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ADMINISTRATIVE ORDER
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CLERK, UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

GENERAL ORDER NO. 2011-6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ADOPTION OF REVISED INTERIM BANKRUPTCY RULE 1007-I	)	ORDER NO. 2011-6

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-I 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 change in time in Rule 1007, effective December 1, 2010, for individual chapter 7 debtors to file a statement of completion of a course concerning personal financial management;

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-I is adopted by a majority of judges of this Court effective December 1, 2010, and will apply only to cases commenced in the three-year period beginning December 19, 2008.

IT IS SO ORDERED.

For the Court

Solomon Oliver, Jr.

Solomon Oliver, Jr.
Chief Judge
United States District Court

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 DOCUMENTS

3 REQUIRED.

4 * * * * *

5 (4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) §

6 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein extends

7 beyond the period specified by Rule 1017(e),

8 an individual debtor in a chapter 7 case shall file a statement of current monthly

9 income prepared as prescribed by the appropriate Official Form, and, if the current

10 monthly income exceeds the median family income for the applicable state and

11 household size, the information, including calculations, required by § 707(b),

12 prepared as prescribed by the appropriate Official Form.

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[1]Interim Rule 1007-I was adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438. The 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 three-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.

14 (c) TIME LIMITS. In a voluntary case, the schedules, statements, and other
15 documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the
16 petition or within 14 days thereafter, except as otherwise provided in subdivisions
17 (d), (e), (f), (h), and (n) of this rule. In an involuntary case, the list in subdivision
18 (a)(2), and the schedules, statements, and other documents required by subdivision
19 (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief.
20 In a voluntary case, the documents required by paragraphs (A), (C), and (D) of
21 subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise,
22 a debtor who has filed a statement under subdivision (b)(3)(B), shall file the
23 documents required by subdivision (b)(3)(A) within 14 days of the order for relief.
24 In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7)
25 within ~~45~~ 60 days after the first date set for the meeting of creditors under § 341 of
26 the Code, and in a chapter 11 or 13 case no later than the date when the last payment
27 was made by the debtor as required by the plan or the filing of a motion for a
28 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any
29 time and in its discretion, enlarge the time to file the statement required by
30 subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8)
31 no earlier than the date of the last payment made under the plan or the date of the
32 filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the
33 Code. Lists, schedules, statements, and other documents filed prior to the conversion
34 of a case to another chapter shall be deemed filed in the converted case unless the
35 court directs otherwise. Except as provided in § 1116(3), any extension of time to

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

42 * * * * *

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

45 (1) An individual debtor who is temporarily excluded from means testing
46 pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations
47 required by subdivision (b)(4) no later than14 days after the expiration of the
48 temporary exclusion if the expiration occurs within the time specified by Rule
49 1017(e) for filing a motion pursuant to § 707(b)(2).

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

COMMITTEE NOTE

This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the Code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(1) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and calculations, subdivision (n)(2) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(1).