

December 1, 2013 Fees, Forms, and Rules Changes

Judicial Conference Approves Changes to the Bankruptcy Court Miscellaneous Fee Schedule Effective December 1, 2013

Fees

At its September 2013 session, the Judicial Conference approved several changes to the Bankruptcy Court Miscellaneous Fee Schedule effective December 1, 2013, as follows:

- (1) Increased the records retrieval fee by \$11 (from \$53 to \$64) for the first box requested from a Federal Records Center, and created a new fee of \$39 for each additional box requested.
- (2) Established a new fee of \$176 for the filing of motions for the sale of property free and clear of liens under 11 U.S.C. § 363(f).
- (3) Amended the fee for checks returned for insufficient funds on the court fee schedule. The prior fee language – which applies only to “checks” – was outdated, as check payments have now largely been superseded by electronic payments. Please note that there is no change to the amount of this fee.

A redline version of the approved fee changes is attached here:

Effective December 1, 2013

Bankruptcy Court Miscellaneous Fee Schedule¹

The fees included in the Bankruptcy Court Miscellaneous Fee Schedule are to be charged for services provided by the bankruptcy courts.

- The United States should not be charged fees under this schedule, with the exception of those specifically prescribed in Items 1, 3 and 5 when the information requested is available through remote electronic access.
 - Federal agencies or programs that are funded from judiciary appropriations (agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and bankruptcy administrators) should not be charged any fees under this schedule.
- (1) For reproducing any document, \$.50 per page. This fee applies to services rendered on behalf of the United States if the document requested is available through electronic access.

- (2) For certification of any document, \$11.
For exemplification of any document, \$21.
- (3) For reproduction of an audio recording of a court proceeding, \$30. This fee applies to services rendered on behalf of the United States if the recording is available electronically.
- (4) For filing an amendment to the debtor's schedules of creditors, lists of creditors, or mailing list, \$30, except:
- The bankruptcy judge may, for good cause, waive the charge in any case.
 - This fee must not be charged if
 - the amendment is to change the address of a creditor or an attorney for a creditor listed on the schedules; or
 - the amendment is to add the name and address of an attorney for a creditor listed on the schedules.
- (5) For conducting a search of the bankruptcy court records, \$30 per name or item searched.
- This fee applies to services rendered on behalf of the United States if the information requested is available through electronic access.

For filing a complaint, \$293, except:

- If the trustee or debtor-in-possession files the complaint, the fee must be paid only by the estate, to the extent there is an estate.
 - This fee must not be charged if
 - the debtor is the plaintiff; or
 - a child support creditor or representative files the complaint and submits the form required by § 304(g) of the Bankruptcy Reform Act of 1994.
- (7) For filing any document that is not related to a pending case or proceeding, \$46.
- (8) Administrative fee for filing a case under Title 11 or when a motion to divide a joint case under Title 11 is filed, \$46.
- (9) For payment to trustees pursuant to 11 U.S.C. § 330(b)(2), a \$15 fee applies in the following circumstances:
- For filing a petition under Chapter 7.
 - For filing a motion to reopen a Chapter 7 case.
 - For filing a motion to divide a joint Chapter 7 case.
 - For filing a motion to convert a case to a Chapter 7 case.
 - For filing a notice of conversion to a Chapter 7 case.

(10) In addition to any fees imposed under Item 9, above, the following fees must be collected:

- For filing a motion to convert a Chapter 12 case to a Chapter 7 case or a notice of conversion pursuant to 11 U.S.C. § 1208(a), \$45.
- For filing a motion to convert a Chapter 13 case to a Chapter 7 case or a notice of conversion pursuant to 11 U.S.C. § 1307(a), \$10.

The fee amounts in this item are derived from the fees prescribed in 28 U.S.C. §1930(a).

If the trustee files the motion to convert, the fee is payable only from the estate that exists prior to conversion.

If the filing fee for the chapter to which the case is requested to be converted is less than the fee paid at the commencement of the case, no refund may be provided.

(11) For filing a motion to reopen, the following fees apply:

- For filing a motion to reopen a Chapter 7 case, \$245.
- For filing a motion to reopen a Chapter 9 case, \$1167.
- For filing a motion to reopen a Chapter 11 case, \$1167.
- For filing a motion to reopen a Chapter 12 case, \$200.
- For filing a motion to reopen a Chapter 13 case, \$235.
- For filing a motion to reopen a Chapter 15 case, \$1167.

The fee amounts in this item are derived from the fees prescribed in 28 U.S.C. § 1930(a).

The reopening fee must be charged when a case has been closed without a discharge being entered.

The court may waive this fee under appropriate circumstances or may defer payment of the fee from trustees pending discovery of additional assets. If payment is deferred, the fee should be waived if no additional assets are discovered.

The reopening fee must not be charged in the following situations:

- to permit a party to file a complaint to obtain a determination under Rule 4007(b); or
- when a debtor files a motion to reopen a case based upon an alleged violation of the terms of the discharge under 11 U.S.C. § 524; or
- when the reopening is to correct an administrative error.

(12) 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.

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

- (14) For filing an appeal or cross appeal from a judgment, order, or decree, \$293.

This fee is collected in addition to the statutory fee of \$5 that is collected under 28 U.S.C. § 1930 (c) when a notice of appeal is filed.

Parties filing a joint notice of appeal should pay only one fee.

If a trustee or debtor-in-possession is the appellant, the fee must be paid only by the estate, to the extent there is an estate.

Upon notice from the court of appeals that a direct appeal or direct cross-appeal has been authorized, an additional fee of \$157 must be collected.

- (15) For filing a case under Chapter 15 of the Bankruptcy Code, \$1167.

This fee is derived from and equal to the fee prescribed in 28 U.S.C. § 1930(a)(3) for filing a case commenced under Chapter 11 of Title 11.

- (16) The court may charge and collect fees commensurate with the cost of providing copies of the local rules of court. The court may also distribute copies of the local rules without charge.

- (17) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with the detailed fee schedule issued by the Director of the Administrative Office of the United States Courts.

For management of registry funds invested through the Court Registry Investment System, a fee at a rate of 2.5 basis points shall be assessed from interest earnings.

- (18) For a motion filed by the debtor to divide a joint case filed under 11 U.S.C. § 302, the following fees apply:

- For filing a motion to divide a joint Chapter 7 case, \$245.
- For filing a motion to divide a joint Chapter 11 case, \$1167.
- For filing a motion to divide a joint Chapter 12 case, \$200.
- For filing a motion to divide a joint Chapter 13 case, \$235.

These fees are derived from and equal to the filing fees prescribed in 28 U.S.C. § 1930(a).

- (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\(f\).](#)

This fee must not be collected in the following situations:

- For a motion for relief from the co-debtor stay;
- For a stipulation for court approval of an agreement for relief from a stay; or
- For a motion filed by a child support creditor or its representative, if the form required by § 304(g) of the Bankruptcy Reform Act of 1994 is filed.

(20) For filing a transfer of claim, \$25 per claim transferred.²

Forms

Pending Changes in the Bankruptcy Forms:

Amendments to Official Bankruptcy Forms 3A (Application for Individuals to Pay the Filing Fee in Installments), 3B (Application to Have the Chapter 7 Filing Fee Waived), 6I (Schedule I: Your Income), 6J (Schedule J: Your Expenses), 6 Summary (Summary of Schedules), 23 (Debtor's Certification of Completion of Instructional Course Concerning Financial Management) and 27 (Reaffirmation Agreement Cover Sheet), will take effect on December 1, 2013.

Official Forms 3A, 3B, 6I, and 6J, which are only used in individual debtor cases, are revised as part of the Bankruptcy Rules Advisory Committee's ongoing Forms Modernization Project ("FMP"). Early in its evaluation of the existing bankruptcy forms, the FMP concluded that case opening forms for individuals should be separated from those used by entities. Forms used by individuals are designed to be more easily understood by users who are unfamiliar with bankruptcy and who are often not represented by an attorney. In addition to restyling, minor substantive changes are described in the committee notes for the four forms.

Official Forms 6 Summary and 27 are revised with updated line number cross references to Schedules I and J.

Official Form 23 and Director's Procedural Form B200 are revised in connection with a change to Bankruptcy Rule 1007(b)(7) that is scheduled to go into effect on December 1, 2013. The rule change will relieve individual debtors of the obligation to file Official Form 23 if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course. Official Form 23 is revised to reflect the rule change by including an instruction stating that the debtor should complete and file the form only if the provider has not already notified the court of the debtor's completion of the course. A similar instruction is added to the checklist references for chapters 7, 11 and 13 on Director's Form B200.

The three existing Directors Procedural forms for subpoenas – 254 (Subpoena for Rule 2004 Examination), 255 (Subpoena in an Adversary Proceeding), and 256 (Subpoena in a case Under the Bankruptcy Code) – will be withdrawn on December 1, 2013 and replaced with four updated versions (Forms 254, 255, 256, and 257) that incorporate pending changes to Civil Rule 45, which is made applicable in bankruptcy cases by Bankruptcy Rule 9016. The revised bankruptcy subpoenas more closely follow the topic organization of subpoenas in civil cases.

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE***

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

* * * * *

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

* * * * *

(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 concerning personal financial management, prepared

* New material is underlined; matter to be omitted is lined through.

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14 as prescribed by the appropriate Official Form; and
15 (B) An individual debtor in a chapter 11 case
16 shall file the statement in a chapter 11 case in which
17 § 1141(d)(3) applies.

18 * * * * *

Committee Note

Subdivision (b)(7) is amended to relieve an individual debtor of the obligation to file a statement of completion of a personal financial management course if the course provider notifies the court that the debtor has completed the course. Course providers approved under § 111 of the Code may be permitted to file this notification electronically with the court immediately upon the debtor's completion of the course. If the provider does not notify the court, the debtor must file the statement, prepared as prescribed by the appropriate Official Form, within the time period specified by subdivision (c).

Changes Made After Publication and Comment

No changes were made after publication and comment.

* * * * *

(1) In a chapter 7 case, on expiration of the times

(A) the debtor is not an individual;

(C) the debtor has filed a waiver under

(D) a motion to dismiss the case under § 707

is pending;

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17 (E) a motion to extend the time for filing a
18 complaint objecting to the discharge is pending;

19 (F) a motion to extend the time for filing a
20 motion to dismiss the case under Rule 1017(e)(1) is pending;

21 (G) the debtor has not paid in full the filing
22 fee prescribed by 28 U.S.C. § 1930(a) and any other fee
23 prescribed by the Judicial Conference of the United States
24 under 28 U.S.C. § 1930(b) that is payable to the clerk upon
25 the commencement of a case under the Code, unless the court
26 has waived the fees under 28 U.S.C. § 1930(f);

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

30 (I) a motion to delay or postpone discharge
31 under § 727(a)(12) is pending;

32 (J) a motion to enlarge the time to file a

33 reaffirmation agreement under Rule 4008(a) is pending;
34 (K) a presumption ~~has arisen~~ is in effect under
35 § 524(m) that a reaffirmation agreement is an undue hardship
36 and the court has not concluded a hearing on the presumption;
37 or
38 (L) a motion is pending to delay discharge;
39 because the debtor has not filed with the court all tax
40 documents required to be filed under § 521(f).
41 * * * * *

Committee Note

Subdivision (c)(1) is amended in several respects. The introductory language of paragraph (1) is revised to emphasize that the listed circumstances do not just relieve the court of the obligation to enter the discharge promptly but that they prevent the court from entering a discharge.

Subdivision (c)(1)(H) is amended to reflect the simultaneous amendment of Rule 1007(b)(7). The amendment of the latter rule relieves a debtor of the

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obligation to file a statement of completion of a course concerning personal financial management if the course provider notifies the court directly that the debtor has completed the course. Subparagraph (H) now requires postponement of the discharge when a debtor fails to file a statement of course completion only if the debtor has an obligation to file the statement.

Subdivision (c)(1)(K) is amended to make clear that the prohibition on entering a discharge due to a presumption of undue hardship under § 524(m) of the Code ceases when the presumption expires or the court concludes a hearing on the presumption.

Changes Made After Publication and Comment

Because this amendment is being made to conform to a simultaneous amendment of Rule 1007(b)(7) and is otherwise technical in nature, final approval is sought without publication.

1 **Rule 5009. Closing Chapter 7 Liquidation, Chapter 12**
2 **Family Farmer's Debt Adjustment, Chapter**
3 **13 Individual's Debt Adjustment, and**
4 **Chapter 15 Ancillary and Cross-Border**
5 **Cases**

6 * * * * *

7 (b) NOTICE OF FAILURE TO FILE RULE
8 1007(b)(7) STATEMENT. If an individual debtor in a
9 chapter 7 or 13 case is required to ~~has not filed the~~ a statement
10 under ~~required by~~ Rule 1007(b)(7) and fails to do so within 45
11 days after the first date set for the meeting of creditors under
12 § 341(a) of the Code, the clerk shall promptly notify the
13 debtor that the case will be closed without entry of a
14 discharge unless the required statement is filed within the
15 applicable time limit under Rule 1007(c).

16 * * * * *

Committee Note

Subdivision (b) is amended to conform to the amendment of Rule 1007(b)(7). Rule 1007(b)(7) relieves an

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individual debtor of the obligation to file a statement of completion of a personal financial management course if the course provider notifies the court that the debtor has completed the course. The clerk's duty under subdivision (b) to notify the debtor of the possible closure of the case without discharge if the statement is not timely filed therefore applies only if the course provider has not already notified the court of the debtor's completion of the course.

Changes Made After Publication and Comment

No changes were made after publication and comment.

Rule 9006. Computing and Extending Time; Time for Motion Papers

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(d) ~~FOR MOTIONS PAPERS—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

10 application. When a motion is supported by affidavit, the
11 affidavit shall be served with the motion. ~~and, e~~ Except as
12 otherwise provided in Rule 9023, ~~opposing affidavits~~ any
13 written response shall ~~maybe~~ served not later than one day
14 before the hearing, unless the court permits otherwise ~~them to~~
15 ~~be served at some other time.~~

16 * * * * *

Committee Note

The title of this rule is amended to draw attention to the fact that it prescribes time limits for the service of motion papers. These time periods apply unless another Bankruptcy Rule or a court order, including a local rule, prescribes different time periods. Rules 9013 and 9014 should also be consulted regarding motion practice. Rule 9013 governs the form of motions and the parties who must be served. Rule 9014 prescribes the procedures applicable to contested matters, including the method of serving motions commencing contested matters and subsequent papers. Subdivision (d) is amended to apply to any written response to a motion, rather than just to opposing affidavits. The caption of the subdivision is amended to reflect this change. Other changes are stylistic.

Changes Made After Publication and Comment

No changes were made after publication and comment.

1 Rule 9013. Motions: Form and Service

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

10 (a) the trustee or debtor in possession and on those
11 entities specified by these rules; or

12 (b) the entities the court directs if these rules do not

13 require service or specify the entities to be served if service is
 14 ~~not required or the entities to be served are not specified by~~
 15 ~~these rules, the moving party shall serve the entities the court~~
 16 ~~directs.~~

17 * * * * *

Committee Note

A cross-reference to Rule 9006(d) is added to this rule to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule. The other changes are stylistic.

Changes Made After Publication and Comment

No changes were made after publication and comment.

1 Rule 9014. Contested Matters

2 * * * * *

3 (b) SERVICE. The motion shall be served in the

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

10 * * * * *

Committee Note

A cross-reference to Rule 9006(d) is added to subdivision (b) to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule.

Changes Made After Publication and Comment

No changes were made after publication and comment.

