

Lou Jones CLE Presentation: Due Diligence for the Consumer Attorney
Presented by the Office of the United States Trustee
April 10, 2018
8:30 a.m. – 9:30 a.m.

I. Introduction

II. Discussion Roadmap

a. The Means Test in Chapter 7

i. Calculation of Current Monthly Income (Form 122A-1)

Current Monthly Income is a term defined by the Code:

11 USC § 101(10A) The term “current monthly income”—

(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor’s spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

(B) includes any amount paid by any entity¹ other than the debtor (or in a joint case the debtor and the debtor’s spouse), on a regular basis for the household expenses of the debtor or the debtor’s dependents (and in a joint case the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism.

¹ See *In re Holmes*, Case No. 15-31329-gmh at Docket No. 45 (Bankr. E.D. Wis. Dec. 1, 2016) (court holding that social security income received by debtor’s mother, who debtor claimed as a dependent, had to be included in the calculation of the debtor’s current monthly income).

ii. Chapter 7 Means Test (Form 122A-2)

Line 5: The number of people used to determine deductions from income

Line 9: Mortgage and rent expenses

Line 12 and 13: Vehicle operating and ownership expenses

Line 16: Calculating taxes and considering tax refunds

Line 17: Involuntary deductions for retirement accounts

Line 26: Strict requirement for establishing continuing contributions to care of household or family

Line 43: Rebuttal of presumption of abuse must provide sworn, detailed information demonstrating special circumstances

b. The Schedules

i. Schedule A/B

- a. Debtors required to list everything they own or in which they have a legal or equitable interest – even items which debtors believe to only have sentimental value.

In re Green, No. 07-22010-SVK, 2007 WL 4570590 (Bankr. E.D. Wis. Dec. 21, 2007) (discharge denied for failing to schedule Beanie Baby collection).

- b. Required to report the “current value” of the portion of the property that the Debtor owns. Intentional undervaluation of an asset may result in denial of discharge.

- c. Household items: Be specific, do not use generic terms.

In re Baker, 205 B.R. 125, 132 (Bankr. N.D. Ill. 1997) (discharge denied for failure to specifically list 100 fish tanks, court rejected debtors’ argument that tanks had been disclosed in general household goods category)

- d. Jewelry: Be specific, review insurance riders, review debts related to jewelry purchases and consider discrepancies.

- e. Deposits of money: List each account *separately* with current balance as of petition date. Stating “accounts at Associated Bank with total value \$500” is not sufficient.

Due diligence pointer: Make sure values on A/B match values on Schedule D and C.

ii. Schedule D: Secured Creditors

- a. Consider friends/relatives; contractors/mechanics; judgment lien holder; doctors/attorneys with liens on outcome of a lawsuit; taxing authorities.

iii. Schedule E/F: Creditors Who Have Unsecured Claims

- a. Consider friends/relatives; ex-spouse; anyone trying to collect a debt from the debtor
- b. Offer specifics regarding when debt was incurred. If on a specific date, state that date. If over time, state beginning and ending time frame. Stating “over time” or leaving the item blank is not a sufficient answer and UST will request amendment.

Due diligence pointer: Consider saving bank statements/credit card statements before accounts are closed/inaccessible.

iv. Schedule G

- a. Consider residential leases; service provide agreements including cell phones; internet/cable contracts; employment contracts

v. Schedule I

- a. Review pay advices to determine income
- b. Include contributions from roommates, adult children
- c. Be sure to detail business gross income and ordinary and necessary expenses on Schedule I.8

vi. Schedule J: Your Expenses

- a. Do not list debt repayments: credit cards, student loans
- b. If filing jointly but debtors keep separate households, use the Official Form (106J-2)

c. The Statement of Financial Affairs

- *Part 2: Explain the Sources of Your Income*

4. Did you have any income from employment or from operating a business during this year or the two previous calendar years?

Fill in the total amount of income you received from all jobs and all businesses, including part-time activities. If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Source of Income Check all that apply.	Gross Income (before deductions and exclusions)	Source of Income Check all that apply.	Gross Income (before deductions and exclusions)
From January 1 of current year until the date you filed for bankruptcy:	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
For last calendar year: (January 1 to December 31, _____)	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
For the calendar year before that: (January 1 to December 31, _____)	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____

5. Did you receive any other income during this year or the two previous calendar years?

Include income regardless of whether that income is taxable. Examples of other income are alimony; child support; Social Security, unemployment, and other public benefit payments; pensions; rental income; interest; dividends; money collected from lawsuits; royalties; and gambling and lottery winnings. If you are filing a joint case and you have income that you received together, list it only once under Debtor 1.

List each source and the gross income from each source separately. Do not include income that you listed in line 4.

- No
- Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Source of Income Describe below.	Gross Income from each source (before deductions and exclusions)	Source of Income Describe below.	Gross Income from each source (before deductions and exclusions)
From January 1 of current year until the date you filed for bankruptcy:		\$ _____		\$ _____
		\$ _____		\$ _____
		\$ _____		\$ _____

- *Question 9: Law suits within 1 year*

9. Within 1 year before you filed for bankruptcy, were you a party in any lawsuit, court action, or administrative proceeding?
List all such matters, including personal injury cases, small claims actions, divorces, collection suits, paternity actions, support or custody modifications, and contract disputes.

- No
 Yes. Fill in the details.

- *Questions 13: Gifts within 2 years*

13. Within 2 years before you filed for bankruptcy, did you give any gifts with a total value of more than \$600 per person?

- No
 Yes. Fill in the details for each gift.

Gifts with a total value of more than \$600 per person	Describe the gifts	Dates you gave the gifts	Value
<input type="text"/> Person to Whom You Gave the Gift <input type="text"/> <input type="text"/> Number Street <input type="text"/> City State ZIP Code Person's relationship to you <input type="text"/>		<input type="text"/>	\$ <input type="text"/>
		<input type="text"/>	\$ <input type="text"/>

- *Question 14: Charitable contributions within 2 years*

14. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?

- No
 Yes. Fill in the details for each gift or contribution.

Gifts or contributions to charities that total more than \$600	Describe what you contributed	Date you contributed	Value
<input type="text"/> Charity's Name <input type="text"/> <input type="text"/> Number Street <input type="text"/> City State ZIP Code		<input type="text"/>	\$ <input type="text"/>
		<input type="text"/>	\$ <input type="text"/>

- *Question 15: Gambling within 1 year*

15. Within 1 year before you filed for bankruptcy or since you filed for bankruptcy, did you lose anything because of theft, fire, other disaster, or gambling?

- No
- Yes. Fill in the details.

Describe the property you lost and how the loss occurred	Describe any insurance coverage for the loss <small>Include the amount that insurance has paid. List pending insurance claims on line 33 of Schedule A/B: Property.</small>	Date of your loss	Value of property lost
		_____	\$ _____

- *Question 16: Payments regarding bankruptcy*

16. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?

Include any attorneys, bankruptcy petition preparers, or credit counseling agencies for services required in your bankruptcy.

- No
- Yes. Fill in the details.

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Person Who Was Paid _____ _____ Number Street _____ _____ City State ZIP Code _____ Email or website address _____ Person Who Made the Payment, if Not You _____		_____	\$ _____
		_____	\$ _____

- *Question 18: Transfers within 2 years*

18. Within 2 years before you filed for bankruptcy, did you sell, trade, or otherwise transfer any property to anyone, other than property transferred in the ordinary course of your business or financial affairs?

Include both outright transfers and transfers made as security (such as the granting of a security interest or mortgage on your property). Do not include gifts and transfers that you have already listed on this statement.

- No
- Yes. Fill in the details.

	Description and value of property transferred	Describe any property or payments received or debts paid in exchange	Date transfer was made
Person Who Received Transfer _____ _____ Number Street _____ _____ City State ZIP Code _____ Person's relationship to you _____			_____

- *Question 20: Closed financial accounts within 1 year*

20. Within 1 year before you filed for bankruptcy, were any financial accounts or instruments held in your name, or for your benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; shares in banks, credit unions, brokerage houses, pension funds, cooperatives, associations, and other financial institutions.

- No
- Yes. Fill in the details.

			Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
Name of Financial Institution			XXXX- _____	<input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other _____	_____	\$ _____
Number Street						
City	State	ZIP Code				

- *Question 27: Connections to businesses*

27. Within 4 years before you filed for bankruptcy, did you own a business or have any of the following connections to any business?

- A sole proprietor or self-employed in a trade, profession, or other activity, either full-time or part-time
- A member of a limited liability company (LLC) or limited liability partnership (LLP)
- A partner in a partnership
- An officer, director, or managing executive of a corporation
- An owner of at least 5% of the voting or equity securities of a corporation

- No. None of the above applies. Go to Part 12.
- Yes. Check all that apply above and fill in the details below for each business.

Business Name			Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
Number Street				
City State ZIP Code			Name of accountant or bookkeeper	Dates business existed
				From _____ To _____
Business Name			Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.
Number Street				
City State ZIP Code			Name of accountant or bookkeeper	Dates business existed
				From _____ To _____

d. True stories and Precautionary Tales for Consumer Attorneys from the UST's Analysts, Mary Kay McSherry and Vince Morelli

III. Questions???

Practice Tip Takeaways

- Carefully review EVERYTHING before filing with the Court
- Ensure that information on Schedules, Means Test and Statement of Financial Affairs is consistent, or if it's not, there is an explanation
- Timely attend all court hearings and 341 meetings
- Ensure there is a written fee agreement that matches information on the attorney compensation disclosure statement
- Review tax returns, pay stubs, credit reports, marital settlement agreements, CCAP, the Wisconsin DFI, etc. to ensure consistency with schedules
- Review PACER records to determine whether any other cases were filed by debtor and disclose on petition, and if so, review recent cases for any inconsistencies
- When in doubt-- disclose, disclose, disclose!

Attachments:

- Official Form B 122A-1: Chapter 7 Statement of Current Monthly Income
- Official Form B 122A-2: Chapter 7 Means Test Calculation

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of _____

Case number _____
(If known)

Check one box only as directed in this form and in Form 122A-1Supp:

- 1. There is no presumption of abuse.
- 2. The calculation to determine if a presumption of abuse applies will be made under *Chapter 7 Means Test Calculation* (Official Form 122A-2).
- 3. The Means Test does not apply now because of qualified military service but it could apply later.

Check if this is an amended filing

Official Form 122A-1

Chapter 7 Statement of Your Current Monthly Income

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known). If you believe that you are exempted from a presumption of abuse because you do not have primarily consumer debts or because of qualifying military service, complete and file *Statement of Exemption from Presumption of Abuse Under § 707(b)(2)* (Official Form 122A-1Supp) with this form.

Part 1: Calculate Your Current Monthly Income

1. **What is your marital and filing status?** Check one only.

- Not married.** Fill out Column A, lines 2-11.
- Married and your spouse is filing with you.** Fill out both Columns A and B, lines 2-11.
- Married and your spouse is NOT filing with you. You and your spouse are:**
 - Living in the same household and are not legally separated.** Fill out both Columns A and B, lines 2-11.
 - Living separately or are legally separated.** Fill out Column A, lines 2-11; do not fill out Column B. By checking this box, you declare under penalty of perjury that you and your spouse are legally separated under nonbankruptcy law that applies or that you and your spouse are living apart for reasons that do not include evading the Means Test requirements. 11 U.S.C. § 707(b)(7)(B).

Fill in the average monthly income that you received from all sources, derived during the 6 full months before you file this bankruptcy case. 11 U.S.C. § 101(10A). For example, if you are filing on September 15, the 6-month period would be March 1 through August 31. If the amount of your monthly income varied during the 6 months, add the income for all 6 months and divide the total by 6. Fill in the result. Do not include any income amount more than once. For example, if both spouses own the same rental property, put the income from that property in one column only. If you have nothing to report for any line, write \$0 in the space.

Column A	Column B
Debtor 1	Debtor 2 or non-filing spouse

2. Your gross wages, salary, tips, bonuses, overtime, and commissions (before all payroll deductions).	\$ _____	\$ _____	
3. Alimony and maintenance payments. Do not include payments from a spouse if Column B is filled in.	\$ _____	\$ _____	
4. All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support. Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	\$ _____	\$ _____	
5. Net income from operating a business, profession, or farm	Debtor 1	Debtor 2	
	Gross receipts (before all deductions)	\$ _____	\$ _____
	Ordinary and necessary operating expenses	- \$ _____	- \$ _____
Net monthly income from a business, profession, or farm	\$ _____	\$ _____	Copy here → \$ _____
6. Net income from rental and other real property	Debtor 1	Debtor 2	
	Gross receipts (before all deductions)	\$ _____	\$ _____
	Ordinary and necessary operating expenses	- \$ _____	- \$ _____
Net monthly income from rental or other real property	\$ _____	\$ _____	Copy here → \$ _____
7. Interest, dividends, and royalties	\$ _____	\$ _____	

Debtor 1

First Name Middle Name Last Name

Case number (if known)

Column A Debtor 1 Column B Debtor 2 or non-filing spouse

\$ \$

8. Unemployment compensation

Do not enter the amount if you contend that the amount received was a benefit under the Social Security Act. Instead, list it here:

For you \$

For your spouse \$

9. Pension or retirement income. Do not include any amount received that was a benefit under the Social Security Act.

\$ \$

10. Income from all other sources not listed above. Specify the source and amount. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, a crime against humanity, or international or domestic terrorism. If necessary, list other sources on a separate page and put the total below.

_____ \$
_____ \$

\$ \$

\$ \$

Total amounts from separate pages, if any.

+ \$ + \$

11. Calculate your total current monthly income. Add lines 2 through 10 for each column. Then add the total for Column A to the total for Column B.

\$ + \$ = \$ Total current monthly income

Part 2: Determine Whether the Means Test Applies to You

12. Calculate your current monthly income for the year. Follow these steps:

12a. Copy your total current monthly income from line 11. Copy line 11 here \$

Multiply by 12 (the number of months in a year). x 12

12b. The result is your annual income for this part of the form. 12b. \$

13. Calculate the median family income that applies to you. Follow these steps:

Fill in the state in which you live.

Fill in the number of people in your household.

Fill in the median family income for your state and size of household. 13. \$

To find a list of applicable median income amounts, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

14. How do the lines compare?

14a. Line 12b is less than or equal to line 13. On the top of page 1, check box 1, There is no presumption of abuse. Go to Part 3.

14b. Line 12b is more than line 13. On the top of page 1, check box 2, The presumption of abuse is determined by Form 122A-2. Go to Part 3 and fill out Form 122A-2.

Part 3: Sign Below

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Form 122A-2.

If you checked line 14b, fill out Form 122A-2 and file it with this form.

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of _____

Case number _____
(if known)

Check the appropriate box as directed in lines 40 or 42:

According to the calculations required by this Statement:

- 1. There is no presumption of abuse.
- 2. There is a presumption of abuse.
- Check if this is an amended filing

Official Form 122A-2

Chapter 7 Means Test Calculation

04/16

To fill out this form, you will need your completed copy of *Chapter 7 Statement of Your Current Monthly Income* (Official Form 122A-1).

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for being accurate. If more space is needed, attach a separate sheet to this form. Include the line number to which the additional information applies. On the top of any additional pages, write your name and case number (if known).

Part 1: Determine Your Adjusted Income

1. **Copy your total current monthly income.** Copy line 11 from Official Form 122A-1 here → \$ _____

2. **Did you fill out Column B in Part 1 of Form 122A-1?**

- No. Fill in \$0 for the total on line 3.
- Yes. Is your spouse filing with you?
 - No. Go to line 3.
 - Yes. Fill in \$0 for the total on line 3.

3. **Adjust your current monthly income by subtracting any part of your spouse's income not used to pay for the household expenses of you or your dependents.** Follow these steps:

On line 11, Column B of Form 122A-1, was any amount of the income you reported for your spouse NOT regularly used for the household expenses of you or your dependents?

- No. Fill in 0 for the total on line 3.
- Yes. Fill in the information below:

State each purpose for which the income was used <small>For example, the income is used to pay your spouse's tax debt or to support people other than you or your dependents</small>	Fill in the amount you are subtracting from your spouse's income
_____	\$ _____
_____	\$ _____
_____	+ \$ _____
Total	\$ _____

Copy total here → - \$ _____

4. **Adjust your current monthly income.** Subtract the total on line 3 from line 1.

\$ _____

Part 2: Calculate Your Deductions from Your Income

The Internal Revenue Service (IRS) issues National and Local Standards for certain expense amounts. Use these amounts to answer the questions in lines 6-15. To find the IRS standards, go online using the link specified in the separate instructions for this form. This information may also be available at the bankruptcy clerk's office.

Deduct the expense amounts set out in lines 6-15 regardless of your actual expense. In later parts of the form, you will use some of your actual expenses if they are higher than the standards. Do not deduct any amounts that you subtracted from your spouse's income in line 3 and do not deduct any operating expenses that you subtracted from income in lines 5 and 6 of Form 122A-1.

If your expenses differ from month to month, enter the average expense.

Whenever this part of the form refers to you, it means both you and your spouse if Column B of Form 122A-1 is filled in.

5. The number of people used in determining your deductions from income

Fill in the number of people who could be claimed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support. This number may be different from the number of people in your household.

[Empty box for line 5]

National Standards You must use the IRS National Standards to answer the questions in lines 6-7.

6. Food, clothing, and other items: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for food, clothing, and other items. \$ _____

7. Out-of-pocket health care allowance: Using the number of people you entered in line 5 and the IRS National Standards, fill in the dollar amount for out-of-pocket health care. The number of people is split into two categories—people who are under 65 and people who are 65 or older—because older people have a higher IRS allowance for health care costs. If your actual expenses are higher than this IRS amount, you may deduct the additional amount on line 22.

People who are under 65 years of age

7a. Out-of-pocket health care allowance per person \$ _____

7b. Number of people who are under 65 X _____

7c. Subtotal. Multiply line 7a by line 7b. \$ _____ Copy here -> \$ _____

People who are 65 years of age or older

7d. Out-of-pocket health care allowance per person \$ _____

7e. Number of people who are 65 or older X _____

7f. Subtotal. Multiply line 7d by line 7e. \$ _____ Copy here -> + \$ _____

7g. Total. Add lines 7c and 7f..... [Box] \$ _____ Copy total here -> [Box] \$ _____

Local Standards You must use the IRS Local Standards to answer the questions in lines 8-15.

Based on information from the IRS, the U.S. Trustee Program has divided the IRS Local Standard for housing for bankruptcy purposes into two parts:

- Housing and utilities – Insurance and operating expenses
- Housing and utilities – Mortgage or rent expenses

To answer the questions in lines 8-9, use the U.S. Trustee Program chart.

To find the chart, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

8. **Housing and utilities – Insurance and operating expenses:** Using the number of people you entered in line 5, fill in the dollar amount listed for your county for insurance and operating expenses. \$ _____

9. **Housing and utilities – Mortgage or rent expenses:**

9a. Using the number of people you entered in line 5, fill in the dollar amount listed for your county for mortgage or rent expenses. \$ _____

9b. Total average monthly payment for all mortgages and other debts secured by your home.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Name of the creditor	Average monthly payment
_____	\$ _____
_____	\$ _____
_____	+ \$ _____

Total average monthly payment \$ _____ Copy here → - \$ _____ Repeat this amount on line 33a.

9c. Net mortgage or rent expense. Subtract line 9b (total average monthly payment) from line 9a (mortgage or rent expense). If this amount is less than \$0, enter \$0. \$ _____ Copy here → \$ _____

10. If you claim that the U.S. Trustee Program's division of the IRS Local Standard for housing is incorrect and affects the calculation of your monthly expenses, fill in any additional amount you claim. \$ _____

Explain why: _____

11. Local transportation expenses: Check the number of vehicles for which you claim an ownership or operating expense.

- 0. Go to line 14.
- 1. Go to line 12.
- 2 or more. Go to line 12.

12. Vehicle operation expense: Using the IRS Local Standards and the number of vehicles for which you claim the operating expenses, fill in the Operating Costs that apply for your Census region or metropolitan statistical area. \$ _____

13. Vehicle ownership or lease expense: Using the IRS Local Standards, calculate the net ownership or lease expense for each vehicle below. You may not claim the expense if you do not make any loan or lease payments on the vehicle. In addition, you may not claim the expense for more than two vehicles.

Vehicle 1 Describe Vehicle 1: _____

13a. Ownership or leasing costs using IRS Local Standard. \$ _____

13b. Average monthly payment for all debts secured by Vehicle 1. Do not include costs for leased vehicles.

To calculate the average monthly payment here and on line 13e, add all amounts that are contractually due to each secured creditor in the 60 months after you filed for bankruptcy. Then divide by 60.

Table with 2 columns: Name of each creditor for Vehicle 1, Average monthly payment. Includes lines for creditor names and payments.

Total average monthly payment \$ _____ Copy here - \$ _____ Repeat this amount on line 33b.

13c. Net Vehicle 1 ownership or lease expense Subtract line 13b from line 13a. If this amount is less than \$0, enter \$0. \$ _____ Copy net Vehicle 1 expense here ... \$ _____

Vehicle 2 Describe Vehicle 2: _____

13d. Ownership or leasing costs using IRS Local Standard. \$ _____

13e. Average monthly payment for all debts secured by Vehicle 2. Do not include costs for leased vehicles.

Table with 2 columns: Name of each creditor for Vehicle 2, Average monthly payment. Includes lines for creditor names and payments.

Total average monthly payment \$ _____ Copy here - \$ _____ Repeat this amount on line 33c.

13f. Net Vehicle 2 ownership or lease expense Subtract line 13e from 13d. If this amount is less than \$0, enter \$0. \$ _____ Copy net Vehicle 2 expense here ... \$ _____

14. Public transportation expense: If you claimed 0 vehicles in line 11, using the IRS Local Standards, fill in the Public Transportation expense allowance regardless of whether you use public transportation. \$ _____

15. Additional public transportation expense: If you claimed 1 or more vehicles in line 11 and if you claim that you may also deduct a public transportation expense, you may fill in what you believe is the appropriate expense, but you may not claim more than the IRS Local Standard for Public Transportation. \$ _____

Other Necessary Expenses In addition to the expense deductions listed above, you are allowed your monthly expenses for the following IRS categories.

16. **Taxes:** The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, Social Security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes. \$ _____

Do not include real estate, sales, or use taxes.

17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. \$ _____

Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.

18. **Life insurance:** The total monthly premiums that you pay for your own term life insurance. If two married people are filing together, include payments that you make for your spouse's term life insurance. Do not include premiums for life insurance on your dependents, for a non-filing spouse's life insurance, or for any form of life insurance other than term. \$ _____

19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. \$ _____

Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.

20. **Education:** The total monthly amount that you pay for education that is either required:
 as a condition for your job, or
 for your physically or mentally challenged dependent child if no public education is available for similar services. \$ _____

21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. Do not include payments for any elementary or secondary school education. \$ _____

22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7. Payments for health insurance or health savings accounts should be listed only in line 25. \$ _____

23. **Optional telephones and telephone services:** The total monthly amount that you pay for telecommunication services for you and your dependents, such as pagers, call waiting, caller identification, special long distance, or business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. + \$ _____

Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 5 of Official Form 122A-1, or any amount you previously deducted.

24. **Add all of the expenses allowed under the IRS expense allowances.** Add lines 6 through 23. \$ _____

Additional Expense Deductions

These are additional deductions allowed by the Means Test.
Note: Do not include any expense allowances listed in lines 6-24.

25. **Health insurance, disability insurance, and health savings account expenses.** The monthly expenses for health insurance, disability insurance, and health savings accounts that are reasonably necessary for yourself, your spouse, or your dependents.

Health insurance \$ _____

Disability insurance \$ _____

Health savings account + \$ _____

Total \$ _____

Copy total here → \$ _____

Do you actually spend this total amount?

No. How much do you actually spend? \$ _____

Yes

26. **Continuing contributions to the care of household or family members.** The actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. These expenses may include contributions to an account of a qualified ABLE program. 26 U.S.C. § 529A(b).

\$ _____

27. **Protection against family violence.** The reasonably necessary monthly expenses that you incur to maintain the safety of you and your family under the Family Violence Prevention and Services Act or other federal laws that apply.

\$ _____

By law, the court must keep the nature of these expenses confidential.

28. **Additional home energy costs.** Your home energy costs are included in your insurance and operating expenses on line 8.

If you believe that you have home energy costs that are more than the home energy costs included in expenses on line 8, then fill in the excess amount of home energy costs.

\$ _____

You must give your case trustee documentation of your actual expenses, and you must show that the additional amount claimed is reasonable and necessary.

29. **Education expenses for dependent children who are younger than 18.** The monthly expenses (not more than \$160.42* per child) that you pay for your dependent children who are younger than 18 years old to attend a private or public elementary or secondary school.

\$ _____

You must give your case trustee documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in lines 6-23.

* Subject to adjustment on 4/01/19, and every 3 years after that for cases begun on or after the date of adjustment.

30. **Additional food and clothing expense.** The monthly amount by which your actual food and clothing expenses are higher than the combined food and clothing allowances in the IRS National Standards. That amount cannot be more than 5% of the food and clothing allowances in the IRS National Standards.

\$ _____

To find a chart showing the maximum additional allowance, go online using the link specified in the separate instructions for this form. This chart may also be available at the bankruptcy clerk's office.

You must show that the additional amount claimed is reasonable and necessary.

31. **Continuing charitable contributions.** The amount that you will continue to contribute in the form of cash or financial instruments to a religious or charitable organization. 26 U.S.C. § 170(c)(1)-(2).

+ \$ _____

32. **Add all of the additional expense deductions.**

Add lines 25 through 31.

\$ _____

Deductions for Debt Payment

33. For debts that are secured by an interest in property that you own, including home mortgages, vehicle loans, and other secured debt, fill in lines 33a through 33e.

To calculate the total average monthly payment, add all amounts that are contractually due to each secured creditor in the 60 months after you file for bankruptcy. Then divide by 60.

Mortgages on your home:

33a. Copy line 9b here ... Average monthly payment \$

Loans on your first two vehicles:

33b. Copy line 13b here ... \$

33c. Copy line 13e here ... \$

33d. List other secured debts:

Table with 3 columns: Name of each creditor for other secured debt, Identify property that secures the debt, Does payment include taxes or insurance? (Yes/No), and Average monthly payment.

33e. Total average monthly payment. Add lines 33a through 33d. ... Copy total here \$

34. Are any debts that you listed in line 33 secured by your primary residence, a vehicle, or other property necessary for your support or the support of your dependents?

- No. Go to line 35.
Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 33, to keep possession of your property (called the cure amount). Next, divide by 60 and fill in the information below.

Table with 4 columns: Name of the creditor, Identify property that secures the debt, Total cure amount, Monthly cure amount. Includes a Total row and a 'Copy total here' instruction.

35. Do you owe any priority claims such as a priority tax, child support, or alimony — that are past due as of the filing date of your bankruptcy case? 11 U.S.C. § 507.

- No. Go to line 36.
Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

Total amount of all past-due priority claims ... \$ ÷ 60 = \$

36. Are you eligible to file a case under Chapter 13? 11 U.S.C. § 109(e). For more information, go online using the link for Bankruptcy Basics specified in the separate instructions for this form. Bankruptcy Basics may also be available at the bankruptcy clerk's office.

- No. Go to line 37.
Yes. Fill in the following information.

Projected monthly plan payment if you were filing under Chapter 13 \$

Current multiplier for your district as stated on the list issued by the Administrative Office of the United States Courts (for districts in Alabama and North Carolina) or by the Executive Office for United States Trustees (for all other districts).

X

To find a list of district multipliers that includes your district, go online using the link specified in the separate instructions for this form. This list may also be available at the bankruptcy clerk's office.

Average monthly administrative expense if you were filing under Chapter 13

Copy total here \$

37. Add all of the deductions for debt payment.

Add lines 33e through 36.

\$

Total Deductions from Income

38. Add all of the allowed deductions.

Copy line 24, All of the expenses allowed under IRS expense allowances \$

Copy line 32, All of the additional expense deductions \$

Copy line 37, All of the deductions for debt payment + \$

Total deductions \$ Copy total here \$

Part 3: Determine Whether There Is a Presumption of Abuse

39. Calculate monthly disposable income for 60 months

39a. Copy line 4, adjusted current monthly income \$

39b. Copy line 38, Total deductions - \$

39c. Monthly disposable income. 11 U.S.C. § 707(b)(2). Subtract line 39b from line 39a. \$ Copy here \$

For the next 60 months (5 years) x 60

39d. Total. Multiply line 39c by 60. \$ Copy here \$

40. Find out whether there is a presumption of abuse. Check the box that applies:

- The line 39d is less than \$7,700*. On the top of page 1 of this form, check box 1, There is no presumption of abuse. Go to Part 5.
The line 39d is more than \$12,850*. On the top of page 1 of this form, check box 2, There is a presumption of abuse. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.
The line 39d is at least \$7,700*, but not more than \$12,850*. Go to line 41.

* Subject to adjustment on 4/01/19, and every 3 years after that for cases filed on or after the date of adjustment.

41. 41a. Fill in the amount of your total nonpriority unsecured debt. If you filled out A Summary of Your Assets and Liabilities and Certain Statistical Information Schedules (Official Form 106Sum), you may refer to line 3b on that form.....

\$ _____

x .25

41b. 25% of your total nonpriority unsecured debt. 11 U.S.C. § 707(b)(2)(A)(i)(I). Multiply line 41a by 0.25.

Box containing the result of the calculation: \$ _____

Copy here ->

Box containing the result of the calculation: \$ _____

42. Determine whether the income you have left over after subtracting all allowed deductions is enough to pay 25% of your unsecured, nonpriority debt.

Check the box that applies:

[] Line 39d is less than line 41b. On the top of page 1 of this form, check box 1, There is no presumption of abuse. Go to Part 5.

[] Line 39d is equal to or more than line 41b. On the top of page 1 of this form, check box 2, There is a presumption of abuse. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

Part 4: Give Details About Special Circumstances

43. Do you have any special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative? 11 U.S.C. § 707(b)(2)(B).

[] No. Go to Part 5.

[] Yes. Fill in the following information. All figures should reflect your average monthly expense or income adjustment for each item. You may include expenses you listed in line 25.

You must give a detailed explanation of the special circumstances that make the expenses or income adjustments necessary and reasonable. You must also give your case trustee documentation of your actual expenses or income adjustments.

Table with 2 columns: Give a detailed explanation of the special circumstances, Average monthly expense or income adjustment. Includes four rows of input fields.

Part 5: Sign Below

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

X Signature of Debtor 1

X Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY