

**UNITED STATES BANKRUPTCY COURT**  
DISTRICT OF NORTH DAKOTA

QUENTIN N. BURDICK UNITED STATES COURTHOUSE  
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CLERK

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To: North Dakota Bankruptcy Practitioners

From: Dianne G. Schmitz  
Clerk, U.S. Bankruptcy Court

Re: Rule Amendments Effective December 1, 2010

Date: November 23, 2010

Below are some changes to the Court's CM/ECF system and electronic filing procedures that will take effect December 1, 2010. These modifications are being implemented in response to the newest round of Amendments to the Federal Rules of Bankruptcy Procedure. An explanation regarding a number of the amendments will be highlighted and the Clerk's response to each change. Please note, the changes are not a comprehensive list of the Rule Amendments, rather it is a listing of those requiring immediate Clerk's Office response.

**Bankruptcy Rule 1007**

**What's Changing?**

- Shortens the time for a debtor to file a list of creditors after the entry of an order for relief in an **involuntary** case from 15 days to 7.

**Clerk's Response:**

- The clerk's staff will set a deadline in CM/ECF, giving the debtor 7 days to file their list of creditors. You will receive email notification of the deadline and can always monitor the deadline through the Query Menu.

**What's Changing?**

- For individuals in a Chapter 7 case, the deadline to file a Statement of Completion of Financial Management Course has been extended from 45 to 60 days.

**Clerk's Response:**

- Form B23 (Debtor's Certification of Completion of Instructional Course Concerning Financial Management) has been modified to reflect that the filing deadline has changed from 45 to 60 days after the first date set for the Meeting of Creditors. The Clerk's Office procedure has been to provide the courtesy Notice the same day of the bankruptcy filing. Our procedure will change and a Notice as required by Amended Rule 5009 will be issued on the 46<sup>th</sup> day after the date first set for the Meeting of Creditors if Form B23 has not been filed.

## **Bankruptcy Rule 1019**

### **What's Changing?**

- New subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case converts to Chapter 7 upon certain conditions. The new time period does NOT arise if the conversion occurs more than one year after the first order confirming a plan, or if the case was previously pending under a Chapter 7 and the objection period expired in the original Chapter 7 case. If a converted case DOES qualify for a new time period, the new deadline will be 30 days from the conclusion of the Meeting of Creditors.

### **Clerk's Response**

- The form notice for setting a 341 meeting in a converted Chapter 7 case will include the appropriate language setting out the new time period for objecting to exemptions, if a new objection time period is applicable.

## **Bankruptcy Rule 4001**

### **What's Changing?**

- Rule 4001 has been amended to bring the entire rule in line with the "Days are Days" amendments of last year.

## **Bankruptcy Rule 4004**

### **What's Changing?**

- Includes a reference to the filing of motions (rather than complaints) under Rule 7001(b) Objection to Debtor's Discharge
- Directs the Court to withhold a discharge if a motion or in very limited circumstances, complaint objecting to discharge has been filed, unless the objection has been decided in the Debtor's favor, and
- Directs the Court, in Chapter 11 and Chapter 13 cases, to withhold the entry of a discharge if the debtor has not filed a Statement of Completion of Course Concerning Personal Financial Management.

### **Clerk's Response**

- The 341 Meeting Notice will now display language referring to "Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts."
- A new docket event has been created: **Motion Objecting to Discharge**. The motion requires a notice giving parties 21 days to object. This event should be used ONLY when filing an objection to discharge pursuant to 727(a)(8) or (9) or 1328(f). See updated filing instructions for new procedural guidance at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov) > ECF User Manual.

## **Bankruptcy Rule 5009**

### **What's Changing?**

- New subdivision (b) requires the Clerk to provide notice to individual debtors in Chapter 7 and Chapter 13 cases that their cases may be closed if they fail to file a Statement of Completion of Financial Management Course. New subdivision (c) requires a foreign representative in a Chapter 15 case to file and give notice of the filing of a final report.

### **Clerk's Response**

- Our current Chapter 7 and 13 procedures will change slightly. The Court currently issues a Notice of Requirement to File a Statement of Completion upon the filing of the bankruptcy case. The procedure will change in that the Notice will be sent if the Form 23 has not been received as of 45 days after the date first set for the Meeting of Creditors.
- For Chapter 13 cases a Notice will be issued after the Chapter 13 Standing Trustee's Final Report and Account is filed instructing that the Domestic Support Obligation Certification and Financial Management Course certification documents are to be completed in order to obtain a discharge.
- With respect to new subdivision (c) the Court is creating a new docket event called **Chapter 15 Final Report by Foreign Representative**. This event can be found by clicking Bankruptcy from the blue menu bar, then select the Misc/Other category. Docketing this event will set a 30 day objection deadline. If no objections are filed, the Clerk's Office will then close the case as fully administered.

### **Bankruptcy Rule 5012**

#### **What's Changing?**

- A new rule establishes procedures in Chapter 15 cases for obtaining approval of an agreement regarding communication and coordination of proceedings with cases involving the debtor pending in other countries.

#### **Clerk's Response**

- We have developed a new docket event **Chapter 15 Motion for Approval of Agreement Re: Coordination of Proceedings**. This event is found by clicking Bankruptcy from CM/ECF's blue menu bar, then selecting the Motions/Applications category. Docketing this event will set a 30 day deadline for notice to all parties. If no objections are filed at the time of deadline expiration, the Court will enter an Order.

### **Bankruptcy Rule 7001**

#### **What's Changing?**

- Objections to Discharge under § 727(a)(8), (a)(9) and § 1328(f) are to be commenced by motion rather than complaint, corresponding to the amendment to Rule 4004.

#### **Clerk's Response**

- We have created a new docket event, **Motion Objecting to Discharge** (see description as noted under Bankruptcy Rule 4004.) As a reminder, this event should be used only when filing an objection to discharge pursuant to 727(a)(8) or (9) or 1328(f).

Should you have any questions or concerns regarding the procedural changes please do not hesitate to contact the Bankruptcy Clerk's Office.