

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

**ENTRY OF STANDING ORDER NO. 09-8 ADOPTING
REVISED INTERIM RULE 1007-I**

Effective December 1, 2009, Interim Rule 1007-I, as revised, by entry of Standing Order No. 09-8, is adopted in its entirety without change, for the Court, by the chief judge of the United States Bankruptcy Court for the Eastern District of Virginia. Revised Interim Rule 1007-I provides for uniform procedures and means by which to implement the National Guard and Reservists Debt Relief Act of 2008 (Act). The Act provides a temporary exclusion from the bankruptcy means test in chapter 7 bankruptcy cases for those members of the National Guard and Reserves called to active duty or homeland defense activity after September 11, 2001, for at least 90 days. For cases and proceedings not governed by the Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than Interim Rule 1007-I, as revised, shall apply. The Act applies only to chapter 7 bankruptcy cases commenced in the three-year period beginning on the effective date of the Act, December 19, 2008. Interim Rule 1007-I, as revised, shall remain in effect until further order of the Court.

Revised Interim Rule 1007-I conforms to the pending amendments to Federal Rule of Bankruptcy Procedure 1007, which take effect December 1, 2009, unless Congress acts to the contrary. The Interim Rule, as revised, includes time deadlines contained in Bankruptcy Rule 1007, which have been revised as part of a comprehensive package of changes to time periods in all the federal rules of practice and procedure. The three time deadlines in subdivision (c) of Federal Rule of Bankruptcy Procedure 1007, which are included in the Interim Rule, as revised, all become 14-day periods.

William C. Redden
Clerk of Court

Date: September 29, 2009

Attachment

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Adoption of Revision) Standing Order No. 09-8
to Interim Rule 1007-I)
)

ORDER ADOPTING REVISION TO INTERIM RULE 1007-I

On October 20, 2008, the National Guard and Reservists Debt Relief Act of 2008 (the Act) was enacted into law; and

The provisions of the Act became effective December 19, 2008; and

The Advisory Committee on Bankruptcy Rules prepared a new Interim Rule 1007-I, Lists, Schedules, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion in addition to an amendment to Official Form 22A, Statement of Current Monthly Income and Means Test Calculation creating a then new Part 1C therein.

The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States approved the new Interim Rule and form amendment and recommended the adoption of both by the Judicial Conference of the United States to provide for uniform procedures and means by which to implement the Act; and

The Judicial Conference of the United States, which had approved both recommendations, transmitted the Interim Rule to the courts for adoption by standing order, effective December 19, 2008; and

The Court adopted Interim Rule 1007-I, in its entirety without change, effective December 19, 2008.

Interim Rule 1007-I includes time deadlines contained in Federal Rule of Bankruptcy Procedure 1007 (Rule 1007), which will be revised effective December 1, 2009, unless Congress acts to the contrary, as part of a comprehensive package of changes to time periods in all federal rules of practice and procedure; and

It is necessary to revise Interim Rule 1007-I, effective December 1, 2009, to conform to the time deadline changes in Rule 1007, as follows: the 10-day period in Rule 1007(h) and the 15-day periods in subdivisions (a)(2), (a)(3), (c), (f) of the rule all become 14-day periods; and

The general effective date of the Act has not provided sufficient time to promulgate rules after appropriate public notice and an opportunity for comment.

NOW, THEREFORE, IT IS ORDERED that:

Pursuant to 28 U.S.C. section 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached revised Interim Rule 1007-I is

adopted in its entirety without change by the chief judge of the Court to be effective December 1, 2009, to conform to the Act, unless Congress acts to the contrary. For cases and proceedings not governed by the Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than revised Interim Rule 1007-I, shall apply. The Act applies only to cases commenced in the three-year period beginning on the effective date of the Act, as set forth herein. Revised Interim Rule 1007-I shall remain in effect until further order of the Court.

Dated: September 28, 2009

FOR THE COURT:

/s/ Douglas O. Tice Jr. _____
DOUGLAS O. TICE JR.
Chief United States Bankruptcy Judge

Interim Rule 1007-I. Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion¹

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

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

* * * * *

(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~~ 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f),

¹ New material is underlined; matter to be omitted is lined through.

19 (h), and (n) of this rule. In an involuntary case, the list in subdivision
20 (a)(2), and the schedules, statements, and other documents required
21 by subdivision (b)(1) shall be filed by the debtor within ~~15~~ 14 days
22 of the entry of the order for relief. In a voluntary case, the documents
23 required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall
24 be filed with the petition. Unless the court orders otherwise, a debtor
25 who has filed a statement under subdivision (b)(3)(B), shall file the
26 documents required by subdivision (b)(3)(A) within ~~15~~ 14 days of the
27 order for relief. In a chapter 7 case, the debtor shall file the statement
28 required by subdivision (b)(7) within 45 days after the first date set
29 for the meeting of creditors under § 341 of the Code, and in a chapter
30 11 or 13 case no later than the date when the last payment was made
31 by the debtor as required by the plan or the filing of a motion for a
32 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court
33 may, at any time and in its discretion, enlarge the time to file the
34 statement required by subdivision (b)(7). The debtor shall file the
35 statement required by subdivision (b)(8) no earlier than the date of
36 the last payment made under the plan or the date of the filing of a
37 motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b)
38 of the Code. Lists, schedules, statements, and other documents filed
39 prior to the conversion of a case to another chapter shall be deemed
40 filed in the converted case unless the court directs otherwise. Except

41 as provided in § 1116(3), any extension of time to file schedules,
42 statements, and other documents required under this rule may be
43 granted only on motion for cause shown and on notice to the United
44 States trustee, any committee elected under § 705 or appointed under
45 § 1102 of the Code, trustee, examiner, or other party as the court may
46 direct. Notice of an extension shall be given to the United States
47 trustee and to any committee, trustee, or other party as the court may
48 direct.

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

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

58 (2) If the temporary exclusion from means testing under
59 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in
60 subdivision (n)(1), and if the debtor has not previously filed a
61 statement and calculations required by subdivision (b)(4), the clerk
62 shall promptly notify the debtor that the required statement and

63 calculations must be filed within the time specified in subdivision
64 (n)(1).