



Bankruptcy Rule, Fee and Form Changes

Effective December 1, 2013

Informational Packet

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I. Introduction

On December 1, 2013, revisions to the Federal Rules of Bankruptcy Procedure, Bankruptcy Fee Schedule, and official Bankruptcy forms will take effect, unless Congress enacts legislation to reject, modify, or defer them. This informational packet was developed to inform you of changes to the rules, fees, and forms. It should not be considered legal advice.

If you have any questions, or need further assistance, please contact the clerk's office at 225-346-3333

II. Summary of Fee Changes

Motion to sell property free and clear of liens under 11 U.S.C. §363(f)

Item (19) of the Bankruptcy Court Miscellaneous Fee Schedule is being added; a new fee will be charged upon the filing of a motion for the sale of property free and clear of liens under 11 U.S.C. § 363(f), as follows:

(19) For filing the following motions, \$176:

- To terminate, annul, modify or condition the automatic stay;
- To compel abandonment of property of the estate pursuant to Rule 6007(b) of the Federal Rules of Bankruptcy Procedure; or
- To withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d); **or**
- **To sell property of the estate free and clear of liens under 11 U.S.C. § 363(f).**

Retrieval of file from Archives

Item (12) of the Bankruptcy Court Miscellaneous Fee Schedule has been amended to provide as follows:

For retrieval of **one box of** a records from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, ~~\$53~~ **\$64. For retrievals involving multiple boxes, \$39 for each additional box.**

Lack of funds

Item (13) of the Bankruptcy Court Miscellaneous Fee Schedule was amended as follows:

~~For a check paid into the court which is returned for lack of funds~~ **any payment returned or denied for insufficient funds, \$53.**

III. Summary of Proposed Rule Changes

1007(b)(7)

Current:

(7) An individual debtor in a chapter 7 or chapter 13 case shall file a statement of completion of a course concerning personal financial management, prepared as prescribed by the appropriate Official Form. An individual debtor shall file the statement in a chapter 11 case in which § 1141(d)(3) applies.

New Proposed:

(7) Unless an approved provider of an instructional course concerning personal financial management has notified the court that a debtor has completed the course after filing the petition:

(A) An individual debtor in a chapter 7 or chapter 13 case shall file a statement of completion of the course, prepared as prescribed by the appropriate Official Form; and

(B) An individual debtor in a chapter 11 case shall file the statement if § 1141 (d)(3) applies.

4004(c)(1)

Current:

(1) In a chapter 7 case, on expiration of the times fixed for objecting to a discharge and or filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless:

New Proposed:

(1) In a chapter 7 case, on expiration of the times fixed for objecting to discharge and **for** filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge, **except that the court shall not grant the discharge if:**

Current:

(H) the debtor has not filed with the court a statement of completion of a course concerning personal financial management **as** required by Rule 1007(b)(7);

New Proposed:

(H) the debtor has not filed with the court a statement of completion of a course concerning personal financial management **if** required by Rule 1007(b)(7);

Current:

(K) a presumption has arisen under § 524(m) that a reaffirmation agreement is an undue hardship; or

New Proposed:

(K) a presumption is in effect under § 524(m) that a reaffirmation agreement is an undue hardship **and the court has not concluded a hearing on the presumption**; or

5009(b)

Current:

(b) Notice of Failure to File Rule 1007(b)(7) Statement. If an individual debtor in a chapter 7 or 13 case **has not** filed **the** statement **required by** Rule 1007(b)(7) within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the statement is filed within the applicable time limit under Rule 1007(c).

New Proposed:

(b) NOTICE OF FAILURE TO FILE RULE 1007(b)(7) STATEMENT. If an individual debtor in a chapter 7 or 13 case **is required to file a statement under Rule 1007(b)(7) and fails to do so** within 45 days after the first date set for the meeting of creditors under § 341(a) of the Code, the clerk shall promptly notify the debtor that the case will be closed without entry of a discharge unless the **required** statement is filed within the applicable time limit under Rule 1007(c).

9006

Current:

(d) For Motion – Affidavits. A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; **and**, except as otherwise provided in

Rule 9023, **opposing affidavits may** be served not later than one day before the hearing, unless the court permits them to be served at some other time.

New Proposed:

(d) MOTION PAPERS. A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion. Except as otherwise provided in Rule 9023, **any written response shall** be served not later than one day before the hearing, unless the court permits otherwise.

9013

Current:

A request for an order, except when an application is authorized by these rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Every written motion other than one which may be considered ex parte shall be served by the moving party on the trustee or debtor in possession and on those entities specified by these rules or, if service is not required or the entities to be served are not specified by these rules, the moving party shall serve the entities the court directs

New Proposed:

A request for an order, except when an application is authorized by the rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Every written motion, other than one which may be considered ex parte, shall be served by the moving party **within the time determined under Rule 9006(d)**. The moving party shall serve the motion on:

- (a) The trustee or debtor in possession and on those entities specified by these rules; or
- (b) The entities the court directs if these rules do not require service or specify the entities to be served.

9014

Current:

(b) Service. The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004. Any paper served after the motion shall be served in the manner provided by Rule 5(b) F.R.Civ.P.

New Proposed:

(b) SERVICE. The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004 **and within the time determined under Rule 9006(d). Any written response to the motion shall be served within the time determined under Rule 9006(d).** Any paper served after the motion shall be served in the manner provided by Rule 5(b) F.R.Civ.P.

IV. Changes in the Bankruptcy Forms

The new forms can be viewed at the following link:

<http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>

B 3 A – Application for Individuals to Pay the Filing Fee in Installments

- Revised as part of the Forms Modernization Project.
- Also, the declaration and signature section for a non-attorney bankruptcy petition preparer has been removed.

B 3B – Application to Have the Chapter 7 Filing Fee Waived

- Revised as part of the Forms Modernization Project.
- Line 2 now directs the debtor to exclude non-cash governmental assistance.
- Also, the declaration and signature section for a non-attorney bankruptcy petition preparer has been removed.

B 6I – Schedule I: Your Income

- Revised as part of the Forms Modernization Project (therefore providing more complete and accurate responses).

B 6J – Schedule J: Your Expenses

- Revised as part of the Forms Modernization Project (therefore providing more complete and accurate responses).

B 6 – Summary (Summary of Schedules)

- Updated to reflect new line number references to Schedules I & J.

B 23 – Debtor’s Certification of Completion of Instructional Course Concerning Financial Management

- Updated to reflect amendment of Rule 1007(b)(7).

B 27 – Reaffirmation Agreement Cover Sheet

- Updated to reflect new line number references to Schedules I & J.

Subpoenas – B 254, B 255, B 256, B 257 – clarified for the average person to read and understand.