**Attorney Checklist**

This checklist is offered as some assistance for your paralegal and/or office staff. This list is not a comprehensive and exhaustive catalog of any and all requirements that may be necessary to file a Chapter 13 case. These are areas that have been identified by the Trustee's office as repeat omissions.

**Section I - General**

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| --- | --- | --- |
| Yes | No |   |
|  |  | 1. | Has credit counseling been completed not more than 180 days prior to filing from an approved agency, unless a waiver is merited? |
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|  |  | 2. | Are the secured debts less than $1,184,200.00?(Effective April 1, 2016, but will adjust April 1, 2019 by an estimated 3%) |
|  |
|  |  | 3. | Are the unsecured debts less than $394,725.00?(Effective April 1, 2016, but will adjust April 1, 2019 by an estimated 3%) |
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|  |  | 4. | Is there going to be a lien avoidance, cram down or adversary dealing with real estate? If so, has an appraisal been recently performed? If so, has it been filed before the Meeting of Creditors? (If no lien avoidance, cramdown or adversary action, an auditor’s valuation may be used.) |
|  |
|  |  | 5. | Has the debtor been informed that the first Plan payment should be sent to the Trustee’s lockbox at: 1722 Solutions Center, IL 60677-1007, at least ten days prior to the Meeting of Creditors in good funds? |
|  |
|  |  | 6. | Has the debtor been informed that, prior to confirmation, payments are to be made by money order, certified check, cashier's check, or a check drawn on the representing attorney's trust account and must be mailed to Trustee lockbox (no personal checks)? |
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|  |  | 7. | Does the debtor have homeowner and car insurance? Is it disclosed on Schedule J? Is it listed in the Plan at Paragraph 10.1? |
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|  |  | 8. | If debtor is self-employed or has a business, fill out the “Business Income and Expense” Sheet from our website. If the Trustee sends a 4002 Business Questionnaire, make sure it is filled out and brought to the Meeting of Creditors, along with all requested documents.  |
|  |
|  |  | 9. | Have copies of all pay advices received within sixty days prior to filing been sent to the Trustee no later than seven days prior to the first date set for the Meeting of Creditors? Upload to: [www.13documents.com](http://www.13documents.com) Redact all PII, such as SSN and account numbers |
|  |
|  |  | 10. | Has the most recently filed tax return or tax transcript been sent to the Trustee no later than seven days before the date first set for the Meeting of Creditors? Upload to: [www.13documents.com](http://www.13documents.com) Redact all PII, such as SSN and account numbers |
|  |

**Section II - Schedules**

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| --- | --- | --- |
| **Yes** | **No** |   |
|  |  | 11. | Are all questions in Statement of Financial Affairs (B107 -“SOFA”) and Schedules answered completely, including foreclosures on #10, transfers of real estate on #18, and #27-28 for all business interests or self-employment for six years preceding the filing? |
|  |
|  |  | 12. | Are all creditors listed in SOFA also on Schedules D, or E/F if any debt is still owed? |
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|  |  | 13. | Do Attorney Fees disclosed in SOFA #16 match the Attorney Compensation Statement and section 5.1.7 of the Plan? |
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|  |  | 14. | Has revised form LBR 2016-1(b), Attorney Compensation Statement been filed? If asking for $3,700, has the body of the application also been edited to show a maximum amount of fees of $3,700? |
|  |
|  |  | 15. | Is Schedule A/B complete? If life insurance has cash value, have nature of beneficiaries been disclosed? |
|  |
|  |  | 16. | Have all the correct exemptions debtor is entitled to been claimed on Schedule C? Has the debtor(s) lived in Ohio for the past two years? If not, where did debtors reside 6 months before? Can that state’s exemptions be used or must you use federal exemptions? |
|  |
|  |  | 17. | Do the values in Schedule D correspond with the values of personal or real property in Schedules A/B and the values listed in the Plan? |
|  |
|  |  | 18. | Are all secured, priority, and unsecured creditors properly and completely scheduled? Have multiple creditor addresses for the same debt just listed as Notice only? |
|  |
|  |  | 19. | Are co-signed debts disclosed as such and does the Plan provide for treatment of the co-signed debts? |
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|  |  | 20. | Are co-signers disclosed on Schedule H and included in the matrix? |
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|  |  | 21. | Are timeshare interests, leases, rent-to-own, land contracts or other executory contracts disclosed on Schedule G, and assumed or rejected in the Plan? |
|  |
|  |  | 22. | Is employer's full payroll address disclosed on Schedule I? |
|  |
|  |  | 23. | Does the number of debtors and dependents on Schedule J match the number in debtor(s)' household size disclosed in Official Form 122C-1 line 16b? |
|  |
|  |  | 24. | Are all line items for expenses in Schedule J totaled correctly as to simple math? Is all the excess income on line 23c. of Schedule J committed to the Plan payment? |
|  |
|  |  | 25. | Is there justification for any substantial difference between the income amounts listed on Schedule I and the income listed on Form 122C-1? |
|  |

**Section III - Plan**

|  |  |  |
| --- | --- | --- |
| **Yes** | **No** |   |
|  |  | 26. | Is the Plan the current Dayton mandatory form Plan per LBR 3015-1(a)?This ca be downloaded from Courts’ website: [www.ohsb.uscourt.gov](http://www.ohsb.uscourt.gov) or the Dayton Chapter 13 website: [www.dayton13.com](http://www.dayton13.com)  |
|  |
|  |  | 27. | Do Plan payments cover all per month payments, attorney fees and trustee's fee? |
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|  |  | 28. | Does the Plan provide pre-confirmation adequate protection payments for lease payments and claims secured by purchase money security interest in personal property? |
|  |
|  |  | 29. | Does the Plan provide treatment for all secured debts on Schedule D? Does the Plan provide for treatment of all mortgages? |
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|  |  | 30. | Does the Plan provide that all car loans and leases are paid through the Plan? (LBR 3015-1(c)(2).) Are the terms and length of auto lease(s) disclosed on Schedule G? |
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|  |  | 31. | Have all domestic support obligations been disclosed in section 5.2 of the Plan and listed on Schedule E/F? |
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|  |  | 32. | Is math correct for attorney fees in section 5.1.7 and does amount due match the Disclosure of Compensation of Attorney for Debtor and Application for Allowance of Fees in Chapter 13 Case? (Form 2016-1(b) |
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|  |  | 33. | Are non-standard provisions in Paragraph 13 limited to information not prohibited by LBR 3015-1(a)(3)? |
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|  |  | 34. | Does the Plan commit at least as much money to the general unsecured creditors as they would have received in a Chapter 7 (Best Interest test)? |
|  |  |  |  |
|  |  | 35. | Does the Plan payment match the net monthly income on Schedule J, line 23c? |
|  |  |  |  |
|  |  | 36. | Does the Plan payment adjust, or “step-up”, for any retirement loan pay-offs, DSO obligations that cease, etc. during the life of the Plan? |

 **Section IV – Pre-Filing Checklist (Plan)**

|  |  |  |
| --- | --- | --- |
| **Yes** | **No** |   |
|  |  | 37. |  **1. Notices** – **Section 2** - **Eligibility** – if either debtor is ineligible for a discharge, check the appropriate boxes.  |
|  |
|  |  | 38. |  **1. Section 3** – **Initial Plan or Amended Plan** – Check the appropriate box. If an Amended Plan, changes must be highlighted. Highlight changes only as to the last Plan/Amended Plan and not from the original Plan.  |
|  |
| **Do Not check the boxes if no provisions in these sections. Failure to check a box** **renders clauses ineffective. Remember to highlight if an Amended Plan.** |
|  |  | 39. | **1. Section 4** – Failure to check a box renders clauses ineffective**Paragraph 13** box – Nonstandard provision – if provisions here, check the box. |
|  |
|  |  | 40. | **1. Section 4 – Value** – Valuation in 5.1.2/5.1.4 to limit the amount of a secured claim – Check the box.  |
|  |
|  |  | 41. | **1. Section 4 – Eliminate or Avoid Security Interest or Lien -** Cramdown/Lien Avoidance **-** in 5.4.1/5.4.2/5.4.3, check the box. |
|  |
|  |  | 42. | **2. Plan Payment and Length** **2.1.1** The proposed plan payment is listed here. |
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|  |  | 43. | **2.1.1** – Step payments are listed here, if applicable. |
|  |
|  |  | 44. | **2.2 Unsecured Percentage****Percentage Plan** – Fill in percent to unsecured creditors and check box. If doing a percentage plan, **do not** check the Pot Plan – one or the other. No information should go in the Pot Plan at all. |
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|  |  | 45. | **Pot Plan** – If doing a pot plan, then check the box and fill in the appropriateLines (two of them). **Do not** check the box or fill in the line in the percentageplan.  |
|  |
|  |  | 46. | **2.3 Means Test Determination****Below Median Income** – Check the box for **Below Median Income** or **Above Median Income**. Make sure this matches with Form 122C-1, debtors should either be below or above median income, not both. |
|  |
|  |  | 47. | **3. Pre-Confirmation Lease/Adequate Protection Payments**Fill in all three boxes for car payments to be made, if applicable.  |
|  |
|  |  | 48. | **5.1 Class 1 – Specific Monthly Payments****5.1.1 Maintenance of Regular Mortgage Payments** - Fill in for per monthly mortgage payments only. If arrears, mortgage must be disbursed by the Trustee. Provide for non-escrowed real estate taxes to be paid by the Trustee or debtor(If real estate taxes are in arrears, the Trustee should also disburse future conduit real estate taxes.)  |
|  |
|  |  | 49. | **5.1.2 Modified Mortgages** – Note changes on modified mortgages or liens.There are now boxes in boxes. Make sure if a cramdown is being done to check whether it will be done by **Motion**, **Plan** or **Claim Objection.** Make sure **all** boxes have the required information therein. **Check box on page 1 of Plan!** |
|  |
|  |  | 50. | **5.1.3 910 Claims** – Make sure the debt is in fact a 910 - i.e. Purchase Money Security Interest purchased in debtor’s name solely for debtor’s personal use. If the vehicle has been refinanced, the claim is a 506 claim. Fill in all required information.  |
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|  |  | 51. | **5.1.4 506 Claims** – Note this section also has three boxes to check: the determination will be made by **Motion**, **Plan** or **Claim Objection** (Suggestion: do not use by claims objection.) Fill in all required information.**Check box on page 1 of Plan.** If by Plan, serve pursuant to Bankruptcy Rule7004. |
|  |
|  |  | 52. | **5.1.5 Domestic Support Obligations – ongoing**Make sure DSO obligee is also listed on Schedule E. Check appropriate box for **Trustee disburse** or **Debtor direct pay.** In most instances this will be debtor disburse. Fill in the appropriate information in all three boxes. |
|  |
|  |  | 53. | **5.1.6 Executory Contracts and Unexpired Leases**Fill in **all** appropriate boxes for **rejection** or **assumption** of the lease. This section would include, but is not limited to, land contracts, car leases, rent-to-owns, residential leases. If **assuming** the lease/contract make sure the appropriate section is filled out as a **Trustee disbur**se or **Debtor direct pay**. Automobiles should all be paid by the Trustee unless there is less than six months remaining on the lease.  |
|  |
|  |  | 54. | **5.1.7 Administrative Claims – Attorney Fees**The Total Claim box is the total amount of fees requested, not just what theTrustee pays. This section should match the Attorney Fee Application (Form2016-1(b)), that is filed separately. (If you ask for $3,700 and receive $500 infees in retainer, the amount Trustee disbursed is $3,200, and per monthly amount is $150.) The no-look fee is $3,700 as of 12-1-17. Fees allowed and paid are pursuant to Form 2016-1(b). |
|  |
|  |  | 55. | **5.2 Class 2 Secured Claims with no monthly payment and DSO (Arrearage)****5.2.1 Secured Claims with No Monthly Payment**These are mortgage arrearages, secured debts with no monthly payments, C.J.s, etc. (Note: if debtor has a tax certificate (example-Tax Ease), you will need to have a **non-standard provision in paragraph 13** to provide for the interest rate, usually around 18%.) There is no box to place the interest rate, so it can be included in the **Estimated Amount of Claim** (ex.: $5,000 paid at 18% interest). |
|  |
|  |  | 56. | **5.2.2 Domestic Support Obligations (Arrears)**Check the appropriate box the **Trustee disburse** or **Debtor direct pay** and fill in the appropriate boxes, if applicable.  |
|  |
|  |  | 57. | **5.4.1 Wholly Unsecured Mortgages/Liens**Note the boxes in boxes and check the appropriate method/procedure by**Motion** or **Plan.** Fill in all required information. **Check the box on page 1 of****the Plan.** If avoiding by Plan, **Creditor must be served by Bankruptcy** **Rule 7004.**  |
|  |
|  |  | 58. | **5.4.2 Judicial Liens Impairing Exemption in Real Property – 522(f)(1)(A)**For personal property, see paragraph 5.4.3. Check the appropriate box for the method by **Motion** or **Plan**. **If by Plan, must be served pursuant to Bankruptcy Rule 7004**. Fill in all appropriate information. **Check the box on page 1 of the Plan.** You cannot avoid a tax lien under 522(f) – only if it is wholly unsecured.  |
|  |
|  |  | 59. | **5.4.3 Nonpossessory, Nonpurchase-Money Security Interest in Exempt Property – 522(f)(1)(B) – Personal Property**Check proper method by **Motion** or **Plan. If by Plan, must be served pursuant to Bankruptcy Rule 7004.** Fill in all required information. **Check the box on page 1 of the Plan.**  |
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|  |  | 60. | **5.4.4 Mortgages to be Avoided**These mortgages will be done by Adversary since the lien is being attached for some defect. In most cases, the Trustee will require the Debtor to filethe action.  |
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|  |  | 61. | **5.5 Class 5 - Claims by a Non-Filing Co-Debtor or Third Party**Fill in the appropriate information, if applicable.  |
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|  |  | 62. | **5.6 Class 6 – Claim Paid Directly by the Debtor**Fill in the appropriate information, if applicable.  |
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|  |  | 63. | **6. Surrender of Property**Fill in the Creditor and property description. **There should also be a** **Provision in Paragraph 13** to provide for deficiency claims to be filed within 270 days for real estate, and 90 days for personal property**.** Language can be found on the Trustee’s website. **Remember to check the** **box on page 1 of the Plan.**   |
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|  |  | 64. | **7. Interest Rate**Till rate must be used, which is currently 5% + 1-3%. The current range should be 6% - 8%. This rate may be raised again, so check the rate periodically. **This should always be filled in!** |
|  |
|  |  | 65. | **Solvent estate**If the value of the assets is greater than liens, plus exemptions, then **provide a rate** here. (Till rate can be used.) Most estates are not solvent. Also, 100% dividend cases do not necessarily make a plan solvent.  |
|  |
|  |  | 66. | **8. Tax Returns**Make sure we have the most recent return(s) **at least two weeks before the** **341, with all PII information redacted on all pages** (not only debtor, but all children and spouse included. Make sure account numbers are also redacted. Send to **13documents.com**  |
|  |
|  |  | 67. | **10.1 Insurance Information**Fill in all insurance information for all real and personal property. **Lease no blanks.**  |
|  |
|  |  | 68. | **12. Vesting**This is your choice, but the Trustee recommends not checking the box. |
|  |
|  |  | 69. | **13. Nonstandard Provisions**Place surrender language; student loan (IDR) language or other nonstandard provisions here. Do not include language that can be addressed elsewhere in the Plan. **Remember to check the box on page 1 of the Plan.**  |
|  |
|  |  | 70. | **Signatures****Make sure debtor(s) sign the plan!** |
|  |
|  |  | 72. | **Certificate of Service**Fill in date mailed, name(s) and address(es), and 7004 service, if applicable,be sure to attach the matrix with **all** creditors and the Debtor(s) were served.  |
| **Final Notes:** |
|  |  | 73. | Make sure if this is an **Amended Plan**, changes are highlighted or in some way distinguished from the prior Plan. Always refer to the last filed Plan. |
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|  |  | 74. | Make sure to double check all **boxes** are appropriately checked, and **lines are filled in**, as needed. |
|  |
|  |  | 75. | **Amended Plan and Amended Schedules**Make sure to include a **21 day notice** of the Amended Plan with the debtor(s)’ name and address, attorney’s name and address, Trustee name and address, and the U.S.T. with address. Be sure to **Amend Schedules I and J if changing the plan payment.**  |
|  |
|  |  | 76. | **Certificate of Service**Make sure the correct **date** is used in the certificate, make sure **all parties are served as required**, make sure **matrix is attached**  |
|  |
|  |  | 77. | If avoiding liens by motion or filing an adversary, make sure they are filed as soon as possible, so as not to delay confirmation. Failure to file these by the 341 will result in in an objection by the Trustee. If a response or answer is filed to the motion/adversary the confirmation hearing will be used as a status conference. The Plan will not be confirmed until the matter is resolved or the Court orders it confirmed subject to the motion/adversary.  |
|  |

**Section IV - Plan Amendments**

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| **Yes** | **No** |   |
|  |  | 78. | Are all changes in amended pre-confirmation Plans highlighted? (Highlighted changes must be from the last Plan/amended Plan.) |
|  |
|  |  | 79. | Are amendments filed at least ten days prior to the confirmation date or the continued confirmation date? |
|  |
|  |  | 80. | Do increased Plan payments create a payment deficiency?  |
|  |