

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In Re:

ADOPTION OF AMENDMENT TO
INTERIM BANKRUPTCY RULE 1007

GENERAL ORDER

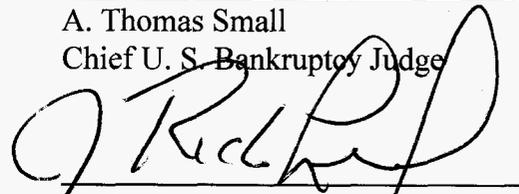
On April 20, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Act) was enacted into law, and most provisions of the Act were made effective on October 17, 2005. The Advisory Committee on Bankruptcy Rules prepared Interim Rules and subsequent Amended Interim Rules designed to implement the substantive and procedural changes mandated by the Act, which were adopted by this court by General Order that was entered on October 14, 2005. The Committee on Rules of Practice and Procedure and the Executive Committee of the Judicial Conference of the United States have approved an amendment to Interim Bankruptcy Rule 1007 on October 1, 2006, and recommended the adoption of such amendment.

Now, therefore, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the amendment to Interim Bankruptcy Rule 1007 is adopted by the judges of this court to be effective February 23, 2007. The attached Interim Rule as amended shall remain in effect until further order of the court.

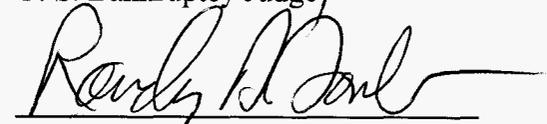
Dated this 23rd day of February, 2007.



A. Thomas Small
Chief U. S. Bankruptcy Judge



J. Rich Leonard
U. S. Bankruptcy Judge



Randy D. Doub
U. S. Bankruptcy Judge

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

**Interim Rule 1007. Lists, Schedules, and Statements, and
Other Documents; Time Limits¹**

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(b) SCHEDULES, STATEMENTS, AND OTHER

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DOCUMENTS REQUIRED.

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(3) Unless the United States trustee has determined

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that the credit counseling requirement of § 109(h) does not

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apply in the district, an individual debtor must file ~~the~~

8

~~certificate and debt repayment plan, if any, required by §~~

9

~~521(b), a certification under § 109(h)(3), or a request for a~~

10

~~determination by the court under § 109(h)(4). a statement of~~

11

compliance with the credit counseling requirement, prepared

¹ The amendments are proposed to Interim Rule 1007. Therefore, the underlined additions and the strikeout deletions are to the Interim Rule adopted by the courts on or about October 17, 2005, and not to the existing national rule. This amendment is intended to operate along with the adoption of the amendments to Official Form 1, the voluntary petition, set out in Part II.D.2 of this report.

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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~~
32 ~~by 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~~
42 ~~of a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b).~~
43 In a voluntary case, the documents required by paragraphs
44 (A), (C), and (D) of subdivision (b)(3) shall be filed with the
45 petition. Unless the court orders otherwise, if the debtor has

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46 filed a statement under subdivision (b)(3)(B), the documents
47 required by subdivision (b)(3)(A) shall be filed within 15
48 days of the order for relief. In a chapter 7 case, the debtor
49 shall file the statement required by subdivision (b)(7) within
50 45 days after the first date set for the meeting of creditors
51 under § 341 of the Code, and in a chapter 13 case no later
52 than the date when the last payment was made by the debtor
53 as required by the plan or the filing of a motion for a
54 discharge under § 1328(b). The debtor shall file the
55 statement required by subdivision (b)(8) no earlier than the
56 date of the last payment made under the plan or the date of
57 the filing of a motion for a discharge under §§ 1141(d)(5)(B),
58 1228(b), or 1328(b) of the Code. Lists, schedules, statements,
59 and other documents filed prior to the conversion of a case to
60 another chapter shall be deemed filed in the converted case
61 unless the court directs otherwise. Except as provided in §
62 1116(3) ~~of the Code~~, any extension of time for the filing of

63 the schedules, statements, and other documents required
64 under this rule may be granted only on motion for cause
65 shown and on notice to the United States trustee, ~~and to any~~
66 committee elected under § 705 or appointed under § 1102 of
67 the Code, trustee, examiner, or other party as the court may
68 direct. Notice of an extension shall be given to the United
69 States trustee and to any committee, trustee, or other party as
70 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.