2012-03

U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED
NOV - 6 2012
DANNY L. MILLER, CLERK
BY _____ DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

Third Amended Standing Order
Adopting Interim Bankruptcy Rule 1007-I

Whereas, the *National Guard and Reservists Debt Relief Act of 2008*, Pub. L. No. 110-438, as amended by Pub. L. No. 112-64 (2011), excludes certain members of the National Guard and Reserves from means testing in chapter 7 bankruptcy cases commenced between December 19, 2008, and December 18, 2015; and

Whereas, the Advisory Committee on Bankruptcy Rules has requested approval of Interim Bankruptcy Rule 1007-I; and

Whereas, the Executive Committee, acting on behalf of the Judicial Conference, has approved the transmission of Interim Bankruptcy Rule 1007-I to the courts with a recommendation that it be adopted through a local rule or standing order; and

Whereas, Interim Bankruptcy Rule 1007-I was amended to implement changes in connection with federal amendments to Rule 9006(a) effective December 1, 2009; and

Whereas, Interim Bankruptcy Rule 1007-I was amended to implement changes in connection with federal amendments to Rule 1007 effective December 1, 2010; and

Whereas, certain technical amendments to Fed. R. Bankr. P. 1007 become effective on December 1, 2012;

IT IS ORDERED that Interim Bankruptcy Rule 1007-I, as amended, is adopted by the judges of this Court and is applicable to chapter 7 cases filed on or after December 19, 2008. See Exhibit A.

SO ORDERED. Effective: December 1, 2012

Edward Ellington
United States Bankruptcy Judge

Neil P. Olack
United States Bankruptcy Judge

Katharine M. Samson
United States Bankruptcy Judge

Interim Rule 1007-I.[1] Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion[2]

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.

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[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, ~~and~~ (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 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 than14 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).