



OFFICE OF THE CLERK  
UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

---

**INFORMATION FOR PERSONS CONSIDERING BANKRUPTCY**

[www.caeb.uscourts.gov](http://www.caeb.uscourts.gov)

Revised July 2015



## Table of Contents

	<u>Page</u>
INTRODUCTION .....	1
1. WHAT IS BANKRUPTCY? .....	3
2. WHO CAN START A BANKRUPTCY? .....	3
3. CAN I FILE BANKRUPTCY WITHOUT AN ATTORNEY? .....	3
4. WHAT ARE THE RECENT CHANGES TO THE BANKRUPTCY LAW? .....	4
5. WHAT IS A JOINT PETITION? .....	6
6. WHAT ARE THE DIFFERENT "CHAPTERS" IN BANKRUPTCY? .....	6
7. WHAT CHAPTER IS RIGHT FOR ME? .....	7
8. WHERE CAN I GET MORE INFORMATION CONCERNING BANKRUPTCY AND BANKRUPTCY PROCEDURE? IS THERE ANY PLACE I CAN GET FREE OR LOW COST LEGAL ADVICE BEFORE I FILE? .....	8
9. WHAT SERVICES CAN A BANKRUPTCY PETITION PREPARER PROVIDE? .....	8
10. WHAT DOES THE CLERK'S OFFICE DO? .....	9
11. CAN THE CLERK'S OFFICE GIVE LEGAL ADVICE? .....	10
12. WHAT WILL I NEED TO DO TO START A BANKRUPTCY? .....	10
13. HOW DO I KNOW IF A DEBT IS SECURED, UNSECURED, PRIORITY OR ADMINISTRATIVE SO I CAN FILL OUT MY SCHEDULES CORRECTLY? ..	13
14. WHAT ARE EXEMPTIONS? .....	14
15. WHERE DO I FILE MY BANKRUPTCY CASE? .....	15
16. HOW DO I "FILE" A DOCUMENT WITH THE COURT? .....	16
17. HOW MUCH ARE THE COURT FEES TO FILE A BANKRUPTCY? .....	16
18. WHAT IF I CAN'T PAY THE ENTIRE FEE WHEN I FILE MY PETITION? .....	16
19. WHAT HAPPENS AFTER I FILE BANKRUPTCY? .....	16
20. WHAT IS A BANKRUPTCY TRUSTEE? WHO IS THE UNITED STATES TRUSTEE? WHAT IS THE DIFFERENCE? .....	18
21. WHAT IS THE CREDITOR'S MEETING? WHAT CAN I EXPECT WILL HAPPEN AT IT? .....	19
22. WHAT IS A DISCHARGE? .....	20
23. WHAT DEBTS ARE DISCHARGEABLE? .....	21
24. WHAT IS THE DIFFERENCE BETWEEN A DENIAL OF DISCHARGE AND A DEBT BEING NON-DISCHARGEABLE? .....	22



# INTRODUCTION

This booklet is provided by the Office of the Clerk, United States Bankruptcy Court, Eastern District of California. It has been prepared to respond to the questions frequently asked of Clerk's Office staff by non-lawyers. If you have a question that is not covered in this booklet and goes beyond an explanation of filing requirements, it probably requires the giving of legal advice and therefore cannot be answered by Clerk's Office staff. Individuals are not required to have an attorney to file bankruptcy; however, the law in this area is sufficiently complex that most individuals find it desirable to obtain legal representation.

This booklet has been prepared with the assistance of the Clerk's Office Attorney Advisory Committee and is not designed to instruct the reader on how to handle a bankruptcy case without representation by a qualified bankruptcy attorney. It is recommended that any individual, corporation, or partnership considering the filing of a bankruptcy case first obtain the advice of a competent bankruptcy attorney. An initial consultation with a bankruptcy attorney is customarily available for a reasonable charge or for free.

Debtors filing bankruptcy without legal representation will be held responsible for knowing the requirements of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure and will be given no special consideration by the court. You should be aware that missing a deadline, failing to perform a required task, or failing to respond properly to an action could result in the dismissal of your case, denial of discharge, or losing property which you might otherwise have been entitled to keep. Please note that the Clerk's Office is prohibited by law from providing legal advice. Debtors seeking assistance from bankruptcy petition preparers, including paralegals and typing services, are warned that such services are also prohibited by law from providing legal advice. Only an attorney may provide legal advice.

**WARNING: BANKRUPTCY FRAUD IS A SERIOUS FEDERAL CRIME (18 U.S. CODE, §§ 152 - 157). PUNISHMENT CAN BE UP TO FIVE YEARS IN PRISON, AND A FINE OF \$250,000 OR MORE. THE FBI INVESTIGATES ALLEGATIONS OF BANKRUPTCY FRAUD. WHEN IN DOUBT ABOUT WHETHER AN ASSET OR FACT NEEDS TO BE DISCLOSED, OR ABOUT WHETHER WHAT YOU INTEND TO DO IS LEGAL, CONSULT AN ATTORNEY FOR ADVICE.**

[ THIS PAGE INTENTIONALLY LEFT BLANK.]

## 1. WHAT IS BANKRUPTCY?

Bankruptcy is a way for people and businesses who owe more money than they can pay right now ('debtors') to either work out a plan to repay the money over time in a case under chapter 11, chapter 12 or chapter 13, or to wipe out ('discharge') most of their bills in a chapter 7 case. The filing of a bankruptcy petition immediately stops most actions to collect debts which were due at the time of filing, including law suits, repossessions, and foreclosures. Based upon the circumstances, the court may, however, permit some eviction, repossession and foreclosure actions to continue even after the case is filed.

What chapter you choose to file under, what bills can be eliminated, how long payments can be stretched out, and other details are controlled by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure. These are federal laws, which means they apply all over the United States. The Code and Rules are found in Title 11 of the United States Code. The various sections of the Bankruptcy Code are referred to throughout this booklet as "11 U.S.C. § \_\_\_\_ ." In addition to the Bankruptcy Code and Rules, what property you can keep will be affected by sections 703 and 704 of the California Code of Civil Procedure.

## 2. WHO CAN START A BANKRUPTCY?

Any person, partnership, corporation, or business trust may file a bankruptcy. If the person or entity who owes the money, referred to as the **debtor**, files a petition and starts the bankruptcy, it is called a voluntary bankruptcy. The people or entities who are owed money, referred to as the **creditors**, can also start the bankruptcy by filing a petition against the person or entity who owes them money. This is called an involuntary bankruptcy. In an involuntary bankruptcy, the debtor gets a chance to contest the petition and contend it should not be in bankruptcy.

Voluntary cases can be filed under chapters 7, 9, 11, 12, 13, and 15. Involuntary cases can only be filed under chapters 7 and 11. Certain types of entities, such as banks and insurance companies, may not be eligible to file bankruptcy; however, almost all other entities can file a bankruptcy. A business that is NOT a partnership, corporation or business trust, cannot file a separate bankruptcy on its own. Those assets and debts would be included in the personal bankruptcy of the owner(s).

## 3. CAN I FILE BANKRUPTCY WITHOUT AN ATTORNEY?

Current law permits individuals to file their own cases and to represent their own interests in bankruptcy proceedings. However, it may not be wise for you to do so. Any bankruptcy case can become a complicated matter requiring both knowledge of the law and experience before the court to successfully complete. In order to fill out the forms required to file a case, you will need to know (among other things) the differences between the types of bankruptcies which can be filed, the types of exemptions which can be taken and the differences between secured and unsecured debts. As your case progresses, many other areas of law and knowledge may be involved. Decisions made without an understanding of basic bankruptcy law can have serious consequences including the loss of property and

legal rights. Only an attorney may file a bankruptcy for a partnership or corporation. Even if an individual is the sole shareholder or the managing partner, that person may not represent the corporation or partnership before the bankruptcy court.

#### **4. WHAT ARE THE RECENT CHANGES TO THE BANKRUPTCY LAW?**

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 made significant changes to the Bankruptcy Code which affect all debtors filing cases on or after October 17, 2005. Here are some of the major changes:

- ✓ Waiting periods if previous filing: A debtor who has previously filed a bankruptcy and obtained a discharge, may not receive another discharge unless there has been sufficient time between the two cases. There is an 8 year period [calculated from the filing date of the first case and the filing date of the second case] for persons who have received a discharge in a chapter 7 or 11 case and wish to file a chapter 7 case, and 6 years if the first case was a chapter 13. To receive a chapter 13 discharge, the period is 4 years if the first case was a chapter 7 or 11 case, and 2 years if the first case was a chapter 13 case.
- ✓ Mandatory Pre-Bankruptcy Credit Counseling: All individual debtors who file bankruptcy on or after October 17, 2005, must undergo credit counseling from an approved counseling agency within 180 days before filing for bankruptcy. The counseling may be waived or deferred in some cases. A list of approved credit counseling agencies is available from the Clerk's Office and on the U.S. Trustee web site at [http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved.htm). A statement concerning compliance with the credit counseling requirement must be completed and filed by the debtor. The debtor makes the required statement by checking one of five statements on *Exhibit D -- Individual Debtor's Statement of Compliance with Credit Counseling Requirement* to Official Form B1. Each spouse in a joint case must complete a separate Exhibit D. Copies of the certificate from the credit counseling agency and any debt repayment plan developed through the agency should be filed along with Exhibit D. If the debtor received the counseling but has not received a certificate from the agency, copies of the certificate and any debt repayment plan should be filed by the debtor within 14 days. If exigent circumstances or one of the other limited exceptions to the counseling requirement applies to the debtor, the debtor should follow the instructions provided on the form. Exhibit D is included in the bankruptcy petition forms package available from the Clerk's Office and must be filed with the petition.
- ✓ Mandatory Debtor Education Course after Filing: Every individual debtor in a chapter 7 case, a chapter 11 case in which § 1141(d)(3) applies, or chapter 13 case must complete a personal financial management (or debtor education) course before they will be granted a discharge. This debtor education course is separate from and required in addition to pre-bankruptcy credit counseling. To comply with the debtor education requirement, the course must be completed



after the filing of the petition. A list of approved providers of personal financial management (debtor education) course providers is available from the Clerk's Office and on the Office of the United States Trustee web site at [http://www.usdoj.gov/ust/eo/bapcpa/ccde/de\\_approved.htm](http://www.usdoj.gov/ust/eo/bapcpa/ccde/de_approved.htm). To signal the Court that the course in personal financial management has been completed, the debtor and joint debtor, if any, must file Official Form 23, *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*. In chapter 7 cases, Official Form 23 should be filed within 60 days of the first date set for the meeting of creditors. In chapter 11 and 13 cases, the form should be filed no later than the date of the last payment made by the debtor under the plan or the date of the filing of a motion for a discharge prior to completion of the plan. If the debtor fails to file Official Form 23, their case can be closed without discharge. The debtor may later reopen the case in order to file the certificate and receive a discharge, but a fee in the same amount as the filing fee to commence a new case on the date of reopening will be collected.

- ✓ Tax Returns - Individual debtors must provide a copy of their most recent tax return (or a transcript of the return) to the trustee and any creditor who requests a copy no later than seven days before the date first set for the meeting of creditors.
- ✓ Wage Statements - Copies of all wage statements, payment advices, or other evidence of payment from an employer provided to the debtor within 60 days before the date of filing of the case must be provided by the debtor to the trustee not later than seven days before the date first set for the meeting of creditors.
- ✓ Means Test - To provide for the reporting and calculation of "current monthly income" and for the completion of the means test where required, three separate official forms (22A, 22B, and 22C) have been created—one for chapter 7, one for chapter 11, and one for chapter 13. In chapter 7 cases the means test is used to determine whether a debtor's filing represents an abuse of the bankruptcy system. Some debtors may be prohibited from filing a chapter 7 case if their income would permit them to make payments to their creditors. In chapter 11 and chapter 13 cases, "current monthly income" is used to determine the disposable income that must be contributed to payment of unsecured creditors. Official Forms 22A, 22B, and 22C are included in the bankruptcy petition forms package available from the Clerk's Office and must be filed within 14 days of the filing of the petition.
- ✓ Waiver of Filing Fees - The court may now waive the chapter 7 filing fees for indigent debtors who file an application for waiver of the fees. The application is Official Form 3B. It is included in the bankruptcy petition forms package available from the Clerk's Office and must be filed with the petition. If the fee waiver is denied, the debtor will be required to either pay the full fee immediately or pay the fee in installments within 120 days.

## 5. WHAT IS A JOINT PETITION?

A single petition filed by an individual and the individual's spouse is called a 'joint petition.' Only people who are married on the date they file may file a joint petition. Unmarried persons, corporations, and partnerships must each file a separate case. If you are an individual and have a business which is not a partnership, corporation or business trust, you should list the name of the business as an alias ("doing business as," or "dba") on your petition. A petition filed in this manner, however, will not be considered a joint petition because the business is not an independently recognized legal entity.

## 6. WHAT ARE THE DIFFERENT "CHAPTERS" IN BANKRUPTCY?

**Chapter 7** is the liquidation chapter of the Bankruptcy Code. Chapter 7 cases are commonly referred to as "straight bankruptcy" or "liquidation" cases, and may be filed by an individual, corporation, or a partnership. Under chapter 7, a trustee is appointed to collect and sell all property that is not exempt and to use any proceeds to pay creditors. In the case of an individual, the debtor is allowed to claim certain property exempt.<sup>1</sup> In exchange for this, the debtor gets a discharge, which means that the debtor does not have to pay certain types of debts.<sup>2</sup> Corporations and partnerships do not receive discharges. Consequently, any individuals legally liable for the partnership's or corporation's debts will remain liable. Therefore, individual bankruptcies may be required as well as the corporation or partnership bankruptcy.

**Chapter 9** is only for municipalities and governmental units, such as schools, water districts, and so on.

**Chapter 11** is the reorganization chapter available to businesses and individuals who have substantial assets and/or income to restructure and repay their debts. Creditors vote on whether to accept or reject a plan of reorganization which must be approved by the court. In addition to the filing fee paid to the Clerk, a quarterly fee shall be paid to the U.S. Trustee in all chapter 11 cases.

There is no debt limit under Chapter 11. To qualify as a "small business chapter 11," the debtor must be engaged in commercial or business activities, other than the ownership of real property, and the total of its secured plus unsecured debts must be less than \$2,490,925. Due to the expense and complexity of chapter 11, the decision to file a chapter 11 petition should be made in consultation with an attorney.

**Chapter 12** offers bankruptcy relief to those who qualify as family farmers or family fishermen. There are debt limitations for chapter 12, and a certain portion of the debtor's income must come from the operation of a farming or fishing business. Family farmers and family fishermen must propose a plan to repay their creditors over a period of time from future income and it must be approved by the court. Plan payments are made through a

---

<sup>1</sup> Additional information about exempt property may be found in item 14.

<sup>2</sup> For additional information about discharges and dischargeable debts, please see items 22, 23, and 24.

chapter 12 trustee who also monitors the debtor's farming or fishing operations while the case is pending.

**Chapter 13** is the debt repayment chapter for individuals with regular income whose debts do not exceed \$1,532,700 (\$383,175 in unsecured debts and \$1,149,525 in secured debts), including individuals who operate businesses as sole proprietorships. It is not available to corporations or partnerships. Chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. Each chapter 13 debtor proposes a repayment plan which must be approved by the court. The amounts set forth in the plan must be paid to the chapter 13 trustee who distributes the funds for a percentage fee. Many debts that cannot be discharged can still be paid over time in a chapter 13 plan. After completion of payments under the plan, chapter 13 debtors receive a discharge of most debts.

**Chapter 15** is a new chapter to deal with insolvency cases involving debtors, assets, claimants, and other parties in interest in more than one country. Due to their complexity, these "cross border insolvency cases" will always need a lawyer.

## **7. WHAT CHAPTER IS RIGHT FOR ME?**

You have a choice in deciding which chapter of the Bankruptcy Code will best suit your needs. The decision whether to file a bankruptcy, and under which chapter to file depends on the particular circumstances of the debtor. In general, chapter 7 is appropriate when the debtor has insufficient income to pay all or most of his/her debts. Otherwise, if the debtor has an income or property and can afford to pay all or a substantial portion of his/her debts, chapter 11, 12, or 13 may be appropriate depending on whether the debtor is an individual, partnership, corporation, or family farmer or fisherman.

These are only a few of the factors to consider, however. There is no way that a simple booklet such as this can spell out all the different things to be considered. Also, considering your personal facts, comparing them to each chapter's requirements, and deciding which chapter to select, would be giving legal advice. Clerk's Office staff, bankruptcy petition preparers, typing services and paralegals are prohibited by law from giving you legal advice. Only a lawyer can give you legal advice. Many lawyers charge a modest amount to help you and most will give you a free consultation, during which they will go over your circumstances and needs and tell you what you should do and how much it will cost for them to do it. There are also several "do it yourself" books that set out the details of each Bankruptcy Code chapter and attempt to explain the bankruptcy process.

The decision whether to file a bankruptcy and under what chapter is an extremely important decision and should be made only with competent legal advice from an experienced bankruptcy attorney after a review of all of the relevant facts of the debtor's case.

**8. WHERE CAN I GET MORE INFORMATION CONCERNING BANKRUPTCY AND BANKRUPTCY PROCEDURE? IS THERE ANY PLACE I CAN GET FREE OR LOW COST LEGAL ADVICE BEFORE I FILE?**

A **Bankruptcy Help Desk** is located in Room 3-210 on the third floor of the federal courthouse at 501 I Street in Sacramento. Volunteer attorneys are available each Friday from 9:00 a.m. to 12:00 p.m. to answer questions about procedures, form selection, and bankruptcy processes, to inform you of your rights and duties, and to help you fill-out forms and find information. They will NOT give legal advice. No appointment is necessary. Assistance is provided free of charge on a first-come, first-served basis in Sacramento ONLY.

Another way to get low or no-cost bankruptcy advice is to make an appointment with a private attorney. Many will provide a free initial consultation during which you can have your questions regarding bankruptcy procedures and their application to your situation answered. In Sacramento, McGeorge Law School operates a community legal services clinic that represents low income bankruptcy clients on a space available basis. Services are provided by law students with attorney supervision. The McGeorge Community Legal Services telephone number is (916) 340-6080. For very low income people, the Voluntary Legal Services Program ("VLSP") offers a self help bankruptcy clinic. Experienced bankruptcy attorneys, law students and other volunteers assist low income people in completing their own bankruptcy papers. They also have an arrangement with providers to deliver both pre-filing consumer credit counseling services, and post-filing debtor financial education at no cost. In order to see if you qualify, call (916) 551-2150.

An Attorney Referral and Information Service provided by the Fresno County Bar Association is available in Fresno. Referral hours are from 8:30 a.m. - noon, and 1:00 p.m. - 4:00 p.m., Monday through Friday. Call (559) 264-0137. In Modesto, a Lawyers Referral Service is provided by the Stanislaus County Bar Association. Call (209) 571-5727 for additional information. In other areas there may be similar clinics, or your local legal services office may offer bankruptcy assistance.

Low cost help in typing your petition and other forms is available from "bankruptcy petition preparers." "Paralegals" and "typing services" are considered bankruptcy petition preparers. Bankruptcy petition preparers are not attorneys. Likewise, they are not employed or supervised by attorneys and cannot represent you in your bankruptcy. Only a licensed attorney can represent you and give legal advice. Bankruptcy petition preparation services are listed in the telephone book.

**9. WHAT SERVICES CAN A BANKRUPTCY PETITION PREPARER PROVIDE?**

Bankruptcy petition preparers are permitted to provide services limited to the typing of forms and filing of documents. These services are subject to various statutory requirements and limitations. For example, the Bankruptcy Code requires a bankruptcy petition preparer to file with the petition a declaration under penalty of perjury disclosing compensation received from or on behalf of the debtor and any unpaid fee charged to the debtor. A bankruptcy petition preparer is required to provide all clients with an official notification form, which both

the preparer and the debtor must sign, stating the services the petition preparer can and cannot perform. Additionally, the bankruptcy petition preparer is required to sign and print the preparer's name, address, and complete social security number on all documents prepared for filing.

Local guidelines impose additional requirements and limitations on bankruptcy petition preparers in Eastern District of California bankruptcy cases. These guidelines give examples of what a bankruptcy petition preparer **can't** do, and limit the fee charged by a bankruptcy petition preparer for typing and filing a bankruptcy petition to **\$125.00**. Bankruptcy petition preparers are required to provide a copy of the local guidelines, together with a *Notice to Debtor Concerning Bankruptcy Petition Preparers (Form EDC 3-350)*, to you before preparing your bankruptcy petition or accepting any money from you or on your behalf. If your petition is prepared by a bankruptcy petition preparer, you should sign and file the *Notice* with your bankruptcy papers.

Please note that although bankruptcy preparers are required to sign all documents prepared for filing, they are not authorized to sign any document on your behalf. Therefore, you (and if filing a joint petition, your spouse also) must sign all the documents. Copies of all prepared documents should be furnished to you by the bankruptcy petition preparer at the time they are presented to you for signature. Likewise, bankruptcy petition preparers are prohibited by law from collecting or receiving any court fees connected with the filing of your case. The court fees connected with the filing of your case include the petition filing fee, miscellaneous administrative fee, and, in chapter 7 cases, the chapter 7 trustee fee.<sup>3</sup> These fees should be paid directly by you to the court. The failure of any bankruptcy petition preparer to comply with the law should immediately be brought to the attention of any trustee appointed in your case and the local Office of the United States Trustee at (916) 930-2100 for cases filed in Sacramento and Modesto, and (559) 487-5002 for cases filed in Fresno.

## **10. WHAT DOES THE CLERK'S OFFICE DO?**

The Clerk's Office provides a variety of services to the bankruptcy judges, attorneys and the public. Clerk's Office staff provide clerical and administrative support to the court by filing and maintaining case-related documents, signing ministerial orders, issuing process and writs, collecting authorized fees, sending notices, entering judgments and orders, and setting hearings. The services provided by the Clerk's Office to attorneys and the public include responding to requests for information and providing copies of documents in bankruptcy case files.

The Clerk's Office is a source for many forms, local rules, and other information you will need to file your bankruptcy petition and related documents. Forms and local rules are also available on the U.S. Bankruptcy Court for the Eastern District of California's Internet web site, located at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov).

---

<sup>3</sup> For additional information about court fees, please see items 17 and 18.

## **11. CAN THE CLERK'S OFFICE GIVE LEGAL ADVICE?**

A bankruptcy case is a legal proceeding affecting the rights of debtors, creditors and other parties in interest. According to Canon 4(D) of the Code of Conduct for Judicial Employees, Clerk's Office staff should not engage in the practice of law. Additionally, 28 U.S.C. § 955 prohibits Clerk's Office staff from giving information which may be characterized as legal advice.

While there is no precise definition of legal advice, at a minimum it includes (1) acting on a person's behalf in presenting a claim or defense to a court, and (2) advising a person on the merits of a claim or defense and the state of the law applicable to it. Clerk's Office staff, therefore, will not provide information relating to:

- The application of laws and rules to individual claims or defenses;
- Whether jurisdiction is proper in a particular court;
- Whether a complaint properly presents a claim;
- What the "best" procedures are to accomplish a particular objective; or
- The interpretation of case law.

Clerk's Office staff will not offer any opinion as to the probable disposition of any matter by the court. The information provided by Clerk's Office staff is limited to explaining the filing requirements of the court and reading, without comment, the actual text of a bankruptcy rule, local rule, or statute.

## **12. WHAT WILL I NEED TO DO TO START A BANKRUPTCY?**

An individual debtor (meaning not a corporation, partnership or business trust) must complete an approved nonprofit budget and credit counseling course BEFORE they file a bankruptcy under any chapter. A list of approved credit counselors for this district can be obtained from the Clerk's Office, the Office of the U.S. Trustee, or either the court's or the U.S. Trustee's website. A certificate of completion will be issued by the provider and should be filed with the petition, attached to Exhibit D.

A debtor may request a temporary waiver of the credit counseling requirement so they can file their bankruptcy petition without it upon a showing that is satisfactory to the court of 1) exigent circumstances exist that merit a waiver of the requirement to get credit counseling prior to filing and 2 ) that the debtor requested credit counseling services from an approved agency but was unable to obtain the services within 7 days of the request. A debtor who is disabled or incompetent, such that credit counseling would be meaningless or impossible to obtain, or who is on active duty in a combat zone, has grounds to seek a complete waiver of the requirement from the court. A request for waiver setting forth the reason should be filed with the bankruptcy petition.

A complete list of the documents needed to start a bankruptcy case under chapter 7, chapter 11, chapter 12, or chapter 13 of the Bankruptcy Code, the number of copies required and the filing deadline for each is set forth in Attachment 1, *Required Documents*

*and Fees (Form EDC 2-035)*. Collectively, the voluntary petition form (Official Bankruptcy Form B1) and documents attached to it are commonly referred to as your "bankruptcy petition."

The particular documents you must file will depend upon the chapter you are filing as well as your individual circumstances. For example, in both Chapter 7 and 13, a Statement of Current Monthly Income and Means Test Calculation Form must be completed if your debts are primarily consumer debts, but there is a different form for each chapter. If you are not represented by an attorney and did not have any documents prepared by a bankruptcy petition preparer, you will not be required to file a *Statement Disclosing Compensation Paid to Debtor's Attorney* (Form B203), a *Statement Disclosing Compensation Paid to Bankruptcy Petition Preparer* (Form B280), or a *Notice to Debtor By Non-Attorney Bankruptcy Petition Preparers (Official Form 19B)*. Likewise, all individual debtors must submit with their petitions a *Statement of Social Security Number(s) (Form B21)* and *Individual Debtor's Statement of Compliance with Credit Counseling Requirement (Exhibit "D" to Voluntary Petition (Form B1, Exh. D))*, but only individual, chapter 7 debtors whose schedules of assets and liabilities include consumer debts are required to file a *Statement of Intention (Form B8)*. Similarly, a *List of 20 Largest Unsecured Creditors (Form B4)* is required in chapter 11 cases only, and *Exhibit "A" to Voluntary Petition (Form B1, Exh. A)* should be completed and attached to the voluntary petition only if the debtor is required to file periodic reports with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is filing a chapter 11 case.

In addition to requiring certain Official Forms (*Voluntary Petition (Form B1)*, *Statement of Current Monthly Income and Means Test Calculation (Form B22A, 22B or 22C, depending on chapter)*, *Summary of Schedules followed by schedules of assets and liabilities, executory contracts and unexpired leases, current income, and current expenditures, and Declaration (Form B6)*, and *Statement of Financial Affairs (Form B7)*), the Eastern District of California requires a number of local forms including a master address list (list of people you owe money to), a Verification of Master Address list form, and if applicable, a debtor's plan. Individual debtors must attach their credit counseling certificate to Exhibit D and submit it for filing as part of their petition.

If you need to start your case quickly, you can file only those documents designated in Attachment 1, *Filing Requirements (Form EDC 2-035)* as the "*Minimum Documents Required For Incomplete (Skeleton) Filing.*" The remaining documents must be filed within the times indicated in Attachment 1. If you file an incomplete (skeleton) case, your failure to timely file all required documents or to seek an extension of time to do so may result in dismissal of your case, denial of your discharge, or the imposition of sanctions against you.

A bankruptcy petition forms package containing all the forms listed in Attachment 1 is available without charge on the court's Internet web site, located at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). Copies of the forms package may also be purchased for \$9.00 at all divisional Clerk's Offices. Bankruptcy forms sets containing only the Official Bankruptcy Forms listed in Attachment 1 are available for purchase at local stationery

stores. All locally required forms are available at the Clerk's Office and on the court's Internet web site.

### Tips For Completing Forms

- a. Type the information on the forms, if possible. All forms should be legible, 8 ½ by 11 inches in size and printed on one side only.
- b. Put a response to every question. If your answer to a question is "none," and there is no "none" box to check, put "N/A." Use continuation pages when you run out of room.
- c. With limited exceptions,<sup>4</sup> all documents filed in a bankruptcy case are available over the Internet through the Court's Public Access to Court Electronic Records (or PACER) system. To address the privacy concerns resulting from public access to electronic case files, Federal Rule of Bankruptcy Procedure 9037 requires that certain personal identification information be 'redacted' from documents filed with the court. Filings that contain an individual's social security number, tax payer identification number or birth date, the name of a minor, or a financial account number may include only:
  - The last four digits of the social security number and tax identification number;
  - The year of the individual's birth;
  - The minor's initials; and
  - The last four digits of the financial account number.

The responsibility to redact filings rests solely with the party or nonparty making the filing. Consequently, documents are not reviewed by the Clerk's Office for compliance with Rule 9037. **You** must redact and disclose personal identification information in the forms<sup>5</sup> and papers filed by you as follows:

- Redact *social security numbers and taxpayer identification numbers* and include the last four digits only in your petition and other pleadings. **BUT**, include complete social security numbers and taxpayer identification numbers on Form B21, *Statement of Social Security Number(s)*.

---

<sup>4</sup> Because it is "submitted" and not "filed," Form B21, *Statement of Social Security Number(s)*, does not become part of the court's file. It is considered confidential and is not available for viewing.

<sup>5</sup> Official Bankruptcy Form 1, *Voluntary Petition*, requires information concerning the debtor's and joint debtor's social security numbers and/or taxpayer identification numbers. Schedules D (*Creditors Holding Secured Claims*), E (*Creditors Holding Unsecured Priority Claims*), and F (*Creditors Holding Unsecured Nonpriority Claims*) of Official Bankruptcy Form 6, *Schedules*, require disclosure of debtor account numbers.



- Redact *dates of birth* by using the year of birth only.
  - Redact the names of individuals, other than the debtor, known to be and identified as *minors*. Use the minors' initials only.
  - Redact and include only the last four digits of *financial account numbers*. **HOWEVER**, to assist the trustee and creditors, you may include complete account numbers on Schedules D, E, and F, of Form B6, *Schedules*, rather than limit the numbers to the final four digits.
- d. Sign each form where required. If filing a joint case, make sure that your spouse signs, too.
- e. Prepare your Master Address List according to the *Revised Guidelines for Preparation of Master Address Lists (Form EDC 2-190)* found in Attachment 2. The Clerk's Office scans and uses optical character recognition to process printed Master Address Lists. If you do not type your Master Address List and follow the instructions exactly, the scanner will not be able to read the names and addresses properly. The court offers an online application that will assist with preparing a Master Address List for paper submission. This is available at the Clerk's Office or online at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov).
- f. Make sure that you have the number of copies indicated in Attachment 1, *Filing Requirements (Form EDC 2-035)*. DO NOT attach Master Address Lists, Master Address List verification forms, Statements of Social Security Number(s), chapter 12 plans, or chapter 13 plans to petitions.

**13. HOW DO I KNOW IF A DEBT IS SECURED, UNSECURED, PRIORITY OR ADMINISTRATIVE SO I CAN FILL OUT MY SCHEDULES CORRECTLY?**

a. Secured Debt

A secured debt is a debt that is backed by property. A creditor whose debt is "secured" has a right to take property to satisfy a "secured debt." For example, most homes are burdened by a "secured debt." This means that the lender has the right to take the home if the borrower fails to make payments on the loan. Most people who buy new cars give the lender a "security interest" in the car. This means that the debt is a "secured debt" and that the lender can take the car if the borrower fails to make payments on the car loan.

b. Unsecured Debt

A debt is unsecured if you have simply promised to pay someone a sum of money at a particular time, and you have not pledged any real or personal property to collateralize that debt.

c. Priority Debt

A priority debt is a debt entitled to priority in payment, ahead of most other debts, in a bankruptcy case. A listing of priority debts is given, in general terms, in 11 U.S.C. § 507 of the Bankruptcy Code. Examples of priority debts are some taxes, wage claims of employees, debts related to goods and services provided to a debtor's estate during the pendency of a bankruptcy case, and alimony, maintenance or support of a spouse, former spouse, or child. If you have questions deciding which of your debts are entitled to priority status, you should consult an attorney.

d. Administrative Debt

An administrative debt is also a priority debt and is one created when someone provides goods or services to your bankruptcy estate. The best example of an administrative debt is the fee generated by an attorney or other authorized professional in representing the bankruptcy estate.

e. Consumer Debt

Consumer debt is either secured or unsecured debt incurred by an individual primarily for a personal, family or household purpose. The mortgage on your personal residence is considered consumer debt, however income taxes are not. Debts which are incurred in pursuit of a business would also not be consumer debt.

#### **14. WHAT ARE EXEMPTIONS?**

11 U.S.C. § 522(b) allows an individual debtor to exempt real, personal, or intangible property from the property of the estate. Exempt assets are protected by state law from distribution to your creditors. Typically, exempt assets include some jewelry, vehicles up to a certain dollar amount, the equity in your home up to a certain amount, and tools of the trade.

Under bankruptcy law, you are entitled to list the assets set forth in section 703 or section 704 of the California Code of Civil Procedure as exempt. Exemptions are claimed on Schedule C. As with all schedules, it is important to fully complete and provide all the information requested. If no one objects to the exemptions you have listed within the time frame specified by the bankruptcy court, these assets will not be a part of your bankruptcy estate and will not be used to pay creditors through your bankruptcy case.

Deciding which assets are exempt and how and if you can protect these assets from your creditors can be one of the more important and difficult aspects of your bankruptcy case. It is extremely important to consult an attorney if you have any questions regarding the issue of exempt assets.

## 15. WHERE DO I FILE MY BANKRUPTCY CASE?

As a general rule, you should file your bankruptcy case in the bankruptcy court for the federal judicial district where your residence, principal place of business, or principal assets have been located for the greater part of the 180 days prior to filing. There are four federal judicial districts in the State of California. This is the Eastern District of California. The Eastern District of California covers 34 counties in northern California. If your residence, principal place of business or principal assets have been located in one or more of these counties for the necessary period of time, you should file your case in the U.S. Bankruptcy Court for the Eastern District of California.

Due to its size, the U.S. Bankruptcy Court for the Eastern District of California has been split into three divisions, each with a fully staffed Clerk's Office. All three divisional Clerk's Offices are open from 9:00 a.m. until 4:00 p.m. on all days except Saturdays, Sundays and legal holidays.

The specific county of your residence, principal place of business or principal assets determines in which of the Eastern District of California's three divisions your case should be filed. Use the chart provided below to determine where to file your case.

COUNTY OF DEBTOR'S RESIDENCE, PRINCIPAL PLACE OF BUSINESS, OR PRINCIPAL ASSETS			WHERE TO FILE YOUR CASE
Alpine Amador Butte Colusa El Dorado Glenn Lassen Modoc	Mono Nevada Placer Plumas Sacramento San Joaquin Shasta Sierra	Siskiyou Solano Sutter Tehama Trinity Yolo Yuba	<p><b><u>Sacramento Division</u></b> Office of the Clerk U.S. Bankruptcy Court Robert T. Matsui United States Courthouse 501 I Street, Suite 3-200 Sacramento, CA 95814-2322 (916) 930-4400</p>
Calaveras Stanislaus Tuolumne			<p><b><u>Modesto Division</u></b> Office of the Clerk U.S. Bankruptcy Court 1200 I Street, Suite 4 Modesto, CA 95354 (209) 521-5160</p>
Fresno Inyo Kern Kings Madera Mariposa Merced Tulare			<p><b><u>Fresno Division</u></b> Office of the Clerk U.S. Bankruptcy Court Robert E. Coyle United States Courthouse 2500 Tulare Street, Suite 2501 Fresno, CA 93721-1318 (559) 499-5800</p>

Although there is a bankruptcy court in Bakersfield, where bankruptcy hearings are periodically held, there is no staffed Clerk's Office in Bakersfield.

#### **16. HOW DO I "FILE" A DOCUMENT WITH THE COURT?**

Effective April 3, 2006, attorneys who regularly practice and trustees assigned cases in the Eastern District of California shall file documents in electronic form. Unrepresented persons, also referred to as *pro se* litigants or persons appearing *in propria persona*, are excepted from electronic filing and must file and serve paper documents instead.

Absent extraordinary circumstances, bankruptcy petitions, pleadings and other documents on paper shall be submitted for filing by mail or in person at a Clerk's Office public counter between the hours of 9:00 a.m. and 4:00 p.m. on all days except Saturdays, Sundays and legal holidays. When extraordinary, compelling circumstances require delivery of a paper document to the Clerk's Office after hours, an emergency filing can be arranged by contacting the appropriate divisional Clerk's Office during business hours. The Clerk's Office does not accept documents for filing by facsimile.

#### **17. HOW MUCH ARE THE COURT FEES TO FILE BANKRUPTCY?**

The fees for filing petitions under all chapters of the Bankruptcy Code are indicated on Attachment 1, *Required Documents and Fees (Form EDC 2-035)*.

#### **18. WHAT IF I CAN'T PAY THE ENTIRE FEE WHEN I FILE MY PETITION?**

Individual debtors may request permission to pay the required fees in up to four installments over a period of one hundred twenty (120) days. To do so, you must complete an application to pay fees in installments (Form EDC 2-021) and submit it with your petition. Application forms are available at each divisional Clerk's Office, as well as on the court's Internet web site at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). If your application is granted, you cannot pay any more money to an attorney, a bankruptcy petition preparer, or anyone else in connection with your bankruptcy, until all installments have been paid.

Additionally, if you are filing a chapter 7 petition, your income is at or below 150 percent of the poverty guidelines last published by the United States Department of Health and Human Services based on family size, and you are unable to pay the fee in installments, you may file a request to have the filing fee waived. To do so, you must complete an application for waiver of the fee (Official Form 3B) and submit it with your petition. Application forms are available at each divisional Clerk's Office, as well as on the court's Internet web site at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov). If the Court denies your fee waiver application, you will be ordered to pay the fee in installments according to the schedule included in the order.

#### **19. WHAT HAPPENS AFTER I FILE BANKRUPTCY?**

Upon filing the original petition with the Clerk's Office, the "automatic stay" immediately takes effect and prohibits all creditors from taking certain collection actions against the debtor or the debtor's property. Although the stay is automatic, creditors need to be advised of the

stay. The court issues a notice to all creditors advising them of the filing of the bankruptcy, the case number, the automatic stay, the name of the trustee assigned to the case (if filed under chapter 7, 12, or 13), the date set for the meeting of creditors (called the "341 meeting"), the deadline, if any, set for filing objections to the discharge of the debtor and/or the dischargeability of specific debts, and whether and where to file claims. The exact information in the notice differs depending on the chapter under which the case is filed.

There are many exceptions to the automatic stay. Several new limitations on the imposition of the automatic stay, especially for repeat filers, were included in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The most prominent of these exceptions relates to the termination of the stay against the debtor on the 30<sup>th</sup> day after the filing of a new case if the debtor had a prior case dismissed within one year of filing the present case, or if a debtor fails to accept a lease. The stay can be extended by the Court with a showing of good cause. In addition, there is an exception allowing the commencement of a civil proceeding regarding child custody or visitation, domestic violence or the dissolution of marriage, but not division of property. Other new exceptions include the continuation of an eviction or unlawful detainer action involving a residential lease. Because this is a very complex area of the law, you may wish to seek legal assistance before proceeding legally against a party who has filed for bankruptcy protection.

In a chapter 7 case involving an individual debtor, the creditors generally have sixty (60) days from the first date set for the meeting of creditors to object to the discharge of the debtor and/or the dischargeability of a specific debt. If the deadline passes without any objections to the debtor's discharge being filed, the court will issue the discharge order. If any objections to the dischargeability of specific debts are filed, they will be heard by the court, but will not delay the granting of a discharge with respect to other debts. An objection to discharge or to the dischargeability of certain debts is considered a separate lawsuit (an adversary proceeding) within the bankruptcy and may result in a trial before the judge assigned to the case. Corporate and partnership chapter 7 debtors do not receive a discharge. If there are no assets from which a dividend can be paid, the trustee will prepare a report of no distribution and the case will be closed. If there are assets that are not exempt, funds will be available for distribution to creditors. The court will set claims deadlines and notify all creditors to file their claims. The trustee will proceed to collect the assets, liquidate them and distribute the proceeds to creditors. When the assets have been completely administered, the court will close the case. To obtain a discharge, the debtor must complete a personal financial management course. If the certification of completion of an approved personal financial education course is not filed within 45 days of the meeting of creditors, the court will simply close the case without entering a discharge.

In a chapter 11 case, a debtor's conference is held with the United States Trustee's staff before the creditors' meeting. At the debtor's conference, the United States Trustee will go over the responsibilities and restrictions on the debtor-in-possession, explain the quarterly fees and monthly operating reports, and generally discuss the financial situation of the debtor and the scope of the anticipated plan of reorganization. A disclosure statement must be filed with the plan and approved by the court before votes for and against the plan can be solicited. After the estate has been fully administered, the court enters a final decree closing the case. A chapter 11 estate may be considered fully administered and closed before the payments required by the plan have been completed.

In a chapter 12 case, the confirmation hearing must be concluded within forty-five (45) days of filing the plan. The court may consider dismissal of the case if a plan is not confirmed.

In a chapter 13 case, creditors are given an opportunity to object to the plan. If no objection is filed by creditors or the trustee, the plan may be confirmed as filed. Once the plan is confirmed, the trustee will distribute the proceeds of the debtor's plan payments to creditors until the debtor completes the plan or the court dismisses or converts the case. The creditors generally have sixty (60) days from the first date set for the meeting of creditors to object to the dischargeability of a specific debt involving fraud or a willful or malicious action. Upon completion of the chapter 13 plan, the court will issue a discharge order, the trustee will prepare a final report, and the case will be closed. To obtain a discharge, the debtor must complete a personal financial management course.

## **20. WHAT IS A BANKRUPTCY TRUSTEE? WHO IS THE UNITED STATES TRUSTEE? WHAT IS THE DIFFERENCE?**

In all chapter 7, 12, 13 and in some chapter 11 cases, a case trustee is assigned. In chapter 7 cases they are called "Panel Trustees." In chapter 12 and 13 cases they are called "Standing Trustees." The trustee's job is to administer the bankruptcy estate, to make sure creditors get as much money as possible, and to run the first meeting of creditors, (also called the "341 meeting", because 11 U.S.C. § 341 of the Bankruptcy Code requires that the meeting be held). The trustee either collects and sells non-exempt estate property, as in the case of a chapter 7, or collects and pays out money on a repayment plan, as in the case of a chapter 13. The trustee can require that you provide, under penalty of perjury, information and documents, either before, after, or at the meeting. You must also bring positive identification and verification of your social security number to the meeting. You should always cooperate with the trustee, since failure to cooperate with the trustee could be grounds to have your discharge denied. Trustees are not necessarily lawyers, and they are not paid by the court. They are appointed by the United States Trustee. The trustees report to the court, but their fees come out of the bankruptcy filing fees or as a percentage of the money distributed to creditors in the bankruptcy.

The United States Trustee's Office is part of the U.S. Department of Justice, and is separate from the court. The United States Trustee's Office is a watchdog agency, charged with monitoring all bankruptcies, appointing and supervising all trustees, and identifying fraud in bankruptcy cases. The United States Trustee's Office cannot give you legal advice, but they can give you information about the status of a case, and you can contact them if you are having a problem with a trustee, or if you have evidence of any fraudulent activity. In monitoring cases, the United States Trustee reviews all bankruptcy petitions and pleadings filed in cases, and participates in many proceedings affecting the case, but they do not administer the case themselves. They can bring motions in the bankruptcy, such as ones to dismiss the case, or to deny the debtor's discharge. The United States Trustee is the agency which certifies credit counseling and debt education providers.

## 21. WHAT IS THE CREDITORS' MEETING? WHAT CAN I EXPECT WILL HAPPEN AT IT?

A "meeting of creditors" is the hearing all debtors must attend in any bankruptcy case. It is held outside the presence of the judge and usually occurs between twenty (20) and forty (40) days from the date the original petition is filed with the court. In chapter 7, chapter 12, and chapter 13 cases, the trustee assigned to the case conducts the meeting on behalf of the United States Trustee. In chapter 11 cases where the debtor is in possession and no trustee is assigned, a representative of the United States Trustee's office conducts the meeting.

Before the meeting occurs each individual debtor is required to provide the trustee with a copy or transcript of his/her most recently filed income tax return and copies of pay advices covering the six weeks prior to filing. These documents, plus any others requested by the trustee, should be provided at least 7 days before the date of the creditor's meeting. Failure to do so can result in a motion to dismiss the case or a continued meeting date.

The meeting permits the trustee or representative of the United States Trustee's Office to review the debtor's petition and schedules with the debtor face-to-face. The debtor is required to answer questions under penalty of perjury concerning the debtor's acts, conduct, property, liabilities, financial condition and any matter that may affect administration of the estate or the debtor's right to discharge. This information enables the trustee or representative of the United States Trustee's Office to understand the debtor's circumstances and facilitates efficient administration of the case. Additionally, the trustee or representative of the United States Trustee's Office will ask questions to ensure that the debtor understands the positive and negative aspects of filing for bankruptcy. Finally, individual debtors must provide proof of identity<sup>6</sup> and proof of Social Security number<sup>7</sup> to the trustee or representative of the United States Trustee's Office at the meeting.<sup>8</sup> All items of proof (including social security cards) must be original. Copies are not accepted.

The meeting is referred to as the "meeting of creditors" because creditors are notified that they may attend and question the debtor about the location and disposition of assets and any other matter relevant to the administration of the case. However, creditors rarely attend these meetings and, in general, are not considered to have waived any of their rights by

---

<sup>6</sup> The name on the proof of identity must match the name or aka on the petition. Acceptable proofs of identity include valid state driver's licenses, government-issued picture ID cards, official passports from any country, government employee photo ID's, military photo ID's, and legal resident alien cards with photos. Although matricula cards issued by the Mexican Embassy are accepted by the United States Trustee's Office as proof of identity for bankruptcy purposes, they will **not** be accepted by court security staff as proof of identity when entering the courthouse.

<sup>7</sup> Acceptable proofs of social security number include social security cards, statements from the Social Security Administration attesting to social security numbers, military ID's with full social security numbers, and Medicare cards with full social security numbers.

<sup>8</sup> Debtors failing to provide acceptable proof of identification and proof of social security number will be required to appear and provide it to the trustee at a continued meeting of creditors.

failing to appear. The meeting usually lasts only a few minutes and may be continued if the trustee or representative of the United States Trustee's Office is not satisfied with the information provided by the debtor. If the debtor fails to appear and provide the information requested at the meeting, the trustee or representative of the United States Trustee's Office may request that the bankruptcy case be dismissed or that the debtor be ordered by the court to cooperate or be held in contempt of court for willful failure to cooperate.

## 22. WHAT IS A DISCHARGE?

The discharge order is issued by the court and permanently prohibits creditors from taking action to collect DISCHARGEABLE debts against the debtor personally; this does not prevent secured creditors from seizing collateral if payments are not kept up, or other creditors from pursuing property of the estate. Some debts are not dischargeable, and others may be found to be non-dischargeable depending on particular circumstances.

In a chapter 7 case, the bankruptcy court will order that the debtor be discharged of all dischargeable debts once the time for objecting to discharge has expired unless:

- ★ The debtor is not an individual; **or**
- ★ A complaint, or a motion under §727(a)(8) or (a)(9), objecting to the debtor's discharge has been filed and not decided in the debtor's favor; **or**
- ★ A motion to extend the time for filing a complaint or a motion objecting to the debtor's discharge is pending; **or**
- ★ The debtor has filed a waiver of discharge; **or**
- ★ A motion to dismiss the case for substantial abuse is pending; **or**
- ★ A motion to extend the time for filing a motion to dismiss the case for substantial abuse, is pending; **or**
- ★ The debtor has not paid in full the court fees connected with the filing of the case; **or**
- ★ The debtor has not filed Official Form 23, *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*.

In chapter 11 cases, generally the completion of a confirmed plan of reorganization discharges the debtor from dischargeable debts that arose before the date of the order of relief unless:

- ★ The plan or order confirming plan provides otherwise; **or**
- ★ The plan is a liquidating plan and the debtor would be denied a discharge in a chapter 7 case under 11 U.S.C. § 727; **or**
- ★ The debtor has not filed Official Form 23, *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*.



In chapter 12 cases, the court will order that the debtor is discharged of dischargeable debts after the debtor has completed all payments under the plan, or prior to plan completion, after notice and hearing, if the requirements of 11 U.S.C. § 1228(b) have been met.

In chapter 13 cases, if the debtor has filed Official Form 23, *Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*, the debtor will be granted a discharge of dischargeable debts after completing all payments under the plan, or prior to plan completion, after notice and hearing, if the requirements of 11 U.S.C. § 1328(b) have been met. The debtor will not be granted a discharge if the debtor received a discharge during a specified period before the filing date of the current case.

The granting of a discharge does not automatically result in the closing of a case. All contested matters, adversary proceedings, and appeals must be resolved and the appointed trustee or debtor-in-possession must file a final report and account and request entry of a final decree before the Clerk's Office will close the case.

### **23. WHAT DEBTS ARE DISCHARGEABLE?**

In an individual debtor's case, all debts are dischargeable except for those listed in 11 U.S.C. § 523. In a chapter 13 case, even more debts may be discharged if the debtor obtains a discharge under 11 U.S.C. §1328(a). The non-dischargeable debts listed in § 523 include:

- ◆ Certain taxes and fines;
- ◆ Debts created through fraudulent conduct or by providing false information to a creditor;
- ◆ Debts not listed in the bankruptcy petition;
- ◆ Alimony, child maintenance or support, and certain debts arising out of a divorce decree or separation agreement;
- ◆ Debts from willful and malicious injury to another;
- ◆ Government guaranteed student loans;
- ◆ Debts caused by the death or personal injury related to the operation of a motor vehicle while you were intoxicated; **and**
- ◆ Post bankruptcy condominium or cooperative owners' association fees.

This list includes many examples of non-dischargeable debts but you should review 11 U.S.C. § 523 for a complete list.

Some debts listed in 11 U.S.C. § 523, such as those based on fraudulent conduct, embezzlement or willful and malicious injury to another, are discharged unless a complaint to deny discharge of that debt is timely filed with the bankruptcy court. Ordinarily, these complaints must be filed within sixty (60) days of the first date set for the meeting of creditors.

Additionally, certain debts that were not listed on your bankruptcy schedules or that were incurred after you filed bankruptcy are generally not discharged.

## **24. WHAT IS THE DIFFERENCE BETWEEN A DENIAL OF DISCHARGE AND A DEBT BEING NON-DISCHARGEABLE?**

A discharge can be denied by the court either for one particular debt or for all debts. For a discharge to be denied, either as to a particular debt or as to all debts, someone must file an adversary proceeding (lawsuit) or a motion objecting to discharge under §727(a)(8), (a)(9) or §1328(c).

In a lawsuit to deny the discharge as to all debts, the person who brings the action must prove to the court that the debtor did one of the following: (1) transferred, concealed, removed, destroyed or mutilated property of the debtor within one year before the bankruptcy was filed, or after the bankruptcy was filed, or (2) concealed, destroyed, mutilated, falsified, or failed to keep and preserve books and records about the debtor's financial condition or business transactions, or (3) the debtor made a false statement while under oath, in writing or orally, or (4) failed to turn over books and records, or (5) failed to explain the loss of assets. Motions objecting to discharge must assert that the debtor received a discharge during a specified period before the filing date of the current case.

To deny the discharge as to one debt only, the creditor must prove that the debtor (1) got the money or thing by making false representations, false pretenses or actual fraud, or (2) used a materially false statement about his financial condition that the creditor relied on.

## **25. WHAT DOES IT MEAN IF A CASE IS DISMISSED?**

A dismissal order ends the case. Upon dismissal the "automatic stay" ends and creditors may start to collect debts, unless a discharge is entered before the dismissal and is not revoked. An order of dismissal itself will not free the debtor from any debt. Often, a case is dismissed when the debtor fails to do something he/she must do (such as show up for the creditors' meeting, answer the trustee's questions honestly, produce books and records the trustee requests), or if it is in the best interests of the creditors. Unless the debtor appeals the order or seeks reconsideration of the order within ten (10) days after entry of the order, the Clerk will automatically close the case.

## **26. WHAT IS A REAFFIRMATION AGREEMENT?**

Secured creditors may retain some rights to seize property securing an underlying debt even after a discharge is granted. Depending on individual circumstances, if a debtor wishes to keep certain secured property (such as an automobile), he or she may decide to "reaffirm" the debt. A reaffirmation agreement is an agreement by which a bankruptcy debtor becomes legally obligated to pay all or a portion of an otherwise dischargeable debt. Such an agreement must generally be filed within sixty (60) days after the first date set for the meeting of creditors, but before the discharge is entered.

The Bankruptcy Code requires that reaffirmation agreements contain an extensive set of disclosures described in 11 U.S.C. § 524(k). Among other things, the disclosures must advise the debtor of the amount of the debt being reaffirmed and how it is calculated, and that

reaffirmation means the debtor's personal liability for that debt will not be discharged in the bankruptcy.

If the reaffirming debtor is represented by an attorney, the agreement is filed with an affidavit of the attorney which complies with 11 U.S.C. § 524(c)(3). If the reaffirming debtor is not represented by an attorney, the debtor or creditor must file an application for approval of the agreement, along with a request for hearing. An order approving the agreement should be brought to the hearing. You must appear in person at the hearing. The judge will ask you questions to determine whether the reaffirmation agreement imposes an undue burden on you or your dependents and whether it is in your best interests. Since reaffirmed debts are not discharged, the bankruptcy court will normally only reaffirm secured debts where the collateral is important to your daily activities.

Reaffirmation agreements are strictly voluntary. They are not required by the Bankruptcy Code or other state or federal law. However, if the debtor does not either reaffirm or redeem secured personal property, such as a vehicle, the protections of the automatic stay are terminated.

Since a reaffirmation agreement takes away some of the effectiveness of your discharge, legal counsel is advisable before agreeing to a reaffirmation. Even if you sign a reaffirmation agreement, you have a minimum of sixty (60) days after the agreement is filed with the court to change your mind. If your discharge date is more than sixty (60) days after the agreement is filed with the court, you have until your discharge date to change your mind. If you reaffirm a debt and fail to make the payments as agreed, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

## **27. WHAT IS REDEMPTION?**

Redemption allows an individual debtor (not a partnership or a corporation) to keep tangible, personal property intended primarily for personal, family, or household use by paying the holder of a lien on the property the amount of the allowed secured claim on the property, which typically means the value of the property. Otherwise, in order to retain the property, the debtor would have to pay the entire amount of the secured creditor's debt, do a reaffirmation agreement and become legally obligated on the debt again. The property redeemed must be claimed as exempt or abandoned.

With redemption, a debtor can often get liens released on personal household possessions for much less than the underlying debt on those secured possessions. Unless the creditor consents to periodic payments, redemption must generally be made in one lump sum payment to the creditor. If the debtor and creditor agree to the redemption, just a consent order of redemption is required. If the redemption is opposed, a motion for redemption and a request for hearing should be filed.

## **28. WHAT ARE CLAIMS AND CLAIMS OBJECTIONS? HOW ARE CLAIMS FILED?**

### **a. Claims**

In the broadest sense, a claim is any right to payment held by a person or company against you and your bankruptcy estate. A claim does not have to be a past due amount but can include an anticipated sum of money which will come due in the future. In filling out your Schedules, you should include any past, present or future debts as potential claims.

### **b. Claims Objections**

You are entitled to object to any claim filed in your bankruptcy case if you believe the debt is not owed or if you believe the claim misrepresents the amount or kind of debt (e.g. secured or priority) which you owe. In some circumstances, an objection to claim can be initiated by filing a motion in the bankruptcy court; in other circumstances, it must be initiated by filing an adversary proceeding (like a lawsuit in your bankruptcy case). If you anticipate objecting to claims, you should seek the advice of an attorney as soon as possible since the objection process can be complicated and time sensitive.

### **c. Filing Claims**

The written statement filed in a bankruptcy case setting forth a creditor's claim is called a proof of claim. The proof of claim should include a copy of the obligation giving rise to the claim as well as evidence of the secured status of the debt if the debt is secured. Under the Federal Rules of Bankruptcy Procedure, with limited exceptions, claims filed by creditors, except governmental units, in chapter 7, 12 and 13 cases must be filed within ninety (90) days after the first date set for the meeting of creditors. Claims of governmental units must be filed within one hundred eighty (180) days of the date the petition was filed. In the Eastern District of California, the ninety (90) day and one hundred eighty (180) day deadlines also apply, by local rule, to the filing of claims by creditors in chapter 11 cases. If a creditor files a claim after the specified deadline, you may object to the claim as being untimely filed.

Under the Federal Rules of Bankruptcy Procedure, you (or in chapter 7 and some 11 cases, the trustee) may file a proof of claim on behalf of a creditor within thirty (30) days after the last day for filing claims.

## **29. WHAT CAN I DO IF A CREDITOR KEEPS TRYING TO COLLECT MONEY AFTER I HAVE FILED BANKRUPTCY?**

If a creditor continues to attempt to collect a debt after the bankruptcy is filed in violation of the automatic stay, you should immediately notify the creditor in writing that you have filed bankruptcy, and provide them with either the case name number and filing date, or a copy of the petition that shows it was filed. If the creditor still continues to collect, the debtor may be

entitled to take legal action against the creditor to obtain a specific order from the court prohibiting the creditor from taking further collection action and, if the creditor is willfully violating the automatic stay, the court can hold the creditor in contempt of court and punish the creditor by fine or incarceration. Any such legal action brought against the creditor will be complex and will normally require representation by a qualified bankruptcy attorney.

### **30. HOW DO I CHANGE OR CORRECT INFORMATION IN THE PETITION, SCHEDULES AND STATEMENTS I ALREADY FILED WITH THE CLERK'S OFFICE?**

The information contained in your petition, master address list, schedules, and statement of financial affairs is submitted under penalty of perjury. Therefore, you must be certain that it is complete and correct when you sign these documents. If you become aware later that information in your petition, mailing list, schedules, or statement of financial affairs is incorrect, you should file an amended document containing the correct information, together with an Amendment Cover Sheet, Form EDC 2-015.

To ensure their proper processing, amended schedules and mailing lists must be prepared as follows:

- ※ Schedules amended to add creditors and/or to change creditor names/addresses should list **all** creditors — not just the ones you are adding and/or whose information has changed. An “A” should be placed to the right of the creditor’s name in an amended schedule if the creditor is being added; a “C” should be placed to the right of a creditor’s name if previously provided information about the creditor (for example, their name or address) is being changed.
- ※ Amended master mailing lists, on the other hand, should list **ONLY** those creditors added and/or changed, **WITHOUT** the "A" and/or "C" notations.
- ※ The Summary of Schedules (including the Statistical Summary of Certain Liabilities & Related Data) must be amended whenever Schedules A, B, D, E, F, I, or J are amended. The total dollar amounts listed on the Summary of Schedules (including the Statistical Summary of Certain Liabilities & Related Data) should reflect a comprehensive total for each schedule, not just the total for the amended schedule(s). Example: The original total on Schedule F was \$11,000. An amendment is filed, adding \$1,200 to Schedule F. An amended Summary of Schedules should be filed showing \$12,200 for the total on Schedule F, not \$1,200.

Additionally, a fee of \$30.00 is required when adding creditors, changing amounts owed, or the classification of a debt, and notice of the filing of the amendment must be given to the Trustee appointed in the case and all parties affected by the amendment. Please see the Amendment Cover Sheet for additional information. It is available from the Clerk’s Office and is posted on the court’s Internet web site at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov).

### **31. WHAT SHOULD I DO IF I CANNOT MAKE MY CHAPTER 13 PAYMENT?**

If the debtor cannot make a chapter 13 payment on time according to the terms of the confirmed plan, the debtor should contact the trustee by phone and by letter advising the trustee of the problem and whether it is temporary or permanent. If it is a temporary problem and the payments can be made up, the debtor should advise the trustee of the time and manner in which the debtor will make up the payments. Please note that all plan payments should be mailed to the payment address provided by the chapter 13 trustee. This address is to a lock box at the bank and funds sent to it will be directly credited to your chapter 13 account. Taking or sending payments to the chapter 13 trustee's office, the Clerk's Office, or the Office of the U.S. Trustee will delay processing and further delay the crediting of late payments to your chapter 13 account.

Significant changes in the debtor's circumstances may require that the plan be formally modified. If the problem is permanent and the debtor is no longer able to make payments to the plan, the trustee will request that the case be dismissed or converted to another chapter. The determination of whether to modify, dismiss or convert a case requires the same kind of analysis as is needed for the initial decision whether to file bankruptcy and under what chapter. Therefore, the debtor should seek counsel from a qualified bankruptcy attorney before attempting to make such a decision. If the debtor delays making a voluntary decision and cannot make the plan payments, the court may dismiss the case.

### **32. MY EX-SPOUSE HAS FILED BANKRUPTCY. HE/SHE HAS LISTED ME AS A CO-SIGNER ON A SCHEDULED DEBT. WHAT CAN I DO? DOES MY DIVORCE DECREE PROTECT ME?**

If you are a co-obligor with your ex-spouse on a debt, the creditor can require the entire payment of that debt from your share of the community property even though the divorce decree assigns the debt to your ex-spouse. Depending on the terms of your divorce decree, you may be able to have certain support obligations under it determined to be non-dischargeable by the bankruptcy court or in state court. You should seek legal advice for a thorough explanation of your rights and obligations in this area as soon as you find out that your ex-spouse has filed a bankruptcy.

### **33. HOW MANY YEARS WILL A BANKRUPTCY SHOW ON MY CREDIT REPORT? HOW LONG WILL IT TAKE BEFORE I CAN GET CREDIT?**

The bankruptcy petition, schedules and plan are public documents and are available to the general public for viewing. Credit reporting agencies regularly collect information from the petitions filed and report the information on their credit reporting services. Bankruptcies normally will remain on your credit report for up to ten (10) years and may be taken into consideration by any person reviewing a credit report for the purpose of extending credit in the future. The decision whether to grant you credit in the future is strictly up to the creditor and varies from creditor to creditor depending on the type of credit requested. There is no law which prevents anyone from extending credit to you immediately after the filing of a bankruptcy nor are creditors required to extend you credit. The best way for you to obtain credit in the future is to generate an adequate and regular income and pay all of your financial obligations

in a timely and responsible manner. Many creditors will not deal with you in the future unless you have already established credit with someone else and demonstrate that you are a reliable debtor. In general it is recommended that, after the filing of a bankruptcy, one learn to live within his/her income and not request credit which is not absolutely necessary.

### 34. HOW CAN I GET CASE INFORMATION AND COPIES OF DOCUMENTS?

Case information may be obtained over the Internet, by telephone, by mail, or by visiting the Clerk's Office. Copies of documents filed in a case are available over the Internet, by mail, or by visiting the Clerk's Office.

a. Obtaining Case Information and Copies of Documents Over the Internet

Public access to bankruptcy case information and court documents<sup>9</sup> is available over the Internet through the Public Access to Court Electronic Records, or PACER, program. A login and password issued by the PACER Service Center are required. The fee charged for viewing or downloading documents and reports (including dockets) will increase from \$.08 per page to \$.10 per page effective April 1, 2012. To obtain a PACER login and password, visit the PACER Service Center web site at <http://pacer.psc.uscourts.gov>.

b. Obtaining Case Information By Telephone

The **Multi-Court Voice Case Information system (McVCIS)** provides 24 hour public access to Eastern District of California bankruptcy case information by telephone. Callers may search for case information by case number, debtor or party name, social security number or tax ID number using a touch tone telephone. Summary information for matching cases, including case number, debtor names, last four digits of social security number or tax ID number, case filing date, attorney name and telephone number if one exists, Judge and trustee names, discharge date, case closing date and disposition, is read to the caller by a computer generated, synthesized voice device. **McVCIS** is provided free of charge and may be accessed by calling (866) 222-8029. Additional information concerning **McVCIS** is available under *Case Information* on the Court's Internet web site ([www.caeb.uscourts.gov](http://www.caeb.uscourts.gov)).

If you are unable to obtain the information you need from **McVCIS**, use the telephone numbers provided below to call the divisional office in which the case is pending for assistance between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Sacramento Division  
(916) 930-4400

Modesto Division  
(209) 521-5160

Fresno Division  
(559) 499-5800

<sup>9</sup> Documents in cases filed prior to December 1, 2003 that have been closed for more than one year may be accessed through PACER by case participants only. The general public may access documents in these cases at one of the Clerk's Office public lobby terminals, or obtain copies of them from the Clerk's Office. For information about obtaining copies, see sections (c) and (d) on page 28.

c. Obtaining Case Information and Copies of Documents By Mail

A \$30.00 fee must be paid for every name or item searched before any information, other than basic case information, will be provided to you by a deputy clerk. Requests for information subject to the fee should be made in writing. You may, however, obtain the information free of charge in most cases by coming to the Clerk's Office and searching for the information yourself.

To obtain case information and copies of documents by mail, send a written request containing the case number, the case name, the information or document you request, your name, address, a telephone number where you can be reached during business hours and the best time to call, with a self-addressed, stamped envelope. Written requests for information requiring a physical search of the court's records should be accompanied by payment sufficient to cover the \$30.00 fee per name or item searched. Requests for copies should be accompanied by payment sufficient to cover the \$.50 per page copy charge. If certified copies are requested, payment should include an additional \$11.00 per certified document.

d. Obtaining Case Information and Copies of Documents By Visiting the Clerk's Office

As a general rule, court dockets and all documents in the court's case files are public record and available to the public for inspection.<sup>10</sup>

The court docket is a list of brief entries made to record the activity in a case. It contains information concerning the parties involved, filing fees paid, deadlines set, hearings held, and documents filed in the case. For each order and judgment filed, the date the order or judgment was recorded, or entered, on the docket is indicated. Documents are listed on court dockets in chronological order from the top down. The document initiating the case will be the first one listed below the names and addresses on the first page of the docket.

Dockets may be accessed electronically for viewing and printing from computer terminals in the Clerk's Office public counter lobby. There is a \$.10 per page charge for printing copies of any record or document accessed electronically at a public terminal in the courthouse.<sup>11</sup> Printed dockets may be picked up at the counter. Partial dockets may be viewed and printed by entering beginning and ending dates when requesting the docket.

Documents filed on or after March 1, 1999 may be viewed and printed from computer terminals located in the public lobbies at all three divisional Clerk's Offices. A fee of \$.10 per page will be charged for printing copies of documents accessed electronically

---

<sup>10</sup> One notable exception is Form B21, *Statement of Social Security Number(s)*, submitted by individual debtors.

<sup>11</sup> Payment is due at the time documents are printed and shall be made in the form of cash, money order, cashier's check or attorney's trust account check. The Clerk's Office will not accept personal checks or make change. Cash payments must, therefore, equal the amount due.



at a public terminal in the courthouse.<sup>12</sup> Instructions for viewing and printing document images are located at each lobby terminal.

e. Obtaining Copies of Paper Documents from Archived Files

Closed paper case files are stored at the Federal Records Center (FRC) of the National Archives and Records Administration located in San Bruno, California. To request copies of documents in these files from the FRC, go online to <https://eservices.archives.gov/orderonline/>, click "Order Reproductions," then "Court Records," select "Bankruptcy Cases," and follow the prompts to set up an account and place your order. Copies of documents may also be requested from the FRC by mailing, faxing, or emailing a completed *NATF Form 90, National Archives and Records Administration (NARA) Order for Copies of Bankruptcy Cases*, to the FRC.<sup>13</sup> You must obtain the transfer, box, and location numbers for each file from the Clerk's Office before ordering your copies and provide them, along with the court location (city and state), debtor name(s), case number, your delivery information and your payment information to the FRC when your copies are ordered.

Court file review services are not provided to the public at the Federal Records Center. However, for a \$53.00 fee, the Clerk's Office will retrieve a record stored at the Federal Records Center for review by the requestor in the Clerk's Office lobby. Payment must be made before the Clerk's Office will request the record from the FRC. Contact the appropriate divisional Clerk's Office for more information.

---

<sup>12</sup> Payment is due at the time documents are printed and shall be made in the form of cash, money order, cashier's check or attorney's trust account check. The Clerk's Office will not accept personal checks or make change. Cash payments must, therefore, equal the amount due.

<sup>13</sup> This form is available online at <http://www.caeb.uscourts.gov/documents/Forms/Misc/NATF90.pdf>.



# ATTACHMENT 1



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

**REQUIRED DOCUMENTS AND FEES**

Forms are available at the Clerk's Office or online at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov)

*MINIMUM DOCUMENTS REQUIRED FOR INCOMPLETE ("SKELETON") FILING ARE IN BOLD PRINT*

<b><u>CHAPTER 7 - \$335</u></b> (\$245 Filing Fee + \$75 Administrative Fee + \$15 Trustee Fee)	<b><u>COPIES</u></b>	<b><u>DEADLINE</u></b>
<b>Voluntary Petition (Official Form 1)</b>	Original + 1	Time of filing
Schedules of Assets and Liabilities (Official Form 6)	Original + 1	Within 14 days
Schedule of Executory Contracts and Unexpired Leases (Schedule G, Official Form 6)	Original + 1	Within 14 days
Schedules of Current Income and Expenditures	Original + 1	Within 14 days
Statement of Financial Affairs (Official Form 7)	Original + 1	Within 14 days
<b>Master Address List</b> ( <i>DO NOT attach to petition</i> )		
If submitted on hard copy (printed on paper)	Original + 1	Time of filing
<b>Verification of Master Address List Form (Form EDC 2-100)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
<b><i>IF APPLICABLE:</i></b>		
<b>Exhibit D to Official Form 1, Individual Debtor's Statement of Compliance with Credit Counseling Requirement</b>	Original + 1	Time of filing
Certification of Notice to Consumer Debtor(s) under §342(b) of the Bankruptcy Code (Form B201B)	Original + 1	Within 14 days
Statement of Intention (Official Form 8)	Original + 1	Within 30 days
Chapter 7 Statement of Current Monthly Income (Official Form 22A-1 [and 22A-1Supp and 22A-2, if required])	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Debtor's Attorney (Form B203)	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Bankruptcy Petition Preparer (Form B280)	Original + 1	Time of filing
Notice to Debtor By Non-Attorney Bankruptcy Petition Preparer (Official Form 19B)	Original + 1	Time of filing
<b>Statement of Social Security Number(s) (Official Form 21)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
Corporate Resolution	Original + 1	Within 14 days
Statement Regarding Ownership of Corporate Debtor (Form EDC 3-500)	Original + 1	Within 14 days
<b><u>CHAPTER 11 - \$1,717</u></b> (\$1,167 Filing Fee + \$550 Administrative Fee)		
	<b><u>COPIES</u></b>	<b><u>DEADLINE</u></b>
<b>Voluntary Petition (Official Form 1)</b>	Original + 1	Time of filing
Schedules of Assets and Liabilities (Official Form 6)	Original + 1	Within 14 days
Schedule of Executory Contracts and Unexpired Leases (Schedule G, Official Form 6)	Original + 1	Within 14 days
Schedules of Current Income and Expenditures	Original + 1	Within 14 days
Statement of Financial Affairs (Official Form 7)	Original + 1	Within 14 days
<b>List of 20 Largest Unsecured Creditors (Official Form 4)</b>	Original + 1	Time of filing
<b>Master Address List</b> ( <i>DO NOT attach to petition</i> )		
If submitted on hard copy (printed on paper)	Original + 1	Time of filing
<b>Verification of Master Address List Form (Form EDC 2-100)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
<b><i>IF APPLICABLE:</i></b>		
<b>Exhibit D to Official Form 1, Individual Debtor's Statement of Compliance with Credit Counseling Requirement</b>	Original + 1	Time of filing
Certification of Notice to Consumer Debtor(s) under §342(b) of the Bankruptcy Code (Form B201B)	Original + 1	Within 14 days
<b>Exhibit A to Voluntary Petition</b> ( <i>Only if debtor is a corporation required to file reports w/ SEC</i> )	Original + 1	Time of filing
Names and Addresses of Equity Security Holders ( <i>Only if debtor is a corporation or partnership</i> )	Original + 1	Within 14 days
Statement of Current Monthly Income (Official Form 22B)	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Debtor's Attorney (Form B203)	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Bankruptcy Petition Preparer (Form B280)	Original + 1	Time of filing
Notice to Debtor By Non-Attorney Bankruptcy Petition Preparer (Official Form 19B)	Original + 1	Time of filing
<b>Statement of Social Security Number(s) (Official Form 21)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
Corporate Resolution	Original + 1	Within 14 days
Statement Regarding Ownership of Corporate Debtor (Form EDC 3-500)	Original + 1	Within 14 days
Chapter 11 Small Business Financial Documents (balance sheet, statement of operations, cash-flow statement, and federal tax return <b>OR</b> statement of unavailability of documents) ( <i>"Small business cases" ONLY</i> )	Original + 1	Time of filing

**MINIMUM DOCUMENTS REQUIRED FOR INCOMPLETE ("SKELETON") FILING ARE IN BOLD PRINT**

<b><u>CHAPTER 12 - \$275</u></b> (\$200 Filing Fee + \$75 Administrative Fee)	<b><u>COPIES</u></b>	<b><u>DEADLINE</u></b>
<b>Voluntary Petition (Official Form 1)</b>	Original + 1	Time of filing
Schedules of Assets and Liabilities (Official Form 6)	Original + 1	Within 14 days
Schedule of Executory Contracts and Unexpired Leases (Schedule G, Official Form 6)	Original + 1	Within 14 days
Schedules of Current Income and Expenditures	Original + 1	Within 14 days
Statement of Financial Affairs (Official Form 7)	Original + 1	Within 14 days
<b>Master Address List</b> ( <i>DO NOT attach to petition</i> )		
If submitted on hard copy (printed on paper)	Original + 1	Time of filing
<b>Verification of Master Address List Form (Form EDC 2-100)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
<b><i>IF APPLICABLE:</i></b>		
<b>Exhibit D to Official Form 1, Individual Debtor's Statement of Compliance with Credit Counseling Requirement</b>	Original + 1	Time of filing
Statement Disclosing Compensation Paid to Debtor's Attorney (Form B203)	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Bankruptcy Petition Preparer (Form B280)	Original + 1	Time of filing
Notice to Debtor By Non-Attorney Bankruptcy Petition Preparer (Official Form 19B)	Original + 1	Time of filing
<b>Statement of Social Security Number(s) (Official Form 21)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
Debtor's Plan ( <i>DO NOT attach to petition</i> )	Original + 1	Within 90 days
Corporate Resolution	Original + 1	Within 14 days
Statement Regarding Ownership of Corporate Debtor (Form EDC 3-500)	Original + 1	Within 14 days
<b><u>CHAPTER 13 - \$310</u></b> (\$235 Filing Fee + \$75 Administrative Fee)	<b><u>COPIES</u></b>	<b><u>DEADLINE</u></b>
<b>Voluntary Petition (Official Form 1)</b>	Original + 1	Time of filing
Schedules of Assets and Liabilities (Official Form 6)	Original + 1	Within 14 days
Schedule of Executory Contracts and Unexpired Leases (Schedule G, Official Form 6)	Original + 1	Within 14 days
Schedules of Current Income and Expenditures	Original + 1	Within 14 days
Statement of Financial Affairs (Official Form 7)	Original + 1	Within 14 days
<b>Master Address List</b> ( <i>DO NOT attach to petition</i> )		
If submitted on hard copy (printed on paper)	Original + 1	Time of filing
<b>Verification of Master Address List Form (Form EDC 2-100)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
<b><i>IF APPLICABLE:</i></b>		
<b>Exhibit D to Official Form 1, Individual Debtor's Statement of Compliance with Credit Counseling Requirement</b>	Original + 1	Time of filing
Certification of Notice to Consumer Debtor(s) under §342(b) of the Bankruptcy Code (Form B201B)	Original + 1	Within 14 days
Chapter 13 Statement of Current Monthly Income (Official Form 22C-1 [and 22C-2, if required])	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Debtor's Attorney (Form B203)	Original + 1	Within 14 days
Statement Disclosing Compensation Paid to Bankruptcy Petition Preparer (Form B280)	Original + 1	Time of filing
Notice to Debtor By Non-Attorney Bankruptcy Petition Preparer (Official Form 19B)	Original + 1	Time of filing
<b>Statement of Social Security Number(s) (Official Form 21)</b> ( <i>DO NOT attach to petition</i> )	Original + 1	Time of filing
Debtor's Plan (Form EDC 3-080) ( <i>DO NOT attach to petition</i> )	Original + 1	Within 14 days

## **REQUIRED DOCUMENTS AND FEES**

### **General Requirements of Form**

All documents shall be on 8-1/2" x 11" size white paper. Originals of documents shall not be stapled or hole punched. Use clips to fasten original documents. Use staples to fasten copies of documents. Document copies may be hole punched. Document text shall be typewritten or presented by some other legible process on one side of each sheet only. The name, address, telephone number and California State Bar membership number of the attorney representing the debtor should appear in the petition.

### **Assembly of Documents**

Original petitions, exhibits, schedules, statements and lists, as well as the copy, should be assembled in the order indicated on the reverse side. DO NOT attach the Master Address List, Verification of Master Address List Form, Statement of Social Security Number(s), Chapter 12 Debtor's Plan, or Chapter 13 Debtor's Plan to the petition.

### **Copies**

The required copy of each document will be stamped and returned to the filing party as proof of filing. The copy will be returned by mail only when a self-addressed, stamped envelope of sufficient size is provided.

### **Filing Fee**

Fees for filing bankruptcy cases are prescribed by 28 U.S.C. §1930(a). Individual debtors may apply for permission to pay fees in installments by submitting a signed application with the petition. FRBP 1006(b)(1). Individual chapter 7 debtors who can not pay fees in installments may apply for a waiver of fees. FRPB 1006(c).

### **Administrative Fee**

Pursuant to item 8 of the Bankruptcy Court Miscellaneous Fee Schedule, in all cases filed under the Bankruptcy Code, the Clerk shall collect from the debtor or petitioner a miscellaneous administrative fee. Individual debtors may apply to pay this fee in installments in the manner set forth in FRBP 1006(b) or request a waiver of this fee under FRBP 1006(c).

### **Trustee Fee**

Pursuant to item 9 of the Bankruptcy Court Miscellaneous Fee Schedule, upon the filing of a petition under chapter 7 of the Bankruptcy Code, the petitioner shall pay \$15 to the Clerk for payment to the trustee serving in the case. Individual debtors may apply to pay this fee in installments in the manner set forth in FRBP 1006(b) or request a waiver of this fee under FRBP 1006(c).

### **Fee Payments**

Filing fees, miscellaneous administrative fees and chapter 7 trustee fees must be paid with cash (exact change only), money order, cashier's check, or an attorney's check. All money orders and checks shall be made payable to: Clerk, U.S. Bankruptcy Court.

### **Voluntary Petition (Official Form 1)**

Official Form 1, the Voluntary Petition, is to be used to

commence voluntary cases under chapters 7, 11, 12, and 13 of the Bankruptcy Code.

### **Schedules of Assets and Liabilities, Schedule of Executory Contracts and Unexpired Leases, and Schedules of Current Income and Expenditures (Official Form 6)**

Schedules of assets and liabilities, executory contracts and unexpired leases, current income, and current expenditures, prepared as prescribed by Official Form 6, must be submitted with the petition or within 14 days. FRBP 1007(b)(1) & (c). For executory contracts and unexpired leases, use Schedule G of Official Form 6. Schedules of current income and expenditures must be filed by all debtors. If the debtor is an individual, use schedules I and J of Official Form 6. Creditors shall be listed on the appropriate schedule in alphabetical order by name and complete address. LBR 1007-1(a).

### **Statement of Financial Affairs (Official Form 7)**

A Statement of Financial Affairs must be prepared as prescribed by Official Form 7, and submitted with the petition or within 14 days. FRBP 1007(b)(1) & (c).

### **Master Address List**

A Master Address List includes the names, addresses and zip codes of all creditors in a bankruptcy case. This list is used for noticing and must be filed at the time the petition is filed. The Master Address List must be prepared in strict compliance with instructions of the Clerk in a format approved by the Court. Local Bankruptcy Rule 1007-1(b).

Instructions concerning the preparation of Master Address Lists are set forth in form EDC 2-190, *Revised Guidelines for Preparation of Master Address Lists*. Debtors not represented by an attorney, or whose petitions are prepared by a Bankruptcy Petition Preparer, must prepare the Master Address List for filing in printed form. The court offers an online application that will assist with preparing a Master Address List for paper submission. This is available at the Clerk's Office or online at [www.caeb.uscourts.gov/mal/](http://www.caeb.uscourts.gov/mal/). Attorneys must prepare an electronic version of the Master Address List for direct submission through the court's electronic filing system. More information on how to submit a Master Address List electronically is available at the Clerk's Office or online at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov).

### **Verification of Master Address List (Form EDC 2-100)**

The debtor must concurrently submit a Verification of Master Address List, form EDC 2-100, with every Master Address List presented for filing.

### **Individual Debtor's Statement of Compliance with Credit Counseling Requirement (Exhibit D to Official Form 1)**

Every individual debtor must file a statement of compliance with the credit counseling requirement, prepared as prescribed by Exhibit D to Official Form 1, attached to their petition. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D. A certificate of credit counseling and debt repayment plan or other additional required documents shall be attached to Exhibit D, as directed.

**Certification of Notice to Consumer Debtor(s) under §342(b) of the Bankruptcy Code (Form B201B)**

Individual debtors with primarily consumer debts shall file a certificate with the petition, or within 14 days, that the notice required by §342(b) of the bankruptcy code was delivered to them by the attorney or bankruptcy petition preparer signing the petition, or, if no attorney or bankruptcy petition preparer is indicated, that the debtor received and read the notice. 11 U.S.C. §§342(b), 521(a)(1)(B)(iii), and 707(a)(3). Form B201A, *Notice to Consumer Debtor(s) under §342(b) of the Bankruptcy Code*, is used to give the §342(b) notice. Form 201B is needed only if the required certification is not made on Official Form 1, the Voluntary Petition. (A certification by the debtor's attorney is included in Exhibit B on page 2 of Official Form 1 and certifications by the debtor and bankruptcy petition preparer are part of the Declarations on page 3.) Although there is no specific requirement that Form B201A be filed, it should be attached to Form B201B if a separate certification is needed.

**Statement of Current Monthly Income (Official Forms B22A, B22B, and B22C)**

A statement of current monthly income, prepared as prescribed by the appropriate Official Form, shall be filed with the petition or within 14 days, by individual chapter 7 debtors with primarily consumer debts (Official Form (s) 22A-1 [and 22A-1 Supp and 22A-2, if required]), individual chapter 11 debtors (Official Form 22B), and chapter 13 debtors (Official Form 22C-1 [and 22C-2, if required].)

**Statement Disclosing Compensation Paid or to be Paid to the Debtor's Attorney (Form B203)**

A statement disclosing the compensation paid or to be paid to the debtor's attorney must be submitted within 14 days of the filing of a voluntary petition. 11 U.S.C. §329 and FRBP 2016(b).

**Statement Disclosing Compensation Paid or to be Paid to Bankruptcy Petition Preparer (Form B280)**

Within 10 days after the date of the filing of a petition prepared by a bankruptcy petition preparer, the bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor. 11 U.S.C. §110(h)(1).

A bankruptcy petition preparer is defined as a person other than an attorney or an employee of an attorney, who prepares for compensation a document for filing. 11 U.S.C. §110(a)(1).

**Notice to Debtor By Non-Attorney Bankruptcy Petition Preparer (Official Form 19B)**

Official Form 19B, Notice to Debtor by Bankruptcy Petition Preparer, must be filed with the petition if prepared by a bankruptcy petition preparer. 11 U.S.C. §110(b)(2)(B).

**Statement of Intention (Official Form 8)**

A Statement of Intention is required only if the debtor is an individual and the schedules of assets and liabilities contain

consumer debts secured by property of the estate. It must be prepared as prescribed by Official Form 8, and submitted within 30 days of the filing of a petition under chapter 7, or by the date set for the meeting of creditors, whichever is earlier. 11 U.S.C. §521(2) and FRBP 1007(b)(2).

**List of Equity Security Holders**

A List of Equity Security Holders must be submitted with the Chapter 11 petition or within 14 days. FRBP 1007(a)(3).

**Statement of Social Security Number(s) (Official Form B21)**

Individual debtors must submit with the petition a statement under penalty of perjury setting out the debtor's full social security number or stating that the debtor does not have a social security number. FRBP 1007(f). The statement shall be prepared in substantial compliance with Official Form 21.

**List of 20 Largest Unsecured Creditors (Official Form 4)**

A list containing the names, addresses and claim amounts of the debtor's 20 largest unsecured creditors, excluding insiders, must be filed with the petition and prepared as prescribed by Official Form 4. FRBP 1007(d).

**Chapter 12 Debtor's Plan**

A Chapter 12 Debtor's Plan must be submitted with the petition or within 90 days. 11 U.S.C. §1221 and FRBP 3015(a).

**Chapter 13 Debtor's Plan (Form EDC 3-080)**

A Chapter 13 Debtor's Plan must be submitted with the petition or within 14 days. FRBP 3015(b). All Chapter 13 debtors shall use the standard form Chapter 13 Plan (EDC Form 3-080) prescribed by Local Bankruptcy Rule 3015-1(a).

**Employee Income Records**

Pursuant to Local Bankruptcy Rule 1007-1(c), copies of employer payment advices and other evidence of payments received by an individual debtor from any employer within 60 days before the filing of the petition shall not be filed with the court. Instead, they shall be provided by the debtor to the appropriate case trustee not later than seven (7) days before the date first set for the meeting of creditors.

**Corporate Resolution**

For corporate debtors, a corporate resolution authorizing the filing of bankruptcy must accompany the petition.

**Statement Regarding Ownership of Corporate Debtor (Form EDC 3-500)**

Federal Rule of Bankruptcy Procedure 1007(a)(1) requires corporate debtors to file with the petition a corporate ownership statement containing the information described in Rule 7007.1.

**Chapter 11 Small Business Financial Documents**

In chapter 11 "small business cases," the most recent balance sheet, statement of operations, cash-flow statement, and federal tax return, OR a statement under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement was prepared, and no federal tax return was filed, must be appended to the petition. 11 U.S.C. §1116(1). For the definitions of "small business case" and "small business debtor," see 11 U.S.C. §101(51C) and (51D).



## ATTACHMENT 2





**OFFICE OF THE CLERK  
UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

**GUIDELINES FOR PREPARATION OF MASTER ADDRESS LISTS**

December 19, 2013

The following guidelines have been approved by the Court and are issued pursuant to Local Bankruptcy Rule 1007-1(b) and superseded the version of this form entitled Guidelines for *Preparation of Master Address List* (Rev. 11/21/12).

A Master Address List includes the names, addresses and zip codes of all creditors in a bankruptcy case. This list is used for noticing and must be filed at the time the petition is filed.

The Court's computer system requires the Master Address List to be prepared for electronic recognition. All Master Address Lists must comply with the following guidelines.

Debtors not represented by an attorney, or whose petitions are prepared by a Bankruptcy Petition Preparer, must prepare the Master Address List for filing in printed form. The court offers an online application that will assist with preparing a Master Address List for paper submission. This is available at the Clerk's Office or online at [www.caeb.uscourts.gov/mal/](http://www.caeb.uscourts.gov/mal/).

Attorneys must prepare an electronic version of the Master Address List for direct submission through the court's electronic filing system. The Master Address List must be saved in a "pure text" format (not delimited) such as MS-DOS text or ASCII (DOS) text with a .txt filename extension. More information on how to submit a Master Address List electronically is available at the Clerk's Office or online at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov).

**Sample Master Address List**

Sears Credit  
123 Main Street  
Sacramento, CA 95222

Wells Fargo Bank  
8000 W Major Blvd  
Chicago, IL 12345

Bank of Denver  
123 Any Street  
PO Box 1234  
Denver, CO 80202

## **General Format Requirements**

- Use only plain, 8.5 x 11 white paper.
- Do not print on both sides of the paper.
- Do not use letterhead or include page numbers, line numbers, headers, or footers.
- No handwriting, stray marks, correction fluid or tape.
- Lists should be typed in a single column on the page and prepared in Courier 10 cpi (same as 12 point on a word processor).
- Limit the name and address to 5 lines per creditor.
- Limit each line to 40 characters or less.
- Names of individuals must be in first/middle/last name order. Do not include titles, i.e., Mr., Mrs..
- Creditors must be listed alphabetically, according to the first letter of the company or first name.
- Do not include punctuation in names and addresses, including periods (.) after abbreviations or initials. One comma between the city and state is permitted.
- Do not use any special characters such as %. Hyphens in nine-digit zip codes are permitted.
- “Care of”, and “attention” designations may be included only on the second line.
- The city, state and zip code must be on the last line. The name of the state must be abbreviated using two upper case letters. Zip codes are mandatory.
- Foreign addresses must include the complete name of the country.
- Leave at least two blank lines between one creditor’s name and address and another’s. Do not leave blank lines within an address, or between a creditor’s name and address.
- Do not duplicate creditors with the same address, even if there is more than one account with that creditor. Do not include account numbers in the list of creditors.
- Do not include the debtor, joint debtor, attorney for the debtor(s), or United States Trustee on the list.
- When the United States is a creditor on a debt for other than taxes, it must be listed on Master Address Lists in accordance with Local Bankruptcy Rule 2002-1(a). Other federal and state agencies that have specified particular addresses to which notice of bankruptcy proceeding must be listed on Master Address Lists using the address shown on form EDC 2-785, Roster of Governmental Agencies.
- Every Master Address List must be accompanied by a Verification of Master Address List, form EDC 2-100.