

TRAINING FOR CONSUMER ATTORNEYS

Outline for Review of 707(b) cases:

Do we have 60 days of current pay advices and the most recent tax return?

If we don't, do we have an affidavit or statement from the debtor?

Is the debtor self-employed? Did we get bank statements for the 6 months period prior to the petition date showing income?

Check the household size – if the size is different than what is on the tax return make a note and/or explain the difference. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

Check the marital status – if the status is different than what is on the tax return make a note and/or explain the difference. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

If the debtor has a non-filing spouse, did we get NFS pay advices and tax return?

Is the gross income on the tax return similar to what is on statements and schedules? If not, make a note and/or explain the difference. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

If the debtor has recently become unemployed, do we have documentation, especially if their last tax return reflects a high-paying job?

Did the debtor properly use the gross income amount on SOFA instead of net income?

If there is a significant change in income or anticipated change, make a note and/or explain the change. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

Does the debtor have any "toys" such as a motorcycle, camper, RV, etc. in addition to a vehicle for each driver in the household?

Is there evidence that the debtor is living a higher lifestyle than he or she should?

Above median case:

If the debtor claims there is a court ordered payment, is the deduction on the paystubs? If not, provide documentation such as a copy of the parenting plan or divorce decree.

Is there a refund on last year's federal income tax return? Is it based on credits or overpayment?

Did the Debtor claim an involuntary deduction? If so, document whether it is required by the employer and provide documentation if it doesn't appear on the paystubs.

Did the debtor claim marital adjustment? Provide documentation for the entire amount.

Did the debtor claim charitable contributions on Schedule J, the means test form, or SOFA? If it can't be verified by reviewing the tax return, provide documentation.

If the debtor's house payment is above the IRS local standard, ask for documentation.

If the debtor has more than one car per person, make a note and/or explain the change. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

If the debtor is allowed to claim a dependent every other year, please provide the most recent tax return in which the dependent was claimed.

If the debtor has high monthly medical expense, explain. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

If the amount of health insurance claimed on the means test form is more than what is listed on the paystubs, explain. This can be in the email with the tax return and pay advices, on Schedule I or J, or the means test form.

If the debtor and/or non-filing spouse has a payment plan with the IRS, please provide documentation.

If the debtor receives contributions to payment of the household expense by a third party, provide documentation.

If the debtor is reimbursed for expenses for his employer, please provide documentation.