



Forms Training
Official Bankruptcy Forms
Effective December 1, 2015

U.S. Bankruptcy Court - Eastern District of Louisiana
November 19, 2015

Why the Forms Are Changing?



- Part of Forms Modernization Project that began in 2008
- Redesigned to be easier for debtors to read and understand
- To improve interface between technology and the forms, which will increase efficiency and reduce the need to produce the same information in multiple formats
- New forms will be more compatible with the bankruptcy courts Next Generation CM/ECF system



Which Forms are Changing?

- All but 6 existing official forms and virtually all of the director's forms – all forms are being renumbered
- Form numbers changed from two to three digit numbers (sometimes followed by a letter), and generally follow the below pattern:
 - 1XX forms --case opening, individual debtors
 - 2XX forms --case opening, non-individual debtors
 - 3XX forms -- court notices and orders, and
 - 4XX forms -- all other types of forms

What About Director Forms?



- Director's Bankruptcy Forms are issued under Rule 9009 by the Director of the Administrative Office of the U.S. Courts.
- The use of Director's Forms may be required by local court rules or general orders, but otherwise exist for the convenience of the parties.
- Director's bankruptcy forms have been changed from three- to four-digit numbers (sometimes followed by a letter); usually by adding a zero to the original form number.

Case Opening Petition Forms

- The current Voluntary and Involuntary petition forms are broken into **5 separate forms**.
- Separate petition forms for individuals, non-individuals and chapter 15 cases (foreign proceedings)
 - **For Voluntary Cases:** Official Forms 101, 201 and 401
 - **For Involuntary Cases:** Official Forms 105 and 205
- Most of the form changes involve separating the forms by the type of debtor.
- There will still be **one filing event for opening a voluntary case** and **one filing event for opening an involuntary case**.



Official Form 101- Vol Petition Individual Debtor



- This form is now 8 pages.
- Exhibits A, B, C and D, and any reference to them, have been eliminated. The requested information is either asked in the form itself or is not applicable to individual debtors
- Language and instructions are now simpler on all forms
- Includes chapter 7 and 11 individual business data
- There are **comprehensive instructions accompanying all the new forms** (a link to instructions is posted on the Court's website under Forms)
- Users are also strongly encouraged to review the **Committee Notes** to each form for further understanding

Changes to Credit Counseling Process

Official Form 101 now includes credit counseling as part of the voluntary petition for individuals (No more Exhibit D):

– Exigent Circumstances:

- Part 5, requires the filing of a separate statement if debtor is alleging exigent circumstances and seeking a 30 day waiver
- **Revised ECF Event:** Event name changed from “Certificate” to “Statement of Exigent Circumstances”. Located under Bankruptcy Events>Other

– Motion for Waiver of Credit Counseling:

- If a debtor believes a briefing is not required because of **incapacity, disability or active duty**, a motion for waiver of credit counseling must be filed.
- **New ECF Event:** Motion for Waiver of Credit Counseling. Located under Bankruptcy Events>Motions>Waiver of Credit Counseling



Debtor Who Resides as a Tenant



The rent provisions have been removed from the petition and replaced with Official Forms:

- 101A -- *Initial Statement About an Eviction Judgment Against You* and
- 101B -- *Statement About Payment of an Eviction Judgment Against You*
- Official Form 101A applies if:
 - (1) the landlord has a judgment for possession or an eviction judgment;
 - (2) the debtor rents the residence and
 - (3) seeks to stay the eviction under §362(a)(3).
- The debtor is now required to **certify under penalty of perjury that:**
 - (1) they have a right to stay in the residence under state law and
 - (2) that the rent has been paid

The debtor is also required to timely serve a copy of the applicable statements on the landlord.

Form 101B and New Rent Related Events



If debtor wishes to stay in their residence
for more than 30 days after filing:

- (1) They must **file Official Form 101B** within 30 days after filing the petition
- (2) Certify on Official Form 101B, under penalty of perjury, that:
 - (a) they have a right to stay in the residence under state law and
 - (b) that they have **paid their landlord the entire delinquent amount** as stated in the judgment for possession or in the eviction judgment

- **2 New ECF Events:**

- Initial Statement of Eviction Judgment, located under Bankruptcy Events>Other
- Statement about Payment of Eviction Judgment, located under Bankruptcy Events>Other

CM/ECF Case Opening Screens

Dec. 1, 2015 Bankruptcy Forms

Form 101 - Voluntary Petition for Individuals

Open New Voluntary Bankruptcy Case

Prior filing within last 8 years

Fee status

Nature of debt

Asset notice

Estimated number of creditors

Estimated assets

Estimated liabilities

Small business

- A (\$0 to \$50,000 (\$0 to \$10,000))
- B (\$50,001 to \$100,000 (\$10,000 to \$100,000))
- C (\$100,001 to \$500,000 (\$100,000 to \$1 million))
- D (\$500,001 to \$1 million (\$1 million to \$100 million))
- E (\$1,000,001 to \$10 million (More than \$100 million))
- F (\$10,000,001 to \$50 million)
- G (\$50,000,001 to \$100 million)
- H (\$100,000,001 to \$500 million)
- I (\$500,000,001 to \$1 billion)
- ~~J (More than \$1 billion)~~
- K (\$1,000,000,001 - \$10 billion)
- L (\$10,000,000,001 - \$50 billion)
- M (More than \$50 billion)

Nature of Debt:
Business
Consumer
Other **New**

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
- None of the above

Disabled for Individual debtors

Deactivated for cases filed after 11/30/2015

New

Form 101 - Voluntary Petition for Individuals

Form 101 - Voluntary Petition for Individuals

Open New Voluntary Bankruptcy Case

Prior filing within last 8 years: no

Fee status: Paid

Nature of debt: [dropdown]

Asset notice: business, consumer, other (New)

Estimated number of creditors: [dropdown]

Estimated assets: [dropdown]

Estimated liabilities: [dropdown]

Small Business Case: [dropdown]

Nature of Business
Railroad
Clearing Bank
Disabled for Individual debtors.

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
 None of the above
 Tax-Exempt Entity

Disabled for Individual debtors

H (\$100,000,001 to \$500 million)
I (\$500,000,001 to \$1 billion)
~~J (More than \$1 billion)~~ Deactivated for cases filed after 11/30/2015
K (\$1,000,000,001 - \$10 billion)
L (\$10,000,000,001 - \$50 billion) New
M (More than \$50 billion)

Next Clear

Voluntary Petition for Non-Individuals



- Official Form 201 has been substantially reformatted and reorganized
- Provides options for either chapter 7, 9 or detailed options for chapter 11:
 - Is debtor a small business,
 - Is debtor a shell company
 - Is plan being filed with the petition
- Form requires an **address for the location of principal assets if different from the principal place of business** and includes a line for listing debtor's website
- Debtor must indicate if it is an investment company including a hedge fund or pooled investment vehicle, or an investment advisor or tax exempt entity
- The debtor is required to list its North American Industry Classification System 4-digit code

Voluntary Petition-Non-Individuals



- Exhibits B, C and D, and references to them, have been eliminated. The requested information is either asked in the form itself or is not applicable to non-individual debtors
- Official Form 201A, *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* has replaced Exhibit A. The debtor must file Form 201A if requesting relief under Chapter 11 and if required to file periodic reports (e.g. forms 10K and 10Q) with the SEC

Official Form 401 – Petition for Reorganization of Foreign Proceeding (Chapter 15)



- Applies to foreign proceedings involving both individual and non-individual debtors
- The new form consolidates information previously included in Official Form 1 and requires evidence of the foreign proceeding and of the foreign representative's appointment.
- Documents must be translated into English.
- The foreign representative must attach a list of persons or bodies entitled to notice.

Involuntary Petitions



- Official Form 105, *Involuntary Petition Against an Individual*
- Official Form 205, *Involuntary Petition Against a Non-Individual*
- Both forms require a statement that each petitioner or the petitioner's representative has reviewed the information in the petition and has a "reasonable belief that the information is true and correct".
- Petitioner's attorney must provide their email address, or if petitioner is an individual or not represented by an attorney, the contact phone and email address of the petitioner must be provided.

Schedules and Summary of Schedules



New Schedules have separate Individual and Non-Individual forms and new form numbers:

<u>Individual</u>	<u>Non-Individual</u>
– 106 A/B	206 A/B
– 106 D	206 D
– 106 E/F	206 E/F
– 106 G	206 G
– 106 H	206 H

Schedules and Summary of Schedules



- Although the schedule forms are combined, there are still separate fields for:
 - Real estate/property (Formerly Schedule A)
 - Personal property (Formerly Schedule B)
 - Priority unsecured claims (Formerly Schedule E)
 - Non-priority unsecured claims (Formerly Schedule F)
- Users will be prompted to enter separate amounts for each field when docketing Schedule A/B and Schedule E/F
- Official Form 106Sum has been renamed *Summary of Your Assets and Liabilities and Certain Statistical Information*

Official Form 106A/B (Individual Filer) - *Property*

Schedule 106A/B includes 7 Categories of Property:

1. Real estate
2. Vehicles
3. Personal household items
4. Financial assets (includes 2 new categories)
 - Bonds, mutual funds, or publicly traded stocks
 - Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment
5. Business related property
6. Farm and commercial fishing related property
7. Catch all – all other property not otherwise listed

Form 206A/B -- *Assets – Real and Personal Property*, applicable to non-individuals, includes 11 categories of property types.



Official Form 106C (Individual Filer) - *The Property You Claim as Exempt*

The exemption table has 4 columns:

- **Column 1** -- brief description of the exempt property and line number listed on Schedule A/B
- **Column 2** -- value of the portion of the asset owned by the debtor, rather than the entire asset
- **Column 3** -- the amount, rather than the value, of the exemption claim. Entries may be listed as either a dollar limited amount or as 100% of fair market value, up to any applicable statutory limit.
- **Column 4** -- specific law that allows exemption
- There is **no Official Form 206C for non-individual debtors** as exemptions are applicable only to individual debtors.



Official Forms 106D and 206D – *Creditors Who Have Claims Secured by Property*



- **Official Form 106D (individual)** – includes 4 checkboxes to describe nature of lien as either:
 - Agreement the debtor made (such as mortgage or secured car loan)
 - Statutory lien (such as tax or mechanic lien)
 - Judgment lien from a lawsuit, or
 - Other (including a right to offset)
- **Official Form 206D (non-individual)**
 - If a creditor has > one claim, list separately for each claim
 - Indicate if multiple creditors have interest in same collateral
 - List the order of each creditor's priority in the collateral
 - Indicate whether creditor is an insider or related party

Official Forms 106E/F and 206E/F – *Creditors Who Have Unsecured Claims*



- Schedule E/F consolidates priority and nonpriority unsecured claims into a single form, but separately grouped for reporting purposes
- The Form eliminates the question “consideration for claim” and instructs debtors to list claims in creditor alphabetical order
- Priority claims for individual filers only – 4 checkboxes to choose from:
 - Domestic support obligations
 - Taxes and certain other debts owed the government
 - Claims for death or personal injury while intoxicated
 - Other – debtor must specify basis for priority (e.g. wages)

Official Forms 106E/F and 206E/F – *Creditors Who Have Unsecured Claims, con't*



- Nonpriority claims for individual filers only – 4 checkboxes to choose from:
 - Student loans
 - Obligations arising out of a separation agreement or divorce not listed as priority claim
 - Debtor to pension or profit-sharing plans
 - Other (claims not subject to separate reporting) – specify basis of claim

Official Forms 106G and 206G – *Executory Contracts and Unexpired Leases*



- **Form 106G for individuals is simplified:**
 - Instead of multiple assertions about each contract/lease, debtor is to identify the name and address of the other party to the contract/lease and state what the contract/lease deals with
- **Form 206G for non-individuals**
 - Includes an additional requirement to state the remaining term for any contract or lease listed and the contract number of any government contract

Official Forms 106I and J (Individual Filer) – *Your Income, Your Expenses*



- **Both Form 106I and 106J** were part of initial set of forms published by the Forms Modernization Project in 2012.
 - They are renumbered and internal cross references updated
 - **Only apply to individual debtors** --there currently are no corresponding 206I or 206J for non-individuals, but it is expected that there will be Director Forms 2060I and 2060J available next year
- Form 106J was also revised to include references **to new Form 106J-2: *Expenses for Separate Household of Debtor 2***
 - Revisions clarify how to calculate monthly net income in joint cases where Debtor 1 and Debtor 2 maintain separate households

New Form 106J-2 Expenses for Separate Household of Debtor 2

- New Form: **B106J-2** Expenses for Separate Household of Debtor 2

Part 1: Describe Your Household

1. Is this a joint case?

- No. Go to line 2.
- Yes. Does Debtor 2 live in a separate household?
 - No
 - Yes. Debtor 2 must file Official Forms 106J-2, *Expenses for Separate Household of Debtor 2*.

- The total of Debtors 1 and 2 expenses will be included on line 22b of Schedule J

Copy the result to line 22b of Schedule J to calculate the total expenses for Debtor 1 and Debtor 2.



Official Form 106Dec (Individual Filer) – *Declaration About Individual Debtor's Schedules*



- Form only applies to individuals
- Form deletes the Declaration and Signature of Bankruptcy Petition Preparer which used to appear on Form 6 and instead, if applicable, directs the debtor to complete and file Official Form 119, *Bankruptcy Petition Preparer's Notice, Declaration and Signature*

Official Form 107 (Individual Filer) – *Statement of Financial Affairs for Individuals Filing for Bankruptcy*



- Revised in its entirety
- No longer need to include information in a chapter 12 or 13 cases about a non-filing spouse's general financial affairs
- **There are 11 sections:**
 - Part 1:** Give Details About Your Marital Status and Where You Lived
 - Part 2:** Explain the Sources of Your Income
 - Part 3:** List Certain Payments You Made Before You Filed for Bankruptcy
 - Part 4:** Identify Legal Actions, Repossessions, and Foreclosures
 - Part 5:** List Certain Gifts and Contributions
 - reporting threshold \$600 per person
 - Increases look back from one to two years

Official Form 107 – *Statement of Financial Affairs for Individuals Filing for Bankruptcy* con't



Part 6: List Certain Losses

- Clarifies reporting insurance losses

Part 7: List Certain Payments or Transfers

Part 8: List Certain Financial Accounts, Safe Deposit Boxes, and Storage Units

- Adds money market accounts and storage units within 1 year of filing

Part 9: Identify Property You Hold or Control for Someone Else

Part 10: Give Details About Environmental Information

Part 11: Give Details About Your Business or Connections to Any Business

- Eliminates instructions that apply only to corporations or partnerships
- Debtor must indicate if within 4 years (previously 6), the debtor owned a business or had certain connections to a business, with 5 categories of businesses provided as checkboxes. If yes, more information is requested.

Other Revised Schedules/Forms Applicable Only to Individual Debtors



- Official Form 108 – *Statement of Intention for Individuals Filings Under Chapter 7*
- Official Form 119 – *Bankruptcy Petition Preparer's Notice, Declaration, and Signature*
- Official Form 121 – *Statement About Your Social Security Numbers*

Official Form 104: For Individual Chapter 11 Cases:
List of Creditors Who Have the 20 Largest Unsecured
Claims Against You and Are Not Insiders.



- Replaces prior form 4 in chapter 11 cases filed by individuals or joint debtors
- Form is not to be filed in a chapter 7, 12 or 13 case
- Instructs debtors to include a secured creditor only if the creditor has an unsecured claim resulting from inadequate collateral value that is among the 20 largest unsecured claims
- **New ECF Event: 20 Largest Unsecured Creditors for Individual Debtors**, located under Bankruptcy>Other

Means Test Forms for Individuals



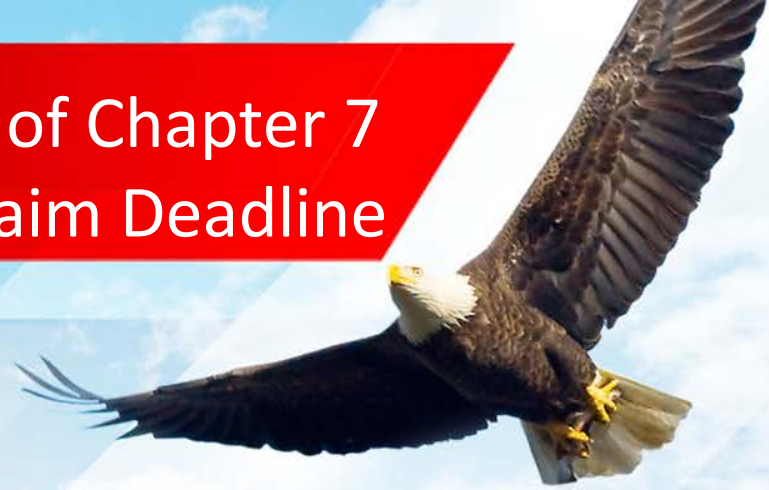
- These 6 forms were updated in December 2014.
- All are being renumbered:
 - 122A-1: *Chapter 7 Statement of Your Current Monthly Income*
 - 122A-1Supp: *Statement of Exemption from Presumption of Abuse*
 - 122A-2: *Chapter 7 Means Test Calculation*
 - 122B: *Chapter 11 Statement of Your Current Monthly Income*
 - 122C-1: *Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period*
 - 122C-2: *Chapter 13 Calculation of Your Disposable Income*
- On Forms 122A-2 and 122C-2, a statement is added that contributions to qualified ABLE accounts, as defined in 26 U.S.C. §529A(b), may be included in the deduction for contributions to the care of household or family members

Official Forms 309A-309I - Meeting of Creditors Notices



- All of the meeting of creditor notices have been revised to make them easier to read and understand, and renumbered
- Parties are informed they may review papers filed in the case through PACER, as well as at the court
- The four versions for Chapter 7 cases have been renamed to state whether the notice specifies a deadline for filing a proof of claim, rather than whether the case is an “asset” or “no-asset” case

New Official Form 309A – Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline



Information to identify the case:

Debtor 1 _____
First Name Middle Name Last Name

Last 4 digits of Social Security number or ITIN _____

EIN _____

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

Last 4 digits of Social Security number or ITIN _____

EIN _____

United States Bankruptcy Court for the: _____ District of _____
(State)

[Date case filed for chapter 7 _____] MM / DD / YYYY OR

Case number: _____

[Date case filed in chapter _____] MM / DD / YYYY

Date case converted to chapter 7 _____] MM / DD / YYYY

Official Form 309A (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline

12/15

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about



Other Important Official Form Changes

- Official Form 318 – *Order of Discharge*
 - Legal terms are explained more fully
 - Reaffirmed debts are explained more fully
- Official Form 410 – *Proof of Claim*
 - Substantially reorganized
 - New question added that solicits information about claims based on leases
- Official Form 410A – *Mortgage Proof of Claim Attachment*
 - Requires the claimant to provide a loan history rather than itemized information about principal, interest and fees – L.B.R. 3001-1 requirements supersede this form



Information about Software Providers



- [Best Case landing page](#) provides information for its customers.
- [CINcompass landing page](#) provides information for its customers
- [New Hope Software](#) was acquired by CINgroup, is being discontinued, and has transition information available on its landing page
- [EZ-Filing](#) is likewise being discontinued and has transition information available on its landing page

Example of Best Case Instructions for new Schedule A/B



Overview:

Official Form 106 A/B, *Schedule A/B: Property* replaces Official Form 6A, *Real Property* and Official Form 6b, *Personal Property* in cases of individual debtors.

New Form Elements:

Line 4, Part 2, *Watercraft, aircraft, motor homes, ATVs and other recreational vehicles and accessories*, was formerly a combination of lines 25, 26, and 27 of Schedule B. The newly-revised section adds specific lines to enter in the make, model, and year of the debtor's watercraft, aircraft, motor home, ATV, or other recreational vehicles. Additionally, a section has been added to enter other information about the debtor's vehicle, and a series of checkboxes to indicate who has an interest in the property.

NEW – Checkbox has been added to indicate if you have ownership of a vehicle that would be applicable for this section

NEW - A new section has been added to indicate Make/Model/Year

NEW - A section has been added to enter other information about the debtor's vehicle

4. Watercraft, aircraft, motor homes, ATVs and other recreational vehicles, other vehicles, and accessories
Examples: Boats, trailers, motors, personal watercraft, fishing vessels, snowmobiles, motorcycle accessories

No
 Yes

4.1. Make: _____
Model: _____
Year: _____
Other information:

If you own or have more than one, list here:

4.2. Make: _____

Who has an interest in the property? Check one.

Debtor 1 only
 Debtor 2 only
 Debtor 1 and Debtor 2 only
 At least one of the debtors and another

Check if this is community property (see instructions)

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D: Creditors Who Have Claims Secured by Property.

Current value of the entire property?	Current value of the portion you own?
\$ _____	\$ _____

Who has an interest in the property? Check one.

Debtor 1 only

Do not deduct secured claims or exemptions. Put the amount of any secured claims on Schedule D:



Detailed comments about what has changed on each schedule page.

What Happens if Old or Incorrect Form Used?



- The Court will be enforcing the use of the new forms as of December 1, 2015
- Filings made on old or incorrect forms will be treated as a deficient and filers will have 7 days to re-file on the correct form
- Failure to timely comply or seek an extension of time may result in the issuance of an order to show cause
- The new forms are available at www.uscourts.gov and PDF fillable forms will be available 12/1/15.

12/1/15 Changes to the Federal Rules of Civil Procedures affecting Bankruptcy



- FRCP 4, made applicable in FRBP 7004, reduces the **time to serve a defendant** from 120 to **90 days**
- FRCP 16, made applicable in FRBP 7016, reduces the time the judge must issue a scheduling order **from the earlier of, 90 days** after **any** defendant is served (previously 120), or **60 days** (previously 90) after **any** defendant has appeared
- The time to file the discovery plan with the Court will therefore automatically adjust based on the above deadline changes (approximately day 53 – see next slide)

AP and Contested Matter Scheduling Order and Discovery Timetable



FRCP 16(b)(2)	Scheduling Order (SO) issues	60 days from any Defendant appearance (or 90 days from service, whichever occurs first)
FRCP 26(f)(1)	Parties must confer	21 days before SO issues (60-21)= Day 39 from Defendant appearance*
FRCP 26(f)(2)	Discover Plan due	14 days after parties confer (60-21+14)= Day 53 from Defendant appearance*

* Adjust date calculations if 90 days from service occurs before appearance