

ADMINISTRATIVE FILE

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

GENERAL ORDER NO. 2009-17

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

ADOPTION OF REVISED INTERIM)
BANKRUPTCY RULE 1007-1) ORDER NO. 2009-17
)
)

Whereas, The National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438, was enacted into law on October 20, 2008;

Whereas, the Act excludes certain members of the National Guard and Reserves from means testing in chapter 7 bankruptcy cases, which are commenced in the three-year period beginning December 19, 2008;

Whereas, the Executive Committee of the Judicial Conference of the United States recommended that the district courts adopt Interim Bankruptcy Rule 1007-1 to implement the Act, which this Court adopted in General Order No. 2008-22 on December 16, 2008;

Whereas, the Secretary of the Judicial Conference of the United States has recommended that Interim Bankruptcy Rule 1007-1 be revised consistent with the changes in time deadlines in Rule 1007, effective December 1, 2009, unless Congress acts to the contrary;

NOW THEREFORE, 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 Bankruptcy Rule 1007-1 is adopted by a majority of judges of this Court effective December 1, 2009, and will apply only to cases commenced in the three-year period beginning December 19, 2008.

IT IS SO ORDERED.

For the Court



James G. Carr
Chief Judge
United States District Court

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

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

(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 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), (h), and (n) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in §

39 1116(3), any extension of time to file schedules, statements, and other
40 documents required under this rule may be granted only on motion for cause
41 shown and on notice to the United States trustee, any committee elected
42 under § 705 or appointed under § 1102 of the Code, trustee, examiner, or
43 other party as the court may direct. Notice of an extension shall be given to
44 the United States trustee and to any committee, trustee, or other party as the
45 court may direct.

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

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

54 (2) If the temporary exclusion from means testing under
55 § 707(b)(2)(D)(ii) terminates due to the circumstances specified in
56 subdivision (n)(1), and if the debtor has not previously filed a statement and
57 calculations required by subdivision (b)(4), the clerk shall promptly notify the
58 debtor that the required statement and calculations must be filed within the
59 time specified in subdivision (n)(1).