

# BANKRUPTCY CLERK'S NEWSLETTER

*District of North Dakota*

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## PRIVACY AMENDMENTS: CHANGES TO BANKRUPTCY RULES/FORMS

by Ellen A. Johanson, Clerk of Court

As noted in previous newsletters, privacy amendments to the Federal Rules of Bankruptcy Procedure will take effect on December 1, 2003 unless Congress acts otherwise before then. Other amendments to the forms and rules will also take place but do not make quite the same impact as the amendments dealing with privacy issues. For example, both Official Form 5 and Official Form 17 are amended to give notice to child support creditors and their representatives that no filing fee is required if the petitioner or the appellant is a child support creditor.

The remainder of this article discusses only those privacy amendment changes to the rules and forms as well as the ramifications on bankruptcy practice on and after December 1, 2003.

### FEDERAL RULES OF BANKRUPTCY PROCEDURE

#### Rule 1005      **Caption of Petition**

This rule is amended to require that the caption of a petition will also include the employer identification number, any federal tax identification number and only the last four digits of the debtor's social security number.

#### Rule 1007      **Lists, Schedules and Statements; Time Limits**

This rule is amended by adding a requirement that the debtor "submit" a statement of the debtor's full social security number. This document is not filed, nor will it ever be a part of the case file. Creditors will receive notice of the full social security number only once, with the first meeting notice. Creditors will also be able to perform searches using the full social security number.

#### Rule 2002      **Notices to Creditors, Equity Security Holders, United States and United States Trustee**

This amended rule establishes that the first meeting notice will include the full social security number as well as any employer identification number or other federal taxpayer identification number.

## OFFICIAL FORMS

- Form 1      **Voluntary Petition**  
This form is amended to require the debtor to disclose only the last four digits of the debtor's social security number as well as the full tax payer identification number. Note that the form continues to require the full social security number of a non-attorney bankruptcy petition preparer.
- Form 3      **Application to Pay Filing Fee in Installments/Order**  
The form requires the full social security number of a non-attorney bankruptcy petition preparer.
- Form 5      **Involuntary Petition**  
The form is amended to require a petitioning creditor to disclose only the debtor's employer identification number, if any, and the last four digits of the debtor's social security number. The amendment also deletes the request for information on the "Type of Business."
- Form 6      **Declaration Concerning Debtor's Schedules and Certification of Non-Attorney Bankruptcy Petition Preparer**  
A petition preparer is required to disclose its full social security number.
- Schedule D Creditors Holding Secured Claims**  
**Schedule E Creditors Holding Unsecured Priority Claims**  
**Schedule F Creditors Holding Unsecured Nonpriority Claims**  
These forms are being amended to indicate to the debtor that creditors' account numbers are useful and should be provided when practical, but they are not required to be provided.
- Schedule I Current Income of Individual Debtor(s)**  
The form is modified by deleting the requirement that a debtor disclose the names of dependents.
- Form 7      **Statement of Financial Affairs/Certification of Non-Bankruptcy Petition Preparer**  
The form is amended to require the debtor to disclose only the last four digits of the debtor's social security number and any other tax payer identification number. Additionally, items requiring the listing of any account number are amended to require only the last four digits of those numbers. Bankruptcy petition preparers must disclose their full social security numbers.
- Form 8      **Chapter 7 Individual Debtor's Statement of Intention**  
The non-attorney bankruptcy petition preparer is required to provide its full social security number.

- Form 9
- A Chapter 7 Individual or Joint Debtor No Asset Case Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - B Chapter 7 Corporation/Partnership No Asset Case Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - C Chapter 7 Individual or Joint Debtor Case Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - D Chapter 7 Corporation/Partnership Asset Case Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - E Chapter 11 Individual or Joint Debtor Case Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors and Deadlines**
  - E Alternate Chapter 11 Individual or Joint Debtor Case Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors and Deadlines**
  - F Chapter 11 Corporation/Partnership Asset Case Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors and Deadlines**
  - F Alternate Chapter 11 Corporation/Partnership Case Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - G Chapter 12 Individual or Joint Debtor Family Farmer Notice of Chapter 12 Bankruptcy Case, Meeting of Creditors, and Deadlines**
  - H Chapter 12 Corporation/Partnership Family Farmer Notice of Chapter 12 Bankruptcy Case, Meeting of Creditors and Deadlines**
  - I Chapter 13 Case Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors and Deadlines**

These amended forms include the debtor's full employer identification number, if any, as well as the last four digits of the debtor's social security number. The copies of these forms that are served pursuant to Bankruptcy Rule 2002 will have the debtor's full social security number. The copy of these forms that become part of the case file will only show the last four digits of the social security number.

Form 10 **Proof of Claim**

The amended form requires a wage, salary or other compensation creditor to disclose only the last four digits of the creditor's social security number. A trustee can request further information from a creditor and it need not become part of the case file.

Form 16A **Caption (Full)**

This amended form discloses only the last four digits of the debtor's social security number and other taxpayer identification numbers.

Form 16C **Caption of Complaint in an Adversary Proceeding Filed by a Debtor**

This form has been abrogated.

Form 19 **Certification and Signature of Non-Attorney Bankruptcy Petition Preparer (See 11 U.S.C. Section 110)**

The full social security number of a non-attorney bankruptcy petition preparer is reported on this form.

Form 21      **Statement of Social Security Number(s)**

This is a new form, not an amended form, and is currently presented only in draft. Please use this form, or something similar, on and after December 1, 2003. This is the form, discussed above, that will be “submitted” and not “filed.” This form will not become part of the case file.

BANKRUPTCY PRACTICE

Bankruptcy Judge William Hill has determined that the new forms, or redacted versions of the old forms, will be used on December 1, 2003 and after. Full disclosure of the debtor’s social number will continue to be a requirement until then. Do not begin to use the new forms until December 1. Please contact your forms provider to determine if the amended forms, including the suggested Form 21 noted above, will be available to you on time.

Remember that filers, not the clerk of court, are responsible for redacting documents and ensuring that full social security numbers do not make their way into official court files.

You may check our website at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov) for the most updated information on this subject.

(See attached Form B 21 Official Form 21)

**CM/ECF - It's.....  
“ELECTRA”-FILING!**

**CM/ECF Fairs Hit the Road!  
By: Dianne Schmitz, Chief Deputy**

Members of the Bankruptcy Clerk’s Office and Judge’s Chambers held CM/ECF fairs in the cities of Dickinson, Bismarck, Fargo, Grand Forks and Minot to present information to local area bankruptcy attorneys, their support staff and all others interested in the electronic filing project. The response was much greater than anticipated and we had over 100 people participate in the introductory event.

The seminar kicked off with an introduction by Judge Hill’s Law Clerk, MaryBeth Hegstad, followed by a welcome from the Bankruptcy Clerk, Ellen Johanson. Next on the agenda was a video “CM/ECF from an Attorney’s Perspective.” A panel discussion was presented regarding frequently asked questions which included topics such as systems requirements, preparing you and your staff for electronic case filing, security, privacy issues, ECF training plans and our future ECF Help Desk. A Bankruptcy Clerk’s staff member also led the audience through opening a case on CM/ECF and uploading documents into the system. As indicated by Ellen Johanson at the seminar, we hope to go “live” on CM in June 2004. After allowing the Bankruptcy Court a period of time to become comfortable with the new system we plan to train parties interested in giving ECF a try.

As a reminder, note a tutorial is offered to familiarize yourself with ECF. Check it out on our website at [http://www.ndb.uscourts.gov/publicwebcmecf/training\\_mtls/ecfvaeb01/index.html](http://www.ndb.uscourts.gov/publicwebcmecf/training_mtls/ecfvaeb01/index.html).

Through the evaluations, feedback and testimonials given by various parties, the interest expressed in the system and its capabilities was overwhelming. Not only were attorneys asking how quickly North Dakota could get this program on line, but many were volunteering to assist the Court in its process, procedure and rule review.

With this level of enthusiasm from the bankruptcy community we know the implementation process of the electronic filing initiative within North Dakota will be a guaranteed success. We look forward to a partnership with you as we move toward the next level of bankruptcy case filing.

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## CM/ECF E-Mail Updates

By Jim Snyder

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Great news--you had the opportunity to sit through the CM/ECF seminars presented to you by staff from the Bankruptcy Court in Dickinson, Bismarck, Fargo, Grand Forks and Minot. Are you interested in getting e-mail updates from the Bankruptcy Clerks office when it comes to CM/ECF implementation? If you could not attend the seminar, you can still be on our mailing list. We will be providing information, updates, and even the famous Bankruptcy Clerk's Handouts. Send an email to [webmaster@ndb.uscourts.gov](mailto:webmaster@ndb.uscourts.gov) so we can add you to our list. We are looking forward to sharing our CM/ECF news with you.



**FORM 21. STATEMENT OF SOCIAL SECURITY NUMBER**

[Caption as in Form 16A.]

**D-R-A-F-T**

**STATEMENT OF SOCIAL SECURITY NUMBER(S)**

1. Name of Debtor (enter Last, First, Middle): \_\_\_\_\_  
(Check the appropriate box and, if applicable, provide the required information.)

/ /Debtor has a Social Security Number and it is: \_\_\_\_-\_\_-\_\_\_\_  
(If more than one, state all.)

/ /Debtor does not have a Social Security Number.

2. Name of Joint Debtor (enter Last, First, Middle): \_\_\_\_\_  
(Check the appropriate box and, if applicable, provide the required information.)

/ /Joint Debtor has a Social Security Number and it is: \_\_\_\_-\_\_-\_\_\_\_  
(If more than one, state all.)

/ /Joint Debtor does not have a Social Security Number.

I declare under penalty of perjury that the foregoing is true and correct.

X \_\_\_\_\_  
Signature of Debtor Date

X \_\_\_\_\_  
Signature of Joint Debtor Date

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*\*Joint debtors must provide information for both spouses.*

*Penalty for making a false statement: Fine of up to \$250,000 or up to 5 years imprisonment or both. 18 U.S.C. §§ 152 and 3571.*