

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

ADOPTION OF INTERIM BANKRUPTCY
RULE 1007

Administrative Order No. 2006-3

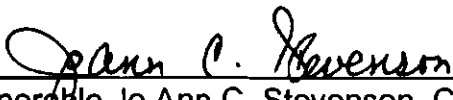
WHEREAS, on April 20, 2005 the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("the Act") was enacted into law; and

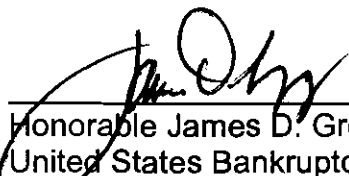
WHEREAS, on September 19, 2006, the Judicial Conference approved, among other things, that an amendment to Interim Bankruptcy Rule 1007 be distributed immediately to the courts with a recommendation that it be adopted by standing order or local rule in the same manner that the Interim Bankruptcy Rules were adopted in 2005; and

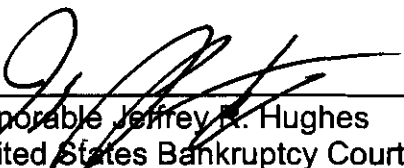
WHEREAS, the general effective date of the Act has not provided sufficient time to promulgate rules after appropriate public notice and an opportunity for comment;

NOW, THEREFORE, 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 Interim Rule 1007 is adopted in its entirety, without change, by a majority of the judges of this Court to be effective October 4, 2006, to conform with the Act as may be amended from time to time by the Rules Committee. For cases and proceedings not governed by the Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than the Interim Rules, shall apply. The Interim Rules shall remain in effect until further order of the court.

Effective as of 4 October, 2006


Honorable Jo Ann C. Stevenson, Chief Judge
United States Bankruptcy Court


Honorable James D. Gregg
United States Bankruptcy Court

 10/4/06
Honorable Jeffrey R. Hughes
United States Bankruptcy Court

4. *Text of Amendment to Proposed Interim Rule 1007.*

**Interim Rule 1007. Lists, Schedules, and Statements, and
Other Documents; Time Limits¹**

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(b) SCHEDULES, STATEMENTS, AND OTHER

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DOCUMENTS REQUIRED.

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(3) Unless the United States trustee has determined

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that the credit counseling requirement of § 109(h) does not

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apply in the district, an individual debtor must file the

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~~certificate and debt repayment plan, if any, required by~~

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~~§ 521(b), a certification under § 109(h)(3), or a request for a~~

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~~determination by the court under § 109(h)(4). a statement of~~

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~~compliance with the credit counseling requirement, prepared~~

¹ The amendments are proposed to Interim Rule 1007. Therefore, the underlined additions and the strikeout deletions are to the Interim Rule adopted by the courts on or about October 17, 2005, and not to the existing national rule. This amendment is intended to operate along with the adoption of the amendments to Official Form 1, the voluntary petition.

12 as prescribed by the appropriate Official Form which must
13 include one of the following:

14 (A) an attached certificate and debt repayment
15 plan, if any, required by § 521(b);

16 (B) a statement that the debtor has received the
17 credit counseling briefing required by § 109(h)(1) but does
18 not have the certificate required by § 521(b);

19 (C) a certification under § 109(h)(3); or

20 (D) a request for a determination by the court
21 under § 109(h)(4).

22 * * * * *

23 (c) TIME LIMITS. In a voluntary case, the schedules,
24 and statements, and other documents required by subdivision
25 (b)(1), (4), (5), and (6) shall be filed with the petition or
26 within 15 days thereafter, except as otherwise provided in
27 subdivisions (d), (e), (f), and (h) of this rule. In an
28 involuntary case, the list in subdivision (a)(2), and the
29 schedules, statements, and other documents required by

30 subdivision (b)(1) shall be filed by the debtor within 15 days
31 of the entry of the order for relief. The documents required by
32 ~~subdivision (b)(3) shall be filed with the petition in a~~
33 ~~voluntary case. The statement required by subdivision (b)(7)~~
34 ~~shall be filed by the debtor within 45 days after the first date~~
35 ~~set for the meeting of creditors under § 341 of the Code in a~~
36 ~~chapter 7 case, and no later than the last payment made by the~~
37 ~~debtor as required by the plan or the filing of a motion for~~
38 ~~entry of a discharge under § 1328(b) in a chapter 13 case.~~
39 The statement required by subdivision (b)(8) shall be filed by
40 the debtor not earlier than the date of the last payment made
41 under the plan or the date of the filing of a motion for entry of
42 a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b). In
43 a voluntary case, the documents required by paragraphs (A),
44 (C), and (D) of subdivision (b)(3) shall be filed with the
45 petition. Unless the court orders otherwise, if the debtor has
46 filed a statement under subdivision (b)(3)(B), the documents
47 required by subdivision (b)(3)(A) shall be filed within 15 days

48 of the order for relief. In a chapter 7 case, the debtor shall file
49 the statement required by subdivision (b)(7) within 45 days
50 after the first date set for the meeting of creditors under § 341
51 of the Code, and in a chapter 13 case no later than the date
52 when the last payment was made by the debtor as required by
53 the plan or the filing of a motion for a discharge under
54 § 1328(b). The debtor shall file the statement required by
55 subdivision (b)(8) no earlier than the date of the last payment
56 made under the plan or the date of the filing of a motion for
57 a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of
58 the Code. Lists, schedules, statements, and other documents
59 filed prior to the conversion of a case to another chapter shall
60 be deemed filed in the converted case unless the court directs
61 otherwise. Except as provided in § 1116(3), any extension of
62 time for the filing of the schedules, statements, and other
63 documents required under this rule may be granted only on
64 motion for cause shown and on notice to the United States
65 trustee, and to any committee elected under § 705 or

66 appointed under § 1102 of the Code, trustee, examiner, or
67 other party as the court may direct. Notice of an extension
68 shall be given to the United States trustee and to any
69 committee, trustee, or other party as the court may direct.

COMMITTEE NOTE

Subdivision (b)(3) of the rule is amended to require the debtor to file an Official Form relating to the credit counseling requirement provided by the 2005 amendments to § 109. Official Form 1 includes statements that warn the debtor of the consequences of failing to comply with the credit counseling requirement. The rule also provides that the debtor may file a statement that the debtor has received credit counseling but has not yet received a certificate from the credit counseling provider. Subdivision (c) is amended to permit the debtor to file the certificate and debt repayment plan within 15 days after the filing of the petition if a Rule 1007(b)(3)(B) statement is filed.

Other changes are stylistic.