or copy of certificate of title (please note: registration renewal notices are not acceptable unless that notice shows the lien holder);
- b) Written proof of payoff balance for liens on vehicles, i.e., current statements, credit report, etc;
- c) Copy of Security Agreement associated with sale of vehicle if registered in a state other than California that does not denote liens on registration;
- d) Copy of Declarations page of insurance for each vehicle which sets forth the period of coverage and extent of coverage. **The Insurance Card is insufficient.**
- e) In order to protect the estate from liability and preserve assets for the estate, uninsured vehicles are not to be operated by debtors or others until either:
 - (i) Coverage for liability and property damage is placed with the estate being added as an additional insured;
 - (ii) Debtor's exemption is effective pursuant to FRBP 4003; or
 - (iii) Effective abandonment by the trustee pursuant to 11 USC 554.

4. Value of Real Property: Written documentation as to the basis for current valuation of real property. A Broker's opinion is the preferred valuation method.

5. Real Property:

- a) Written proof of payoff balance for all loans in form of most recent Statements or other documentation from the lenders;
- b) If property refinanced within two years of filing, a copy of closing statement;
- c) If noninstitutional lender, copies of documents demonstrating the actual loan advance by creditor to debtor and copy of recorded Deed of Trust
- d) Copy of Declaration page of insurance setting forth the period of coverage and extent of coverage.

6. Personal Property Liens - Financing Statements:

- a) Copies of UCC-1/Security Agreements documenting filing with the Secretary of State;
- b) Copies of documents demonstrating the actual loan advance for noninstitutional creditors; and
- c) Written proof of payoff balance

7. Financial Account Depository Statements:

Copies of depository statements for the two (2) months prior to case filing, as well as the month of case filing

8. Retirement Accounts:

- a) Cover page documenting classification as retirement account;
- b) Evidence of value of account.

9. Expenses in Excess of IRS or Means Test Standards: To be brought to the Section 341(a) Meeting. Copies of receipts and other documentation, including the calculations demonstrating how the debtor arrived at his/her estimate of expenses, to support increased expenses claimed by debtor for examination by the Trustee.

10. Health Care Cases: Notify the trustee immediately upon filing of the bankruptcy case of the existence of patients in the case to facilitate the orderly administration of the case.

All documents submitted must include a cover page indicating the case number, date and time of the Section 341 Meeting . A sample Supporting Documentation Cover Sheet is attached as Exhibit "B." **All relevant documents are to be received by the Trustee within fourteen (14) days of the filing of the case. Failure to timely provide such required supporting documents may result in the trailing of the case to the end of the day to produce such, and/or continuance of the Creditor Meeting**

III

Claim of Exemption

CCP 703.140(a)(2) requires a married debtor filing without the spouse to elect the exemptions under CCP 704 et seq., unless the non-filing spouse executes a written waiver. A sample Waiver form is attached as Exhibit "C." **The Waiver is to be filed with the court.** A conformed copy is to be provided to the Trustee.

IV

Questionnaires to be Completed and Delivered at Creditors Meeting

A Questionnaire has been developed for individual debtors (Exhibit "D" hereto) and Partnership/Corporate debtors (Exhibit "E" hereto) to address certain inquiries that the Trustees believe will facilitate the examination of debtors. Debtors must personally execute (fill out) the appropriate Questionnaire and deliver such to the Trustee at the Creditors Meeting.

V

Unincorporated Self-Employed, Professionals, and Business Cases

If a debtor is operating a business or profession and there is no liability insurance covering the operation of the business or profession it is necessary for the business or profession to be suspended until liability insurance is placed in effect, with evidence of such to the Trustee. The Trustee must be notified of any such business or profession immediately.

At a minimum, the Trustee is to be informed in writing within 24 hours of filing of the following:

1. The status and fair market value of all assets of the estate including secured, lessor or exemption claims, that are to be utilized in the business or profession operations;
2. Evidence of current property and/or liability insurance coverage in connection with the operation of the business;
3. Evidence of current Workers Compensation insurance in connection with the operation of business, if applicable;
4. Evidence of current Errors and Omissions insurance coverage, if applicable;
5. Evidence of a reserve tax account to address employee/employer taxes; and
6. The existence of any environmental, law enforcement or federal or state regulatory issues that affect the business of profession.

Business operations utilizing property of the estate are not to be conducted post-petition under any circumstances prior to abandonment, or allowance of exemption of property of the estate utilized in the business or profession, without the written concurrence of the Trustee, or Order of the United States Bankruptcy Court.

VII Corporate Cases

All business operations are to be terminated on the filing of the case. The Trustee is to be informed in writing within 24 hours of filing the case, of the following:

1. The identity and location of all remaining assets of the debtor corporation;
2. Contact information and/or keys for access to business locations, and all storage locations, as well as all security codes and computer access passwords;
3. Contact information for landlord(s) and secured creditors, if applicable;
4. The need for immediate action of the Trustee to preserve assets of the estate; and
5. The existence of any environmental, law enforcement or federal or state regulatory issues that affect the business of profession;

In order for the Trustee to conclude a corporate and/or partnership debtor's 11 USC 341(a) Meeting certain documents may be required for examination, and should be made available to the Trustee if requested:

1. Minute Book
2. Shareholder Register
3. Complete Tax returns for past two years
4. Income and Expense and Balance Sheet, Reports for past 1 year
5. Bank Statements and canceled checks for past 1 year
6. Copies of last two inventories, if applicable
7. Documentation of Intellectual property, i.e., patents, trademarks, copyrights, royalties, etc., if applicable; and
8. Accounts Receivables, with all documents associated therewith.
The above documents should be available for the Trustee if requested
9. UCC-1, or other evidence of liens.
10. Cash Receipts and Disbursements Journal for prior year.

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CURRENT MONTHLY INCOME DETAILS FOR THE DEBTOR

Income for the Period _____ to _____

Gross wages, salary, tips, bonuses, overtime, commissions

Source of Information: _____

<u>Income by Month:</u>	<u>Date</u>	<u>Sum</u>
6 Months Ago:	_____	_____
5 Months Ago:	_____	_____
4 Months Ago:	_____	_____
3 Months Ago:	_____	_____
2 Months Ago:	_____	_____
Last Month:	_____	_____
Average per month:		_____

Deductions:

Source of Information: _____

6 Months Ago:	_____	_____
5 Months Ago:	_____	_____
4 Months Ago:	_____	_____
3 Months Ago:	_____	_____
2 Months Ago:	_____	_____
Last Month:	_____	_____
Average per month:		_____
Average net income per month:		_____

Date: _____

Debtor

Co-Debtor

ATTORNEY CERTIFICATE

I have reviewed the documentation of the debtor upon which the representations of the debtor are made in this Statement.

Date: _____

09/08

Attorney for Debtor (Printed/Signed)

Exhibit "A"

CURRENT MONTHLY INCOME DETAILS FOR THE DEBTOR

Employer: _____

Year to Date gross as of _____ : \$ _____
Year to Date gross as of _____ : \$ _____

Total Gross during period \$ _____ / _____ months (or other period)
Average Monthly Gross \$ _____

Year to Date expenses as of _____ : \$ _____
Year to Date expenses as of _____ : \$ _____

Total expenses during period \$ _____ / _____ months (or other period)
Average Monthly Expenses \$ _____

Note: If more than one employer during six month period prior to filing of bankruptcy case, provide additional form for each employer.

ATTORNEY CERTIFICATE

I have reviewed the documentation of the debtor upon which the representations of the debtor are made in this Statement.

Date: _____

Attorney for Debtor (Printed/Signed)

Exhibit "A-1"

Supporting Documentation Cover Sheet

In Re: _____ Case Number _____ 341(a): _____
(Date/Time)

Deficiencies:

NOTE: Please arrange documents in the order set forth below, and circle or otherwise annotate relevant sums and the significance of the document.

- 1. Income Verification(i.e. pay advices for 60 days prior to bankruptcy and/or Profit & Loss for business)
- 2. Valuation of motor vehicles
- 3. Pay-off documentation for motor vehicles (i.e., balance due)
- 4. Copies of vehicle registration
- 5. Proof of current insurance on motor vehicles(i.e., Declaration Page - NOT insurance card)
- 6. Valuation of real property
- 7. Pay-off documentation for real property (i.e., balance due)
- 8. Proof of current insurance on real property (i.e., Declaration Page)
- 9. Closing statement on real property if acquired or refinanced within two years of filing
- 10. Loan advances documentation (i.e., Evidence of disbursements - Guidelines II, 5 and 6)
- 11. UCC-1 (file stamped) and evidence of payoff balance
- 12. All bank, retirement and financial institution statements (period covering date of filing and two months prior to filing)
- 13. Proof of insurance (business - liability, workers compensation, etc.
- 14. CCP 703.140(a) Waiver
- 15. Complete IRS Tax Return/Transcript (most recent tax year filed, FEDERAL ONLY)

Exhibit "B"

MUTUAL WAIVER OF RIGHT TO CLAIM STATE EXEMPTIONS, OTHER THAN THOSE PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 703.140(b), DURING PENDENCY OF BANKRUPTCY CASE (California Code of Civil Procedure §703.140(a)(2))

1. IDENTIFICATION OF PARTIES. This mutual waiver, is made by _____ and _____, husband and wife.

2. PURPOSE OF THIS WAIVER. This waiver is made to satisfy the requirement set forth in California Code of Civil Procedure §703.140(a)(2) regarding the election of exemptions pursuant to §703.140(b) by married debtors who file an individual Bankruptcy petition.

3. LEGAL RIGHTS WAIVED. California Code of Civil Procedure §703.140(a)(2) provides:

IF A PETITION IS FILED INDIVIDUALLY, AND NOT JOINTLY, FOR A HUSBAND OR A WIFE, THE EXEMPTIONS PROVIDED BY THIS CHAPTER OTHER THAN THE PROVISIONS SUBDIVISION (b) ARE APPLICABLE, EXCEPT THAT, IF BOTH HUSBAND AND WIFE EFFECTIVELY WAIVE IN WRITING THE RIGHT TO CLAIM, DURING THE PERIOD THE CASE COMMENCED BY FILING THE PETITION IS PENDING, THE EXEMPTIONS PROVIDED BY THE APPLICABLE EXEMPTION PROVISIONS OF THIS CHAPTER, OTHER THAN SUBDIVISION (b), IN ANY CASE COMMENCED BY FILING A PETITION FOR EITHER OF THEM UNDER TITLE 11 OF THE UNITED STATES CODE, THEN THEY MAY ELECT INSTEAD TO USE THE APPLICABLE EXEMPTIONS SET FORTH IN SUBDIVISION (b).

4. RIGHT TO HAVE INDEPENDENT COUNSEL REVIEW WAIVER. Both parties acknowledge that they have been informed of their right to consult an attorney regarding the effect of this waiver on them.

5. MUTUAL WAIVER. Both parties, by executing this agreement below, hereby waive their right to claim any state exemptions, other than those provided in California Code of Civil Procedure §703.140(b), during the pendency of the Chapter 7 Bankruptcy of _____, filed in the U.S. Bankruptcy Court for the Southern District of California. The foregoing is agreed to by:

Dated: _____
wife

Dated: _____
husband

**341(a) Meeting of Creditors
Questionnaire**

Name: _____ Case No: _____

INTRODUCTION AND INSTRUCTIONS

YOU HAVE A DUTY TO COOPERATE: As part of your Bankruptcy, the Trustee must examine and investigate your financial affairs and related information. Under the law, it is your duty to fully cooperate with and assist the Trustee in this investigation. These are standard questions that each debtor must answer. You may receive further requests for additional documents from the Trustee. The Trustee may conduct further investigation as needed. You are obligated to provide this additional information and documents as well.

YOUR ANSWERS MUST BE TRUE, COMPLETE AND ACCURATE: It is important that all your answers to the questions are true, complete and accurate. If you have made any mistakes in your bankruptcy documents, it is absolutely essential that you inform your Trustee by correcting those mistakes NOW. Failure to do so may result in severe consequences. **IT IS A FEDERAL CRIME TO INTENTIONALLY GIVE FALSE OR MISLEADING INFORMATION AND TESTIMONY TO YOUR BANKRUPTCY TRUSTEE.**

ALL YOUR PROPERTY IS NOW THE PROPERTY OF THE BANKRUPTCY ESTATE UNTIL YOUR CASE IS CLOSED BY THE COURT, ANY CLAIM OF EXEMPTION PURSUANT TO FRBP 4003 HAS BECOME EFFECTIVE, OR THE STATUTORY NOTICE FOR AN ABANDONMENT BY THE TRUSTEE HAS BECOME EFFECTIVE YOU CANNOT SELL, TRANSFER, REFINANCE, OR OTHERWISE ENCUMBER ANY OF YOUR PROPERTY.

IF YOU HAVE QUESTIONS: If you have any questions or require further information, you should consult with your attorney or other legal source as the trustee cannot give you legal advice.

Please respond to the following questions. You should discuss your response with your attorney for any clarification:

1. I am represented by counsel and have reviewed my Petition, Schedules and Statement of Financial Affairs and they were explained to me by that counsel before I signed them.
Yes ____ No ____

2. Do you understand you are required to disclose to the Trustee all present, future and contingent rights to money, property or assets even if you won't receive it until after filing bankruptcy and to not do so could result in denial of your discharge of debts and civil, as well as criminal penalties?
Yes ____ No ____

Exhibit "D"

3. Do you understand that “property” means anything of value that you own or have a present, future or contingent interest, and not just real estate?
Yes ____ No ____
4. Do you understand that you are to report to the Court and Trustee, by formal written Amendment filed with the Court, any rights to an inheritance, property settlement agreement, or life insurance proceeds that occur within 180 days of the date your case was filed?
Yes ____ No ____
5. If currently married, or sharing household expenses, have you disclosed all income, property and asset interests of your spouse or cohabitant in which you have a community interest?
Yes ____ No ____
6. Please read the following:

Disclosure of When Debtor Incurred Debt

Schedules D, E & F require the debtor to provide “date claim was incurred.” This information is necessary for Trustee to evaluate certain issues pursuant to 18 USC §3057(a) and 11 USC §727.

The required information is not the initial date a credit account was established. The Trustees’ interpretation of the term “date claim was incurred” is the period between which the “amounts claimed” were estimated to be actually incurred. This will require Counsel, or debtors in Pro Per, to adequately perform their research duties under BAPCA, to provide the period of time that the current claim was incurred.

Does the information in your Schedule D, E and F, accurately estimate the dates of creditor’s claims disclosed in those schedules?

Yes ____ No ____

7. Have you continually resided in the State of California for the two years prior to the filing of your case?
Yes ____ No ____
8. Are you the beneficiary, trustee or trustor of a trust?
Yes ____ No ____
9. Are you entitled to receive a death benefit under a will or insurance policy where someone has died?
Yes ____ No ____

10. Within four years prior to the filing of your bankruptcy have you made any payments, or transferred any property or asset, or given a security interest in any property or asset to any person or entity other than for regular monthly contract payments?
Yes ____ No ____
11. Do you now or have you had in the past one year any interests in offshore accounts, i.e., accounts outside the borders of the United States?
Yes ____ No ____
12. Are you seeking recovery in any current lawsuits, or do you have a belief you have grounds to file a lawsuit or counter suit, (whether you desire to do so or not.) **SEEKING DAMAGES?**
Yes ____ No ____
13. Does anyone and or any entity owe you any money ?
Yes ____ No ____
14. Are you obligated to pay child support or spousal support pursuant to a Court Order, property settlement agreement or determination by a governmental unit?
Yes ____ No ____
15. If your response was “yes” to question 14, please provide:
Name of claimant: _____
Address of claimant: _____
16. Have you made any balance transfers with credit cards or credit line accounts within 90 days of the filing of your bankruptcy petition?
Yes ____ No ____
17. [Real Property] - When did you buy your real estate and how much did you pay for it?
Purchase Price _____ When _____
Address _____
Purchase Price _____ When _____
Address: _____
18. [Real Property] - Did you refinance your property within the two years prior to case filing?
Yes ____ No ____ N/A ____
19. [Real Property] - Has a foreclosure been started on any of your properties?
Yes ____ No ____ N/A ____
20. Have you ever tendered a claim to an insurance company which has been denied?
Yes ____ No ____

Exhibit “D”

I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS MADE HEREIN ARE TRUE AND CORRECT.

Dated: _____
_____ Debtor

Dated: _____
_____ Co-Debtor

Attorney of Record Statement

I have discussed with the debtor(s) the content of this Questionnaire, reviewing each question and debtor(s) response thereto, and have responded to questions the debtor(s) may have had to any Question herein.

Dated: _____
_____ Attorney for Debtor(s)

Printed: _____

Revised 01/21/10

**CORPORATE OR PARTNERSHIP DEBTOR QUESTIONNAIRE
AND DOCUMENT REQUIREMENTS
THIS FORM MUST BE COMPLETED, SIGNED AND RETURNED
TO THE TRUSTEE AT THE TIME OF YOUR EXAMINATION**

Name:

Briefly describe the nature of the debtor's business:

1. Have the bankruptcy schedules in this case been reviewed and explained to you by counsel?
Yes ___ No ___
2. Has the business entity made any payments to corporate officials, investors or shareholders, or partners; family members of corporate officials, investors or shareholder, or partners within two years of filing for bankruptcy?
Yes ___ No ___
3. Has the business entity made any payments to creditors in excess of \$5,000.00 cumulative on a pre-bankruptcy debt within three months of filing for bankruptcy?
Yes ___ No ___
4. Has the business entity transferred any money given a security interest, or anything of value to another entity or person within four years of filing for bankruptcy outside the ordinary course of business?
Yes ___ No ___
5. Is the business entity seeking recovery in any current lawsuits, or is there a belief grounds exists to file a lawsuit or counter suit SEEKING DAMAGES?
Yes ___ No ___
6. Does the business entity have any claims against any insurance company for any losses or damages to any personal or real property?
Yes ___ No ___
7. Were any loans made by the business entity to any individual persons or entities?
Yes ___ No ___
8. Is the business entity entitled to any tax refunds or loss carry-backs?
Yes ___ No ___
9. Were any vehicles utilized in the business entities operations?
Yes ___ No ___
10. Does the business entity have any rights or interest in intellectual property?
Yes ___ No ___
11. Have any records of the business entity been destroyed?
Yes ___ No ___
12. Are there any known environmental and/or contamination issues or problems arising out of or relating to this business entity?
Yes ___ No ___
15. Has the business ever tendered a claim to an insurance company that has been denied?
Yes ___ No ___

I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS MADE HEREIN ARE TRUE AND CORRECT.

Dated: _____

Exhibit "E"