

Best Practices Individual/Consumer

**Information & Documents Needed by
Debtor's Attorney Prior to Filing
Chapter 7 Case**

INFORMATION AND DOCUMENTS NEEDED BY
DEBTOR'S ATTORNEY PRIOR TO FILING A
CHAPTER 7 BANKRUPTCY CASE

I. General Information (for husband and wife if a joint filing)

- A. Name (including any other names used in the previous 8 years)
- B. Address (including mailing address if different from physical address)
- C. Phone numbers (including home, cell and work)
- D. Email address
- E. Social security number
- F. Birthday
- G. Ever filed a bankruptcy before?

DOCUMENTS NEEDED:

- 1. Copy of Driver's License
- 2. Copy of Social Security Card

II. Assets

- A. **Real Estate** (Information is needed for each property owned)
 - 1. Address
 - 2. Parcel Number
 - 3. Legal Description (must be filed with the petition)
 - 4. Value (county auditor's value or independent appraisal)
 - 5. Information regarding each mortgage (name and address of company, account number, amount owed, date incurred, lien position)
 - 6. Information regarding judgment liens (name and address of company, lien number, amount owed, date attached)
 - 7. Information regarding past due real estate taxes (county owed, address, amount owed, year(s) owed)
 - 8. Ask the client if they intend to keep the property or surrender it back to the mortgage company

DOCUMENTS NEEDED:

- 1. Legal Description
- 2. Appraisal (If necessary)
- 3. Mortgage Statement
- 4. Judgment Lien
- 5. Real estate tax bill
- 6. Proof of homeowner's insurance

B. **Vehicles** (Information is needed for each vehicle owned)

1. Year, make and model
2. Who is the vehicle titled to?
3. Mileage
4. Information regarding liens (name and address of company, account number, amount owed, date incurred, liable party)
5. Any co-signers (name and address)
6. Ask the client if they intend to keep the vehicle or surrender it and if they are current on the monthly payments

DOCUMENTS NEEDED:

1. Title
2. Loan documents
3. Monthly statement
4. Proof of automobile insurance

C. **Bank Accounts** (Information is needed for each account)

1. Name of financial institution (bank or credit union)
2. Checking and/or savings accounts?
3. Account number
4. Joint account? Name and relationship of joint account owner.

DOCUMENTS NEEDED:

1. 90 days worth of bank statements

D. **Household Goods and Furnishings**

1. List of all household items and value of each item
2. Information regarding any liens (name and address of company, account number, amount owed, date incurred, liable party)
3. Ask the client if he intends on keeping secured item or surrendering it and if he is current on monthly payments

DOCUMENTS NEEDED:

1. Loan documents/security agreement
2. Monthly statement

E. **Jewelry**

1. List of all items of jewelry and value of each item (appraisal if necessary)
2. Information regarding any liens (name and address of company, account number, amount owed, date incurred, liable party)
3. Ask the client if he intends on keeping the secured item or surrendering it and if he is current on monthly payments

DOCUMENTS NEEDED:

1. Loan documents/security agreement

2. Monthly statement

F. Life Insurance

1. Name of company
2. Whose life is insured?
3. Name of and relationship to beneficiary
4. Is it a term policy or a whole life policy?
5. If a whole life policy, what is the cash surrender value of the policy?

DOCUMENT LIST:

1. Copy of policy
2. If whole life policy, documentation of cash surrender value

G. Retirement Plans

1. Which Debtor holds the Plan?
2. What type of Plan (401(k), 403(b), Annuity, IRA)
3. Value of the Plan

DOCUMENT LIST:

1. Documentation showing type of Plan and current value of the Plan

H. Stocks And/Or Bonds

1. Name of company
2. Number of shares/bonds
3. Value of each share/bond

DOCUMENT LIST:

1. Copy of each stock certificate or bond
2. Printout of daily value of each share

I. Tax Refunds

1. Amount of expected Federal, State and/or Local income tax refund
2. If refunds received prior to the filing of the bankruptcy case, an accounting for how the funds were spent

DOCUMENT LIST:

1. Copy of two most recently filed tax returns and W2s/1099s (Federal & State)
2. Accounting for how the funds were spent (bank statement showing deposit of refund and spend down, receipt, cancelled checks)

J. Interest in probate estate and/or life insurance proceeds

1. Name of decedent
2. Amount of anticipated inheritance
3. Name and address of court where probate estate was opened
4. Name, address and phone number for attorney handling the probate estate

DOCUMENTS NEEDED:

1. Probate court papers

K. Other contingent claims

1. Type of claim (auto accident, property damage)
2. Anticipated recovery
3. Name, address and phone number of attorney handling the claim

DOCUMENTS NEEDED:

1. Copy of Complaint

L. Businesses

1. Name and address of business
2. Type of entity (Corporation, LLC, Sole Proprietorship)
3. List of business assets and approximate value of each asset (bank accounts, office equipment, machinery, inventory, accounts receivables)

DOCUMENTS NEEDED:

1. Two most recently filed business tax returns (if applicable)
2. Business appraisal (if necessary)

M. Accounts Receivables

1. Name, address, phone number of entity that owes the Debtor
2. Amount owed to Debtor
3. Court case number (if applicable)

DOCUMENTS NEEDED:

1. Documentation of amount of money owed to Debtor
2. Copy of Judgment received (if applicable)

N. Other Assets

1. List of any books, pictures, art objects, stamp or coin collections, antiques, tools, guns, sporting equipment, hobby equipment, fishing gear, camping equipment, cameras, etc.
2. Value of each asset

DOCUMENTS NEEDED:

1. Appraisal for each asset (if necessary)

III. DEBTS

A. Secured Debts

1. Name, address, account number, amount owed, type of collateral, name and address of any co-debtors

B. Priority Debts

1. Taxes – Name and address of taxing authority owed, amount owed, account number, years owed for, name and address of any co-debtors
2. Domestic Support Obligations – Name and address of recipient of support payments, amount of arrears, name and address of county enforcement agency handling the claim

C. Unsecured Debts

1. Name, address, account number, amount owed on each debt, when debt incurred, name and address of any co-debtors

DOCUMENTS NEEDED:

1. Credit reports
2. Monthly statements

IV. INCOME (All income into the household must be disclosed)

A. Employment

1. Name and address of current employer, occupation, length of employment, monthly gross income and monthly payroll deductions. (Information is needed for both husband and wife even if one of them is not filing the bankruptcy)

B. Other sources of income

1. Social Security – Monthly amount received
2. Disability - Monthly amount received
3. Pension – Monthly amount received
4. Child Support/Alimony - Monthly amount received
5. Unemployment – Weekly amount received
6. Business Income – Gross monthly receipts less monthly business expenses
7. Food Stamps - Monthly amount received
8. Rental Income – Gross monthly receipts less monthly expenses
9. Family Contributions – Monthly amount received toward household expenses
10. Other - Monthly amounts

DOCUMENTS NEEDED:

1. Paystubs (or ledger from employer showing gross pay, deductions and net pay) (for both husband and wife if applicable) for the 6 months prior to the filing of the bankruptcy
2. Social Security or Disability Award Letter
3. Pension statement
4. Court documents showing child support/alimony award
5. Unemployment statements
6. 6 months of business profit and loss statements
7. Lease agreement showing monthly rental income and list of monthly expenses associated with the rental property

V. EXPENSES (All household expenses must be disclosed)

1. Debtor must provide a list of all household expenses (even the expenses of a non-filing spouse)
2. Debtor must list number of dependents, age of each dependent and relationship of each dependent to the Debtor

DOCUMENTS NEEDED:

1. Completed monthly budget (see attached Schedule J)

VI. OTHER QUESTIONS THAT MUST BE ASKED AND DOCUMENTS THAT MUST BE COLLECTED

- A. Have any payments been made to Creditors that exceed \$600.00 within 90 days of the bankruptcy filing?
 - i. Payment made directly by Debtor – Provide company name and address and the amount paid within the last 90 days
 - ii. Payment received by Creditor through wage garnishment – Provide the name and address of the company garnishing wages, the amount taken within the last year, and request a copy of the judgment received by the creditor
 - iii. Payment received by Creditor by bank attachment – Provide the name and address of the company that took the funds, the date the funds were taken, the amount taken, and request copy of bank statement showing the attachment and a copy of the judgment received by the creditor.
- B. Have you paid any insiders (family members or friends) any money within a year prior to the bankruptcy filing?
 - i. If yes, provide the name and address of the recipient of the funds, his relationship to the Debtor, the date of payment and the amount of payment.
- C. Have you been involved in any lawsuits within a year prior to the bankruptcy filing?
 - i. If yes, provide the caption of the suit and case number, the name and address of the court where the suit was filed, the nature of the suit and the status of the suit.
- D. Any repossessions or foreclosure sales within a year of the bankruptcy filing?
 - i. If yes, provide the name and address of the creditor, the date of the repossession or foreclosure sale, and a description of the property taken and its value.
- E. Have you made any gifts exceeding \$200.00 or charitable contributions exceeding \$100.00 within a year prior to the bankruptcy filing?

- i. If yes, provide the name and address of the recipient, the relationship to the Debtor, the date of the gift or contribution and a description and value of the gift.

- F. Have you lost any property within a year prior to the bankruptcy filing from fire, theft, casualty or gambling?
 - i. If yes, provide the description and value of the property lost, the date of loss and a description of the circumstances surrounding the loss

- G. Have you sold any property or given any property away within four years prior to the bankruptcy filing?
 - i. If yes, provide the name, address and relationship to the Debtor of the recipient of the property, the date of the transfer, description of the property transferred and the value received for the transfer.

- H. Have you closed or transferred any bank accounts or financial accounts within a year prior to filing the bankruptcy?
 - i. If yes, provide the name and address where of the institution, the type of account that was closed or transferred, the last four digits of the account number, the amount of the account upon closing, and the date of the closing or transfer.

- I. Do you have a safe deposit box?
 - i. If yes, disclose the name and address of the depository where located, the name and address of those with access to the box, a description of the contents of the box, and the date of transfer or surrender (if applicable).

A NOTE ON DUE DILIGENCE

The “Reasonable Inquiry” Standard Under 11 U.S.C. § 526(a)(2)

Section 526(a)(2) of the Bankruptcy Code provides:

A debt relief agency shall not . . . make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading.

This requirement is often referred to as the “reasonable inquiry” standard. If the attorney fails to perform this reasonable inquiry, the attorney may be subject to a disgorgement of fees, civil penalties, and costs to the state or the U.S. Trustee.

The “Reasonable Investigation” Standard Under 11 U.S.C. § 707

Under § 707(b)(4)(D), the attorney certifies that he or she has no knowledge that the information contained in the client’s petition is incorrect after performing an inquiry. Violations of § 707 may result in dismissal of the debtor’s case. If the attorney is found to be in violation of this provision, he or she can be subject to civil penalties as well.

In sum, the attorney has a defined duty to ask questions that produce truthful responses, conduct an investigation to resolve inconsistencies, and verify data provided by clients through the request and procurement of relevant documents. This will prevent the consequences of violating the aforestated provisions and assist in the successful administration the bankruptcy proceeding.

Preparing the Perfect 341 Meeting

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
BENCH BAR RETREAT
OCTOBER 30, 2015
HOLIDAY INN INDEPENDENCE**

**CHAPTER 7 BEST PRACTICES
PREPARING FOR THE PERFECT 341 HEARING**

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Special thanks to Nicole Noll, who shared with us her wonderful script for preparing a debtor for his/her 341 hearing.

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**United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
Holiday Inn Independence**

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**United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
Holiday Inn Independence**

Checklist for 341 Meeting of Creditors

For the Attorney

Original and a copy of Petition and Schedules

Copy of Tax Return

Check current address of the debtor – same as in the petition?

Insure that the Debtor has the identification information.

For the Debtor

Date – time – place

- Make sure the debtor knows which address on the 341 notice is the right address – it is not the Trustee's office.
- Give them directions, a map, and identify any parking opportunities that might make it easier for the debtor to get to the 341 hearing on time.

Appearance/dress

Photo ID

Social Security card or equivalent

- Make sure the debtor can articulate what he is bringing, and that he has it in his possession and can, in fact, bring it

Documents to bring:

- Bank statements for the date of filing and for the three months prior to filing.
- Vehicle titles
- If there is a divorce, all of the domestic relations court orders
- If there is life insurance, the policies and any document that shows the beneficiary of the policy
- 401(k) or IRA statements
- If you have received a substantial sum of money, like a tax refund, and spent it, a list of what it was spent on, and receipts for significant expenditures
- If there is an obligation to pay alimony or child support, the name and address of the person to whom the support is paid.
- If there is a business, bank statements for the business for the last three months

341 Orientation

- Give the debtor a brief summary of what to expect
- See Nicole Noll's script.
- MKW Trustee Notes.

United States Bankruptcy Court for the Northern District of Ohio
Bench Bar Retreat
October 30, 2015
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Nicole Noll's Script for the Perfect 341 Meeting of Creditors

Here's my 341 script. I basically tell the debtor everything that a trustee asks in the exam – I just do it in order and show them their answers in the petition/schedules. I review the petition and schedules in the order in which they are filed. I will also tailor my script based on anything that may be asked or said particular to a certain trustee.

I show the debtor his/her/their answers as entered in the petition as per the testimony provided at the signing. When I train new attorneys to do this, they have an aversion to telling the debtor the answers in the petition – fearing they are coaching the debtor how to testify. I then have to explain to the new attorney that I am not coaching the debtor how to answer. Instead, I'm refreshing the debtor's recollection of previously provided testimony that the debtor already submitted to the court when the case was filed.

Before starting my script, I ask my debtor(s) for photo ID, SS card, and most recent bank statements. I should already have any MOTs or other docs at the top of my file ready to provide to the trustee. I also ask my debtor(s) to make certain their cell phone is off.

Basic Intro

Today you are going to have your meeting with your trustee. Your trustee is an attorney appointed by the court to review your case and see if there is any ability to pay creditors. She's going to ask you questions about your bankruptcy papers. All of the questions the trustee will ask you today are under oath, under penalty of perjury. **Most of the questions are yes or no questions. The trustee is looking for a yes or a no answer. If the question is more than a yes or no answer, then you want to make your answer short and to the point. The trustee does three of these hearings every half hour and is not looking for a long explanation.** There is a tape recorder to record all questions and answers. So you want to answer all questions loud and clear. (If there is more than one debtor, I remind them they both must answer each question.)

The trustee will swear you in. She will ask your name and age. She will ask if you reviewed all your paperwork before you signed it. She will ask if you listed everything that you own and everyone that you owe money to.

The trustee will ask if you are personally familiar with the information in the petition that was filed with the court – which you should be since you provided it to our office.

She will ask if you signed your petition in multiple places.

I will show you page three of your petition – she will ask if that is your signature and the date that you signed it.

I will show you the declaration of electronic filing – she will ask if that is your signature and the date you signed it.

She will ask if you received a written contract from my office to represent you in this case. That is the paperwork that you signed the first time you came in when we reviewed the chapter you are filing for and the fees for the case.

The trustee will ask if you paid the attorney for this case and how much.

The trustee will ask if you paid the filing fee of this case.

Schedule A

Trustee will ask if you own any real estate. Do you own a house or is your name on someone else's house.

You own the house on Main Street. You said it was worth \$100,000.00 and you owe \$150,000.00. *I provide them with the grand total of all mortgages and liens.*

Schedule B

The trustee will then ask about the things that you own that are not real estate.

When you filed your case, how much cash did you have that was not in the bank – you said \$5.00.

You have a checking and savings at PNC – you said, when you filed your case, there was \$500.00 in checking and \$500.00 in savings.

Do you have a security deposit with your landlord or do you rent from a friend/family member?

The trustee will ask if you have any:

Life Insurance on your life or anyone else's life?

Any Retirement accounts? You have retirement – a 401(k) with your current employer.

Any stocks or bonds that are not in a retirement account?

Any IRAs or annuities?

Do you own part of business?

Does anyone owe you any money, including any friends or family?

Are you owed any child support or alimony?

Do you have any claims where you are suing anyone for any reason or do you have any claims you can bring against someone else?
Have you settled any claims in the last 2 years?

Do you have a car?
You said you have a 2010 Toyota Corolla, worth about \$10,000.00 and you owe about \$7,000.00

Schedule E

Do you have a domestic support obligation, meaning do you have an order to pay someone else alimony or child support.

Schedule I

Are you leasing any items or property?

Schedule H

Do you have any co-signers or do you co-owe on any of your debts with someone else?

Schedule I

The trustee will ask your marital status and the number of dependents that you have.

The trustee is going to ask where you work, how often you get paid, and how much you bring home in a pay check.

The trustee will ask if you have any other sources of income. *I do review the basic info, but not the exact dollar amount listed for wage/other income. In my opinion, they better know how much they get in income without a refresher.*

SOFA

The trustee will ask if you paid any money to any friends or family in the last year.

The trustee will ask if you paid anyone you owe money to more than a regular monthly payment in the last 4 months.

The trustee will ask if you made any late payments, double payments, or catch-up payments on any of your bills in the 4 months.

Did you have any repossessions or foreclosures in the last year?

Did you make any gift to friends/family or church/charity in the last year?

Did you have any losses from fire, theft, accident, or gambling in the last year?

Have you sold, transferred, or giving anything away in the last 4 years?

Have you closed out or cashed out any accounts in the last year?

Do you have a safe deposit box in your name or anyone else's?

Have you inherited any money or property in the last 2 years?

The trustee will ask if you ever filed for bankruptcy before. The trustee will also ask why did you have to file this bankruptcy. For most people it's loss of job, loss of hours, or medical reasons. Do any of those apply to you?

If yes, what is the biggest reason. If no, then what the trustee wants to know is what happened that caused you to get behind on your bills.

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Disposition

Tax Return	Support Obligations
Held & Concluded	NDR _____ Asset _____
Held & Con't to _____ Documents Required:	Not Held: Con't to _____ Requires Full Examination _____ Debtor///Attorney did not appear No social security card///driver's license No tax returns Other

ASSETS IDENTIFIED FOR ADMINISTRATION:

Examination

Case No.	Debtor
Swear In	I have viewed the [identification] and they match the information on the bankruptcy filing – Return to Debtor.

State your name for the record. Do you still live at the address on the petition?

Single__ Married__ Separated__ Divorced__ Widowed__ Children _____

Who lives with you? Spouse ____ Children ____ Other _____

Do you have any alimony or support obligations? Yes__ No__

Yes	No	Have you read the Bankruptcy Information Sheet provided by the United States Trustee?
Yes	No	Did you sign the petition, schedules, statements and related documents you filed with the court? Did you read these documents before you signed and is the signature your own?
Yes	No	To the best of your knowledge, is the information contained in your bankruptcy filing true and correct?
Yes	No	Was all of the information filled in when you signed the petition?
Yes	No	Are there any errors or omissions to bring to my attention?
Yes	No	Are all of your assets and debts identified on the schedules?
Yes	No	Have you filed previously filed bankruptcy? [Year: ____] Ch: ____ Where? _____ [Discharge Obtained? ____].

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

		What is the reason for this bankruptcy?
Debtor 1 Age _____		Debtor 2 Age _____
Occupation: _____		Occupation: _____
Employer _____		Employer _____
Employer Address: _____		Employer Address _____
Pay/Other Income _____/hr		Pay/Other Income _____/hr
Salary: _____		Salary: _____
Yes	No	Other sources of income
Yes	No	Have you ever been in business for yourself? (Nature, location, assets, records, type of entity, closed? Why? Dates of operation, disposition of assets, including receivables).
Yes	No	Have you had an interest in a corporation, LLC, or partnership in the last 4 years?

REAL ESTATE

RESIDENCE - VALUE TO THE ESTATE:

Yes	No	Buy or own real estate now or ever?
Yes	No	Any ownership of real estate through a trust?
RENTERS		
Yes	No	Do you rent from a third party? ____ Yes ____ No
Amount of Rent \$ _____		
Titled		Keep ____ Surrender ____
		Payment current ____ Last Payment _____
Underwater?		Purchase Price _____ Year Purchased _____

PARCEL 2 - VALUE TO THE ESTATE:

Titled		Keep ____ Surrender ____
		Payment current ____ Last Payment _____
Underwater?		Purchase Price _____ Year Purchased _____
Other Disposition		

Seizures/Transfers

Yes	No	Have there been any garnishments, bank attachments, liens or repossessions in the past 4 months?
Yes	No	Have you sold, transferred or given away property in the last 4 years of \$1,000 or more?

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Yes	No	Have any creditors been paid more than \$600 in the last 4 months, not including regular payments?
Yes	No	Have you given anything to relatives or repaid relatives in the past year
Yes	No	Have you sued anyone in the last 4 years?
Yes	No	Any claims you may have that you may bring against others in the future? Any unsettled claims with insurance companies where they owe you money?
Yes	No	Tax Refund last year? How much? _____ Joint return? _____ DO NOT SPEND YOUR TAX REFUND WITHOUT TRUSTEE APPROVAL
Yes	No	Did you buy or cash in stocks, bonds, mutual funds, certificates of deposit in the last 2 years? Is your name on any stock or bond, even as a matter of convenience?
Yes	No	Did anyone die and leave you an inheritance in the last 2 years?
Yes	No	Any life insurance other than through work?

Automobiles

Yes	No	Any titled automobiles, trucks, boats, trailers, mobile homes, motorcycles?		
VEHICLE 1				
Titled:		Year	Make	Model
Miles		Purch Date: _____ Purch Price _____		
(A)3 Claimed _____		Underwater? ___ Equity		
(A)18 Claimed _____				
VEHICLE 2:				
Titled:		Year	Make	Model
Miles		Purch Date: _____ Purch Price _____		
(A)3 Claimed _____		Underwater? ___ Equity		
(A)18 Claimed _____				

Bank Statements

Yes	No	Any bank accounts, credit union accounts? How many? _____
Yes	No	Is your name on any bank account, such as for your child or parent, even as a matter of convenience?
BANK STATEMENT #		Checking/Savings
Amt/DOF		Review for odd transactions
BANK STATEMENT #2		Checking/Savings
Amt/DOF		Review for odd transactions
BANK STATEMENT #3		Checking/Savings
Amt/DOF		Review for odd transactions

MARY WHITMER'S 341 HEARING INTERVIEW SHEET

Other

Yes	No	Do you have a safe deposit box or a self-storage unit?
Yes	No	Any antiques, sporting goods, hobby equipment, fishing, camping, tools, guns cameras, jewelry over \$200?
Yes	No	Does anyone owe you money? Do you have any assets of any nature that are not disclosed on your petition?
Yes	No	Have you purchased any single item for more than \$2500 in past year?
Yes	No	Have you sold anything online such as on eBay in the last year?

NOTES:

**Individual Chapter 11 Debtors
Best Practices Outline**

2015 Bench-Bar Retreat

October 30, 2015

Independence, Ohio

Individual Chapter 11 Debtors: Best Practices

I. Pre-filing Considerations

A. Pre-Filing Diligence

- Take time to know and understand your debtor.
 - What are their goals?
 - Why doesn't chapter 7 work?
 - Why doesn't chapter 13 work?
 - What facts will come out in bankruptcy that might not elsewhere?
 - Be ready to explain why creditors who are friends and family are treated just like the mortgage lender.
 - Remind debtor that, once bankruptcy is filed, "it's not all about them."
 - Remember importance of other professionals (*e.g.*, accountants, financial advisors).
 - Do sources exist for added value – (*e.g.*, new, substantial, money or money's worth, reasonably equivalent to the value or interest received) [See Exit Strategy - 1129(b)(2)(B)(ii).]
 - Educate the debtor as to the ongoing administrative costs included in a successful reorganization.

- Take time to know and understand creditor base.
 - What gave rise to the debts?
 - Are debts consumer or non-consumer?
 - What is the collateral base?
 - What is the nature of the creditors? Traditional banks, friends, family, others?
 - Is there a reasonable probability of confirming a plan?

- Protect good-faith finding.
 - If time permits, engage in meaningful, documented negotiations with creditors.
 - Test the water on would-be chapter 11 plan → preemptively identifying likely post-petition issues.

B. Timing

- If possible, time filing such that “current monthly income” is low enough to satisfy means test in the event you seek to convert to chapter 7.
- Consider implications of executory contracts and leases.
- Remember that timing may influence finding of good faith in the filing itself.

C. Develop Exit Strategy Before Filing

- Know what your chapter 11 plan will look like before you file.
- “Test” would-be chapter 11 plan during pre-petition creditor negotiations → preemptively identifying likely post-petition issues.
- Evaluate alternatives if you cannot confirm plan.
- Remember two key Bankruptcy Code Sections:
 - Section 1115 (post-petition earnings/estate property); and
 - Section 1129(b)(2)(B)(ii) (absolute priority rule);

D. Managing the Client/Others Close to Client Throughout

- Remember you are dealing directly with a person.
- Remember you may be dealing with a family.
- Constant communication key.
- Renew efforts to communicate in “lay terms.”
- Communicate in many media.

II. Operating in Chapter 11

A. Property of the Estate

- Sections 541 and 1115

B. Cash Collateral/Cash Management

- Who, if anybody, has an interest in it?
- Section 363: seek authority to use.

C. Budget/Budgeting

- Need to identify and include accountant or responsible party (See Pre-filing diligence)
- Remember lack of foresight and budget is probably a component as to why the Debtor is seeking your assistance
- Cash Collateral Budgets

- 90-day budget
- Projected Plan Budget

D. Section 341 Meeting of Creditors

- Client should thoroughly understand Schedules and SOFAs.
- Preparation is critical.

E. Involvement of the U.S. Trustee

- Many times no committee → enhanced role of U.S. Trustee

F. Other Considerations

- Litigation elsewhere?
- Maintaining insurance
- Operating Reports

III. The Plan

A. Unique Challenges in Individual Chapter 11s

- Property of the Estate/Post-Petition Earnings

Section 541 (Property of the Estate):

(a) The commencement of a case under section 301, 302, or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:

(1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

(2) All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

(A) under the sole, equal, or joint management and control of the debtor; or

(B) liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

(3) Any interest in property that the trustee recovers under section 329(b), 363(n), 543, 550, 553, or 723 of this title.

(4) Any interest in property preserved for the benefit of or ordered transferred to the estate under section 510(c) or 551 of this title.

(5) Any interest in property that would have been property of the estate if such interest had been an interest of the debtor on the date of the filing of the petition, and that the debtor acquires or becomes entitled to acquire within 180 days after such date—

(A) by bequest, devise, or inheritance;

(B) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or

(C) as a beneficiary of a life insurance policy or of a death benefit plan.

(6) Proceeds, product, offspring, rents, or profits of or from property of the estate, except such as are earnings from services performed by an individual debtor after the commencement of the case.

(7) Any interest in property that the estate acquires after the commencement of the case.

Section 1115 (Property of the Estate):

(a) In a case in which the debtor is an individual, property of the estate includes, *in addition to the property specified in section 541—*

(1) all property of the kind specified in section 541 that the debtor acquires *after the commencement of the case* but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

(2) earnings from services performed by the debtor *after the commencement of the case* but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.

- Confirmation and “Cram-Down”

Section 1129 (Cram-Down):

(b) (1) Notwithstanding section 510 (a) of this title, if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

(2) For the purpose of this subsection, the condition that a plan be fair and equitable with respect to a class includes the following requirements:

* * *

(B) With respect to a class of unsecured claims—

(i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.

- *Ice House Am., LLC v. Cardin*, 751 F.3d 734, 738 (6th Cir. 2014) (applying absolute priority rule to individual Chapter 11 debtors).

B. Strategies for Achieving Plan Confirmation

- Object early to questionable claims held by aggressive creditors.
- Present better plan than chapter 7 liquidation. Don't ignore the reality that the Debtor has probably already presented failed proposals to creditors.
- Present better plan than piecemeal, non-bankruptcy collection.
- Make reasonable, readily-documented/provable assumptions.
- Engage in dialogue with creditors.
- Remind debtor again that, in chapter 11, "it's not all about them."
- Seek third-party opinions on plans (e.g., financial advisors).
- Seek third-party support of plans (e.g., creditor committee and/or U.S. Trustee).
- Plan mediation.
-

C. Discharge—When and How Obtained

- Section 1141(d)(5)(A) completion of plan payments (rather than plan confirmation) discharges an individual debtor.
- Fed. R. Bankr. P. 2015(a)(5) - Debtor responsible for providing reports of post-confirmation disbursements and for paying all additional fees that accrue.
- Think about Sections 1129(a)(15)(B) and 1141(d)(5)(B)(i) to reduce the term and provide projected disposable income through post-confirmation borrowing from friends or family.
- Don't forget post-petition credit counseling, which may be required under Sections 1141(d)(3) (in case of a liquidating plan) and 727(a)(11).

IV. If the Plan Fails

A. Conversion

Section 1112(a)

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless—

- (1) the debtor is not a debtor in possession;
- (2) the case originally was commenced as an involuntary case under this chapter; or
- (3) the case was converted to a case under this chapter other than on the debtor's request.

1. Absolute Right to Convert

It is widely recognized that Debtor has an absolute right to convert his case to one under Chapter 7 under these circumstances. *See, e.g., In re Texas Extrusion Corp.*, 844 F.2d 1142, 1161 (5th Cir. 1988) (“A debtor has the absolute right to convert his or her Chapter 11 case to a Chapter 7 case [pursuant to] Section 1112(a) [.]”); *In re Dieckhaus Stationers of King of Prussia, Inc.*, 73 B.R. 969, 971 (Bankr. E.D. Pa. 1987) (Section 1112(a) “by its terms[] gives the debtor an absolute right to convert unless the case is governed by one of the enumerated exceptions.”) and *In re Noonan*, 17 B.R. 793, 795 (Bankr. S.D.N.Y. 1982) (acknowledging that where debtor perceived “the effusion of time, energy and money he would need to battle [a creditor in Chapter 11], [debtor] exercised his absolute right to convert his chapter 11 to a chapter 7 case.”). This is unsurprising because Section 1112(a)(1) is clear on its face and, as a result, its express language is conclusive of its meaning. *See Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004) (citing *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000)). Debtor's absolute right to convert his case nevertheless is *confirmed* by the legislative history of Section 1112, providing: “This section brings together all of the conversion and dismissal rules for Chapter 11 cases. Subsection (a) gives the debtor an absolute right to convert a voluntarily commenced chapter 11 case in which the debtor remains in possession to a liquidation case.” *In re Schuler*, 119 B.R. 191, 192 (Bankr. W.D. Mo. 1990) (quoting H.R. Rep. No. 595, 95th Cong., 1st Sess. 405 (1977); S. Rep. No. 989, 95th Cong., 2d Sess. 117 (1978)); *see also In re Dieckhaus*, 73 B.R. at 971 (“The legislative history [of Section 1112] confirms Congress' intent to give debtors an absolute right to convert from chapter 11 to chapter 7.”).

2. Potential Limitations on Conversion—Where Debtor Ineligible for Chapter 7 Relief

Bad Faith, Gross Inequity, Abuse of Bankruptcy Process

Some courts have denied conversion based on bad faith, gross inequity, or abuse of the bankruptcy process. *See, e.g., Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 374 (2007) (denying conversion from Chapter 7 to Chapter 13 where the debtor filed a petition in bad faith and concealed significant assets.). *See also In re Results Systems Corp.*, 395 B.R. 1 (E.D. Mich. 2008); *Monroe Bank & Trust v. Pinnock*, 349 B.R. 493 (E.D. Mich. 2006); *In re Modern Metal Prods., Co.*, 422 B.R. 118 (Bankr. N.D. Ill. 2009); and *In re Adler*, 329 B.R. 406 (S.D.N.Y. 2005). Many of these same courts still give significant deference to a debtor's choice of chapter under

which to proceed. *See, e.g., Modern Metal Prods.*, 422 B.R. at 124. (“In Section 1112(a), as well as other sections, Congress has granted a clear right to debtors to decide which chapter their case should proceed under, and the Court is loath to overturn that choice without a strong showing of an abuse of the system or clear detriment to parties in interest.”)

Where Chapter 7 Would be Subject to Dismissal Under Section 707

Section 707(a)

- (a) The court may dismiss a case under this chapter only after notice and a hearing and only *for cause, including—*
- (1) unreasonable delay by the debtor that is prejudicial to creditors;
 - (2) nonpayment of any fees or charges required under chapter 123 of title 28; and
 - (2) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521(a), but only on a motion by the United States trustee.
- A debtor’s ability to repay debts may be considered. *Merritt v. Franklin Bank, N.A. (In re Merritt)*, No. 98-2399, 2000 U.S. App. LEXIS 6877 (6th Cir. Apr. 12, 2000).
 - Other factors considered:
 - (1) The debtor reduced his creditors to a single creditor in the months prior to filing the petition.
 - (2) The debtor failed to make lifestyle adjustments or continued living an expansive or lavish lifestyle.
 - (3) The debtor filed the case in response to a judgment pending litigation, or collection action; there is an intent to avoid a large single debt.
 - (4) The debtor made no effort to repay his debts.
 - (5) The unfairness of the use of Chapter 7.
 - (6) The debtor has sufficient resources to pay his debts.
 - (7) The debtor is paying debts to insiders.
 - (8) The schedules inflate expenses to disguise financial well-being.
 - (9) The debtor transferred assets.

- (10) The debtor is over-utilizing the protection of the Code to the unconscionable detriment of creditors.
- (11) The debtor employed a deliberate and persistent pattern of evading a single major creditor.
- (12) The debtor failed to make candid and full disclosure.
- (13) The debts are modest in relation to assets and income.
- (14) There are multiple bankruptcy filings or other procedural “gymnastics.”

See, e.g., Rahim v. Pacifica Loan Four, LLC (In re Rahim), 449 B.R. 527, 533 (E.D. Mich. 2010).

Section 707(b)(1)

Section 707(b)(1) provides that a Chapter 7 case involving a debtor with *primarily consumer debts* may be dismissed, or converted to a Chapter 11 or 13 case with the debtor’s consent, if “the granting of relief [under Chapter 7] would be an abuse of the provisions of this chapter.” 11 U.S.C. § 707(b)(1) (emphasis added). Whether “abuse” under Section 707(b)(1) exists is determined by the “means test” set forth in Section 707(b)(2) or under “bad faith” or “totality of circumstances” standards set forth in Section 707(b)(3). 11 U.S.C. § 707(b)(2) & (b)(3)(A)-(B).

Does Means Test Apply?

Although a split of authority exists, relying upon a plain reading of Section 707(b)(1), several courts hold that Section 707(b) does not apply to converted cases. *See, e.g., In re Thoemke*, 2014 Bankr. LEXIS 451, at *5 (Bankr. M.D. Fla. 2014).

- Understanding nature of alleged claims against debtor is important; are they “primarily consumer?”
- Understanding what the means test would look like, if applied, also important.

Section 707(b)(3) – Totality of the Circumstances

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted, the court shall consider—

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor’s financial situation demonstrates abuse.

3. Potential “Reconversion”

Section 706(b)

“On request of a party in interest and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 11 of this title at any time.”

Involuntary Servitude?

Where an individual debtor is concerned, conversion from Chapter 7 to Chapter 11 is inappropriate because individuals cannot be forced into a repayment plan against their will. *See In re Graham*, 21 B.R. 235, 239 (Bankr. N.D. Iowa 1982) (denying creditor’s request to convert an individual Chapter 7 debtor’s case to Chapter 11 “[b]ecause the forced submission of the debtor to [a chapter 11] plan is the sole purpose of the Movant’s motion to convert these proceedings from Chapter 7 to Chapter 11 and because the effect of such an 11 U.S.C. § 706(b) conversion would be such a forced submission”); *see also In re Freunsch*, 53 B.R. 110, 112 (Bankr. D. Ver. 1985) (holding that individual debtors under Chapter 7 may not be compelled to submit to a repayment plan in Chapter 11) and *In re Brophy*, 49 B.R. 483, 484 (same). Despite the reasoning of cases like *Graham*, *Freunsch*, and *Brophy*, some courts have converted individual debtor cases under Section 706(b). *See, e.g., Schlehuber v. Fremont Nat’l Bank (In re Schlehuber)*, 489 B.R. 570 (B.A.P. 8th Cir. 2013).

Because Section 706(b) does not articulate grounds for conversion, however, it is widely recognized that such relief rests within the discretion of the court “based on what will most inure to the benefit of all parties in interest.” *Tex. Extrusion Corp. v. Lockheed Corp. (In re Tex. Extrusion Corp.)*, 844 F.2d 1142, 1161 (5th Cir. 1988) (emphasis added); *see also In re Modern Metal Prods. Co.*, 422 B.R. at 124; *In re Quinn*, 490 B.R. 607, 621 (Bankr. D. N.M. 2012); and *In re Lobera*, 454 B.R. 824, 853 (Bankr. D. N.M. 2011). The interests to be considered include the debtor’s. *Lobera*, 454 B.R. at 824 (denying creditors’ motion to convert Chapter 7 case in order to capture debtor’s postpetition income pursuant to Section 1115(a), an outcome that “would not further the interests of the Debtor or those that depend on him for support.”).

V. Fees and Expenses – Getting Paid –

- §327 and Bankruptcy Rule 2014 – Application to Employ.
- §330 and Bankruptcy Rule 2016.
- Know your debtor’s cash flow and budget – Back to Pre Filing Diligence.

A Message from Chapter 13 Staff

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General Information

A MESSAGE FROM THE CHAPTER 13 STAFF

The Chapter 13 staff understands that making the decision to file bankruptcy was not easy. Some of the many factors which cause people to file bankruptcy include loss of employment, medical bills, and helping family members in need. Please remember that filing Chapter 13 is not the end of the world, but is a chance for you to earn a fresh financial start. Upon completion of the plan, most people will be debt free, except for mortgage payments.

To be successful in your plan, you must make your plan payments each month and earn a discharge of your debt. Cases filed in Akron, Ohio, have one of the highest completion rates in the country. To be successful we encourage you to read this booklet, and visit our web page at www.chapter13info.com for more information. You also have the option of keeping up to date on your case by setting up your on line account with the National Data Center (see inside front pocket for details). The more you know about the program, the greater your chance of success.

The Chapter 13 Staff wishes you every success.

Confirmation Hearing

You are not required to attend your Court confirmation hearing (Thursdays at 1:30 PM).
For attendance at other hearings, please consult your attorney.

WHAT YOU SHOULD KNOW ABOUT YOUR CHAPTER 13 CASE

Name _____ Attorney _____

Your Chapter 13 Case Number _____ Phone _____

This booklet is intended to answer some common questions that arise for people in a Chapter 13 bankruptcy plan. This booklet should be read in full at the beginning of your case and referred to throughout the case as the need arises.

It is important that your name and case number appear on all payments or correspondence sent to the Trustee.

Your Trustee's name, address and office telephone number is:

For correspondence: Keith L. Rucinski
Chapter 13 Trustee
One Cascade Plaza, Suite 2020
Akron, OH 44308
Phone: (330) 762-6335
Fax: (330) 762-7072

For payments: Keith Rucinski
Chapter 13 Trustee
3600 Momentum Place
Chicago, IL 60689-5336



CASE NUMBER. Your Chapter 13 case number is very important. Keep it handy. You will need your case number when you make a plan payment to the Trustee. Your name and case number must appear on your cashier's check or money order. Your case number should also appear on any letters that you send to the Trustee's office.

THINGS TO KNOW UNDER THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

1. To successfully complete your Chapter 13 plan, you must take a financial management course. This is in addition to the credit counseling you took in order to file bankruptcy. (See next page for directions on locating a financial management class.)
2. If your household income is higher than the average income for Ohio, you must make payments into your Chapter 13 plan for 60 months. You may only complete earlier if you are paying all creditors 100 percent of their claims.
3. If your household income is less than the average income for Ohio, you must make payments into your plan for a minimum of 36 months. You may only complete earlier if you are paying all creditors 100 percent of their claims.
4. Failure to timely make all child support and alimony payments (Domestic Support Obligations) can result in dismissal of your case or conversion to a Chapter 7 bankruptcy.
5. Failure to timely file all tax returns can result in dismissal or conversion to a Chapter 7 bankruptcy.
6. If your case is dismissed and you attempt to file a new bankruptcy case, you may not be able to stop foreclosure on your home. This case may be your only opportunity to save your home.
7. The U.S. Department of Justice - United States Trustee Program is required to randomly audit cases to verify that the disclosures on the bankruptcy petition and schedules are complete and accurate.

UNDERSTAND YOUR PLAN. It is imperative that you fully understand your Chapter 13 plan. You have an opportunity to amend or modify your Chapter 13 plan subsequent to the 341 meeting and prior to a confirmation hearing on your case. If you do not understand any aspect of your Chapter 13 plan you should make an appointment with your attorney to go over your plan as it is essentially a financial blueprint for what you have to live by for the next 3 to 5 years.

SERIAL FILINGS OF CHAPTER 13 PLANS. Please be advised that the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 limits the number of times that a Chapter 13 plan should be undertaken.

In the past, some people have felt that should they not be able to finish this Chapter 13 plan that they will simply file a new plan. There are several procedural issues with filing a second Chapter 13 plan which could cause a successive plan to be dismissed or not allow you to save your home as the second bankruptcy may not protect your house from foreclosure actions in state court. You should work with your attorney to make every effort to complete your current Chapter 13 plan successfully.

ATTENTION ALL CHAPTER 13 INDIVIDUALS

The following are requirements of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005:

1. In order to file a Chapter 13 bankruptcy, you were required to take a credit counseling course.
2. In order to earn a discharge, you must take a financial management course (this is in addition to the credit counseling). You should plan on taking the course within a year of the Court approving your plan. Even if you make all payments under the plan, you will not earn a discharge until the completion of a financial management course. Without a discharge your creditors could pursue you for additional money after the conclusion of your Chapter 13 plan. A discharge prohibits your creditors from pursuing additional money if the debt has been scheduled and paid through the Chapter 13 plan.

APPROVED DEBTOR EDUCATION PLACES

To locate an approved financial management course please take the following steps:

1. Log on to the Trustees' web page www.chapter13info.com.
2. Click on the "Financial Management Course Information" box.
3. Under External Online Resources - Not affiliated with the Office of the Chapter 13 Trustee, you will see the [United States Trustee Program link](#), click on it. Then click Proceed.
4. On the left side of the web page, click the category "Credit counseling & Debtor Education".
5. In the box titled "For Consumers", "Debtor Education", click on the "List of Approved Debtor Education Providers" link.
6. Choose the State of Ohio and click GO.
7. After this you will see the name of the businesses and contact information.

NOTICE

Organizations providing credit counseling and financial management courses are not part of the Chapter 13 Trustee's office. The Chapter 13 Trustee is not responsible for the actions of these organizations.

The Chapter 13 office in Akron offers an in class personal financial management class a few times a year to people who have filed Chapter 13 in Akron, Ohio. In addition, the Chapter 13 office will soon offer the personal financial management class on line. There is no cost to take these classes if a person has filed a Chapter 13 in Akron, Ohio. Please check our web site for detail. The web site is www.chapter13info.com.

KEEP THE TRUSTEE AWARE OF ANY ADDRESS CHANGE. It is important to keep the Trustee aware of any changes in your address. It is common for Chapter 13 debtors to accumulate additional funds at the end of their Chapter 13 case. Said funds are returned to you once the Trustee has performed a final audit in your case to ensure that all creditors have been properly paid. Some debtors have lost thousands of dollars in funds because they have moved and not provided a forwarding address to the Trustee. Please find enclosed in the back cover a convenient change of address card. Should you move, please fill out the card and place in the mail (you must provide your own stamp).

CALLING THE TRUSTEE'S OFFICE. The Chapter 13 office phone number is 330-762-6335. The office is open five days a week from 8:00 a.m. to 4:00 p.m., Monday through Friday. Do not feel that you must talk personally with the Trustee; the staff is well qualified to answer your questions or discuss any problems that may arise while you are in a Chapter 13.

In addition, you may e-mail your assigned case person at the Chapter 13 office. On the Chapter 13 web site is a box titled, "Contact the Chapter 13 Staff". Each Chapter 13 case has an assigned case person To find your case person on the list provided please use the last two digits of your case number. The Chapter 13 web site is: www.chapter13info.com.

Please remember that the Chapter 13 staff is not permitted to give you legal advice. Legal questions must be addressed with your attorney.

APPOINTMENTS. The Chapter 13 staff is available to talk with you in person if you feel that your concerns cannot be properly addressed on the telephone, letter, or email. Feel free to set up an appointment during office hours with any of the staff members. The Chapter 13 office phone number is 330-762-6335.

IF YOUR CREDITORS CALL YOU. If any creditors listed in your Chapter 13 plan seek to call you, you should keep a log of said creditor's name and the time that they called you. You should also provide said creditors with the name of your attorney and your Chapter 13 case number. The creditor may ask you what district you filed your Chapter 13 case. Your case has been filed in the Northern District of Ohio.

WAGE DEDUCTIONS. If you are making your plan payments through wage deductions, your employer will be served with a court order instructing the employer to deduct your Chapter 13 payment from each paycheck in accordance with your plan. It is important for you to save your pay stubs so that in the event of a problem, you can prove that the deductions were actually taken.

If for any reason, your employer fails to withhold your Chapter 13 payment, you are ultimately responsible to make sure your payment is made timely.

As a Chapter 13 participant, your wages are under the jurisdiction of the U.S. Bankruptcy Court and cannot be attached for any debts other than your plan payment, child support, alimony, and repayment of a loan from your retirement account.

DIRECT PAYMENTS. If a wage deduction is not possible or has not begun yet, send your payments as specified in your plan directly to the Trustee. All payments must be in the form of a money order or cashier's check made payable to:

Chapter 13 Trustee

Send all payments to the following address:

**3600 Momentum Place
Chicago, IL 60689-5336**

**Payments must be
mailed by the 20th
of each month.**

Include your name and case number on all payments (in clear writing) to insure that the funds will be properly credited to your account. **DO NOT SEND CASH.**

MAKING PAYMENTS ON LINE. If you are making direct payments, you have the option of making those payments on line. On the Chapter 13 web page is a box titled, "Make your Chapter 13 Payment Online". The Chapter 13 web site is www.chapter13info.com. Your full monthly plan payment must be made by the 20th of each month until completion of your case.

PROBLEMS MAKING CHAPTER 13 PLAN PAYMENT. It is extremely important for you to let both your attorney and the Chapter 13 Trustee know if something interrupts your employment or otherwise makes it impossible for you to make your payments to the Trustee. On a limited basis, you may be able to suspend your plan payments. Suspended payments will be added to the end of your plan.

In some cases, depending on how long your plan has been going and the kind of creditors being paid under your plan, you may be able to modify or amend your plan. You should contact your attorney to discuss your options.

If you stop paying and do not contact your attorney or the Trustee, the U.S. Bankruptcy Court can dismiss your case. Should the Bankruptcy Court dismiss your case, all the creditors under your plan can seek full payment plus interest and penalties from you under applicable state law.

NEW DEBTS. Obtaining credit without permission from the Court is not only a violation of the Court's orders; it is subject to disapproval by the Court and may be grounds for dismissal of the plan. When you have major repairs that are needed to your home or car, large medical bills, or other costly unexpected items, you should always discuss this with your attorney. Your attorney can advise you on the necessary court pleadings which may allow you to take on new debt.

BEWARE OF PAY DAY LENDERS. Many people use the services of pay day lenders. These lenders often will advance funds and hold your personal check until pay day. It is not unusual for the fees charged in these pay day loans to average around 400 percent. These costs are often hidden and hard to calculate. While you are in a Chapter 13 plan, please be advised that you cannot take out pay day loans without Court permission. It is in your long term financial interest never to use the services of a pay day lender again.

DISPOSING OF PROPERTY. While under Chapter 13 bankruptcy protection you are not permitted to sell real estate, vehicles, or other personal property (valued at \$1,500 or more) without permission of the Bankruptcy Court. You should contact your attorney to seek Court permission before disposing of any property.

INCOME TAX RETURNS AND PAYMENT OF POST-PETITION TAXES. While under Chapter 13 bankruptcy protection, you are required to timely file all local, state, and federal income tax returns during the duration of your Chapter 13 plan. You are also responsible to see that all applicable post-petition taxes are paid and kept current while you are in a Chapter 13. This includes not only local, state, and federal income taxes, but also real property taxes. Should you fail to keep your tax payments current to the respective tax agency, said agency may ask the Court to dismiss your Chapter 13 plan. The Trustee reserves the right to review tax returns. **You must supply the Trustee a copy of your tax returns upon request.**

TAX REFUNDS. If you receive a tax refund in excess of \$1500.00, you must consult your attorney. In most cases, the Trustee requires refunds in excess of \$1500.00 to be paid into your Chapter 13 plan for the benefit of creditors. You are permitted to keep all earned income credits and child care credits.

TAX REFUND ANTICIPATION LOANS. Before using a tax refund anticipation loan and losing a large portion of your refunds, please ask yourself why you cannot wait thirty (30) days for the funds and keep the entire refund yourself!

OBTAINING INFORMATION FROM YOUR TRUSTEE. In addition to having 24/7 access to your case through the National Data Center (please see inside front cover for detailed information), once a year the Chapter 13 Trustee will send you a complete history of your account, all payments received and all creditors paid under your plan. The Trustee generally mails these ledgers to you in January. If you do not have access to a computer and need a ledger on your case, you may call the Chapter 13 office at 330-762-6335, and a ledger will be mailed to you.

It is imperative that you keep your address current with the Trustee and the Clerk of the Bankruptcy Court so that you receive not only these documents but also important Court documents throughout the duration of your Chapter 13 plan.

The ledger sent to you will allow you to calculate your approximate payoff balance on your plan and will include an explanation sheet on how to use the ledger. Please, be advised, that the Trustee's office is not permitted to give individual legal advice, but can provide information to you on the administration of your case. Your request for such information must be in writing and submitted to the Trustee. Please note that due to the volume of cases, it may take up to 30 days to get a response. If the information is of an urgent nature due to some type of court litigation, you should work through your attorney who will advise the Trustee accordingly on the urgency of such request. If you believe a creditor listed on the ledger is not your creditor or has claimed an amount greater than you owe them, contact your attorney immediately so that an objection to the claim can be filed. If you remain silent, you will pay all claims as filed. ***All information concerning your plan, including the payoff balance, is subject to review and audit by the Trustee.***

FILING OF CLAIMS. Creditors have 90 days from the first date set for the Section 341 meeting to file their claims. Any claim not filed within the time limit is a late claim and may be disallowed and therefore not paid. Tax claims and secured claims are usually the exception to this time limit.

If you have an objection to any claim, which has been filed in your case, or feel that a claim has been filed incorrectly, you should contact your attorney immediately so that he or she can advise you of your options. Please note that it is your responsibility to review the annual ledger that the Trustee sends you to see that all the creditors listed are accurate.

In addition to the annual ledger, you have 24/7 access to your case through the National Data Center. There is a pamphlet in this folder with details on accessing the National Data Center. You may also access the National Data Center through the Chapter 13 web page at www.chapter13info.com.

REFINANCING. Many debtors refinance their home during their Chapter 13 plan. Please be advised that Court approval is necessary for any type of refinancing and you must contact your attorney to seek such Court approval. The Trustee will not release any information to any title company or lender until such order to refinance has been approved by the Court.

MORTGAGE MODIFICATION. While in a Chapter 13 plan you are permitted to seek a modification of your mortgage. Many people who have been turned down for a modification prior to filing Chapter 13 are successful in obtaining a modification of their mortgage after filing Chapter 13. If you are successful during the trial period and are offered a permanent modification you will need a court order which your attorney can help you prepare. Please see the box titled, "Mortgage Modifications" on the Chapter 13 web page for information on Court orders necessary for a modification. The Chapter 13 web page is www.chapter13info.com.

SMALL BUSINESS CHAPTER 13. Debtors engaged in their own sole proprietorship business may, unless the Court orders otherwise, operate that business and incur trade credit in the production of income.

With regard to personal finances, debtors engaged in business are subject to the same requirements, restraints, and jurisdiction as individuals with only personal debts.

Small business debtors may be required to file semi-annually with the Trustee a statement of financial affairs which can include current profit and loss statements, bank account statements, a request for balance sheets and income statements, proof of insurance, and proof that quarterly payroll tax returns and sales tax returns are paid. The Trustee may also require annual tax returns from you concerning both your individual and business finances.

If you are a small business debtor, the Trustee will send a letter to you in January and July of each year requesting said information. Failure to supply the Trustee with this information in a timely manner can result in dismissal of your Chapter 13 plan.

TRUSTEE ADMINISTRATION FEE. Chapter 13 programs are not funded by tax dollars. The funding for Chapter 13 is from individuals who have filed Chapter 13 to earn a fresh financial start. The Trustee Administration Fee can be as high as 10 percent. The fee is charged on all payments made into a plan. For example, if your monthly payment is \$100 and the Trustee Administrative Fee is 10%, then \$90 will be posted to your case and \$10 will be used to pay overhead for the Chapter 13 Trusteeship. The administrative fee must be approved by the United States Department of Justice – United States Trustee Program. Although the fee can fluctuate throughout your plan it cannot go higher than 10% and in most cases it is significantly less than 10%.

You can help keep the administrative fee as low as practical by helping the Trustee keep overhead low. One way to do this is to sign the necessary forms allowing the Chapter 13 staff to communicate with you by e-mail which helps reduce postage cost.

PAYMENT OF UNSECURED CLAIMS. A Chapter 13 plan must provide for payment of all your creditors, including unsecured creditors. Unsecured creditors are creditors such as credit cards. Upon the filing of your Chapter 13 case, unsecured creditors must cease adding finance charges and other interest charges to your account. Said unsecured creditors must file a total account balance that you owe them upon the date of the filing of your Chapter 13 plan. Upon the successful completion of your plan, said unsecured creditors cannot seek payment from you for any additional finance charges and interest charges based on a claim which has been paid through your plan. However, please be advised that should you fail to complete your Chapter 13 plan, all the interest and other charges which would have accrued under your account except for the Chapter 13 plan can be charged against your account and said creditors can seek collection under applicable state law. It is to your benefit and very important that you make every effort to complete your Chapter 13 plan or you could find yourself in a worse financial situation than when you started your Chapter 13 plan.

QUITTING YOUR PLAN. If your financial situation is drastically altered and payment of the plan is no longer practical, contact your attorney as soon as possible. He or she may be able to find a solution in spite of the difficult circumstances, since there are a number of options to consider.

Be aware that a dismissal of your case would reactivate all disputed debts and all interest and charges not allowed by the Bankruptcy Code while your case is pending.

You will find yourself, again, dealing with the remaining creditors on their terms, not yours or those provided under the Bankruptcy Code.

SIGN UP FOR THE DO NOT CALL LIST. An important first step to avoid the use of costly credit advances in the future would be to sign up for the national do not call list at 1-888-382-1222 or www.donotcall.gov. You may also opt out of pre-approved credit offers by calling 1-888-567-8688 or www.optoutprescreen.com.

CAR TITLES. Please note that the Trustee does not take possession of your car title during the Chapter 13 plan. Should you pay off a car loan through the Chapter 13 plan, the creditor will send the title directly to you. Should you not receive this title in a timely fashion, you should contact your attorney for assistance.

INSURANCE. Under Ohio law you are required to have automobile insurance at all times. You must maintain homeowner's insurance on your property throughout the Chapter 13 plan. The Trustee may randomly audit your case and request proof of insurance. Failure to provide proof of insurance can result in dismissal of your Chapter 13 plan.

CHANGE IN INCOME DURING CHAPTER 13 PLAN. Chapter 13 requires that you devote best efforts in repayment to your creditors. This means if your income increases significantly you will need to amend your plan and increase the repayment to creditors. Changes in your income can include, but is not limited to: wage bonuses, inheritance, large lottery winnings, personal injury settlements, payment of accrued vacation and sick time, stock options, and significant increases in your wages subsequent to filing Chapter 13 (generally an increase of income of ten percent or greater than the amount on your bankruptcy schedules.).

Failure to report these changes in income can result in dismissal of your case. Generally the Trustee will work with to allow you to retain a portion of these funds if you are honest and reported the change in income.

Failure to report changes in income may result in your case being referred to the U.S. Department of Justice – United States Trustee Program.

ATTORNEY FEES. Attorney fees in Akron, Ohio are governed by Administrative Order No. 12-03. A copy of this order is available at the Chapter 13 website www.chapter13info.com (under attorney section) “*Court Order Regarding Attorney Fees in Akron, Ohio*”. If you do not have access to the internet, you may write the Trustee at:

**Office of Chapter 13 Trustee
One Cascade Plaza
Suite 2020
Akron, Ohio 44308**

and a copy will be sent to you without charge.

This order outlines your responsibility as a Chapter 13 participant and provides a guideline of attorney fees you may expect as issues arise in your case. The attorney fees listed are a guide and your actual attorney fees may be greater or less depending on the retainer letter you signed with your attorney.

Your attorney remains your attorney throughout the duration of your Chapter 13 plan (3 to 5 years). Your attorney is there to help you with the bankruptcy process. Please contact your attorney if you have legal questions about your Chapter 13 plan.

RECORD OF MORTGAGE PAYMENTS. The debtor usually pays current mortgage payments directly to the mortgage holder while in a Chapter 13 plan in this jurisdiction. All pre-petition mortgage arrearages will come inside and will be paid thru the debtor’s Chapter 13 plan. Attached to this booklet is an envelope. It is advisable that you keep all mortgage receipts which can include canceled checks, copies of money order receipts, or other types of remittance. On the following page is a form for you to list the dates, the amount, and the remittance number of your mortgage payment. The form also allows you to keep a record of where payments were sent and to whom your payment was made payable. Many times in a Chapter 13 plan, as in non-bankruptcy cases, mortgage companies sell loans and do not always advise people to whom they should direct their payments. To avoid this problem, you should keep a record of all notices that you receive from your mortgage companies that tell you where you should send your payment. These notices should also be kept in the envelope attached to this booklet.

Should you have any problem with your mortgage payment, or if questions about your mortgage payments arise during your chapter 13 plan, the information that you keep, such as a listing of the payments that you have made and the remittance copies, will greatly assist you and your attorney in resolving any problems that may arise.

CAR PAYMENTS. As with mortgage payments, it is advisable that you keep track of all your car payments and remittances while in a Chapter 13 plan. On the following page is a form for you to list the dates, the amount and the remittance number of your car payment.

REQUESTING YOUR CREDIT REPORT. On the inside pockets of this folder is a form which allows you to obtain a free credit report. You are entitled to a free report every 12 months. This does not mean every year, it means if you get a credit report today, the reporting agencies are not required to provide another one to you for 12 months from today.

FINALIZING AND CLOSING YOUR CASE. Six months is not an unusual amount of time to require the Trustee to prepare the final report and accounting of your case and file it with the Court. The exact closing date of your case is effected by the following: the Trustee writes checks to your creditors every 30 days. Closing of your case will depend on the date monies are received and disbursed, when creditors cash their checks, and whether there are additional problems.

Once your employer receives the stop payment order, the deductions will cease. If your employer has a computerized payroll system, an additional deduction or two may occur. This money will be refunded to you when your account is finalized.

Be sure to maintain all documents concerning the finalization and discharging of your case. The Trustee's office only keeps closed files for a short time and you may need your final report in the future when you try to obtain credit.

DISMISSAL VS. DISCHARGE. The terms dismissal and discharge in a bankruptcy case are two different terms which have two completely different meanings.

DISMISSAL. If the Chapter 13 plan is dismissed, creditors may immediately initiate or continue with state court litigation pursuant to applicable state law to foreclose on the petitioner's property or garnish their income. If a bankruptcy case is dismissed, the legal effect is that the bankruptcy is deemed void.

For example - If when filing a Chapter 13 petition, the petitioner owes the IRS \$10,000.00 and manages to pay the IRS \$9,000.00 before the case is dismissed, this does not necessarily mean that only \$1,000.00 is remaining to be paid to the IRS outside the plan. During a Chapter 13 plan, many creditors (including credit card companies) hold interest and penalty charges in abeyance. If a Chapter 13 plan is successfully completed, the interest and penalty charges are void and collection is not sought from the petitioner. However, if the case is dismissed, all money paid under a Chapter 13 bankruptcy may be applied toward interest and penalties; and therefore, petitioners may find themselves still owing a large balance to creditors. In the above example with the IRS, it cannot be assumed that there is only a \$1,000.00 balance owed, as the IRS would be allowed to collect interest and penalties which were held in abeyance during the Chapter 13 plan.

A dismissal of a Chapter 13 case in which a petitioner has made substantial compliance is a serious matter. The petitioner is urged at all times to keep in contact with their attorney to determine their best course of options should the petitioner discover that it is not possible to continue with the monthly Chapter 13 plan payments as proposed in the plan.

DISCHARGE. If a Chapter 13 plan is completed successfully, the petitioner will earn a discharge. Discharge means that all debt listed in the Chapter 13 plan is satisfied; and therefore, creditors may not pursue additional collection actions pursuant to applicable state law. If a debt has been discharged in a bankruptcy, and a creditor seeks further collection from the petitioner, the petitioner should immediately contact their attorney regarding the efforts to collect by a creditor who has had their claim discharged in bankruptcy.

For more information, go to www.chapter13info.com.

VISIT OUR WEB SITE. For more educational information on Chapter 13, please visit our web site at www.chapter13info.com.

The web site provides an overview of Chapter 13, definitions of bankruptcy terms, and a section on frequently asked questions.

Automobile Payment Information

Make of car _____

It is in your best interest to use the attached envelope to keep copies or carbons of your Money Orders and Checks when making automobile payments.

	Date Paid	Amount Paid	Check/Money Order Number		Date Paid	Amount Paid	Check/Money Order Number
1				31			
2				32			
3				33			
4				34			
5				35			
6				36			
7				37			
8				38			
9				39			
10				40			
11				41			
12				42			
13				43			
14				44			
15				45			
16				46			
17				47			
18				48			
19				49			
20				50			
21				51			
22				52			
23				53			
24				54			
25				55			
26				56			
27				57			
28				58			
29				59			
30				60			

Mortgage Payment Information

It is in your best interest to use the attached envelope to keep copies or carbons of your Money Orders and Checks when making mortgage payments. If there are any changes in who you make your payment to, be sure and note the new name and/or address of the lender. Lenders often sell mortgages which can result in some confusion when they record your payments. By following these instructions you will have an efficient way to track your payments. This information will assist you and your attorney in resolving problems which may arise with your mortgage lender.

	Date Paid	Amount Paid	Check/Money Order Number	Payment Address	Account Number
1					
2					
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Mortgage Payment Information

	Date Paid	Amount Paid	Check/Money Order Number	Payment Address	Account Number
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Mortgage Payment Information

	Date Paid	Amount Paid	Check/Money Order Number	Payment Address	Account Number
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Mortgage Payment Information

	Date Paid	Amount Paid	Check/Money Order Number	Payment Address	Account Number
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**Case Scenario:
Jerry and Lucinda Jones**

Best Practices
Individual/Consumer
Chapter 13 Scenario

Meet Jerry and Lucinda Jones:

Mrs. Jones is self-employed as a stay-at-home mom and farmer. Mr. Jones believes himself to be an accomplished real estate investor. Mr. Jones works for Cleveland Clinic in their IT department and he grosses \$6500.00 per month with payroll deductions of \$2750.00, all of which are mandatory. He is paid weekly. Mrs. Jones grosses about \$1000.00 selling produce and farm animals. She has expenses for the business of about \$500.00 per month for feed and other farming essentials.

The family owns three properties: 16351 Hart Rd., Montville, OH 44256 (their residence); 9841 Ledgesmont Ave., Windham, OH 44288; and 9941 Bomber Dr., Windham, OH 44288.

Their residence is encumbered by a first mortgage to JPMorgan Chase, which includes taxes and insurance, a judgment lien to Landmark National II, and a second mortgage to Countrywide. The Countrywide loan was used to invest in their farm. They are behind on the JP Morgan Chase mortgage about one month or \$1000.00.

They are currently renting 9841 Ledgesmont Ave., Windham, OH 44288 to a nice family for \$800.00 per month. They pay the mortgage, taxes and insurance for a total of \$600.00 per month. They are delinquent on the property taxes for tax arrearages totaling \$1000.00, but otherwise current on the mortgage.

They've had difficulty keeping a tenant at 9941 Bomber Dr., Windham, OH 44288, but they have finally located one, and they are currently renting the home for \$600.00. The mortgage payment includes the taxes and insurance and the total cost of the mortgage is \$650.00 per month. They are current on the property taxes, insurance, and the mortgage.

The husband has a 2012 Toyota Rav4 in his name and wife has a 2005 Ford S-10 pick-up truck in her name. The Rav4 was purchased in 2011 and has a lien with Cardinal Community Credit. The Ford S-10 has a lien with Ford Credit for \$2000.00, and they are slightly behind, about \$100.00 or 1 payment.

They owe the State of Ohio \$3000.00 for their income taxes from 2013 and owe about \$33,000.00 to unsecured creditors.

They have never filed a bankruptcy before. They have one daughter, age 8.

The Chapter 13
Meeting of Creditors



LERNER SAMPSON & ROTHFUSS

OHIO & KENTUCKY

The Chapter 13 Meeting of Creditors

**United States Bankruptcy Court
Northern District of Ohio
7th Biennial Bench-Bar Retreat**

**October 30, 2015
Holiday Inn, Independence**

**EDWARD J. BOLL III, ESQ.
ROMI T. FOX, ESQ.
LERNER, SAMPSON & ROTHFUSS
A Legal Professional Association
120 East Fourth Street
Cincinnati, OH 45202-4007**

- I. General Benefits of Attending the 341 Meeting**
- II. Aspire to file Proofs of Claims Prior to the 341 Meeting**
- III. National Association of Chapter Thirteen Trustee's Best Practices**
- IV. Legal Interests and Modification of Securitized Loans Mortgage**
- V. The National Mortgage Settlement**

I. General Benefits of Attending the 341 Meeting

Benefits gained from attendance at the initial meeting of creditors to be considered include:

- providing an opportunity to develop and finalize a foreclosure prevention alternative (such as a mortgage loan modification or repayment plan);
- having the ability to determine the debtor's intentions about a property and in Chapter 7 cases, the opportunity to have the debtor execute a reaffirmation agreement if he or she wants to retain the property;
- investigating whether there are grounds for objecting to the confirmation of a reorganization plan, questioning the feasibility of the plan, or investigating any potential fraud or "bad faith";
- presenting a Proof of Claim for consideration in the development of a reorganization plan and assessing the debtor's ability to reorganize;
- obtaining information about the receipt of rental income, if applicable; and
- being able to alert the trustee about deficiencies in a reorganization plan, prior filings involving the same collateral, or problems related to discharging the debt.

Whenever the debtor's answers to preliminary questions raised at the 341 Meeting of Creditors give rise to additional concern, the bankruptcy attorney should explore the possibility of obtaining an order from the bankruptcy court authorizing a broader examination of the debtor's financial affairs under Rule 2004 of the Federal Rules of Bankruptcy Procedure

II. Aspire to file Proofs of Claim prior to 341 Meeting

A. Statutory Requirements:

1. 11 U.S.C. §101(5). A claim is defined by the Code in Section 101(5) as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." 11 U.S.C. § 101(5)(A). Section 101 also defines a claim as a right to an equitable remedy for breach of performance if such breach gives rise to a right of payment. 11 U.S.C. Section 101(5)(B).
2. 11 U.S.C. § 501. A creditor or an indenture trustee may file a proof of claim. If a creditor does not timely file a proof of such creditor's claim, an entity that is liable to such creditor with the debtor, or that has secured such creditor, may file a proof of such claim. If a creditor does not timely file a proof of such creditor's claim, the debtor or the trustee may file a proof of such claim.
3. 11 U.S.C. § 502(a). Provides that "a claim or interest, proof of which is filed under section 501 . . . is deemed allowed, unless a party in interest . . . objects."

4. 11 U.S.C. §502. If an objection to a claim is made, the court, after notice and a hearing, shall determine the amount of the claim. The grounds for disallowance of claims are listed in section 502(b), including the ground that a claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured. **Procedural defects are not listed as a ground for disallowing a claim.**

B. Amendments to the Federal Rules of Bankruptcy Procedure.

1. On April 26, 2011, the United States Supreme Court adopted amendments to Federal Rule of Bankruptcy Procedure Rule 3001(c), and approved new rule 3002.1. The rule amendments and new rule were transmitted to Congress in accordance with the Rules Enabling Act and took effect on December 1, 2011.

2. Summary of the 2011 Changes:

Amended Rule 3001(c) and new Rule 3002.1 impose upon creditors significantly increased burdens and requirements, particularly for those creditors with claims secured by a lien on an individual debtor's principal residence. The revisions to Rule 3001(c) set forth in greater detail the supporting information that now must be filed with a proof of claim. Rule 3002.1 deals with a Chapter 13 debtor's ability, under §1322(b)(5) of the Bankruptcy Code, to cure a default on a home mortgage loan and maintain payments.

3. Rule 3001. Proof of Claim (Effective December 1, 2011)

* * * * *

(c) SUPPORTING INFORMATION.

(1) *Claim Based on a Writing.* When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

(2) *Additional Requirements in an Individual Debtor Case; Sanctions for Failure to Comply.* In a case in which the debtor is an individual:

(A) If, in addition to its principal amount, a claim includes interest, fees, expenses, or other charges incurred before the petition was filed, an itemized statement of the interest, fees, expenses, or charges shall be filed with the proof of claim.

(B) If a security interest is claimed in the debtor's property, a statement of the

amount necessary to cure any default as of the date of the petition shall be filed with the proof of claim.

(C) If a security interest is claimed in property that is the debtor's principal residence, the attachment prescribed by the appropriate Official Form shall be filed with the proof of claim. If an escrow account has been established in connection with the claim, an escrow account statement prepared as of the date the petition was filed and in a form consistent with applicable nonbankruptcy law shall be filed with the attachment to the proof of claim.

(D) If the holder of a claim fails to provide any information required by this subdivision (c), the court may, after notice and hearing, take either or both of the following actions:

(i) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or

(ii) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

* * * * *

C. Top 10 Best Practices in filing proofs of claim

1. Think before you act. Use Good judgment – No form over substance.
2. Identify the proper Name of the Creditor aka the entity to whom the debtor owed money.
3. When filing initial proofs of claim, state the mortgage arrearage up to the date of the filing date of the bankruptcy petition, unless the plan or trustee indicates otherwise.
4. File Entry of Appearance and Request for Notice.
5. Comply with Local Rules. Attach the Court mandated worksheet.
6. No Non-public personal information included on filings
 - No social security numbers on Notes or Mortgages
 - Loan numbers redacted
7. Read and verify information before signing.
8. Itemize, Itemize, Itemize with the Goal of Transparency in mind.
9. Use Trustee Initiative Worksheet to review POCS and make sure in compliance with April 2009 Guidelines to Chapter 13 Trustees.
10. Have client perform escrow analysis.

D. U.S. TRUSTEE INITIATIVE MORTGAGE CLAIM REVIEW CHECKLIST

- NAME(S) ON MORTGAGE DIFFER(S) FROM DEBTOR(S)' NAME(S)

- ACCOUNT NUMBER NOT STATED ON CLAIM
- COLLATERAL NOT IDENTIFIED
- NO MORTGAGE INCLUDED WITH CLAIM
- NO NOTE INCLUDED WITH CLAIM
- MORTGAGE AND/OR NOTE DOES NOT CONTAIN INFORMATION REFLECTING A PERFECTED SECURITY INTEREST OR DEED BOOK/PAGE REFERENCE

- NAME OF ACTUAL CREDITOR HOLDING THE MORTGAGE DOES NOT APPEAR ON THE CLAIM FACE
- NAME OF CREDITOR ON CLAIM FACE IS NOT SUPPORTED BY THE DOCUMENTS ATTACHED TO THE CLAIM (NOTE, MORTGAGE, ASSIGNMENT OF CLAIM)

ARREARAGE

- ARREARAGE NOT ITEMIZED
- ARREARAGE FIGURE CONTAINS MATHEMATICAL ERROR(S)
- PREPETITION ARREARAGE IS NOT AS OF FILING DATE OF BANKRUPTCY PETITION
- POSTPETITION ARREARAGES ARE INCLUDED IN THE PREPETITION ARREARAGE CLAIM

COSTS/FEES

- APPEARS TO HAVE EXCESSIVE FEES
- FEES NOT ITEMIZED
- FEES/COSTS APPEAR TO BE THROUGH A DATE OTHER THAN THE PETITION FILING

PAYMENT ISSUES

- CURRENT MONTHLY PAYMENT NOT PROVIDED OR NOT ITEMIZED
- PRINCIPAL BALANCE IS NOT STATED
- INTEREST RATE NOT STATED

ESCROW ISSUES

- CLAIM INCLUDES ESCROW ADVANCE(S) WHILE STATED MORTGAGE PAYMENT DOES NOT APPEAR TO INCLUDE ESCROW COMPONENT

III. National Association of Chapter Thirteen Trustee's Best Practices

- A. The NACTT Mortgage Committee is comprised of Chapter 13 trustees, mortgage servicers, mortgagees and creditors' counsel. The committee's mission is to foster communication between the parties, resolve differences and to recommend best practices of conduct for all stakeholders with the goal to improve the bankruptcy system.**

B. Best Practices for Trustees and Mortgage Servicers in Chapter 13

1. If servicers/mortgagees include a flat fee cost in the proof of claim for review of the Chapter 13 plan prior to confirmation and for the preparation of the proof of claim, it should be reasonable and fairly reflect the attorney's fee incurred.
2. If servicers/mortgagees include attorney fees for pursuing relief from stay, such fees should be clearly identified as well as how such fees are to be paid in any agreed order resolving a Motion for Relief from Stay or any other matter before the court.
3. Servicers/mortgagees should analyze the loan for escrow changes upon the filing of a bankruptcy case and each year thereafter. A copy of the escrow analysis should be provided to the debtor and filed with the Bankruptcy Court by the servicers/mortgagee or their representative each year.
4. Servicers/mortgagees should not include any pre petition cost or fees or pre petition negative escrow in any post petition escrow analysis. These amounts should be included in the pre-petition claim amount unless the payment of such fee or cost was actually made by the servicer.
5. Servicers/mortgagees should attach a statement to a formal notice of payment change outlining all post petition contractual costs and fees not previously approved by the court and due and owing since the prior escrow analysis or date of filing whichever is later. This statement need not contain fees, costs, charges and expenses that are awarded or approved by the Bankruptcy Court order. In absence of any objection or challenge to such fees, the trustee should take appropriate steps to cause such fees to be paid as part of Debtor's Chapter 13 plan.
6. Servicers/mortgagees should supply and maintain a contact for debtor's counsel and trustee's for the purpose of restructuring, modifying a mortgage, or other loss mitigation assistance including a short sale or deed in lieu of foreclosure. The contact should be an individual or group with the ability to implement or assess with objective criteria a loss mitigation modification after filing of a chapter 13 petition with the goal of keeping the Debtor in the house and the success of the bankruptcy.
7. Servicers/mortgagees should provide a dedicated phone line and contact for Chapter 13 Trustee inquiry use only.
8. Servicers/mortgagees should monitor post petition payments. If the mortgage is paid post petition current then the servicers/mortgagees should not seek to recover late fees. No late fees should be recovered or demanded for systemic delay but should be limited to actual debtor default.
9. Pre petition payments should be tracked as applied to pre petition arrears, post petition payments should be tracked as applied to post petition ongoing mortgage payments.
10. Servicers/mortgagees should file a notice and reason of any payment change with the court and provide same to the Debtor

11. Servicers/mortgagees are required to file with court a notice of any protective advances made in reference to a mortgage claim, such as non escrow insurance premiums or taxes. Such notice should be provided to the debtors and filed with the court.
12. Servicers/mortgagees should review the Trustee web site or NDC for payment discrepancies with their system prior to the filing of a Motion for Relief from Stay in Trustee pay jurisdictions.
13. Servicers/mortgagees should review the Trustee web site or NDC at the close or discharge of the bankruptcy for payment discrepancies with their system in Trustee pay jurisdictions.
14. Servicers/mortgagees should clearly identify if the loan is an escrowed or escrowed loan and break out the monthly payment consisting of Principal, Interest, Escrow and PMI components.
15. Servicers/mortgagees should identify nontraditional mortgage loans in their proof of claims. Loans with options should identify on the proof of claim the type of loan as well as the various contractual payment options available during the bankruptcy to the borrower/Debtor.
16. Trustees should initiate a communication with mortgage servicers when questions arise in a review of a post petition escrow analysis.
17. United States Trustees and Trustee Education Network should modify the requirements of the financial management class regarding adjustable rate mortgages, the calculation of mortgage escrows and, in particular, the potential of increased mortgage payments resulting from increased taxes, interest rate hikes and/or mortgage premiums.
18. Trustee voucher checks, check stubs or vouchers provided with any other form of payment contain the following information, except to the extent prevented from doing so by local rule:
 - a. The Name of the debtor and case number.
 - b. The trustee's claim number.
 - c. The mortgagee's account number (to the extent provided on the proof of claim).
 - d. If the mortgagee account number is not available, e.g. not contained on the proof of claim, at least one other piece of identifying information e.g., property address.
 - e. The amount of the payment.
 - f. Whether the payment is for the ongoing mortgage payment or the mortgage arrearage.

- g. If for the mortgage arrears, the balance owing on the arrears claim after application of the payment.
 - h. If the trustee has set up a separate claim for post-petition charges of the mortgagee, that the voucher clearly identify that fact.
 - i. If any portion of the payment on arrears is intended to pay interest on the mortgage arrears, the amount of that interest portion of the payment.
 - j. If the mortgage is to be paid off during the bankruptcy under the confirmed plan through payments by the trustee, e.g., a total debt claim, the portions of each payment which represent principal and interest, and the balance owing on the claim after application of the payment.
19. There is a movement among servicers to redact all but the last four numbers of the mortgagors' loan numbers on proofs of claim, because those claims are public records. While mortgage servicers in general want as much information as possible on the vouchers, the mortgage servicers on the Working Group felt that if the voucher had the bankruptcy case number, the name of the debtor and the redacted loan number from their filed claim, they would be able to post the payment. Using the account number to the extent provided in a filed proof of claim also insures that trustees are not disclosing information on their website that is not already disclosed in the public record.
20. **Voucher Narrative re Payments:** The Working Group places particular emphasis on f. above. The voucher should identify if a payment is for the regular mortgage payment or for the mortgage arrearage in consistent language. While Chapter 13 trustee disbursement applications focus on the claims to be paid, mortgage servicer computer systems focus on their mortgagor account number. Posting of receipts, whether or not the account is in bankruptcy, is typically handled by a Cash Processing group or department of the mortgage servicer. Those departments focus on the account number on the voucher and the narrative on the voucher for that account number to determine if the payment is for the regular mortgage payment or the mortgage arrearage.
21. **Mortgage Arrearage Claims:** When filing their initial proofs of claim, mortgage servicers should state their mortgage arrearage up to the date of the filing date of the bankruptcy petition, unless the plan or trustee indicates otherwise, or local rule provides otherwise. The Chapter 13 Trustee will use the mortgage arrearage claim to set up the arrearage balance on the claim, which in turn will show up as the "balance" on the voucher check, absent objection to the claim.

IV. LEGAL INTERESTS AND MODIFICATION OF SECURITIZED LOANS

A. Note and Mortgage Basics

A promissory note is usually a negotiable instrument, which provides the person entitled to enforce the note the right to payment of the obligation it represents. OHIO REV.CODE §§ 1303.03, 1303.31; see also U.C.C. §§ 3-104, 3-301 (2002). Article 3 governs negotiable instruments – it defines what a negotiable instrument is and defines how ownership of those pieces of paper is transferred. See § 3-104(a) (“an unconditional promise or order to pay a fixed amount of money, with or without interest . . .”).

A person is entitled to enforce a note when that person falls into one of the following categories (note: a “person” under OHIO REV.CODE § 1301.01 “includes an individual or an organization.” See also U.C.C. § 1-201 (2002)):

1. “The holder of the instrument.” ORC §1303.31(A)(1) [UCC 3-301].
 - a. In order to demonstrate that it is a “holder” of a note payable to a third party, a party must show that the note was “negotiated.” §1303.21(A); See also UCC 3-201. Negotiation of a note may be effectuated by: (1) either a blank indorsement or a special indorsement, and (2) transfer of possession. See, ORC §§1303.21(B), 1303.24 (UCC § 3-204), and 1303.25 (UCC § 3-205).

Once a note is endorsed, its negotiation is complete upon transfer of possession. OHIO REV.CODE §§ 1303.24(A)(1)(a), 1303.21(A); see also U.C.C. §§ 3-204, 3-201 (2002). The transfer of possession requires physical delivery of the note “for the purpose of giving the person receiving delivery the right to enforce the instrument.” OHIO REV.CODE §§ 1303.22(A) and cmt. 1, 1301.01(N); see also U.C.C. §§ 3-203 cmt. 1, 1-201 (2002). However, “... possession alone does not establish that the party [in possession of a note] is entitled to receive payments under it.” *Citizens Fed. Sav.*, 78 Ohio App.3d at 287.

A note may be endorsed by an allonge, which is a paper “affixed to the instrument,” which then becomes part of the instrument. OHIO REV.CODE § 1303.24(A)(2); see also U.C.C. § 3-204 (2002); *Adams v. Madison Realty Dev., Inc.*, 853 F .2d 163, 167 (3d Cir.1988) (discussing why an endorsement written on a separate piece of paper must be affixed to the note). An allonge may be subject to challenge if it is not “so firmly affixed to the instrument as to become an extension or part of it.” See, ORC §1303.22, official comment (UCC 3-203).

2. A non-holder in possession of the instrument who has the rights of a holder.”

ORC §1303.31(A)(2); See also UCC § 3-301. A person may be entitled to enforce a negotiable instrument if it has possession of the note without proper endorsement(s); however, proof that the person has rightful possession is required. OHIO REV.CODE § 1303.22, cmt. 1; see also U.C.C. § 3-203, cmt. 1.

- a. This includes a person that acquired the rights of a holder by transfer of the note without any indorsement; thus, a person may acquire the status of a holder (including the holder's right to enforce) by acquiring the instrument from a holder. §1303.22; See also UCC § 3-203 and 22 Richard A. Lord, *Williston on Contracts* §60:36 (4th ed. 2008).
 - b. Certain other persons not in possession of the note, *e.g.*, situations where the note has been lost, stolen, or destroyed. ORC §§1303.31(A)(3) (UCC 3-301) and 1303.38 (UCC 3-309).
3. The corresponding right to foreclose the mortgage lien – Once a party establishes that it is entitled to enforce the note, that party is automatically entitled to enforce (often times foreclosure) the corresponding mortgage, because “a transfer of the note by the owner, as to vest legal title in the indorsee, will carry with it equitable ownership of the mortgage.” *Kernohan v. Manss* (1895), 53 Ohio St. 118, 133, 41 N.E. 258; see, also, *U.S. Bank Nat'l Ass'n v. Marcino*, 7th Dist. No. 08 JE 2, 2009-Ohio-1178, ¶53 (“[v]arious sections of the Uniform Commercial Code, as adopted in Ohio, support the conclusion that the owner of a promissory note should be recognized as the owner of the related mortgage.”).

B. Securitization

1. Securitized transactions date back to the early 1970s and were the sales of pooled mortgage loans by the Government National Mortgage Association (Ginnie Mae). These transactions were followed by the Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae) in the early 1980s. In connection with securitization, the word "security" does not mean what it traditionally might have meant under corporate laws or commerce: a secured instrument. The word "security" here means a financial claim which is generally manifested in form of a document, its essential feature being marketability. To ensure marketability, the instrument must have general acceptability as a store of value. Hence, it is generally either rated by credit rating agencies, or it is secured by charge over substantial assets. Further, to ensure liquidity, the instrument is generally made in homogenous lots.
2. The entity that securitizes its assets is called the **originator**: the name signifies the fact that the entity was responsible for originating the claims that

are to be ultimately securitized. There is no distinctive name for the investors who invest their money in the instrument and they are simply called **investors**.

3. **Ownership of Securitized Loans.** In any mortgage securitization, ownership of the loans or receivables (or in securitization terminology, the “collateral”) is separated from the lender that accumulated the collateral pool (often called the “sponsor” of the securitization) in order to protect investors in the event of a bankruptcy of the sponsor. In order to reach this result, the sponsor typically sells the collateral (e.g., the mortgage loans) to a special-purpose subsidiary (often called the “depositor”), which in turn conveys ownership to a trustee of a trust. The trust is established to issue fixed-income securities, to cause the loans to be serviced, and to make payments to the security holders funded solely from collections on the loans. The security holders have no interest in the underlying loans. They are secured creditors of the trust; the loans are the collateral for the trusts obligations; and the trustee owns the collateral.
4. **Mortgage-Backed Securities (“MBS”).** Each mortgage securitization trust generally issues several classes of MBS which are designed to represent different degrees of risk, and as a result, pay different rates of interest. The ratings agencies assign credit ratings to the different MBS classes, which may range, say, from AAA (or equivalent) down through several lower-rated classes, to an unrated, not publicly-issued lowest class (call it “C”). The ratings are based largely on two general areas of risk considerations. The first consists of the characteristics of the underlying loans and the projections of likelihood of default and prepayment in the loan pool. The second area consists of the respective rights of the different classes of MBS, as established in the trust documents, in terms of priority of (a) distribution of cash and (b) allocation of the losses (typically incurred whenever a loan is liquidated in foreclosure).
 - a. **Cash Distribution Priorities.** Mortgage securitization trust documents usually provide an order of priority for the distribution of the cash collected by the servicer each month. Basically that order is:
 1. To reimburse the servicer’s out-of-pocket advances, and to the servicer’s fee, which is a percentage of the interest portion of the payments actually collected by the servicer in that month;
 2. To pay in full the payments due to holders of the Class AAA bonds;
 3. To pay the next-lower class of MBS-holders their monthly distributions in full; and so on down each MBS class (e.g., AA, A, BBB, BB, C) in order.

- b. **Loss Allocation Priorities.** Securitization documents typically allocate loan losses in reverse order of priority from the bottom up. Thus, losses are applied 100% to Class C until all of the C-class securities have been reduced to zero, then to Class B, and so on. If all losses were allocated pro-rata across all of the securities issued by the trust, then all of the MBS would carry the same degree of risk, and hence the same interest rate and credit rating.

C. **Loan Modification**

1. From the perspective of MBS holders, a modification that reduces the interest rate has the effect of reducing the trust's cash receipts, compared to what would have been received had the mortgage note been collected according to its original terms. That lowest-class security would receive monthly distributions reduced, for the remainder of the life of the modified mortgage, by an amount equal to the amount of reduction in that particular borrower's monthly payment.
2. **Contractual Terms- Pooling and Servicing Agreement.** The contract governing the servicer's obligations to the securitization trustee, are governed by the "pooling and servicing agreement." The pooling and servicing agreement contains express provisions addressing the servicer's ability to grant loan modifications. While some variations exist, the pooling and servicing agreement are standardized for the most part. Most securitizations are structured to be what the Internal Revenue Code defines as a "Real Estate Mortgage Investment Conduit" ("REMIC") and must adhere to the requirements of REMIC statutes in order to avoid risking tax consequences. While the REMIC regulations generally restrict substitution and significant modification of loans, a safe harbor in the regulations permits modifications that are "occasioned by default or a reasonably foreseeable default". More restrictive variations occasionally occur: some agreements may raise the threshold to a requirement that default be at least "imminent," and occasionally a provision placing an overall cap—such as 5% of the securitized pool—on the number of loans that the servicer may modify under any circumstance.

D. **Loss mitigation and Bankruptcy**

1. Borrowers in bankruptcy are increasingly requesting loan modifications. A servicer-offered modification can reduce a fixed rate, fix an adjustable interest rate, extend the term of the note, and capitalize outstanding delinquencies and fees. Further, the US Treasury Department, as it continues to revamp the Home Affordable Modification Program (HAMP), now encourages "principal write-downs" on loans.
2. **Welcome to Bankruptcy Letter** - One of the best methods to initiate action to process modifications on active Bankruptcy loans is to prepare a loss mitigation

letter/package to send to Debtor's counsel at the outset of the Bankruptcy Case. Such a letter or package will detail the various workout options that may be available to the Debtor, should he or she qualify. The loss mitigation letter may be sent concurrently with, or after sending, a Proof of Claim, Motion for Relief from Stay or other Bankruptcy filing. Sending such a letter is much more successful in the Bankruptcy context as often times the borrower is represented by legal counsel for the first time.

3. Chapter 7 Cases

In a chapter 7 proceeding, the debtor's property becomes property of the bankruptcy estate; and the chapter 7 trustee has control of the property to sell, dispose, or abandon as she deems in the best interest of creditors. A loan modification may be done in a chapter 7 case. An abandonment of the property from the trustee and relief from the automatic stay is desirable before the finalization of a loan modification. After all, modifying a loan secured by a piece of real property that the Trustee intends to administer is futile. The loan modification can also be incorporated into a reaffirmation agreement where the changed or modified terms would be set forth. Official Bankruptcy Forms B240A/B ALT (Form 240A/B ALT) (Reaffirmation Agreement) (04/10) provide opportunities for modified loan terms.

In most jurisdictions, a loan modification may also be done after a discharge of the debts. The key to remember in this instance is that the loan modification **cannot** reimpose personal liability upon the borrower. The loan modification needs to specifically recognize the discharge and indicate that the modification is not obligating the borrower personally on the debt. With respect to HAMP modifications, if the Debtor has received a chapter 7 bankruptcy discharge and did not reaffirm the mortgage debt, the following language must be inserted in the Home Affordable Modification Agreement:

“I was discharged in a chapter 7 bankruptcy proceeding subsequent to the execution of the Loan Documents. Based on this representation, Lender agrees that I will not have personal liability on the debt pursuant to this Agreement.”

4. Chapter 13 Cases

In Ohio's bankruptcy courts, loss mitigation can take place at any time during the bankruptcy case. If borrowers are in the HAMP trial payment period when the bankruptcy is filed, it might not be finalized prior to plan confirmation, so some courts have been continuing the confirmation hearing to allow for completion of the HAMP process. Plan confirmation most often occurs within 60 to 75 days of the petition filing. Under this approach, the plan that is ultimately confirmed and the budget that is filed are accurate, and represent the current financial snapshot of the debtor. Where the court will not continue confirmation, the plan must comply with the Bankruptcy code (e.g. provide for cure of the arrearage and maintenance of post-

petition payments).

5. Many of the Courts in Ohio and across the country are still working through the logistics of the best way to effectuate loss mitigation in a Bankruptcy. Arguably, Court approval is needed in all Bankruptcy cases. An example of what some Courts want to take place in a Chapter 13 case can be found in the requirements instituted by the Chapter 13 Trustee in Cincinnati where the Trustee wants the Debtors to prepare/file:

- “proposed” motion to modify plan;
- amended schedules I & J (evidencing the proposed budget);
- the above documents along with Application to Incur Debt, so that the Trustee can make an informed decision regarding the loan modification; and
- a proposed Loan Modification Agreement and/or documentation evidencing the proposed Loan Modification must be submitted with the Application to Incur debt, otherwise the Application to Incur Debt may be denied by the Trustee.

Further, in many instances, a Motion to Approve Loan Modification is advisable before finalizing loan-modifications as often times, the entry of an order granting such a Motion, coupled with an Amended Proof of Claim, allows a Chapter 13 Trustee to discontinue payments on a creditor’s pre-petition arrearage claim and in certain jurisdictions, discontinue post-petition conduit payments.

V. The National Mortgage Settlement

A. Overview and Highlights of the National Mortgage Settlement

1. On February 9, 2012, the Attorney General announced that the federal government and 49 states (Borrowers from Oklahoma will not be eligible for any of the relief directly to homeowners because Oklahoma elected not to join the settlement) had reached a settlement agreement with the nation’s five largest mortgage servicers to address mortgage servicing, foreclosure, and bankruptcy abuses (the “National Mortgage Settlement”):

- Ally/GMAC
- Bank of America
- Citi
- JP Morgan Chase
- Wells Fargo

- On March 5, 2014, the CFPB announced a Consent Judgment with the largest nonbank mortgage loan servicer in the country, Ocwen Financial Corporation, and

its subsidiary, Ocwen Loan Servicing. It also covers two companies previously purchased by Ocwen, Litton Loan Servicing LP and Homeward Residential Holdings LLC (previously known as American Home Mortgage Servicing, Inc. or AHMSI). The consent order required that Ocwen follow the servicing standards set up by the 2012 National Mortgage Settlement with the five largest banks.

- On December 8, 2014, the CFPB announced a Consent Judgment with SunTrust Mortgage, Inc., which also requires that SunTrust follow the servicing standards set up by the 2012 National Mortgage Settlement.

Loans owned by Fannie Mae or Freddie Mac are not impacted by this settlement.

The settlement provides benefits to borrowers whose loans are owned by the settling banks as well as to many of the borrowers whose loans they service.

On April 4, 2012, the United States District Court for the District of Columbia entered orders approving the settlement. The National Mortgage Settlement settles certain state and federal investigations relating to mortgage servicing abuses including abuses in the bankruptcy process.

The settlement provides as much as \$25 billion in relief to distressed borrowers and direct payments to states and the federal government. It is the largest multistate settlement since the Tobacco Settlement in 1998.

General information concerning the National Mortgage Settlement including settlement documents, general FAQs, and other important documents can be found at:

www.nationalmortgagesettlement.com

2. The settlement makes important progress in the following areas, according to the National Consumer Law Center:

- Establishing strong standards for how mortgage servicers handle loan modifications, including requiring a review of a loan modification application prior to initiation of any foreclosure. Setting limitations on abusive fees and charges, including late fees, title and appraisal fees, and forceplaced insurance;
- Providing some principal reductions to struggling homeowners, including those in lower-income areas and communities of color;
- Preserving a homeowner's right to defend a foreclosure against mortgage company and servicer abuses.
- Forbidding waiver of claims in the loan modification context; and
- Allowing homeowners to pursue independent litigation against mortgage servicers for abusive acts.

The settlement **does not**:

- Release any criminal liability or grant any criminal immunity.
- Release any private claims by individuals or any class action claims.
- Release claims related to the securitization of mortgage backed securities that were at the heart of the financial crisis.
- Release claims against Mortgage Electronic Registration Systems or MERS CORP.
- Release any claims by a state that chooses not to sign the settlement.
- End state attorneys general investigations of Wall Street related to financial fraud or the financial crisis.

3. **Timing of Settlement Relief**

- March 1, 2012: Loan modifications can receive credit
- October 3, 2012: All servicing standards implemented

4. **Servicing Standards**

The Banks must implement extensive new mortgage servicing standards, **including provisions specific to borrowers in bankruptcy.**

Joseph A. Smith, Jr., Monitor of the National Mortgage Settlement, announced on October 2, 2012 that the five banks participating in the Settlement are now required to be in full compliance with the agreement's 304 servicing standards, or rules that guide their interaction with consumers. In response to this deadline, he released the following statement:

“Today is the 180th day since the entry of the consent judgments comprising the National Mortgage Servicing Settlement. As of today, the five banks subject to the Settlement are required to operate in full compliance with its servicing standards. I will conduct careful and thorough reviews of the banks’ processes to assure and verify that they are compliant with the Settlement’s rules.”

The servicing standards require, among other things:

- A single point of contact at each Bank for borrowers in bankruptcy, who want information or assistance when they fall behind on their mortgage payments;
- New processes to ensure that the Banks provide accurate information about the amount those borrowers in bankruptcy owe on their mortgages;
- Better dispute resolution processes;
- Clear itemization of the principal, interest, fees, expenses and other charges incurred prior to bankruptcy that the Banks claim in bankruptcy cases;
- Prompt posting of payments and proper designation of pre-and post- petition payments and charges;
- Timely disclosure of fees, expenses, and charges incurred after a ` borrower files for

chapter 13 bankruptcy.

a. Accuracy of Filed Documents

- All pleadings, proofs of claim, affidavits, sworn statements, and declarations filed in judicial foreclosure or bankruptcy cases, and in notices of default or sale in non-judicial foreclosures, must be:
 - “accurate and complete and are supported by competent and reliable evidence”
- If proof of claim or stay relief motion in case pending before Settlement contains materially inaccurate information, servicer must:
 - file an amended claim or motion, at servicer’s expense, within 30 days of acquiring knowledge of the inaccuracy
 - not collect any attorney fees or other charges for preparation or submission of proof of claim or motion for relief that is later withdrawn or denied as a result of a “substantial misstatement” as to the amount due

b. Affidavits, Sworn Statements, and Declarations Must:

- Be based on personal knowledge or reliance on business records as allowed under the Federal Rules of Evidence
- Not contain false or unsubstantiated information, but statements based on information and belief are allowed if so stated
- Accurately identify affiant/declarant by name, employer, and title
- Be signed BY HAND and dated (signature stamps and other mechanical signatures prohibited except for electronic filing)

c. Proofs of Claim

- Servicers required to attach to proof of claim the “Loan Documents,” which include:
 - original or duplicate of note, including all indorsements;
 - a copy of any mortgage or deed of trust (including, if applicable, evidence of recordation in applicable land records); and
 - copies of any assignments of mortgage or deed of trust required to demonstrate the right to enforce the borrower’s note under applicable state law
- **Servicers must also attach to proof of claim:**
 - affidavit if note has been lost or destroyed
 - **statement setting forth basis for asserting that applicable party has right to foreclose**
 - must have procedures to ensure servicer or foreclosing entity has “documented enforceable interest” in note and mortgage under state law, or is otherwise a proper party to the foreclosure action
 - Official Form 10 (Attachment A) as required by Bankruptcy Rule 3001(c)(2)(C)

- must comply with all other requirements in Rule 3001

d. Motions for Relief from Stay

Motion must:

- Include “Loan Documents” or state that they are attached to a filed proof of claim
- State the basis for the moving party’s right to foreclose
- Disclose whether debtor is being evaluated for a loss mitigation option
- Disclose terms of any trial period or permanent loan modification plan pending at time of motion
- Motion shall have attached an affidavit, sworn statement or declaration setting forth:
 - whether there are any prepetition or post-petition defaults
 - if default, a description of any default, and a detailed itemization of all amounts owed, the prepetition and post-petition arrearages, and each fee or charge applied to such pre-petition amount or post-petition amount; and
 - an up-to-date statement of all amounts claimed and the amount necessary to cure any default

e. Federal Rules of Bankruptcy Procedure

- Settlement imposes sanction separate from that available under Bankruptcy Rule 3002.1(i):
 - if servicer fails to provide payment change notice as required by Rule 3002.1(b), servicer shall waive and not collect any late charge or other fees imposed solely as a result of the borrower’s failure to timely make the changed payment
 - If servicer fails to timely provide notice of fees, as required by 3002.1(c) and Rule 3002.1(g), the fees are deemed waived and may not be collected from the borrower
 - exception for “independent charges” - fees paid by servicer that are authorized by borrower or advanced by servicer for taxes, HOA fees, liens or insurance

f. Payment Application in Ch. 13 Cases.

- Servicers must ensure prompt and proper application of payments made on prepetition arrearage and post-petition payment amounts
- Debtor is to be treated as being current so long as making payments in accordance with confirmed plan and any later effective payment change notices
- Throughout the case, servicer is required to update its records to reflect payments made during case and waiver of any fee as required under Settlement

5. Loss Mitigation During Bankruptcy.

- a.** Servicer may not deny any loss mitigation option to eligible borrowers on the basis that the borrower is a debtor in bankruptcy so long as borrower and any trustee cooperates in obtaining any appropriate approvals or consents.
- b.** Servicer shall, to the extent reasonable, extend trial period loan modification plans as necessary to accommodate delays in obtaining bankruptcy court approvals or receiving full remittance of debtor's trial period payments that have been made to a chapter 13 trustee. In the event of a trial period extension, the debtor must make a trial period payment for each month of the trial period, including any extension month.
- c.** When the debtor is in compliance with a trial period or permanent loan modification plan, Servicer will not object to confirmation of the debtor's chapter 13 plan, move to dismiss the pending bankruptcy case, or file a MRS solely on the basis that the debtor paid only the amounts due under the trial period or permanent loan modification plan, as opposed to the non-modified mortgage payments.
- d.** Transfer of Servicing of Loans Pending for Permanent Loan Modification.
 - Ordinary Transfer of Servicing from Servicer to Successor Servicer or Subservicer.
 - At time of transfer or sale, Servicer shall inform successor servicer (including subservicer) whether a loan modification is pending.
 - Any contract for the transfer or sale of servicing rights shall obligate the successor servicer to accept and continue processing pending loan modification requests.
 - Any contract for the transfer or sale of servicing rights shall obligate the successor servicer to honor trial and permanent loan modification agreements entered into by prior servicer.
 - Transfer of Servicing to Servicer.
 - When Servicer acquires servicing rights from another servicer, Servicer shall ensure that it will accept and continue to process pending loan modification requests from the prior servicer, and that it will honor trial and permanent loan modification agreements entered into by the prior servicer.

6. Compensation to Borrowers

Approximately \$1.5 billion of the settlement funds will be allocated to compensation to borrowers who were foreclosed on after January 1, 2008 and before Dec. 31, 2011. The National Mortgage Settlement Administrator will mail Notice Letters and Claim Forms in late September through early October 2012 to those borrowers who lost their home due to foreclosure between January 1, 2008 and December 31 2011 and whose loans were serviced by one of the five mortgage servicers that are parties to the settlement. Debtor may be eligible to receive a payment of at least \$840.00 as part of the National Mortgage Settlement. This estimated payment amount is based on 100% of all eligible borrowers

submitting claim forms, and therefore the payment you receive will very likely be higher.

- a. **Are these cash payments under the settlement property of the bankruptcy estate?**

General Rule: Cash payments for acts occurring both pre- and post-petition become property of the Chapter 13 Bankruptcy Estate.

B. Frequently Asked Questions

1. ***Can borrowers in bankruptcy participate in the Settlement and receive financial assistance from other sources?***

Yes. Borrowers, **including borrowers in bankruptcy**, may participate in the programs offered under the Settlement and other programs. For example, borrowers may be eligible for a separate restitution process administered by the federal banking regulators, including the Office of the Comptroller of the Currency (the "OCC"). For more information about the federal banking regulator claims process, please visit www.independentforeclosurereview.com or call 1-888-952-9105.

2. ***How does the Settlement address the Banks' filings in bankruptcy courts going forward?***

The Settlement imposes new standards on the Banks to ensure the accuracy of information they provide to bankruptcy courts. These standards are designed to ensure that the Banks provide accurate information about the amount that borrowers in bankruptcy owe on their mortgages.

Moreover, under the new servicing standards, the Banks must implement better dispute resolution processes. If a Bank files inaccurate or misleading documents in a bankruptcy case, a borrower can use these new procedures and make a complaint with the Bank.

In addition, with respect to proofs of claim and certain affidavits attached to documents filed in bankruptcy courts, the Banks must correct any significant inaccuracies promptly and also provide notice of the correction to the affected borrower or counsel to the borrower.

3. ***What kind of information must the Banks provide concerning a mortgage when a borrower files for bankruptcy?***

For a borrower in a chapter 13 (repayment) case, if a Bank files a proof of claim, the Bank must include an accurate and clear statement of exactly what the Bank claims the borrower owes. That statement must itemize the principal, interest, fees, expenses, and other charges that the Bank claims is owed as of the filing of the bankruptcy case.

4. ***How does the Settlement affect how the Banks apply mortgage payments made by borrowers in bankruptcy or a trustee?***

The Banks must promptly post payments received from a borrower or trustee while a borrower is in bankruptcy and accurately designate payments between any arrearage owed before the bankruptcy filing and what is owed for regular mortgage payments after the filing. The Banks must also reconcile accounts, including funds held in suspense accounts, at the end of each bankruptcy case and update their records so they are consistent with the account reconciliation.

5. ***How does the Settlement affect what the Banks charge after a borrower files for bankruptcy?***

The Banks must timely disclose fees, expenses, and charges incurred after a borrower files a chapter 13 bankruptcy case. A Bank waives fees, expenses, and charges of which the Bank has not given timely notice to the Borrower. The Banks must also timely give notice to a borrower of any changes in payments the borrower will have to make due to, for example, interest rate adjustments or changes in the escrow amount.

6. ***Should a trustee administering the case of a borrower in bankruptcy seek to recover funds received by the borrower under the Settlement?***

The United States Trustee Program will not seek to compel a trustee to recover payments that the trustee, in the exercise of discretion, decides not to recover. Eligible borrowers in bankruptcy may receive payments from the Banks as a part of the Settlement. A trustee should consider all relevant circumstances when deciding whether to seek turnover of the payments in a particular case. Factors to consider include:

- The payment amount and any interest of a non-debtor spouse or other person in the payment;
- The cost of recovering and administering the payment, including litigation with a borrower in bankruptcy who may seek a judicial determination regarding whether the funds are subject to administration;
- The extent to which recovering the payment will enable creditors to receive a meaningful distribution; and
- The applicability of state and federal exemptions.

7. ***How does the Settlement affect the trustees' review of the Banks' proofs of claim?***

Generally, the Settlement will not alter a trustee's review of claims filed by the Banks. Importantly, however, the United States Trustees Program insisted that each Bank create a toll-free hotline, staffed by employees with special training in bankruptcy, that chapter 13 trustees can use to resolve issues related to the Banks' claims. More information on these hotlines will be provided as the Banks establish them.

If a trustee concludes, based on a review of a Bank's bankruptcy filings, that a Bank violated the Settlement, the trustee should contact the United States Trustee's office in the jurisdiction in which the case was filed.

C. General Loss Mitigation provisions under the Servicing Standards

These requirements are intended to apply to both government-sponsored and proprietary loss mitigation programs and shall apply to subservicers performing loss mitigation services on servicer's behalf.

1. Servicer shall be required to notify potentially eligible borrowers of currently available loss mitigation options prior to foreclosure referral. Upon the timely receipt of a complete loan modification application, Servicer shall evaluate borrowers for all available loan modification options for which they are eligible prior to referring a borrower to foreclosure and shall facilitate the submission and review of loss mitigation applications. **The foregoing notwithstanding, Servicer shall have no obligation to solicit borrowers who are in bankruptcy.**
2. Servicer shall, offer and facilitate loan modifications for borrower rather than initiate foreclosure when such loan modifications for which they are eligible are net present value (NPV) positive and meet other investor, guarantor, insurer and program requirements.
3. Servicer shall allow borrowers enrolled in a trial period plan under prior HAMP guidelines (where borrowers were not pre-qualified) and who made all required trial period payments, but were later denied a permanent modification, the opportunity to reapply for a HAMP or proprietary loan modification using current financial information.
4. Servicer shall promptly send a final modification agreement to borrowers who have enrolled in a trial period plan under current HAMP guidelines (or fully underwritten proprietary modification programs with a trial payment period) and who have made the required number of timely trial period payments, where the modification is underwritten prior to the trial period and has received any necessary investor, guarantor or insurer approvals. The borrower shall then be converted by Servicer to a permanent modification upon execution of the final modification documents consistent with applicable program guidelines, absent evidence of fraud.
5. Dual Track Restricted-if a borrower has not already been referred to foreclosure, Servicer shall not refer an eligible borrower's account to foreclosure while the borrower's complete application for any loan modification program is pending if Servicer received (a) a complete loan modification application no later than day 120 of delinquency, or (b) a substantially complete loan modification application (missing only any required documentation of hardship) no later than day 120 of delinquency and Servicer receives any required hardship documentation no later than

day 130 of delinquency.

6. Servicer shall not make a referral to foreclosure of an eligible borrower who so provided an application until:
 - a. Servicer determines (after the automatic review) that the borrower is not eligible for a loan modification, or
 - b. If borrower does not accept an offered foreclosure prevention alternative within 14 days of the evaluation notice, the earlier of (i) such 14 days, and (ii) borrower's decline of the foreclosure prevention offer.
 - c. If borrower accepts the loan modification resulting from Servicer's evaluation of the complete loan modification application referred to in paragraph IV.B. 1 (verbally, in writing (including e-mail responses) or by submitting the first trial modification payment) within 14 days of Servicer's offer of a loan modification, then the Servicer shall delay referral to foreclosure until (a) if the Servicer fails timely to receive the first trial period payment, the last day of timely receiving the first trial period payment, and (b) if the Servicer timely receives the first trial period payment, after the borrower breaches the trial plan.
 - d. If the loan modification requested by a borrower is denied, except when otherwise required by federal or state law or investor directives, if borrower is entitled to an appeal, Servicer will not proceed to a foreclosure sale until the later of (if applicable):
 - expiration of the 30-day appeal period; and
 - if the borrower appeals the denial, until the later of (if applicable) (i) if Servicer denies borrower's appeal, 15 days after the letter denying the appeal, (ii) if the Servicer sends borrower a letter granting his or her appeal and offering a loan modification, 14 days after the date of such offer (iii) if the borrower timely accepts the loan modification offer (verbally, in writing (including e-mail responses), or by making the first trial period payment), after the Servicer fails timely to receive the first trial period payment, and (iv) if the Servicer timely receives the first trial period payment, after the borrower breaches the trial plan.
7. Servicer shall ensure timely and accurate communication of or access to relevant loss mitigation status and changes in status to its foreclosure attorneys, bankruptcy attorneys and foreclosure trustees and, where applicable, to court-mandated mediators.

8. Single Point of Contact.

Servicer shall establish an easily accessible and reliable single point of contact ("SPOC")

for each potentially-eligible first lien mortgage borrower so that the borrower has access to an employee of Servicer to obtain information throughout the loss mitigation, loan modification and foreclosure processes.

Chapter 13 Plan:
Jerry and Lucinda Jones

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re:) **Chapter 13 Case No.:**
)
 Jerry Jones) **Judge Alan M. Koschik**
 Lucinda Jones)
 Debtor(s).) **Original Chapter 13 Plan**
) **(number) Amended Chapter 13 Plan****
) **See Paragraph Twelve for Special Provisions**

ATTENTION CREDITORS - YOUR RIGHTS MAY BE AFFECTED.

The purpose of this plan is to organize how claims are proposed to be paid and allow users of the plan to easily review the plan for specific items and treatment under the plan. Creditors must exercise their own judgment in deciding whether to accept or oppose the plan. Creditors should read this plan carefully and discuss it with their attorney. Anyone who wishes to oppose any provision of this plan must file with the Court a timely written objection. This plan may be confirmed and become binding without further notice or hearing unless a timely written objection is filed. **Creditors must file a proof of claim with the Court in order to receive distributions under this plan. Absent an objection by the Debtor(s) or other party in interest, the Trustee shall pay claims as filed. Secured claims must have proof of security attached. Creditors claiming a right to interest should state the interest rate on the front page of the proof of claim.**

** Reason Plan is Being Amended

1. PLAN PAYMENTS

Within 30 days of the filing of this bankruptcy case, the Debtor or Debtors (hereinafter "Debtor") shall commence making monthly plan payments (the "Monthly Plan Payment") pursuant to 11 U.S.C. §1326(a)(1), as follows:

- A. To the Chapter 13 Trustee (hereinafter "Trustee"): \$ 816.00 per month, payable in
 monthly semi-monthly bi-weekly weekly installments of \$ 189.00 each,
 X The Debtor is employed by Cleveland Clinic, 9500 Euclid, Ave., Cleveland, OH and shall make payment by payroll ded.
 The Debtor is self-employed and shall make payments to the Trustee by cashier check or money order.
 The Debtor is retired and/or has (source of income) and shall make payments to the Trustee by check or money order.

The Debtor further proposes to devote all annual income tax refunds greater than \$1,500 (Fifteen Hundred Dollars), excluding child care, educational, and earned income credits to the repayment of creditors under this plan. Upon application by the Debtor(s), and for good cause shown, the Court may consider and may grant a temporary suspension of plan payments without hearing or notice. A suspension of plan payments, if approved by the Court, will not reduce the total amount of repayment creditors are to receive under the plan.

2. ADEQUATE PROTECTION PAYMENTS PRIOR TO CONFIRMATION

Concurrent with the filing of this plan, the Debtor has filed an agreed entry with the Trustee authorizing the Trustee to make adequate protection payments to the following creditors. Pursuant to 11 USC Section 102, creditors shall have 20 days to review the agreed entry for adequate protection payments and file an objection if the creditor opposes the adequate protection payment.

Creditor and Collateral	Account #	Address	Amount
Cardinal Community 2012 Toyota RAV4	8850	8850 Westport Dr. Mentor, OH 44060	\$222.37
Ford Motor Credit 2005 Kia Soul	Jones	P.O. Box 54399 Omaha, NE 58154	\$34.33

3. ORDER OF DISTRIBUTION

After confirmation of this plan, funds available for distribution will be paid monthly by the Trustee in the following order: (i) Trustee’s authorized percentage fee and/or administrative expenses; (ii) attorney fees as allowed under applicable rules and guidelines; (iii) monthly payments as provided for in Paragraphs 4, 5 and 6; (iv) priority domestic support obligation claims pursuant to 11 U.S.C. §507(a)(1); (v) other priority unsecured claims pursuant to 11 U.S.C. §507(a); and (vi) general unsecured claims. If the Trustee has received insufficient funds from the Debtor to make the monthly payment to secured creditors, the Trustee may use best efforts to pay secured creditors from the funds on deposit with the Trustee on the date of distribution. Should the Debtor’s plan payments result in the completion of payments to unsecured and priority creditors while leaving a balance owing to secured creditors, the Trustee is authorized to remove the fixed monthly payment amounts to finish payment to secured creditors on a pro rata basis in order to expedite payment to the secured creditors.

4. CLAIMS SECURED BY REAL PROPERTY

A. Mortgage Arrearages and Real Estate Tax Arrearages

Trustee shall pay the monthly payment amount to allowed claims for mortgage arrearages and real estate tax arrearages in equal monthly payments. Trustee will pay interest on the mortgage arrearage if the proof of claim provides for interest, unless an objection to the claim is filed and an order is entered disallowing the requested interest. Note: The interest rate requested by the creditor should be stated on the front of the proof of claim. Debtor shall pay all post-petition mortgage payments and real estate taxes as those payments ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Address</u>	<u>Estimated Arrearage Claim</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
JP Morgan Chase	16351 Hart Road Medina, OH 44256	\$1000.00	0%	\$100.00
CitiBank/Citi	9481 Ledgesmont Ave Windham, OH 44288	\$0.00	0%	\$0.00
Portage Co. Treas.	9481 Ledgesmont Ave. Windham, OH 44288	\$1000.00	0%	\$0.00
Geauga Savings	9481 Ledgesmont Ave. Windham, OH 44288	\$0.00	0%	\$0.00

B. Liens and Other Claims secured by Real Estate

<u>Creditor</u>	<u>Property Address</u>	<u>Amount to be Paid Through the Plan</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
Landmark National II	16351 Hart Rd. Medina, OH 44256	\$0.00	0%	\$0.00
Countrywide	16351 Hart Rd. Medina, OH 44256	\$0.00	0%	\$0.00

5. CLAIMS SECURED BY PERSONAL PROPERTY

A. Secured Claims to be Paid Through the Plan:

Trustee shall pay the following claims in equal monthly payments.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
Cardinal	2012 Toyota RAV4	\$12,707.00	5%	\$222.37
Ford Motor Credit	2005 Kia Soul	\$2,000.00	3%	\$34.33

6. FEDERAL TAX LIENS SECURED BY REAL AND PERSONAL PROPERTY

<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
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7. DOMESTIC SUPPORT OBLIGATIONS

Debtor does does not have domestic support obligations pursuant to 11 U.S.C. §101(14A).

If the Debtor does have domestic support obligations:

The holder(s) of any claims for domestic support obligations pursuant to 11 U.S.C. §1302(d) are as specified below. If the holder of a claim is a minor, the name and address of the minor holder shall be disclosed to the Trustee contemporaneously with the filing of this plan in compliance with 11 U.S.C. §112.

<u>Holder Name</u>	<u>Address of Holder (if known)</u>	<u>Address of Child Enforcement Support Agency (mandatory)</u>
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Trustee shall pay pursuant to 11 U.S.C. §507(a)(1) on a pro-rata basis the allowed arrearage claims for domestic support obligations. Debtor shall pay all post-petition domestic support obligations as those payments ordinarily come due.

<u>Creditor Name</u>	<u>Creditor Address</u>	<u>Estimated Arrearage Claim</u>
----------------------	-------------------------	----------------------------------

8. OTHER PRIORITY CLAIMS

Trustee shall pay pursuant to 11 U.S.C. §507(a) on a pro-rata basis other allowed unsecured priority claims.

<u>Creditor</u>	<u>Claim Amount</u>
Ohio Dept. of Taxation	\$3000.00

9. GENERAL UNSECURED CLAIMS

Unsecured Creditors shall be paid 54% of timely filed and non disputed general non-priority unsecured claims.

10. PROPERTY TO BE SURRENDERED

Debtor will surrender the following property no later than 30 days from the filing of the case unless specified otherwise in the plan. The creditor may file a claim for the deficiency and will be treated as a non-priority unsecured creditor. Any unsecured deficiency claim must be filed within 180 days from the date that the petition is filed. A deficiency claim filed beyond the 180 days must be allowed by separate order of the Court.

<u>Creditor</u>	<u>Property Description</u>
-----------------	---------------------------------

11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

All executory contracts and unexpired leases are rejected except the following, which are assumed and shall be paid directly by the Debtor to the creditor:

<u>Creditor</u>	<u>Property Description</u>
-----------------	---------------------------------

12. SPECIAL PROVISIONS

Debtor's Signature – Name typed below

Debtor's Signature – Name typed below

Attorney Signature _____

Name _____

Ohio Registration No. _____

Address _____

Phone _____

Fax _____

**Letter from Chapter 13 Trustee
to
Jerry and Lucinda Jones**

Phone: (330) 762-6335
Fax: (330) 762-7072
Web: www.chapter13info.com

Office Of
The Chapter 13 Trustee
Keith L. Rucinski, Trustee

One Cascade Plaza
Suite 2020
Akron, Ohio 44308

June 29, 2015

JERRY JONES and LUCINDA JONES
16351 HART ROAD
MEDINA, OH 44256

CASE NO. 15-51234

HEARING: 07/30/2015 8:30 AM

LOCATION: PNC Bank Building
One Cascade Plaza (Corner of Main & Bowery Streets)
Suite 2020 (20th Floor)
Akron, Ohio 44308
(For driving directions please visit www.chapter13info.com)

Dear JERRY and LUCINDA JONES

The following information is required in order for your 341 meeting of creditors to go forward.

1. Photo identification (one of the below forms of identification)
 - Valid driver's license
 - Federal or state issued identification
2. Proof of social security number
 - Social Security Card

You are required to provide the following documents to your attorney at least ten (10) days prior to your 341 First Meeting of Creditors. Your attorney is responsible for delivering these documents to the Chapter 13 Office ten (10) days prior to your meeting. Failing to supply these documents can result in dismissal of your case and the reinstatement of state court garnishments and foreclosures.

1. The last two years' federal tax returns that you have filed. Please submit all pages of individual, corporate and business returns and W-2's.
2. Your most current pay stub that has year-to-date information.

3. Last two months' bank statements.
 - If you do your banking through the internet, a printed copy of the online bank statement is acceptable. You must provide copies of all bank accounts that you have (savings, checking and certificates of deposit).
4. If you have rental properties, you must provide copies of your lease agreements with your tenants or a written statement that states the amount of rent that you receive and the name and address of your tenants.
5. Complete copies of homeowner's insurance or renter's insurance.
6. Complete copies of active automobile insurance that contains a listing of all vehicles that are insured.
7. Copy of your most recent mortgage statement that shows the balance due on on your mortgage.
 - When claiming interest on your federal tax return, the bank will issue a federal form 1098 that contains the mortgage balance information. Please bring this form or other documentation which shows the balance due on your mortgage.
8. If you are self-employed, you must provide the following information:
 - A balance sheet that shows the assets and liabilities of your business.
 - A profit and loss projection statement (income statement) that supports the income that you have listed on your bankruptcy petition.

****Even though you have given these items to your attorney, you are still required to bring copies of the above items with you to your 341 Meeting of Creditors for the Trustee to keep.**

Prior to your 341 meeting, you should review your bankruptcy plan and schedules so that you are familiar with them. You should also visit our website at www.chapter13info.com to learn more about the Chapter 13 program.

You need to arrive at the Chapter 13 Office (One Cascade Plaza, Suite 2020, Akron, Ohio 44308) 30 minutes prior to your hearing. You must come to Suite 2020 (on the 20th floor) to check in and verify that all of your documents have been received. Afterwards, you will be directed to a waiting room where you will watch an educational video and complete a questionnaire so that the Trustee will be better able to understand your plan.

Thank you for your attention to this matter.

Chapter 13 Office

cc: JOHN DOE
123 MAIN STREET
AKRON, OH 44308

**1040 Income Tax Form
for
Jerry and Lucinda Jones**

For the year Jan. 1–Dec. 31, 2014, or other tax year beginning , 2014, ending , 20 See separate instructions.

Your first name and initial Last name Your social security number
JERRY JONES X X X | X X | 6 7 8 9

If a joint return, spouse's first name and initial Last name Spouse's social security number
LUCINDA JONES X X X | X X | 8 9 1 0

Home address (number and street). If you have a P.O. box, see instructions. Apt. no.
16351 HART ROAD Make sure the SSN(s) above and on line 6c are correct.

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).
MEDINA, OH 44256 Presidential Election Campaign

Foreign country name Foreign province/state/county Foreign postal code
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. [] You [] Spouse

Filing Status 1 [] Single 4 [] Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here.
2 [x] Married filing jointly (even if only one had income)
3 [] Married filing separately. Enter spouse's SSN above and full name here.
5 [] Qualifying widow(er) with dependent child

Exemptions 6a [x] Yourself. If someone can claim you as a dependent, do not check box 6a.
b [x] Spouse
Boxes checked on 6a and 6b 2
No. of children on 6c who:
• lived with you 1
• did not live with you due to divorce or separation (see instructions)
Dependents on 6c not entered above
Add numbers on lines above 3

Table with 4 columns: (1) First name Last name, (2) Dependent's social security number, (3) Dependent's relationship to you, (4) If child under age 17 qualifying for child tax credit (see instructions). Row 1: JOHN JONES, X X X | X X | 9 1 0 1, SON, [x]

Income 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 73800 00
8a Taxable interest. Attach Schedule B if required 8a
b Tax-exempt interest. Do not include on line 8a 8b
9a Ordinary dividends. Attach Schedule B if required 9a
b Qualified dividends 9b
10 Taxable refunds, credits, or offsets of state and local income taxes 10
11 Alimony received 11
12 Business income or (loss). Attach Schedule C or C-EZ 12
13 Capital gain or (loss). Attach Schedule D if required. If not required, check here [] 13
14 Other gains or (losses). Attach Form 4797 14
15a IRA distributions 15a b Taxable amount 15b
16a Pensions and annuities 16a b Taxable amount 16b
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17 735 00
18 Farm income or (loss). Attach Schedule F 18 6000 00
19 Unemployment compensation 19
20a Social security benefits 20a b Taxable amount 20b
21 Other income. List type and amount 21
22 Combine the amounts in the far right column for lines 7 through 21. This is your total income 22 80535 00

Adjusted Gross Income 23 Educator expenses 23
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 24
25 Health savings account deduction. Attach Form 8889 25
26 Moving expenses. Attach Form 3903 26
27 Deductible part of self-employment tax. Attach Schedule SE 27 424 00
28 Self-employed SEP, SIMPLE, and qualified plans 28
29 Self-employed health insurance deduction 29
30 Penalty on early withdrawal of savings 30
31a Alimony paid b Recipient's SSN 31a
32 IRA deduction 32
33 Student loan interest deduction 33
34 Tuition and fees. Attach Form 8917 34
35 Domestic production activities deduction. Attach Form 8903 35
36 Add lines 23 through 35 36 424 00
37 Subtract line 36 from line 22. This is your adjusted gross income 37 80111 00

Tax and Credits

38 Amount from line 37 (adjusted gross income) 38 80111 00

39a Check You were born before January 2, 1950, Blind. Spouse was born before January 2, 1950, Blind. Total boxes checked ▶ 39a

b If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b

40 **Itemized deductions** (from Schedule A) or your **standard deduction** (see left margin) 40 12400 00

41 Subtract line 40 from line 38 41 67711 00

42 **Exemptions.** If line 38 is \$152,525 or less, multiply \$3,950 by the number on line 6d. Otherwise, see instructions 42 11850 00

43 **Taxable income.** Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- 43 55861 00

44 **Tax** (see instructions). Check if any from: a Form(s) 8814 b Form 4972 c 44 7474 00

45 **Alternative minimum tax** (see instructions). Attach Form 6251 45

46 Excess advance premium tax credit repayment. Attach Form 8962 46

47 Add lines 44, 45, and 46 ▶ 47 7474 00

48 Foreign tax credit. Attach Form 1116 if required 48

49 Credit for child and dependent care expenses. Attach Form 2441 49

50 Education credits from Form 8863, line 19 50

51 Retirement savings contributions credit. Attach Form 8880 51

52 Child tax credit. Attach Schedule 8812, if required. 52 1000 00

53 Residential energy credits. Attach Form 5695 53

54 Other credits from Form: a 3800 b 8801 c 54

55 Add lines 48 through 54. These are your **total credits** 55 1000 00

56 Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- ▶ 56 6474 00

Other Taxes

57 Self-employment tax. Attach Schedule SE 57 848 00

58 Unreported social security and Medicare tax from Form: a 4137 b 8919 58

59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required 59

60a Household employment taxes from Schedule H 60a

b First-time homebuyer credit repayment. Attach Form 5405 if required 60b

61 Health care: individual responsibility (see instructions) Full-year coverage 61

62 Taxes from: a Form 8959 b Form 8960 c Instructions; enter code(s) 62

63 Add lines 56 through 62. This is your **total tax** ▶ 63 7322 00

Payments

64 Federal income tax withheld from Forms W-2 and 1099 64 12636 00

65 2014 estimated tax payments and amount applied from 2013 return 65

66a **Earned income credit (EIC)** 66a

b Nontaxable combat pay election 66b

67 Additional child tax credit. Attach Schedule 8812 67

68 American opportunity credit from Form 8863, line 8 68

69 Net premium tax credit. Attach Form 8962 69

70 Amount paid with request for extension to file 70

71 Excess social security and tier 1 RRTA tax withheld 71

72 Credit for federal tax on fuels. Attach Form 4136 72

73 Credits from Form: a 2439 b Reserved c Reserved d 73

74 Add lines 64, 65, 66a, and 67 through 73. These are your **total payments** ▶ 74 12636 00

Refund

75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you **overpaid** 75 5314 00

76a Amount of line 75 you want **refunded to you**. If Form 8888 is attached, check here ▶ 76a

Direct deposit? See instructions. ▶ b Routing number ▶ c Type: Checking Savings

d Account number

77 Amount of line 75 you want **applied to your 2015 estimated tax** ▶ 77

Amount You Owe

78 **Amount you owe.** Subtract line 74 from line 63. For details on how to pay, see instructions ▶ 78

79 Estimated tax penalty (see instructions) 79

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? Yes. Complete below. No

Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joint return? See instructions. Keep a copy for your records. ▶

Your signature Date Your occupation Daytime phone number

Spouse's signature. If a joint return, both must sign. Date Spouse's occupation

IT COORDINATOR FARMER

If the IRS sent you an Identity Protection PIN, enter it here (see inst.) PTIN

Paid Preparer Use Only

Print/Type preparer's name Preparer's signature Date

SELF Check if self-employed

Firm's name ▶ Firm's EIN ▶

Firm's address ▶ Phone no. ▶

**SCHEDULE E
(Form 1040)**

Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

OMB No. 1545-0074

2014

Attachment
Sequence No. **13**

Department of the Treasury
Internal Revenue Service (99)

▶ Attach to Form 1040, 1040NR, or Form 1041.

▶ Information about Schedule E and its separate instructions is at www.irs.gov/schedulee.

Name(s) shown on return

Your social security number

JERRY JONES

XXXXX6789

Part I Income or Loss From Rental Real Estate and Royalties Note. If you are in the business of renting personal property, use Schedule C or C-EZ (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

- A** Did you make any payments in 2014 that would require you to file Form(s) 1099? (see instructions) Yes No
B If "Yes," did you or will you file required Forms 1099? Yes No

1a	Physical address of each property (street, city, state, ZIP code)				
A	9841 LEDGEMONT AVE, WINDHAM, OH				
B	9941 BOMBER DR, WINDHAM, OH				
C					
1b	Type of Property (from list below)	2 For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	1		365	0	<input type="checkbox"/>
B	1		167	0	<input type="checkbox"/>
C					<input type="checkbox"/>

Type of Property:

- 1 Single Family Residence 3 Vacation/Short-Term Rental 5 Land 7 Self-Rental
 2 Multi-Family Residence 4 Commercial 6 Royalties 8 Other (describe)

Income:	Properties:	A	B	C
3 Rents received	3	9600 00	3500 00	
4 Royalties received	4			
Expenses:				
5 Advertising	5		100 00	
6 Auto and travel (see instructions)	6			
7 Cleaning and maintenance	7			
8 Commissions	8			
9 Insurance	9	685 00	750 00	
10 Legal and other professional fees	10			
11 Management fees	11			
12 Mortgage interest paid to banks, etc. (see instructions)	12	3013 00	4115 00	
13 Other interest	13			
14 Repairs	14	687 00	485 00	
15 Supplies	15			
16 Taxes	16	950 00	955 00	
17 Utilities	17		625 00	
18 Depreciation expense or depletion	18			
19 Other (list) ▶	19			
20 Total expenses. Add lines 5 through 19	20	5335 00	7030 00	
21 Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198	21	4265 00	-3530 00	
22 Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	22	() () () ()		
23a Total of all amounts reported on line 3 for all rental properties	23a			
b Total of all amounts reported on line 4 for all royalty properties	23b			
c Total of all amounts reported on line 12 for all properties	23c			
d Total of all amounts reported on line 18 for all properties	23d			
e Total of all amounts reported on line 20 for all properties	23e			
24 Income. Add positive amounts shown on line 21. Do not include any losses	24		4265 00	
25 Losses. Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25		(3530 00)	
26 Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26		735 00	

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.

▶ Information about Schedule F and its separate instructions is at www.irs.gov/schedulef.

OMB No. 1545-0074

2014

Attachment
Sequence No. **14**

Name of proprietor LUCINDA JONES		Social security number (SSN) XXXXX8910	
A Principal crop or activity PRODUCE	B Enter code from Part IV ▶	C Accounting method: <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Accrual	D Employer ID number (EIN), (see instr)
E Did you "materially participate" in the operation of this business during 2014? If "No," see instructions for limit on passive losses		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
F Did you make any payments in 2014 that would require you to file Form(s) 1099 (see instructions)?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
G If "Yes," did you or will you file required Forms 1099?		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Part I Farm Income—Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 9.)

1a Sales of livestock and other resale items (see instructions)	1a	14400	00		
b Cost or other basis of livestock or other items reported on line 1a	1b	2400	00		
c Subtract line 1b from line 1a	1c	12000	00		
2 Sales of livestock, produce, grains, and other products you raised	2				
3a Cooperative distributions (Form(s) 1099-PATR)	3a			3b Taxable amount	3b
4a Agricultural program payments (see instructions)	4a			4b Taxable amount	4b
5a Commodity Credit Corporation (CCC) loans reported under election	5a			5c Taxable amount	5c
b CCC loans forfeited	5b			6b Taxable amount	6b
6 Crop insurance proceeds and federal crop disaster payments (see instructions)	6a			6d Amount deferred from 2013	6d
a Amount received in 2014	6a				
c If election to defer to 2015 is attached, check here <input type="checkbox"/>	6c				
7 Custom hire (machine work) income	7				
8 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	8				
9 Gross income. Add amounts in the right column (lines 1c, 2, 3b, 4b, 5a, 5c, 6b, 6d, 7, and 8). If you use the accrual method, enter the amount from Part III, line 50 (see instructions)	9	12000	00		

Part II Farm Expenses—Cash and Accrual Method. Do not include personal or living expenses (see instructions).

10 Car and truck expenses (see instructions). Also attach Form 4562	10			23 Pension and profit-sharing plans	23
11 Chemicals	11			24 Rent or lease (see instructions):	24
12 Conservation expenses (see instructions)	12			a Vehicles, machinery, equipment	24a
13 Custom hire (machine work)	13			b Other (land, animals, etc.)	24b
14 Depreciation and section 179 expense (see instructions)	14	1200	00	25 Repairs and maintenance	25
15 Employee benefit programs other than on line 23	15			26 Seeds and plants	26
16 Feed	16	1200	00	27 Storage and warehousing	27
17 Fertilizers and lime	17	780	00	28 Supplies	28
18 Freight and trucking	18			29 Taxes	29
19 Gasoline, fuel, and oil	19	1020	00	30 Utilities	30
20 Insurance (other than health)	20			31 Veterinary, breeding, and medicine	31
21 Interest:	21			32 Other expenses (specify):	32
a Mortgage (paid to banks, etc.)	21a			a -----	32a
b Other	21b			b -----	32b
22 Labor hired (less employment credits)	22			c -----	32c
				d -----	32d
				e -----	32e
				f -----	32f
33 Total expenses. Add lines 10 through 32f. If line 32f is negative, see instructions	33	6000	00		
34 Net farm profit or (loss). Subtract line 33 from line 9	34	6000	00		

If a profit, stop here and see instructions for where to report. If a loss, complete lines 35 and 36.

35 Did you receive an applicable subsidy in 2014? (see instructions) Yes No

36 Check the box that describes your investment in this activity and see instructions for where to report your loss.

a All investment is at risk. b Some investment is not at risk.

Affidavit of Self-Employed Debtors

**THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

IN RE:)	CHAPTER 13
)	CASE NO.
)	
)	ALAN M. KOSCHIK
)	BANKRUPTCY JUDGE
DEBTOR(S))	

AFFIDAVIT OF SELF-EMPLOYED DEBTOR(S)

I (we) are self employed because I (we) are a sole proprietor, partner, shareholder, member, or own rental properties or participate in other business operations, from which I (we) earn income.

I (we) have been advised by the Chapter 13 Trustee and/or his staff regarding my (our) responsibility to make timely estimated income tax payments and, if applicable, sales and employer (payroll) tax payments in accordance with the statutory provisions set forth by the Internal Revenue Service and the State taxing authorities.

I (we) understand that incurring any tax liabilities after the filing of my (our) chapter 13 Plan will subject my (our) plan to immediate dismissal. Further, I (we) understand that the Trustee will consider a tax liability as any tax owed any taxing authority not paid in full by the statutory due date.

Due to my (our) self-employment, I (we) understand that I (we) must submit annual business and personal tax returns to the Trustee for review. Pursuant to 11 USC Section 1302 (c), the Trustee may review my (our) business operations and request additional financial information, including: bank statements, insurance documents, balance sheet, income statement, and other financial documents, I (we) understand that I (we) have a continuing obligation to assist the Trustee in reviewing our business operations during the Chapter 13 plan.

DATE

DEBTOR

DATE

DEBTOR

DATE

Attorney for the Debtor(s)

**KEITH L. RUCINSKI
CHAPTER 13 TRUSTEE**

**CHAPTER 13
TRUSTEE
KEITH L. RUCINSKI**

One Cascade Plaza
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AKRON, OHIO 44308

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341 Equity Test Calculation Form

341 EQUITY TEST

Schedule A Residence: <i>16351 HART</i>	<i>150,000.-</i>	Schedule A Property (excluding residence):	<i>81,400.- 9941 BonBER</i> <i>81,500.- 9841 Ledgermont</i>
Schedule D Mortgage: (Residence)	<i>- 163,930.-</i>	Schedule B	<i>+ 35,102.-</i>
Mortgage: (Residence)	<i>- 10,000.-</i>	Schedule C (excluding Homestead):	<i>- 17,885.-</i>
Mortgage: (Residence)	<i>JL - 10,000.-</i>	Schedule D (excluding all mortgages on residence)	<i>84,869.- (9841 Ledger)</i> <i>16,846.- (2012 Joynte)</i> <i>- 2,000.- (2005 Bond)</i> <i>75,000.- (9941 BonBER)</i> <i>1,000.- (St. Lien)</i>
Schedule E (Ohio and IRS on residence)	<i>- 3,000.-</i>	Schedule E (excluding property taxes on residence and IRS and Ohio)	<i>-</i>
Property taxes on Residence	<i>-</i>		
10% Brokerage Fee:	<i>-</i>	5% Brokerage Fee: (Cars only - not all Schedule B)	<i>- 806.60</i>
Exemption for Residence \$132,900 per owner: (up to the amount of equity in residence)	<i>- 0</i>	EQUITY IN RESIDENCE (Cannot be less than \$0)	<i>+ 0</i>
EQUITY IN RESIDENCE Amount available for unsecured creditors:	<i>- 26,930.-</i>	Amount available for unsecured creditors:	<i>- 454.60</i>
		Amount proposed for Unsecured creditors:	

**341 Meeting Payment Information
Form**

Case # _____

Debtor(s) Name _____

****Please take a moment and fill out the below questionnaire, sign and date, and return to the Chapter 13 Trustee.**

What is your property address? _____

Who is the holder of your mortgage?
(whom do you write the form of payment to) _____

What is your monthly mortgage payment? _____

Does this include taxes, insurance, or both? _____

Are you able to view your mortgage account online? YES NO

If no, were you able to view it online prior to the bankruptcy? YES NO

How do you pay your monthly mortgage payment (mail, online, bill pay, over the phone)? _____

If you pay over the phone is there a charge or fee? YES NO

If yes, how much is the charge or fee? \$ _____

If yes, do you pay the charge or fee at that time? YES NO

Signature _____

Date _____

EMAIL (optional) _____

The Chapter 13 Trustee appreciates your time.

Email Authorization Form

Email Authorization Form

This form allows the Trustee to communicate with you via e-mail regarding your case.

Debtor Name (Please Print)

Chapter 13 Case Number

Email Address (Please Print):

Joint Debtor Name (if applicable) (Please Print)

Chapter 13 Case Number

Email Address (Please Print):

1. I hereby agree to allow the Chapter 13 Trustee's Office to contact me via the above e-mail address instead of sending regular mail for certain notifications (such as annual ledgers) related to my case.
2. I hereby agree to notify the Chapter 13 Trustee's Office if I change my e-mail address that I am using during the pendency of my case.
3. I also understand that certain pleadings and notices will still come by regular U.S. mail to my address as required by the U.S. Bankruptcy Code.

Date

Debtor Signature

Date

Joint Debtor Signature (if applicable)

341 Question Sheet

PLEASE COMPLETE THE FOLLOWING INFORMATION:

CASE #: _____

NAME (S): _____

MAILING ADDRESS: _____
 STREET ADDRESS _____

CITY STATE ZIP

HOME PHONE NUMBER: () CELL #: ()

EMAIL ADDRESS: EMAIL ADDRESS: _____

PEOPLE LIVING IN HOME: _____
 (GIVE AGES) _____

EMPLOYERS: _____

NUMBER YEARS EMPLOYED: _____

VEHICLES	MILES	CONDITION	INSURED	LEASE OR OWN
1				
2				
3				
4				

ANSWER THE FOLLOWING QUESTIONS:

HAVE YOU RECEIVED WITHIN THE LAST YEAR OR DO YOU EXPECT TO RECEIVE AN INHERTIANCE, SEVERANCE PAY, EMPLOYMENT BONUSES, PAYMENTS FROM A PENSION PLAN, OR HAVE ANY OTHER ADDITIONAL INCOME DURING THE NEXT FIVE YEARS? IF YES, HOW MUCH AND FROM WHERE?

ARE YOU NOW OR DO YOU ANTICIPATE HAVING ANY LEGAL MATTERS RESOLVED BY AN ATTORNEY OVER THE NEXT FIVE YEARS? PLEASE BE ADVISED YOUR BANKRUPTCY ATTORNEY MUST BE NOTIFIED OF ANY OTHER LEGAL MATTERS.

DO YOU HAVE ANOTHER LAWYER HANDLING ANYTHING FOR YOU? EXPLAIN.

WILL YOU HAVE ANY PROBLEMS MAKING THE PAYMENTS FOR CHAPTER 13? IF YES, EXPLAIN.

DO YOU OWE CHILD SUPPORT OR ALIMONY, HOW LONG WILL YOU HAVE TO PAY IT AND TO WHOM. Yes or No

First and Last name of Person You Owe:

Street address, city and zip code of Person You Owe:

County and State you make payments to:

HAVE YOU LIVED IN OHIO FOR THE PAST 5 YEARS? Yes or No

HAVE YOU EVER FILED BANKRUPTCY BEFORE? IF YES, WHEN?

HAVE YOU FILED TAX RETURNS F(OR 2014, 2013, 2012 & 2011)?

I(WE) CERTIFY THE ABOVE INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE.

YOUR SIGNATURE: _____

SPOUSE'S SIGNATURE: _____

DATE _____