

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA

**FILED**  
U.S. Bankruptcy Court  
Western District of NC

OCT 05 2006

David E. Weich, Clerk  
Charlotte Division  
ASW

In re: )  
)  
ADOPTION OF AMENDMENT TO )  
INTERIM BANKRUPTCY RULE )  
1007 )  
)  
)  
\_\_\_\_\_ )

ADMINISTRATIVE ORDER

JUDGMENT ENTERED ON OCT 05 2006

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

Whereas, most provisions of the Act were made effective on October 17, 2005; and

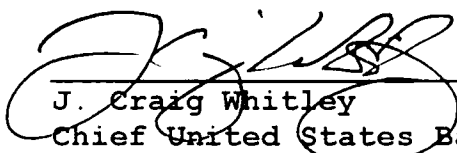
Whereas, the Advisory Committee on Bankruptcy Rules prepared Interim Rules and subsequent Amended Interim Rules designed to implement the substantive and procedural changes mandated by the Act, which were adopted by this court by Administrative Order; and

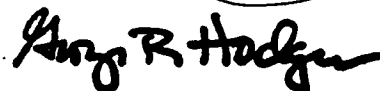
Whereas, the Committee on Rules of Practice and Procedure and the Executive Committee of the Judicial Conference of the United States have approved an amendment to Interim Bankruptcy Rule 1007 and recommended the adoption of such amendment; and

Whereas, the general effective date of the Act did not provide sufficient time to promulgate rules after appropriate notice and opportunity for comment;

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Now, therefore, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the aforesaid amendment to Interim Bankruptcy Rule 1007 is adopted by the judges of this court to be effective October 1, 2006. The attached Interim Rule as amended shall remain in effect until further order of the court.

  
\_\_\_\_\_  
J. Craig Whitley  
Chief United States Bankruptcy Judge



\_\_\_\_\_  
George R. Hodges  
United States Bankruptcy Judge

**Interim Rule 1007. Lists, Schedules, and Statements, and Other Documents; Time Limits<sup>1</sup>**

1 \* \* \* \* \*

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

4 \* \* \* \* \*

5 (3) Unless the United States trustee has determined  
6 that the credit counseling requirement of § 109(h) does not  
7 apply in the district, an individual debtor must file the  
8 ~~certificate and debt repayment plan, if any, required by~~  
9 ~~§ 521(b), a certification under § 109(h)(3), or a request for a~~  
10 ~~determination by the court under § 109(h)(4).~~ a statement of  
11 compliance with the credit counseling requirement, prepared

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\* 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.

\* \* \* \* \*