



## **NOTICE OF CLE PROGRAM**

### **“Basics of Bankruptcy Practice and Post-Pandemic Opportunities for Practitioners”**

**James M. Hanley Federal Building  
100 S. Clinton Street, Syracuse, NY 13261  
7<sup>th</sup> floor Jury Assembly Room**

**Wednesday, November 17, 2021 11:00 am – 1:00 pm  
(Lunch will be provided)  
Please R.S.V.P. by Friday, November 12, 2021**

#### ***Presenters:***

- **Hon. Wendy A. Kinsella**, U.S. Bankruptcy Judge, Northern District of New York (Syr.)
- **Lee E. Woodard, Esq.**, Partner, Harris Beach, PLLC; former Chapter 7 trustee and adjunct professor and Director of the Bankruptcy Clinic at S.U. College of Law
- **Anna J. Smith, Esq.**, Law Offices of Anna Smith; solo practitioner focusing exclusively on representing debtors in Chapter 7 and 13 consumer bankruptcies throughout the NDNY

***Program Summary:*** With an anticipated increase in consumer bankruptcy cases expected in 2022 and beyond, there is a tremendous opportunity for attorneys to be retained by clients needing guidance through the process. This program is designed for the non-bankruptcy practitioner and will cover the basic elements of consumer bankruptcy with an emphasis on Chapter 7 cases. This program will include information on interviewing clients and obtaining the requisite information at the outset of the case, preparing the bankruptcy schedules, factors to be considered in the filing of a Chapter 7 versus a Chapter 13 case, and analyzing assets to determine which can be retained and what debts can or cannot be discharged. The panelists will discuss the role of the Court-appointed trustee as well as attendance at the official meeting of creditors.

#### ***Agenda:***

- 11:00-11:05: Introduction of Speakers and Topic
- 11:05-12:45 pm: Panel Presentation on Chapter 7 Consumer Bankruptcy
- 12:45-1:00 pm: Question & Answer Opportunity

This program has been approved in accordance with the requirements of the New York State CLE Board for **2.0 hours of Skills CLE credit**. This program is appropriate for newly admitted and experienced attorneys. This is a single program; no partial credit will be awarded. This program is complimentary to all NDNY-FCBA members. The Northern District of New York Federal Court Bar Association has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York.

**BASICS OF BANKRUPTCY PRACTICE AND POST-PANDEMIC OPPORTUNITIES**  
**FOR PRACTITIONERS**

**Hon. Wendy A. Kinsella, Anna J. Smith and Lee E. Woodard, Esq.**

November 17, 2021 – 11:00 a.m. – 1:00 p.m.

**I. Interview Client:**

- Use worksheets – see document attached Exhibit 1
- Obtain credit report
- Review prior bankruptcies
- Review judgments in residence County
- Cross examine clients –
  - They may not think personal injury case is an asset
  - They may not think loans to/from family are assets or debts

**II. Use software that works for you:**

- Many types:
  - (1) Jubilee Bankruptcy Pro ([www.jubileepro.com](http://www.jubileepro.com))
  - (2) Next Chapter ([www.nextchapterbk.com](http://www.nextchapterbk.com))
  - (3) Best Case ([www.bestcase.com](http://www.bestcase.com))

**III. Pre-filing Considerations:**

- Filing fees: Chapter 7 - \$338; Chapter 13 - \$313; Chapter 11 - \$1,738
  - FRBP 1006(b)(1) for installments, FRBP 1006(c) for waiver
  - L.R. 1006-1
- Individuals need two online courses:
  - (1) Pre-filing Credit Counseling - \$15-25; *see* 11 U.S.C. 109(h), FRBP 1007(b)(3)
  - (2) Post filing Debtor Education - \$15-25; *see* 11 U.S.C. 111(d); *see* FRBP 1007(b)(7)
- Eligibility and Venue:
  - (1) Must reside in New York State County for majority of 180 days before filing; *see* 11 U.S.C. § 1408(1)
  - (2) Cannot file less than 8 years from prior filing in Chapter 7 and less than 6 years for Chapter 13; *see* 11 U.S.C. §727(a)(8) and §1328
  - (3) Debt limits in Chapter 13s in 11 U.S.C. §109(e)
- Means Test:
  - (1) Intricate formula to determine if debtor is financially eligible to file Chapter 7 or be forced into a repayment plan in Chapter 13; *see* 11 U.S.C. §707(b); *see*

- (2) Initial test is if the debtor is at or below the Federal poverty level by State;  
See 2021 Chart attached as Exhibit 2
- (3) If above poverty level, then examine set expenses through the formula and if debtor can pay at least 25% of unsecured debt over 5 years then would need to file or convert to Chapter 13; *see* 11 U.S.C. §707(b)(2)(A)(i)
- (4) United States Trustee website contains the latest charts to be used  
Note: Software now runs the calculations for the Means Test

**IV. Evaluate what assets are exempt under 11 U.S.C. §522:**

- *See* list attached as Exhibit 3
- Determine if federal or state exemptions are more favorable; *see* 11 U.S.C. § 522(b)

**V. What debts are discharged and what survive the discharge?**

- *See* 11 U.S.C. § 523; document attached as Exhibit 4
- FRBP 4007 sets procedure for filing complaint to determine dischargeability of any debt

**VI. Trustee's Role:**

- *See* 11 U.S.C. § 704 for duties of Chapter 7 trustee
- United States Trustee
  - appoint standing trustee, oversee bankruptcies in region, pursue adversary proceeding for bankruptcy fraud and revoke debtor's discharge
- Panel and Standing Trustees
  - liquidate debtor's assets in chapter 7, pay out creditors through plan in chapter 13
- Avoidance Powers; *see* 11 U.S.C. § 544, 547 and 548; documents attached as Exhibit 5

**VII. Reaffirmation Agreements and Loan Modifications:**

- *See* 11 U.S.C. § 524(c), documents attached as Exhibit 6
- *See* Loss Mitigation Program Procedures attached as Exhibit 7

**VIII. Chapter 13:**

- Why Chapter 13?
  - Keep non-exempt property, *see* 11 U.S.C. § 1306(b); restructure some secured claims; required to file chapter 13 if fail means test
- Disadvantages
  - Pay more than in chapter 7, must pay all "projected disposable income," bankruptcy court scrutiny for 3-5 years
- *See* documents attached as Exhibit 8

# **Exhibit 1**

## INDIVIDUAL BANKRUPTCY WORKSHEET

### INSTRUCTIONS

**1. Complete this Worksheet.**

Answer all of the following questions in detail. If you need more space to complete an answer, please attach additional pages. Please answer all questions from the point of view of the entity that will be filing the bankruptcy, i.e. a corporation or an individual. Please also remember to sign the certification on the last page of the worksheet.

Once this worksheet is completed, bring it back to our office along with the list of documents requested below.

**2. Please Provide Us with the Following Documents:**

Complete disclosure of assets

1. Record of property transfers for past two years.
2. Record of secured transactions for past 910 days (2 ½ years).
3. Records of all bank accounts, including IRAs.
4. Copies of bank statements for past 90 days.
5. Copies of all insurance policies.
6. Copies of all pending lawsuits in which you are a named party.
7. Educational individual retirement accounts.
8. Copies of Certificates of Title to any vehicles, trailers, boats, etc. that you own.
9. Copies of tax returns for prior two years.

Complete disclosure of liabilities

1. Copies of your bills for past 90 days.
2. A copy of your credit report.
3. Copies of orders creating domestic support obligations.
4. Copies of all pending lawsuits in which you are a named party.

Complete disclosure of income and expenses

1. A copy of checkbook transaction pages for past six (6) months.
2. Copies of your pay stubs for past 6 months.
3. Proof of income from other sources, including amounts.
4. A copy of your driver's license or other proof of identity.
5. Proof of value of any real property, vehicles, or other personal property items.

**WARNING: THE INFORMATION YOU INCLUDE IN THESE WORKSHEETS WILL BE USED TO PREPARE THE PETITION AND SCHEDULES YOU WILL SIGN UNDER PENALTIES OF PERJURY. IMPROPER, FALSE OR MISLEADING INFORMATION INCLUDED ON AN OFFICIAL BANKRUPTCY FORM CAN RESULT IN YOUR DEBTS NOT BEING DISCHARGED IN BANKRUPTCY OR YOUR BEING CHARGED WITH A FEDERAL CRIME.**

**I. PROVIDE THE FOLLOWING INFORMATION ABOUT YOURSELF.**

1. Full name of filing person (Last, First, and Middle Initial).

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2. Social Security Number/Tax Identification Number (if more than one, give all).

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3. Other names used within the last eight (8) years.

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4. Current address of residence.

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5. How long have you resided at that address?

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6. List previous addresses or locations within the last two years.

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7. Telephone No. (Home)

Telephone No. (Work)

Fax No.

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**II. PROVIDE THE FOLLOWING INFORMATION ABOUT YOUR SPOUSE, IF THAT PERSON IS FILING AS A JOINT DEBTOR.**

1. Full name of filing person/corporation (if person, Last, First, Middle).

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2. Social Security Number/Tax Identification Number (if more than one, give all).

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3. Other names used within the last eight (8) years.

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4. Current address of residence.

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5. How long did you reside at that address?

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6. Have you filed state and federal tax returns for each of the past four (4) years?

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**REAL PROPERTY  
(SCHEDULE A)**

1. Do you have any interest in real estate?

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2. If yes, complete the following for each parcel of real estate.

A. Description and location of property.

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B. Set forth the nature of your ownership in the property and set forth whether the property is owned by you, your spouse, held jointly, etc.

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C. Fair Market Value. As set forth above, please explain how you determined the fair market value, and please provide any documentation you have supporting your value (i.e., tax assessment, appraisal, purchase price with date of purchase, etc.).

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D. Amount of debts against it including mortgages, liens or judgments.

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**PERSONAL PROPERTY**  
**(SCHEDULE B)**

H/W/J<sup>1</sup>

1. Cash on hand.  
Amount: \_\_\_\_\_
  
2. List all checking, savings and any financial accounts of any kind, including the name of the bank, the account number, and the amount.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Security Deposits with utility companies and landlords.  
\_\_\_\_\_
  
4. Please complete a list of all your **household goods and furnishings**, which include but are not limited to the following: appliances, TV sets, lawn/garden equipment, tools (be specific), video/computer/stereo equipment, and the **value** of each item. Please attach additional pages, if required, to fully complete this item.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. List all books, pictures, other art objects, antiques, collections or collectibles and state the value of same.  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> Please indicate whether the asset is owned by husband ("H"), wife ("W"), or jointly held ("J").

6. List wearing apparel and its value. \_\_\_\_\_

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7. List furs and jewelry and its value. \_\_\_\_\_

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8. List firearms, sports, photographic and other hobby equipment and its value. \_\_\_\_\_

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9. List all insurance policies including the type of insurance (i.e., term or whole life) and its **face value** and its **cash surrender value**. \_\_\_\_\_

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10. List all annuities with value. \_\_\_\_\_

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11. List interests in Education IRA or under qualified State Tuition Plan. \_\_\_\_\_

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12. List interests in IRAs, ERISA, KEOGH or other pension or profit sharing plans. \_\_\_\_\_

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13. List and value all Stock and interests in incorporated and unincorporated businesses. \_\_\_\_\_

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14. List and value all interests in Partnerships or Joint Ventures. \_\_\_\_\_

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15. List and value all government and corporate Bonds and other negotiable and non-negotiable interests. \_\_\_\_\_

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16. List and value all Accounts Receivable. \_\_\_\_\_

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17. List all Alimony, Maintenance, Support and Property Settlements to which you may be entitled.

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18. List any other debts owing you not previously mentioned.

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19. List and value all equitable or future interests, including life estates.

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20, 21. List all current or future potential interests in estate of decedent, death benefit plan, life insurance policy or trust, including claims of every nature, like tax refunds, your counterclaims, and rights to set off claims. Estimate value of each.

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22. List and value any Patents, Copyrights and any other Intellectual Property.

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23. List and value any Licenses, Franchises or other general intangibles.

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24. Provide a description and value of all Customer Lists. \_\_\_\_\_

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25. Vehicles. List and value each vehicle, truck, trailer, etc. that you own. Include the year, make, model, the amount of debt owed against the vehicle (including the name and address of each party that holds a lien against it), and its fair market value. Supply us with the Certificate of Title to each item listed. \_\_\_\_\_

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26. Boats, Motors and Accessories. List and value all boats, motors and accessories owned. If you own a boat, include the year, make, model, the amount of debt owed against the boat (including the name and address of each party that holds a lien against it), and its fair market value. Supply us with the Certificate of Title to each item listed. \_\_\_\_\_

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27. List and value all Aircraft and accessories owned. \_\_\_\_\_

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28. Itemize, list and value all Office Equipment, Furnishings and Supplies. \_\_\_\_\_

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29. List and value all Machinery, Fixtures, Equipment and Supplies used. \_\_\_\_\_

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30. List and value Inventory. \_\_\_\_\_

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31. List and value any Animals owned (including household pets). \_\_\_\_\_

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32. List and value any Crops currently growing or already harvesting. \_\_\_\_\_

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33. List and value all Farming Equipment and Implements. \_\_\_\_\_

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34. List and value all Farm Supplies, Chemicals and Feed. \_\_\_\_\_

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35. List and value any other personal property of any kind not already listed. \_\_\_\_\_

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36. List and value any attorneys representing you in any lawsuits that you may have against any other entity. \_\_\_\_\_

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**SECURED DEBT**  
**(SCHEDULE D)**

Please list all of your secured debt below. Debt is secured if the creditor has a lien or security interest on any property that you own (i.e., a lien on a vehicle, or a security interest in equipment). Please note if any of these debts are contingent or disputed. If more Secured Debt forms are needed, copy or utilize the same format on a separate piece of paper and attach to this worksheet.

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \_\_\_\_\_
6. Date the Debt was incurred: \_\_\_\_\_
7. Purpose of the Loan/Debt: \_\_\_\_\_

8. Name all other co-debtors liable, and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

9. Name any mortgage pledge or lien pledged for the repayment of this debt.

\_\_\_\_\_

\_\_\_\_\_

10. Value of Collateral: \$ \_\_\_\_\_



**SECURED DEBT**

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \_\_\_\_\_
6. Date the Debt was incurred: \_\_\_\_\_
7. Purpose of the Loan/Debt: \_\_\_\_\_

8. Name all other co-debtors liable, and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_  
\_\_\_\_\_

9. Name any mortgage pledge or lien pledged for the repayment of this debt.

\_\_\_\_\_  
\_\_\_\_\_

10. Value of Collateral: \$ \_\_\_\_\_

**SECURED DEBT**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \_\_\_\_\_

6. Date the Debt was incurred: \_\_\_\_\_

7. Purpose of the Loan/Debt: \_\_\_\_\_

8. Name all other co-debtors liable, and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

9. Name any mortgage pledge or lien pledged for the repayment of this debt.

\_\_\_\_\_

\_\_\_\_\_

10. Value of Collateral: \$ \_\_\_\_\_

**SECURED DEBT**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \_\_\_\_\_

6. Date the Debt was incurred: \_\_\_\_\_

7. Purpose of the Loan/Debt: \_\_\_\_\_

8. Name all other co-debtors liable, and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

9. Name any mortgage pledge or lien pledged for the repayment of this debt.

10. Value of Collateral: \$ \_\_\_\_\_

**CREDITORS HOLDING UNSECURED PRIORITY DEBTS**  
(SCHEDULE E)

Unsecured priority debts include the following: domestic support obligations, wages, salaries, and commissions (including vacation, severance and sick leave pay owed to employees), money owed to employee benefit plans, money owed to farmers and fisherman, deposits for the purchase, lease or rental of property or services which were not delivered/provided, and ALL TAXES owed (real property taxes, income taxes, sales taxes owed to IRS or state authority). Please note if any of these debts are contingent or disputed.

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**UNSECURED PRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \$ \_\_\_\_\_

6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No

6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_

6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_

7. Date the Debt was incurred: \_\_\_\_\_

8. Purpose of the Loan/Debt: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

**UNSECURED PRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**UNSECURED PRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \$ \_\_\_\_\_

6a. Indicate whether claim is disputed: \_\_\_\_\_ Yes \_\_\_\_\_ No

6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_

6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_

7. Date the Debt was incurred: \_\_\_\_\_

8. Purpose of the Loan/Debt: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

**CREDITORS HOLDING UNSECURED NONPRIORITY DEBTS**  
(SCHEDULE F)

Unsecured nonpriority debts include the following: credit card debt, general unsecured loans, and rent. Please note if any of these debts are contingent or disputed.

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed:  Yes  No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_

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9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

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**UNSECURED NONPRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \$ \_\_\_\_\_

6a. Indicate whether claim is disputed:  Yes  No

6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_

6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_

7. Date the Debt was incurred: \_\_\_\_\_

8. Purpose of the Loan/Debt: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

**UNSECURED NONPRIORITY DEBTS**

- 1. Name of Creditor: \_\_\_\_\_
- 2. Contact person: \_\_\_\_\_
- 3. Address: \_\_\_\_\_
- 4. Account Number: \_\_\_\_\_
- 5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed:  Yes  No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
- 7. Date the Debt was incurred: \_\_\_\_\_
- 8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**UNSECURED NONPRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_

2. Contact person: \_\_\_\_\_

3. Address: \_\_\_\_\_

4. Account Number: \_\_\_\_\_

5. Amount Owed: \$ \_\_\_\_\_

6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No

6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_

6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_

7. Date the Debt was incurred: \_\_\_\_\_

8. Purpose of the Loan/Debt: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.

\_\_\_\_\_

\_\_\_\_\_

**UNSECURED NONPRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**UNSECURED NONPRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed: \_\_\_\_ Yes \_\_\_\_ No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**UNSECURED NONPRIORITY DEBTS**

1. Name of Creditor: \_\_\_\_\_
2. Contact person: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Account Number: \_\_\_\_\_
5. Amount Owed: \$ \_\_\_\_\_
- 6a. Indicate whether claim is disputed:  Yes  No
- 6b. If yes, indicate the amount that creditor claims is owed: \$ \_\_\_\_\_
- 6c. Indicate amount that you believe is owed: \$ \_\_\_\_\_
7. Date the Debt was incurred: \_\_\_\_\_
8. Purpose of the Loan/Debt: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Name all other co-debtors liable and include full addresses. Specify whether the loan was taken out as the husband, wife, community or joint loan.  
\_\_\_\_\_  
\_\_\_\_\_

**CONTRACTS NOT COMPLETED AND UNEXPIRED LEASES**  
**(SCHEDULE G)**

1. List all **CONTRACTS** that you are currently obligated on but have not fully performed, including the name and address of all parties to the contract, a description of the contract, and the nature your interest in the contract.

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2. List all **UNEXPIRED LEASES** that you are currently obligated on but have not fully performed, including the name and address of all parties to the lease, a description of the contract, and the nature your interest in the contract.

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**CURRENT INCOME OF DEBTOR**  
**(SCHEDULE I)**

A. State your marital status.

\_\_\_\_\_

B. Give the names and ages of all dependents.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. List your present occupation.

\_\_\_\_\_

D. List your present employer with name, address and duration of your employment.

\_\_\_\_\_

1. List current monthly gross wages, salary and commissions.

\_\_\_\_\_

2. Estimate monthly overtime.

\_\_\_\_\_

3. Itemize all payroll deductions:

Payroll Taxes \_\_\_\_\_

Social Security \_\_\_\_\_

Insurance \_\_\_\_\_

Union Dues \_\_\_\_\_

Other (specify) \_\_\_\_\_

4. List regular income from profession or farm.

\_\_\_\_\_

5. Income from real property.

\_\_\_\_\_



6. Income from interest and dividends.

---

7. Alimony, maintenance or support payments payable to you.

---

8. Income from social security or other government assistance.

---

9. Income from pension or retirement income.

---

10. Any other income you receive from any source.

---

**CURRENT INCOME OF SPOUSE (OR CO-DEBTOR)**  
**(SCHEDULE I)**

If you are married, please complete this section regardless of whether your spouse is filing for bankruptcy or not. If you and your spouse are currently separated, please let us know.

A. List spouse's present occupation.

\_\_\_\_\_

B. List spouse's present employer with name, address and duration of your employment.

\_\_\_\_\_

11. List spouse's current monthly gross wages, salary and commissions.

\_\_\_\_\_

12. Estimate monthly overtime.

\_\_\_\_\_

13. Itemize all payroll deductions:

Payroll Taxes	_____
Social Security	_____
Insurance	_____
Union Dues	_____
Other (specify)	_____

14. List regular income from profession or farm.

\_\_\_\_\_

15. Income from real property.

\_\_\_\_\_

16. Income from interest and dividends.

\_\_\_\_\_

17. Alimony, maintenance or support payments payable to you.

\_\_\_\_\_

18. Income from social security or other government assistance.

---

19. Income from pension or retirement income.

---

20. Any other income you receive from any source.

---

**CURRENT MONTHLY EXPENSES**  
**(SCHEDULE J)**

1. Cost of monthly rent/home mortgage payments. *Identify whether your monthly payments include taxes and/or insurance.*

\_\_\_\_\_

2. Cost of utilities per month:

a. Electric & Heating Fuel: \_\_\_\_\_

b. Water & Sewer: \_\_\_\_\_

c. Telephone: \_\_\_\_\_

d. Garbage: \_\_\_\_\_

e. Cable: \_\_\_\_\_

f. Other: \_\_\_\_\_

3. Cost of home maintenance (repairs and upkeep) per month.

\_\_\_\_\_

4. Cost of food per month.

\_\_\_\_\_

5. Cost of clothing per month.

\_\_\_\_\_

6. Cost of laundry and dry cleaning per month.

\_\_\_\_\_

7. Cost of medical and dental expenses per month.

\_\_\_\_\_

8. Cost of transportation per month (not including car payments).

\_\_\_\_\_

9. Cost of recreation, clubs and entertainment, newspapers and magazines per month.

---

10. Cost of charitable contributions per month.

---

11. Insurance (not deducted from your wages, and not included in mortgage payments).

a. Cost of homeowner's or renter's insurance per month.

---

b. Cost of life insurance per month.

---

c. Cost of health insurance per month.

---

d. Cost of auto insurance per month.

---

e. Cost of other insurance per month (specify).

---

12. Taxes (not deducted from wages or included in home mortgage payments). Specify.

---

13. Cost of other installment payments per month.

---

a. Cost of monthly auto payments.

---

b. List any other installment payments.

---

14. Cost of alimony, maintenance and support paid to others.

---

15. Expenses for additional dependents living at your home.

---

16. Regular expenses from operation of a business, profession, or farm per month. Attach a detailed statement if required.

---

17. Any other costs per month.

---

## STATEMENT OF FINANCIAL AFFAIRS

**NOTE:** If you are married, please answer the following on behalf of you *and your spouse*. Be sure to indicate which answers pertain to you and which pertain to your spouse.

**1a.** List your GROSS income from Employment and/or Operation of a Business for each of the past 2 calendar years (201\_ and 201\_), as well as this calendar year to date. Include part-time employment.

None

<u>Amount</u>	<u>Source (include address)</u>	<u>Year</u>
---------------	---------------------------------	-------------

**2.** List your GROSS income from sources other than Employment and/or Operation of a Business for each of the past 2 years (201\_ and 201\_).

None

<u>Amount</u>	<u>Source (include address)</u>	<u>Year</u>
---------------	---------------------------------	-------------

**3a/b.** List all payments made to each creditor in the last 90 days, whose total payments **exceeded \$600** to that creditor.

None

<u>Name/Address of Creditor</u>	<u>Date of Payments</u>	<u>Amount Paid</u>	<u>Amount Owing</u>
---------------------------------	-------------------------	--------------------	---------------------

3c. List ALL payments made **within one year** either to or for the benefit of a creditor who is your relative, a business you have an interest in, or a friend.

None

<u>Name/Address of Creditor</u> (include relationship)	<u>Date of Payments</u>	<u>Amount Paid</u>	<u>Amount Owing</u>
---	-------------------------	--------------------	---------------------

4a. List all lawsuits and/or administrative proceedings to which you are a party or were a party **within the past 12 months**.

None

<u>Caption of Suit and Case Number</u>	<u>Nature of Proceeding</u>	<u>Court or Agency and Location</u>	<u>Status or Disposition</u>
--	-----------------------------	-------------------------------------	------------------------------

4b. Describe all property that has been attached, garnished or seized within the **last 12 months**.

None

<u>Name and Address of Creditor</u>	<u>Date of Seizure</u>	<u>Description and Value of Property</u>
-------------------------------------	------------------------	--



5. List all property that has been repossessed by a creditor, sold at a foreclosure sale, or surrendered back to a creditor within the **last 12 months**.

None

<u>Name and Address of Creditor or Seller</u>	<u>Date of Repossession, Sale or Return</u>	<u>Description and Value of Property</u>
---	---	--

- 6a. Describe any assignment of property for the benefit of creditors within the **last 120 days**.

None

<u>Name and Address of Assignee</u>	<u>Date of Assignment</u>	<u>Terms of Assignment</u>
---	-------------------------------	----------------------------

- 6b. List all property in the hands of a custodian, receiver, or court-appointed official within the **last 12 months**.

None

<u>Name and Address of Custodian</u>	<u>Name and Location of Court, Case Title and Number</u>	<u>Date of Order</u>	<u>Description and Value of Property</u>
--	--	--------------------------	--

7. List any gifts or charitable contributions made within the **past 12 months** except ordinary and usual gifts to family members which, in the aggregate, were less than \$200 in value per family member and less than \$100 in value per recipient.

None

<u>Name and Address of Person or Organization</u>	<u>Relationship to Debtor, if any</u>	<u>Date of Gift</u>	<u>Description and Value of Gift</u>
---	---	---------------------	--

8. List all losses from fire, theft, other casualty or gambling within the **past 12 months**.

None

<u>Description and Value of Property</u>	<u>Description of Circumstances and, If Loss Was Covered In Whole or In Part By Insurance, Give Particulars</u>	<u>Date of Loss</u>
--	---	---------------------

9. List all payments made or property transferred to anyone, including attorneys, for consultation concerning debt consolidation, bankruptcy, or debt relief within the **past 12 months**.

None

<u>Name and Address of Payee</u>	<u>Date of Payment, Name of Payor if Other Than Debtor</u>	<u>Amount of Money or Description and Value of Property</u>
----------------------------------	--	---

10. List ALL other property, other than property transferred in the ordinary course of business, including the granting of a security interest in your property, within the **past 2 years**.

None

<u>Name and Address of Transferee, Relationship to Debtor</u>	<u>Date</u>	<u>Describe Property Transferred and Value Received</u>
---	-------------	---

11. List all bank or other financial accounts held in your name or for your benefit which were closed, sold or otherwise transferred within the **past 12 months**. This includes but is not limited to all checking, savings, or other financial accounts, certificates of deposit, shares, or share accounts.

None

<u>Name and Address of Institution</u>	<u>Type of Account, Last Four Digits of Account Number, and Amount of Final Balance</u>	<u>Amount and Date of Sale or Closing</u>
--	---	---

12. List all safe deposit boxes or depositories in which you had (or have) cash, securities or other valuables within the **last 12 months**.

None

<u>Name and Address of Bank</u>	<u>Names and Addresses of Those With Access to Box or Depository</u>	<u>Description of Contents</u>	<u>Date of Transfer or Surrender, if any</u>
-------------------------------------	--	------------------------------------	--

13. List all setoffs made by any creditor, including a bank, against a debt or deposit within the last 90 days.

None

<u>Name and Address of Creditor</u>	<u>Date of Setoff</u>	<u>Amount of Setoff</u>
-------------------------------------	-----------------------	-------------------------

14. List all property owned by another person that you currently hold or control.

None

<u>Name and Address of Owner</u>	<u>Description and Value of Property</u>	<u>Location of Property</u>
----------------------------------	--	-----------------------------

15. If you have moved within the past 3 years, list all premises you occupied during that period.

None

<u>Address</u>	<u>Name Used</u>	<u>Dates of Occupancy</u>
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16. If you reside or resided in a **community property state** (including AK, AZ, CA, ID, LA, NV, NM, PR and TX) within the **past 8 years**, list the name of your spouse or former spouse who resides (or resided) with you in that state.

None

Name

17a. List the following information for each and every notice you received indicating that you are or might be liable under or in violation of an **Environmental Law**.

None

<u>Site Name and Address</u>	<u>Name and Address of Governmental Unit</u>	<u>Date of Notice</u>	<u>Environmental Law</u>
----------------------------------	--	---------------------------	--------------------------

17b. List the name and address of every site for which you provided notice to the government of a release of **Hazardous Material**.

None

<u>Site Name and Address</u>	<u>Name and Address of Governmental Unit</u>	<u>Date of Notice</u>	<u>Environmental Law</u>
----------------------------------	--	---------------------------	--------------------------

17c. List all judicial or administrative proceedings, including settlements or orders, under any **Environmental Law** with respect to which the debtor is or was a party.

None

<u>Name and Address of Governmental Unit</u>	<u>Docket Number</u>	<u>Status or Disposition</u>
--	----------------------	------------------------------

18. List the names and addresses of all businesses in which you were (or are) an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or were self-employed in a trade, profession, or other activity either full or part-time within the last 6 years. Also provide the EIN or other taxpayer ID No.

None

<u>Name</u>	<u>Address</u>	<u>Nature of Business</u>	<u>Beginning and Ending Dates</u>
-------------	----------------	---------------------------	-----------------------------------

- 19a. List all bookkeepers and accountants who kept any of your books of accounts and/or records within the last 2 years.

None

<u>Name and Address</u>	<u>Dates Services Rendered</u>
-------------------------	--------------------------------

- 19b. List all entities who have audited your books of accounts and/or records within the last 2 years.

None

<u>Name</u>	<u>Address</u>	<u>Dates Services Rendered</u>
-------------	----------------	--------------------------------

- 19c. List all firms or individuals who currently are in possession of your books of accounts and/or records.

None

<u>Name</u>	<u>Address</u>
-------------	----------------

19d. List all financial institutions, creditors and other parties to whom a financial statement was issued within the last 2 years.

None

Name and Address

Date Issued

20. List the dates of the last 2 inventories taken of your property, the name and address of the person who supervised that taking of each inventory, and the dollar amount and basis of each inventory.

None

Date of Inventory

Inventory Supervisor

Dollar Amount of Inventory

**STATEMENT OF MONTHLY GROSS INCOME**

<u>Income:</u>	<u>Your monthly income</u>	<u>Spouse/Co-Debtor</u>
Six months ago	_____	_____
Five months ago	_____	_____
Four months ago	_____	_____
Three months ago	_____	_____
Two months ago	_____	_____
Last month	_____	_____
Income from other sources	_____	_____
Total net income for 6 months preceding filing	_____	_____
<b>Average Monthly Net Income</b>	_____	(total both columns)



**DEBTOR CERTIFICATION**

I certify the following:

1. That I have provided all of the information contained the attached worksheet, and that all of the information contained therein is true and correct and complete to the best of my knowledge.

2. I understand that this information will be used to prepare the Bankruptcy Petition and Schedules that I will be signing under penalties of perjury.

3. I hereby authorize the law firm of Harris Beach PLLC to retrieve my credit report from any credit reporting agency for the purposes of verifying any information contained herein, and I hereby agree to pay for the cost of same.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

## **Exhibit 2**

State	1 earner	Family Size		
		2 People	3 People	4 People *
Alabama	\$49,798	\$60,556	\$67,098	\$81,842
Alaska	\$64,003	\$86,628	\$103,223	\$103,223
Arizona	\$55,839	\$69,975	\$75,560	\$85,714
Arkansas	\$46,689	\$58,465	\$67,020	\$68,180
California	\$62,938	\$83,435	\$92,735	\$106,530
Colorado	\$67,768	\$88,178	\$96,223	\$115,473
Connecticut	\$69,244	\$90,286	\$103,544	\$130,975
Delaware	\$62,152	\$78,813	\$92,496	\$108,527
District of Columbia	\$70,934	\$132,134	\$132,134	\$173,898
Florida	\$53,182	\$66,748	\$71,689	\$85,203
Georgia	\$53,105	\$68,295	\$76,391	\$92,286
Hawaii	\$72,396	\$84,224	\$96,021	\$119,681
Idaho	\$52,477	\$65,730	\$73,196	\$90,767
Illinois	\$58,698	\$77,547	\$92,711	\$108,549
Indiana	\$52,327	\$66,386	\$78,113	\$91,772
Iowa	\$51,725	\$71,767	\$81,910	\$96,373
Kansas	\$52,598	\$72,442	\$84,404	\$94,036
Kentucky	\$49,646	\$59,017	\$68,293	\$82,626
Louisiana	\$47,488	\$58,303	\$68,168	\$83,547
Maine	\$55,354	\$69,713	\$83,145	\$92,782
Maryland	\$71,839	\$94,405	\$108,879	\$131,859
Massachusetts	\$71,708	\$92,034	\$112,146	\$142,040
Michigan	\$53,815	\$67,015	\$80,465	\$99,179
Minnesota	\$62,574	\$82,483	\$101,669	\$120,110
Mississippi	\$45,317	\$54,584	\$58,459	\$71,528
Missouri	\$51,144	\$66,490	\$76,431	\$90,521
Montana	\$54,870	\$68,613	\$76,078	\$82,969
Nebraska	\$51,474	\$72,321	\$86,989	\$97,943
Nevada	\$54,394	\$69,804	\$77,536	\$84,764
New Hampshire	\$72,047	\$83,344	\$107,942	\$129,738
New Jersey	\$71,941	\$88,511	\$112,416	\$134,345
New Mexico	\$47,524	\$58,003	\$63,213	\$67,161
New York	\$60,696	\$77,159	\$92,508	\$112,424
North Carolina	\$51,278	\$66,859	\$72,958	\$90,039
North Dakota	\$55,701	\$78,927	\$90,689	\$105,279
Ohio	\$52,415	\$67,059	\$79,022	\$96,175
Oklahoma	\$49,127	\$63,789	\$68,193	\$79,426
Oregon	\$62,059	\$74,283	\$89,565	\$101,773
Pennsylvania	\$57,919	\$71,448	\$88,293	\$105,138
Rhode Island	\$64,510	\$80,775	\$96,567	\$109,439
South Carolina	\$49,999	\$64,874	\$71,757	\$86,278
South Dakota	\$52,361	\$71,463	\$83,550	\$92,073
Tennessee	\$50,801	\$63,983	\$72,011	\$86,983
Texas	\$52,953	\$71,287	\$77,110	\$89,196
Utah	\$67,265	\$73,754	\$86,562	\$96,607
Vermont	\$56,093	\$74,509	\$88,472	\$112,466
Virginia	\$64,870	\$82,910	\$98,253	\$116,328
Washington	\$71,060	\$86,240	\$99,948	\$113,566
West Virginia	\$50,855	\$55,518	\$68,537	\$74,508
Wisconsin	\$55,334	\$73,061	\$88,431	\$104,987
Wyoming	\$57,795	\$72,726	\$84,913	\$101,246

## **Exhibit 3**

## EXEMPTIONS IN BANKRUPTCY

**Debtors in New York can elect between the New York exemptions and the Federal exemptions. See 11 U.S.C. § 522(b)(2). Most debtors without a homestead will choose the Federal exemptions because of the wildcard, discussed below.**

### Summary of Federal Exemptions 2021 Dollar Amounts

#### Homestead

522(d)(1), (5) - Real property, including mobile homes and co-ops, or burial plots up to \$25,150. Unused portion of homestead, up to \$11,850 may be used for other property.

#### Personal Property

522(d)(2) - Motor vehicle up to \$4,000.

522(d)(3) - Animals, crops, clothing, appliances and furnishings, books, household goods, and musical instruments up to \$625 per item, and up to \$13,400 total.

522(d)(4) - Jewelry up to \$1,700.

522(d)(9) - Health aids.

522(d)(11)(B) - Wrongful death recovery for person you depended upon.

522(d)(11)(D) - Personal injury recovery up to \$25,150 except for pain and suffering or for pecuniary loss.

522(d)(11)(E) - Lost earnings payments.

#### Pensions

522(b)(3)(C) - Tax exempt retirement accounts (including 401(k)s, 403(b)s, profit-sharing and money purchase plans, SEP and SIMPLE IRAs, and defined benefit plans).

522(b)(3)(C)(n) - IRAS and Roth IRAs to \$1,283,025.

#### Public Benefits

522(d)(10)(A) - Public assistance, Social Security, Veteran's benefits, Unemployment Compensation.

522(d)(11)(A) - Crime victim's compensation.

#### Tools of Trade

522(d)(6) - implements, books and tools of trade, up to \$2525.

#### Alimony and Child Support

522(d)(10)(D) - Alimony and child support needed for support.

#### Insurance

522(d)(7) - Unmatured life insurance policy except credit insurance.

522(d)(8) - Life insurance policy with loan value up to \$12,625.

522(d)(10)( C ) - Disability, unemployment or illness benefits.

522(d)(11)( C ) - Life insurance payments for a person you depended on, which you need for support.

Wildcard

522(d)(5) - \$1,325 of any property, and unused portion of homestead up to \$12,575.

### Summary of New York Exemptions

Homestead

House, Condo, Trailer- upstate= \$39,975-single or \$179.950 H&W, Albany area- \$149,975 H&W, NYC \$179.950 H&W x2.

Personal Property

5205 - Clothing, furniture, refrigerator, TV, radio, sewing machine, security deposits with landlord or utility company, tableware, cooking utensils and crockery; stoves with fuel to last 120 days, health aids (including service animals with food), church pew or seat, wedding ring, bible, schoolbooks, pictures up to 11,975.

books up to \$600

domestic animals with food to last 120 days and up to \$1,175;

wedding ring, jewelry, art, watch to \$1,175;

spendthrift trust fund principal; 90% of trust fund income if not created by debtor;

college tuition savings program trust fund;

recovery for injury to exempt property up to 1 year after receiving.

Exemptions cannot exceed a total of \$11,975 including tools of trade and limited annuity.

5206 - Burial plot up to 1/4 acre without a structure on it.

Banking 407 - Savings and loan savings up to \$600.

Debtor & Creditor 282 - Motor vehicle up to \$4,825 (\$11,975 if equipped for disabled person); lost future earnings recoveries needed for support; personal injury recoveries up to 1 year after receipt; wrongful death recoveries for a person you depended upon

for support.

Debtor & Creditor 282(3)(iii) - Personal injury recoveries to \$9,000

Debtor & Creditor 283(2) - Cash (including savings bonds, tax refunds, bank & credit union deposits) to \$6,000, if debtor does not use homestead exemption, whatever is left of the \$11,975 personal property limit

#### Wages

5205 - 90% of earned but unpaid wages received within 60 days of filing for bankruptcy; 90% of earnings from milk sales to milk dealers; 100% for a noncommissioned private, officer or musician in the U.S. or N.Y. state armed forces. In re Wiltsie, 463 B.R. 223 (Bankr .N.D. N.Y. 2011)

Soc. Serv. Law 137-2 - Wages exempt from installment payments while on public assistance.

#### Pensions

11 U.S.C. § 522 - Tax exempt retirement accounts (including 401(k)s, 403(b)s, profit-sharing and money purchase plans, SEP and SIMPLE IRAs, and defined benefit plans).

11 U.S.C. § 522(b)(3)(C)(n) - IRAS and Roth IRAs to \$1,362,800.

5205 & Debtor & Creditor 282 - ERISA-qualified plans, Keoghs and IRAs needed for support.

Educ.524 - Teachers.

Ins. 4607 - Public retirement benefits.

Ret. and Soc. Sec. 10 - State employees.

Unconsolidated 5711-o - Village police officers.

Vol. Amb. Wkr. Ben. 23 - Benefits of volunteer ambulance workers.

Vol. Fire. Ben. 23 - Benefits of volunteer firefighters.

#### Public Benefits

Debtor & Creditor 282 - Unemployment benefits; veterans' benefits; Social Security;

aid to blind, aged, and disabled; crime victims' compensation; home relief, local public assistance; public assistance; worker's compensation. Public benefits does not include earned income tax credit (In re Fasarakis, 423 B.R. 34 (E.D.N.Y 2010)) but might include rent controlled lease (In re Santiago-Monteverde, 2014 N.Y. Slip Op. 08051 (Ct. App. N.Y. 2014)).

#### Tools of Trade

5205 - Professional furniture, books, instruments, farm machinery, team and food for 60 days, up to \$3,575 total; arms, swords, uniforms, equipment, horse, emblem and medal of a military member.

#### Alimony and Child Support

C.P.L.R. 5205 - Alimony and child support.

#### Insurance

Debtor & Creditor 283 - Annuity contract benefits due to the debtor if he or she paid for the contract up to \$5,000, if purchased within 6 months of filing for bankruptcy and not tax-deferred.

Estates Powers & Trusts 7-1.5 - Life insurance proceeds left at death if policy prohibits use to pay creditors.

Insurance 3212 - Disability or illness benefits up to \$400 per month; life insurance proceeds, dividends, interest, loan, cash, or surrender value if beneficiary is not the debtor or if the debtor's spouse has taken out the policy.

#### Miscellaneous

Partnership 51 - Business partnership property.

#### Wildcard

Debtor & Creditor 283 - In lieu of homestead, \$1,175 of personal property, bank accounts, or cash.



## **Exhibit 4**

## Exceptions to Discharge

### 11 U.S.C. § 523. Exceptions to discharge

(a) A discharge under section 727, 1141, 1228 (a), 1228 (b), or 1328 (b) of this title does not discharge an individual debtor from any debt—

(1) for a tax or a customs duty—

(A) of the kind and for the periods specified in section 507 (a)(3) or 507 (a)(8) of this title, whether or not a claim for such tax was filed or allowed;

(B) with respect to which a return, or equivalent report or notice, if required—

(i) was not filed or given; or

(ii) was filed or given after the date on which such return, report, or notice was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition; or

(C) with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax;

(2) for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by—

(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition;

(B) use of a statement in writing—

(i) that is materially false;

(ii) respecting the debtor's or an insider's financial condition;

(iii) on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and

(iv) that the debtor caused to be made or published with intent to deceive; or

(C) (i) for purposes of subparagraph (A)—

(I) consumer debts owed to a single creditor and aggregating more than \$550 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

(II) cash advances aggregating more than \$825 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

(ii) for purposes of this subparagraph—

(I) the terms “consumer”, “credit”, and “open end credit plan” have the same meanings as in section 103 of the Truth in Lending Act; and

(II) the term “luxury goods or services” does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.

(3) neither listed nor scheduled under section 521 (1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed, in time to permit—

(A) if such debt is not of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim, unless such creditor had notice or actual knowledge of the case in time for such timely filing; or

(B) if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such timely filing and request;

(4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny;

(5) for a domestic support obligation;

(6) for willful and malicious injury by the debtor to another entity or to the property of another entity;

(7) to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss, other than a tax penalty—

(A) relating to a tax of a kind not specified in paragraph (1) of this subsection; or

(B) imposed with respect to a transaction or event that occurred before three years before the date of the filing of the petition;

(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

(A)

(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;

(9) for death or personal injury caused by the debtor's operation of a motor vehicle, vessel, or aircraft if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance;

\* \* \*

(15) to a spouse, former spouse, or child of the debtor and not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit;

(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a unit that has condominium ownership, in a share of a cooperative corporation, or a lot in a homeowners association, for as long as the debtor or the trustee has a

legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot, but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case;

\* \* \*

(18) [Pension Plan Loan]

\* \* \*

(c) (1) Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt of a kind specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.

#### 11 U.S.C. § 507(a) Priorities

\* \* \*

(8) Eighth, allowed unsecured claims of governmental units, only to the extent that such claims are for—

(A) a tax on or measured by income or gross receipts for a taxable year ending on or before the date of the filing of the petition—

(i) for which a return, if required, is last due, including extensions, after three years before the date of the filing of the petition;

(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

(l) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.

(iii) other than a tax of a kind specified in section 523 (a)(1)(B) or 523 (a)(1)(C) of this title, not assessed before, but assessable, under applicable law or by agreement, after, the commencement of the case;

(B) a property tax incurred before the commencement of the case and last payable without penalty after one year before the date of the filing of the petition;

(C) a tax required to be collected or withheld and for which the debtor is liable in whatever capacity;

(D) an employment tax on a wage, salary, or commission of a kind specified in paragraph (4) of this subsection earned from the debtor before the date of the filing of the petition, whether or not actually paid before such date, for which a return is last due, under applicable law or under any extension, after three years before the date of the filing of the petition;

\* \* \*

(G) a penalty related to a claim of a kind specified in this paragraph and in compensation for actual pecuniary loss.

An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.

**Bankruptcy Rule Rule 4007. Determination of Dischargeability of a Debt**

(a) Persons entitled to file complaint. A debtor or any creditor may file a complaint to obtain a determination of the dischargeability of any debt.

(b) Time for commencing proceeding other than under § 523(c) of the Code. A complaint other than under § 523(c) may be filed at any time. A case may be reopened without payment of an additional filing fee for the purpose of filing a complaint to obtain a determination under this rule.

(c) Time for filing complaint under § 523(c) in a chapter 7 liquidation, chapter 11 reorganization, chapter 12 family farmer's debt adjustment case, or chapter 13 individual's debt adjustment case; notice of time fixed. Except as otherwise provided in subdivision (d), a **complaint to determine the dischargeability of a debt under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a)**. The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

(d) Time for filing complaint under § 523(a)(6) in a chapter 13 individual's debt adjustment case; notice of time fixed. On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing the time to file a complaint to determine the dischargeability of any debt under § 523(a)(6) and shall give no less than 30 days' notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

## **Exhibit 5**



## AVOIDANCE POWERS

The Trustee's most powerful weapons over property of the estate are the ability to retrieve what are defined as preferences, and set aside any fraudulent conveyances. In the representation of debtors in consumer bankruptcy debtor's counsel must be aware of what pre-petition activities by the debtor are reachable from the Trustee. The debtor's pre-petition actions must be reviewed by counsel in advance of filing or else the debtor will face the possibility of having the transfer set aside and then losing that property altogether.

### Preferences: 11 USC 547

Preferences are one of the hardest concepts for creditors to comprehend. It is simply inconceivable for most business people to understand that notwithstanding the fact that they were the most diligent and prosecuted their claim against the debtor timely and extracted money from the debtor that they are now being penalized in having to pay back that money. The largest frustration that arises in Bankruptcy Court litigation is from the poor creditor that did everything that they were supposed to do, only to pay it all back.

265 In Re Hampton, 147 B.R. 130 (Bankr. E.D. Ky., 1992)

266 Taylor v. Freeland & Kronz, 112 S.Ct.1644 (1992)

A preference action is part of the Code that is designed for equity.<sup>267</sup> Preferences are designed to negate payments made in the 90 days before filing the bankruptcy and returning them to the estate for redistribution out to all creditors as opposed to the certain few that were preferred and paid. When the debtor paid back the loan that his/her mother provided them, but did not pay back the credit card company, the money that was paid to mom is retrieved by the Trustee pursuant to 0547 and put into the pot for redistribution out to all creditors on a pro-rata basis.

A. preference is defined as follows: It is the transfer of an interest of the debtor in property

- (1) To or for the benefit of a creditor;
- (2) For or on account of an antecedent debt owed by the debtor before such transfer was made;
- (3) Made while the debtor was insolvent;
- (4) Made -
  - (A) On or within 90 days before the date of the filing of the petition;  
or
  - (B) Between 90 days and 1 year before the date of the filing of the petition if such creditor at the time of such transfer was an insider; and

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267 11 U.S.C. 0547

(5) That enables such creditor to receive more than such creditor would receive if

- (A) The case were a case under Chapter 7 of this Title;
- (B) The transfer had not been made; and
- (C) Such creditor received payment of such debt to the extent provided by the provisions of this Title.<sup>268</sup>

There are eight specific affirmative defenses laid out by the statute.<sup>269</sup> Most relate to business defenses, but certain of them will be applicable in the consumer context. A contemporaneous exchange for new value is a defense to a preference action. Therefore, if the debtor paid \$1,000.00 to a doctor, that is not a preference if the doctor provided the services simultaneously with the payment.<sup>270</sup> If, on the other hand, the doctor provided services at some point prior in time and simply received payment during the 90 days prior to the filing, that would be a preference.

It is also a defense to a preference action if the transfer was a bona fide payment of a debt to a spouse, former spouse or child for maintenance or support.<sup>271</sup>

<sup>268</sup> 11 U.S.C. 0547(b)

<sup>269</sup> 11 U.S.C. 0547(c)

<sup>270</sup> 11 U.S.C. 0547(c)(1)

<sup>271</sup> 11 U.S.C. 0547(c)(7)

The last and most common defense to a preference is when it is an individual debtor case whose debts are primarily consumer debts and the aggregate value of all property that constitutes or is effected by such transfer is less than \$600.00.<sup>272</sup> Therefore, the consumer case Trustee is looking to the debtor to explain all payments in excess of \$600.00 made within the 90 days prior to the filing to any creditor, and any such payment made within the one year prior to the filing to any insider.

Trustee's will review the records of the debtor to see what transfers or what checks were written in the 90 days prior to help investigate this area.

**Fraudulent Transfers: 11 USC 548**

The other strong weapon at the Trustee's disposal is the fraudulent transfer section.<sup>273</sup> The fraudulent transfer section allows a Trustee to void any transfer of an interest of the debtor in property or any obligation incurred by the debtor that was made or incurred on or within two years before the date of the filing of the petition. If the debtor voluntarily or involuntarily -

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273 11 U.S.C. 0548 272 11 U.S.C. 0547(c) (8)

- (1) Made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date of that such transfer was made or such obligation incurred, indebted; or
  - (A) Received less than a reasonable equivalent value in exchange for such transfer or obligation; and
  - (B) (i) Was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;
  - (ii) Was engaged in business or a transaction, or was about to engage in business or a transaction for which any property remaining with the debtor was an unreasonably small capital; or
  - (iii) Intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.<sup>274</sup>

In the consumer context, this provision is designed to allow the Trustee to go back after the property of the debtor that the debtor may have simply given away to family members to protect it from creditors. The most common source of fraudulent transfer litigation in a consumer context is when a residence held jointly by husband and wife is suddenly transferred from the husband and wife solely to the wife. Thereafter, the husband files the bankruptcy claiming no interest in the real property. That would be a fraudulent transfer since the debtor received less than a reasonable

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274 11 U.S.C. 0548(a)

equivalent to it, so long as the debtor was either insolvent on the day that the transfer was made or became insolvent as a result of the transfer of the value of the house. In the consumer context, I see this most often where a debtor attempts to pay back a family member or a friend that loaned money through these difficult times and they did not want those individuals to be hurt. The simple act of paying them prior to the filing of the bankruptcy is what will hurt them. This is so because payments post-petition in a Chapter 7 bankruptcy out of post-petition earnings are not property of the estate and, therefore, are non-problematic.

It is imperative that in your initial discussions with the debtors during the interview process and preparation of the worksheet process that these questions be asked and determined. With a little planning in either holding off the payment until after filing or holding off the filing until longer away from the incident, the Trustee will not be able to take action.

In the Chapter 13 context these preference actions and fraudulent conveyance actions and other voidable powers come up vastly differently. It has been held that the powers exist and are available in Chapter 13 cases although there is some confusion over who is entitled to use them.<sup>275</sup> In a Chapter 7 context it is always a Chapter 7 Trustee that will be using these powers. In the 13, the facilitator Trustee may not need to use the powers, but the debtors may attempt to use them for themselves. In the Jernigan case the Court held that if the debtors already used the powers in place of Trustees, debtors must use them as Trustees would use them on behalf of bankruptcy estates. A Trustee is strictly bound to place the interest of his beneficiaries before his own self interest.<sup>276</sup> For the most part, however, there will not be an inordinate amount of use of the avoidance powers under Chapter 13.

#### **SALE OF NON-DEBTOR'S INTEREST**

One other power of a Chapter 7 Trustee need be understood to protect your clients. A Chapter 7 Trustee has the authority with Court approval to sell the estate's interest and the interest of any co-owner in the property.<sup>277</sup> This section specifically authorizes

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<sup>275</sup> In Re Jernigan, 130 B.R. 879 (Bankr. N.D. Okla., 1991)

<sup>276</sup> Id.

<sup>277</sup> 11 U.S.C. 0363(h)

the Trustee to sell both the estate's interest and the interest of any co-owner in property in which the debtor had, at the time of the commencement of the case, an undivided interest as tenant in common, joint tenant, or tenant by the entirety, only if -

- (1) Partition in kind of such property among the estate and such co-owners as impracticable;
- (2) Sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of such co-owners;
- (3) The benefit to the estate of the sale of such property free of the interest of co-owners out weighs the detriment, if any, to such co-owners and
- (4) If such property is not used in the production, transmission, or distribution, for sale of electric energy or of natural or synthetic gas for heat, light, or power.<sup>278</sup>

In the consumer bankruptcy world the 9363(h) sale comes up much more often when it is a jointly held residence or some other piece of real property and only one of the owners is in bankruptcy. Clearly, the Trustee must go to the court and prove the four elements as set out above. But once that burden is met, the Trustee can sell the residence from under the non-filing spouse. Obviously, upon sale the spouse would receive their one-half interest in the property, but they otherwise still lose their residence. The practitioner must be aware of this power by a Trustee to protect

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<sup>278</sup> Id.



their clients appropriately.

**TRUSTEE STATUTE OF LIMITATIONS**

All of these avoidance powers that a Trustee holds are, however, subject to some limitations.<sup>279</sup> The most basic limitation is of a statute of limitations. The Trustee may not commence an avoidance power action after the earlier of

(1) The later of -

(A) 2 years after the entry of the Order for Relief; or

(B) 1 year after the appointment or election of the first Trustee under 0702, 1104, 1163, 1202 or 1302 of this Title if such appointment or such election occurs before the expiration of the period specified in paragraph (A); or

(2) The time the case is closed or dismissed. <sup>28°</sup>

Therefore, the Trustee has the burden of bringing an action within the above-referenced time frame, or will have abandoned the ability to do so. It is one of the Trustee's charges to reduce assets to cash as quickly as possible for distribution to creditors so that it should not be often that a case is languishing for this period of time, however, this statute of limitations is something that should be reviewed every time an action is commenced against one of your clients.

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279 11 U.S.C. 0546

28° 11 U.S.C. 0546(a)

## **Exhibit 6**

## Reaffirmations/Dealing with Secured Personal Property

521(a)(2)- within 30 days must state the debtors intention to:

- 1) Reaffirm -524(c)
- 2) Surrender
- 3) Redeem- 722

Within 30 days after the 341 meeting debtor must perform

For individuals only: 521(a)(6) within 45 days of 1<sup>st</sup> scheduled 341 meeting debtor must perform or if not the stay no longer applies and creditor may act, ie repo etc. unless the trustee gets a court order to stop any action because there is a benefit to the estate.

Creditor can use Ipso Facto Clause from underlying contract.

Reaffirmation Agreements: Must be in writing and filed with the court prior to any discharge being granted, debtor received certain disclosures in 524(k), and signed off by the attorney of record.

Many attorneys will not sign if the debt is greater than the fmv.

Without any attorney signing the debtor must go to a hearing with the Judge and answer why it is in their best interest

Debtor can rescind until the later of: 60 days of filing with the court or any time prior to discharge

Alleged 4<sup>th</sup> Option- Ride Through- Not recognized by most courts but does still exist.

## **Exhibit 7**

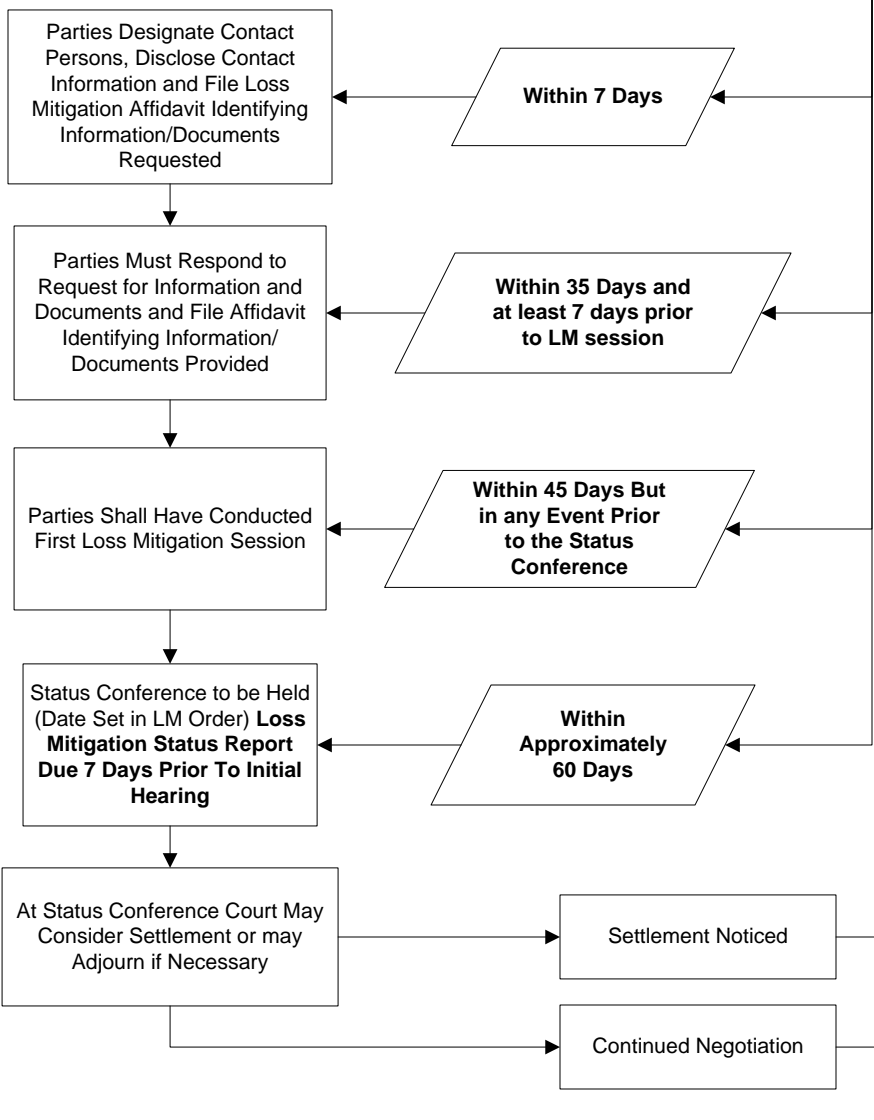
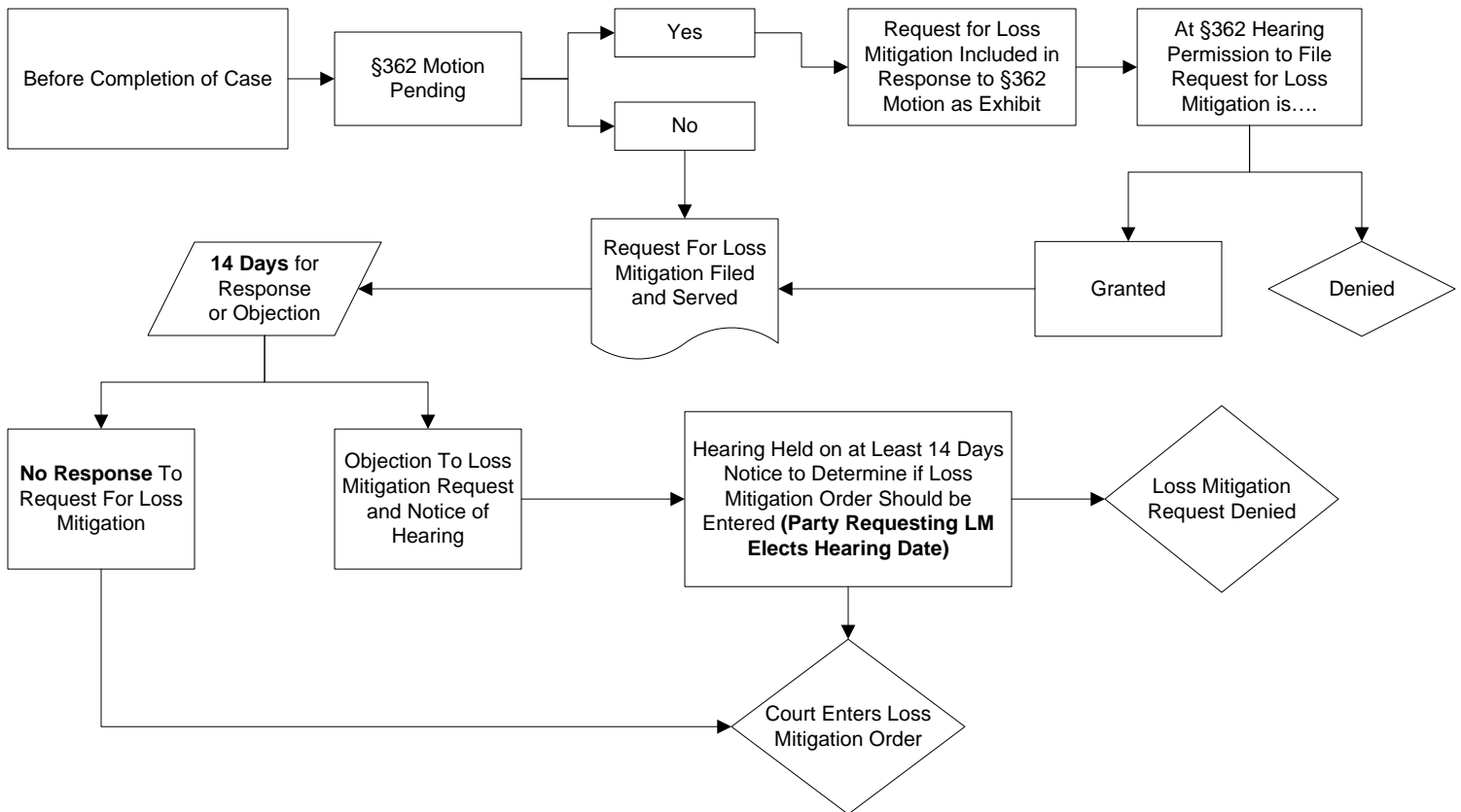
## Loss Mitigation Program Procedures

### *Commencement of Loss Mitigation:*

- A. By written request of Debtor
  - 1. Generally. Except as provided in A2 & 3 below, at any time during the pendency of the case.
    - i. Complete and file Loss Mitigation Request by Debtor and Certificate of Service (“Request”) (fillable form found at: <https://www.nynb.uscourts.gov/?q=forms/lm01-loss-mitigation-request-debtors-and-certificate-service> )
    - ii. In Chapter 12 and 13, ensure plan payments are current when making Request
    - iii. File separate Request for each loan subject to Loss Mit.
    - iv. File Request and Certificate of Service on case trustee pursuant to Bankruptcy Rule of Fed. Proc. 7004
      - If proof of claim filed, serve individual who signed it by first class mail
  - 2. When a Motion for Relief from Stay is Pending as to the Property
    - i. A Loss Mitigation Request by Debtors and Certificate of Service can be filed with response to a Motion for Relief from Stay:
      - Must state desire to enter Loss Mit. and that a completed Request is attached as an exhibit
      - Do not file or serve Request separately
      - Attach Request as an exhibit, note Request is not a response; still raise any relevant legal defenses
      - If request for Loss Mit. is granted, must file Request within three (3) business days after Motion for Relief from Stay Hearing and serve as indicated above in A(1)(iv)
  - 3. When a Motion for Relief from Stay has been granted
    - i. Seek permission of the Creditor
    - ii. File Request
      - Note the court will not consider entering an order without affirmative consent of Creditor
      - If evidence of consent is not filed within 14 days of Request, Request will be denied
- B. By Written Request of a Creditor
  - 1. Generally. Except as provided in B2 below, Creditor may file Loss Mitigation Request by Creditor and Certificate of Service (“Creditor Request”) (fillable form found at <https://www.nynb.uscourts.gov/forms/lm02-loss-mitigation-request-creditor-and-certificate-service> )
    - i. Creditor Request must be served on trustee and Debtor’s counsel via CM/ ECF notice filing and Debtor by first class mail
    - ii. Debtor has 14 days to file and serve objection to Creditor Request

- iii. The court can enter the Loss Mit Order if Debtor does not object
  - 2. When a Motion for Relief from Stay is pending as to the Property
    - i. Creditor may file and serve Creditor Request as a reply to opposition received to Creditor's Motion for Relief from Stay
      - o Creditor Request must be filed no later than three (3) days prior to return date of the Motion for Relief from Stay;
      - o Must be served consistent with (B)(1); and
      - o Creditor must adjourn hearing on Motion for Relief from Stay pursuant to LBR 9013-1(i) to a date at least 20 but no more than 60 days from hearing date on Stay Relief
- C. Objection to Loss Mitigation Request: Upon objection, court refrains from entering Loss Mit Order
- D. Service of Order: Within 3 days of entry or denial, moving party must serve Order on all named parties in Request, the case trustee, and any other designated Loss Mit Party
- E. Loss Mit Proposed Order shall contain:
  - 1. The date by which contact persons and telephone, facsimile and email contact information shall be provided by the Loss Mitigation Parties.
  - 2. The date by which the Debtor and the Creditor shall transmit any request for information or documents to other Loss Mitigation Parties, and shall file the appropriate Loss Mitigation Affidavit (Debtor(s) / Creditor) itemizing the information and/or documents requested.
  - 3. The date by which the Debtor and the Creditor shall respond to any request for information or documents, and shall file the appropriate Loss Mitigation Affidavit (Debtor(s) / Creditor) itemizing the information and/or documents provided.
  - 4. The date by which the initial Loss Mitigation session shall be conducted.
  - 5. The date and time of the initial Status Conference with the court and a requirement that the Loss Mitigation Party that requested Loss Mitigation file with the court a Loss Mitigation Status Report not later than seven (7) days prior to the initial Status Conference. Failure to file the initial Loss Mitigation Status Report may, at the discretion of the court, result in termination of Loss Mitigation.
- F. Status Report filed and Status Conference held per Loss Mit Order
  - 1. Court may consider settlement or adjourn if necessary
  - 2. Debtor may terminate loss mitigation by filing a letter with court on notice with Order and Final Report; Debtor and Creditor may seek termination by Stipulation Terminating Loss Mitigation; or Creditor may seek termination by filing a motion
  - 3. Application for Fees filed\*\*

\*\* See complete details in Loss Mitigation Program Procedures for United States Bankruptcy Court, Northern District of New York, including Section XI – Debtor's Counsel Fees When Utilizing Loss Mitigation Program



U.S. Bankruptcy Court  
Northern District Of New York

# Loss Mitigation Procedure

Revised 3/15/2016

## **Exhibit 8**



# Why Chapter 13?

Debtor can:

- Keep non-exempt property (11 USC 1306(b))
- Restructure some secured claims
- Qualify for relief even if flunk the means test
- May discharge a few debts that would not be dischargeable in Chapter 7
  - Divorce property settlements
- Get a second discharge in fewer than 8 years from the prior filing
  - > **2 years** between chapter 13 cases
  - > **4 years** between prior Chapter 7 and new Chapter 13 (**11 USC 1328(f)**)

## Disadvantages of Chapter 13

- Debtor must pay creditors **more present value** than they would get in Chapter 7 (Best Interests of Creditors Test)
- Debtor must pay creditors all “**projected disposable income**” during the plan term (3-5 years)
- Debtor under bankruptcy court scrutiny for 3-5 year term
- A lot more expensive:
  - \$4,200 “no look” attorneys fees v \$1,200 fee in Chapter 7

## **Presenter Bios**

**Hon. Wendy A. Kinsella** was sworn in as a United States Bankruptcy Judge for the Syracuse Division of the Northern District of New York on June 7, 2021.

Prior to her appointment, Judge Kinsella was a partner and the leader of the Financial Restructuring, Bankruptcy, and Creditors' Rights practice group at Harris Beach PLLC. In her practice, she counseled lending institutions and represented secured and unsecured creditors, surety companies, landlords, and parties seeking to acquire companies through bankruptcy or uniform commercial code sales. Previously, her practice focused on serving as debtor's counsel and as counsel to Chapter 7 and 11 trustees, resulting in her expertise in all aspects of Chapter 7, 11, 12, and 13 filings. As a practicing attorney, Judge Kinsella was actively involved in diversity and inclusion initiatives, having served as the Chair of Harris Beach's Council on Inclusion and Diversity from 2014 to 2019, and as Co-Chair up until her appointment.

Judge Kinsella was an associate and then partner at Martin, Martin & Woodard, LLP prior to its merger with Harris Beach.

She received a Bachelor of Science degree magna cum laude from Ithaca College, and her Juris Doctor degree cum laude from Syracuse University School of Law.

**Lee E. Woodard, Esq.** is a partner at Harris Beach PLLC in the financial restructuring, bankruptcy and creditors' rights practice group, counseling clients on all aspects of bankruptcy for more than 30 years. A former panel trustee for Chapter 7 and 11 bankruptcy matters, he is currently an adjunct Professor and Director of the Bankruptcy Clinic at Syracuse University College of Law.

**Anna J. Smith, Esq.** is a solo practitioner at the Law Offices of Anna Smith, where she represents Debtors in Chapter 7 and Chapter 13 consumer bankruptcies. Since opening her practice in 2013, she has refined her practice areas to focus exclusively on her passion for bankruptcy and has expanded her office locations to serve individuals in both the Ithaca and Herkimer area.