

1 UNITED STATES BANKRUPTCY COURT  
2 EASTERN DISTRICT OF CALIFORNIA

FILED  
11/20/12  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

3  
4 In re:

5 ORDER ADOPTING FURTHER  
6 REVISED INTERIM BANKRUPTCY  
7 RULE 1007-1

GENERAL ORDER 12-03

8  
9 WHEREAS, The National Guard and Reservists Debt Relief Act of 2008, Pub. L. No.  
10 110-438, was enacted into law on October 20, 2008; and

11 WHEREAS, the Act excludes certain members of the National Guard and Reserves  
12 from means testing in chapter 7 bankruptcy cases which are commenced in the three year  
13 period beginning December 19, 2008; and

14 WHEREAS, Interim Bankruptcy Rule 1007-1 was adopted by this court in General  
15 Order 08-04 on December 15, 2008 to implement the temporary exclusion effective  
16 December 19, 2008, and revised in General Order 09-03 on December 1, 2009, Special  
17 Order 10-03 on December 1, 2010, and General Order 11-02 on December 1, 2011; and

18 WHEREAS, The National Guard and Reservists Debt Relief Extension Act of 2011,  
19 Pub. L. 112-64, was enacted into law on December 13, 2011, extending for an additional  
20 four years the temporary exclusion from the bankruptcy means test for certain members  
21 of the National Guard and Reserves; and

22 WHEREAS, current Interim Rule 1007-1 incorporates provisions of Federal Rule of  
23 Bankruptcy Procedure 1007(c) that will be amended to eliminate the existing time limit for  
24 filing the list of creditors in an involuntary case on December 1, 2012, unless Congress  
25 takes action to reject, modify, or defer the amendment; and

26 WHEREAS, it is necessary to further revise Interim Rule 1007-1 to conform to the  
27 proposed deletion in Rule 1007(c),

28 NOW, THEREFORE, IT IS ORDERED that the attached, further revised Interim Rule

1 1007-1 is adopted in its entirety without change by this Court effective December 1, 2012,  
2 and shall apply only to cases commenced in the four-year period beginning December 19,  
3 2011, unless Congress further extends the termination date beyond December 18, 2015.  
4 Interim Rule 1007-1, as further revised, shall remain in effect until further order of the  
5 Court.

6 IT IS FURTHER ORDERED that General Order 11-02, dated December 1, 2011,  
7 is hereby abrogated.

8  
9 DATED: 11/20/12

FOR THE COURT:

10  
11 / s / Christopher M. Klein  
12 Honorable Christopher M. Klein  
13 Chief Judge  
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**Interim Rule 1007-I.<sup>1</sup> Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion<sup>2</sup>**

1 \* \* \* \* \*

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

4 \* \* \* \* \*

5 (4) Unless either: (A) § 707(b)(2)(D)(I) applies,  
6 or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means  
7 testing granted therein extends beyond the period specified by Rule  
8 1017(e), an individual debtor in a chapter 7 case shall file a  
9 statement of current monthly income prepared as prescribed by the  
10 appropriate Official Form, and, if the current monthly income  
11 exceeds the median family income for the applicable state and  
12 household size, the information, including calculations, required by  
13 § 707(b), prepared as prescribed by the appropriate Official Form.

14 \* \* \* \* \*

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<sup>1</sup> Interim Rule 1007-I has been adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438, as amended by Public Law No. 112-64. The amended Act, which provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces, applies to bankruptcy cases commenced in the seven-year period beginning December 19, 2008.

<sup>2</sup> Incorporates (1) time amendments to Rule 1007 which took effect on December 1, 2009, and (2) an amendment, effective December 1, 2010, which extended the time to file the statement of completion of a course in personal financial management in a chapter 7 case filed by an individual debtor, and (3) a conforming amendment, effective December 1, 2012, which removed an inconsistency created by the 2010 amendment.

15 (c) TIME LIMITS. In a voluntary case, the schedules,  
16 statements, and other documents required by subdivision (b)(1), (4),  
17 (5), and (6) shall be filed with the petition or within 14 days  
18 thereafter, except as otherwise provided in subdivisions (d), (e), (f),  
19 (h), and (n) of this rule. In an involuntary case, ~~the list in~~  
20 ~~subdivision (a)(2),~~ and the schedules, statements, and other  
21 documents required by subdivision (b)(1) shall be filed by the  
22 debtor within 14 days of the entry of the order for relief. In a  
23 voluntary case, the documents required by paragraphs (A), (C), and  
24 (D) of subdivision (b)(3) shall be filed with the petition. Unless  
25 the court orders otherwise, a debtor who has filed a statement under  
26 subdivision (b)(3)(B), shall file the documents required by  
27 subdivision (b)(3)(A) within 14 days of the order for relief. In a  
28 chapter 7 case, the debtor shall file the statement required by  
29 subdivision (b)(7) within 60 days after the first date set for the  
30 meeting of creditors under § 341 of the Code, and in a chapter 11 or  
31 13 case no later than the date when the last payment was made by  
32 the debtor as required by the plan or the filing of a motion for a  
33 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The  
34 court may, at any time and in its discretion, enlarge the time to file  
35 the statement required by subdivision (b)(7). The debtor shall file  
36 the statement required by subdivision (b)(8) no earlier than the date  
37 of the last payment made under the plan or the date of the filing of a

38 motion for a discharge under §§1141(d)(5)(B), 1228(b), or 1328(b)  
39 of the Code. Lists, schedules, statements, and other documents  
40 filed prior to the conversion of a case to another chapter shall be  
41 deemed filed in the converted case unless the court directs  
42 otherwise. Except as provided in § 1116(3), any extension of time  
43 to file schedules, statements, and other documents required under  
44 this rule may be granted only on motion for cause shown and on  
45 notice to the United States trustee, any committee elected under  
46 § 705 or appointed under § 1102 of the Code, trustee, examiner, or  
47 other party as the court may direct. Notice of an extension shall be  
48 given to the United States trustee and to any committee, trustee, or  
49 other party as the court may direct.

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51 (n) TIME LIMITS FOR, AND NOTICE TO, DEBTORS  
52 TEMPORARILY EXCLUDED FROM MEANS TESTING.

53 (1) An individual debtor who is temporarily excluded from  
54 means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file  
55 any statement and calculations required by subdivision (b)(4) no  
56 later than 14 days after the expiration of the temporary exclusion if  
57 the expiration occurs within the time specified by Rule 1017(e) for  
58 filing a motion pursuant to § 707(b)(2).

59 (2) If the temporary exclusion from means testing under  
60 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in

61 subdivision (n)(1), and if the debtor has not previously filed a  
62 statement and calculations required by subdivision (b)(4), the clerk  
63 shall promptly notify the debtor that the required statement and  
64 calculations must be filed within the time specified in subdivision  
65 (n)(1).