

Litigating the Presumption of Abuse under §707

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Judicial Discretion to Find Abuse under §707(b)(3)

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Editor's Note: *A longer version of this article will appear in the forthcoming issue of the Missouri Law Review.*

[T]here is nothing wrong with the means test. People who make high incomes—lawyers, doctors and accountants are examples—and file bankruptcy, wiping out all their debts, who don't care who got hurt by their failure to pay and they care only about themselves, this will crack down on those people. —Statement of Sen. Jeff Sessions, March 8, 2005. Cong. Rec. S2219

Imagine a person with a high income—a corporate CEO, for example—whose company goes out of business and who finds himself temporarily unemployed. While waiting for his next opportunity, he maintains his lifestyle by depleting his personal savings and incurring substantial debt, both secured (his normal annual purchase of a new Jaguar and new home equity loans) and unsecured (cash advances and other charges on his credit card, which has a very high limit). After a few months, he finds new employment, with even higher compensation than before, but he wonders if there isn't some way that he could avoid repaying some of the debt he incurred. Chapter 7 of the Bankruptcy Code¹ seems to present a good possibility; it offers an immediate discharge of all unsecured debts in exchange for the debtor's nonexempt assets.² That's no problem for our executive, because the remaining equity in his home is protected by a generous state exemption, his cash is gone (or in exempt retirement accounts), and his cars are encumbered by liens. There's nothing that a chapter 7 trustee could sell for debt repayment.

Indeed, the only problem the executive might seem to have is the means test that was added to §707(b) of the Code³ by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA).⁴ As reflected in the quotation from Sen. Sessions above, the means test was designed to "crack down" on debtors with sufficient income to repay a substantial portion of their debt. It does this through a formula that determines how much income a debtor may have available for debt repayment. If this amount exceeds defined levels, the debtor is presumed to be abusing chapter 7 and will be denied chapter 7 relief if the presumption is not rebutted. But as it turns out, the means-test formula is also no problem for our executive. It measures a debtor's income during the six months before a bankruptcy filing, and he would have been unemployed during most of this period. Moreover, it allows a deduction from income in the amount of whatever secured debt payments the debtor is obligated to make—even debts secured by luxury vehicles or other unnecessary items. So although the executive has plenty of income to pay his debts, he passes the means test; there is no presumption of abuse.

To discharge all of his unsecured debt in chapter 7, the executive needs to leap just one more hurdle. Section 707(b)(3) of the Code,⁵ added by BAPCPA, governs situations in which the means-test presumption does not arise, and it provides that the court can find abuse in such situations by considering "the totality of the circumstances...of the debtor's financial situation." One might think that this provision allows a judge to look at how much money a debtor actually has available to pay debts and "crack down" on genuinely wealthy debtors who pass the means test.⁶ But according to a recent article by Profs. Culhane and White,⁷ that is not so. Once a debtor passes the means test, the article contends, the debtor's financial situation is irrelevant to a finding of "abuse;" relief can be denied only for dishonesty or similar "serious debtor misconduct."⁸ Our executive, then, having told no lies and having made no lifestyle changes to facilitate bankruptcy, can both keep his income and discharge his unsecured debts in chapter 7.

This article suggests the contrary—that if the question is properly raised in a §707(b) motion, bankruptcy

judges have a duty to consider the actual financial situation of debtors who are not subject to a means-test presumption, that judges should find abuse where debtors can repay a sufficient amount of unsecured debt, and that the means test serves to guide—rather than foreclose—such determinations of abuse.

The Means Test as a Presumption of Ability to Repay Debt

The key to understanding the proper role of the means test in chapter 7 is to recognize that it is simply a mechanism for generating a presumption; it does not result in any final determination. Although the means test itself is complex, its function as a presumption is clear from the interaction of five provisions of §707(b):

- Paragraph (b)(1) provides that a court may deny chapter 7 relief "if it finds that the granting of relief would be an abuse of the provisions of this chapter."

- Subparagraph (b)(2)(A) calculates an amount of income that a debtor may have available to pay debts that are neither secured by liens on the debtor's property nor given a special priority by the Code. This available-for-ordinary-debt payment amount can be called "disposable" income, since it is the income not needed for living expenses and payment of secured and priority debts.⁹ Put another way, disposable income equates to "ability to pay" unsecured debt. The means test calculates disposable income by subtracting specified allowances for living expenses and payments of secured and priority claims from the debtor's defined "current monthly income."¹⁰

- Clause (b)(2)(A)(i) provides that "the court shall presume abuse exists" if the debtor's monthly disposable income calculated under the means test is either (1) greater than \$166.66 or (2) at least \$100 and sufficient to pay 25 percent of the debtor's nonpriority unsecured claims in 60 months. These amounts of monthly disposable income can be referred to as the "abuse threshold," since a debtor who has disposable income at or above these amounts is presumed to be abusing chapter 7.

- Subparagraph (b)(2)(B) provides for the only possible rebuttal of the means test's presumption of abuse: The debtor must show "special circumstances that justify additional expenses or adjustments of current monthly income" that would cause the debtor's monthly disposable income to fall below the abuse threshold.

- Paragraph (b)(3) provides in full: In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider— (A) whether the debtor filed the petition in bad faith; or (B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

From these provisions, it is evident that the means test operates as a classic presumption—that is, a rule providing that proof of one fact (the "foundational" fact) is effective to establish another fact (the "presumed" fact).¹¹ For example, in one common presumption, the foundational fact that a child is born to a woman while she is married gives rise to a presumed fact that her husband is the biological father.¹² In the means-test presumption, the foundational fact is the amount of monthly disposable income calculated under the means test; the presumed fact is that the debtor actually has disposable income in the calculated amount.

Just as husbands can rebut a presumption of paternity by introducing evidence (such as a genetic test) demonstrating that they did not father children born during their marriages,¹³ so chapter 7 debtors can rebut the amount of disposable income calculated under the means test by showing that their actual disposable income is less than that amount, either because the means test measured income at a level inaccurately high, or because it measured deductions for living expenses and payments of secured and priority debt at levels inaccurately low.

And as with the presumption of paternity, the means test is not infallible. As noted above,¹⁴ it measures income by averaging the debtor's income from the six months before filing bankruptcy. Whenever a debtor's income has been permanently reduced shortly before filing, this six-month average income will be higher than what the debtor actually has available.¹⁵ And wherever the means test has a fixed allowance for a given expense, that allowance has the potential for being lower than what the debtor actually needs.

Thus, the provision for rebuttal in §707(b)(2)(B) reflects reality. It also brings into effect Rule 301 of the Federal Rules of Evidence. Under this rule, if a debtor contests a means-test presumption of disposable income by introducing evidence showing lower total income or higher necessary deductions, the party moving for relief under §707(b)(1) has the burden of showing actual disposable income at or above the abuse threshold. In such a situation, the court presiding over the contested motion determines—independent of the means-test measurements—the total income actually available to the debtor and the expenditures that the debtor must actually make to provide for reasonable support and pay secured and priority debts.

The status of the means test as a presumption has one final—and critical—feature. A presumption is merely one method of establishing a fact necessary to obtain relief. Where a presumption does not arise, the party seeking relief may prove the necessary fact directly, using the same kind of evidence that could be used to establish the fact in connection with a rebuttal of the presumption. A party asserting abuse under §707(b)(1) may seek to prove that the debtor's actual disposable income is at or above the abuse threshold, even if the means-test presumption does not arise, using the same type of evidence that would be presented if the debtor sought to show that the means-test presumption was inaccurate.

So, for example, a debtor subject to a means-test presumption might try to rebut it by showing housing expenses higher than what the means test allows, perhaps due to special assessments on a condominium or unusually high property taxes.¹⁶ Conversely, a movant seeking to establish that the debtor's actual disposable income is above the abuse threshold might introduce evidence that the debtor owned a home in a community with very low property taxes, so that the debtor's actual home ownership expense was less than what the means test allowed. In either situation, the court would determine the debtor's actual housing expenses, using the same kind of evidence under the same judicially determined standards.

The language of §707(b), far from rejecting this conclusion, compels it. There is no provision in §707(b) stating that the means test is the only method through which the debtor's disposable income can be established. To the contrary, §707(b)(3) explicitly states that, in the absence of the means-test presumption, "the court shall consider...whether...the totality of the circumstances...of the debtor's financial situation demonstrates abuse." Given that the means test is directed at measuring debt-paying ability as a presumption, this direction confirms that where the presumption does not arise, the debtor's actual debt-paying ability must be assessed in ruling on a motion under §707(b)(1).

Guidance from the Means Test on Nonpresumptive Abuse

When judges assess the totality of a debtor's financial circumstances under §707(b)(3) for purposes of determining whether the debtor is abusing chapter 7, they will not be exploring a wilderness. As noted above, "totality of the circumstances" itself is a judicially created construct for determining "substantial abuse" under pre-BAPCPA §707(b), and the case law applying that concept lays out the general scope of the abuse to be determined.¹⁷ The case law interpreting "disposable income" in chapter 13—an issue since 1984—provides another source of helpful precedent.¹⁸ But the detailed provisions of the means test may also provide guidance in assessing the ability to pay that BAPCPA treats as abuse. Each of the elements of the means test, its threshold of abuse, its assessment of "current monthly income" and its allowed deductions—as well as its treatment of exempt property—can be examined for potential policy indications.

The Abuse Threshold

The clearest guidance from the means test is on the question of how much disposable income should lead to a finding of abuse. The abuse threshold set out in §707(b)(2)(A)(i) is irrebuttable. Section 707(b)(2)(B) only allows a debtor to rebut the means test's calculation of disposable income in an amount above the

abuse threshold; it does not allow any argument that the threshold itself is too low. Disposable income of more than \$166.66 per month, or disposable income of at least \$100 per month, sufficient to pay 25 percent of the debtor's nonpriority unsecured debt in five years, is always an abuse requiring a denial of chapter 7 relief.¹⁹ Since the abuse threshold cannot be challenged within the means test, there is a clear policy judgment that the threshold fixes the level at which debt-paying ability becomes abusive of chapter 7. When judges are required to make determinations of abuse under §707(b)(3), they should accordingly use the means-test threshold: If a debtor's actual disposable income, determined by the court, is below that threshold, there should be no finding of abuse based on debt-paying ability; if disposable income meets or exceeds the threshold, abuse should be found.

"Current Monthly Income"

Just as the abuse threshold is the aspect of the means-test presumption that most clearly should be incorporated into judicial determinations of nonpresumptive abuse, "current monthly income" is the aspect of the means test that most clearly should not be. When the court is determining the income that a debtor actually has available to pay nonpriority unsecured debt, it would be absurd to start with a total income figure that does not reflect the debtor's actual total income. Although an average of the debtor's income during the six months before bankruptcy can serve as a rough approximation of actual total income for purposes of the means-test presumption, it plainly will not be accurate in many situations.²⁰ Under §707(b)(2)(B), debtors can rebut a means-test presumption based on inaccurately high "current monthly income" by showing their actual monthly income during the bankruptcy case; judges assessing actual debt-paying ability under §707(b)(3) should likewise begin with an assessment of the debtor's actual total income. Thus, in the situation of a debtor who obtained new permanent employment shortly before filing bankruptcy, the salary of the new job—not average earnings during the prior six months—would be the relevant consideration.

A separate consideration is whether income items excluded from the definition of current monthly income in §101(10A)—most notably benefits under the Social Security Act—should be omitted from the actual income assessed by the court under §707(b)(3). It can be argued that the exclusion of Social Security Act benefits reflects a policy of protecting retirement income from creditors.²¹ On the other hand, when a court makes a determination of actual disposable income, the special needs of retired persons can appropriately be dealt with by allowing increased deductions from income for food, health care, housing, transportation and other items potentially affected by age or disability. The means test's exclusion of Social Security Act benefits may well have served as a proxy for this sort of individualized determination of the needs of retirees and be inappropriate in a determination of actual disposable income. Social Security Act benefits are certainly part of the "totality" of the debtor's financial circumstances, and these benefits are available for paying expenses (and unsecured nonpriority debt) just as much as other income. The plain meaning of §707(b)(3) thus should be applied, requiring that Social Security Act benefits be considered in gauging nonpresumptive abuse.

Allowed Deductions

Turning from income to deductions, it is notable that most of the living expense deductions specified by the means test are limited to amounts "reasonable and necessary." These include expenses in the "other necessary expense" categories listed by the Internal Revenue Service, allowed as deductions by §707(b)(2)(A)(ii)(I),²² as well as the special statutory deductions allowed by §707(b)(2)(A)(ii)(I)-(V) in addition to the IRS deductions.²³ The "reasonable and necessary" limitation of these allowances provides for judicial discretion to be exercised even when the allowances are used in the means test; that discretion would apply similarly in determining nonpresumptive abuse under §707(b)(3). Nevertheless, the inclusion of expenses in these categories as allowable deductions in the means test does have at least one impact on the nonpresumptive determination: Expenses in each of the categories must be recognized as at least potentially reasonable. Thus, a court would not be justified in concluding that contributions to health savings accounts are never necessary expenses, since "reasonably necessary" expenses of this kind are specifically allowed as deductions in §707(b)(2)(A)(ii)(I). On the other hand, where the statute limits the amount of the deduction for purposes of the means test—as in the annual limit of \$1,500 per minor child for

private elementary or secondary school—a court could find that a higher expenditure was reasonably necessary, both in determining actual disposable income under §707(b)(3) or in rebuttal of a means-test presumption under §707(b)(2)(B).

A more significant issue arises in connection with deductions for living expenses that the means test allows in fixed amounts. Under §707(b)(2)(A)(ii)(I), the means test allows deductions for food, clothing, housekeeping supplies, personal care and miscellany in a lump sum fixed by the "National Standards" of the IRS.²⁴ Deductions for housing and transportation are similarly allowed in amounts fixed by the IRS's "Local Standards."²⁵ Since these amounts do not vary with the debtor's actual needs, the means test's allowances for these expenses may well be inaccurate as applied in a given case.²⁶ Thus, judges would not be bound to accept them, either in means-test rebuttals or nonpresumptive determinations of abuse.

Perhaps the most debatable aspect of the means-test deductions is the unlimited one for current secured debt payment. As set out in §707(b)(2)(A)(iii)(I), the means test provides a deduction for 1/60 of "the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition." This allowance is not subject to any "reasonable and necessary" limitation and so, for purposes of the means test, debtors may deduct debt secured by vacation homes, pleasure boats and other items manifestly not necessary—and even include the entire amount of balloon mortgages in the secured debt amount that is divided by 60, as long as the mortgage became due in the five years following bankruptcy.

As with the exclusion of Social Security Act benefits from current monthly income, it can be argued that this secured-debt deduction reflects a general policy of BAPCPA—here, a policy favoring secured creditors over unsecured—so that in assessing the totality of the debtor's financial circumstances, a court should allow the full deduction for secured debt payments that the means test specifies.²⁷ However, as with its treatment of Social Security Act benefits, the means test's secured-debt deduction can more reasonably be understood as a proxy for more individualized determinations. Certainly, the means test evidences no policy that all secured obligations be repaid rather than enforced through repossession or foreclosure. To the contrary, if a debtor is in default, the means test allows a deduction for cure payments needed to retain the collateral only if the collateral is reasonably necessary for support of the debtor or the debtor's dependents.²⁸ The means test thus appears to use current payment status as a rough measure of the debtor's need for particular collateral, reflecting a judgment that debtors are less likely to default on loans secured by collateral necessary for their support. When an individualized determination of the totality of a debtor's financial circumstances is conducted, such presumptions are not appropriate, and the debtor's real need for collateral, whether or not the loan is in default, can properly be considered.

Exempt Property

The means test says nothing about the extent of a debtor's property, either exempt or nonexempt. However, in determining presumptive disposable income, the means test's starting point, current monthly income, includes income "from all sources...without regard to whether such income is taxable."²⁹ Thus, the means test requires inclusion of income received from any number of exempt sources, such as retirement accounts and life insurance proceeds.³⁰ This is in keeping with pre-BAPCPA case law, which considered exempt income in determining "substantial abuse."³¹

Consistent with the means test, then, a court determining actual disposable income under the "totality of the circumstances" may take into account the extent of a debtor's exempt property in determining the actual expenses that the debtor is required to incur. For example, the expenses incurred by a debtor for transportation can vary depending on the extent to which the debtor's automobile is exempt. If a debtor owns a valuable, lien-free automobile that can be fully exempted in bankruptcy, it is unlikely that the debtor would need to incur any vehicle-acquisition costs for the period after a bankruptcy filing, thus eliminating an expense allowed in the means test.³² However, if the automobile could not be exempted, it would likely be sold by a chapter 7 trustee, eliminating any concern that the debtor's ownership of the vehicle was an abuse of chapter 7 and justifying a deduction for vehicle acquisition expenses in calculating actual disposable income. Pre-BAPCPA case law recognized the reality that the extent of debtors' exempt

property can bear on their debt-paying ability.³³ There is no policy inherent in the means test that would prevent a court from considering the extent of exempt property in making a nonpresumptive determination of abuse under §707(b)(3).

Conclusion

Let's return to the recently re-employed CEO hypothesized at the beginning of this article. Despite his new salary, huge home and ample retirement accounts, he could pass the means test. However, he does not thereby evade consideration of his actual disposable income under §707(b)(3). If, as is highly likely, his actual disposable income is at the abuse threshold, the CEO will either have to pay his debts outside of bankruptcy or obtain a discharge through a payment plan under chapter 11 or 13.

In this hypothetical, the means test itself failed to accomplish the goal of its sponsors. And situations like the hypothetical will arise not infrequently, since the means test is inefficient in identifying likely abuse of chapter 7. However, BAPCPA did not exacerbate this flaw by making the absence of a means-test presumption conclusive of debt-paying ability. Section 707(b)(3) requires judges, when an abuse motion is raised, to determine the debtor's actual financial condition, including debt-paying ability. Ultimately, even when the means test does not presume abuse, genuinely wealthy debtors may be denied chapter 7 relief.

Footnotes

1 11 U.S.C. §701, *et seq.*

2 *See* 11 U.S.C. §§541 (defining property of the debtor's estate and allowed exemptions); 704(a)(1) (requiring a chapter 7 trustee to collect and reduce to money the property of the estate); 727(a) (providing for the chapter 7 discharge); Fed R. Bankr. P. 4004(c) (providing for prompt entry of chapter 7 discharge).

3 11 U.S.C. §707(b).

4 Pub. L. No. 109-8, 119 Stat. 23 (2005).

5 11 U.S.C. §707(b)(3).

6 *See* Wedoff, Eugene R., "Means Testing in the New §707(b)," 79 Am Bankr. L. Rev. 231, 236 (2005) (reading §707(b)(3) to allow judicial determination of debt-paying ability).

7 Culhane, Marianne B. and White, Michaela M., "Catching Can-Pay Debtors: Is the Means Test the Only Way?" 13 Am. Bankr. Inst. L. Rev. 665 (2005).

8 *Id.* at 666, 687.

9 *Cf.* 11 U.S.C. §1325(b)(2) (providing a similar definition of "disposable income" for use in chapter 13).

10 *See* 11 U.S.C. §110(10A) (defining "current monthly income" as the monthly average of income from all sources that the debtor receives, derived in the six calendar months prior to filing bankruptcy).

11 Park, Roger C., Leonard, David P. and Goldberg, Steven H., *Evidence Law* §4.08 at 106-07 (2004); *see, also, McCormick on Evidence* §342 (5th ed. 2003) (providing a similar explanation of presumptions).

12 *See McCormick on Evidence* §343 (5th ed. 2003); *see, e.g.,* 750 Ill. Comp. Stat. 45/5(a)(1) (2002).

13 *See, e.g.*, 750 Ill. Comp. Stat. 45/5(b) (2002), providing for rebuttal of the marital paternity presumption by clear and convincing evidence.

14 *See* n.9, *supra*.

15 *See* Wedoff, *supra* note 6 at 248-51 (giving examples of situations in which the defined "current monthly income" differs greatly from actually available income).

16 The means test uses housing allowances specified by the Internal Revenue Service as part of its Collection Financial Standards for collecting delinquent taxes. The housing allowance is based on a county-wide average and does not take into consideration the fact that costs in individual communities (or condominium developments) may vary greatly from the county average. *See* Wedoff, *supra* note 6 at 259-60 (discussing anomalies caused by county-wide averaging).

17 The Culhane/White article does not appear to propose any alternative definition of "totality of the circumstances...of the debtor's financial situation." At one point, it states that the phrase "must be read as limited to serious debtor misconduct." Culhane/White, *supra* note 7 at 666. At another, it suggests that the phrase "should encompass debtor actions...not illegal or necessarily dishonest [but] nonetheless manifestly unreasonable under the debtor's circumstances." *Id.* at 687. Neither of these suggestions is supported by any textual analysis and—wholly apart from the contrary case law—it is difficult to see how the "totality" of the circumstances bearing on a debtor's financial situation can be shriveled up to address only certain debtor misconduct. Indeed, since §707(b)(3) sets out "bad faith" as a ground for finding abuse separate from the "totality of the [debtor's financial] circumstances," it strongly suggests that debtor misconduct of any kind should be treated under "bad faith" rubric, leaving the "totality of the circumstances" to address the debtor's financial status—including disposable income most prominently.

18 The relevant case law is collected and discussed in Lundin, Keith M., Chapter 13 Bankruptcy §§163.1 - 167.1 (3d ed. 2004).

19 However, the dollar amounts in §707(b) are subject to periodic adjustment for inflation under 11 U.S.C. §104(b)(1), and so the abuse threshold will likely rise over time.

20 *See* note 15, *supra*.

21 *See* Culhane/White, *supra* note 7 at 676.

22 *See* Wedoff, *supra* note 6 at 261-64.

23 *See Id.* at 264-71.

24 *See Id.* at 253-55.

25 *See Id.* at 255-61.

26 *See, e.g.*, the potential variances in housing costs discussed *supra* at note 7 and the accompanying text.

27 *See* Culhane/White, *supra* note 7 at 674.

28 *See* 11 U.S.C. §707(b)(2)(A)(iii)(II).

29 11 U.S.C. §101(10A)(A).

30 Tax-exempt retirement funds are generally exempted from a debtor's bankruptcy estate under 11 U.S.C. §522(a)(3)(C), added by BAPCPA. A debtor's right to receive life insurance proceeds from a former

supporter of the debtor is part of a debtor's federal bankruptcy exemptions. *See* 11 U.S.C. §522(d)(11)(C). Section 541(b)(7)(B) provides that contributions made by debtors to certain retirement plans will not constitute current monthly income for purposes of chapter 13, but this limitation does not apply in chapter 7 and would not affect distributions from the retirement account in any event. The Culhane/White article appears to misconstrue §541(b)(7)(B) on this point. *See* Culhane/White, *supra* note 7 at 690 n.111.

31 *See, e.g., Taylor v. United States (In re Taylor)*, 212 F.3d 395, 396 (8th Cir. 2000) ("The question of whether income from a pension is exempt from creditors is a wholly independent inquiry from the question of whether the pension income is reasonably necessary to support the debtor"); *In re Shields*, 322 B.R. 894, 898 (Bankr. M.D. Fla.) ("Social security benefits, disability benefits and retirement benefits should be treated as 'income' for purposes of determining whether a debtor has 'disposable income'...even though such benefits are exempt from the claims of the debtor's creditors").

32 *See* Wedoff, *supra* note 6 at 257-58.

33 *See, e.g., In re Kornfield*, 164 F.3d 778, 781 (2d Cir.1999) ("A totality-of-the-circumstances inquiry is equitable in nature, and the existence of an asset, even if exempt from creditors, is relevant to a debtor's ability to pay his or her debts").

MEANS TEST EXAMPLE #1

Married Debtor
(non-filing Spouse)

contribution of less than entire
income by non-filing Spouse
to household expenses

In re **Jane A. Debtor**
Debtor(s)
 Case Number: **07-00000-BJ**
(If known)

According to the calculations required by this statement:

The presumption arises.
 The presumption does not arise.

(Check the box as directed in Parts I, III, and VI of this statement.)

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual Chapter 7 debtor, whether or not filing jointly, whose debts are primarily consumer debts. Joint debtors may complete one statement only.

Part I. EXCLUSION FOR DISABLED VETERANS

1 If you are a disabled veteran described in the Veteran's Declaration in this Part I, (1) check the box at the beginning of the Veteran's Declaration, (2) check the box for "The presumption does not arise" at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.

Veteran's Declaration. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. §901(1)).

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION

2 Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.

a. Unmarried. Complete only Column A ("Debtor's Income") for Lines 3-11.

b. Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." Complete only column A ("Debtor's Income") for Lines 3-11.

c. Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.

d. Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.

		Column A Debtor's Income	Column B Spouse's Income																		
3	Gross wages, salary, tips, bonuses, overtime, commissions.	\$ 0.00	\$ 7,000.00																		
4	Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2"></th> <th style="width: 15%;">Debtor</th> <th style="width: 15%;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary business expenses</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>c.</td> <td>Business income</td> <td colspan="2" style="text-align: right;">Subtract Line b from Line a</td> </tr> </tbody> </table>				Debtor	Spouse	a.	Gross receipts	\$ 0.00	\$ 0.00	b.	Ordinary and necessary business expenses	\$ 0.00	\$ 0.00	c.	Business income	Subtract Line b from Line a		\$ 0.00	\$ 0.00
				Debtor	Spouse																
		a.	Gross receipts	\$ 0.00	\$ 0.00																
		b.	Ordinary and necessary business expenses	\$ 0.00	\$ 0.00																
c.	Business income	Subtract Line b from Line a																			
5	Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2"></th> <th style="width: 15%;">Debtor</th> <th style="width: 15%;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary operating expenses</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>c.</td> <td>Rent and other real property income</td> <td colspan="2" style="text-align: right;">Subtract Line b from Line a</td> </tr> </tbody> </table>				Debtor	Spouse	a.	Gross receipts	\$ 0.00	\$ 0.00	b.	Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00	c.	Rent and other real property income	Subtract Line b from Line a		\$ 0.00	\$ 0.00
				Debtor	Spouse																
		a.	Gross receipts	\$ 0.00	\$ 0.00																
		b.	Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00																
c.	Rent and other real property income	Subtract Line b from Line a																			
6	Interest, dividends, and royalties.	\$ 0.00	\$ 0.00																		
7	Pension and retirement income.	\$ 0.00	\$ 0.00																		
8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include amounts paid by the debtor's spouse if Column B is completed.	\$ 0.00	\$ 0.00																		

9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:		\$	0.00	\$	0.00	
	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ 0.00					Spouse \$ 0.00
10	Income from all other sources. If necessary, list additional sources on a separate page. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. Specify source and amount.		\$	0.00	\$	0.00	
		Debtor					Spouse
	a.	\$					\$
	b.	\$	\$				
	Total and enter on Line 10		\$	0.00	\$	0.00	
11	Subtotal of Current Monthly Income for § 707(b)(7). Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).		\$	0.00	\$	7,000.00	
12	Total Current Monthly Income for § 707(b)(7). If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.		\$	7,000.00			

Part III. APPLICATION OF § 707(b)(7) EXCLUSION

13	Annualized Current Monthly Income for § 707(b)(7). Multiply the amount from Line 12 by the number 12 and enter the result.	\$	84,000.00
14	Applicable median family income. Enter the median family income for the applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: <u>MI</u> b. Enter debtor's household size: <u>4</u>	\$	73,853.00
15	Application of Section 707(b)(7). Check the applicable box and proceed as directed. <input type="checkbox"/> The amount on Line 13 is less than or equal to the amount on Line 14. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII. <input checked="" type="checkbox"/> The amount on Line 13 is more than the amount on Line 14. Complete the remaining parts of this statement.		

Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)

Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)

16	Enter the amount from Line 12.	\$	7,000.00
17	Marital adjustment. If you checked the box at Line 2.c, enter the amount of the income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. If you did not check box at Line 2.c, enter zero.	\$	600.00
18	Current monthly income for § 707(b)(2). Subtract Line 17 from Line 16 and enter the result.	\$	6,400.00

Part V. CALCULATION OF DEDUCTIONS ALLOWED UNDER § 707(b)(2)

Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)

19	National Standards: food, clothing, household supplies, personal care, and miscellaneous. Enter "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable family size and income level. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$	1,546.00
20A	Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court).	\$	480.00

20B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Housing and Utilities Standards; mortgage/rental expense</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">898.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">1,500.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net mortgage/rental expense</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00	c.	Net mortgage/rental expense	Subtract Line b from Line a.		\$ 0.00
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00											
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00											
c.	Net mortgage/rental expense	Subtract Line b from Line a.												
21	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr/>	\$ 0.00												
22	<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8.</p> <p><input type="checkbox"/> 0 <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter the amount from IRS Transportation Standards, Operating Costs & Public Transportation Costs for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$ 473.00												
23	<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.)</p> <p><input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, First Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, First Car</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">471.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.		\$ 471.00
a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00											
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.												
24	<p>Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 23.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, Second Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, Second Car</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">332.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.		\$ 332.00
a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00											
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.												
25	<p>Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.</p>	\$ 1,400.00												
26	<p>Other Necessary Expenses: mandatory payroll deductions. Enter the total average monthly payroll deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as non-mandatory 401(k) contributions.</p>	\$ 0.00												
27	<p>Other Necessary Expenses: life insurance. Enter average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</p>	\$ 0.00												

28	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to court order, such as spousal or child support payments. Do not include payments on past due support obligations included in Line 44.	\$ 0.00
29	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.	\$ 0.00
30	Other Necessary Expenses: childcare. Enter the average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.	\$ 0.00
31	Other Necessary Expenses: health care. Enter the average monthly amount that you actually expend on health care expenses that are not reimbursed by insurance or paid by a health savings account. Do not include payments for health insurance or health savings accounts listed in Line 34.	\$ 100.00
32	Other Necessary Expenses: telecommunication services. Enter the average monthly amount that you actually pay for telecommunication services other than your basic home telephone service - such as cell phones, pagers, call waiting, caller id, special long distance, or internet service - to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.	\$ 150.00
33	Total Expenses Allowed under IRS Standards. Enter the total of Lines 19 through 32.	\$ 4,952.00

Subpart B: Additional Expense Deductions under § 707(b)

Note: Do not include any expenses that you have listed in Lines 19-32

34	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List and total the average monthly amounts that you actually pay for yourself, your spouse, or your dependents in the following categories.		
	a.	Health Insurance	\$ 100.00
	b.	Disability Insurance	\$ 0.00
	c.	Health Savings Account	\$ 0.00
	Total: Add Lines a, b and c		\$ 100.00
35	Continued contributions to the care of household or family members. Enter 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.	\$ 0.00	
36	Protection against family violence. Enter any average monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.	\$ 0.00	
37	Home energy costs. Enter the average monthly amount, in excess of the allowance in the IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
38	Education expenses for dependent children less than 18. Enter the average monthly expenses that you actually incur, not to exceed \$137.50 per child, in providing elementary and secondary education for your dependent children less than 18 years of age. You must provide your case trustee with documentation demonstrating that the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.	\$ 0.00	
39	Additional food and clothing expense. Enter the average monthly amount by which your food and clothing expenses exceed the combined allowances for food and apparel in the IRS National Standards, not to exceed five percent of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
40	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).	\$ 0.00	
41	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 34 through 40	\$ 100.00	

Subpart C: Deductions for Debt Payment			
42	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, and state the Average Monthly Payment. The Average Monthly Payment is the total of all amounts contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. Mortgage debts should include payments of taxes and insurance required by the mortgage. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	60-month Average Payment
	a. Mortgage	House	\$ 1,500.00
			Total: Add Lines
			\$ 1,500.00
43	Other payments on secured claims. If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount
	a. -NONE-		\$
			Total: Add Lines
			\$ 0.00
44	Payments on priority claims. Enter the total amount of all priority claims (including priority child support and alimony claims), divided by 60.		\$ 0.00
45	Chapter 13 administrative expenses. If you are eligible to file a case under Chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.		
	a.	Projected average monthly Chapter 13 plan payment.	\$ 440.00
	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	4.40
	c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b
			\$ 19.36
46	Total Deductions for Debt Payment. Enter the total of Lines 42 through 45.		\$ 1,519.36
Subpart D: Total Deductions Allowed under § 707(b)(2)			
47	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 33, 41, and 46.		\$ 6,571.36

Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION		
48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$ 6,400.00
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$ 6,571.36
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result.	\$ -171.36
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$ -10,281.60

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION at DETROIT**

In Re: **JANE A. DEBTOR**

Debtor.

Chapter 7
Hon. **Bankruptcy Judge**
Case No. 07-00000-BJ

AFFIDAVIT of JOHNNOT A. DEBTOR
IN SUPPORT DEBTOR'S SCHEDULES and FORM 22A

Affiant, Johnnot A. Debtor hereby states and avers as follows:

1. I am Johnnot A. Debtor, and the following statements are made from my own knowledge, information and belief.
2. My spouse Jane A. Debtor is the Debtor in the above Chapter 7 Bankruptcy case.
3. I have reviewed my spouse's Schedules I and J and Chapter 7 Statement of Current Monthly Income and Means-Test Calculation Form 22A which she filed in her above Chapter 7 Bankruptcy case and they are true and accurate.
4. My spouse and I have been married for ten(10) years and we have always maintained the same household. My spouse has not been employed for nine(9) years.
5. I was completely unaware that my spouse had incurred \$50,000 in credit card debt gambling in casinos until shortly before she filed the above Chapter 7 Bankruptcy case.
6. I have never used any of my Spouse's credit cards and neither I nor our two children received any benefit from my spouse's use of her credit cards to lose money gambling.
7. I do not contribute all of my income to our household expenses because I am a member of the Local Country Club. I have been a member of the Local Country Club for ten(10) years and my average monthly dues, fees and entertainment expense is \$600.00 per month.
8. My spouse does not attend or participate in my activities at the Local Country Club.

9. In order for my spouse to make even the required minimum monthly payments on her credit card debt would require payments of approximately \$1,000.00 per month, would require that I give up my membership at the Local Country Club entirely and give the \$600.00 I currently spend there per month in dues, fees and expenses, to my spouse to pay her creditors. It would further likely require me somehow to give up or sell the second vehicle used by our household.

10. I refuse to resign my membership at the Local Country Club and use the \$600.00 per month I would save from such resignation to pay my spouse's credit card debt.

I hereby declare under penalty of perjury that the above statements are true and accurate to the best of my personal knowledge, information and belief.

dated: November 12, 2007

/s/ Johnnot A. Debtor

Johnnot A. Debtor, Affiant

In re Jane A. Debtor,
Debtor

Case No. 07-00000-BJ

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community			C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H	W	J				
Account No.		2006-2007						50,000.00
Casino Gambling Debt		-						
Account No.								
Account No.								
Account No.								
Subtotal (Total of this page)								50,000.00
Total (Report on Summary of Schedules)								50,000.00

0 continuation sheets attached

In re **Jane A. Debtor**

Case No. **07-00000-BJ**

Debtor(s)

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status: Married	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S): Son Daughter	AGE(S): 5 8
Employment:	DEBTOR	SPOUSE
Occupation	(not employed)	Manager
Name of Employer	(not employed)	ABC Corporation
How long employed	(n/a)	15 years
Address of Employer	100 North Woodward Detroit, MI 48226	

	DEBTOR	SPOUSE
INCOME: (Estimate of average or projected monthly income at time case filed)		
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ 0.00	\$ 7,000.00
2. Estimate monthly overtime	\$ 0.00	\$ 0.00
3. SUBTOTAL	\$ 0.00	\$ 7,000.00
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 0.00	\$ 1,400.00
b. Insurance	\$ 0.00	\$ 100.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify): 401(k) contribution @5%	\$ 0.00	\$ 350.00
	\$ 0.00	\$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 0.00	\$ 1,850.00
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ 0.00	\$ 5,150.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ 0.00	\$ 0.00
8. Income from real property	\$ 0.00	\$ 0.00
9. Interest and dividends	\$ 0.00	\$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
11. Social security or government assistance (Specify):	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
12. Pension or retirement income	\$ 0.00	\$ 0.00
13. Other monthly income (Specify):	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ 0.00	\$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ 0.00	\$ 5,150.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)	\$ 5,150.00	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

In re **Jane A. Debtor**

Debtor(s)

Case No. **07-00000-BJ**

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)
Detailed Expense Attachment

Other Expenditures:

<u>personal care / contingency</u>	\$	<u>100.00</u>
<u>pet food and care</u>	\$	<u>50.00</u>
<u>Spouse's country club dues, fees and entertainment</u>	\$	<u>600.00</u>
<u>Total Other Expenditures</u>	\$	<u>750.00</u>

MEANS TEST EXAMPLE #2

Joint Debtors

permanent reduction of income
as “special circumstances”

John Q. Debtor

In re **Jane A. Debtor**

Debtor(s)

Case Number: **07-00000-BJ**

(If known)

<p>According to the calculations required by this statement:</p> <p><input checked="" type="checkbox"/> The presumption arises.</p> <p><input type="checkbox"/> The presumption does not arise.</p> <p>(Check the box as directed in Parts I, III, and VI of this statement.)</p>

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual Chapter 7 debtor, whether or not filing jointly, whose debts are primarily consumer debts. Joint debtors may complete one statement only.

Part I. EXCLUSION FOR DISABLED VETERANS	
1	<p>If you are a disabled veteran described in the Veteran's Declaration in this Part I, (1) check the box at the beginning of the Veteran's Declaration, (2) check the box for "The presumption does not arise" at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Veteran's Declaration. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. §901(1)).</p>

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION																											
2	<p>Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.</p> <p>a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 3-11.</p> <p>b. <input type="checkbox"/> Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." Complete only column A ("Debtor's Income") for Lines 3-11.</p> <p>c. <input type="checkbox"/> Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</p> <p>d. <input checked="" type="checkbox"/> Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</p>																										
	<p>All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.</p>	Column A Debtor's Income	Column B Spouse's Income																								
3	Gross wages, salary, tips, bonuses, overtime, commissions.	\$ 7,000.00	\$ 150.00																								
4	<p>Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th colspan="2"></th> <th colspan="2" style="text-align: center;">Debtor</th> <th colspan="2" style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary business expenses</td> <td>\$</td> <td style="text-align: right;">0.00</td> <td>\$</td> <td style="text-align: right;">0.00</td> </tr> <tr> <td>c.</td> <td>Business income</td> <td colspan="4" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor		Spouse		a.	Gross receipts	\$	0.00	\$	0.00	b.	Ordinary and necessary business expenses	\$	0.00	\$	0.00	c.	Business income	Subtract Line b from Line a				\$ 0.00	\$ 0.00
		Debtor		Spouse																							
a.	Gross receipts	\$	0.00	\$	0.00																						
b.	Ordinary and necessary business expenses	\$	0.00	\$	0.00																						
c.	Business income	Subtract Line b from Line a																									
5	<p>Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th colspan="2"></th> <th colspan="2" style="text-align: center;">Debtor</th> <th colspan="2" style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary operating expenses</td> <td>\$</td> <td style="text-align: right;">0.00</td> <td>\$</td> <td style="text-align: right;">0.00</td> </tr> <tr> <td>c.</td> <td>Rent and other real property income</td> <td colspan="4" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor		Spouse		a.	Gross receipts	\$	0.00	\$	0.00	b.	Ordinary and necessary operating expenses	\$	0.00	\$	0.00	c.	Rent and other real property income	Subtract Line b from Line a				\$ 0.00	\$ 0.00
		Debtor		Spouse																							
a.	Gross receipts	\$	0.00	\$	0.00																						
b.	Ordinary and necessary operating expenses	\$	0.00	\$	0.00																						
c.	Rent and other real property income	Subtract Line b from Line a																									
6	Interest, dividends, and royalties.	\$ 0.00	\$ 0.00																								
7	Pension and retirement income.	\$ 0.00	\$ 0.00																								
8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include amounts paid by the debtor's spouse if Column B is completed.	\$ 0.00	\$ 0.00																								

9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:				
	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ 0.00 Spouse \$ 0.00			\$ 0.00
10	Income from all other sources. If necessary, list additional sources on a separate page. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. Specify source and amount.				
		Debtor			Spouse
	a.	\$			\$
	b.	\$	\$		
	Total and enter on Line 10		\$ 0.00	\$ 0.00	
11	Subtotal of Current Monthly Income for § 707(b)(7). Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).		\$ 7,000.00	\$ 150.00	
12	Total Current Monthly Income for § 707(b)(7). If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.		\$ 7,150.00		

Part III. APPLICATION OF § 707(b)(7) EXCLUSION

13	Annualized Current Monthly Income for § 707(b)(7). Multiply the amount from Line 12 by the number 12 and enter the result.	\$ 85,800.00
14	Applicable median family income. Enter the median family income for the applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: <u>MI</u> b. Enter debtor's household size: <u>4</u>	\$ 73,853.00
15	Application of Section 707(b)(7). Check the applicable box and proceed as directed. <input type="checkbox"/> The amount on Line 13 is less than or equal to the amount on Line 14. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII. <input checked="" type="checkbox"/> The amount on Line 13 is more than the amount on Line 14. Complete the remaining parts of this statement.	

Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)

Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)

16	Enter the amount from Line 12.	\$ 7,150.00
17	Marital adjustment. If you checked the box at Line 2.c, enter the amount of the income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. If you did not check box at Line 2.c, enter zero.	\$ 0.00
18	Current monthly income for § 707(b)(2). Subtract Line 17 from Line 16 and enter the result.	\$ 7,150.00

Part V. CALCULATION OF DEDUCTIONS ALLOWED UNDER § 707(b)(2)

Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)

19	National Standards: food, clothing, household supplies, personal care, and miscellaneous. Enter "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable family size and income level. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$ 1,546.00
20A	Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court).	\$ 480.00

20B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Housing and Utilities Standards; mortgage/rental expense</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">898.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">1,500.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net mortgage/rental expense</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00	c.	Net mortgage/rental expense	Subtract Line b from Line a.		\$ 0.00
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00											
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00											
c.	Net mortgage/rental expense	Subtract Line b from Line a.												
21	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr/>	\$ 0.00												
22	<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8.</p> <p><input type="checkbox"/> 0 <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter the amount from IRS Transportation Standards, Operating Costs & Public Transportation Costs for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$ 473.00												
23	<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.)</p> <p><input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, First Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, First Car</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">471.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.		\$ 471.00
a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00											
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.												
24	<p>Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 23.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, Second Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, Second Car</td> <td style="width:10%; text-align:right;">\$</td> <td style="width:25%; text-align:right;">332.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td> <td style="text-align:right;">\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.		\$ 332.00
a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00											
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.												
25	<p>Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.</p>	\$ 1,400.00												
26	<p>Other Necessary Expenses: mandatory payroll deductions. Enter the total average monthly payroll deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as non-mandatory 401(k) contributions.</p>	\$ 0.00												
27	<p>Other Necessary Expenses: life insurance. Enter average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</p>	\$ 0.00												

28	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to court order, such as spousal or child support payments. Do not include payments on past due support obligations included in Line 44.	\$ 0.00
29	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.	\$ 0.00
30	Other Necessary Expenses: childcare. Enter the average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.	\$ 0.00
31	Other Necessary Expenses: health care. Enter the average monthly amount that you actually expend on health care expenses that are not reimbursed by insurance or paid by a health savings account. Do not include payments for health insurance or health savings accounts listed in Line 34.	\$ 50.00
32	Other Necessary Expenses: telecommunication services. Enter the average monthly amount that you actually pay for telecommunication services other than your basic home telephone service - such as cell phones, pagers, call waiting, caller id, special long distance, or internet service - to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.	\$ 150.00
33	Total Expenses Allowed under IRS Standards. Enter the total of Lines 19 through 32.	\$ 4,902.00

Subpart B: Additional Expense Deductions under § 707(b)

Note: Do not include any expenses that you have listed in Lines 19-32

34	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List and total the average monthly amounts that you actually pay for yourself, your spouse, or your dependents in the following categories.		
	a.	Health Insurance	\$ 100.00
	b.	Disability Insurance	\$ 0.00
	c.	Health Savings Account	\$ 0.00
	Total: Add Lines a, b and c		\$ 100.00
35	Continued contributions to the care of household or family members. Enter 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.	\$ 0.00	
36	Protection against family violence. Enter any average monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.	\$ 0.00	
37	Home energy costs. Enter the average monthly amount, in excess of the allowance in the IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
38	Education expenses for dependent children less than 18. Enter the average monthly expenses that you actually incur, not to exceed \$137.50 per child, in providing elementary and secondary education for your dependent children less than 18 years of age. You must provide your case trustee with documentation demonstrating that the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.	\$ 0.00	
39	Additional food and clothing expense. Enter the average monthly amount by which your food and clothing expenses exceed the combined allowances for food and apparel in the IRS National Standards, not to exceed five percent of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
40	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).	\$ 0.00	
41	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 34 through 40	\$ 100.00	

Subpart C: Deductions for Debt Payment			
42	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, and state the Average Monthly Payment. The Average Monthly Payment is the total of all amounts contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. Mortgage debts should include payments of taxes and insurance required by the mortgage. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	60-month Average Payment
	a. Mortgage	House	\$ 1,500.00
			Total: Add Lines
			\$ 1,500.00
43	Other payments on secured claims. If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount
	a. -NONE-		\$
			Total: Add Lines
			\$ 0.00
44	Payments on priority claims. Enter the total amount of all priority claims (including priority child support and alimony claims), divided by 60.		\$ 0.00
45	Chapter 13 administrative expenses. If you are eligible to file a case under Chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.		
	a.	Projected average monthly Chapter 13 plan payment.	\$ 620.69
	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	4.40
	c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b
			\$ 27.31
46	Total Deductions for Debt Payment. Enter the total of Lines 42 through 45.		\$ 1,527.31
Subpart D: Total Deductions Allowed under § 707(b)(2)			
47	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 33, 41, and 46.		\$ 6,529.31

Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION		
48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$ 7,150.00
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$ 6,529.31
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result.	\$ 620.69
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$ 37,241.40

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION at DETROIT**

In Re: **JOHN Q. DEBTOR**
and: **JANE A. DEBTOR**

Debtors.

Chapter 7
Hon. **Bankruptcy Judge**
Case No. 07-00000-BJ

AFFIDAVIT of JOHN Q. DEBTOR
IN SUPPORT OF DEBTORS' CLAIM OF PERMANENT INCOME REDUCTION
AS SPECIAL CIRCUMSTANCES SUFFICIENT TO REBUT
PRESUMPTION OF ABUSE UNDER 11 U.S.C. §707(b)(2)(B)

Affiant, John Q. Debtor hereby states and avers as follows:

1. I am John Q. Debtor, and the following statements are made from my own knowledge, information and belief.
2. I am the Debtor in the above Chapter 7 Bankruptcy case.
3. Six(6) weeks before my spouse and I filed our Chapter 7 Bankruptcy Petition, upper level management at my employer ABC Corporation advised me that ABC Corporation had been experiencing net operating losses for almost two(2) years and due to a significant permanent reduction in its customer base, and that at that point rather than reduce the workforce or suffer continuing net operating losses and probable insolvency, the Board of Directors of ABC decided that it must reduce income and salaries of all company employees. My salary was reduced from \$84,000.00 to \$60,000.00 per year.
4. Four(4) weeks ago my spouse sought and obtained part-time clerical work with the Department Store, and her net monthly income during the past month has been \$650.00. I anticipate that her employment will continue on this basis indefinitely.
5. Prior to my permanent income reduction my monthly take-home pay was \$5,250.00 after taxes and a voluntary contribution to my company 401(k) Plan, and my wife did not work outside of the home.
6. After my permanent income reduction, my spouse sought and obtained part-time employment, and our combined monthly take-home pay is now \$4,550.00, which is \$700.00 per month less per month, even after I stopped my voluntary contribution to my 401(k) Plan.

7. My educational qualifications consist of a Bachelors Degree in English from the Local University, and I have no other specific training or technical skills other than my experience with ABC Corporation.

8. Since being notified by my employer ABC Corporation of my permanent income reduction, I have sought higher paying employment and have forwarded approximately two hundred resumes to prospective employers within commuting distance of our home.

9. I received only one response from prospective employers, and I received only one job offer at a \$48,000 annual salary, which is \$12,000.00 less per year than my current \$60,000.00 gross annual salary with ABC Corporation.

10. I have attached documentation to this Affidavit consisting of communications from my employer regarding my permanent income reduction, and a copy of my recent job offer at any annual salary of \$48,000.00 per year, and I attest that such copies are true and accurate.

11. I have no alternative except to keep my employment with ABC Corporation despite my permanent salary reduction, or I will not be able to support my family.

I hereby declare under penalty of perjury that the above statements are true and accurate to the best of my personal knowledge, information and belief.

dated: November 12, 2007

/s/ John Q. Debtor

John Q. Debtor, Affiant

In re **John Q. Debtor,
Jane A. Debtor**

Case No. **07-00000-BJ**

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No.						
Credit Card Debts		2003-2006				
	J					50,000.00
Account No.						
Account No.						
Account No.						
Subtotal (Total of this page)						50,000.00
Total (Report on Summary of Schedules)						50,000.00

0 continuation sheets attached

In re **John Q. Debtor**
Jane A. Debtor

Case No. **07-00000-BJ**

Debtor(s)

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): Son Daughter	AGE(S): 5 8
Employment:	DEBTOR	SPOUSE
Occupation	Manager	Part-Time Clerk
Name of Employer	ABC Corporation	Department Store
How long employed	15 years	1 month
Address of Employer	100 North Woodward Detroit, MI	100 Shoppers Circle Detroit Suburbs, MI

	DEBTOR	SPOUSE
INCOME: (Estimate of average or projected monthly income at time case filed)		
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ 5,000.00	\$ 800.00
2. Estimate monthly overtime	\$ 0.00	\$ 0.00
3. SUBTOTAL	\$ 5,000.00	\$ 800.00
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 1,000.00	\$ 150.00
b. Insurance	\$ 100.00	\$ 0.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify): _____	\$ 0.00	\$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 1,100.00	\$ 150.00
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ 3,900.00	\$ 650.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ 0.00	\$ 0.00
8. Income from real property	\$ 0.00	\$ 0.00
9. Interest and dividends	\$ 0.00	\$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
11. Social security or government assistance (Specify): _____	\$ 0.00	\$ 0.00
12. Pension or retirement income	\$ 0.00	\$ 0.00
13. Other monthly income (Specify): _____	\$ 0.00	\$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ 0.00	\$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ 3,900.00	\$ 650.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)	\$ 4,550.00	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

MEANS TEST EXAMPLE #3

Joint Debtors

excessive transportation expenses
as “special circumstances”

John Q. Debtor

In re **Jane A. Debtor**

Debtor(s)

Case Number: **07-00000-BJ**

(If known)

<p>According to the calculations required by this statement:</p> <p><input checked="" type="checkbox"/> The presumption arises.</p> <p><input type="checkbox"/> The presumption does not arise.</p> <p>(Check the box as directed in Parts I, III, and VI of this statement.)</p>

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual Chapter 7 debtor, whether or not filing jointly, whose debts are primarily consumer debts. Joint debtors may complete one statement only.

Part I. EXCLUSION FOR DISABLED VETERANS	
1	<p>If you are a disabled veteran described in the Veteran's Declaration in this Part I, (1) check the box at the beginning of the Veteran's Declaration, (2) check the box for "The presumption does not arise" at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement.</p> <p><input type="checkbox"/> Veteran's Declaration. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. §901(1)).</p>

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION																											
2	<p>Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.</p> <p>a. <input type="checkbox"/> Unmarried. Complete only Column A ("Debtor's Income") for Lines 3-11.</p> <p>b. <input type="checkbox"/> Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." Complete only column A ("Debtor's Income") for Lines 3-11.</p> <p>c. <input type="checkbox"/> Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</p> <p>d. <input checked="" type="checkbox"/> Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.</p>																										
	<p>All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.</p>	Column A Debtor's Income	Column B Spouse's Income																								
3	Gross wages, salary, tips, bonuses, overtime, commissions.	\$ 7,000.00	\$ 0.00																								
4	<p>Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th colspan="2"></th> <th colspan="2" style="text-align: center;">Debtor</th> <th colspan="2" style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary business expenses</td> <td>\$</td> <td style="text-align: right;">0.00</td> <td>\$</td> <td style="text-align: right;">0.00</td> </tr> <tr> <td>c.</td> <td>Business income</td> <td colspan="4" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor		Spouse		a.	Gross receipts	\$	0.00	\$	0.00	b.	Ordinary and necessary business expenses	\$	0.00	\$	0.00	c.	Business income	Subtract Line b from Line a				\$ 0.00	\$ 0.00
		Debtor		Spouse																							
a.	Gross receipts	\$	0.00	\$	0.00																						
b.	Ordinary and necessary business expenses	\$	0.00	\$	0.00																						
c.	Business income	Subtract Line b from Line a																									
5	<p>Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V.</p> <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th colspan="2"></th> <th colspan="2" style="text-align: center;">Debtor</th> <th colspan="2" style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> <td style="width: 5%;">\$</td> <td style="width: 15%; text-align: right;">0.00</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary operating expenses</td> <td>\$</td> <td style="text-align: right;">0.00</td> <td>\$</td> <td style="text-align: right;">0.00</td> </tr> <tr> <td>c.</td> <td>Rent and other real property income</td> <td colspan="4" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor		Spouse		a.	Gross receipts	\$	0.00	\$	0.00	b.	Ordinary and necessary operating expenses	\$	0.00	\$	0.00	c.	Rent and other real property income	Subtract Line b from Line a				\$ 0.00	\$ 0.00
		Debtor		Spouse																							
a.	Gross receipts	\$	0.00	\$	0.00																						
b.	Ordinary and necessary operating expenses	\$	0.00	\$	0.00																						
c.	Rent and other real property income	Subtract Line b from Line a																									
6	Interest, dividends, and royalties.	\$ 0.00	\$ 0.00																								
7	Pension and retirement income.	\$ 0.00	\$ 0.00																								
8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include amounts paid by the debtor's spouse if Column B is completed.	\$ 0.00	\$ 0.00																								

9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below:		\$	0.00	\$	0.00	
	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$ 0.00					Spouse \$ 0.00
10	Income from all other sources. If necessary, list additional sources on a separate page. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. Specify source and amount.		\$	0.00	\$	0.00	
		Debtor					Spouse
	a.	\$					\$
	b.	\$	\$				
	Total and enter on Line 10		\$	0.00	\$	0.00	
11	Subtotal of Current Monthly Income for § 707(b)(7). Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).		\$	7,000.00	\$	0.00	
12	Total Current Monthly Income for § 707(b)(7). If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.		\$			7,000.00	

Part III. APPLICATION OF § 707(b)(7) EXCLUSION

13	Annualized Current Monthly Income for § 707(b)(7). Multiply the amount from Line 12 by the number 12 and enter the result.	\$	84,000.00
14	Applicable median family income. Enter the median family income for the applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: <u>MI</u> b. Enter debtor's household size: <u>4</u>	\$	73,853.00
15	Application of Section 707(b)(7). Check the applicable box and proceed as directed. <input type="checkbox"/> The amount on Line 13 is less than or equal to the amount on Line 14. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII. <input checked="" type="checkbox"/> The amount on Line 13 is more than the amount on Line 14. Complete the remaining parts of this statement.		

Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)

Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)

16	Enter the amount from Line 12.	\$	7,000.00
17	Marital adjustment. If you checked the box at Line 2.c, enter the amount of the income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. If you did not check box at Line 2.c, enter zero.	\$	0.00
18	Current monthly income for § 707(b)(2). Subtract Line 17 from Line 16 and enter the result.	\$	7,000.00

Part V. CALCULATION OF DEDUCTIONS ALLOWED UNDER § 707(b)(2)

Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)

19	National Standards: food, clothing, household supplies, personal care, and miscellaneous. Enter "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable family size and income level. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$	1,546.00
20A	Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court).	\$	480.00

20B	<p>Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Housing and Utilities Standards; mortgage/rental expense</td> <td style="width:10%;">\$</td> <td style="width:25%; text-align:right;">898.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td> <td>\$</td> <td style="text-align:right;">1,500.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net mortgage/rental expense</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00	c.	Net mortgage/rental expense	Subtract Line b from Line a.		\$ 0.00
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	898.00											
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	1,500.00											
c.	Net mortgage/rental expense	Subtract Line b from Line a.												
21	<p>Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:</p> <hr/>	\$ 0.00												
22	<p>Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation.</p> <p>Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8.</p> <p><input type="checkbox"/> 0 <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter the amount from IRS Transportation Standards, Operating Costs & Public Transportation Costs for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</p>	\$ 473.00												
23	<p>Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.)</p> <p><input type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 or more.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, First Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, First Car</td> <td style="width:10%;">\$</td> <td style="width:25%; text-align:right;">471.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td> <td>\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.		\$ 471.00
a.	IRS Transportation Standards, Ownership Costs, First Car	\$	471.00											
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.												
24	<p>Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 23.</p> <p>Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, Second Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. Do not enter an amount less than zero.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%; text-align:center;">a.</td> <td style="width:60%;">IRS Transportation Standards, Ownership Costs, Second Car</td> <td style="width:10%;">\$</td> <td style="width:25%; text-align:right;">332.00</td> </tr> <tr> <td style="text-align:center;">b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td> <td>\$</td> <td style="text-align:right;">0.00</td> </tr> <tr> <td style="text-align:center;">c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td colspan="2">Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.		\$ 332.00
a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	332.00											
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	0.00											
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.												
25	<p>Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.</p>	\$ 1,400.00												
26	<p>Other Necessary Expenses: mandatory payroll deductions. Enter the total average monthly payroll deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as non-mandatory 401(k) contributions.</p>	\$ 0.00												
27	<p>Other Necessary Expenses: life insurance. Enter average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.</p>	\$ 0.00												

28	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to court order, such as spousal or child support payments. Do not include payments on past due support obligations included in Line 44.	\$ 0.00
29	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.	\$ 0.00
30	Other Necessary Expenses: childcare. Enter the average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.	\$ 0.00
31	Other Necessary Expenses: health care. Enter the average monthly amount that you actually expend on health care expenses that are not reimbursed by insurance or paid by a health savings account. Do not include payments for health insurance or health savings accounts listed in Line 34.	\$ 100.00
32	Other Necessary Expenses: telecommunication services. Enter the average monthly amount that you actually pay for telecommunication services other than your basic home telephone service - such as cell phones, pagers, call waiting, caller id, special long distance, or internet service - to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.	\$ 150.00
33	Total Expenses Allowed under IRS Standards. Enter the total of Lines 19 through 32.	\$ 4,952.00

Subpart B: Additional Expense Deductions under § 707(b)

Note: Do not include any expenses that you have listed in Lines 19-32

34	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List and total the average monthly amounts that you actually pay for yourself, your spouse, or your dependents in the following categories.		
	a.	Health Insurance	\$ 200.00
	b.	Disability Insurance	\$ 0.00
	c.	Health Savings Account	\$ 0.00
	Total: Add Lines a, b and c		\$ 200.00
35	Continued contributions to the care of household or family members. Enter 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.	\$ 0.00	
36	Protection against family violence. Enter any average monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.	\$ 0.00	
37	Home energy costs. Enter the average monthly amount, in excess of the allowance in the IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
38	Education expenses for dependent children less than 18. Enter the average monthly expenses that you actually incur, not to exceed \$137.50 per child, in providing elementary and secondary education for your dependent children less than 18 years of age. You must provide your case trustee with documentation demonstrating that the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.	\$ 0.00	
39	Additional food and clothing expense. Enter the average monthly amount by which your food and clothing expenses exceed the combined allowances for food and apparel in the IRS National Standards, not to exceed five percent of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.	\$ 0.00	
40	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).	\$ 0.00	
41	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 34 through 40	\$ 200.00	

Subpart C: Deductions for Debt Payment			
42	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, and state the Average Monthly Payment. The Average Monthly Payment is the total of all amounts contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. Mortgage debts should include payments of taxes and insurance required by the mortgage. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	60-month Average Payment
	a. Mortgage	House	\$ 1,500.00
			Total: Add Lines
			\$ 1,500.00
43	Other payments on secured claims. If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount
	a. -NONE-		\$
			Total: Add Lines
			\$ 0.00
44	Payments on priority claims. Enter the total amount of all priority claims (including priority child support and alimony claims), divided by 60.		\$ 0.00
45	Chapter 13 administrative expenses. If you are eligible to file a case under Chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.		
	a.	Projected average monthly Chapter 13 plan payment.	\$ 333.33
	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	4.40
	c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b
			\$ 14.67
46	Total Deductions for Debt Payment. Enter the total of Lines 42 through 45.		\$ 1,514.67
Subpart D: Total Deductions Allowed under § 707(b)(2)			
47	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 33, 41, and 46.		\$ 6,666.67

Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION		
48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$ 7,000.00
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$ 6,666.67
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result.	\$ 333.33
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$ 19,999.80

52	<p>Initial presumption determination. Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 51 is less than \$6,575. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII. Do not complete the remainder of Part VI.</p> <p><input checked="" type="checkbox"/> The amount set forth on Line 51 is more than \$10,950. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII. Do not complete the remainder of Part VI.</p> <p><input type="checkbox"/> The amount on Line 51 is at least \$6,575, but not more than \$10,950. Complete the remainder of Part VI (Lines 53 through 55).</p>		
53	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:85%;">Enter the amount of your total non-priority unsecured debt</td> <td style="width:15%; text-align: right;">\$</td> </tr> </table>	Enter the amount of your total non-priority unsecured debt	\$
Enter the amount of your total non-priority unsecured debt	\$		
54	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:85%;">Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.</td> <td style="width:15%; text-align: right;">\$</td> </tr> </table>	Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.	\$
Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.	\$		
55	<p>Secondary presumption determination. Check the applicable box and proceed as directed.</p> <p><input type="checkbox"/> The amount on Line 51 is less than the amount on Line 54. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII.</p> <p><input type="checkbox"/> The amount on Line 51 is equal to or greater than the amount on Line 54. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII.</p>		

Part VII. ADDITIONAL EXPENSE CLAIMS																				
56	<p>Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:75%;">Expense Description</th> <th style="width:20%;">Monthly Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td>excess transportation and auto insurance</td> <td style="text-align: right;">\$ 624.00</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">d.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total: Add Lines a, b, c, and d</td> <td style="text-align: right;">\$ 624.00</td> </tr> </tbody> </table>			Expense Description	Monthly Amount	a.	excess transportation and auto insurance	\$ 624.00	b.		\$	c.		\$	d.		\$	Total: Add Lines a, b, c, and d		\$ 624.00
	Expense Description	Monthly Amount																		
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b.		\$																		
c.		\$																		
d.		\$																		
Total: Add Lines a, b, c, and d		\$ 624.00																		

Part VIII. VERIFICATION						
57	<p>I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i></p> <table style="width:100%;"> <tr> <td style="width:30%;">Date: <u>November 12, 2007</u></td> <td style="width:70%;">Signature: <u>/s/ John Q. Debtor</u> John Q. Debtor (Debtor)</td> </tr> <tr> <td>Date: <u>November 12, 2007</u></td> <td>Signature <u>/s/ Jane A. Debtor</u> Jane A. Debtor (Joint Debtor, if any)</td> </tr> </table>		Date: <u>November 12, 2007</u>	Signature: <u>/s/ John Q. Debtor</u> John Q. Debtor (Debtor)	Date: <u>November 12, 2007</u>	Signature <u>/s/ Jane A. Debtor</u> Jane A. Debtor (Joint Debtor, if any)
Date: <u>November 12, 2007</u>	Signature: <u>/s/ John Q. Debtor</u> John Q. Debtor (Debtor)					
Date: <u>November 12, 2007</u>	Signature <u>/s/ Jane A. Debtor</u> Jane A. Debtor (Joint Debtor, if any)					

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION at DETROIT**

In Re: **JOHN Q. DEBTOR**
and: **JANE A. DEBTOR**

Debtors.

Chapter 7
Hon. **Bankruptcy Judge**
Case No. 07-00000-BJ

AFFIDAVIT of JOHN Q. DEBTOR
IN SUPPORT OF DEBTORS' CLAIM OF EXCESS TRANSPORTATION EXPENSES
AS SPECIAL CIRCUMSTANCES SUFFICIENT TO REBUT
PRESUMPTION OF ABUSE UNDER 11 U.S.C. §707(b)(2)(B)

Affiant, John Q. Debtor hereby states and avers as follows:

1. I am John Q. Debtor, and the following statements are made from my own knowledge, information and belief.
2. I am the Debtor in the above Chapter 7 Bankruptcy case.
3. I currently commute 160 miles each day to work, from Faraway, Michigan, to Detroit, Michigan, totaling an average of approximately 3,400 miles per month, and I have done so for over five(5) years.
4. The vehicle I drive is a 2005 Medium Gashog, which is financed for another 48 months, and gets only 17 miles per gallon. As a result, my fuel expense alone for commuting to and from work, with fuel costs at \$3.00 per gallon, are \$600.00 per month. Our total fuel and maintenance expenses for both vehicles are \$750.00 per month.
5. I currently have 3 speeding tickets on my driving record, and my spouse who is the joint debtor with me in this Chapter 7 Bankruptcy case has one recent failure to yield ticket and accident which was her fault.
6. Our vehicle insurance expenses are now \$300.00 per month, and this is the lowest monthly premium I could find after receiving quotes from six(6) different insurance companies.
7. A recent appraisal on our home has resulted in a valuation of \$25,000.00 less than our outstanding first mortgage balance, and as a result we have no reasonable possibility of selling our home in the current real estate market in Michigan.

8. My educational qualifications consist of a Bachelors Degree in English from the Local University, and I have no other specific training or technical skills other than my experience with ABC Corporation. My current salary is \$84,000.00 per year, and I have no realistic opportunity of obtaining alternative employment close to my home at a pay level even close to my current salary based on my longevity with my current employer.

9. I have no reasonable alternative except to maintain employment with ABC Corporation and continue commuting 160 miles each day, or I would have to suffer a significant reduction in income level and would not be able to maintain my current household expenses and support my family.

10. I have attached copies of my driving record, my wife's driving record, our vehicle insurance statement showing the current monthly premium rate, the EPA fuel MPG rating for my 2005 Medium Gashog, our current mortgage statement showing the current principal balance, and the recent appraisal on our home, and I attest that such copies are true and accurate.

I hereby declare under penalty of perjury that the above statements are true and accurate to the best of my personal knowledge, information and belief.

dated: November 12, 2007

/s/ John Q. Debtor

John Q. Debtor, Affiant

In re **John Q. Debtor,
Jane A. Debtor**

Case No. **07-00000-BJ**

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No.						
Credit Card Debts		2003-2006				
	J					50,000.00
Account No.						
Account No.						
Account No.						
Subtotal (Total of this page)						50,000.00
Total (Report on Summary of Schedules)						50,000.00

0 continuation sheets attached

In re **John Q. Debtor**
Jane A. Debtor

Debtor(s)

Case No. **07-00000-BJ**

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): Son Daughter	AGE(S): 5 8
Employment:	DEBTOR	SPOUSE
Occupation	Manager	(not employed)
Name of Employer	ABC Corporation	(not employed)
How long employed	15 years	(n/a)
Address of Employer	100 North Woodward Detroit, MI	

INCOME: (Estimate of average or projected monthly income at time case filed)	DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ 7,000.00	\$ 0.00
2. Estimate monthly overtime	\$ 0.00	\$ 0.00
3. SUBTOTAL	\$ 7,000.00	\$ 0.00
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 1,400.00	\$ 0.00
b. Insurance	\$ 200.00	\$ 0.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify): _____	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 1,600.00	\$ 0.00
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ 5,400.00	\$ 0.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ 0.00	\$ 0.00
8. Income from real property	\$ 0.00	\$ 0.00
9. Interest and dividends	\$ 0.00	\$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
11. Social security or government assistance (Specify): _____	\$ 0.00	\$ 0.00
_____	\$ 0.00	\$ 0.00
12. Pension or retirement income	\$ 0.00	\$ 0.00
13. Other monthly income (Specify): _____	\$ 0.00	\$ 0.00
_____	\$ 0.00	\$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ 0.00	\$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ 5,400.00	\$ 0.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)	\$ 5,400.00	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

In re John Q. Debtor
Jane A. Debtor

Case No. 07-00000-BJ

Debtor(s)

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)		\$	<u>1,500.00</u>
a. Are real estate taxes included?	Yes <u>X</u> No <u> </u>		
b. Is property insurance included?	Yes <u>X</u> No <u> </u>		
2. Utilities:		\$	<u>250.00</u>
a. Electricity and heating fuel		\$	<u>50.00</u>
b. Water and sewer		\$	<u>100.00</u>
c. Telephone		\$	<u>100.00</u>
d. Other <u>cable tv / internet access</u>		\$	<u>50.00</u>
3. Home maintenance (repairs and upkeep)		\$	<u>867.00</u>
4. Food		\$	<u>150.00</u>
5. Clothing		\$	<u>50.00</u>
6. Laundry and dry cleaning		\$	<u>100.00</u>
7. Medical and dental expenses		\$	<u>750.00</u>
8. Transportation (not including car payments)		\$	<u>100.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.		\$	<u>0.00</u>
10. Charitable contributions		\$	<u>0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		\$	<u>0.00</u>
a. Homeowner's or renter's		\$	<u>50.00</u>
b. Life		\$	<u>0.00</u>
c. Health		\$	<u>300.00</u>
d. Auto		\$	<u>0.00</u>
e. Other		\$	<u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify)		\$	<u>0.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		\$	
a. Auto		\$	<u>400.00</u>
b. Other <u>2nd Vehicle Payment</u>		\$	<u>350.00</u>
c. Other		\$	<u>0.00</u>
d. Other		\$	<u>0.00</u>
14. Alimony, maintenance, and support paid to others		\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home		\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)		\$	<u>0.00</u>
17. Other <u>personal care / contingency</u>		\$	<u>100.00</u>
Other <u>pet food and care</u>		\$	<u>50.00</u>

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$	<u>5,317.00</u>
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19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	\$	<u>5,400.00</u>
b. Average monthly expenses from Line 18 above	\$	<u>5,317.00</u>
c. Monthly net income (a. minus b.)	\$	<u>83.00</u>

LITIGATING THE PRESUMPTION OF ABUSE UNDER SECTION 707

A. POST-BAPCPA CASE LAW § 707(b)(2)

1. *In re Heath*, 2007 WL 1982194 (Bankr. E.D. Mich. 2007).

Facts: The presumption of abuse arose, and Debtor attempted to rebut the presumption based upon a reduction in income after being forced into early retirement due to a disability.

Holding: The Court held that Debtor's unemployment, which is through no fault of her own, was a special circumstance sufficient to rebut the presumption of abuse arising from the application of the means test. The Court focused on the fact that Debtor was a 51 years old, unskilled assembly line worker with material restrictions due to carpal tunnel syndrome, was forced into early retirement resulting in a decrease in her income by half, from what it was over the six month period prior to the filing of the bankruptcy petition.

In deciding whether the alleged circumstances have left a Chapter 7 debtor with "no reasonable alternative" but to incur additional expense or to adjust his or her income downward, as required to rebut the presumption of abuse arising from the application of the means test, a court should distinguish between actions that are reasonable and conceivable in the long-term, such as moving or looking for employment, are not necessarily alternatives that are reasonable or feasible for the debtor to employ during the time it takes to confirm a chapter 13 case.

2. *In re Zaporski*, 366 B.R. 758 (Bankr. E.D. Mich. 2007).

Facts: Debtor, who was single, owned two cars free and clear. Debtor took reductions for both ownership and operation expenses for both vehicles. The United States Trustee filed a motion to dismiss chapter 7 debtor's case for abuse under 11 U.S.C. § 707(b)(2) and (3), arguing that Debtor was not entitled to either of these reductions since it is undisputed that Debtor owns the vehicles outright and makes no payments on either of them. **Holding:** Debtor was entitled to take reductions for

(a) ownership expenses for two vehicles even though Debtor even though he had no actual payments on either of them; and (b) for IRS Local Standards operation expenses for both vehicles.

With respect to the vehicle ownership reductions, the Court concluded that the IRS Local Standards are fixed allowances, and not caps on a debtor's actual expenses, and therefore permit a debtor to take a reduction for an ownership expense of vehicles even if the debtor owns a vehicle free and clear and has no actual payments for the vehicle. The Court relied on relevant case law including the decisions of the courts in *Grunert* and *Farrar-Johnson*. Moreover, the Court held that a plain reading of the statutory language makes clear that a debtor's actual expenses are irrelevant in determining reductions for National and Local Standards under Section 707(b)(2)(A)(ii)(I).

Similarly with respect to operating expense deductions, the Court held that in calculating such reductions under the means test, there is no specific statutory requirement that the debtor have *actual* transportation expenses under Local Standards for Transportation. The debtor gets the allowance without regard to actual operating costs.

Ultimately, the court, however, dismissed the debtor's case under section 707(b)(3)(B), because debtor had the ability to fund a chapter 13 plan. See discussion below for court's analysis under § 707(b)(3).

3. *In re Travis*, 353 B.R. 520 (Bankr. E.D. Mich. 2006).

Facts: The debtor included his non-filing spouse's income for means testing purposes but subtracted \$2,616 as a Marital Adjustment on line 17 of Form B22A. Line 17 allows a non-filing spouse to deduct income that is not contributed to household expenses. The UST objected to the debtor deducting the \$2,616, arguing that allowing the debtor to use the median income for a family of five, including the non filing spouse, and to deduct for income the debtor did not contribute to the household expenses, amounted to "double dipping."

Holding: The Court recognized the complicated nature of calculating current monthly income when there is a non-filing spouse. The Court held that to the extent

that the non-filing spouse contributes income for food and utilities, which are clearly household expenses, these expenses should be excluded from the marital adjustment calculation performed in ascertaining debtor's current monthly income for purposes of determining whether a presumption of abuse arose.

The Court also held that deductions included by non-filing spouse as an expense for taxes are already accounted for when the non-filing spouse included her payroll taxes and Social Security as part of the marital adjustment, thus should not be deducted as a marital adjustment on Line 17.

Moreover, the Court rejected the UST's argument that the non-filing spouse must exclude as a marital adjustment expense, costs such as clothing and personal items. The Court noted that Form B22 distinguishes between the debtor's expenses as fixed by the IRS local and national standards for housing and living expenses based on the number of members in the household; and the fact that Debtor is allowed deductions whether or not Debtor files with his/her spouse, and regardless of whether a spouse is a dependent. As opposed to the non-filing spouse's actual expenses on Line 17, which are defined as expenses not contributed to the household expenses of the debtor or debtor's expenses, and not fixed in amount.

See discussion below for court's analysis under § 707(b)(3).

4. *In re McIvor*, 2006 WL 3949172 (Bankr. E.D. Mich. 2006).

Facts: Debtor's means test form listed a \$471.00 monthly transportation expense for a car the debtor owned free and clear, with no monthly car payment (Line 23, Form B22A). Trustee filed a motion to dismiss pursuant to 707(b)(2) and (3), arguing that the form understates the debtor's monthly income by including the \$471.00 expense, which debtor is not entitled to because he does not make any monthly payments on the vehicle. The Trustee argues that the debtor does not have an "applicable monthly expense" since he does not have a car payment. Debtor argues that the "applicable monthly expense" is a fixed deduction given to all debtors who own a vehicle, irrespective of whether the vehicle is owned outright, or is subject to a lien.

Holding: Adopting the bankruptcy court's reasoning in *Fowler*, the Court held

that Section 707(b)(2)(A)(iii)(1) allows a Debtor to take the Local Standard deductions for ownership of a car regardless of whether they make a payment on the vehicle or not. Therefore, the presumption of abuse does not arise.

The Court relied on the plain meaning of the term “applicable” in Section 707(b)(2)(A)(ii)(1). The Court also agreed that the debtor should not be penalized for paying off his/her vehicles prior to the bankruptcy filing. *Id.* at *3 (*citing* Wedoff, *Means Testing in the New World*, 79 Am. Bankr. L.J. at 255-57). The Court also held that policy considerations, including the avoidance of litigation and the fact that standard deductions could be uniformly applied, supports the use of fixed standard. *Id.* (*citing*, Fowler, 349 B.R. at 420-21).

See discussion below for court’s analysis under § 707(b)(3).

B. POST-BAPCPA CASE LAW § 707(b)(3)

1. *In re Travis*, 353 B.R. 520 (Bankr. E.D. Mich. 2006)

Facts: The debtor's non-filing spouse's income and expenses were included on Schedules I and J, including the non-filing spouse's separate expenses for her own credit cards of \$300 per month.

Holding: The Court held that abuse is to be viewed utilizing the pre-BAPCPA standard and factors found in *In re Krohn*, 886 F.2d 123 (6th Cir. 1989); a totality of the circumstances. The Court also held that a non-filing spouse's income and expenses are relevant, but should be considered only if the debtor's income is high enough to "significantly raise the debtor's standard of living".

2. *In re Zaporski*, 366 B.R. 758 (Bankr. E.D. Mich. 2007)

Facts: Debtor had a large 401(k), stable employment and was solvent using a balance sheet analysis. He contributed to a 401(k) and had a 401(k) loan.

Holding: Even if the debtor passes the means test and there is no statutory presumption as defined at § 707(b)(2)(A), the Court can still dismiss a case under § 707(b)(3) using a totality of the circumstances analysis. Additionally even though a debtor is entitled to a 401(k) contribution deduction and loan repayment deduction in a Chapter 13, the Court can consider these expenses as income in a Chapter 7, "totality of the circumstances" analysis.

3. *In re Bender*, ____ B.R. ____ 2007 WL 2482247 (Bankr. E.D. Mich. Sept. 5, 2007)

Facts: Debtor increased charitable contributions before filing Chapter 7. She also had 401(k) loan repayments and had other inflated expenses. The debtor also continued to incur debt post-petition.

Holding: In reviewing the statute related to charitable giving, the Court held that only those charitable contributions in an amount the debtor "has made or continues to make" are allowed. An increase in contributions just before filing or post-petition cannot be allowed and must be considered income when reviewing an ability to repay. The Court must also consider the "debtor's actual anticipated and financial situation over the applicable Chapter 13 commitment period" in determining whether the case should be dismissed. In applying a totality of the circumstances test, the Court granted the U.S. Trustee's Motion to Dismiss.

4. *In re McIvor*, 2006 WL 3949172 (Bankr. E.D. Mich. 2006)

Facts: The debtor recently divorced, had regular living expenses that the U.S. Trustee believed were excessive. If reduced by 50%, the Debtor could have funded a

Chapter 13 Plan.

Holding: Using a totality of circumstances standard and viewing the entire situation of the debtor's life, the Court denied the U.S. Trustee's motion. The Court viewed certain of the expenses high but not "unreasonable under the circumstances". The Court based their decision on the debtor's testimony, demeanor and credibility at trial. The decision is currently on appeal with the District Court, case no. 06-15232-PVG

5. *In re Tonia Shelby*, Slip Opinion July 25, 2007, 06-48745-WS.

Facts: The debtor originally filed a Chapter 13 which she voluntarily converted to a Chapter 7. The debtor was a teacher with regular income, a leased Mercedes Benz and had expenses for a "hypothetical new home". She also had other discrepancies in her budget and schedules.

Holding: The difference between pre-BAPCPA § 707(b) substantial abuse and post-BAPCPA "abuse" is "too subtle to articulate". Courts must view totality of circumstances, including neediness of the debtor, debtor's ability to pay out of future earnings and dishonesty of debtor. The Court conditionally dismissed the case allowing the debtor a limited amount of time to convert to a Chapter 13.

6. *In re Cameron*, Slip Opinion Sept. 14, 2007, 07-42321-WS.

Facts: Debtor supported one (1) adult child and mother in the household. They amended their schedules after inquiry by the U.S. Trustee, but their total expenses remained the same.

Holding: The U.S. Trustee must prove its case by a preponderance of the evidence. Applying the factors in *In re Krohn*, 886 F.2d 123 (6th Cir. 1989), the Court held that while the debtor appeared to reduce some regular living expenses, the deductions for 401(k) contributions and the eventual 401(k) loan payoff provided the debtor enough to repay some debt to unsecured creditors.