

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON**

In re:

**Minimum Filing Requirements, Initial
Installment Payment, Rejection of
Deficient Filings, and Additional
Delegation to Clerk of the Court.**

GENERAL ORDER NO. 2012-3

The court is experiencing an increasing number of individual and consumer bankruptcy cases that suffer from basic filing deficiencies. A deficient filing may be used as an instrument to seek the advantage of the automatic stay and other bankruptcy protections without providing notice to creditors or pursuing a legitimate case toward discharge. In addition, a deficient filing requires increased tracking and administrative attention. The court's current practice of issuing a 7-day deficiency notice for failure to meet minimum filing requirements is not sufficient. Local Rules W.D. Wash. Bankr. 1017-1(a). The procedural changes described below are enacted to address some of the issues raised by deficient filings.

A. Case Filing Fees and Initial Installment Payments.

Federal Rule of Bankruptcy Procedure 1006 requires that every petition be accompanied by the filing fee. A debtor filing a voluntary petition may meet this

1 requirement by filing an application for waiver of the filing fee with the petition; or for
2 those unable to pay the filing fee except in installments, may file with the petition an
3 application to pay the filing fee in installments. Fed. R. Bankr. P. 1006(b) and (c). See
4 also Local Rules W.D. Wash. Bankr. 1006-1.

5 The Bankruptcy Court for the Western District of Washington is experiencing an
6 increase in the number of cases in which the debtor opts to pay the filing fee in
7 installments. Frequently, however, no filing fee is collected before the case is
8 dismissed due to other deficiencies. The failure to collect a fee places an
9 administrative burden on the court and trustees. In the situation of a repeat filer, with
10 outstanding fees in a prior or pending bankruptcy case, this burden is compounded.

11 **B. Verified Petitions.**

12 Federal Rule of Bankruptcy Procedure 1008 requires that every petition be
13 verified by the debtor or include a signed declaration as to the validity of the statements
14 contained therein. See also Fed. R. Bankr. P. 9011. For electronically filed petitions,
15 Local Rules W. D. Wash. Bankr. 5005-1 requires that the attorney obtain the
16 debtor(s)'s signature on the voluntary petition, retain the original signed document, and
17 electronically file a voluntary petition that reflects the debtor(s)'s signature with "/s/." A
18 conventionally filed voluntary petition must include the debtor(s)'s original signature.

19 **C. Statement of Social Security Number.**

20 Federal Rule of Bankruptcy Procedure 1007(f) requires a debtor to file, with the
21 petition, a verified statement setting forth the debtor's social security number, individual
22 taxpayer identification number, or a statement that the debtor does not have a social
23 security number (Official Form B21). The failure to provide verification of social
24 security number or other individual taxpayer identification number limits creditors'
25 ability to properly determine the existence of a claim. Now, therefore, it is hereby

1 **ORDERED** that

2 1. This General Order supersedes the requirements of Local Rules W.D.
3 Wash. Bankr. 1017-1(a)(1) and (2).

4 2. The provisions of this General Order are effective as of November 1,
5 2012.

6 3. Filing Fees Submitted with Petition. Every voluntary petition submitted to
7 the clerk of court for filing shall be accompanied by one of the following payment
8 options: full payment of the applicable filing fee; an application for waiver of the filing
9 fee (Official Form 3B), if debtor qualifies; or an application to pay filing fee in
10 installments (Official Form 3A) and payment of the initial installment payment. The
11 clerk of court is authorized to reject or dismiss a voluntary petition that is not
12 accompanied by one of the above payment options.

13 a. *Electronically Filed Petitions.* When a voluntary petition is filed
14 electronically with the court's Electronic Case Filing system (ECF) the filer shall
15 designate at case opening whether the filing fee is being paid in full, whether a waiver
16 is sought (if debtor qualifies), or whether an application to pay filing fee in installments
17 and initial installment payment are being submitted. When documents in support of the
18 selected payment option are not filed with the petition or within one (1) business day of
19 the filing of the petition, the filer's ECF account will be administratively locked until such
20 payment is received. (For example, if a case is designated as an installment case at
21 case opening but the filer does not also file an application to pay filing fee in
22 installments and electronically tender the payment of the initial installment, the case
23 may be dismissed and the ECF account will remain locked until the initial payment is
24 received.)

1 b. *Conventionally Filed Petitions.* The clerk of court is authorized to reject
2 a voluntary petition submitted in paper and not accompanied by payment in full of the
3 filing fee, or an application for waiver (if debtor qualifies), or an application to pay filing
4 fee in installments and the initial installment payment. Conventionally submitted
5 petitions that are deficient with respect to the filing fee or initial installment payment will
6 be returned to the filer and no bankruptcy case will be opened.

7 4. Initial Installment Amount. The initial installment payment amount is set
8 forth in the Individual Debtor's Application to Pay Filing Fees in Installments, LBR
9 Form 3. The amount of the initial installment payment for chapters 7, 12 and 13 shall
10 be \$100. The initial installment payment for individual chapter 11 cases shall be \$350.
11 The initial installment payment must be paid at the time of filing. The Chapter 13
12 Trustee is authorized to pay any remaining amount owing in a Chapter 13 case in
13 which the debtor(s) has asked to pay the filing fee in installments from the debtor(s)'
14 plan payments prior to confirmation of the plan.

15 5. Denial of Installment Application. An application to pay the filing fee in
16 installments will be denied if the debtor or joint debtor has commenced a bankruptcy
17 case within 8 years before the date of the filing of the instant petition, or has a pending
18 case, in which filing fees are owed to the Bankruptcy Court for the Western District of
19 Washington.

20 a. *Electronically Filed Petitions.* Failure to electronically tender the
21 payment of the filing fee in the current case, in full, within one (1) business day of the
22 order denying the application to pay filing fee in installments will cause the filer's ECF
23 account to be administratively locked until the full payment is received.

1 b. *Conventionally Filed Petitions.* The clerk of court is authorized to reject
2 a voluntary petition unless accompanied by the full payment of the filing fee in the
3 current case.

4 6. Signature Required on Filed Petitions.

5 a. *Electronically Filed Petitions.* A voluntary petition that is filed
6 electronically must contain the signature of the debtor or joint debtor in accordance with
7 Local Rules W.D. Wash. Bankr. 5005-1(d). An electronically filed voluntary petition that
8 does not reflect the signature of both the debtor and joint debtor is subject to
9 administrative dismissal within one (1) business day without further notice, as to
10 non-signing debtor or joint debtor.

11 b. *Conventionally Filed Petitions.* The clerk of the court is authorized to
12 reject a conventionally filed voluntary petition that does not contain the original
13 signature of the debtor. For joint petitions missing the original signature of a joint
14 debtor, the court will generate a 7-day deficiency notice.

15 7. Statement of Social Security Number or Individual Taxpayer Identification
16 Number Due with Petition.

17 a. *Electronically Filed Petitions.* An electronically filed voluntary petition
18 that is not accompanied by the verified Statement of Social Security Number or
19 Individual Taxpayer Identification Number (Official Form B21) of the debtor and the
20 joint debtor, if any, may be administratively dismissed after one (1) business day
21 without further notice.

22 b. *Conventionally Filed Petitions.* A verified statement setting out the
23 debtor's social security number, individual taxpayer identification number, or a
24 statement that the debtor does not have a social security number must accompany the
25 voluntary petition. The clerk of the court is authorized to reject a conventionally filed

1 voluntary petition that is not accompanied by the Statement of Social Security Number
2 or Individual Taxpayer Identification Number (Official Form B21). For joint petitions
3 missing the social security or taxpayer identification verification for one joint debtor, the
4 court will accept the petition and generate a 7-day deficiency notice.

5 8. Delegation of Authority to the Clerk. In addition to the authority set forth
6 in Local Rules W.D. Wash. Bankr. 5003-1, the clerk of the court and such deputies as
7 the clerk of the court may designate are authorized to sign and enter without further
8 direction the following orders that are deemed to be of a ministerial nature:

9 a. orders denying applications to pay the filing fee in installments;
10 b. orders dismissing electronically filed petitions that do not provide for
11 payment of the filing fee as set forth in paragraph 3 above;

12 c. orders dismissing voluntary petitions filed electronically without the
13 representation of the debtor's or joint debtor's original signature as required by Local
14 Rules W.D. Wash. Bankr. 5005-1; and

15 d. orders dismissing voluntary petitions filed electronically that are not
16 accompanied by the debtor(s)'s Statement of Social Security Number or Individual
17 Taxpayer Identification Number (Official Form B21).

18 DATE: September 14, 2012

19 FOR THE COURT:

20 

21 _____
22 Honorable Paul B. Snyder
23 Chief Judge

23 Honorable Marc Barreca
24 Honorable Philip H. Brandt
25 Honorable Timothy W. Dore
Honorable Brian D. Lynch
Honorable Karen A. Overstreet