

Keeping that Simple No-Asset Case a No-Asset Case: Recent Areas of Chapter 7 Trustee Activity

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Debtor's Discharge: Risks for Failure to Produce Records

I. Debtor's Duties: 11 U.S.C. § 521.

Section 521 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") sets forth the duties of a debtor when filing for bankruptcy protection. In addition to filing a list of creditors, schedules of assets and liabilities and a statement of financial affairs pursuant to

§ 521(a)(1), a debtor must also "cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties . . ." 11 U.S.C. § 521(a)(3). Among other specific obligations in Bankruptcy Code § 521(a), the debtor is required to "surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate . . ." 11 U.S.C. § 521(a)(4).

II. Grounds for Denial of Discharge for Failure to Produce Records.

An individual Chapter 7 debtor stands to lose his or her discharge in the event that the debtor fails to produce records necessary to assist the bankruptcy trustee in the trustee's investigation of all potential estate assets. Section 727(a) of the Bankruptcy Code describes the circumstances under which a debtor will be subject to denial of a discharge in Chapter 7 cases. Relevant to a debtor's duty to surrender records, Bankruptcy Code § 727(a)(3) provides:

(a) The court shall grant the debtor a discharge, unless –

. . . (3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case[.]

11 U.S.C. § 727(a)(3).

In situations where a debtor "fail[s] to keep or preserve" records pertaining to assets of the estate, a debtor may be required to defend a complaint objecting to discharge brought by the trustee, a creditor, or the United States trustee. 11 U.S.C. §§ 727(a)(3) and (c)(1). Unless the debtor can show that the debtor's failure to keep or preserve the records at issue "was justified under all of the circumstances of the case", a court faced with these issues might rule to deny a debtor's discharge under Bankruptcy Code § 727(a)(3).

III. In re Simmons, 810 F.3d 852 (1st Cir. Jan. 20, 2016).

The Court of Appeals for the First Circuit (Selya, C.J.) in In re Simmons, 810 F.3d 852 (1st Cir. Jan. 20, 2016), recently weighed in on the standard for denial of a Chapter 7 debtor's discharge due to the debtor's failure to keep and preserve records. In affirming the denial of the debtor's discharge below, the Court's ruling in Simmons demonstrates "that a discharge may be denied where, as here, the debtor fails, *without any objectively reasonable justification*, to keep and preserve records." Simmons, 810 F.3d at 859 (emphasis in the original).

A. Procedural History.

In Simmons, the United States Trustee brought an adversary proceeding to deny the debtor his discharge under Bankruptcy Code § 727(a)(3) for failure to preserve records and under Bankruptcy Code § 727(a)(5) for an unexplained loss of assets.¹ See Simmons, 810 F.3d at 855. The bankruptcy court in Simmons (Hoffman, J.) denied the debtor his discharge at summary judgment after determining that the debtor’s lack of documentation regarding his finances was “shocking and disturbing”. In re Simmons, 513 B.R. 161, 171-72 (Bankr. D. Mass. 2014). The debtor subsequently appealed the bankruptcy court’s grant of summary judgment in favor of the United States Trustee to the Bankruptcy Appellate Panel for the First Circuit (the “BAP”). On appeal to the BAP, the BAP affirmed the bankruptcy court’s decision to deny the debtor his discharge. In re Simmons, 525 B.R. 543, 549 (1st Cir. B.A.P. 2015) (Kornreich, J.). On further appeal to the First Circuit, the First Circuit upheld the BAP’s decision.

B. Factual Background.

In Simmons, in the years leading up to his filing of the Chapter 7 petition, the debtor owned several rental income properties throughout Massachusetts. See Simmons, 810 F.3d at 855. To finance his acquisition of the rental properties, the debtor executed several mortgage loans. See id. at 855-56. The debtor hired property managers to oversee the properties and collect rents. Id. at 855. A portion of the rents collected were deposited into bank accounts held by the debtor or his managers, but the debtor did not segregate the rent by tenant or property. Id.

At the time of the debtor’s filing, the debtor sought to discharge approximately \$3,500,000 in unsecured debt, which the debtor described in his bankruptcy papers as deficiencies on mortgage loans. Simmons, 810 F.3d at 855. The debtor’s Schedules and Statement of Financial Affairs revealed that as of the date of the petition the debtor held just five properties, which he intended to surrender to lenders, that the debtor was unemployed, that he had no income during the two years prior to his filing, and that he held no valuable assets subject to distribution in his case. Id. at 855-56.

Throughout the Chapter 7 case, the debtor failed to provide the United States Trustee with sufficient documentation related to the debtor’s real estate business. Simmons, 810 F.3d at 856. The United States Trustee eventually deposed the debtor and, during the deposition, learned that the debtor had owned 27 rental properties in the years prior to the filing. Id. As the case progressed, the United States Trustee continued to make demand on the debtor for documents showing the collection of rents. Id. The debtor, however, never produced the necessary information – “[n]o rent rolls, ledgers, bank statements, or other records showing itemized accounts of either rental proceeds or real estate transactions” Id.

Eventually, the United States Trustee filed an adversary proceeding complaint against the debtor, seeking to deny him a discharge, and, thereafter, moved for summary judgment. Simmons, 810 F.3d at 856. The debtor opposed summary judgment on the grounds that he provided the United States Trustee with all the documents that he possessed or that he could reasonably obtain. Id. The bankruptcy court granted the Trustee’s request for summary judgment and denied the debtor’s discharge, holding that he had violated both Bankruptcy Code §§ 727(a)(3) and 727(a)(5). Id.

¹ Section 727(a)(5) of the Bankruptcy Code allows a bankruptcy court to deny a discharge if “the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor’s liabilities[.]” 11 U.S.C. § 727(a)(5). In Simmons, the Court also upheld the denial of the debtor’s discharge under Bankruptcy Code § 727(a)(5). Simmons, 810 F.3d at 860. On this ground, the Court ultimately found that “[t]he bankruptcy court’s findings are unimpegnable. The debtor has never submitted anything remotely resembling a satisfactory explanation for the loss of millions of dollars in assets.” Id. The Court noted that “[w]e – like the courts below – are left entirely in the dark as to what happened to the debtor’s considerable assets.” Id.

C. Reasoning.

In reviewing whether the BAP erred in affirming the bankruptcy court's denial of the debtor's discharge, the First Circuit in Simmons first examined whether the United States Trustee had met his burden under Bankruptcy Code § 727(a)(3) by showing that the debtor failed to maintain adequate records. See Simmons, 810 F.3d at 857. The Court noted that "[r]ecord-keeping need not be precise to the point of pedantry: records can be adequate without being textbook models. The operative standard is functional: a debtor's record's must 'sufficiently identify the transactions [so] that intelligent inquiry can be made of them.'" Id. at 857-58 (citing Razzaboni v. Schifano (In re Schifano), 378 F.3d 60, 69 (1st Cir. 2004) (quoting Meridian Bank v. Alten, 958 F.2d 1226, 1230 (3d Cir. 1992))). The Court also noted that the standard is "objective" – that "[a] debtor's records may be judged deficient under section 727(a)(3) even if the debtor did not intend to conceal financial information . . . or harbored an honest belief that he did not need to keep records" Id. at 858 (citing State Bank of India v. Sethi (In re Sethi), 250 B.R. 831, 837 (Bankr. E.D.N.Y. 2000) and Miller v. Pulos (In re Pulos), 168 B.R. 682, 692 (Bankr. D. Minn. 1994)).

The First Circuit agreed with the bankruptcy court and BAP that the debtor objectively failed to keep any records in connection with his rental properties, including the acquisition, financing and disposition of the properties, the monthly amount of rent received, bank statements showing the receipt of rent, or expenses paid in connection with the properties, and that such failure implicated Bankruptcy Code § 727(a)(3) so as to warrant the denial of his discharge. See Simmons, 810 F.3d at 858. But see In re Lombard, 2016 WL 1254734 *1, *3 (Bankr. D.N.H. 2016) (finding that a creditor objecting to a debtor's discharge failed to carry his burden under Bankruptcy Code § 727(a)(3)). The debtor in Simmons invoked the justification defense provided by Bankruptcy Code § 727(a)(3) – namely, that "his failure to keep and preserve records was justified by extenuating circumstances." See Simmons, 810 F.3d at 858. The Court noted that the debtor has the burden of proving an objectively reasonable justification for his failure to keep adequate records. Id. at 858 (listing cases where courts have found a debtor's failure to keep and preserve records justified). "Myriad factors may inform this inquiry, including the debtor's education, experience, and sophistication; the volume and complexity of the debtor's business; and whatever other circumstances are made relevant by the idiosyncrasies of the case." Id. (citing Meridian Bank, 958 F.2d at 1231).

The First Circuit summarized the relevant facts which compelled the bankruptcy court and the BAP to conclude that the debtor had failed to act as a reasonably prudent real estate owner in failing to keep records (*i.e.*, "that the debtor was an experienced investor who had some college education", that "[h]e had been dealing in real estate for several years", that "[t]he volume of his business was substantial"). Simmons, 810 F.3d at 858-59. In the Court's view, "[g]iven these historical facts, we think it nose-on-the-face plain that any reasonable property owner would have kept and preserved documentation detailing income, expenses, and property dispositions." Id. at 859.

Indeed, the debtor's only justification provided for failing to preserve records was that he was a "dupe for managers". Simmons, 810 F.3d at 859. In response, the Court noted: "A debtor cannot shirk his statutory duty under section 727(a)(3) by the simple expedient of claiming conclusorily that he was merely a pawn for someone else. At least in the absence of proof of special circumstances (not present here), such a claim is not an objectively reasonable justification for a commercial property owner's failure to keep and maintain any semblance of adequate records." Id. While "[a] debtor need not keep and preserve meticulously detailed records in order to secure a discharge in bankruptcy", "the debtor must keep and preserve records containing enough information to paint a reasonably clear picture of his finances during the period leading up to the filing of his bankruptcy petition." Id. at 860. As shown by the bankruptcy court's, the BAP's and the First Circuit's decisions in Simmons, if a debtor's record-keeping is objectively inadequate, with no reasonable justification and even in the absence of any bad faith, a Chapter 7 debtor might lose his discharge.

IV. **Other Enforcement Options.**

Of course, filing a complaint to deny a debtor his or her discharge is only one tool available to a Chapter 7 trustee faced with a debtor who is unwilling or unable to produce relevant financial records. A trustee may also wish to seek sanctions in egregious cases where a debtor fails to comply with the debtor's statutory duties under Bankruptcy Code § 521(a) or a prior court Order directing the debtor to turn over relevant records to the trustee. See, e.g., *Zwirn v. Pereira (In re 47-49 Charles St., Inc.)*, 1999 WL 177432 *1, *1 (S.D.N.Y. 1999) (upholding monetary sanctions of \$100 per day imposed by bankruptcy court for debtor's failure to turn over to trustee books and records). But see *Law v. Siegel*, 132 S. Ct. 1188 (2014) (prohibiting the surcharging of a debtor's exemption to compensate an estate for administrative expenses incurred as a result of a debtor's misconduct). A trustee may also consider referring the debtor to the Office of the United States Trustee for a further investigation of potential civil and/or criminal abuses. See Section 4(N)(9) of the Handbook for Chapter 7 Trustees, *Referral of Potential Bankruptcy Crimes*; see also 18 U.S.C. § 3057(a)²; 18 U.S.C. § 152 (listing common bankruptcy crimes).

² Section 3057(a) of Title 18 of the United States Code provides: "Any judge, receiver, or trustee having reasonable grounds for believing that any violation under chapter 9 of this title or other laws of the United States relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been committed. Where one of such officers has made such report, the others need not do so."

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Consequences and Strategies: Debtor's Failure to Disclose Assets

I. Debtor's Failure to Disclose Causes of Action: Judicial Estoppel Issues.

A debtor is required to fully disclose all assets, including potential causes of action and claims. *See* 11 U.S.C. §§ 521(a)(1) and 541(a); *Howe v. Richardson*, 193 F.3d 60, 61 (1st Cir. 1999). A debtor who omits a cause of action or pending lawsuit from his or her bankruptcy papers may be estopped from later asserting the claim or maintaining the lawsuit. *See Payless Wholesale Distribs., Inc. v. Alberto Culver (P.R.) Inc.*, 989 F.2d 570, 571 (1st Cir. 1993) (affirming the lower court's award of summary judgment on judicial estoppel grounds where plaintiff had committed "palpable fraud" by concealing claims against defendants in bankruptcy); *Howell v. Town of Leyden*, 335 F.Supp.2d 248, 252 (D. Mass. 2004) ("Because the Howells declared under the pains and penalties of perjury that the information in their bankruptcy petition was true and correct and represented that they were party to no suit and had no claims among their assets, they are estopped from asserting the contrary position – that they have claims against the defendants – before this court").

Judicial estoppel is an equitable remedy, typically employed by courts in situations where a party asserts a position in a legal proceeding which contradicts another position maintained by that party in an earlier legal proceeding. *See New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (quoting *Davis v. Wakelee*, 156 U.S. 680, 689 (1895)) ("[W]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position, especially if it be to the prejudice of the party who has acquiesced in the position formerly taken by him.")). A court in its discretion may apply judicial estoppel in order to prevent a party to a lawsuit from adopting a position which contradicts an earlier position. *See id.* at 750-51.

In the bankruptcy context, judicial estoppel will most likely apply to prevent a debtor from pursuing a cause of action outside of bankruptcy where the debtor fails to disclose a claim or cause of action and later obtains a discharge. *See, e.g., Guay v. Burack*, 677 F.3d 10, 17 (1st Cir. 2012) ("[I]t is well-established that a failure to identify a claim as an asset in a bankruptcy proceeding is a prior inconsistent position that may serve as the basis for application of judicial estoppel, barring the debtor from pursuing the claim in a later proceeding"); *see also In re Residential Capital, LLC*, 2015 WL 2375979 *1, *8 (Bankr. S.D.N.Y. 2015) (finding that debtor was judicially estopped from bringing pre-petition causes of action of which he was aware, but failed to list in bankruptcy schedules). Judicial estoppel is typically raised as a defense by the party defending a lawsuit against a current or former debtor related to a previously undisclosed cause of action. In that situation, where a debtor has represented in the bankruptcy that no such claim exists, the debtor will be estopped from later pursuing the claim.

Courts have held that an exception to judicial estoppel may apply when a debtor's failure to disclose a cause of action or pending lawsuit in a bankruptcy is due to inadvertence or mistake. *See, e.g., Brooks v. Beatty*, 25 F.3d 1037, 1994 WL 224160 *1, *2-*3 (1st Cir. 1994) (reversing the District Court's award of summary judgment in favor of defendants and application of judicial estoppel due, in part, to the plaintiff's reliance on bankruptcy counsel in failing to disclose claim in her bankruptcy case). *But see Guay*, 677 F.3d at 20 n.7 ("We

have never recognized such an exception and have noted that deliberate dishonesty is not a prerequisite to application of judicial estoppel”). In most cases, when determining whether to apply judicial estoppel, courts will consider whether the plaintiff-debtor was aware of the pending lawsuit or claim at the time of filing the petition and whether the debtor had a motive to conceal the claim. See, e.g., Eastman v. Union Pac. R.R. Co., 493 F.3d 1151, 1157 (10th Cir. 2007).

While a debtor may be estopped from pursuing a lawsuit for his or her own personal benefit after failing to disclose the claim, the trend among courts is to not employ judicial estoppel to prevent a trustee from maintaining or pursuing a previously undisclosed cause of action on behalf of the bankruptcy estate. See, e.g., Reed v. City of Arlington, 650 F.3d 571, 572 (5th Cir. 2010) (en banc) (“The question before the en banc court is whether judicial estoppel bars a blameless bankruptcy trustee from pursuing a judgment that the debtor – having concealed the judgment during bankruptcy – is himself estopped from pursuing. We hold that it does not. This result upholds the purpose of judicial estoppel, which in this context is to protect the integrity of the bankruptcy process, by adhering to basic tenets of bankruptcy law and by preserving the assets of the bankruptcy estate for equitable distribution to the estate’s innocent creditors”); Roggio v. City of Gardner, 2011 WL 4369448 *1, *2-*3 (D. Mass. 2011) (dismissing plaintiff’s unscheduled claims where she lacked standing to pursue them and where the Chapter 7 trustee is the party responsible for maintaining the claims); see also Jeffrey v. Desmond, 70 F.3d 183, 186 n.3 (1st Cir. 1995) (citing Vreugdenhill v. Navistar Int’l Transp. Corp., 950 F.2d 524, 526 (8th Cir. 1991)) (“[A]ny asset not properly scheduled remains property of the bankrupt estate, and the debtor loses all rights to enforce it in his own name”); Graupner v. Town of Brookfield, 450 F.Supp.2d 119, 120, 124-25 (D. Mass. 2006) (denying defendants’ request for summary judgment where undisclosed claim was property of the bankruptcy estate and where bankruptcy trustee was real party in interest); Welsh v. Quabbin Timber, Inc., 199 B.R. 224, 229 (D. Mass. 1996) (“It follows ineluctably from the foregoing that Welsh’s undisclosed claims against the Bank, if any, remained in his bankruptcy estate after his discharge and, accordingly, he lacks standing to assert them in his own name in the present action”). But see E.E.O.C., et al. v. J.D. Streett & Co., 2006 WL 3076667 *1, *2-*3 (S.D. Ill. 2006) (“Thus, the Trustee is the real party in interest in this action. [The Debtor] does not ask the Court to allow her to substitute the real party in interest as a plaintiff in this case. However, even if she had made such a request, the Court would deny it”). If a bankruptcy trustee is estopped from maintaining a previously undisclosed cause of action or lawsuit, that result not only “create[s] a potential windfall for defendants, who (if they have engaged in wrongful conduct) may thereby avoid liability altogether”, but also harms the debtor’s creditors by preventing a recovery on the undisclosed claim. Graupner, 450 F.Supp.2d at 129. These policy concerns weigh against courts applying judicial estoppel to prevent a bankruptcy trustee from prosecuting a previously undisclosed cause of action.

As a practical matter, trustees should be sure to question a debtor at the meeting of creditors to determine whether the debtor has any potential claims against third parties. If the case is closed and a trustee relieved of his or her duties later learns of a lawsuit related to a pre-petition cause of action, the trustee should move quickly to seek to re-open the case and substitute himself or herself as the plaintiff in the lawsuit. Assuming that the trustee can show that the trustee had no knowledge of the undisclosed claim, courts will likely be sympathetic to allowing the trustee to pursue the cause of action for the benefit of the debtor’s creditors.

II. Law v. Siegel Implications: Exemptions in Undisclosed Assets.

A bankruptcy trustee might encounter a debtor who knowingly and intentionally attempts to conceal assets of the estate. In those situations, among other remedies for a debtor's bad faith conduct, a trustee may pursue an objection to the debtor's discharge under § 727(a)(2)³, make a criminal referral to the Office of the United States Trustee or request that a bankruptcy court employ its equitable powers to impose sanctions on the debtor. Since the issuance of the United States Supreme Court's decision in Law v. Siegel, 134 S. Ct. 1188 (2014), however, a trustee's ability to prevent a bad faith debtor from claiming an exemption in previously undisclosed assets of the estate has been seriously curtailed.

The Bankruptcy Code authorizes a debtor to exempt certain assets and to choose between the exemption schemes set forth in the Bankruptcy Code or prescribed by state law when doing so. 11 U.S.C. § 522(b). In addition, Rule 1009(a) of the Federal Rules of Bankruptcy Procedure provides that a "schedule . . . may be amended by the debtor as a matter of course at any time before the case is closed." Fed. R. Bankr. P. 1009(a). Prior to the Supreme Court's Siegel opinion, relying on the equitable powers afforded to them under § 105(a)⁴, bankruptcy courts commonly authorized the disallowance of an exemption based on a debtor's fraudulent concealment of the asset claimed as exempt. See Siegel, 134 S. Ct. at 1196. In Siegel, the Supreme Court considered whether a bankruptcy court may rely on § 105(a) to surcharge a debtor's homestead exemption to partially compensate the estate for its administrative expenses resulting from the debtor's bad faith conduct. See id. at 1194-95. The Supreme Court in Siegel held that bankruptcy courts do not have the general equitable power to deny exemptions based on a debtor's bad faith conduct. Id. at 1196-97. The effect of Siegel has been to abrogate a bankruptcy court's ability on solely § 105(a) equitable grounds to disallow amended exemptions where a debtor has acted in bad faith to attempt to conceal assets. See In re Lua, 529 B.R. 766, 773 (Bankr. C.D. Cal. 2015) (holding that the bankruptcy court lacked the authority to deny the debtor leave to amend her exemptions based on debtor's bad faith); see also Lua, 529 B.R. at 773-74 (listing cases decided after Siegel which have held that bankruptcy courts lack the authority to disallow claims of exemption on equitable grounds). But see In re Whittick, 547 B.R. 628, 639 (Bankr. D.N.J. 2016) (noting that 11 U.S.C. § 522(g) provides a statutory basis for denying a debtor's claim of exemption in a recovered asset that the debtor transferred in an attempt to defraud creditors).⁵

³ See, e.g., In re Wunderlich, 378 B.R. 417 (1st Cir. B.A.P. 2007) (discussing elements necessary to establish fraudulent concealment grounds to deny a debtor's discharge under § 727(a)(2)).

⁴ Section 105(a) of the Bankruptcy Code provides: "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process." 11 U.S.C. § 105(a).

⁵ Section 522(g) of the Bankruptcy Code provides in relevant part: "Notwithstanding sections 550 and 551 of this title, the debtor may exempt under subsection (b) of this section property that the trustee recovers under section 510(c)(2), 542, 543, 550, 551, or 553 of this title, to the extent that the debtor could have exempted such property under subsection (b) of this section if such property had not been transferred, if –

(1)(A) such transfer was not a voluntary transfer of such property by the debtor; and

(B) the debtor did not conceal such property[.]"

11 U.S.C. § 522(g).

If a trustee wishes to overcome Siegel to prevent a debtor from claiming an exemption under state law, it is clear that now the trustee must attempt to identify and articulate for the bankruptcy court a state law ground to warrant disallowance of the exemption. See Lua, 529 B.R. at 774 (finding that debtor was equitably estopped under California law from asserting an amended homestead exemption claim); see also Elliott v. Weil (In re Elliott), 523 B.R. 188, 194 (9th Cir. B.A.P. 2014); Gray v. Warfield (In re Gray), 523 B.R. 170, 175 (9th Cir. B.A.P. 2014) (both cases holding that bankruptcy courts must consider state law grounds to deny a claim of exemption). While the Supreme Court attempted to limit its holding in Siegel to cases dealing with federal exemptions only, “leaving undisturbed a bankruptcy court’s power to consider a debtor’s misconduct when dealing with state law exemption claims”, the equitable powers to deny an exemption might not exist at state law and, even if they do exist, such powers may be preempted by federal law once a bankruptcy case is filed. In re Mateer, 525 B.R. 559, 566 (Bankr. D. Mass. 2015) (discussing Law v. Siegel and Patriot Portfolio, LLC v. Weinstein (In re Weinstein), 164 F.3d 677 (1st Cir. 1999) and upholding debtor’s claim of homestead exemption under Massachusetts law where debtor concealed insurance claims and proceeds). Absent a state law basis to deny a debtor’s exemption claim, or a statutory basis in the Bankruptcy Code outside of § 105(a), a trustee is unlikely to succeed in convincing a bankruptcy court to disallow a debtor’s exemption due to the debtor’s misconduct, however egregious.

III. Limitations on Debtor’s One-Time Conversion Right.

Although Law v. Siegel limits a bankruptcy court’s ability to deny or surcharge a debtor’s exemption, courts still may rely on their equitable powers to impose consequences on a debtor for concealing property of the estate or other bad acts. For example, in Marrama v. Citizens Bank of Mass., 549 U.S. 365 (2007), the Supreme Court held that a bankruptcy court may deny a debtor’s request to convert the debtor’s case from Chapter 7 to a case under another chapter where the debtor has acted in bad faith (i.e., by failing to disclose or concealing property of the estate). Marrama, 549 U.S. at 374-75. The Supreme Court’s decision in Marrama places a limit on a debtor’s “one-time conversion right” set forth in § 706(a), which provides that a debtor may convert a case so long as the case has not been converted previously. See id. In the Supreme Court’s view in Marrama, § 105(a) grants bankruptcy judges the broad authority “to take appropriate action in response to fraudulent conduct by the atypical litigant who has demonstrated that he is not entitled to the relief available to the typical debtor.” Id.; see In re Hale, 511 B.R. 870, 878 (Bankr. W.D. Mich. 2014) (“In this particular case, the Debtors have engaged in unquestionably atypical conduct and forfeited their ability to convert from chapter 7 to chapter 13”). Thus, even after Law v. Siegel, a trustee dealing with a debtor who fails to disclose or undervalues assets might still have success (outside of the denial or surcharging of an exemption scenarios) requesting that a bankruptcy court employ its equitable powers to deny relief routinely granted to other debtors.

TOPICS IN RECOVERIES BY CHAPTER 7 TRUSTEES

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A. Issues In Fraudulent Conveyance Recoveries Applicable Statutes.

In most bankruptcy cases there are three (3) statutory schemes under which the Trustee could seek recovery of a fraudulent conveyance. (a) 11 U.S.C. §548 (a) & (b) (Fraudulent Conveyances); (b) the applicable state version of the Uniform Fraudulent Transfer Statute; and (c) the self-settled trust rule from BAPCPA with a ten (10) year look-back period.

1) Basic rule: 11 U.S.C. § 548.

The basic rule on 11 U.S.C. § 548 is that a fraudulent transfer may be recovered if the transfer was made and the obligation incurred within two (2) years before the date of the filing of the petition. “Fraudulent Transfer” for the purposes of § 548(a) means a transfer made with the actual intent to hinder, delay, or defraud creditors or a transfer made for less than reasonably equivalent value when the debtor was insolvent.⁶ 11 U.S.C. § 548(a). The look-back period for such transfers is two (2) years. 11 U.S.C. § 548(b).

2) The ten (10) year look-back for self settled trusts.

The Trustee is also empowered to avoid “any transfer of an interest to the debtor in property” made within ten (10) years before the date of the filing of the petition if the transfer was “to a self settled trust or similar device” made by the debtor; the debtor is a beneficiary of the trust; and the transfer was made “with actual intent to hinder delay or defraud any entity to which the debtor was or became...indebted.” 11 U.S.C. § 548(e)(1). So, under Title 11, the Trustee can look back two (2) years or, in specific instances, ten (10) years.

3) Avoidance Under State Laws Using § 544.

The Trustee also has the power to avoid transfers which could be avoided by an (actual) unsecured creditor under applicable non-bankruptcy law if the claim “allowable under §502 or if disallowed is disallowed only by virtue of 11 U.S.C. § 502(e).”⁷ 11 U.S.C. § 544(b). The ability to stand in the shoes of an actual unsecured creditor means the Trustee can also invoke the Fraudulent Conveyance statute of the applicable state. Each of New Hampshire, Maine, Massachusetts, and Rhode Island has adopted the Uniform Fraudulent Transfer Act. That

⁶ To be slightly more precise, while the debtor was insolvent, or became insolvent as a result of the transfer; or had unreasonably small capital; or intended to incur debts beyond the debtor’s ability to pay as they matured. 11 U.S.C. § 548(a)(1)(B)(ii) (I) through (III). Interestingly, if the challenged transfer for less than reasonably equivalent value is a transfer to an insider under an employment contract “not in the ordinary course of business” then the Trustee does not have to prove insolvency. 11 U.S.C. § 548(a)(1)(B)(ii)(IV).

⁷ 11 U.S.C. § 502(e) disallows contingent claims for reimbursement or contribution and certain subrogation claims.

means, in general, that the Trustee may seek to avoid a transfer under state law if the transfer was made within four (4) years of the bankruptcy filing. *See, e.g.*, Mass. Gen. Laws Ann. ch. 109A, § 10 (West); R.I. Gen. Laws Ann. § 6-16-9 (West); N.H. Rev. Stat. Ann. § 545-A:9. However, Maine is the odd state out where, in Maine, the Trustee would have six (6) years. Me. Rev. Stat. tit. 14, § 3580.

4) *The effect of the resulting trust doctrine: is there ever a true time limit?*

Even when the four (4) years has passed or the six (6) years has passed (and even if the transfer is not to a self settled trust), nevertheless, the Trustee may have the ability to recover assets transferred if the transfer is made with actual intent to hinder delay or defraud. The reason is that the transfer may not be effective to deprive the debtor of equitable title. The transfer of property with the actual intent to hinder delay or defraud may give rise to a resulting trust such that the Debtor still owns the property and the Trustee can recover the property irrespective of when the recovery action is brought because the equitable interest in the property is brought into the estate by 11 U.S.C. §541. *See, e.g., Fleet National Bank v. Valente (In re Valente)*, 360 F.3d 256 (1st Cir. 2004); *Marcucci v. Marcucci*, 65 F.3d 986 (1st Cir. 1995) (Applying New Hampshire Law); *In re Jewett*, 2007 WL 1288740 (Bankr. D.N.H. 2007); *See also Restatement (Second) Trusts*, §404; *Restatement (Third) Trusts* §9. *Cf. In re Garland*, 385 B.R. 280, 297 (Bankr. E.D. Okla. 2008), *aff'd*, 417 B.R. 805 (B.A.P. 10th Cir. 2009) (Failure to disclose equitable interest in the home transferred results in denial of discharge).

B. The Triggering Creditor Doctrine.

The concept of a “Triggering Creditor”⁸ is simply the recitation of 11 U.S.C. § 544(b). The Trustee “may avoid any transfer of an interest of a debtor in property... that is avoidable under applicable law *by a creditor holding an unsecured claim that is allowable under §502 of this Title...*” 11 U.S.C. § 544(b)(1) (emphasis added). As a result, in order to invoke the strong arm power of §544(b), the Trustee has to identify a creditor. The identity of the creditor impacts the relief available.

The ability to obtain relief depends on the identity of the chosen creditor. If the transfer is more than 2 years before the bankruptcy petition, and is fraudulent based upon a claim that it was a transfer for “less than reasonably equivalent value” while the debtor was insolvent, then the Trustee has to establish that the “Triggering Creditor” is a creditor whose “claim arose before the transfer was made.” *E.g.*, N.H. Rev. Stat. Ann. § 545-A:5(I); Mass. Gen. Laws Ann. ch. 109A, § 6 (West); Me. Rev. Stat. tit. 14, § 3576 (West); R.I. Gen. Laws Ann. § 6-16-5 (West). If the Trustee claims that the transfer was made with the actual intent to hinder delay or defraud creditors, then the Trustee need merely establish that the “Triggering Creditor” is simply “a creditor.” *E.g.*, N.H. Rev. Stat. Ann. § 545-A:4; Mass. Gen. Laws Ann. ch. 109A, § 5 (West); Me. Rev. Stat. tit. 14, § 3575 (West); R.I. Gen. Laws Ann. § 6-16-4 (West).

Because it is harder to establish actual intent to hinder delay or defraud than it is to establish that the consideration was less than reasonably equivalent value, the identity of the “Triggering Creditor” and the fact that that creditor held a claim at the time of the transfer is an important fact to establish.

Certain defenses peculiar to the chosen creditor might affect relief. The identity of the “Triggering Creditor” and the knowledge or acts of that creditor may affect the Trustee’s ability to recover. For example, suppose the “Triggering Creditor” agreed to the transfer, can the Trustee then avoid it? Probably not based solely on those assenting creditors’ rights. *U.S. Bank Nat. Ass’n v. Verizon Commc’ns Inc.*, 479 B.R. 405, 411-12 (N.D. Tex. 2012) (“because Idearc’s banks and bondholders could not have brought fraudulent transfer claims at the time of the Idearc bankruptcy filing, they cannot be the plaintiff’s Section 544(b) triggering creditor.”) But it is possible that the creditor might be barred from sharing in the recovery. *In re Yellowstone Mountain Club, LLC*, 436 B.R. 598, 678 (Bankr. D. Mont. 2010), amended on reconsideration in part, No. 08-61570-11, 2010 WL 3504210 (Bankr. D. Mont. Sept. 7, 2010), amended, No. 08-61570-11, 2012 WL 6043282 (Bankr. D. Mont. Dec.

⁸ *See generally*, Strub & Reisner *The Expansion of the Triggering Creditor Doctrine in an Action to Avoid Fraudulent Transfers*, 24 AM. BANKR. INST. L. REV., Winter 2016, at 249-77.

5, 2012), *aff'd*, No. ADV 09-00014, 2014 WL 1369363 (D. Mont. Apr. 7, 2014) (“More importantly, the Court is prohibiting Credit Suisse and the Prepetition Lenders from converting a nonrecourse loan into a recourse loan through crafty legal negotiations with the Debtors and the Committee.”)

If the “Triggering Creditor” is the IRS, does the Trustee get to use the statute of limitations available to the government? Yes. *See In re Kaiser*, 525 B.R. 697, 703 (Bankr. N.D. Ill. 2014) (Referring to the triggering creditor as the “golden creditor” and allowing the Trustee to rely on the IRS’ proof of claim and applicable ten year statute); *In re Alpha Protective Servs., Inc.*, 531 B.R. 889, 906 (Bankr. M.D. Ga. 2015) (“Trustee may step into the shoes of a federal creditor under the [Federal Debt Collection Procedures Act, 28 U.S.C. §3304] ...”).

C. The Doctrine of *Moore v. Bay*

Moore v. Bay 284 US 4, 52 S.Ct. 3, 76 L.Ed. 133 (1931) addressed the issue of what happens once the Trustee avoids a transfer. Standing in the shoes of an unsecured creditor, is the relief limited to that which could be obtained by the “triggering” or “golden” creditor, or does it extend beyond? The Supreme Court held that the avoidance extends beyond the amount avoidable by the unsecured creditor. The Trustee avoids for the benefit of all creditors and not just the creditors who had those rights. *In re JTS Corp.*, 617 F.3d 1102, 1112 (9th Cir. 2010) (“once avoidance is shown, the trustee’s recovery cannot be limited in certain situations”); *In re Acequia, Inc.*, 34 F.3d 800, 809 (9th Cir. 1994) (“the measure and distribution of recovery is not limited by the creditor’s right”) (quoting *Collier On Bankruptcy* ¶544.03[1] pp 10015-16); *See, e.g., In re Mirant Corp.*, 675 F.3d 530, 534 (5th Cir. 2012) (“Once a trustee’s avoidance rights are triggered at the time of filing, they persist until avoidance will no longer benefit the estate”); *Bensimon v. Duke Energy Corp.*, 500 B.R. 464, 480 (W.D. Tex. 2013); .

D. Finding the Claim and Creditor.

Of course the critical issue there is that there be a claim. The Trustee may be very interested in making sure that the “Triggering Creditor” actually files a proof of claim because there is at least an ambiguity in the statute. The statute says that the Trustee may avoid a transfer that is “voidable” by a “creditor holding unsecured claim that is allowable under § 502 of this title . . .”. The word used is “allowable” not “allowed.” A claim that is not filed is not “allowed.” 11 U.S.C. § 502(a) (Declaring that “a claim . . . proof of which is filed under § 501 of this title is deemed allowed.”).

However, for a claim to be allowable now (post BAPCPA), it seems to have to be filed. A proof of claim is disallowed if it is not timely filed “except to the extent tardily filed as permitted under paragraph 1, 2 or 3 of § 726(a) . . .”. 11 U.S.C. § 502(b)(9). A claim which has become late and which is not filed “as permitted by” §726 (a) would then not appear to be allowable.

The language is not entirely consistent. Section 502(b)(9) discusses claims filed as “permitted” by Section 726(a). Section 726(a) does not technically “permit” claims but instead authorizes distributions to claims. Section 726(a)(1) permits a Chapter 7 Trustee to make distributions to claims which are priority claims even though they are tardily filed under certain circumstances. 11 U.S.C. § 726(a)(2) permits tardily filed claims to receive a distribution if the creditor did not have notice or actual knowledge of the case in time for filing and the proof of claim is filed in time to permit payment. 11 U.S.C. §726(a)(3) permits tardily filed claims generally to receive a distribution after all of the timely filed claims are paid in full, and before the payment of penalties or interest or payment to the debtor.

In summary, it appears that the interplay between § 544(b), § 502(b), and §726(a) results in the following observations:

- (a) A Chapter 7 Trustee can probably bring a 544(b) strong arm action stepping into the shoes of a tardily filed unsecured claim but may not be able to do so at all if the claim is not filed.
- (b) A Chapter 13 or Chapter 11 Trustee probably cannot bring a 544(b) action based on an unsecured claim which is not filed (or the case of a Chapter 11 Trustee for a claim that is not deemed filed).

- (c) The Chapter 7 Trustee probably can use the unsecured claim of the federal government.
- (d) The Chapter 7 Trustee would probably want to file a proof of claim for the “triggering” creditor, if a claim is not otherwise filed using the powers granted the Trustee under Fed. R. Bankr. P. 3004.
- (e) The Trustee is in a quandary with respect to the use of secured claims. The Trustee is in a quandary with respect to the use of secured claims for the following reasons: First, § 544(b) makes it plain that the Trustee gets to step into the shoes of “a creditor holding an unsecured claim.” The determination as to whether the claim is secured or unsecured is ambiguous at best. The definition of a “secured claim” is contained in 11 U.S.C. § 506. A claim is a secured claim “to the extent of the value of such creditor’s interest in the estate’s interest in such property . . . and is an unsecured claim to the extent that the value of such creditor’s interest . . . is less than the amount of such allowed claim.” 11 U.S.C. § 506(a). The statute however, then goes on to create the rule that in many circumstances there can be multiple standards of valuation depending upon the proposed distribution or use of the property. The statute says “such value shall be determined in light of the purpose of the valuation and of the proposed disposition or uses of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor’s interest.” 11 U.S.C. § 506(a). So, one wonders how is a poor overworked Trustee to determine whether or not the claim is unsecured and thereby giving the Trustee a “Triggering Creditor” into whose shoes he or she may step.

The matter becomes somewhat worse (or perhaps somewhat better depending on your perspective) if the debtor we are talking about is an “individual.” In that circumstance “if the debtor is an individual in a case under Chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs and sales or marketing. With respect to property acquired for personal, family or household purposes, replacement value shall mean the price a retail merchant would charge for property of the kind considering the age and condition of the property at the time the value is determined.” 11 U.S.C. § 506(2).

So if the debtor files with a long term car loan and surrenders the vehicle resulting in a deficiency claim against the estate, but, however, the “replacement value” of the vehicle was in excess of the debt, then it would seem that the Trustee cannot use the car loan lender as a “Triggering Creditor.”

E. Fraudulent Transfer Implications of Certain Intra family transfers.

The classic fraudulent conveyance claim brought by a Trustee is the situation where the debtor, believing that he or she is in financial difficulty, conveys away a significant asset to a family member and retains possession. The common situation is a conveyance to a spouse or a child. The common situation often involves a piece of real estate. It is not uncommon for the debtor at the 341 meeting to recite that he or she wanted to make sure that the property (the family camp, or the debtor’s car) was safe from creditors.

From a Trustee’s prospective that avoidance action is relatively straightforward. You find that a creditor in whose shoes you can stand (if the conveyance is more than two (2) years old). Or, you sue under 11 U.S.C. § 548 and recover the property conveyed.

The same thing happens on a regular basis in other intra-family circumstances where our sense is that the transfer was not “bad.” So for example, the debtor that testifies that he transferred his weekly paychecks every week for the last twenty (20) years into an account controlled by his or her spouse who then managed the family finances. Is that a fraud on creditors? Or, where prospective debtor enters into a divorce stipulation conveying substantial assets to his or her spouse, is that a fraud on creditors? Or, the situation where the debtor, despite being unable to pay creditors, nevertheless finds a way to pay his or her child’s private education. Is that a fraud on creditors? Does it depend on whether the child is under eighteen (18)? Does it depend on whether the education might be otherwise obtainable through the public schools?

In general bankruptcy courts do not like to be involved in domestic disputes. However, a transfer in connection with a divorce could be a transfer for less than reasonably equivalent value. At least in New Hampshire, the rule is that the fact that the transfer is made pursuant to a divorce does not insulate it from a fraudulent conveyance claim, but the transfer would only be avoidable under § 548 if the allocation of property between the divorcing parties was “[not] within the range of likely distribution that would be ordered by the state divorce court if the property division had actually been litigated in that state court. *In re Sorlucio*, 68 B.R. 748, 753 (Bankr. D.N.H. 1986); *see also In re Pilavis*, 233 B.R. 1, 11 (Bankr. D. Mass. 1999) (“I join with other courts which have considered the problem in endorsing the analysis used by Judge Yacos.”)

2. *Can a spouse be a creditor before divorce?*

In general within a family unit, there is an ongoing obligation to provide for others. In New Hampshire that doctrine finds two embodiments. First, the statute, and second, the common law doctrine of necessities. The statute is New Hampshire R.S.A. 546-A:2. That statute provides that:

Every person whose income or other resources are more than sufficient to provide for his or her reasonable subsistence compatible with decency or health owes a duty to support or contribute to the support of the following persons when in need: his or her wife, husband or child under the age of eighteen . . .

N.H. R.S.A. 546-A:2

The second source of such an obligation is the Doctrine of Necessaries. *See St. Joseph Hospital of Nashua v. Rizzo*, 141 N.H. 9, 12, 676 A.2d 98 (1996) (The Common Law Doctrine of Necessaries “applies to make the wives in the instant case liable to the hospital to the extent that husbands or their husband’s estates are unable to pay for necessary medical services provided.”). *See also Cheshire Medical Center v. Holbrook* 140 N.H. 187, 663 A.2d 1344 (1995). The Doctrine of Necessaries as described in *Holbrook* is as follows: at common law the husband was obligated to provide for his wife “with food, clothing and medical needs” and the failure to do so “made him legally liable for essential goods or services provided to his wife by third parties.” *Cheshire Med. Ctr. v. Holbrook*, 140 N.H. 187, 189, 663 A.2d 1344, 1346 (1995).

If there is an obligation, then the payment that satisfies that obligation is not (in most cases) a fraudulent conveyance. 11 U.S.C. §548(d)(2)(A) (value means or includes “satisfaction or securing of a present or antecedent debt but does not include an unfulfilled promise to provide support to . . . a relative of the debtor”); R.I. Gen. Laws Ann. § 6-16-3 (West) (similar); Mass. Gen. Laws Ann. ch. 109A, § 4 (West); Me. Rev. Stat. tit. 14, § 3574. From the obligation to provide flows the question of what payments within a family are protected by that obligation, and what payments within a family are not so protected.

3. *Tuition payments.*

At least some courts have held that college tuition payments paid on behalf of a child are not value to the debtor and therefore transfers for less than reasonably equivalent value. *See, e.g., In Re Leonard*, 454 B.R. 444 (Bankr. E.D. Michigan 2011); *but see, In Re Karolak*, 2013 WL 4786861 (Bankr. E.D. Michigan 2013) (Finding the receipt of reasonably equivalent value in exchange for tuition payments for grammar school education, noting that in Michigan, “a parent has a legal obligation under Mich. Comp Laws Ann. § 380.1561 (1) to provide schooling for their children”); *see also In re Akanmu, Geltzer v. Xavarian High School*, 502 B.R. 124, 132 (Bankr. E.D. N.Y. 2013). (Noting that “it is axiomatic that parents are obligated to provide their children’s necessities such as food, clothing, shelter, medical care and education.” Finding that the payment of a parochial education “does

not change the fact that, by doing so, they satisfied their legal obligation to educate their children, thereby receiving reasonably equivalent value and fair consideration.”).

F. Homestead Issues.

The Debtor has the right to assert claims of Homestead and thereby exempt certain real property. The Debtor can do that under either applicable state law, or under the federal exemption scheme. The federal exemption scheme applies to the Debtor’s “aggregate interest” in real property or in personal property that the Debtor or dependents of the Debtor use as a residence. The federal scheme also give the Debtor the right to exempt as a homestead a burial plot. The exemption may not exceed the sum of \$23,675.00. 11 U.S.C. § 522(d)(1). The federal exemption scheme is parsimonious by comparison to the states of Massachusetts, Maine, Rhode Island and New Hampshire. The Federal Scheme does not define “residence”.

Residence and domicile are probably different. The 6th Circuit has described the difference as follows.

A brief discussion of the related concepts of domicile and residents may be useful before examining the constitutionality of the University’s regulations. Generally, an individual’s “domicile” is his “true, fixed, and permanent home and principal establishment.” It is the place to which he returns whenever he is absent. ... “Residence,” in contrast, requires both physical presence and an intention to remain some indefinite period of time but not necessarily permanently.... Thus domicile is an individual’s permanent place of abode where he need not be physically present, and residence is where the individual is physically present much of the time. An individual consequently may have several residences but only one domicile.

Eastman v. Univ. of Michigan, 30 F.3d 670, 673 (6th Cir. 1994); *See In re: Marsico* 278 B.R. 1 (Bankr. D.N.H. 2002) (residence and domicile are different; New Hampshire state law Homestead Exemption requires domicile while the Federal Exemption under 522(d)(1) requires residents.)

Each of the states have homestead exemptions. New Hampshire’s Homestead Exemption is found in N.H. R.S.A.480:1. It exempts an interest of up to \$120,000 in a domicile. *See In re Marsico* 278 B.R. 1 (Bankr. D.N.H. 2002). Massachusetts has an automatic Homestead Exemption of \$125,000 and a “declared Homestead Exemption” in the amount of \$500,000. Mass. Gen. Laws Ann. Ch. 188 §1. The Maine Homestead Exemption is capped at \$95,000. Me. Rev. Stat. Ann. Tit. 14, § 4422. The Rhode Island homestead exemption is up to the sum of \$500,000. R.I. Gen Laws Ann. § 9-26-4.1 (West).

In general, the holder of the Homestead has to own the real estate or have some interest in the real estate, has to occupy the real estate, and generally has to have the intent to remain on the premises for an indefinite period of time.

1. *The Effect of Temporary Absence from the Homestead.*

Certain absences from the premises may not destroy the entitlement to a homestead. For example, a temporary absence from the premises will not eliminate the right to a homestead. *In re Dubravsky*, 374 B.R. 467 (Bankr. D.N.H. 2007); *In re Cole*, 185 B.R. 95, 98 (Bankr. D. Me. 1995) (“nothing more than a vague intention to live on the Hartland property”; “no present plans or tangible, contemporary preparations to move there” is not enough); *In re Marrama*, 307 B.R. 332, 336-37 (Bankr. D. Mass. 2004) (To obtain and declare a Homestead estate, Debtor must “occupy or intend to occupy the property.”).

2. *The Effect of Absence pursuant to a divorce.*

Absence by virtue of a divorce may not, at least in New Hampshire, deprive the Debtor of the claim of Homestead. *In re Eckols*, 63 B.R. 523 (Bankr. D.N.H. 1986).

3. *The Effect of a Sale.*

If the Debtor has sold the property and moved out, the proceeds (at least in New Hampshire) are not excluded by the homestead exemption. *In re Schalebaum*, 273 B.R. 1 (Bankr. D.N.H. 2001); *In re Visconti*, 426 B.R. 422 (Bankr. D.N.H. 2001).

4. *The Effect of Multiple Lots or units.*

The homestead has to be occupied. The question that arises then, when the homestead is alleged to be two different lots, what does it mean to be occupied?

Generally, if the Debtor actually uses and occupies the adjacent parcel in connection with its principal residence as a part of his principal residence then the Debtor is entitled to claim the lot as part of the homestead. See, e.g., *In re MacLeod*, 295 B.R. 1, 5 (Bankr. D. Me. 2003) (“Residential use may extend also to contiguous property which is used for a complimentary activity, like family recreation. It may even extend to incidental business use...”); *In re Edwards*, 281 B.R. 439, 450 (Bankr. D. Mass. 2002) (“Debtor actually used and occupied the adjoining parcel as part of and in connection with his principal residence as of the date of the filing of his bankruptcy petition.”); *In re Mirulla*, 163 B.R. 910 (Bankr. D.N.H. 1994) (Debtor resided in a hotel owned by him only the units actually used were exempt.); See also *In re Iodice*, No. BK 13-11283-BAH, 2014 WL 4925982 (Bankr. D.N.H. Sept. 30, 2014); *In re Myers*, 323 B.R. 11 (Bankr. D.N.H. 2005).

G. The interplay between Homestead and Trustee Avoidance Actions: *In re: Traverse*, 753 F.3d 19 (1st Cir. 2014) cert. denied sub nom. *DeGiacomo v. Traverse*, 135 S. Ct. 459 (2014).

In most jurisdictions, the homestead can be and frequently is waived. The waiver arises either as a matter of statute or explicitly in a mortgage. See, e.g., N.H. R.S.A. 480:5-a (purchase money Mortgage encumbers the homestead without waiver). Even if the instrument is not a purchase money mortgage, in New Hampshire and in most other jurisdictions the deed encumbering the homestead right may waive the homestead if certain required formalities are met. N.H. R.S.A. 480:5-a.

However, the mortgage holder sometimes fails to properly record the Mortgage or the Mortgage holder fails to have the Mortgage properly executed. See *In re Traverse*, 753 F.3d 19 (1st Cir. 2014) cert. denied sub nom. *DeGiacomo v. Traverse*, 135 S. Ct. 459, (2014) (Mortgage not recorded at all.); See *In re Pellerin*, 529 B.R. 801 (Bankr. D.N.H. 2015) (Defective acknowledgement). Those circumstances may give the Trustee the right to avoid the Mortgage pursuant to the strong arm powers. 11 U.S.C. §544(a). After avoiding the mortgage, the Trustee will then preserve it for the benefit of the estate. 11 U.S.C. § 551. Having preserved the Mortgage “for the benefit of the estate” what has the Trustee now obtained?

In *Traverse*, the First Circuit said essentially that the Trustee obtained nothing. The Trustee did not obtain the right to recover payments in as much as the Trustee did not hold the Note. *In re Traverse*, supra at fn. 9 (“Absent a separate agreement the contrary, avoidance and preservation of a security interest do not entitle the Trustee to payments on the underlying debt.”). Unless the Trustee can sell for more than the homestead, the First Circuit does not permit the Trustee to sell. Thus, in at least Massachusetts, the Trustee could not sell the property without paying Ms. Traverse the \$500,000 homestead. Since the property was not worth \$500,000, the avoidance of the Mortgage did not immediately benefit the Trustee.

What is a Trustee to do?

One thing that a Trustee could do is make a deal with the Debtor. The Trustee avoided the Mortgage. Having avoided the Mortgage, the Trustee finds some difficulty in obtaining a monetary judgment against the bank. See *In re Spodris*, 516 B.R. 196 (Bankr. D Mass 2014).

Some Trustees have, with some success, renegotiated the loan transaction. The Debtor is discharged of the personal obligation to pay the Note. The Mortgage securing the Note has been avoided. A resolution between the Debtor and the Trustee might involve the re-execution of the Mortgage and modification of the Note obligation or execution of a new Note obligation to the benefit of the Bankruptcy Estate, which new Note obligation might have more favorable terms to the Debtor. Having negotiated a more favorable Mortgage with the Debtor, the Trustee might then be in a position to sell it. Having sold the Mortgage, the Trustee has thereby realized payment for the benefit of unsecured creditors (including the former Mortgagee).

In other instances, the Trustee may be in a position to sell the Mortgage itself. The idea there being that the Mortgage secures the non-recourse obligation. It is at least conceivable that at some time in the future, that the Debtor will choose to leave the property (or will die) and upon that event, somebody will sell the property. Selling the property will yield proceeds that will be available to satisfy an outstanding Mortgage.

H. The Effect of Tax Liens in 11 U.S.C. § 724(b). Debtor's lawyers do not ordinarily think of it or even notice it, but, the Bankruptcy Code permits the Trustee to subordinate the claim of the IRS if the claim is secured by a lien. 11 U.S.C. § 724(b) essentially says that the IRS lien is held for the benefit of priority claims. In essence, an IRS claim secured by a lien is given the same priority as any other IRS tax claim: an 8th priority. That means that the first seven (7) priorities ahead of it will get paid out of the proceeds of its lien. The seven (7) priorities ahead of it include such interesting things as: The Trustee's fees and expenses; domestic support obligations; employee wages and benefits. Thus, it occurs from time to time that Trustee may encounter fully encumbered property which the Trustee may nevertheless be in a position to sell and for which sale the Trustee may generate benefits to estate constituents.

The other thing that happens with 11 U.S.C. § 724(b) is that the Trustee steps into the shoes of the IRS with respect to the priority that the IRS has. The priority differs depending on the collateral and the competing liens. The important one however is the lien of secured creditors in revolving collateral or securing revolving debt.

If the Debtor is not an individual but instead a business and if the bank has provided a line of credit secured by inventory and receivables, then under appropriate circumstances the IRS lien will come ahead of the bank. The appropriate circumstances are that the IRS lien goes on record and that forty (45) days thereafter pass. 26 U.S.C. 6323 (c); *Rice Inv. Co. v. United States*, 625 F.2d 565, 571 (5th Cir. 1980) (term loan secured by revolving inventory loses to tax lien for inventory acquired more than forty five days after the recording of the tax lien); *Texas Oil & Gas Corp. v. United States*, 466 F.2d 1040, 1053 (5th Cir. 1972) (Dealing with a revolving loan secured by accounts receivable: "Because this potential interest in future accounts receivable cannot pass muster under the traditional choateness doctrine and because the 1966 amendments to the tax lien statute do not appear to expand that choateness doctrine in any manner other than to extend the required time of receipt for 45 days past the filing of the tax lien, the bank lien is inferior to the federal tax lien"); *See also United States v. Pioneer Am. Ins. Co.*, 374 U.S. 84, 89, 83 S. Ct. 1651, 1655, 10 L. Ed. 2d 770 (1963) ("The federal rule is that liens are 'perfected in the sense that there is nothing more to be done to have a choate lien—when the identity of the lienor, the property subject to the lien, and the amount of the lien are established.'"). At that point, after the forty (45) days, the IRS lien will come out ahead of any revolving line of credit facility, and will come out ahead of a security interest which encumbers revolving collateral. That means that a Chapter 7 Trustee can subordinate the tax lien, liquidate the collateral and pay some priority claims.

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Clark v. Rameker
573 U.S. _____ (2014)

The Supreme Court in a decision written by Justice Sonia Sotomayor found that Heidi Heffron Clark who inherited an IRA from her mother in 2001 could not exempt the account under 11U.S.C. § 522 of the Bankruptcy Code.

A. Procedural History

In Clark, the Chapter 7 Trustee objected to debtor's exemption under Bankruptcy Code §522(b)(3)(C) the "retirement funds" exemption with respect to roughly \$300,000.00 in an inherited individual retirement account (IRA). The Bankruptcy Court concluded that the inherited IRA was not exempt and disallowed the exemption. The District Court reversed, explaining that the exemption covers an inherited IRA. The Court stated "IRAs are exempted because they do not lose their character as retirement funds once they are passed onto the beneficiary." The Seventh Circuit Court of Appeals reversed the District Court's decision stating that an inherited IRA does not qualify for a retirement fund exemption because it was not set aside for the debtor's retirement. On appeal to the Supreme Court of the United States, the Supreme Court affirmed the Circuit Court of Appeals' decision.

B. Factual Background

In Clark, Ruth Heffron established an Individual Retirement Account and named her daughter sole beneficiary. In 2001 Ruth died and the account worth \$450,000.00 passed to her daughter. The debtor elected to take monthly distributions. In October 2010 Heffron-Clark and her husband filed for Chapter 7 Bankruptcy and claimed the inherited IRA as exempt under §522(b)(3)(C). The Chapter 7 Trustee and two Judgment Creditors objected. The Supreme Court held inherited individual retirement accounts do not qualify as "retirement funds" within the meaning of

§11 U.S.C. §522(b)(3)(C).

C. Reasoning

In reviewing whether the Seventh Circuit Court of Appeals was correct, The Supreme Court used the opportunity to decide whether a non-spousal inherited IRA is exempt under the Bankruptcy Code.

The Supreme Court examined the intent and benefit of traditional and Roth IRA's including their tax advantages and savings benefits as well as the intent of Congress.

The Court also looked at inherited IRAs. The Court noted that "when anyone other than the owner's spouse inherits the IRA, he or she may not rollover the funds; the only option is to hold the IRA as an inherited account." See Clark 573 U.S. 3 (2014). The Court noted that:

Unlike with a traditional or Roth IRA, an individual may withdraw funds

from an inherited IRA at any time, without paying a tax penalty. Indeed, the owner of an inherited IRA not only may but must withdraw funds:

The owner must either withdraw the entire balance in the account within

five years...and unlike with a traditional or Roth IRA, the owner of an inherited IRA may never make a contribution to the account. *Id.* at 3.

The Supreme Court summarized that relevant facts and stated it wanted to resolve a conflict between the Seventh Circuit's ruling and the Fifth Circuit's decision in *In Re Chelton* 674 F.3d 486 (2012), 571 U.S. ____ (2013).

The Court looked at the legal characteristics in determining whether the funds qualify as "retirement funds."

The Court looked at three characteristics of inherited IRAs, which led the Court to conclude that funds such as these "are not objectively set aside for the purpose of retirement" (*id.* at 5).

1. Inherited IRAs prohibit contribution.
2. Holders of inherited IRAs are required to withdraw money from the account.
3. The holder of an inherited IRA may withdraw the entire balance of the account at any time, without penalty. *Id.* at 6.

The Court found that §522(b)(3)(C) requires that funds satisfy not one but two conditions in order to be exempt: the funds must be "retirement funds" and they must be held in a covered account. *Id.* at 9.

The Supreme Court affirmed the judgment of the United States Court of Appeals for the Seventh Circuit.

FOOD FOR THOUGHT

Trustee Ford suggests that you consider the effect of the Supreme Court Decision on State law exemptions – which may be none at all. *In re Pacheco*, 537 B.R. 935, 940 (Bankr. D. Ariz. 2015) ("The problem with applying the holding in *Clark v. Rameker* to this case is that the only issue presented was whether section 522(b)(3)(C) applies to inherited IRAs by nonspouses. It did not address Arizona's exemption statute and certainly did not address preemption.") cf. *In re Andolino*, 525 B.R. 588, 591 (Bankr. D.N.J. 2015) ("The Court will not take the proverbial "leap" in linking the U.S. Supreme Court's ruling that an inherited IRA is not exempt from the bankruptcy estate, to an automatic determination that an inherited IRA is necessarily included in the bankruptcy estate. Rather, the Court must determine, in the first instance, whether the inherited IRA at issue is in fact property of the bankruptcy estate pursuant to 11 U.S.C. § 541, and only then would the Bankruptcy Code's 11 U.S.C. § 522 exemption scheme become relevant."); But, see, *In re Everett*, 520 B.R. 498, 507-08 (E.D. La. 2014) ("As a result of this change, the Tax Code no longer afforded the account preferential tax treatment. Accordingly the Court finds that an *508 inherited IRA is not a "tax-deferred arrangement" within the meaning of Louisiana Revised Statute § 13:3881, and is not exempt from the bankruptcy estate under Louisiana law.").

Also be mindful that the two part sieve contained in the federal statute is absent from some state statutes (such as Rhode Island). 9 R.I. Gen. Laws Ann. § 9-26-4 (West) (" The right or interest of a person in an annuity, pension, profit sharing, or other retirement plan protected by the Employee Retirement

Income Security Act of 1974, Public Law 93-406, 29 U.S.C. § 1001 et seq.”); 9 R.I. Gen. Laws Ann. § 9-26-4 (West) (“An individual retirement account or individual retirement annuity as defined in the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, and the payments or distributions from such an account or annuity,”); Mass. Gen. Laws Ann. ch. 235, § 34A (West)(“The right or interest of any person in an annuity, pension, profit sharing or other retirement plan subject to the federal Employee Retirement Income Security Act of 1974, in any plan maintained by one or more self-employed individuals as a Keogh Plan, so-called, in any plan maintained by a corporation or other business organization pursuant to section 401(a) of the Internal Revenue Code but not subject to the federal Employee Retirement Income Security Act of 1974, or in any Simplified Employee Plan, annuity plan to which the provisions of section 403(b) of the Internal Revenue Code apply or Individual Retirement Account or Annuity maintained by an individual, or in any annuity or similar contract distributed from or purchased with assets distributed from any of the foregoing, shall be exempt from the operation of any law relating to insolvency and shall not be attached or taken on execution...”)

f:\wpdata\ed\cle\abi 2016\presentation\consolidated materials.doc

Fill in this information to identify your case:

United States Bankruptcy Court for the:

MassachusettsCase number (If known): 16-000000

Chapter you are filing under:

- ☒ Chapter 7
☐ Chapter 11
☐ Chapter 12
☐ Chapter 13

☐ Check if this is an
amended filing

Official Form 101**Voluntary Petition for Individuals Filing for Bankruptcy**

12/15

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, “Do you own a car,” the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

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

Part 1: Identify Yourself**About Debtor 1:****About Debtor 2 (Spouse Only in a Joint Case):****1. Your full name**

Write the name that is on your government-issued picture identification (for example, your driver's license or passport).

Bring your picture identification to your meeting with the trustee.

Josephine

First name

F.

Middle name

Debtor

Last name

Suffix (Sr., Jr., II, III)
First name
Middle name
Last name
Suffix (Sr., Jr., II, III)**2. All other names you have used in the last 8 years**

Include your married or maiden names.

Josephine

First name

Middle nameNotYetFamous

Last name

Josephine

First name

Middle nameAndros

Last name

First name
Middle name
Last name
First name
Middle name
Last name**3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)**XXX — XX — 0 0 0 0

OR

9 XX — XX — XXX — XX —

OR

9 XX — XX —

Debtor 1

Josephine F. Debtor

First Name

Middle Name

Last Name

Case number (if known) 16-000000

About Debtor 1:**4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years**Include trade names and *doing business as* names☐ I have not used any business names or EINs.

SPARKLES Jewelry Store

Business name

Business name

1 1 - 3 3 3 3 3 3
EIN

EIN

About Debtor 2 (Spouse Only in a Joint Case):☐ I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

334 Temporary Residence, Apt. 2A

Number Street

Marlborough

City

MA

State

01752

ZIP Code

MIDDLESEX

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City State ZIP Code

If Debtor 2 lives at a different address:

Number Street

City

State

ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City State ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

☒ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Check one:

☐ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.☐ I have another reason. Explain.
(See 28 U.S.C. § 1408.)

Part 2: Tell the Court About Your Bankruptcy Case**7. The chapter of the Bankruptcy Code you are choosing to file under**

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form B2010)). Also, go to the top of page 1 and check the appropriate box.

- ☒ Chapter 7
- ☐ Chapter 11
- ☐ Chapter 12
- ☐ Chapter 13

8. How you will pay the fee

- ☒ **I will pay the entire fee when I file my petition.** Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.
- ☐ **I need to pay the fee in installments.** If you choose this option, sign and attach the *Application for Individuals to Pay Your Filing Fee in Installments* (Official Form 103A).
- ☐ **I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

- ☒ No
- ☐ Yes. District _____ When _____ Case number _____
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY
- District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

- ☒ No
- ☐ Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY
- Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?

- ☒ No. Go to line 12.
- ☐ Yes. Has your landlord obtained an eviction judgment against you and do you want to stay in your residence?
- ☐ No. Go to line 12.
- ☐ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor**12. Are you a sole proprietor of any full- or part-time business?**

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

☐ No. Go to Part 4.

☒ Yes. Name and location of business

SPARKLES Jewelry Store

Name of business, if any

100 Miracle Mile Way, Unit 25

Number Street

Milford

City

MA

State

01757

ZIP Code

Check the appropriate box to describe your business:

☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))

☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))

☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))

☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))

☒ None of the above
13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a small business debtor?

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

☒ No. I am not filing under Chapter 11.

☐ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.

☐ Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.
Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention**14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?**

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

☒ No

☐ Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property?

Number

Street

City

State

ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**15. Tell the court whether you have received briefing about credit counseling.**

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one:

☒ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

☐ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

☐ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

☐ **I am not required to receive a briefing about credit counseling because of:**

☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

☐ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

☐ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

☐ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

☐ **I am not required to receive a briefing about credit counseling because of:**

☐ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

☐ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

☐ **Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes**16. What kind of debts do you have?**

16a. Are your debts primarily consumer debts? *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ☐ No. Go to line 16b.
☒ Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ☐ No. Go to line 16c.
☐ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.

17. Are you filing under Chapter 7?

☐ No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- ☒ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
- ☒ No
☐ Yes

18. How many creditors do you estimate that you owe?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

19. How much do you estimate your assets to be worth?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input checked="" type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

20. How much do you estimate your liabilities to be?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input checked="" type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Part 7: Sign Below**For you**

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X

Signature of Debtor 1

Executed on _____
 MM / DD / YYYY

X

Signature of Debtor 2

Executed on _____
 MM / DD / YYYY

Debtor 1

Josephine F. Debtor

First Name

Middle Name

Last Name

Case number (if known) 16-000000

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.



Signature of Attorney for Debtor

Date

MM / DD / YYYY

Carlyle Counsel

Printed name

HUFFNER & HUFFNER, P.C.

Firm name

246 Brooker Avenue

Number Street

Worcester

City

MA

State

01608

ZIP Code

Contact phone (978) 222-0000

Email address ccounsel@huffandhuff.com

9999

Bar number

MA

State

Fill in this information to identify your case and this filing:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000

☐ Check if this is an amended filing

Official Form 106A/B

Schedule A/B: Property

12/15

In each category, separately list and describe items. List an asset only once. If an asset fits in more than one category, list the asset in the category where you think it fits best. Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Each Residence, Building, Land, or Other Real Estate You Own or Have an Interest In

1. Do you own or have any legal or equitable interest in any residence, building, land, or similar property?

- ☐ No. Go to Part 2.
- ☒ Yes. Where is the property?

1.1. 16 Noel Drive
Street address, if available, or other description

Marlborough MA 01752
City State ZIP Code

Middlesex
County

What is the property? Check all that apply.

- ☒ Single-family home
- ☐ Duplex or multi-unit building
- ☐ Condominium or cooperative
- ☒ Manufactured or mobile home
- ☐ Land
- ☐ Investment property
- ☐ Timeshare
- ☐ Other _____

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

Other information you wish to add about this item, such as local property identification number: _____

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?
\$ <u>550,000.00</u>	\$ <u>275,000.00</u>

Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.

Fee Simple Ownership

☐ Check if this is community property (see instructions)

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

1.2. _____
Street address, if available, or other description

City State ZIP Code

County

What is the property? Check all that apply.

- ☐ Single-family home
- ☐ Duplex or multi-unit building
- ☐ Condominium or cooperative
- ☐ Manufactured or mobile home
- ☐ Land
- ☐ Investment property
- ☐ Timeshare
- ☐ Other _____

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

Other information you wish to add about this item, such as local property identification number: _____

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?
\$ _____	\$ _____

Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.

☐ Check if this is community property (see instructions)

1.3. _____
Street address, if available, or other description

City State ZIP Code

County

What is the property? Check all that apply.

- ☐ Single-family home
☐ Duplex or multi-unit building
☐ Condominium or cooperative
☐ Manufactured or mobile home
☐ Land
☐ Investment property
☐ Timeshare
☐ Other _____

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

Other information you wish to add about this item, such as local property identification number: _____

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?**

\$ _____ \$ _____

Describe the nature of your ownership interest (such as fee simple, tenancy by the entireties, or a life estate), if known.

☐ **Check if this is community property** (see instructions)

2. Add the dollar value of the portion you own for all of your entries from Part 1, including any entries for pages you have attached for Part 1. Write that number here. _____ →

\$275,000.00

Part 2: Describe Your Vehicles

Do you own, lease, or have legal or equitable interest in any vehicles, whether they are registered or not? Include any vehicles you own that someone else drives. If you lease a vehicle, also report it on *Schedule G: Executory Contracts and Unexpired Leases*.

3. **Cars, vans, trucks, tractors, sport utility vehicles, motorcycles**

- ☐ No
☒ Yes

3.1. Make: Volvo
 Model: _____
 Year: 2013
 Approximate mileage: 88000
 Other information:

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?**

\$30,000.00 \$15,000.00

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

3.2. Make: Saab
 Model: _____
 Year: 2011
 Approximate mileage: 99000
 Other information:

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?**

\$8,500.00 \$4,250.00

3.3. Make: HD
 Model: RoadKing
 Year: 2015
 Approximate mileage: 15000
 Other information:

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?

\$8,800.00 \$4,400.00

3.4. Make: _____
 Model: _____
 Year: _____
 Approximate mileage: _____
 Other information:

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?

\$ _____ \$ _____

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:

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?

\$ _____ \$ _____

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

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

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?

\$ _____ \$ _____

5. Add the dollar value of the portion you own for all of your entries from Part 2, including any entries for pages you have attached for Part 2. Write that number here

\$23,650.00

Part 3: Describe Your Personal and Household Items

Do you own or have any legal or equitable interest in any of the following items?

Current value of the portion you own?

Do not deduct secured claims or exemptions.

6. Household goods and furnishings*Examples:* Major appliances, furniture, linens, china, kitchenware☐ No☒ Yes. Describe..... Ordinary household furniture, furnishings & decor; Books, DVDs, CDs

\$8,000.00

7. Electronics*Examples:* Televisions and radios; audio, video, stereo, and digital equipment; computers, printers, scanners; music collections; electronic devices including cell phones, cameras, media players, games☐ No☒ Yes. Describe..... Unremarkable household electronics, laptop, tvs, tablets

\$3,000.00

8. Collectibles of value*Examples:* Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; stamp, coin, or baseball card collections; other collections, memorabilia, collectibles☒ No☐ Yes. Describe.....

\$

9. Equipment for sports and hobbies*Examples:* Sports, photographic, exercise, and other hobby equipment; bicycles, pool tables, golf clubs, skis; canoes and kayaks; carpentry tools; musical instruments☐ No☒ Yes. Describe..... 4 bicycles, 2 Old Town canoes, used hockey gear, hot tub; Trampoline

\$1,550.00

10. Firearms*Examples:* Pistols, rifles, shotguns, ammunition, and related equipment☒ No☐ Yes. Describe.....

\$

11. Clothes*Examples:* Everyday clothes, furs, leather coats, designer wear, shoes, accessories☐ No☒ Yes. Describe..... Ordinary clothing

\$800.00

12. Jewelry*Examples:* Everyday jewelry, costume jewelry, engagement rings, wedding rings, heirloom jewelry, watches, gems, gold, silver☐ No☒ Yes. Describe..... A diamond ring

\$2,500.00

13. Non-farm animals*Examples:* Dogs, cats, birds, horses☐ No☒ Yes. Describe..... Yorkshire terrier, beta fish

\$51.00

14. Any other personal and household items you did not already list, including any health aids you did not list☒ No☐ Yes. Give specific information.....

\$

15. Add the dollar value of all of your entries from Part 3, including any entries for pages you have attached for Part 3. Write that number here →

\$15,901.00

Part 4: Describe Your Financial Assets

Do you own or have any legal or equitable interest in any of the following?

Current value of the portion you own?

Do not deduct secured claims or exemptions.

16. Cash*Examples:* Money you have in your wallet, in your home, in a safe deposit box, and on hand when you file your petition☐ No☒ Yes Cash: \$200.00**17. Deposits of money***Examples:* Checking, savings, or other financial accounts; certificates of deposit; shares in credit unions, brokerage houses, and other similar institutions. If you have multiple accounts with the same institution, list each.☐ No☒ Yes Institution name:

17.1. Checking account:	<u>Atlantic Bank</u>	\$1,500.00
17.2. Checking account:	_____	\$ _____
17.3. Savings account:	_____	\$2,100.00
17.4. Savings account:	_____	\$ _____
17.5. Certificates of deposit:	_____	\$ _____
17.6. Other financial account:	_____	\$ _____
17.7. Other financial account:	_____	\$ _____
17.8. Other financial account:	_____	\$ _____
17.9. Other financial account:	_____	\$ _____

18. Bonds, mutual funds, or publicly traded stocks*Examples:* Bond funds, investment accounts with brokerage firms, money market accounts☒ No☐ Yes Institution or issuer name:

_____	\$ _____
_____	\$ _____
_____	\$ _____

19. Non-publicly traded stock and interests in incorporated and unincorporated businesses, including an interest in an LLC, partnership, and joint venture☐ No

	Name of entity:	% of ownership:	
<input checked="" type="checkbox"/> Yes. Give specific information about them.	<u>SPARKLES Jewelry Store</u>	<u>51</u> %	\$3,000.00
	_____	_____ %	\$ _____
	_____	_____ %	\$ _____

20. Government and corporate bonds and other negotiable and non-negotiable instruments

Negotiable instruments include personal checks, cashiers' checks, promissory notes, and money orders.
Non-negotiable instruments are those you cannot transfer to someone by signing or delivering them.

☒ No

☐ Yes. Give specific
 information about
 them.

Issuer name:

 \$ _____

 \$ _____

 \$ _____

21. Retirement or pension accounts

Examples: Interests in IRA, ERISA, Keogh, 401(k), 403(b), thrift savings accounts, or other pension or profit-sharing plans

☐ No

☒ Yes. List each
 account separately.. Type of account: Institution name:

401(k) or similar plan: _____ \$ _____
 Pension plan: _____ \$ _____
 IRA: UBS \$ 500,000.00
 Retirement account: _____ \$ _____
 Keogh: _____ \$ _____
 Additional account: _____ \$ _____
 Additional account: _____ \$ _____

See Attachment 1: Additional Retirement or Pension Accounts of Money

22. Security deposits and prepayments

Your share of all unused deposits you have made so that you may continue service or use from a company

Examples: Agreements with landlords, prepaid rent, public utilities (electric, gas, water), telecommunications companies, or others

☒ No

☐ Yes..... Institution name or individual:

Electric: _____ \$ _____
 Gas: _____ \$ _____
 Heating oil: _____ \$ _____
 Security deposit on rental unit: _____ \$ _____
 Prepaid rent: _____ \$ _____
 Telephone: _____ \$ _____
 Water: _____ \$ _____
 Rented furniture: _____ \$ _____
 Other: _____ \$ _____

23. Annuities (A contract for a periodic payment of money to you, either for life or for a number of years)☒ No

☐ Yes..... Issuer name and description:

 \$ _____

 \$ _____

 \$ _____

24. Interests in an education IRA, in an account in a qualified ABLE program, or under a qualified state tuition program.

26 U.S.C. §§ 530(b)(1), 529A(b), and 529(b)(1).

☐ No☒ Yes Institution name and description. Separately file the records of any interests. 11 U.S.C. § 521(c):

Fidelity 529 account	\$ 45,000.00
_____	\$ _____
_____	\$ _____

25. Trusts, equitable or future interests in property (other than anything listed in line 1), and rights or powers exercisable for your benefit☒ No☐ Yes. Give specific information about them. ...

\$ _____

26. Patents, copyrights, trademarks, trade secrets, and other intellectual property*Examples:* Internet domain names, websites, proceeds from royalties and licensing agreements☒ No☐ Yes. Give specific information about them. ...

\$ _____

27. Licenses, franchises, and other general intangibles*Examples:* Building permits, exclusive licenses, cooperative association holdings, liquor licenses, professional licenses☐ No☒ Yes. Give specific information about them. ...

My soon to be Ex Husband has been working on a novel for the last three years (during which I have supported him) and he says it will be the next great american novel.

\$ 0.00

Money or property owed to you?**Current value of the portion you own?**
Do not deduct secured claims or exemptions.**28. Tax refunds owed to you**☒ No☐ Yes. Give specific information about them, including whether you already filed the returns and the tax years.

Federal: \$ _____

State: \$ _____

Local: \$ _____

29. Family support*Examples:* Past due or lump sum alimony, spousal support, child support, maintenance, divorce settlement, property settlement☒ No☐ Yes. Give specific information.

Alimony: \$ _____

Maintenance: \$ _____

Support: \$ _____

Divorce settlement: \$ _____

Property settlement: \$ _____

30. Other amounts someone owes you*Examples:* Unpaid wages, disability insurance payments, disability benefits, sick pay, vacation pay, workers' compensation, Social Security benefits; unpaid loans you made to someone else☒ No☐ Yes. Give specific information.

\$ _____

31. Interests in insurance policies*Examples:* Health, disability, or life insurance; health savings account (HSA); credit, homeowner's, or renter's insurance☒ No☐ Yes. Name the insurance company of each policy and list its value. ...

Company name:

Beneficiary:

Surrender or refund value:

\$ _____

\$ _____

\$ _____

32. Any interest in property that is due you from someone who has died

If you are the beneficiary of a living trust, expect proceeds from a life insurance policy, or are currently entitled to receive property because someone has died.

☒ No☐ Yes. Give specific information.

\$ _____

33. Claims against third parties, whether or not you have filed a lawsuit or made a demand for payment*Examples:* Accidents, employment disputes, insurance claims, or rights to sue☒ No☐ Yes. Describe each claim.

\$ _____

34. Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims☒ No☐ Yes. Describe each claim.

\$ _____

35. Any financial assets you did not already list☒ No☐ Yes. Give specific information.

\$ _____

36. Add the dollar value of all of your entries from Part 4, including any entries for pages you have attached for Part 4. Write that number here →

\$ 576,800.00

Part 5: Describe Any Business-Related Property You Own or Have an Interest In. List any real estate in Part 1.**37. Do you own or have any legal or equitable interest in any business-related property?**☒ No. Go to Part 6.☐ Yes. Go to line 38.**Current value of the portion you own?**

Do not deduct secured claims or exemptions.

38. Accounts receivable or commissions you already earned☒ No☐ Yes. Describe

\$ _____

39. Office equipment, furnishings, and supplies*Examples:* Business-related computers, software, modems, printers, copiers, fax machines, rugs, telephones, desks, chairs, electronic devices☒ No☐ Yes. Describe

\$ _____

40. Machinery, fixtures, equipment, supplies you use in business, and tools of your trade

☒ No☐ Yes. Describe

\$

41. Inventory

☒ No☐ Yes. Describe

\$

42. Interests in partnerships or joint ventures

☒ No☐ Yes. Describe

Name of entity:

% of ownership:

%

\$

%

\$

%

\$

43. Customer lists, mailing lists, or other compilations

☒ No☐ Yes. Do your lists include personally identifiable information (as defined in 11 U.S.C. § 101(41A))?☒ No☐ Yes. Describe

\$

44. Any business-related property you did not already list

☒ No☐ Yes. Give specific information

\$

\$

\$

\$

\$

\$

45. Add the dollar value of all of your entries from Part 5, including any entries for pages you have attached for Part 5. Write that number here



\$0.00

Part 6: Describe Any Farm- and Commercial Fishing-Related Property You Own or Have an Interest In.
If you own or have an interest in farmland, list it in Part 1.

46. Do you own or have any legal or equitable interest in any farm- or commercial fishing-related property?

☒ No. Go to Part 7.☐ Yes. Go to line 47.**Current value of the portion you own?**

Do not deduct secured claims or exemptions.

47. Farm animals

Examples: Livestock, poultry, farm-raised fish

☒ No☐ Yes

\$

48. Crops—either growing or harvested

☒ No☐ Yes. Give specific information.

\$ _____

49. Farm and fishing equipment, implements, machinery, fixtures, and tools of trade

☒ No☐ Yes.....

\$ _____

50. Farm and fishing supplies, chemicals, and feed

☒ No☐ Yes.....

\$ _____

51. Any farm- and commercial fishing-related property you did not already list

☒ No☐ Yes. Give specific information.

\$ _____

52. Add the dollar value of all of your entries from Part 6, including any entries for pages you have attached for Part 6. Write that number here



\$0.00

Part 7: Describe All Property You Own or Have an Interest in That You Did Not List Above

53. Do you have other property of any kind you did not already list?

Examples: Season tickets, country club membership

☒ No☐ Yes. Give specific information.

\$ _____

\$ _____

\$ _____

54. Add the dollar value of all of your entries from Part 7. Write that number here



\$ _____

Part 8: List the Totals of Each Part of this Form

55. Part 1: Total real estate, line 2.....



\$ 275,000.00

56. Part 2: Total vehicles, line 5 \$ 23,650.00

57. Part 3: Total personal and household items, line 15 \$ 15,901.00

58. Part 4: Total financial assets, line 36 \$ 576,800.00

59. Part 5: Total business-related property, line 45 \$ 0.00

60. Part 6: Total farm- and fishing-related property, line 52 \$ 0.00

61. Part 7: Total other property not listed, line 54 + \$ 0.00

62. Total personal property. Add lines 56 through 61.

\$ 616,351.00

Copy personal property total →

+ \$ 616,351.00

63. Total of all property on Schedule A/B. Add line 55 + line 62.

\$ 891,351.00

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1: Additional Retirement or Pension Accounts of Money

IRA with Merrill Lynch
Value: \$25,000.00

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
 (If known)

☐ Check if this is an amended filing

Official Form 106C

Schedule C: The Property You Claim as Exempt

04/16

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.

Part 1: Identify the Property You Claim as Exempt

1. Which set of exemptions are you claiming? Check one only, even if your spouse is filing with you.

- ☒ You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
☐ You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.

Brief description of the property and line on <i>Schedule A/B</i> that lists this property		Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
		Copy the value from <i>Schedule A/B</i>	Check only one box for each exemption.	
Brief description:	<u>House and land</u>	<u>\$ 275,000.00</u>	<input checked="" type="checkbox"/> \$ <u>550,000.00</u>	MGLA c.188 § 1
Line from <i>Schedule A/B</i> :	<u>1.1</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>See Attachment 1</u>	<u>\$ 4,400.00</u>	<input checked="" type="checkbox"/> \$ <u>1,900.00</u>	MGLA c.235 § 34(16)
Line from <i>Schedule A/B</i> :	<u>3.1</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>See Attachment 2</u>	<u>\$ 1,000.00</u>	<input checked="" type="checkbox"/> \$ <u>1,000.00</u>	MGLA c.235 § 34(17)
Line from <i>Schedule A/B</i> :	<u>9</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	

3. Are you claiming a homestead exemption of more than \$160,375?

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

- ☒ No
☐ Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
☐ No
☐ Yes

Part 2: Additional Page

Brief description of the property and line on Schedule A/B that lists this property		Current value of the portion you own	Amount of the exemption you claim	Specific laws that allow exemption
		Copy the value from Schedule A/B	Check only one box for each exemption	
Brief description:	<u>See Attachment 3</u>	<u>\$ 3,000.00</u>	<input checked="" type="checkbox"/> \$ <u>3,000.00</u>	<u>MGLA c.235 § 34(12)</u>
Line from Schedule A/B:	<u>7</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>See Attachment 4</u>	<u>\$ 7,500.00</u>	<input checked="" type="checkbox"/> \$ <u>7,500.00</u>	<u>MGLA ch. 235 § 34(2)</u>
Line from Schedule A/B:	<u>6</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>IRA with UBS</u>	<u>\$ 500,000.00</u>	<input checked="" type="checkbox"/> \$ <u>500,000.00</u>	<u>MGLA c.235 § 34A</u>
Line from Schedule A/B:	<u>21</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>IRA with Merrill Lynch</u>	<u>\$ 25,000.00</u>	<input checked="" type="checkbox"/> \$ <u>25,000.00</u>	<u>MGLA c.235 § 34A</u>
Line from Schedule A/B:	<u>21</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>Cash</u>	<u>\$ 200.00</u>	<input checked="" type="checkbox"/> \$ <u>200.00</u>	<u>MGLA c.235 § 34(15)</u>
Line from Schedule A/B:	<u>16</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>Ordinary clothing</u>	<u>\$ 500.00</u>	<input checked="" type="checkbox"/> \$ <u>500.00</u>	<u>MGLA c.235 § 34(1)</u>
Line from Schedule A/B:	<u>11</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>A fur</u>	<u>\$ 300.00</u>	<input checked="" type="checkbox"/> \$ <u>300.00</u>	<u>MGLA c.235 § 34(17)</u>
Line from Schedule A/B:	<u>11</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>A diamond ring</u>	<u>\$ 2,500.00</u>	<input checked="" type="checkbox"/> \$ <u>1,225.00</u>	<u>MGLA c.235 § 34(18)</u>
Line from Schedule A/B:	<u>12</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>Jewelry store (retail)</u>	<u>\$ 3,000.00</u>	<input checked="" type="checkbox"/> \$ <u>100.00</u>	<u>MGLA c.235 § 34(17)</u>
Line from Schedule A/B:	<u>19</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>Trampoline</u>	<u>\$ 200.00</u>	<input checked="" type="checkbox"/> \$ <u>200.00</u>	<u>MGLA ch. 235 § 34(2)</u>
Line from Schedule A/B:	<u>9</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>See Attachment 5</u>	<u>\$ 350.00</u>	<input checked="" type="checkbox"/> \$ <u>300.00</u>	<u>MGLA c.235 § 34(12)</u>
Line from Schedule A/B:	<u>9</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	
Brief description:	<u>Books, DVDs, CDs</u>	<u>\$ 500.00</u>	<input checked="" type="checkbox"/> \$ <u>500.00</u>	<u>MGLA c.235 § 34(3)</u>
Line from Schedule A/B:	<u>6</u>		<input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	

Part 2: Additional Page

Brief description of the property and line on Schedule A/B that lists this property	Current value of the portion you own Copy the value from Schedule A/B	Amount of the exemption you claim Check only one box for each exemption	Specific laws that allow exemption
Brief description: StateFarm claim Line from Schedule A/B: 34	\$ 5,000.00	<input checked="" type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: See Attachment 6 Line from Schedule A/B: 17.1	\$ 1,500.00	<input checked="" type="checkbox"/> \$ 1,500.00 <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	MGLA c.246 § 28A
Brief description: Savings Account with Line from Schedule A/B: 17.3	\$ 2,100.00	<input type="checkbox"/> \$ _____ <input checked="" type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	MGLA c.235 § 34(15)
Brief description: Manuscript Line from Schedule A/B: 27	\$ _____	<input checked="" type="checkbox"/> \$ See _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	MGLA c.235 § 34(17)
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from Schedule A/B: _____	\$ _____	<input type="checkbox"/> \$ _____ <input type="checkbox"/> 100% of fair market value, up to any applicable statutory limit	_____

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1

2015 HD RoadKing with 15000 miles.

Attachment 2

4 bicycles, 2 Old Town canoes, used hockey gear, hot tub

Attachment 3

Unremarkable household electronics, laptop, tvs, tablets

Attachment 4

Ordinary household furniture, furnishings & decor

Attachment 5

Sewing machine, dress forms

Attachment 6

Checking Account with Atlantic Bank

Attachment 7

Fair Market Value

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
 (If known)

☐ Check if this is an amended filing

Official Form 106D

Schedule D: Creditors Who Have Claims Secured by Property

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, number the entries, and attach it to this form. On the top of any additional pages, write your name and case number (if known).

1. Do any creditors have claims secured by your property?

- ☐ No. Check this box and submit this form to the court with your other schedules. You have nothing else to report on this form.
- ☒ Yes. Fill in all of the information below.

Part 1: List All Secured Claims

2. List all secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim. If more than one creditor has a particular claim, list the other creditors in Part 2. As much as possible, list the claims in alphabetical order according to the creditor's name.

Column A Amount of claim Do not deduct the value of collateral.	Column B Value of collateral that supports this claim	Column C Unsecured portion If any
---	--	---

2.1	ABC Credit Union	Describe the property that secures the claim:	\$ 11,000.00	\$ 8,500.00	\$ 2,500.00
-----	------------------	---	--------------	-------------	-------------

Creditor's Name
I'm on loan for son's car
Number Street

City State ZIP Code

2011 Saab 99000 miles.

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
☐ Unliquidated
☐ Disputed

Nature of lien. Check all that apply.

- ☒ An agreement you made (such as mortgage or secured car loan)
☐ Statutory lien (such as tax lien, mechanic's lien)
☐ Judgment lien from a lawsuit
☐ Other (including a right to offset) _____

Who owes the debt? 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 claim relates to a community debt

Date debt was incurred 2013

Last 4 digits of account number _____

2.2	ABC Credit Union	Describe the property that secures the claim:	\$ 3,680.00	\$ 30,000.00	\$ _____
-----	------------------	---	-------------	--------------	----------

Creditor's Name
ABC Credit Union
Number Street

City State ZIP Code

2013 Volvo 88000 miles.

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
☐ Unliquidated
☐ Disputed

Nature of lien. Check all that apply.

- ☒ An agreement you made (such as mortgage or secured car loan)
☐ Statutory lien (such as tax lien, mechanic's lien)
☐ Judgment lien from a lawsuit
☐ Other (including a right to offset) _____

Who owes the debt? 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 claim relates to a community debt

Date debt was incurred 2012

Last 4 digits of account number _____

Add the dollar value of your entries in Column A on this page. Write that number here: \$ 14,680.00

Part 1:**Additional Page**

After listing any entries on this page, number them beginning with 2.3, followed by 2.4, and so forth.

Column A
Amount of claim
 Do not deduct the
 value of collateral.

Column B
Value of collateral
that supports this
claim
Column C
Unsecured
portion
 If any

23

Bank of America

Describe the property that secures the claim:

\$ 450,000.00

\$ 550,000.00

\$

Creditor's Name

P.O. Box 1122

Number

Street

House and land; mortgage was not originally properly recorded. Debtor believes it was recorded shortly before the bankruptcy was filed (within the last month).

El Paso

TX

79998

City

State

ZIP Code

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
- ☐ Unliquidated
- ☒ Disputed

Nature of lien. Check all that apply.

- ☒ An agreement you made (such as mortgage or secured car loan)
- ☐ Statutory lien (such as tax lien, mechanic's lien)
- ☐ Judgment lien from a lawsuit
- ☐ Other (including a right to offset) _____

Who owes the debt? 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 claim relates to a
 community debt

Date debt was incurred 2007

Last 4 digits of account number _____

24

Internal Revenue Service

Describe the property that secures the claim:

\$ 25,000.00

\$ 550,000.00

\$

Creditor's Name

Number Street

16 Noel Drive, Marlborough

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
- ☐ Unliquidated
- ☐ Disputed

Nature of lien. Check all that apply.

- ☐ An agreement you made (such as mortgage or secured car loan)
- ☒ Statutory lien (such as tax lien, mechanic's lien)
- ☐ Judgment lien from a lawsuit
- ☐ Other (including a right to offset) _____

Who owes the debt? 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 claim relates to a
 community debt

Date debt was incurred WH taxes

Last 4 digits of account number _____

25

Creditor's Name

Number Street

Describe the property that secures the claim:

\$ _____ \$ _____ \$ _____

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
- ☐ Unliquidated
- ☐ Disputed

Nature of lien. Check all that apply.

- ☐ An agreement you made (such as mortgage or secured car loan)
- ☐ Statutory lien (such as tax lien, mechanic's lien)
- ☐ Judgment lien from a lawsuit
- ☐ Other (including a right to offset) _____

Who owes the debt? 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 claim relates to a
 community debt

Date debt was incurred _____

Last 4 digits of account number _____

Add the dollar value of your entries in Column A on this page. Write that number here:

\$ 475,000.00

 If this is the last page of your form, add the dollar value totals from all pages.
 Write that number here:

\$ 489,680.00

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
 (If known)

☐ Check if this is an amended filing

Official Form 106E/F

Schedule E/F: Creditors Who Have Unsecured Claims

12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY claims and Part 2 for creditors with NONPRIORITY claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on *Schedule A/B: Property* (Official Form 106A/B) and on *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G). Do not include any creditors with partially secured claims that are listed in *Schedule D: Creditors Who Hold Claims Secured by Property*. If more space is needed, copy the Part you need, fill it out, number the entries in the boxes on the left. Attach the Continuation Page to this page. On the top of any additional pages, write your name and case number (if known).

Part 1: List All of Your PRIORITY Unsecured Claims

1. Do any creditors have priority unsecured claims against you?

- ☐ No. Go to Part 2.
☒ Yes.

2. List all of your priority unsecured claims. If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. If a claim has both priority and nonpriority amounts, list that claim here and show both priority and nonpriority amounts. As much as possible, list the claims in alphabetical order according to the creditor's name. If you have more than two priority unsecured claims, fill out the Continuation Page of Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3.

(For an explanation of each type of claim, see the instructions for this form in the instruction booklet.)

		Total claim	Priority amount	Nonpriority amount	
2.1	Internal Revenue Service <small>Priority Creditor's Name</small> Number _____ Street _____ City _____ State _____ ZIP Code _____ Who incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number _____ When was the debt incurred? _____ As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of PRIORITY unsecured claim: <input type="checkbox"/> Domestic support obligations <input checked="" type="checkbox"/> Taxes and certain other debts you owe the government <input type="checkbox"/> Claims for death or personal injury while you were intoxicated <input type="checkbox"/> Other. Specify _____	\$ 25,000.00	\$ 25,000.00	\$ 0.00
2.2	_____ <small>Priority Creditor's Name</small> Number _____ Street _____ City _____ State _____ ZIP Code _____ Who incurred the debt? Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another <input type="checkbox"/> Check if this claim is for a community debt Is the claim subject to offset? <input type="checkbox"/> No <input type="checkbox"/> Yes	Last 4 digits of account number _____ When was the debt incurred? _____ As of the date you file, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Type of PRIORITY unsecured claim: <input type="checkbox"/> Domestic support obligations <input type="checkbox"/> Taxes and certain other debts you owe the government <input type="checkbox"/> Claims for death or personal injury while you were intoxicated <input type="checkbox"/> Other. Specify _____	\$ _____	\$ _____	\$ _____

Part 2: List All of Your NONPRIORITY Unsecured Claims**3. Do any creditors have nonpriority unsecured claims against you?**

- ☐ No. You have nothing to report in this part. Submit this form to the court with your other schedules.
- ☒ Yes

4. List all of your nonpriority unsecured claims in the alphabetical order of the creditor who holds each claim. If a creditor has more than one priority unsecured claim, list the creditor separately for each claim. For each claim listed, identify what type of claim it is. Do not list claims already included in Part 1. If more than one creditor holds a particular claim, list the other creditors in Part 3. If you have more than four priority unsecured claims fill out the Continuation Page of Part 2.

				Total claim
4.1	BestBuy			
	Nonpriority Creditor's Name			
	Last 4 digits of account number			\$ 3,200.00
	When was the debt incurred?			
	As of the date you file, the claim is: Check all that apply.			
	Number	Street		
	City	State	ZIP Code	
Who incurred the debt? Check one. <input checked="" type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input type="checkbox"/> At least one of the debtors and another				
<input type="checkbox"/> Check if this claim is for a community debt				
Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				
	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed			
Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <u>Credit Card Charges</u>				
4.2	Brattleboro Retreat			
	Nonpriority Creditor's Name			
	Last 4 digits of account number			\$ 50,000.00
	When was the debt incurred?			
	As of the date you file, the claim is: Check all that apply.			
	Number	Street		
	City	State	ZIP Code	
Who incurred the debt? Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input checked="" type="checkbox"/> At least one of the debtors and another				
<input type="checkbox"/> Check if this claim is for a community debt				
Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				
	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed			
Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <u>Medical Services</u>				
4.3	Citibank			
	Nonpriority Creditor's Name			
	Last 4 digits of account number			\$ 31,440.00
	When was the debt incurred?			
	As of the date you file, the claim is: Check all that apply.			
	Number	Street		
	Town	MA	00000	
	City	State	ZIP Code	
Who incurred the debt? Check one. <input type="checkbox"/> Debtor 1 only <input type="checkbox"/> Debtor 2 only <input type="checkbox"/> Debtor 1 and Debtor 2 only <input checked="" type="checkbox"/> At least one of the debtors and another				
<input type="checkbox"/> Check if this claim is for a community debt				
Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes				
	<input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed			
Type of NONPRIORITY unsecured claim: <input type="checkbox"/> Student loans <input type="checkbox"/> Obligations arising out of a separation agreement or divorce that you did not report as priority claims <input type="checkbox"/> Debts to pension or profit-sharing plans, and other similar debts <input checked="" type="checkbox"/> Other. Specify <u>Medical Services</u>				

Part 2: Your NONPRIORITY Unsecured Claims –Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

4.4

F. Employee

Nonpriority Creditor's Name

c/o Very Aggressive Law, PLLC

Number Street

Worcester MA

City State ZIP Code

Who incurred the debt? 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 claim is for a community debt****Is the claim subject to offset?**

- ☒ No
☐ Yes

Last 4 digits of account number _____

\$ 57,500.00When was the debt incurred? 5/15/2010**As of the date you file, the claim is:** Check all that apply.

- ☐ Contingent
☐ Unliquidated
☒ Disputed

Type of **NONPRIORITY** unsecured claim:

- ☐ Student loans
☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims
☐ Debts to pension or profit-sharing plans, and other similar debts
☒ Other. Specify See Attachment 1

4.5

Furniture World

Nonpriority Creditor's Name

Number Street

City State ZIP Code

Who incurred the debt? 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 claim is for a community debt****Is the claim subject to offset?**

- ☒ No
☐ Yes

Last 4 digits of account number _____

\$ 5,200.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
☐ Unliquidated
☐ Disputed

Type of **NONPRIORITY** unsecured claim:

- ☐ Student loans
☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims
☐ Debts to pension or profit-sharing plans, and other similar debts
☒ Other. Specify Credit Card Charges

4.6

FYE

Nonpriority Creditor's Name

Number Street

City State ZIP Code

Who incurred the debt? 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 claim is for a community debt****Is the claim subject to offset?**

- ☒ No
☐ Yes

Last 4 digits of account number _____

\$ 299.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.

- ☐ Contingent
☐ Unliquidated
☐ Disputed

Type of **NONPRIORITY** unsecured claim:

- ☐ Student loans
☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims
☐ Debts to pension or profit-sharing plans, and other similar debts
☒ Other. Specify Credit Card Charges

Part 2: Your NONPRIORITY Unsecured Claims —Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

4.7

Handyman Repair

Nonpriority Creditor's Name

Number

Street

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 139.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify Repair Services

4.8

Lifeline Ambulance Service

Nonpriority Creditor's Name

11 State Street

Number

Street

Woburn

ME

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 750.00

When was the debt incurred? 3/15/2015**As of the date you file, the claim is:** Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify Medical Services

4.9

LL Bean VISA

Nonpriority Creditor's Name

Number

Street

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 3,450.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify Credit Card Charges

Part 2: Your NONPRIORITY Unsecured Claims —Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

4.10

Macy's

Nonpriority Creditor's Name

Number

Street

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 16,000.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify Credit Card Charges

4.11

Make A Lot of Money Student Lenders, Inc.

Nonpriority Creditor's Name

152 Las Vegas Way

Number

Street

City

NV

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 50,000.00

When was the debt incurred? 6/1/2015**As of the date you file, the claim is:** Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☒ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☐ Other. Specify _____

4.12

McLean Hopsital

Nonpriority Creditor's Name

115 Mill St.

Number

Street

Belmont

MA

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 50,000.00

When was the debt incurred? 6/24/2015**As of the date you file, the claim is:** Check all that apply.☒ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify See Attachment 2

Part 2: Your NONPRIORITY Unsecured Claims —Continuation Page

After listing any entries on this page, number them beginning with 4.5, followed by 4.6, and so forth.

Total claim

4.13

Patriot Ambulance Inc.

Nonpriority Creditor's Name

248 Mill Rd.

Number Street

Chelmsford

MD

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 1,200.00

When was the debt incurred? 2/12/2014**As of the date you file, the claim is:** Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify Dental Services

4.14

Paypal

Nonpriority Creditor's Name

Number Street

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 775.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☐ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☒ Other. Specify _____

4.15

Tuitions-R-Us

Nonpriority Creditor's Name

Number Street

City

State

ZIP Code

Who incurred the debt? 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 claim is for a community debt**Is the claim subject to offset?**☒ No☐ Yes

Last 4 digits of account number _____

\$ 50,000.00

When was the debt incurred? _____

As of the date you file, the claim is: Check all that apply.☐ Contingent☐ Unliquidated☐ DisputedType of **NONPRIORITY** unsecured claim:☒ Student loans☐ Obligations arising out of a separation agreement or divorce that you did not report as priority claims☐ Debts to pension or profit-sharing plans, and other similar debts☐ Other. Specify _____

Part 4: Add the Amounts for Each Type of Unsecured Claim

6. Total the amounts of certain types of unsecured claims. This information is for statistical reporting purposes only. 28 U.S.C. §159. Add the amounts for each type of unsecured claim.

Total claims from Part 1

6a. Domestic support obligations

6a. \$0.00

6b. Taxes and certain other debts you owe the government

6b. \$25,000.00

6c. Claims for death or personal injury while you were intoxicated

6c. \$0.00

6d. Other. Add all other priority unsecured claims. Write that amount here.

6d. + \$0.00

6e. Total. Add lines 6a through 6d.

6e. \$25,000.00

Total claim**Total claims from Part 2**

6f. Student loans

6f. \$100,000.00

6g. Obligations arising out of a separation agreement or divorce that you did not report as priority claims

6g. \$0.00

6h. Debts to pension or profit-sharing plans, and other similar debts

6h. \$0.00

6i. Other. Add all other nonpriority unsecured claims. Write that amount here.

6i. + \$219,953.00

6j. Total. Add lines 6f through 6i.

6j. \$319,953.00

Total claim

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1

Wrongful discharge claim; judgment entered 6/15/2016; appeal period had not yet run on the date of the Petition

Attachment 2

Medical services provided to ex husband asserted against the Debtor on a theory of Doctrine of Necessities.

Fill in this information to identify your case:

Debtor Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

☐ Check if this is an amended filing

Official Form 106G

Schedule G: Executory Contracts and Unexpired Leases

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the additional page, fill it out, number the entries, and attach it to this page. On the top of any additional pages, write your name and case number (if known).

1. Do you have any executory contracts or unexpired leases?

- ☐ No. Check this box and file this form with the court with your other schedules. You have nothing else to report on this form.
- ☒ Yes. Fill in all of the information below even if the contracts or leases are listed on *Schedule A/B: Property* (Official Form 106A/B).

2. List separately each person or company with whom you have the contract or lease. Then state what each contract or lease is for (for example, rent, vehicle lease, cell phone). See the instructions for this form in the instruction booklet for more examples of executory contracts and unexpired leases.

	Person or company with whom you have the contract or lease	State what the contract or lease is for
2.1	<u>C.A. Register, Sr.</u> Name <u>222 Dewey St.</u> Number Street <u>Worcester</u> <u>MA</u> <u>01610</u> City State ZIP Code	Lease of commercial space, for my business
2.2	 Name Number Street City State ZIP Code	
2.3	 Name Number Street City State ZIP Code	
2.4	 Name Number Street City State ZIP Code	
2.5	 Name Number Street City State ZIP Code	

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number (if known) 16-000000

☐ Check if this is an amended filing

Official Form 106H

Schedule H: Your Codebtors

12/15

Codebtors are people or entities who are also liable for any debts you may have. Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, and number the entries in the boxes on the left. Attach the Additional Page to this page. On the top of any Additional Pages, write your name and case number (if known). Answer every question.

1. Do you have any codebtors? (If you are filing a joint case, do not list either spouse as a codebtor.)

☐ No

☒ Yes

2. Within the last 8 years, have you lived in a community property state or territory? (Community property states and territories include Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin.)

☒ No. Go to line 3.

☐ Yes. Did your spouse, former spouse, or legal equivalent live with you at the time?

☐ No

☐ Yes. In which community state or territory did you live? _____. Fill in the name and current address of that person.

Name of your spouse, former spouse, or legal equivalent

Number Street

City State ZIP Code

3. In Column 1, list all of your codebtors. Do not include your spouse as a codebtor if your spouse is filing with you. List the person shown in line 2 again as a codebtor only if that person is a guarantor or cosigner. Make sure you have listed the creditor on Schedule D (Official Form 106D), Schedule E/F (Official Form 106E/F), or Schedule G (Official Form 106G). Use Schedule D, Schedule E/F, or Schedule G to fill out Column 2.

Column 1: Your codebtor

Column 2: The creditor to whom you owe the debt

Check all schedules that apply:

3.1

Earl Non-Debtor Spouse

Name

1 Main Street

Number Street

Marlborough

MA

01752

City

State

ZIP Code

☒ Schedule D, line 2.3, 2.4

☒ Schedule E/F, line 4.3, 4.15, 4.2

☐ Schedule G, line _____

3.2

Arlo

Name

16 Noel Drive

Number Street

Marlborough

MA

01752

City

State

ZIP Code

☒ Schedule D, line 2.1, _____

☐ Schedule E/F, line _____

☐ Schedule G, line _____

3.3

Name

Number Street

City

State

ZIP Code

☐ Schedule D, line _____

☐ Schedule E/F, line _____

☐ Schedule G, line _____

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

Check if this is:

- ☐ An amended filing
- ☐ A supplement showing post-petition chapter 13 income as of the following date:

MM / DD / YYYY

Official Form 106I

Schedule I: Your Income

12/15

Be as complete and accurate as possible. If two married people are filing together (Debtor 1 and Debtor 2), both are equally responsible for supplying correct information. If you are married and not filing jointly, and your spouse is living with you, include information about your spouse. If you are separated and your spouse is not filing with you, do not include information about your spouse. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Describe Employment**1. Fill in your employment information.**

If you have more than one job, attach a separate page with information about additional employers.

Include part-time, seasonal, or self-employed work.

Occupation may include student or homemaker, if it applies.

Employment status

- ☒ Employed
☐ Not employed

- ☐ Employed
☒ Not employed

Occupation

Employer's name

Employer's address

Number Street

MA

City State ZIP Code

How long employed there? _____

City State ZIP Code

Part 2: Give Details About Monthly Income

Estimate monthly income as of the date you file this form. If you have nothing to report for any line, write \$0 in the space. Include your non-filing spouse unless you are separated.

If you or your non-filing spouse have more than one employer, combine the information for all employers for that person on the lines below. If you need more space, attach a separate sheet to this form.

2. List monthly gross wages, salary, and commissions (before all payroll deductions). If not paid monthly, calculate what the monthly wage would be.

2. \$ 0.00

3. Estimate and list monthly overtime pay.

3. + \$ 0.00

4. Calculate gross income. Add line 2 + line 3.

4. \$ 0.00

	For Debtor 1	For Debtor 2 or non-filing spouse
Copy line 4 here ➔ 4.	\$ 0.00	\$ 0.00
5. List all payroll deductions:		
5a. Tax, Medicare, and Social Security deductions	5a. \$ 0.00	\$
5b. Mandatory contributions for retirement plans	5b. \$ 0.00	\$
5c. Voluntary contributions for retirement plans	5c. \$ 0.00	\$
5d. Required repayments of retirement fund loans	5d. \$ 0.00	\$
5e. Insurance	5e. \$ 0.00	\$
5f. Domestic support obligations	5f. \$ 0.00	\$
5g. Union dues	5g. \$ 0.00	\$
5h. Other deductions. Specify: _____	5h. + \$ 0.00	+ \$
6. Add the payroll deductions. Add lines 5a + 5b + 5c + 5d + 5e + 5f + 5g + 5h.	6. \$ 0.00	\$ 0.00
7. Calculate total monthly take-home pay. Subtract line 6 from line 4.	7. \$ 0.00	\$ 0.00
8. List all other income regularly received:		
8a. Net income from rental property and from operating a business, profession, or farm Attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.	8a. \$ 6,000.00	\$ 0.00
8b. Interest and dividends	8b. \$ 0.00	\$ 0.00
8c. Family support payments that you, a non-filing spouse, or a dependent regularly receive Include alimony, spousal support, child support, maintenance, divorce settlement, and property settlement.	8c. \$ 0.00	\$ 0.00
8d. Unemployment compensation	8d. \$ 0.00	\$ 400.00
8e. Social Security	8e. \$ 0.00	\$ 0.00
8f. Other government assistance that you regularly receive Include cash assistance and the value (if known) of any non-cash assistance that you receive, such as food stamps (benefits under the Supplemental Nutrition Assistance Program) or housing subsidies. Specify: _____	8f. \$	\$
8g. Pension or retirement income	8g. \$ 0.00	\$ 0.00
8h. Other monthly income. Specify: _____	8h. + \$	+ \$
9. Add all other income. Add lines 8a + 8b + 8c + 8d + 8e + 8f + 8g + 8h.	9. \$ 6,000.00	\$ 400.00
10. Calculate monthly income. Add line 7 + line 9. Add the entries in line 10 for Debtor 1 and Debtor 2 or non-filing spouse.	10. \$ 6,000.00	\$ 400.00
11. State all other regular contributions to the expenses that you list in <i>Schedule J</i> . Include contributions from an unmarried partner, members of your household, your dependents, your roommates, and other friends or relatives. Do not include any amounts already included in lines 2-10 or amounts that are not available to pay expenses listed in <i>Schedule J</i> . Specify: _____	11. + \$ 0.00	
12. Add the amount in the last column of line 10 to the amount in line 11. The result is the combined monthly income. Write that amount on the <i>Summary of Your Assets and Liabilities and Certain Statistical Information</i> , if it applies	12. \$ 6,400.00	Combined monthly income
13. Do you expect an increase or decrease within the year after you file this form? <input checked="" type="checkbox"/> No. <input type="checkbox"/> Yes. Explain: _____		

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

Check if this is:

- ☐ An amended filing
- ☐ A supplement showing post-petition chapter 13 expenses as of the following date:

MM / DD / YYYY**Official Form 106J****Schedule J: Your Expenses**

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach another sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

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*.

2. Do you have dependents?

Do not list Debtor 1 and Debtor 2.

Do not state the dependents' names.

☐ No☒ Yes. Fill out this information for each dependent.....

Dependent's relationship to Debtor 1 or Debtor 2

Dependent's age

Does dependent live with you?

Son23☐ No
☒ YesSon19☐ No
☒ YesDaughter16☐ No
☒ Yes☐ No
☐ Yes☐ No
☐ Yes**3. Do your expenses include expenses of people other than yourself and your dependents?**☒ No
☐ Yes**Part 2: Estimate Your Ongoing Monthly Expenses**

Estimate your expenses as of your bankruptcy filing date unless you are using this form as a supplement in a Chapter 13 case to report expenses as of a date after the bankruptcy is filed. If this is a supplemental *Schedule J*, check the box at the top of the form and fill in the applicable date.

Include expenses paid for with non-cash government assistance if you know the value of such assistance and have included it on *Schedule I: Your Income* (Official Form B 106I.)

4. The rental or home ownership expenses for your residence. Include first mortgage payments and any rent for the ground or lot.4. \$ 2,660.00**If not included in line 4:**

4a. Real estate taxes

4a. \$ 0.00

4b. Property, homeowner's, or renter's insurance

4b. \$ 61.00

4c. Home maintenance, repair, and upkeep expenses

4c. \$ 200.00

4d. Homeowner's association or condominium dues

4d. \$ 0.00

		Your expenses
5. Additional mortgage payments for your residence, such as home equity loans	5.	\$ 0.00
6. Utilities:		
6a. Electricity, heat, natural gas	6a.	\$ 185.00
6b. Water, sewer, garbage collection	6b.	\$ 120.00
6c. Telephone, cell phone, Internet, satellite, and cable services	6c.	\$ 400.00
6d. Other. Specify: _____	6d.	\$ 0.00
7. Food and housekeeping supplies	7.	\$ 2,100.00
8. Childcare and children's education costs	8.	\$ 200.00
9. Clothing, laundry, and dry cleaning	9.	\$ 500.00
10. Personal care products and services	10.	\$ 200.00
11. Medical and dental expenses	11.	\$ 185.00
12. Transportation. Include gas, maintenance, bus or train fare. Do not include car payments.	12.	\$ 440.00
13. Entertainment, clubs, recreation, newspapers, magazines, and books	13.	\$ 200.00
14. Charitable contributions and religious donations	14.	\$ 0.00
15. Insurance. Do not include insurance deducted from your pay or included in lines 4 or 20.		
15a. Life insurance	15a.	\$ 0.00
15b. Health insurance	15b.	\$ 445.00
15c. Vehicle insurance	15c.	\$ 300.00
15d. Other insurance. Specify: _____	15d.	\$ 0.00
16. Taxes. Do not include taxes deducted from your pay or included in lines 4 or 20. Specify: _____	16.	\$ 0.00
17. Installment or lease payments:		
17a. Car payments for Vehicle 1	17a.	\$ 549.00
17b. Car payments for Vehicle 2	17b.	\$ 359.00
17c. Other. Specify: _____	17c.	\$ _____
17d. Other. Specify: _____	17d.	\$ _____
18. Your payments of alimony, maintenance, and support that you did not report as deducted from your pay on line 5, Schedule I, Your Income (Official Form 106I).	18.	\$ 0.00
19. Other payments you make to support others who do not live with you. Specify: _____	19.	\$ 0.00
20. Other real property expenses not included in lines 4 or 5 of this form or on Schedule I: Your Income.		
20a. Mortgages on other property	20a.	\$ 0.00
20b. Real estate taxes	20b.	\$ 0.00
20c. Property, homeowner's, or renter's insurance	20c.	\$ 0.00
20d. Maintenance, repair, and upkeep expenses	20d.	\$ 0.00
20e. Homeowner's association or condominium dues	20e.	\$ 0.00

21. **Other.** Specify: See Attachment 1

21. **+\$ 250.00**

22. **Calculate your monthly expenses.**

22a. Add lines 4 through 21.

22b. Copy line 22 (monthly expenses for Debtor 2), if any, from Official Form 106J-2

22c. Add line 22a and 22b. The result is your monthly expenses.

22. **\$ 9,354.00**

\$ 9,354.00

\$

\$ 9,354.00

23. **Calculate your monthly net income.**

23a. Copy line 12 (*your combined monthly income*) from *Schedule I*.

23a. **\$ 6,000.00**

23b. Copy your monthly expenses from line 22 above.

23b. **− \$ 9,354.00**

23c. Subtract your monthly expenses from your monthly income.

The result is your *monthly net income*.

23c. **\$ -3,354.00**

\$ -3,354.00

24. **Do you expect an increase or decrease in your expenses within the year after you file this form?**

For example, do you expect to finish paying for your car loan within the year or do you expect your mortgage payment to increase or decrease because of a modification to the terms of your mortgage?

☐ No.

☐ Yes.

Explain here:

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1

Description: Support son at college
Amount: 150.00

Description: Pet fod & vet care
Amount: 100.00

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

☐ Check if this is an amended filing

Official Form 106Sum**Summary of Your Assets and Liabilities and Certain Statistical Information** 12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Fill out all of your schedules first; then complete the information on this form. If you are filing amended schedules after you file your original forms, you must fill out a new *Summary* and check the box at the top of this page.

Part 1: Summarize Your Assets**Your assets**

Value of what you own

1. **Schedule A/B: Property** (Official Form 106A/B)

1a. Copy line 55, Total real estate, from *Schedule A/B*..... \$ 275,000.00

1b. Copy line 62, Total personal property, from *Schedule A/B*..... \$ 616,351.00

1c. Copy line 63, Total of all property on *Schedule A/B*..... \$ 891,351.00

Part 2: Summarize Your Liabilities**Your liabilities**

Amount you owe

2. **Schedule D: Creditors Who Have Claims Secured by Property** (Official Form 106D)

2a. Copy the total you listed in Column A, *Amount of claim*, at the bottom of the last page of Part 1 of *Schedule D*..... \$ 489,680.00

3. **Schedule E/F: Creditors Who Have Unsecured Claims** (Official Form 106E/F)

3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of *Schedule E/F*..... \$ 25,000.00

3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of *Schedule E/F*..... + \$ 319,953.00

Your total liabilities\$ 834,633.00**Part 3: Summarize Your Income and Expenses**4. **Schedule I: Your Income** (Official Form 106I)

Copy your combined monthly income from line 12 of *Schedule I*..... \$ 6,400.00

5. **Schedule J: Your Expenses** (Official Form 106J)

Copy your monthly expenses from line 22, Column A, of *Schedule J*..... \$ 9,354.00

Part 4: Answer These Questions for Administrative and Statistical Records

6. Are you filing for bankruptcy under Chapters 7, 11, or 13?

- ☐ No. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.
☒ Yes

7. What kind of debt do you have?

- ☒ **Your debts are primarily consumer debts.** *Consumer debts* are those "incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Fill out lines 8-10 for statistical purposes. 28 U.S.C. § 159.
☐ **Your debts are not primarily consumer debts.** You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.

8. From the *Statement of Your Current Monthly Income*: Copy your total current monthly income from Official Form 122A-1 Line 11; **OR**, Form 122B Line 11; **OR**, Form 122C-1 Line 14.

\$ 6,000.00

9. Copy the following special categories of claims from Part 4, line 6 of *Schedule E/F*.

Total claim

From Part 4 on *Schedule E/F*, copy the following:

9a. Domestic support obligations (Copy line 6a.)	\$ <u>0.00</u>
9b. Taxes and certain other debts you owe the government. (Copy line 6b.)	\$ <u>25,000.00</u>
9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)	\$ <u>0.00</u>
9d. Student loans. (Copy line 6f.)	\$ <u>100,000.00</u>
9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)	\$ <u>0.00</u>
9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)	+ \$ <u>0.00</u>
9g. Total. Add lines 9a through 9f.	\$ <u>125,000.00</u>

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

☐ Check if this is an amended filing

Official Form 106Dec

Declaration About an Individual Debtor's Schedules

12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Sign Below

Did you pay or agree to pay someone who is NOT an attorney to help you fill out bankruptcy forms?

☒ No

☐ Yes. Name of person _____ Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

Under penalty of perjury, I declare that I have read the summary and schedules filed with this declaration and that they are true and correct.

X

Signature of Debtor 1

Date _____
MM / DD / YYYY

X

Signature of Debtor 2

Date _____
MM / DD / YYYY

Fill in this information to identify your case:

Debtor 1	Josephine	F.	Debtor
	First Name	Middle Name	Last Name
Debtor 2			
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the:	Massachusetts		
Case number	16-000000		
(If known)			

Official Form 107

04/16

Part 1: Give Details About Your Marital Status and Where You Lived Before

page 1

Part 2: Explain the Sources of Your Income**4. Did you have any income from employment or from operating a business during this year or the two previous calendar years?**

Fill in the total amount of income you received from all jobs and all businesses, including part-time activities.

If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1.

☐ No

☒ Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Check all that apply.	Gross income (before deductions and exclusions)	Sources of income Check all that apply.	Gross income (before deductions and exclusions)
From January 1 of current year until the date you filed for bankruptcy:	<input type="checkbox"/> Wages, commissions, bonuses, tips <input checked="" type="checkbox"/> Operating a business	\$ 25,000.00	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
For last calendar year: (January 1 to December 31, <u>2015</u>) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input checked="" type="checkbox"/> Operating a business	\$ 65,000.00	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____
For the calendar year before that: (January 1 to December 31, <u>2014</u>) YYYY	<input type="checkbox"/> Wages, commissions, bonuses, tips <input checked="" type="checkbox"/> Operating a business	\$ 150,000.00	<input type="checkbox"/> Wages, commissions, bonuses, tips <input type="checkbox"/> Operating a business	\$ _____

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

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

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

☐ No

☒ Yes. Fill in the details.

	Debtor 1		Debtor 2	
	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)	Sources of income Describe below.	Gross income from each source (before deductions and exclusions)
From January 1 of current year until the date you filed for bankruptcy:	Tree lot rent	\$ 2,000.00		\$ _____
		\$ _____		\$ _____
		\$ _____		\$ _____
For last calendar year: (January 1 to December 31, <u>2015</u>) YYYY	Tree lot rent	\$ 3,000.00		\$ _____
		\$ _____		\$ _____
		\$ _____		\$ _____
For the calendar year before that: (January 1 to December 31, <u>2014</u>) YYYY	Tree lot rent	\$ 4,000.00		\$ _____
		\$ _____		\$ _____
		\$ _____		\$ _____

Debtor 1

Josephine F. Debtor

First Name

Middle Name

Last Name

Case number (if known) 16-000000

Part 3: List Certain Payments You Made Before You Filed for Bankruptcy**6. Are either Debtor 1's or Debtor 2's debts primarily consumer debts?**

- ☐ No. **Neither Debtor 1 nor Debtor 2 has primarily consumer debts.** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$6,425* or more?

- ☐ No. Go to line 7.

- ☐ Yes. List below each creditor to whom you paid a total of \$6,425* or more in one or more payments and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

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

- ☒ Yes. **Debtor 1 or Debtor 2 or both have primarily consumer debts.**

During the 90 days before you filed for bankruptcy, did you pay any creditor a total of \$600 or more?

- ☐ No. Go to line 7.

- ☒ Yes. List below each creditor to whom you paid a total of \$600 or more and the total amount you paid that creditor. Do not include payments for domestic support obligations, such as child support and alimony. Also, do not include payments to an attorney for this bankruptcy case.

	Dates of payment	Total amount paid	Amount you still owe	Was this payment for...
Georgetown University Creditor's Name	05/31/16	\$ 50,000.00	\$ _____	<input type="checkbox"/> Mortgage
37th and O Streets NW Number Street	_____			<input type="checkbox"/> Car
_____	_____			<input type="checkbox"/> Credit card
Washington DC 20057 City State ZIP Code				<input type="checkbox"/> Loan repayment
				<input type="checkbox"/> Suppliers or vendors
				<input checked="" type="checkbox"/> Other See 1
_____	_____	\$ _____	\$ _____	<input type="checkbox"/> Mortgage
Creditor's Name				<input type="checkbox"/> Car
_____	_____			<input type="checkbox"/> Credit card
Number Street				<input type="checkbox"/> Loan repayment
_____	_____			<input type="checkbox"/> Suppliers or vendors
_____	_____			<input type="checkbox"/> Other _____
_____	_____	\$ _____	\$ _____	<input type="checkbox"/> Mortgage
Creditor's Name				<input type="checkbox"/> Car
_____	_____			<input type="checkbox"/> Credit card
Number Street				<input type="checkbox"/> Loan repayment
_____	_____			<input type="checkbox"/> Suppliers or vendors
_____	_____			<input type="checkbox"/> Other _____
_____	_____			
City State ZIP Code				

7. Within 1 year before you filed for bankruptcy, did you make a payment on a debt you owed anyone who was an insider?

Insiders include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20% or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Include payments for domestic support obligations, such as child support and alimony.

☒ No☐ Yes. List all payments to an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment
Insider's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____	_____	\$ _____	\$ _____	
Insider's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____	_____	\$ _____	\$ _____	

8. Within 1 year before you filed for bankruptcy, did you make any payments or transfer any property on account of a debt that benefited an insider?

Include payments on debts guaranteed or cosigned by an insider.

☒ No☐ Yes. List all payments that benefited an insider.

	Dates of payment	Total amount paid	Amount you still owe	Reason for this payment Include creditor's name
Insider's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____	_____	\$ _____	\$ _____	
Insider's Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____	_____	\$ _____	\$ _____	

Part 4: Identify Legal Actions, Repossessions, and Foreclosures**9. Within 1 year before you filed for bankruptcy, were you a party in any lawsuit, court action, or administrative proceeding?**

List all such matters, including personal injury cases, small claims actions, divorces, collection suits, paternity actions, support or custody modifications, and contract disputes.

☐ No

☒ Yes. Fill in the details.

	Nature of the case	Court or agency	Status of the case
Case title <u>F. Employee v. Debtor</u> Case number <u>2010-CV-122343</u>	Wrongful discharge / discrimination	<u>See Attachment 2</u> Court Name <u>225 Main Street</u> Number Street <u>Worcester</u> <u>MA</u> City State ZIP Code	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded
Case title _____ Case number _____		Court Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded

10. Within 1 year before you filed for bankruptcy, was any of your property repossessed, foreclosed, garnished, attached, seized, or levied?

Check all that apply and fill in the details below.

☒ No. Go to line 11.

☐ Yes. Fill in the information below.

	Describe the property	Date	Value of the property
Creditor's Name _____ Number Street _____ City State ZIP Code _____			\$ _____
	Explain what happened <input type="checkbox"/> Property was repossessed. <input type="checkbox"/> Property was foreclosed. <input type="checkbox"/> Property was garnished. <input type="checkbox"/> Property was attached, seized, or levied.		
Creditor's Name _____ Number Street _____ City State ZIP Code _____			\$ _____
	Explain what happened <input type="checkbox"/> Property was repossessed. <input type="checkbox"/> Property was foreclosed. <input type="checkbox"/> Property was garnished. <input type="checkbox"/> Property was attached, seized, or levied.		

11. Within 90 days before you filed for bankruptcy, did any creditor, including a bank or financial institution, set off any amounts from your accounts or refuse to make a payment because you owed a debt?

☒ No

☐ Yes. Fill in the details.

Describe the action the creditor took		Date action was taken	Amount
Creditor's Name			\$
Number Street			
City State ZIP Code			
Last 4 digits of account number: XXXX-__ __ __ __			

12. Within 1 year before you filed for bankruptcy, was any of your property in the possession of an assignee for the benefit of creditors, a court-appointed receiver, a custodian, or another official?

☒ No

☐ Yes

Part 5: List Certain Gifts and Contributions

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

☒ No

☐ Yes. Fill in the details for each gift.

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

14. Within 2 years before you filed for bankruptcy, did you give any gifts or contributions with a total value of more than \$600 to any charity?☒ No☐ Yes. Fill in the details for each gift or contribution.

Gifts or contributions to charities that total more than \$600	Describe what you contributed	Date you contributed	Value
Charity's Name			\$
Number Street			\$
City State ZIP Code			

Part 6: List Certain Losses**15. Within 1 year before you filed for bankruptcy or since you filed for bankruptcy, did you lose anything because of theft, fire, other disaster, or gambling?**☐ No☒ Yes. Fill in the details.

Describe the property you lost and how the loss occurred	Describe any insurance coverage for the loss Include the amount that insurance has paid. List pending insurance claims on line 33 of <i>Schedule A/B: Property</i> .	Date of your loss	Value of property lost
Business Records; Basement flood in the home of Dadycakes Andros destroyed all of the records related to Sparkles	No insurance applicable	May 25, 2016	\$ 0.00

Part 7: List Certain Payments or Transfers**16. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone you consulted about seeking bankruptcy or preparing a bankruptcy petition?**

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

☐ No☒ Yes. Fill in the details.

Description and value of any property transferred	Date payment or transfer was made	Amount of payment
HUFFNER & HUFFNER, P.C. Person Who Was Paid 246 Brooker Avenue Number Street Worcester MA 01608 City State ZIP Code ccounsel@huffandhuff.com Email or website address Person Who Made the Payment, if Not You	05/01/16 05/31/16 See Attachment 3	\$ 1,000.00 \$ 1,000.00

Debtor 1

Josephine F. Debtor

First Name

Middle Name

Last Name

Case number (if known) 16-000000

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

17. Within 1 year before you filed for bankruptcy, did you or anyone else acting on your behalf pay or transfer any property to anyone who promised to help you deal with your creditors or to make payments to your creditors?

Do not include any payment or transfer that you listed on line 16.

- ☐ No
☒ Yes. Fill in the details.

	Description and value of any property transferred	Date payment or transfer was made	Amount of payment
Credit Counselling Green Path Person Who Was Paid 250 Commercial Street Number Street Manchester NH 03301 City State ZIP Code		05/01/16	\$25.00
			\$

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

Include both outright transfers and transfers made as security (such as the granting of a security interest or mortgage on your property).

Do not include gifts and transfers that you have already listed on this statement.

- ☒ No
☐ Yes. Fill in the details.

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

19. Within 10 years before you filed for bankruptcy, did you transfer any property to a self-settled trust or similar device of which you are a beneficiary? (These are often called *asset-protection devices*.)

- ☒ No
☐ Yes. Fill in the details.

Name of trust _____

Description and value of the property transferred

Date transfer was made

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

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

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

- ☒ No
☐ Yes. Fill in the details.

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

21. Do you now have, or did you have within 1 year before you filed for bankruptcy, any safe deposit box or other depository for securities, cash, or other valuables?

- ☐ No
☒ Yes. Fill in the details.

Who else had access to it?	Describe the contents	Do you still have it?
Truly Secure Bank, NA Name of Financial Institution Anyplace Number Street Anytown MA City State ZIP Code	Will, deed, important papers, jewelry and old lottery tickets Name Number Street City State ZIP Code	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

22. Have you stored property in a storage unit or place other than your home within 1 year before you filed for bankruptcy?

☒ No☐ Yes. Fill in the details.

Who else has or had access to it?		Describe the contents	Do you still have it?
Name of Storage Facility _____ Number Street _____ City State ZIP Code _____		Name _____ Number Street _____ City State ZIP Code _____	<input type="checkbox"/> No <input type="checkbox"/> Yes

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

23. Do you hold or control any property that someone else owns? Include any property you borrowed from, are storing for, or hold in trust for someone.

☐ No☒ Yes. Fill in the details.

Where is the property?	Describe the property	Value
Earline Not Yet Famous Owner's Name 334 Temporary Residence Number Street Apt. 2A Marlborough MA 01752 City State ZIP Code	16 Noel Drive Number Street Marlborough MA 01752 City State ZIP Code	"Randy" American Paint Horse \$5,000.00

Part 10: Give Details About Environmental Information

For the purpose of Part 10, the following definitions apply:

- **Environmental law** means any federal, state, or local statute or regulation concerning pollution, contamination, releases of hazardous or toxic substances, wastes, or material into the air, land, soil, surface water, groundwater, or other medium, including statutes or regulations controlling the cleanup of these substances, wastes, or material.
- **Site** means any location, facility, or property as defined under any environmental law, whether you now own, operate, or utilize it or used to own, operate, or utilize it, including disposal sites.
- **Hazardous material** means anything an environmental law defines as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, contaminant, or similar term.

Report all notices, releases, and proceedings that you know about, regardless of when they occurred.

24. Has any governmental unit notified you that you may be liable or potentially liable under or in violation of an environmental law?

☒ No☐ Yes. Fill in the details.

Governmental unit	Environmental law, if you know it	Date of notice
Name of site _____ Number Street _____ City State ZIP Code _____	Governmental unit _____ Number Street _____ City State ZIP Code _____	_____

25. Have you notified any governmental unit of any release of hazardous material?

☒ No☐ Yes. Fill in the details.

Governmental unit		Environmental law, if you know it	Date of notice
Name of site	Governmental unit		
Number Street	Number Street		
City State ZIP Code	City State ZIP Code		
City State ZIP Code	City State ZIP Code		

26. Have you been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

☒ No☐ Yes. Fill in the details.

Court or agency	Nature of the case	Status of the case
Case title		<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
Court Name		
Number Street		
Case number		
City State ZIP Code	City State ZIP Code	

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

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

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

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

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

Debtor 1

Josephine F. Debtor

First Name

Middle Name

Last Name

Case number (if known) 16-000000

Business Name

Number Street

City

State

ZIP Code

Describe the nature of the business

Name of accountant or bookkeeper

Employer Identification number

Do not include Social Security number or ITIN.

EIN: ____ - ____ - ____

Dates business existed

From ____ To ____

28. Within 2 years before you filed for bankruptcy, did you give a financial statement to anyone about your business? Include all financial institutions, creditors, or other parties.

☒ No

☐ Yes. Fill in the details below.

Date issued

Name

MM / DD / YYYY

Number Street

City

State

ZIP Code

Part 12: Sign Below

I have read the answers on this *Statement of Financial Affairs* and any attachments, and I declare under penalty of perjury that the answers are true and correct. I understand that making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

✕

Signature of Debtor 1

✕

Signature of Debtor 2

Date _____

Date _____

Did you attach additional pages to *Your Statement of Financial Affairs for Individuals Filing for Bankruptcy* (Official Form 107)?

☐ No

☒ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out bankruptcy forms?

☒ No

☐ Yes. Name of person _____. Attach the *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1

Son's college tuition room and board

Attachment 2

Massachusetts Superior Court / for Worcester County

Attachment 3

Additional Transfers to HUFFNER & HUFFNER, P.C.

Date of Transfer: June 10, 2016

Value of Transfer: \$585.00

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: Massachusetts

Case number 16-000000
(If known)

☐ Check if this is an amended filing

Official Form 108**Statement of Intention for Individuals Filing Under Chapter 7**

12/15

If you are an individual filing under chapter 7, you must fill out this form if:

- creditors have claims secured by your property, or
- you have leased personal property and the lease has not expired.

You must file this form with the court within 30 days after you file your bankruptcy petition or by the date set for the meeting of creditors, whichever is earlier, unless the court extends the time for cause. You must also send copies to the creditors and lessors you list on the form.

If two married people are filing together in a joint case, both are equally responsible for supplying correct information.

Both debtors must sign and date the form.

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known).

Part 1: List Your Creditors Who Hold Secured Claims

1. For any creditors that you listed in Part 1 of *Schedule D: Creditors Who Hold Claims Secured by Property* (Official Form 106D), fill in the information below.

Identify the creditor and the property that is collateral	What do you intend to do with the property that secures a debt?	Did you claim the property as exempt on Schedule C?
Creditor's name: <u>Bank of America</u> Description of property securing debt: <u>House and land; mortgage was not originally properly recorded. Debtor believes it was See Attachment 1</u>	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input checked="" type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Creditor's name: <u>Internal Revenue Service</u> Description of property securing debt: <u>16 Noel Drive, Marlborough</u>	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input checked="" type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Creditor's name: <u>ABC Credit Union</u> Description of property securing debt: <u>2013 Volvo 88000 miles.</u>	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input checked="" type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Creditor's name: <u>ABC Credit Union</u> Description of property securing debt: <u>2011 Saab 99000 miles.</u>	<input type="checkbox"/> Surrender the property. <input type="checkbox"/> Retain the property and redeem it. <input type="checkbox"/> Retain the property and enter into a <i>Reaffirmation Agreement</i> . <input checked="" type="checkbox"/> Retain the property and [explain]: _____	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

Part 2: List Your Unexpired Personal Property Leases

For any unexpired personal property lease that you listed in *Schedule G: Executory Contracts and Unexpired Leases* (Official Form 106G), fill in the information below. Do not list real estate leases. *Unexpired leases* are leases that are still in effect; the lease period has not yet ended. You may assume an unexpired personal property lease if the trustee does not assume it. 11 U.S.C. § 365(p)(2).

Describe your unexpired personal property leases	Will the lease be assumed?
Lessor's name: <u>C.A. Register, Sr.</u>	<input type="checkbox"/> No
Description of leased property: <u>Lease of commercial space, for my business</u>	<input checked="" type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes
Lessor's name: _____	<input type="checkbox"/> No
Description of leased property: _____	<input type="checkbox"/> Yes

Part 3: Sign Below

Under penalty of perjury, I declare that I have indicated my intention about any property of my estate that secures a debt and any personal property that is subject to an unexpired lease.

X

 Signature of Debtor 1

X

 Signature of Debtor 2

Date _____
 MM / DD / YYYY

Date _____
 MM / DD / YYYY

Attachment
Debtor: Josephine F. Debtor Case No: 16-000000

Attachment 1

recorded shortly before the bankruptcy was filed (within the last month).

Fill in this information to identify your case:

Debtor 1 **Josephine F. Debtor**
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: **MASSACHUSETTS**

Case number **16-000000**
(If known)

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

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

☐ Check if this is an amended filing

Official Form 122A-1**Chapter 7 Statement of Your Current Monthly Income**

12/15

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

Part 1: Calculate Your Current Monthly Income**1. What is your marital and filing status? Check one only.**

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

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

	Column A Debtor 1	Column B Debtor 2 or non-filing spouse
2. Your gross wages, salary, tips, bonuses, overtime, and commissions (before all payroll deductions).	\$ <u>6,000.00</u>	\$ <u>0.00</u>
3. Alimony and maintenance payments. Do not include payments from a spouse if Column B is filled in.	\$ <u>0.00</u>	\$ <u>0.00</u>
4. All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support. Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3.	\$ <u>0.00</u>	\$ <u>0.00</u>
5. Net income from operating a business, profession, or farm		
	Debtor 1	Debtor 2
Gross receipts (before all deductions)	\$ <u>0.00</u>	\$ <u>0.00</u>
Ordinary and necessary operating expenses	– \$ <u>0.00</u>	– \$ <u>0.00</u>
Net monthly income from a business, profession, or farm	\$ <u>0.00</u>	\$ <u>0.00</u>
	Copy here →	Copy here →
	\$ <u>0.00</u>	\$ <u>0.00</u>
6. Net income from rental and other real property		
	Debtor 1	Debtor 2
Gross receipts (before all deductions)	\$ <u>0.00</u>	\$ <u>0.00</u>
Ordinary and necessary operating expenses	– \$ <u>0.00</u>	– \$ <u>0.00</u>
Net monthly income from rental or other real property	\$ <u>0.00</u>	\$ <u>0.00</u>
	Copy here →	Copy here →
	\$ <u>0.00</u>	\$ <u>0.00</u>
7. Interest, dividends, and royalties	\$ _____	\$ <u>0.00</u>

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

8. Unemployment compensation

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

For you \$

For your spouse \$ 400.00

\$ 0.00

\$ 0.00

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

\$ 0.00

\$ 0.00

10. Income from all other sources not listed above. Specify the source and amount.

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

.....

\$

\$

.....

\$

\$

Total amounts from separate pages, if any.

+ \$ 0.00

+ \$ 0.00

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

\$ 6,000.00

+

\$ 0.00

=

\$ 6,000.00

Total current
monthly income**Part 2: Determine Whether the Means Test Applies to You**

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

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

\$ 6,000.00

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

x 12

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

12b.

\$ 72,000.00

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

Fill in the state in which you live.

Massachusetts

Fill in the number of people in your household.

4

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

\$ 111,595.00

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

14. How do the lines compare?

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

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

Part 3: Sign Below

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

X

Signature of Debtor 1

X

Signature of Debtor 2

Date
MM / DD / YYYYDate
MM / DD / YYYY

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

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

Fill in this information to identify your case:

Debtor 1 Josephine F. Debtor
First Name Middle Name Last Name

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

United States Bankruptcy Court for the: MASSACHUSETTS

Case number 16-000000
(If known)

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

According to the calculations required by this Statement:

- ☐ 1. There is no presumption of abuse.
- ☐ 2. There is a presumption of abuse.

☐ Check if this is an amended filing

Official Form 122A-2

Chapter 7 Means Test Calculation

04/16

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

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

Part 1: Determine Your Adjusted Income

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

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

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

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

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

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

State each purpose for which the income was used

For example, the income is used to pay your spouse's tax debt or to support people other than you or your dependents

Fill in the amount you are subtracting from your spouse's income

_____	\$ _____
_____	\$ _____
_____	+ \$ _____
Total	\$ 0.00

Copy total here ➔ — \$ **0.00**

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

\$ _____

Part 2: Calculate Your Deductions from Your Income

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

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

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

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

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

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

4

National Standards

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

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

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

People who are under 65 years of age

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

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

7c. **Subtotal.** Multiply line 7a by line 7b. \$ _____ Copy here ➔ \$ _____

People who are 65 years of age or older

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

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

7f. **Subtotal.** Multiply line 7d by line 7e. \$ _____ Copy here ➔ + \$ _____

7g. **Total.** Add lines 7c and 7f.....

\$ _____

Copy total here ➔

\$ _____

Local Standards

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

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

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

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

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

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

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

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

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

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

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

Copy here → — \$ _____ Repeat this amount on line 33a.

9c. Net mortgage or rent expense.

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

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

Explain why: _____

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

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

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

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

Vehicle 1 Describe Vehicle 1: _____

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

13b. Average monthly payment for all debts secured by Vehicle 1.

Do not include costs for leased vehicles.

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

Name of each creditor for Vehicle 1	Average monthly payment
_____	\$ _____
_____	+ \$ _____
Total average monthly payment	<div style="border: 1px solid black; padding: 2px;">\$ _____</div>

Copy
here →

— \$ _____

Repeat this
amount on
line 33b.

13c. Net Vehicle 1 ownership or lease expense

Subtract line 13b from line 13a. If this amount is less than \$0, enter \$0.

\$ _____

Copy net
Vehicle 1
expense
here ... →

\$ _____

Vehicle 2 Describe Vehicle 2: _____

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

13e. Average monthly payment for all debts secured by Vehicle 2.

Do not include costs for leased vehicles.

Name of each creditor for Vehicle 2	Average monthly payment
_____	\$ _____
_____	+ \$ _____
Total average monthly payment	<div style="border: 1px solid black; padding: 2px;">\$ _____</div>

Copy
here →

— \$ _____

Repeat this
amount on
line 33c.

13f. Net Vehicle 2 ownership or lease expense

Subtract line 13e from 13d. If this amount is less than \$0, enter \$0.

\$ _____

Copy net
Vehicle 2
expense
here ... →

\$ _____

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

\$ _____

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

\$ _____

Other Necessary Expenses

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

16. **Taxes:** The total monthly amount that you will actually owe for federal, state and local taxes, such as income taxes, self-employment taxes, social security taxes, and Medicare taxes. You may include the monthly amount withheld from your pay for these taxes. However, if you expect to receive a tax refund, you must divide the expected refund by 12 and subtract that number from the total monthly amount that is withheld to pay for taxes. \$ _____
Do not include real estate, sales, or use taxes.
17. **Involuntary deductions:** The total monthly payroll deductions that your job requires, such as retirement contributions, union dues, and uniform costs. \$ _____
Do not include amounts that are not required by your job, such as voluntary 401(k) contributions or payroll savings.
18. **Life insurance:** The total monthly premiums that you pay for your own term life insurance. If two married people are filing together, include payments that you make for your spouse's term life insurance. Do not include premiums for life insurance on your dependents, for a non-filing spouse's life insurance, or for any form of life insurance other than term. \$ _____
19. **Court-ordered payments:** The total monthly amount that you pay as required by the order of a court or administrative agency, such as spousal or child support payments. \$ _____
Do not include payments on past due obligations for spousal or child support. You will list these obligations in line 35.
20. **Education:** The total monthly amount that you pay for education that is either required:
☐ as a condition for your job, or
☐ for your physically or mentally challenged dependent child if no public education is available for similar services. \$ _____
21. **Childcare:** The total monthly amount that you pay for childcare, such as babysitting, daycare, nursery, and preschool. \$ _____
Do not include payments for any elementary or secondary school education.
22. **Additional health care expenses, excluding insurance costs:** The monthly amount that you pay for health care that is required for the health and welfare of you or your dependents and that is not reimbursed by insurance or paid by a health savings account. Include only the amount that is more than the total entered in line 7. \$ _____
Payments for health insurance or health savings accounts should be listed only in line 25.
23. **Optional telephones and telephone services:** The total monthly amount that you pay for telecommunication services for you and your dependents, such as pagers, call waiting, caller identification, special long distance, or business cell phone service, to the extent necessary for your health and welfare or that of your dependents or for the production of income, if it is not reimbursed by your employer. + \$ _____
Do not include payments for basic home telephone, internet and cell phone service. Do not include self-employment expenses, such as those reported on line 5 of Official Form 122A-1, or any amount you previously deducted.
24. **Add all of the expenses allowed under the IRS expense allowances.** \$ _____
Add lines 6 through 23.

Additional Expense Deductions

These are additional deductions allowed by the Means Test.

Note: Do not include any expense allowances listed in lines 6-24.

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

Health insurance \$ _____

Disability insurance \$ _____

Health savings account + \$ _____

Total \$ _____

Copy total here → \$ _____

Do you actually spend this total amount?

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

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

\$ _____

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

\$ _____

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

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

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

\$ _____

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

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

\$ _____

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

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

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

\$ _____

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

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

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

+ \$ _____

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

Add lines 25 through 31.

\$ _____

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

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

Mortgages on your home:**Average monthly payment**

33a. Copy line 9b here ➔ \$ _____

Loans on your first two vehicles:

33b. Copy line 13b here. ➔ \$ _____

33c. Copy line 13e here. ➔ \$ _____

33d. List other secured debts:

Name of each creditor for other secured debt**Identify property that secures the debt****Does payment include taxes or insurance?**

☐ No
☐ Yes

\$ _____

☐ No
☐ Yes

\$ _____

☐ No
☐ Yes

+ \$ _____

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

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

☐ No. Go to line 35.

☐ Yes. State any amount that you must pay to a creditor, in addition to the payments listed in line 33, to keep possession of your property (called the *cure amount*). Next, divide by 60 and fill in the information below.

Name of the creditor**Identify property that secures the debt****Total cure amount****Monthly cure amount**

_____ \$ _____ ÷ 60 = \$ _____

_____ \$ _____ ÷ 60 = \$ _____

_____ \$ _____ ÷ 60 = + \$ _____

Total

\$ _____**Copy total here ➔**

\$ _____

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

☐ No. Go to line 36.

☐ Yes. Fill in the total amount of all of these priority claims. Do not include current or ongoing priority claims, such as those you listed in line 19.

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

36. Are you eligible to file a case under Chapter 13? 11 U.S.C. § 109(e).

For more information, go online using the link for *Bankruptcy Basics* specified in the separate instructions for this form. *Bankruptcy Basics* may also be available at the bankruptcy clerk's office.

☒ No. Go to line 37.

☐ Yes. Fill in the following information.

Projected monthly plan payment if you were filing under Chapter 13

\$ _____

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

X _____

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

Average monthly administrative expense if you were filing under Chapter 13

\$ _____

Copy total
here →

\$ _____

37. Add all of the deductions for debt payment.

Add lines 33e through 36.

\$ _____

Total Deductions from Income**38. Add all of the allowed deductions.**

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

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

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

Total deductions

\$ _____

Copy total here →

\$ _____

Part 3: Determine Whether There Is a Presumption of Abuse**39. Calculate monthly disposable income for 60 months**

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

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

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

\$ _____

Copy
here →

\$ _____

For the next 60 months (5 years).....

x 60

39d. **Total.** Multiply line 39c by 60.

\$ _____

Copy
here →

\$ _____

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

☐ **The line 39d is less than \$7,700*.** On the top of page 1 of this form, check box 1, *There is no presumption of abuse*. Go to Part 5.

☐ **The line 39d is more than \$12,850*.** On the top of page 1 of this form, check box 2, *There is a presumption of abuse*. You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

☐ **The line 39d is at least \$7,700*, but not more than \$12,850*.** Go to line 41.

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

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

\$ _____

x .25

- 41b. **25% of your total nonpriority unsecured debt.** 11 U.S.C. § 707(b)(2)(A)(i)(I).

Multiply line 41a by 0.25.

\$ _____

Copy
here →

\$ _____

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

Check the box that applies:

- ☐ **Line 39d is less than line 41b.** On the top of page 1 of this form, check box 1, *There is no presumption of abuse.* Go to Part 5.
- ☐ **Line 39d is equal to or more than line 41b.** On the top of page 1 of this form, check box 2, *There is a presumption of abuse.* You may fill out Part 4 if you claim special circumstances. Then go to Part 5.

Part 4: Give Details About Special Circumstances

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

- ☐ No. Go to Part 5.
- ☐ Yes. Fill in the following information. All figures should reflect your average monthly expense or income adjustment for each item. You may include expenses you listed in line 25.

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

Give a detailed explanation of the special circumstances	Average monthly expense or income adjustment
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Part 5: Sign Below

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

X

Signature of Debtor 1

X

Signature of Debtor 2

Date _____
MM / DD / YYYYDate _____
MM / DD / YYYY

United States Bankruptcy Court
MASSACHUSETTS

In re
Josephine F. Debtor

Case No. **16-000000**

Debtor

Chapter **7**

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR

1. Pursuant to 11 U.S.C. § 329(a) and Fed. Bankr. P. 2016(b), I certify that I am the attorney for the above named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept \$ **2,585.00**

Prior to the filing of this statement I have received \$ **2,585.00**

Balance Due \$ **0.00**

2. The source of the compensation paid to me was:

☒ Debtor ☐ Other (specify)

3. The source of compensation to be paid to me is:

☐ Debtor ☐ Other (specify)

4. ☒ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

☐ I have agreed to share the above-disclosed compensation with a other person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation, is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
- b. Preparation and filing of any petition, schedules, statements of affairs and plan which may be required;
- c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;

- d. ~~Representation of the debtor in adversary proceedings and other contested bankruptcy matters;~~
- e. [Other provisions as needed]

Amount paid includes petition filing fee

6. By agreement with the debtor(s), the above-disclosed fee does not include the following services:

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Date

Signature of Attorney

HUFFNER & HUFFNER, P.C.

Name of law firm