

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA
(10/12/2006)**

**VERSION 3.1 CM/ECF
ATTORNEY FILER CHANGES**

Effective with bankruptcy cases filed October 17, 2006, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) requires that the clerk of the bankruptcy court collect certain statistics in a standardized format prescribed by the Director of the Administrative Office of the US Courts (AOUSC.) The AOUSC has made certain changes in the CM/ECF system for bankruptcy courts that will collect the statistics required by BAPCPA. These changes and how they affect your filings as attorneys are described below.

We intend on converting Version 3.1 on Saturday, October 7, 2006, and ECF will not be available for filing that day. Therefore, even though the new statistics are not required until October 17, 2006, if you file cases using an upload feature, you will need to start using your bankruptcy software provider's update for Version 3.1 to file new cases effective October 8, 2006.

Also the following official forms have been amended and your bankruptcy software provider should have an update to its software for these amended forms.

Official Form 1, Voluntary Petition
Exhibit D to Petition (New Form)

Official Form 5, Involuntary Petition

Official Form 6, Summary of Schedules

Official Form 6D, Schedule D

Official Form 6E, Schedule E

Official Form 6I, Schedule I

Official Form 6J, Schedule J

Official Form 6, Declaration

Official Form 22A, Statement of Current Monthly Income and Means Test Calculation
(Chapter 7)

Official Form 22C, Statement of Current Monthly Income and Disposable Income (Chapter 13)

Official Form 23, Debtor's Certification and Completion of Financial Management Course

Attached are excerpts from the Committee Notes explaining the changes made to the above forms.

The New Exhibit D to the Petition and the amended Summary of Schedules are particularly important.

Exhibit D to the Petition is a new Debtor Statement of Compliance with Credit Counseling Requirement and is to be filed with the petition, if the debtor is required to obtain credit counseling. If the debtor has the Credit Counseling Certificate provided by the counseling organization, it is to be attached to Exhibit D. The debtor may state in Exhibit D that the debtor is seeking a waiver of the requirement because of disability, incapacity or military service in a combat zone or that the debtor was unable to obtain credit counseling but must file because of exigent circumstances. The debtor must also file a separate motion for any waiver or to determine exigent circumstances. It also includes a provision wherein the debtor may state that the debtor has received credit counseling but has not yet received a certificate, in which case the debtor then has 15 days in which to file the certificate. The case may be dismissed if no certificate from the credit counseling organization or motion is filed. If you are also filing the credit counseling certificate, you can attach it to Exhibit D and file it as part of the petition and schedules or you may file Exhibit D with the petition and file the certificate as a separate entry.

The **Summary of Schedules** has been amended on the second page to request additional information which will be used to collect the required statistics by inputting that information when the case is filed or when the schedules are filed later. This process will be explained in detail below.

CASE OPENING

When filing a bankruptcy petition and opening a new bankruptcy case, if you are also filing the schedules and statements with the petition, you will be required to input certain information during the case opening process (If you use a one button or one step filing process provided by your bankruptcy software provider, then that provider may have updated their software so that this information is automatically uploaded. You need to check with your bankruptcy software provider to determine if their forms and case upload feature has been updated for Version 3.1)

The statistical information screen has been changed. It now asks whether the debtor has had a prior bankruptcy filing within the last 8 years, yes or no. If business is selected for Nature of debt, then you must select one of the Nature of Business types by placing a dot in the radio button. The Tax-Exempt Entity should be checked if that was checked on the petition.

Nature of Debts (Check one box.)

- | | |
|---|--|
| <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." | <input type="checkbox"/> Debts are primarily business debts. |
|---|--|
-

Open Bankruptcy Case

Prior filing within last 8 years

Fee status

Nature of debt

Asset notice

Estimated number of creditors

Estimated assets

Estimated debts

Type of debtor

- Individual
- Corporation (includes LLC & LLP)
- Partnership
- Other

Nature of business

- Health Care Business
- Single Asset Real Estate
- Railroad
- Stockbroker
- Commodity Broker
- Clearing Bank
- Other
- Tax-Exempt Entity

You will also be prompted to input the following information which can be taken from the new amended Summary of Schedules. These amounts should be input only if the schedules are being filed with the petition. If the schedules will be filed later, then do not input any amounts, just click on Next. You will input the amounts later when the schedules are filed.

NAME OF SCHEDULE/FORM	ASSETS	LIABILITIES	OTHER
A - Real Property	<input type="text" value="125000.00"/>		
B - Personal Property	<input type="text" value="25000.00"/>		
D - Creditors Holding Secured Claims		<input type="text" value="115000.00"/>	
E - Creditors Holding Unsecured Priority Claims		<input type="text" value="0.00"/>	
F - Creditors Holding Unsecured Nonpriority Claims		<input type="text" value="50000.00"/>	
I - Average Income (line 16)			<input type="text" value="2500.00"/>
J - Average Expenses (line 18)			<input type="text" value="2950.00"/>
22 - Current Monthly Income line 12 on Form B22A, line 11 on Form B22B, or line 20 on Form B22C			<input type="text" value="2800.00"/>
Total nondischargeable debt From Form 6, page 2 (28 USC 159)		<input type="text" value="15000.00"/>	
Total Dischargeable Debt (Computed) Note: Not computed when any value above for D, E, F, or nondischargeable debt is not known.		<input type="text" value="150000.00"/>	

These amounts are required to be input for only individual debtors. Corporations, partnerships, limited liability companies or other artificial entities are not required to provide this information and you may leave all fields blank.

Total nondischargeable debt is the amount stated in the Total line for Type of Liability on page 2 of the Summary of Schedules.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	\$
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E) (whether disputed or undisputed)	\$
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E)	\$
Student Loan Obligations (from Schedule F)	\$
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	\$
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	\$
TOTAL	\$

Total Dischargeable Debt will be computed by ECF if amounts are input for D, E and F, even if the amount input is 0.00, the Total Dischargeable Debt will be computed. If any one of those three amounts are blank, it will not be computed. Therefore, it is important when completing the Summary of Schedules that if the debtor has no debts in one of these three schedules, that 0.00 be entered rather than leaving the space blank.

You will be prompted to fill in the above information when filing any of the following. The Summary of Schedules can be included in the Schedules and Statements filing or in the Schedules filing. The Summary of Schedules does not have to be filed as a separate document. The ability to file it as a separate document is provided should the document not be filed with the schedules. It is not necessary that this information be updated when amendments to the schedules are filed.

AA Schedules and Statements (Formerly All Required)
 Schedules
 Summary of Schedules (If filed by itself)

CHAPTER 11 CASES

When filing a Chapter 11 case, during the case opening, you will be prompted to complete the following additional statistical information.

Small business

A plan is being filed with this petition.

Acceptances of the plan were solicited prepetition

This information would be taken directly from the following portion of the petition.

Chapter 11 Debtors	
Check one box:	
<input type="checkbox"/>	Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
<input type="checkbox"/>	Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).
Check if:	
<input type="checkbox"/>	Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2 million.

Check all applicable boxes:	
<input type="checkbox"/>	A plan is being filed with this petition.
<input type="checkbox"/>	Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).

If the chapter 11 debtor is not an individual, then do not complete the Summary of Schedules screen. That information is only required of individual debtors.

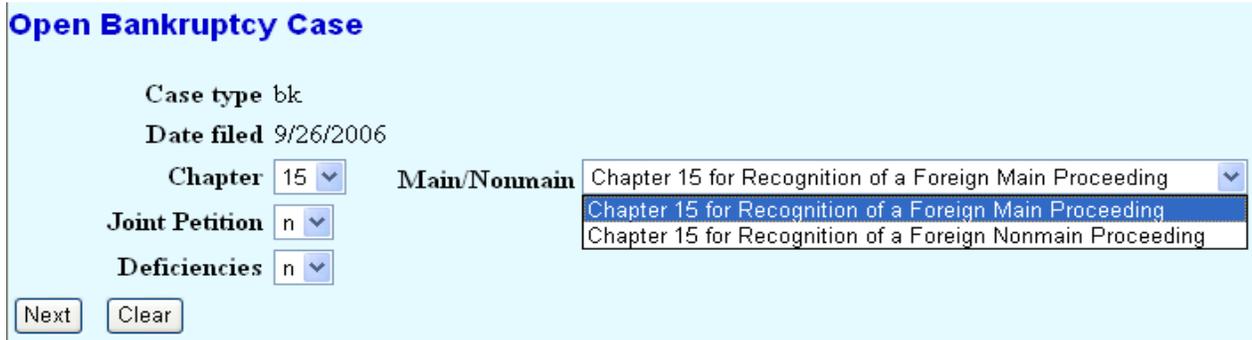
CHAPTER 15 CASES

When filing a Chapter 15 case, you will be prompted to select either a that you are seeking recognition of a foreign Main or Nonmain proceeding.

Open Bankruptcy Case

Case type bk
Date filed 9/26/2006
Chapter 15 Main/Nonmain Chapter 15 for Recognition of a Foreign Main Proceeding
Joint Petition n
Deficiencies n

Next Clear



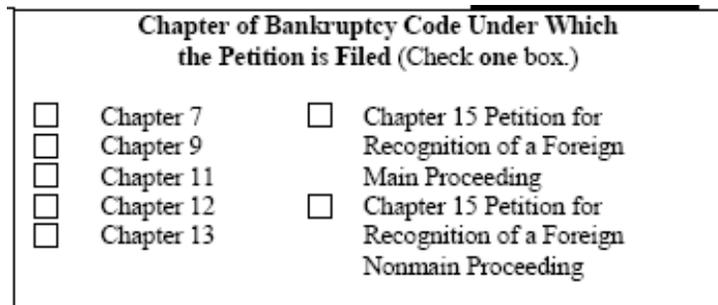
A Foreign Main Proceeding is a foreign proceeding pending in the country where the debtor has the center of its main interest.

A Foreign Nonmain Proceeding is a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment.

When a Chapter 15 petition is filed, this selection must also be made on the petition.

Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box.)

<input type="checkbox"/> Chapter 7	<input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding
<input type="checkbox"/> Chapter 9	<input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding
<input type="checkbox"/> Chapter 11	
<input type="checkbox"/> Chapter 12	
<input type="checkbox"/> Chapter 13	



ADVERSARY OPENING

Role in Bankruptcy Case.

When opening an Adversary Case so that you may file a complaint or notice of removal from state court, you will now be prompted when adding the plaintiffs and defendants to select their role in the BK case. The Other/Not Applicable choice should cover any possibilities.



The screenshot shows a software interface for selecting a role in a bankruptcy case. The title is "Role in Bankruptcy Case". Below the title are four buttons: "Attorney...", "Alias...", "Submit", "Cancel", and "Clear". A dropdown menu is open, showing the following options: "Creditor", "Debtor", "Other/Not Applicable", "Trustee", and "U.S. Trustee/Bankruptcy Administrator".

The statistical screen has changed again. You may add, in addition to the Primary nature of suite, which is required, up to four additional nature of suits as an option. The nature of suit list has been revised as follows.

- 01 (Determination of removed claim or cause)
 - 02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))
 - 11 (Recovery of money/property - 542 turnover of property)
 - 12 (Recovery of money/property - 547 preference)
 - 13 (Recovery of money/property - 548 fraudulent transfer)
 - 14 (Recovery of money/property - other)
 - 21 (Validity, priority or extent of lien or other interest in property)
 - 31 (Approval of sale of property of estate and of a co-owner - 363(h))
 - 41 (Objection / revocation of discharge - 727(c),(d),(e))
 - 51 (Revocation of confirmation)
 - 61 (Dischargeability - 523(a)(5), domestic support)
 - 62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)
 - 63 (Dischargeability - 523(a)(8), student loan)
 - 64 (Dischargeability - 523(a)(15), divorce/sep property settlement/decree)
 - 65 (Dischargeability - other)
 - 66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)
 - 67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)
 - 68 (Dischargeability - 523(a)(6), willful and malicious injury)
 - 71 (Injunctive relief - reinstatement of stay)
 - 72 (Injunctive relief - other)
 - 81 (Subordination of claim or interest)
 - 91 (Declaratory judgment)
 - SS (SIPA Case - 15 U.S.C. 78aaa et.seq.)
-

The nature of suit 41 (Objection/revocation of discharge - 727(c),(d),(e)) if selected either as a primary or second through fifth nature of suit will prevent a discharge from being entered in the case.

Another new item is State Law, y for yes or n for no. This is to answer the question “Does this adversary case involve a substantive issue of state law?” If it does then change from n to y. If you are not sure that the answer is no or yes, then u may be selected for unknown.

OTHER DOCKET EVENTS

Notice of Appeal – You will be prompted to input which court to which the appeal is going, the BAP or the US District Court. Select Circuit Court only if you are also filing a Request for Certification of Direct Appeal to the Circuit Court of Appeals.

Appealing to **District, BAP, or Circuit Court?**

Reaffirmation Agreements – When filing a reaffirmation agreement, you will be prompted to input the

Enter Creditor Name in This Reaffirmation Agreement

Motion to Dismiss Case for Failure to Provide Requested Tax Information – When filing this motion you will be prompted to input the taxing authority(s) and tax return years(s).

Enter the Name of the Taxing Authority(s)

Please Enter the Four Digit Tax Year for the Year(s) Not Provided

NEW FILING ENTRIES

The new statistical requirements include collecting data on certain types of motions and other filings. In order to do that, these types of pleadings must be filed using their specific entry. The following new entries have been created because statistics on these filings need to be collected. If filing one of these motions or other documents, it is important that the specific entry be used rather than a more generic type entry.

Objection to Application for Attorney or Other Professional Fees

Motion to Dismiss Case for Failure to Make Plan Payments

Motion to Extend/Limit Exclusivity Period

Motion to Extend time to Appeal

Chapter 11 First Day Motions

Motion for Jury Trial

Motion for Damages for Creditor Misconduct

Motion to Remove Professional

Motion to Remove Trustee

Motion for Sanctions for Debtor's Attorney Misconduct

Motion for Sanctions for Violation of the Discharge Injunction

Motion for Sanctions for Violation of the Automatic Stay

AUDIT OF CASES

Starting with cases filed October 20, 2006, the United States Trustee will be designating a certain percentage of cases for independent audit as provided for in 28 USC 586(f). This entry will not delay the entry of the discharge, but will prevent the case from being closed.



The United States Trustee has Designated this Case for Audit under 28 USC Section 586(f) filed by U.S. TRUSTEE (Temple, Michael) (Entered: 09/26/2006)

OFFICIAL FORM 1 - VOLUNTARY PETITION

October 2006 Supplement to Committee Note

Page one of the form is amended in several ways to assist the courts in evaluating their workload and fulfilling the statistical reporting requirements of 28 U.S.C. § 159. Section 159 was enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), Pub. L. No. 109-8 and takes effect October 17, 2006. Accordingly, in the section of the form labeled “Nature of Business,” the instruction is amended to specify that only one box should be checked and only if the debtor is any of the entities listed. The “nonprofit” choice is separated into a discrete section and the language amended to the more precise “tax-exempt.”

In addition, the section labeled “Type of Debtor” is amended to include, below the checkbox for “Individual or Joint,” a direction to “See Exhibit D on page 2 of this form.” Exhibit D replaces the certification concerning prepetition credit counseling and is described below. The section labeled “Nature of Debts” is amended to state the statutory definition of a “consumer debt” and to modify both the consumer and business categories by adding the word “primarily” to both make it clearer to individual debtors that “business” may be the more appropriate choice if personal debts have been incurred to finance a business venture.

In the section labeled “Chapter 11 Debtors,” the language concerning whether the debtor owes less than \$2 million is re-styled for clarity. This section also is augmented to provide the court with notice when a case is filed as a “pre-packaged” chapter 11 reorganization case. Two checkboxes are offered, using language adapted from § 1126(b) of the Code. Lastly, the information requested concerning estimated assets and liabilities is abbreviated, with the number of ranges reduced and the scope of each range amended. Statistical reports now will be derived from actual dollar amounts of assets and liabilities as shown on the debtor’s schedules. The information on the petition, accordingly, is for case management and public information purposes only.

OFFICIAL FORM 5 - INVOLUNTARY PETITION

The section of the form labeled “Information Regarding Debtor” is amended to facilitate, to the extent available in an involuntary case, the collection of the same statistical information that is requested in a voluntary case. Accordingly, information about whether the debtor is an individual, a corporation, or some other type of entity is separated from the checklist of types of debtors, such as health care businesses and railroads, concerning which the Code provides for specialized treatment.

OFFICIAL FORM 6 - SUMMARY OF SCHEDULES

October 2006 Supplement to Committee Note

In order to comply fully with the statistical reporting requirements of 28 U.S.C. § 159, which was enacted as part of the 2005 Act and takes effect in October 2006, the “Statistical Summary of Certain Liabilities” is renamed “Statistical Summary of Certain Liabilities and Related Data,” and additional information is required to be stated there. Collecting in one place the bulk of the information to be used in the reports required under 28 U.S.C. § 159 will assist the courts and the Director of the Administrative Office of the United States Courts to fulfill their statutory responsibilities.

Schedule D is amended to provide for creating a total of any unsecured amounts (amounts that exceed the value of the collateral) owed to creditors holding secured claims, and for stating this amount on the Statistical Summary of Certain Liabilities and Related Data. Schedule E is amended to provide for creating totals of the amounts entitled to priority and of any amounts that exceed the statutory limits on certain priorities and to direct the debtor to report these amounts on the Statistical Summary of Certain Liabilities and Related Data. Schedule F is amended to direct the debtor to report the total of this schedule both on the Summary of Schedules and on the Statistical Summary of Certain Liabilities.

The statistical reports required under 28 U.S.C. § 159 must include “the current monthly income, average income, and average expenses” of individual debtors with primarily consumer debts as reported on the schedules filed by those debtors. Accordingly, Schedules I and J, on which debtors already are directed to report average income and average expenses are amended to label the totals arrived at by completing the schedules as “average monthly income” and “average monthly expenses.” These amendments make no substantive changes, simply conforming the terminology on these schedules to that used in § 159.

The amount of the debtor’s current monthly income, which also is required by § 159, is derived from Official Forms 22A, 22B, or 22C, depending on the chapter under which the debtor files. This amount is included on the Statistical Summary of Certain Liabilities and Related Data as a convenience to make reports under § 159 easier to compile.

The Declaration Concerning Debtor’s Schedules is amended in the section designated for signing and verifying by an individual or joint debtor. The amendment accommodates the requirement that individual debtors must complete both the Summary of Schedules and the Statistical Summary of Certain Liabilities and Related Data by directing the debtor to state number of pages being verified as the number of sheets in the completed schedules “plus 2.”

OFFICIAL FORMS 22 A and 22 C - STATEMENTS OF CURRENT MONTHLY INCOME

October 2006 Supplement to Committee Note

Forms 22A, Line 43, and Form 22C, Line 48, are amended to delete the phrase “in default” with respect to “Other payments on secured claims.” A debtor may be required to make other payments to the creditor even when the debt is not in default, such as to retain collateral. Form 22C, Line 17, also is amended to require all chapter 13 debtors, including those whose income falls below the applicable median income, to determine their disposable income under § 1325(b)(3) of the Code by completing Part III of the form. Both forms contain stylistic amendments to conform the wording more closely to that used in the 2005 Act.

OFFICIAL FORM 23 - DEBTOR’S CERTIFICATION AND COMPLETION OF FINANCIAL MANAGEMENT COURSE

October 2006 Supplement to Committee Note

The form is amended to direct each individual debtor, including both spouses in a joint case, to file a separate certification and to provide the certificate number of the certificate of completion issued to the debtor by the approved personal financial management counselor. The form also is amended to include the deadlines for filing the certification in cases under chapters 7 and 13 and to instruct the debtor that the form is not to be used to file the certificate provided by the debtor’s prepetition credit counselor.

UNITED STATES BANKRUPTCY COURT

District of _____

In re _____
Debtor(s)

Case No. _____
(if known)

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT**

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

Official Form 1, Exh. D (10/06) – Cont.

3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.]* *[Summarize exigent circumstances here.]* _____

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.]* *[Must be accompanied by a motion for determination by the court.]*

Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

Active military duty in a military combat zone.

5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: _____

Date: _____

United States Bankruptcy Court

_____ District Of _____

In re _____,
Debtor

Case No. _____

Chapter _____

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	\$
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E) (whether disputed or undisputed)	\$
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E)	\$
Student Loan Obligations (from Schedule F)	\$
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	\$
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	\$
TOTAL	\$

State the following:

Average Income (from Schedule I, Line 16)	\$
Average Expenses (from Schedule J, Line 18)	\$
Current Monthly Income (from Form 22A Line 12; OR , Form 22B Line 11; OR , Form 22C Line 20)	\$

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		\$
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column.	\$	
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		\$
4. Total from Schedule F		\$
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		\$