

**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 Creditor Meetings: Debtors must attend the initial Meeting of Creditors and, unless excused by the United States Trustee, any continued Meeting of Creditors. Panel Trustees do not have the authority to excuse the debtor from attending his or her initial Meeting of Creditors.

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 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. Attorney Responsibilities: Attorneys representing debtors at the Meeting of Creditors must have the debtors file and backup documents and be familiar with the case to assist the debtors in responding to questions of the Trustee and/or creditors.

An attorney appearing specially on behalf of a debtor must fulfill the following requirements for the matter to proceed to examination:

1. Must be fully prepared and knowledgeable of the particular facts and issues in the debtor's case;
2. Must be in possession of the original file of the debtor in the case;
3. Must have discussed the case with the attorney of record;
4. Must have met with the debtor prior to the time of the scheduled creditor meeting at a place and time other than the 341(a) room environs just prior the 341(a) Meeting. "Meeting with the debtor" does not include telephonic meetings.

If the special appearance attorney cannot comply with all of the above conditions the meeting will be continued for the attorney of record to appear.

D. 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 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:** Copies of all pay advices, or other documentation, of debtor upon which the computation of monthly income presented on Form B22A, and all income and deductions on Schedule I were based, unless previously filed with the Court by e-docs; if not, service must be made on the Panel Trustee and the U. S. Trustee.

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. **Value of Real Property:** Written documentation as to the basis for valuation of real property. In this regard a Statement from a real property professional, i.e., agent or broker, is acceptable. Debtors and debtor's attorneys are directed to the Internet where it is sometimes possible to obtain comparable sales as to San Diego County properties by going to the County of San Diego web site (www.sdcounty.ca.gov), clicking on "Property Sales Search" on the debtor's street, etc. entering the street name (not the full address) to discover recent sales. Comparable reports are acceptable only if reasonable ranges of values are presented with identifiable comparable properties.

4. **Documentation of Perfected Liens - Vehicles:** Copies of vehicle registration, and if encumbered, written proof of payoff balance; additionally copies of vehicle purchase contracts where the vehicle was purchased within 180 days of the filing of the petition;

5. **Real Property:** Copies of recorded Trust Deeds, or other security instruments, documenting recording where non- institutional lenders are the alleged secured party, and copies of documents demonstrating the actual loan advance (closing statement) by the creditor to debtor on Trust Deed/Note transactions within the past 12 months; written proof of pay off balance on all loans (institutional and non-institutional). Where joint ownership exists, a copy of the Grant Deed to establish the character of ownership, i.e., joint tenant, tenant-in-common or community property; where sale occurs within the past 12 months, a copy of the closing statement.

6. **Documentation of Perfected Liens - Financing Statements:** Copies of UCC-1/Security Agreements documenting filing with the Secretary of State; copies of documents demonstrating the actual loan advance (closing statement) by the creditor to debtor on the underlying Promissory Note; and written proof of pay off balance;

7. **Trust Documents:** Copies of any Trust instrument in which the debtor has an interest of any type, i.e., beneficial or fiduciary;

8. Evidence of Deposit Balances: Copies of bank statements or other bank records, evidencing the balance on deposit as of the bankruptcy filing date. Computations must be demonstrated on the statement if a running balance is not included thereon;

9. Proof of Insurance - Motor Vehicles and Real Property: Copy of proof of insurance, (i.e., declarations page, etc.) documenting extent of coverage and periods of coverage, on motor vehicles and real property. The Proof of Liability Insurance card is insufficient to demonstrate full coverage. “Full” coverage is necessary for the Trustee to comply with U.S. Trustee requirements that all property of the estate be insured during administration;

10. Business Operations: Profit and Loss Statement demonstrating receipts and disbursements for the previous 12 months from case filing; copy of proof of insurance for any debtor operating a business including, but not limited to liability, casualty, workers compensation and errors and omissions if self employment continues;

11. Domestic Support Orders (11 USC 101(14A): In order for the Trustee to fulfill his or her duties pursuant to 11 USC 704(10)(a), provide the name, address and telephone number of a support claimant, as well as a copy of the Domestic Support Order;

12. Tax Returns: Copy of most recent tax year federal IRS return, or return transcript. A return transcript or return can be obtained by using IRS Form 8821 (Tax Information Authorization), 4506 (Request For Copy of Tax Return) and 4506-T (Request For Transcript of Tax Return) and forwarding to the IRS via facsimile at (859) 669-5655;

13. Expenses in Excess of IRS or Means Test Standards: 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;

14. Disabled Veteran’s Qualifications: Supporting documentation from appropriate governmental agency;

15. Claim of Homestead Exemptions: All debtors claiming a homestead exemption on their Schedule “C” must specify: (a) the dollar amount of the homestead being claimed; and (b) the specific Code Section under which the homestead is being claimed;

16. Certificate of Credit Counseling: A copy of the Certification of Budget and Credit Counseling qualifying debtor to file a Chapter 7 pursuant to 11 USC 109(h)(1).

All documents submitted must include a cover page indicating the case number, date and time of the Creditors Meeting. A sample Supporting Documentation Cover Sheet is attached as Exhibit “A.” All relevant documents are to be received by the Trustee within 15 days of the filing of the case.

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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 Bankruptcy Rule 9011, to provide the period of time that the current claim was incurred.

IV

Disclosure of Amount of Debt

In addition to a Trustee’s obvious duty to liquidate non-exempt assets for the benefit of creditors, Trustees also examine a debtor’s ability to participate in a Chapter 13 case pursuant the 11 USC 707(b). It is impossible to compute a Chapter 13 Plan when analyzing an 11 USC 707(b) case 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 are not to 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.

V

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 “B.” The Waiver is to be filed with the Court. A conformed copy is to be provided to the Trustee.

VI

Questionnaires to be Completed and Delivered at Creditors Meeting

A Questionnaire has been developed for individual debtors (Exhibit “C” hereto) and Partnership/Corporate debtors (Exhibit “D” 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.

VII

Unincorporated Self-Employed, Professionals, and Business Cases

If a debtor is operating a business or conducting a profession utilizing property of the estate, at the commencement of his or her case, it is necessary for the business to be suspended and the Trustee contacted immediately upon filing. No business or profession utilizing property of the estate

is to be conducted absent an Order of the United States Bankruptcy Court.

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 liability insurance coverage in connection with the operation of the business;
3. Evidence of current Workers Compensation insurance in connection with the operation of the 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 or profession.

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

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VIII
Corporate Cases

All business operations are to be terminated on the filing of the case. The Trustee is to be informed immediately of the following:

1. The identity and location of all remaining assets of the debtor corporation;
2. The need for immediate action of the Trustee to preserve assets of the estate; and
3. The existence of any environmental, law enforcement or federal or state regulatory issues that affect the business or 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:

1. Minute Book
2. Shareholder Register
3. 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 Receivable, 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.

Supporting Documentation Cover Sheet

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

Deficiencies:

- 1. **Income Verification (i.e., pay advices or Profit & Loss Statement)**
- 2. **Valuation of motor vehicles**
- 3. **Pay off documentation motor vehicles (i.e., balance due)**
- 4. **Copies of vehicle registration**
- 5. **Copies of vehicle purchase contracts for vehicles purchased within 120 days prior to case filing**
- 6. **Proof of insurance on (i.e., Declaration page) motor vehicles**
- 7. **Valuation of real property**
- 8. **Pay off Documentation Real Property (i.e., balance due)**
- 9. **Copies of recorded Trust Deeds on real property**
- 10. **Copies of recorded Grant Deeds (if jointly owned property)**
- 11. **Proof of insurance on real property**
- 12. **Loan advances documentation (i.e., evidence of disbursement)**
- 13. **Trust instruments**
- 14. **UCC-1 (recorded)**
- 15. **Bank statements (date of filing)**
- 16. **Proof of insurance (business i.e., liability, workers compensation, etc.)**
- 17. **CCP 703.140(a) Waiver**
- 18. **Disabled Veteran's supporting documentation**
- 19. **Domestic Support Order information**
- 20. **Certificate of Credit Counseling**
- 21. **IRS Return/Transcript (most recent tax year)**
Exhibit "A"

**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:

Debtor

Dated:

Spouse

**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: Please note that until such time that your case is closed or notices of abandonment become effective, the Trustee is responsible for the administration of all of your property (real estate, cars and all other property you owned before you filed bankruptcy.) Until your case is closed or notices of abandonment have become effective, you cannot sell, refinance, or further 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. Have you reviewed your Petition, Schedules and Statement of Financial Affairs and, if represented by counsel, were they explained to you by that counsel before you 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 all pre-bankruptcy rights to property (even if you will realize the property after filing bankruptcy such as lottery tickets and earned but unpaid commission as non-exclusive examples) and to money to the Trustee 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 of any value, whether a present, future or contingent interest?

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 right to an inheritance, property settlement agreement, or life insurance proceeds that occurs within 180 days of the date your case was filed?

Yes _____ No _____

5. If married, have you disclosed all property interests of your spouse that was acquired during your marriage (regardless of the title or possession), whether separated or living together?

Yes _____ No _____ N/A _____

6. Are you a beneficiary under a will or insurance policy where someone has died?

Yes _____ No _____

7. Are you the beneficiary or trustee of a trust?

Yes _____ No _____

8. Within one year of the filing of your bankruptcy have you made any payments, or transferred any property, on a debt to a family member, friend, business associate, or anyone or any entity that has influence over you in excess of \$1,000.00?

Yes _____ No _____

9. Have you made any payments or transferred any property, other than regular periodic contract required payments, to any person or entity, within four years of filing bankruptcy?

Yes _____ No _____

10. Do you have, or have you had in the past four years, any interests in any corporations, partnerships, LLP's and or LLC's?

Yes _____ No _____

11. Do you now or have you had in the past five years any interests in offshore accounts, i.e., accounts outside the borders of the United States?

Yes _____ No _____

12. Are you seeking recovery in any current lawsuits, or do you have a belief you have grounds to file a lawsuit or counter suit, whether you desire to do so or not, SEEKING DAMAGES?

Yes _____ No _____

13. Are you owed any money?

Yes _____ No _____

14. Have you identified all disputed creditor claims in your Schedule D, E or F?

Yes _____ No _____

15. Have you listed accurate claim amounts in your Schedule D, E or F to the best of your knowledge?

Yes _____ No _____

16. 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 Bankruptcy Rule 9011, 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 claims disclosed in those schedules?

Yes _____ No _____

17. Are you obligated to pay on a Domestic Support Order, defined as a separation agreement, divorce decree, property settlement agreement, Court order, or determination by a governmental unit?

Yes _____ No _____

18. If your response was "yes" to question 17, please provide:

Name of claimant: _____
Address of claimant: _____
Telephone number of claimant: _____

19. 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 the case?

Yes _____ No _____

20. Have you continually resided in the State of California for the two years prior to the filing of your case?

Yes _____ No _____

21. Did you receive or are you entitled to an income tax refund for the previous or current tax year?

Yes _____ No _____

22. If your response to question 21 was "yes," approximately how much was, or is, your Federal and State refund?

Federal _____
State _____
Not Applicable _____

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, to ensure full understanding by the debtor(s):

Dated: _____

Attorney for Debtor(s)

**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**

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: Please note that until such time that your case is closed or notices of abandonment become effective, the Trustee is responsible for the administration of all of your property (real estate, cars and all other property you owned before you filed bankruptcy.) Until your case is closed or notices of abandonment have become effective, you cannot sell, refinance, or further 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.

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; 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 exist 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, loss carry-backs, or has it paid any income taxes in the past five years?
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: _____

Attorney of Record Statement

I have discussed with the debtor(s) the content of this Questionnaire, reviewing each question and debtor(s) response thereto, to ensure full understanding by the debtor(s):

Dated: _____

Attorney for Debtor(s)