

1 UNITED STATES BANKRUPTCY COURT  
2 FOR THE WESTERN DISTRICT OF WASHINGTON

3 ADOPTION OF:

4 INTERIM FEDERAL RULES OF  
5 BANKRUPTCY PROCEDURE  
(Amended Interim Rule 1007)

GENERAL ORDER NO. BAPCPA-5  
(Adopting Amended Interim Rule 1007)

6  
7  
8 WHEREAS on April 20, 2005 the Bankruptcy Abuse Prevention and Consumer  
9 Protection Act of 2005 (the Act) was enacted into law; and

10 WHEREAS, most provisions of the Act were effective as of October 17, 2005; and

11 WHEREAS, the Advisory Committee on Bankruptcy Rules prepared Interim Rules  
12 of Bankruptcy Procedure ("Interim Rules") designed to implement the substantive and  
13 procedural changes mandated by the Act; and

14 WHEREAS, pursuant to General Order BAPCPA - 1, the Court adopted the Interim  
15 Rules in their entirety applicable to cases in the Western District of Washington filed on  
16 and after October 17, 2005; and

17 WHEREAS, the Advisory Committee on Bankruptcy Rules has prepared an  
18 amended Interim Rule 1007 to implement changes to amended Official Forms<sup>1</sup> which  
19 have been approved by the Advisory Committee on Bankruptcy Rules, the Committee on  
20 Rules of Practice and Procedure, and the Judicial Conference of the United States to be  
21 effective on October 1, 2006; and

22 WHEREAS, the general effective date of the Act has not provided sufficient  
23 time to promulgate rules after appropriate public notice and an opportunity for  
24 comment;

25 NOW THEREFORE, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of

26  

---

<sup>1</sup> Pursuant to Rule 9009, Federal Rules of Bankruptcy Procedure, the Official  
Forms must be observed and used with alterations as may be appropriate.

1 Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, it is hereby  
2 ORDERED that Interim Rule 1007 in the form attached hereto as Exhibit A is adopted in  
3 its entirety without change by a majority of the judges of this Court to be effective as to all  
4 cases filed on and after October 1, 2006 until further order of the Court.<sup>2</sup>

5 DATED: September 28, 2006.

6  
7 FOR THE COURT:

8 

9  
10 \_\_\_\_\_  
Honorable Karen A. Overstreet  
Chief Judge

11 Honorable Samuel J. Steiner  
12 Honorable Thomas T. Glover  
13 Honorable Philip H. Brandt  
14 Honorable Paul B. Snyder

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26 \_\_\_\_\_  
<sup>2</sup> The amendments to Interim Rule 1007 which will take effect on October 1, 2006 are shown as underlined additions and strikeout deletions on attached Exhibit B.

## EXHIBIT A

### **Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits**

(a) LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND CORPORATE OWNERSHIP STATEMENT.

\* \* \* \* \*

(4) *Chapter 15 Case.* Unless the court orders otherwise, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition a list containing the name and address of all administrators in foreign proceedings of the debtor, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code.

(5) *Extension of Time.* Any extension of time for the filing of lists required by this subdivision may be granted only on motion for cause shown and on notice to the United States trustee and to any trustee, committee elected under § 705 or appointed under § 1102 of the Code, or other party as the court may direct.

(b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS REQUIRED.

(1) Except in a chapter 9 municipality case, the debtor, unless the court orders otherwise, shall file the following

schedules, statements, and other documents, prepared as prescribed by the appropriate Official Forms, if any:

(A) schedules of assets and liabilities;

(B) a schedule of current income and expenditures;

(C) a schedule of executory contracts and unexpired leases;

(D) a statement of financial affairs;

(E) copies of all payment advices or other evidence of payment, if any, with all but the last four digits of the debtor's social security number redacted, received by the debtor from an employer within 60 days before the filing of the petition; and

(F) a record of any interest that the debtor has in an account or program of the type specified in § 521(c) of the Code.

(2) An individual debtor in a chapter 7 case shall file a statement of intention as required by § 521(a) of the Code, prepared as prescribed by the appropriate Official Form. A copy of the statement of intention shall be served on the trustee and the creditors named in the statement on or before the filing of the statement.

(3) Unless the United States trustee has determined that the credit counseling requirement of § 109(h) does not apply in the district, an individual debtor must file a statement of compliance with the credit counseling requirement, prepared as prescribed by

the appropriate Official Form which must include one of the following:

(A) an attached certificate and debt repayment plan, if any, required by § 521(b);

(B) a statement that the debtor has received the credit counseling briefing required by § 109(h)(1) but does not have the certificate required by § 521(b);

(C) a certification under § 109(h)(3); or

(D) a request for a determination by the court under § 109(h)(4).

(4) Unless § 707(b)(2)(D) applies, an individual debtor in a chapter 7 case with primarily consumer debts shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the debtor has current monthly income greater than the applicable median family income for the applicable state and household size, the calculations in accordance with § 707(b), prepared as prescribed by the appropriate Official Form.

(5) An individual debtor in a chapter 11 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form.

(6) A debtor in a chapter 13 case shall file a statement of current monthly income, prepared as prescribed by the appropriate

Official Form, and, if the debtor has current monthly income greater than the median family income for the applicable state and family size, a calculation of disposable income in accordance with § 1325(b)(3), prepared as prescribed by the appropriate Official Form.

(7) An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate Official Form.

(8) If an individual debtor in a chapter 11, 12, or 13 case has claimed an exemption under § 522(b)(3)(A) in an amount in excess of the amount set out in § 522(q)(1) in property of the kind described in § 522(p)(1), the debtor shall file a statement as to whether there is pending a proceeding in which the debtor may be found guilty of a felony of a kind described in § 522(q)(1)(A) or found liable for a debt of the kind described in § 522(q)(1)(B).

(c) **TIME LIMITS.** In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 15 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 15 days of the

entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, if the debtor has filed a statement under subdivision (b)(3)(B), the documents required by subdivision (b)(3)(A) shall be filed within 15 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1328(b). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time for the filing of the schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct.

Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

\* \* \* \* \*

### **COMMITTEE NOTE<sup>1</sup>**

The title of this rule is expanded to refer to “documents” in conformity with the 2005 amendments to § 521 and related provisions of the Bankruptcy Code that include a wider range of documentary requirements.

Subdivision (a) is amended to require that any foreign representative filing a petition for recognition to commence a case under chapter 15, which was added to the Code in 2005, file a list of entities with whom the debtor is engaged in litigation in the United States. The foreign representative filing the petition for recognition also must list any entities against whom provisional relief is being sought as well as all administrators in foreign proceedings of the debtor. This should ensure that the entities most interested in the case, or their representatives, will receive notice of the petition under Rule 2002(q).

Subdivision (b)(1) addresses schedules, statements, and other documents that the debtor must file unless the court orders otherwise and other than in a case under Chapter 9. This subdivision is amended to include documentary requirements added by the 2005 amendments to § 521 that apply to the same group of debtors and have the same time limits as the existing requirements of (b)(1). Consistent with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2921 (2002), the payment advices should be redacted before they are filed.

Subdivision (b)(2) is amended to conform the renumbering of the subsections of § 521.

Subdivisions (b)(3) through (b)(7) are new. They implement the 2005 amendments to the Bankruptcy Code. Subdivision (b)(3) provides a procedure for filing documents

---

<sup>1</sup> This Committee Note relates to the Interim Rule as proposed in October 2005 immediately prior to the effective date of BAPCPA.



relating to the nonprofit credit counseling requirement provided by the 2005 amendments to § 109.

Subdivision (b)(4) addresses the filing of information about current monthly income, as defined in § 101, for certain chapter 7 debtors and, if required, additional calculations of expenses required by the 2005 revisions to § 707(b).

Subdivision (b)(5) addresses the filing of information about current monthly income, as defined in § 101, for individual chapter 11 debtors. The 2005 amendments to § 1129(a)(15) condition plan confirmation for individual debtors on the commitment of disposable income as defined in § 1325(b)(2), which is based on current monthly income.

Subdivision (b)(6) addresses the filing of information about current monthly income, as defined in § 101, for chapter 13 debtors and, if required, additional calculations of expenses. These changes are necessary because the 2005 amendments to § 1325 require that determinations of disposable income start with current monthly income.

Subdivision (b)(7) reflects the 2005 amendments to §§ 727 and 1328 that condition the receipt of a discharge on the completion of a personal financial management course, with certain exceptions.

Subdivision (b)(8) is amended to require an individual debtor in a case under chapter 11, 12, and 13 to file a statement that there are no reasonable grounds to believe that the restrictions on a homestead exemption as set out in § 522(q) of the Code are applicable. Sections 1141(d)(5)(C), 1228(f), and 1328(h) each provide that the court shall not enter a discharge order unless it finds that there is no reasonable cause to believe that § 522(q) applies. Requiring the debtor to submit a statement to that effect in cases under chapters 11, 12, and 13 in which an exemption is claimed in excess of the amount allowed under § 522(q)(1) provides the court with a basis to conclude, in the absence of any contrary information, that § 522(q) does not apply. Creditors receive notice under Rule 2002(f)(11) of the time to request postponement of the entry of the discharge so that they can challenge the debtor's assertions in the Rule 1007(b)(8) statement in appropriate cases.

Subdivision (c) is amended to include time limits for the filing requirements added to subdivision (b) due to the 2005 amendments to the Bankruptcy Code, and to make conforming amendments. Separate time limits are provided for the

documentation of credit counseling and for the statement of the completion of the financial management course.

Subdivision (c) of the rule is also amended to recognize the limitation on the extension of time to file schedules and statements when the debtor is a small business debtor. Section 1116(3), added to the Bankruptcy Code in 2005, establishes a specific standard for courts to apply in the event that the debtor in possession or the trustee seeks an extension for filing these forms for a period beyond 30 days after the order for relief.

### **COMMITTEE NOTE<sup>2</sup>**

Subdivision (b)(3) of the rule is amended to require the debtor to file an Official Form relating to the credit counseling requirement provided by the 2005 amendments to § 109. Official Form 1 includes statements that warn the debtor of the consequences of failing to comply with the credit counseling requirement. The rule also provides that the debtor may file a statement that the debtor has received credit counseling but has not yet received a certificate from the credit counseling provider. Subdivision (c) is amended to permit the debtor to file the certificate and debt repayment plan within 15 days after the filing of the petition if a Rule 1007(b)(3)(B) statement is filed.

Other changes are stylistic.

---

<sup>2</sup> This Committee Note relates to the Interim Rule as proposed in October 2006.



12 as prescribed by the appropriate Official Form which must  
13 include one of the following:

14 (A) an attached certificate and debt repayment  
15 plan, if any, required by § 521(b);

16 (B) a statement that the debtor has received the  
17 credit counseling briefing required by § 109(h)(1) but does  
18 not have the certificate required by § 521(b);

19 (C) a certification under § 109(h)(3); or

20 (D) a request for a determination by the court  
21 under § 109(h)(4).

22 \* \* \* \* \*

23 (c) TIME LIMITS. In a voluntary case, the schedules,  
24 and statements, and other documents required by subdivision  
25 (b)(1), (4), (5), and (6) shall be filed with the petition or  
26 within 15 days thereafter, except as otherwise provided in  
27 subdivisions (d), (e), (f), and (h) of this rule. In an  
28 involuntary case, the list in subdivision (a)(2), and the  
29 schedules, statements, and other documents required by

30 subdivision (b)(1) shall be filed by the debtor within 15 days  
31 of the entry of the order for relief. ~~The documents required by~~  
32 ~~subdivision (b)(3) shall be filed with the petition in a~~  
33 ~~voluntary case. The statement required by subdivision (b)(7)~~  
34 ~~shall be filed by the debtor within 45 days after the first date~~  
35 ~~set for the meeting of creditors under § 341 of the Code in a~~  
36 ~~chapter 7 case, and no later than the last payment made by the~~  
37 ~~debtor as required by the plan or the filing of a motion for~~  
38 ~~entry of a discharge under § 1328(b) in a chapter 13 case.~~  
39 The statement required by subdivision (b)(8) shall be filed by  
40 the debtor not earlier than the date of the last payment made  
41 under the plan or the date of the filing of a motion for entry of  
42 a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b). In  
43 a voluntary case, the documents required by paragraphs (A),  
44 (C), and (D) of subdivision (b)(3) shall be filed with the  
45 petition. Unless the court orders otherwise, if the debtor has  
46 filed a statement under subdivision (b)(3)(B), the documents  
47 required by subdivision (b)(3)(A) shall be filed within 15 days

48 of the order for relief. In a chapter 7 case, the debtor shall file  
49 the statement required by subdivision (b)(7) within 45 days  
50 after the first date set for the meeting of creditors under § 341  
51 of the Code, and in a chapter 13 case no later than the date  
52 when the last payment was made by the debtor as required by  
53 the plan or the filing of a motion for a discharge under  
54 § 1328(b). The debtor shall file the statement required by  
55 subdivision (b)(8) no earlier than the date of the last payment  
56 made under the plan or the date of the filing of a motion for  
57 a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of  
58 the Code. Lists, schedules, statements, and other documents  
59 filed prior to the conversion of a case to another chapter shall  
60 be deemed filed in the converted case unless the court directs  
61 otherwise. Except as provided in § 1116(3), any extension of  
62 time for the filing of the schedules, statements, and other  
63 documents required under this rule may be granted only on  
64 motion for cause shown and on notice to the United States  
65 trustee, ~~and to~~ any committee elected under § 705 or

66 appointed under § 1102 of the Code, trustee, examiner, or  
67 other party as the court may direct. Notice of an extension  
68 shall be given to the United States trustee and to any  
69 committee, trustee, or other party as the court may direct.

#### COMMITTEE NOTE

Subdivision (b)(3) of the rule is amended to require the debtor to file an Official Form relating to the credit counseling requirement provided by the 2005 amendments to § 109. Official Form 1 includes statements that warn the debtor of the consequences of failing to comply with the credit counseling requirement. The rule also provides that the debtor may file a statement that the debtor has received credit counseling but has not yet received a certificate from the credit counseling provider. Subdivision (c) is amended to permit the debtor to file the certificate and debt repayment plan within 15 days after the filing of the petition if a Rule 1007(b)(3)(B) statement is filed.

Other changes are stylistic.

///