

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

IN RE:

DECEMBER 2012 AMENDMENT TO
INTERIM BANKRUPTCY RULE
1007-I.

No. 12-GO-04



THIRD ORDER AMENDING INTERIM BANKRUPTCY RULE 1007-I

WHEREAS the Court, by General Order No. 09-GO-05, effective December 1, 2009, adopted Interim Bankruptcy Rule 1007-I, which implemented the National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438, to provide temporary exclusion from the bankruptcy means test for certain reservists and members of the National Guard; and

WHEREAS the Court, by General Order No. 10-GO-06, effective December 1, 2010, amended Interim Bankruptcy Rule 1007-I to extend the time to file the statement of completion of a course in personal financial management in a Chapter 7 case filed by an individual debtor from 45 days after the first date set for the meeting of creditors to 60 days after the first date set for the meeting of creditors; and

WHEREAS the Judicial Conference of the United States has approved an amendment to Rule 1007 of the Federal Rules of Bankruptcy Procedure that will eliminate from Rule 1007(c) the existing time limit for filing the list of creditors in an involuntary bankruptcy case; and

WHEREAS the Supreme Court of the United States has adopted the amendment proposed by the Judicial Conference and transmitted the same to Congress pursuant to the Rules Enabling Act; and

WHEREAS, absent further action by Congress, the amendment to Rule 1007 of the Federal Rules of Bankruptcy Procedure will become effective December 1, 2012; and

WHEREAS the Court has determined that the amendments to Interim Bankruptcy Rule 1007-I, as attached hereto as Exhibit A, are necessary to conform to the amendment to Rule 1007 of the Federal Rules of Bankruptcy Procedure.

IT IS THEREFORE ORDERED that General Order No. 10-GO-06 is hereby superseded.

IT IS FURTHER ORDERED that Interim Bankruptcy Rule 1007-I (Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion), attached hereto as Exhibit B and incorporated by reference, is hereby adopted for use in all cases filed under Chapter 7 of Title 11 of the United States Code commenced December 1, 2012, through the period as described in the National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438, as amended.

IT IS FURTHER ORDERED that this General Order shall take effect on December 1, 2012.

Dated this 26th day of November, 2012.

BY THE COURT:



TERRENCE L. MICHAEL, CHIEF JUDGE
UNITED STATES BANKRUPTCY COURT



DANA L. RASURE
UNITED STATES BANKRUPTCY JUDGE

15 (c) TIME LIMITS. In a voluntary case, the schedules,
16 statements, and other documents required by subdivision (b)(1), (4),
17 (5), and (6) shall be filed with the petition or within 14 days
18 thereafter, except as otherwise provided in subdivisions (d), (e), (f),
19 (h), and (n) of this rule. In an involuntary case, ~~the list in~~
20 ~~subdivision (a)(2),~~ and the schedules, statements, and other
21 documents required by subdivision (b)(1) shall be filed by the
22 debtor within 14 days of the entry of the order for relief. In a
23 voluntary case, the documents required by paragraphs (A), (C), and
24 (D) of subdivision (b)(3) shall be filed with the petition. Unless
25 the court orders otherwise, a debtor who has filed a statement under
26 subdivision (b)(3)(B), shall file the documents required by
27 subdivision (b)(3)(A) within 14 days of the order for relief. In a
28 chapter 7 case, the debtor shall file the statement required by
29 subdivision (b)(7) within 60 days after the first date set for the
30 meeting of creditors under § 341 of the Code, and in a chapter 11 or
31 13 case no later than the date when the last payment was made by
32 the debtor as required by the plan or the filing of a motion for a
33 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The
34 court may, at any time and in its discretion, enlarge the time to file
35 the statement required by subdivision (b)(7). The debtor shall file
36 the statement required by subdivision (b)(8) no earlier than the date
37 of the last payment made under the plan or the date of the filing of a

38 motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b)
39 of the Code. Lists, schedules, statements, and other documents
40 filed prior to the conversion of a case to another chapter shall be
41 deemed filed in the converted case unless the court directs
42 otherwise. Except as provided in § 1116(3), any extension of time
43 to file schedules, statements, and other documents required under
44 this rule may be granted only on motion for cause shown and on
45 notice to the United States trustee, any committee elected under
46 § 705 or appointed under § 1102 of the Code, trustee, examiner, or
47 other party as the court may direct. Notice of an extension shall be
48 given to the United States trustee and to any committee, trustee, or
49 other party as the court may direct.

50 * * * * *

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

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

59 (2) If the temporary exclusion from means testing under
60 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in

61 subdivision (n)(1), and if the debtor has not previously filed a
62 statement and calculations required by subdivision (b)(4), the clerk
63 shall promptly notify the debtor that the required statement and
64 calculations must be filed within the time specified in subdivision
65 (n)(1).

Exhibit B

Interim Rule 1007-I.¹ Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion²

1 * * * * *

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

4 * * * * *

5 (4) Unless either: (A) § 707(b)(2)(D)(I) applies,
6 or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means
7 testing granted therein extends beyond the period specified by Rule
8 1017(e), an individual debtor in a chapter 7 case shall file a
9 statement of current monthly income prepared as prescribed by the
10 appropriate Official Form, and, if the current monthly income
11 exceeds the median family income for the applicable state and
12 household size, the information, including calculations, required by
13 § 707(b), prepared as prescribed by the appropriate Official Form.

14 * * * * *

¹ Interim Rule 1007-I has been adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438, as amended by Public Law No. 112-64. The amended Act, which provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces, applies to bankruptcy cases commenced in the seven-year period beginning December 19, 2008.

² Incorporates (1) time amendments to Rule 1007 which took effect on December 1, 2009, (2) an amendment, effective December 1, 2010, which extended the time to file the statement of completion of a course in personal financial management in a chapter 7 case filed by an individual debtor, and (3) a conforming amendment, effective December 1, 2012, which removed an inconsistency created by the 2010 amendment.

15 (c) TIME LIMITS. In a voluntary case, the schedules,
16 statements, and other documents required by subdivision (b)(1), (4),
17 (5), and (6) shall be filed with the petition or within 14 days
18 thereafter, except as otherwise provided in subdivisions (d), (e), (f),
19 (h), and (n) of this rule. In an involuntary case, the schedules,
20 statements, and other documents required by subdivision (b)(1) shall
21 be filed by the debtor within 14 days of the entry of the order for
22 relief. In a voluntary case, the documents required by paragraphs (A),
23 (C), and (D) of subdivision (b)(3) shall be filed with the petition.
24 Unless the court orders otherwise, a debtor who has filed a statement
25 under subdivision (b)(3)(B), shall file the documents required by
26 subdivision (b)(3)(A) within 14 days of the order for relief. In a
27 chapter 7 case, the debtor shall file the statement required by
28 subdivision (b)(7) within 60 days after the first date set for the
29 meeting of creditors under § 341 of the Code, and in a chapter 11 or
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33 court may, at any time and in its discretion, enlarge the time to file
34 the statement required by subdivision (b)(7). The debtor shall file
35 the statement required by subdivision (b)(8) no earlier than the date
36 of 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)

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

49 * * * * *

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53 means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file
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56 the expiration occurs within the time specified by Rule 1017(e) for
57 filing 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

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