

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

I

Debtor's Representation and Attendance at Meeting of Creditors

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

B. Identification: At the §341(a) Meeting, pursuant to 11 USC 521(h)(1) and (2), each individual debtor must present original government issued photo identification and confirmation of the full social security number. Any document used must be an original except that a copy of a W-2 Form, an IRS Form 1099, or a recent payroll advice may be accepted to confirm debtor's social security number. Acceptable forms of picture identification (ID) include; driver's license, U.S. government ID, state ID, passport (and current U.S. visa, if not a U.S. citizen), military ID, resident alien card, and identity card issued by a national government authority (if authorized by the United States Trustee). Acceptable forms of proof of social security number include: social security card, medical insurance card, pay advice, W-2 Form, IRS Form 1099, and Social Security Administration (SSA) Statement.

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

II.

Supporting Documentation

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

1. Proof of Income

- a) Copies of pay stubs for the 60 days prior to filing. If debtor(s) do not have current pay stubs they should be brought to the Section 341(a) Meeting; and
- b) If a summary of debtor's income for the six (6) month period prior to case filing was not submitted as an exhibit to Schedule B-22, completion of the

Form attached as Exhibit "A" or alternatively "A-1" showing six (6) months computations prepared for means test, including signature by attorney certifying review of those representations by debtors.

- c) Self-employed: Completion of a Profit and Loss Statement showing gross income and gross expenses for the six (6) months prior to case filing, with specificity, as to expenses to enable the Trustee to fully analyze the business operations of the debtor.

2. Value of Vehicles: Written documentation as to the basis for valuation of motor vehicles. In this regard a Statement of Value can be easily obtained via the Internet at www.kbb.com or www.nadaguides.com and is the preferred form of valuation. If valuation is not available from these services, documentation upon which debtor based his or her representation of value. An estimation purely based on debtor's opinion is unacceptable.

3. Vehicles:

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

4. Value of Real Property: Written documentation as to the basis for valuation of real property. . Comparable reports are acceptable only if reasonable ranges of values are presented with identifiable comparable properties.

5. Real Property:

- a) Copy of first 1-2 pages only of Deed of Trust showing identity of lender and including recording stamp;
- b) Copy of Grant Deed showing how title is held by debtor, and legal description;
- c) Written proof of payoff balance for all loans in form of most recent

- Statements or other documentation from the lenders;
- d) If property acquired or refinanced within one (1) year of filing, a copy of closing statement;
 - e) If noninstitutional lender, copies of documents demonstrating the actual loan advance by creditor to debtor;
 - f) Copy of Declaration page of insurance setting forth the period of coverage and extent of coverage. If the property is uninsured a Statement of such from the debtor.

6. Personal Property Liens - Financing Statements:

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

7. Trust Documents: Copies of any Trust instrument including exhibits and amendments in which the debtor has an interest of any type, i.e., beneficiary, trustee, or trustor, upon request of Trustee.

8. Depository Statements:

- a) Copies of depository statements covering the date of the filing of the bankruptcy case are to be brought to the Section 341(a) Meeting for delivery to the Trustee.

9. Tax Returns: ;

- a) Complete copy of most recent tax year federal IRS return including all Statements and Schedules, or return transcript (please note: worksheets provided to accountants do not need to be provided).
- b) If no return has been filed within three (3) years then a declaration from debtor(s) must be provided to that effect.

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

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

All documents submitted must include a cover page indicating the case number, date and

time of the Section 341 Meeting . A sample Supporting Documentation Cover Sheet is attached as Exhibit “B.” **All relevant documents are to be received by the Trustee within fifteen (15) days of the filing of the case. Failure to timely provide such required supporting documents may result in continuance of the Creditor Meeting without the debtor(s) being examined until all documents are presented.**

III

Disclosure of Amount of Debt

In addition to a Trustee’s obvious duty to liquidate non-exempt assets for the benefit of creditors and to evaluate the Means Test Form B-22, Trustees also examine a debtor’s ability to pay debts pursuant to 11 USC 707(b), i.e. totality of circumstances. It is impossible for the Trustee to analyze these issues when debtor schedules “unknown” for an obligation. It is incumbent upon debtors to estimate all claims so that such an analysis can be conducted. In this analysis, debtors should not overstate the claims, i.e., a repossession or foreclosure should reflect the deficiency not the debt before repossession or foreclosure; and the actual pay off, not the eventual payments plus interest. Cases that do not provide such information may be continued so that accurate information is available to the Trustee.

IV

Claim of Exemption

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

V

Questionnaires to be Completed and Delivered at Creditors Meeting

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

VI

Unincorporated Self-Employed, Professionals, and Business Cases

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

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

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

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

VII Corporate Cases

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

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

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

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

CURRENT MONTHLY INCOME DETAILS FOR THE DEBTOR

Income for the Period _____ to _____

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

Source of Information: _____

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

Deductions:

Source of Information: _____

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

Date: _____

Debtor

Co-Debtor

ATTORNEY CERTIFICATE

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

Date: _____

09/08

Attorney for Debtor (Printed/Signed)

CURRENT MONTHLY INCOME DETAILS FOR THE DEBTOR

Employer: _____

Year to Date gross as of _____ : \$ _____

Year to Date gross as of _____ : \$ _____

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

Average Monthly Gross \$ _____

Year to Date expenses as of _____ : \$ _____

Year to Date expenses as of _____ : \$ _____

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

Average Monthly Expenses \$ _____

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

ATTORNEY CERTIFICATE

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

Date: _____

Attorney for Debtor (Printed/Signed)

Exhibit "A-1"

Supporting Documentation Cover Sheet

In Re: _____ Case Number _____ 341(a): _____

Deficiencies:

- 1. **Income Verification (i.e., pay stubs or Profit & Loss Statement)**
- 2. **Valuation of motor vehicles**
- 3. **Pay off documentation motor vehicles (i.e., balance due)**
- 4. **Vehicle registration**
- 5. **Valuation of real property**
- 6. **Pay off Documentation Real Property (i.e., balance due)**
- 7. **Trust Deeds on real property**
- 8. **Grant Deed on real property**
- 9. **Closing Statement on real property**
- 10. **Loan advances documentation (i.e., evidence of disbursement)**
- 11. **UCC-1 (recorded) and evidence of payoff balance**
- 12. **Tax Return**
- 13. **CCP 703.140(a) Waiver.**
- 14. **Declaration Page - Vehicle Insurance (Not Insurance Card)**
- 15. **Declaration Page - Real Property Insurance**

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

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

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

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

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

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

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

Dated: _____
wife

Dated: _____
husband

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

Name: _____ Case No: _____

INTRODUCTION AND INSTRUCTIONS

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

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

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

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

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

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

I am representing myself and have reviewed and understand them.
Yes ____ No ____

2. Do you understand you are required to disclose to the Trustee all pre-bankruptcy rights to money or property even if you won't receive it until after filing bankruptcy (example, money from lawsuits, unpaid commissions, earned by unpaid bonuses, accounts receivable) and to not do so could result in denial of your discharge of debts and civil, as well as criminal penalties?
Yes ____ No ____
3. Do you understand that "property" means anything you own or have a present, future or contingent interest, not just real estate?
Yes ____ No ____
4. Do you understand that you are to report to the Court and Trustee, by formal written Amendment filed with the Court, any rights to an inheritance, property settlement agreement, or life insurance proceeds that occur within 180 days of the date your case was filed?
Yes ____ No ____
5. If currently married, have you disclosed all property and asset interests of your spouse even if you are now separated?
Yes ____ No ____
6. Are you entitled to receive a death benefit under a will or insurance policy? **Answer "yes" only if that person has died.**
Yes ____ No ____
7. Are you the beneficiary, trustee or trustor of a trust?
Yes ____ No ____
8. Within four years prior the filing of your bankruptcy have you made any payments, or transferred any property to any person or entity other than for regular monthly contract payments?
Yes ____ No ____
9. Do you have, or have you had in the past four years, any interests in any corporations, partnerships, LP's and/or LLC's?
Yes ____ No ____
10. Do you now or have you had in the past one year any interests in offshore accounts, i.e., accounts outside the borders of the United States?
Yes ____ No ____

11. Are you seeking recovery in any current lawsuits, or do you have a belief you have grounds to file a lawsuit or counter suit, (whether you desire to do so or not.) SEEKING DAMAGES?
Yes ____ No ____
12. Does anyone and or any entity owe you any money ?
Yes ____ No ____
13. Please identify any of your creditor claims in Schedules D, E and/or F that are disputed except for those that are already identified as disputed in you schedules?

14. Have you listed accurate claim amounts in your Schedule D, E or F to the best of your knowledge?
Yes ____ No ____
15. Please read the following:

III

Disclosure of When Debtor Incurred Debt

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

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

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

Yes ____ No ____

16. Are you obligated to pay child support or spousal support pursuant to a Court Order, property settlement agreement or determination by a governmental unit?
Yes ____ No ____

17. If your response was “yes” to question 16, please provide:
 Name of claimant: _____
 Address of claimant: _____
 Telephone number of claimant: _____
18. Do you understand the Trustee is relying on your responses in this questionnaire, as well as all other documents and statements you are making to administer this case?
 Yes ____ No ____
19. Have you continually resided in the State of California for the two years prior to the filing of your case?
 Yes ____ No ____
20. As of the date you filed your bankruptcy were you or are you entitled to an income tax refund for any current or prior years including amendments to filed returns?
 Yes ____ No ____
21. If your response to question 20 was “yes,” approximately how much was, or is, your Federal and State refund?
 Federal _____
 State _____
 Approximate Date Received (if applicable) _____
22. Have you made any balance transfers with credit cards or credit line accounts within 90 days of the filing of your bankruptcy petition?
 Yes ____ No ____
23. [Real Property] - When did you buy your real estate and how much did you pay for it?
 Purchase Price _____ When _____
 Address _____
 Purchase Price _____ When _____
 Address: _____
24. [Real Property] - Please identify the approximate costs of any improvements you have made to the property since your bought it.

25. [Real Property] - Did you refinance your property at any time since your purchase?
 Yes ____ No ____ N/A ____

26. [Real Property] - Did you receive any money from any refinance of your property within the last 1 year?
 Yes _____ No _____ N/A_____
27. [Real Property] - Has a foreclosure been started on any of your properties?
 Yes _____ No _____ N/A_____
28. Have you ever tendered a claim to an insurance company which has been denied?
 Yes _____ No _____

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

Dated: _____

 Debtor

Dated: _____

 Co-Debtor

Attorney of Record Statement

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

Dated: _____

 Attorney for Debtor(s)

Printed: _____

Revised 09/09/08

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

Name:

Briefly describe the nature of the debtor's business:

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

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

Dated: _____

Exhibit "E"