## TIL C.L.

2012 JAN 18 AM 11: 35

## **GENERAL ORDER NO. 2012-2**

SEERN U.S. DISTRICT COURT NORTHERN DISTRICT OF OHID CLEVELAND

## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

ADOPTION OF REVISED INTERIM BANKRUPTCY RULE 1007-I ORDER NO. 2012-2

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 National Guard and Reservist Debt Relief Extension Act of 2011, Pub. L. No. 112-64, was enacted into law on December 13, 2011, extending for an additional four years the temporary exclusion from the bankruptcy means test for certain Reservists and members of the National Guard;

Whereas, the Executive Committee of the Judicial Conference of the United States has 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, and revised in General Order No. 2011-6 on February 8, 2011;

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 January 17, 2012, and will apply only to cases commenced in the four-year period beginning December 19, 2011, unless Congress further extends the termination date beyond December 18, 2015.

IT IS SO ORDERED.

For the Court

Jolomon Oliver, Je

Solomon Oliver, Jr. Chief Judge United States District Court

	<b>Documents; Time Limits; Expiration of Temporary Means</b> Testing Exclusion <sup>2</sup>
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.

Interim Rule 1007-I.<sup>1</sup> Lists, Schedules, Statements, and Other

<sup>&</sup>lt;sup>1</sup>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.

<sup>&</sup>lt;sup>2</sup> 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

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

27	of the last payment made under the plan or the date of the filing of a
37	of the fast payment made under the plan of the date of the filling 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

§ 707(b)(2)(D)(ii) terminates due to the circumstances specified in
subdivision (n)(1), and if the debtor has not previously filed a
statement and calculations required by subdivision (b)(4), the clerk
shall promptly notify the debtor that the required statement and
calculations 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).