

## INTRODUCTION AND GENERAL INSTRUCTIONS

Rule 9009 of the Federal Rules of Bankruptcy Procedure states that the Official Forms prescribed by the Judicial Conference of the United States "shall be observed and used." The Official Forms, accordingly, are obligatory in character.

Rule 9009 expressly permits the user of the Official Forms to make such "alterations as may be appropriate," and the use of the Official Forms has been held to be subject to a "rule of substantial compliance." Some rules, for example Fed. R. Bankr. P. 3001(a), specifically state that the filed document need only "conform substantially" to the Official Form. A document for which an Official Form is prescribed generally will meet the standard of substantial compliance if the document contains the complete substance, that is, all of the information required by the Official Form.

Rule 9009 also expressly permits the contents of Official Forms to be rearranged, and the format of the Official Forms traditionally has been quite flexible. The forms of the voluntary petition, the schedules, and the statement of financial affairs are printed and sold by private publishers. Design features such as type face, type size, layout, and side and top margins were not prescribed by the Judicial Conference, but rather left to the professional judgment of each publisher.

A great deal of variation, accordingly, has developed. Some publishers also add forms that are not official but which have been drafted by the publisher. A form for a chapter 13 plan, for example, frequently is included with commercially printed packages of forms for filing cases under chapter 13, although there is no Official Form for this purpose. The variety of formats has accelerated since the introduction of computer software for generating the petitions, schedules, and statements of affairs. It is the policy of the Judicial Conference that such diversity is desirable and should be encouraged.

The sheer volume of bankruptcy cases, however, has compelled the Judicial Conference, for the first time, to prescribe the format of certain Official Forms. In particular, the format of Form 1, the Voluntary Petition, now is prescribed. This format is designed to assist the clerk of the bankruptcy court to enter the case in the court's computer database and ensures that all required information is available to both the clerk and the United States trustee at the inception of the case. The rule of substantial compliance continues to apply, however. Accordingly, publishers may vary the size and style of the type and may alter the size and shape of the boxes on the form, within the bounds of that rule.

The Official Forms of the petitions, schedules, and statement of financial affairs, (Forms 1, 5, 6, and 7), are to be printed on one side of the paper only. Each page is to be pre-punched with two holes at the top, and sufficient top margin allowed so that neither caption nor text is destroyed or obscured. Compliance with these standards will facilitate both the securing of the papers in the case file and review of the file by the public.

Although Rule 9009 permits alteration, for most of the Official Forms, alteration will be appropriate only in rare circumstances. The special forms for chapter 11 cases, on the other hand, seldom will be used without alterations. Forms 12 through 15, while legally sufficient in any chapter 11 case, are intended by the Judicial Conference, and most often will be used, as a framework for drafting a document specially tailored to the particular case. These alterations generally will take the form of additions to the prescribed elements.

Rule 9009 provides for a balance of prescribed substance, to which full adherence is expected in all but the most unusual cases, and flexible formatting, under which requirements are kept to the minimum necessary for proper operation of the courts and the bankruptcy system. While Rule 9009 recognizes the overall need for flexibility, Rule 9029 makes it clear that the Official Forms must be accepted in every bankruptcy court.

Under Rule 9029, courts may not reject documents presented for filing in novel or unfamiliar formats if those documents contain the substance prescribed by the Official Form and meet the requirements for one-sided printing, pre-punched holes, and adequate top margins. Nor are courts authorized to impose local forms which vary in substance from the Official Forms or reject papers presented for filing on Official Forms on the basis that the proffered documents differ from a locally preferred version.

#### Special Instructions for Computer-Generated Forms

In Form 1, the Voluntary Petition, if a box contains multiple choices, a computer-generated petition that shows only the choice made is acceptable for filing. All sections of the petition must be shown and completed, however, unless instructions on the Official Form of the petition state that the box is applicable only to cases filed under a chapter other than the one selected by the debtor. If the debtor has no information to provide for a particular box, for example if the debtor has no prior bankruptcies to report, a computer-generated petition should so indicate by stating "None."

Form 6, the Schedules, on which the debtor reports all of the debtor's assets and liabilities, has been prescribed in a columnar format. Columns help to organize the information which the debtor is required to report and should be used when the printed schedules are completed on a typewriter. In a computerized law office, however, the organizational structure of the schedules can be built into the computer program, and a rigid columnar format may be a hindrance rather than a help. Schedules generated by computer which provide all of the information requested by the prescribed form are fully acceptable, regardless of the format of the printed page. The information must be appropriately labeled, however. In Schedule B, for example, all of the categories of personal property must be printed on the filed document together with the debtor's response to each. The space occupied by each category may be expanded, however, so that attachments are not needed. Instructions provided on the printed forms can simply be built into the computer program; they need not be reprinted on the filed document.

Form 7, the Statement of Financial Affairs, contains a series of questions which direct the debtor to answer by furnishing information. If the answer to a question is "None," or the question is not applicable, an affirmative statement to that effect is required. To assure that the trustee and the creditors can review the debtor's statement properly, the complete text of each question must be printed on the filed document.

Form 9, the Notice of Filing under the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates, will be prepared by the clerk of the bankruptcy court in most cases. The form is designed for use with automated printing and mailing equipment. Two free lines, which do not appear on the printed blank form, have been programmed into the form. Courts may use this space to add local information, such as directions for obtaining copies of the debtor's schedules.

## COMMITTEE NOTE

Form 1, the Voluntary Petition, is to be used to commence a voluntary case under chapter 7, 11, 12, or 13 of the Bankruptcy Code. A chapter 9 petition requires other allegations, (see § 109(c) of the Code), but this form may be adapted for such use. The form also may be adapted for use in filing a petition ancillary to a foreign proceeding under § 304 of the Code.

The form departs from the traditional format of a captioned pleading. All of the elements of the caption prescribed in Rule 1005 have been retained. Their placement on the page, however, has been changed to make the form compatible with electronic data processing by the clerk. The form of the caption of the case for use in other documents, formerly incorporated in Official Form No. 1, has been made a separate Form 16A.

All names used by the debtor, including trade names, names used in doing business, married names, and maiden names should be furnished in the spaces provided. If there is not sufficient room for all such names on the form itself, the list should be continued on an additional sheet attached to the petition. A complete list will enable creditors to identify the debtor properly when they receive notices and orders.

Redesign of this form into a box format also is intended to provide the court, the United States trustee, and other interested parties with as much information as possible during the 15-day period provided by Rule 1007(c), when schedules and statements may not have been filed. The box format separates into categories the data provided by the debtor, and enables the form to be used by all voluntary debtors in all chapters.

For the first time, the form requires both a street address and any separate mailing address, as well as any separate addresses used by a joint debtor. Disclosure of prior bankruptcies is new to the petition but formerly was required in the statement of financial affairs; its inclusion in the petition is intended to alert the trustee to cases in which an objection to discharge pursuant to § 727(a)(8) or (a)(9) or a motion to dismiss under § 109(g) may be appropriate. The information about pending related cases, also new to the petition, signals the clerk to assign the case to the judge to whom any related case has been assigned.

Rule 1008 requires all petitions to be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746. The unsworn declaration on page two of the petition conforms with 28 U.S.C. § 1746, which permits the declaration to be made in the manner indicated with the same force and effect as a sworn statement. The form may be adapted for use outside the United States by adding the words "under the laws of the United States" after the word "perjury."

Exhibit "A," to be attached to the petition of a corporate debtor, is for the purpose of supplying the Securities and Exchange Commission with information it needs at the beginning stages of a chapter 11 case in order to determine how actively to monitor the proceedings.

Exhibit "B" was added by § 322 of Pub. L. No. 98-353, the Bankruptcy Amendments and Federal Judgeship Act of 1984. The references to chapters 11 and 12 of the Code found in Exhibit "B" and its related allegations were added by § 283(aa) of the 1986 amendments, (Pub. L. No. 99-554). This exhibit has been included in the form of the petition.

The form effects a merger of the petition and the bankruptcy cover sheet to assist the clerk in providing the statistical information required by the Director of the Administrative Office of the United States Courts pursuant to the Congressional reporting mandates of 28 U.S.C. § 604. The Director is authorized to change the particulars of the statistical portion of the form as needed in the performance of these statutory duties.

#### 1992 COMMITTEE NOTE

The form has been amended to require a debtor not represented by an attorney to provide a telephone number so that court personnel, the trustee, other parties in the case, and their attorneys can contact the debtor concerning matters in the case.

#### 1995 COMMITTEE NOTE

The form is amended to provide space for signing by a "bankruptcy petition preparer," as required under section 110 of the Code, which was added by the Bankruptcy Reform Act of 1994. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested. All signatories of Form 1 are requested to provide the clerk's office with a telephone number.

A chapter 11 debtor that qualifies as a "small business" under section 101 of the Code, as amended by the 1994 Act, may elect special, expedited treatment under amendments made to chapter 11 by the 1994 Act. The court may order that a creditors committee not be appointed in a small business case. Accordingly, the first page of the petition is amended to require a small business filing under chapter 11 to identify itself. The petition also is amended to offer a small business chapter 11 debtor an opportunity to exercise its right to elect to be considered a small business at the commencement of the case.

Several clarifying and technical amendments also have been made to indicate that a debtor is to check only one box with respect to "Type of Debtor" and "Nature of Debt," to clarify the intent that the individual signing on behalf of a corporation or partnership is authorized to file the petition, and to require a debtor to represent that it is eligible for relief under the chapter of title 11 specified in the petition.

## 1997 COMMITTEE NOTE

The form has been substantially amended to simplify its format and make the form easier to complete correctly. The Latin phrase "In re" has been deleted as unnecessary. The amount of information requested in the boxes labeled "Type of Debtor" and "Nature of Debt" has been reduced, and the reporting by a corporation of whether it is a publicly held entity has been moved to Exhibit "A" of the petition. The box labeled "Representation by Attorney" has been deleted; the information it contained is requested in the signature boxes on the second page of the form.

In the statistical information section, the labels on the ranges of estimated assets and liabilities have been rewritten to improve the accuracy of reporting. The asset/liability range of \$10 million to \$100 million has been divided into two categories to promote better statistical reporting of business cases. Requests for information in chapter 11 and chapter 12 cases concerning the number of the debtor's employees and equity security holders have been deleted.

The second page of the form has been simplified so that a debtor need only sign the petition once. The request for information concerning the filing of a plan has been deleted.

Exhibit "A" has been simplified. In addition, the category of chapter 11 debtors required to file Exhibit "A" is modified to include a corporation, partnership, or other entity, but only if the debtor has issued publicly-traded equity securities or debt instruments. Most small corporations will not be required to file Exhibit "A."

COMMITTEE NOTE

This form is derived from former Official Form No. 4

Rule 1008 requires that all petition, lists, schedules, statement, and amendments thereto be verified or contain an unsworn declaration conforming with 28 U.S.C. § 1746. This form or adaptations of the form have been incorporated into the official forms of the petitions, schedules, and statement of financial affairs. See Official Forms 1, 5, 6, and 7. The form has been amended for use in connection with other papers required by these rules to be verified or contain an unsworn declaration.

COMMITTEE NOTE

This form is derived from former Official Form No. 2.

A statement that the applicant is unable to pay the filing fee except in installments has been added as required by Rule 1006(b).

1995 COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line is provided for such preparer. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested. A signature line for a debtor's attorney also is added, as required by Rule 9011.

1997 COMMITTEE NOTE

The form has been reorganized and the paragraphs numbered. The debtor's certification concerning payment for services in the case has been placed ahead of the statement of proposed terms for installment payment of court fees. Acknowledgement by the debtor of the potential consequences of failure to pay any installment when due has been added. (See 11 U.S.C. § 707(a)(2).) The language of the form also has been changed to conform to Rule 1006 and to clarify that a debtor is not disqualified from paying the filing fee in installments because the debtor has paid money to a bankruptcy petition preparer.



COMMITTEE NOTE

This form is derived from former Official Form No. 9.

In conformity with Rule 1007(d) and in recognition of the notice function served by this list under rule 4001, governmental units must be listed if they are among the creditors holding the 20 largest claims.

Rule 1008 requires all lists to be verified or contain an unsworn declaration conforming with 28 U.S.C. § 1746.

1992 COMMITTEE NOTE

The form has been amended to delete reference to the specific subsection of 11 U.S. C. § 101 in connection with the definition of the term "insider." Section 101 of the Bankruptcy Code contains numerous definitions, and statutory amendments from time to time have resulted in the renumbering of many of its subsections. The more general reference will avoid the necessity to amend the form further in the event of future amendments to § 101.

COMMITTEE NOTE

This form has been redesigned in a box format similar to that of Form 1. See Advisory Committee Note to Form 1.

The allegations required under § 303 are grouped together, and a separate section has been provided for additional allegations based upon the prohibitions and requirements set forth in Rule 1003(a) concerning transfer of claims by petitioning creditors. Petitioners may wish to supplement the allegations set forth in the form with a further statement of facts. Additional information concerning any allegation can be requested by the debtor as part of the discovery process.

Each petitioning creditor, by signing on the line provided, signs both the petition and the unsworn declaration which 28 U.S.C. § 1746 permits instead of verification. The addresses as well as the names of individuals signing the petition in a representative capacity are required, together with disclosure of which petitioner is represented by each signatory.

This form is intended to be used in every involuntary case, including that of a partnership. The separate form for a petition by a partner has been abrogated. Pursuant to § 303(b)(3)(A) of the Code, a petition by fewer than all of the general partners seeking an order for relief with respect to the partnership is treated as an involuntary petition. Such a petition is adversarial in character because not all of the partners are joining in the petition.

Section 303(b)(3)(B) permits a petition against the partnership if relief has been ordered under the Code with respect to all of the general partners. In that event, the petition may be filed by a general partner, a trustee of a general partner's estate, or a creditor of the partnership. This form may be adapted for use in that type of case.

28 U.S.C. § 1408(1) specifies the proper venue alternatives for all persons, including partnerships, as domicile, residence, principal place of business, or location of principal assets. Venue also may be based on a pending case commenced by an affiliate, general partner, or partnership pursuant to 28 U.S.C. § 1408(2). Both options are set forth in the block labeled "Venue."

28 U.S.C. § 1746 permits the unsworn declaration instead of a verification. See Committee Note to Form 2.

1992 COMMITTEE NOTE

The form has been amended to required the dating of signatures.

## COMMITTEE NOTE

These schedules shall be used to comply with § 521(1) of the Code and Rule 1007(b). Schedules A, B, D, E, and F constitute the schedule of assets and liabilities. Schedules I and J constitute a schedule of current income and current expenditures for individual and joint debtors. Two new schedules have been created, Schedule G - Executory Contracts and Unexpired Leases, and Schedule H - Codebtors.

The order of the schedules has been arranged with the summary sheet in front and with the schedules of assets appearing first, followed by the schedules of liabilities. This structure corresponds to the customary pattern by which trustees and creditors review these documents and to the format of the accounting profession for balance sheets.

The schedules require a complete listing of assets and liabilities but leave many of the details to investigation by the trustee. Instructions in the former schedules to provide details concerning "written instruments" relating to the debtor's property or debts have been deleted. Section 521(3) of the Code requires the debtor to cooperate with the trustee, who can administer the estate more effectively by requesting any documents from the debtor rather than relying on descriptions in the schedules which may prove to be inaccurate.

Leasehold interests in both real and personal property are to be reported in Schedule G - Executory Contracts and Unexpired Leases. This information should not be repeated in the schedules of assets.

Generally in these schedules, a creditor's claim will be listed only once, even if the claim is secured only in part, or is entitled only in part to priority under § 507(a) of the Code, with the remainder of the claim to be treated as a general unsecured claim. For example, a partially secured creditor whose claim is reported in Schedule D - Creditors Holding Secured Claims will be listed together with the value of the property securing the claim and a notation of the amount of any unsecured portion of the claim. Information concerning the unsecured portion should not be repeated in Schedule F - Creditors Holding Nonpriority Unsecured Claims. Any resulting overstatement of the amounts owed on secured and priority claims as reported on the summary sheet is offset by a corresponding understatement of the amount owed on unsecured claims.

If a debtor has no property or no creditors in a particular category, an affirmative statement to that effect is required. Married debtors should indicate whether property is jointly or separately owned and whether spouses are jointly or separately liable for debts, using the columns provided in the schedules.

Former "Schedule B-3. Property not otherwise scheduled," has been deleted and its two questions moved. Schedule B - Personal Property now includes at item 33, " Other personal property of any kind not already listed." The only other question on former Schedule B-3 concerned assignments for the benefit of creditors; it has been moved to the Statement of Financial Affairs.

Schedule A - Real Property. Instructions at the top of the form indicate the scope of the interests in property to be reported on the schedule. Leasehold interests of the debtor are not reported here but on the Schedule of Executory Contracts and Unexpired Leases. The trustee will request copies of deeds or other instruments necessary to the administration of the estate.

Schedule B - Personal Property. This schedule is to be used for reporting all of the debtor's interests in personal property except leases and executory contracts, which are to be listed on the Schedule of Executory Contracts and Unexpired Leases. Several new categories of property have been added to the schedule, *i.e.*, aircraft, and interests in IRA, ERISA, Keogh, or other pension or profit-sharing plans. To minimize the potential for concealment of assets, the debtor must declare whether the debtor has any property in each category on the schedule. The trustee can request copies of any documents concerning the debtor's property necessary to the administration of the estate.

Schedule C - Property Claimed as Exempt. The form of the schedule has been modified to eliminate duplication of information provided elsewhere. The location of property, for example, which formerly was required here, is disclosed in the schedules of real and personal property. The requirement that the debtor state the present use of the property also has been eliminated as best left to inquiry by the trustee. Exemptions in some states are granted by constitutional provisions; accordingly, the requirement that the debtor state the "statute" creating an exemption has been changed to request a statement of the relevant "law."

This schedule adds a new requirement that the debtor state the market value of the property in addition to the amount claimed as exempt.

Schedule D - Creditors Holding Secured Claims. Schedules D, E, and F have been redesigned with address boxes sized to match the number of characters which can be accommodated on the computerized noticing systems used by the courts. The size also closely approximates that of standard mailing labels. Space is designated at the top of the box for the debtor's account number with the creditor. The design of the form is intended to reduce the volume of misdirected creditor mail.

The form requires the debtor to state affirmatively that a claim is disputed, unliquidated, or contingent. The existence of any type of codebtor is to be disclosed, but details are to be provided in Schedule H, as they are not needed here. Duplication of information also has been kept to a minimum by deleting requests that the debtor indicate on this schedule whether a debt has been reduced to judgment and the date on which a creditor repossessed any collateral. Requests for details concerning negotiable instruments and the consideration for a claim, formerly part of the schedule, are left to the trustee's inquiries.

Schedule E - Creditors Holding Unsecured Priority Claims. The schedule lists all of the types of claims entitled to priority and requires the debtor to indicate the existence of claims in each category. Continuation sheets are provided. The type of priority claim is to be noted at the top of the continuation sheet, and each type must be reported on a separate sheet. This schedule also

requires the debtor to indicate the existence of any codebtors. As in Schedule D - Creditors Holding Secured Claims, requests for information concerning judgments and negotiable instruments have been deleted.

Schedule F - Creditors Holding Unsecured Nonpriority Claims. This schedule has been revised generally in conformity with the other schedules of creditors. If a claim is subject to setoff, the debtor is required to so state.

Schedule G - Executory Contracts and Unexpired Leases. Rule 1007(b) requires the debtor to file a schedule of executory contracts and unexpired leases, unless the court orders otherwise. All unexpired leases of either real or personal property are to be reported on this schedule. The schedule also requires the debtor to disclose specific information to assist the trustee in identifying leases which must be assumed within 60 days after the order for relief or be deemed rejected under § 365(d) of the Code.

Schedule H - Schedule of Codebtors. This schedule is designed to provide the trustee and creditors with information about codebtors of all types other than spouses in joint cases. The completed schedule provides information concerning non-debtor parties, such as guarantors and non-debtor spouses having an interest in property as tenants by the entirety. In chapter 12 and chapter 13 cases, the completed schedule also indicates those persons who may be entitled to certain protections from creditor action under §§ 1201 and 1301 of the Code.

Schedule I - Schedule of Current Income of Individual Debtor(s) and Schedule J - Schedule of Current Expenditures of Individual Debtor(s). Former Official Form No. 6A has been divided into a schedule of current income and a separate schedule of current expenditures. The language is substantially the same as in former Official Form No. 6A. In light of the abrogation of Official Form No. 10, the Chapter 13 Statement, style changes have been made so that these schedules can be used by individual and joint debtors in all chapters.

#### 1993 COMMITTEE NOTE

Schedule E (Creditors Holding Unsecured Priority Claims) has been changed to conform to the statutory amendment that added subsection (a)(8) to § 507 of the Code. Pub. L. No. 101-647, (Crime Control Act of 1990), added the new subsection, which had the effect of creating an eighth priority for claims of certain governmental units based on commitments to maintain the capital of an insured depository institution.

## 1995 COMMITTEE NOTE

Schedule E - Creditors Holding Unsecured Priority Claims is amended to add the new seventh priority afforded to debts for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor by the Bankruptcy Reform Act of 1994. Statutory references are amended to conform to the paragraph numbers of section 507(a) of the Code as renumbered by the 1994 Act. Schedule E also is amended to add commissions owed to certain independent sales representatives and to raise the maximum dollar amounts for certain priorities in accordance with amendments made by the 1994 Act to section 507(a) of the Code. The 1994 Act also amended section 104 of the Code to provide for future adjustment of the maximum dollar amounts specified in section 507(a) to be made by administrative action at three-year intervals to reflect changes in the consumer price index. Schedule E is amended to give notice that these dollar amounts are subject to change without formal amendment to the official form.

The Schedules are a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the 1994 Act; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

## 1997 COMMITTEE NOTE

The form is amended to add to the column labels a reference to community liability for claims. The amendment is technical and corrects an editorial oversight.

### COMMITTEE NOTE

This form consolidates questions from former Official Forms No. 7, No. 8, and No. 10. This form is to be completed by all debtors. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

The Chapter 13 Statement, former Official Form No. 10, has been abrogated. Chapter 13 debtors are to complete this statement and the schedules prescribed in Official Form 6.

All questions have been converted to affirmative directions to furnish information, and each question must be answered. If the answer is "none," or the question is not applicable, the debtor is required to so state by marking the box labeled "None" provided at each question.

See Committee Note to Form 2 for a discussion of the unsworn declaration at the end of this form.

### 1993 COMMITTEE NOTE

The form has been amended in two ways. In the second paragraph of the instructions, the third sentence has been deleted to clarify that only a debtor that is or had been in business as defined in the form should answer Questions 16 - 21. In addition, administrative proceedings have been added to the types of legal actions to be disclosed in Question 4.a.

### 1995 COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

COMMITTEE NOTE

This form is derived from former Official Form No. 8A. Rule 1007(b)(2) requires the debtor to serve a copy of this statement on the trustee and all creditors named in the statement. In a joint case, if the property and debts of both debtors are the same, the form may be adapted for joint use. If joint debtors have separate debts, however, each debtor must use a separate form.

1995 COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

1997 COMMITTEE NOTE

The form is amended to conform more closely to the language of the Bankruptcy Code. The amendments also make clear that the form is not intended to take a position regarding whether the options stated on the form are the only choices available to the debtor. Compare Lowry Federal Credit Union v. West, 882 F.2d 1543 (10th Cir. 1989), with In re Taylor, 3 F.3d 1512 (11th Cir. 1993).



## COMMITTEE NOTE

The form has been redesigned to facilitate electronic generation of notice to creditors concerning the filing of the petition, the meeting of creditors, and important deadlines in the case. Adoption of a box format, with significant dates highlighted, is intended to assist creditors who may be unfamiliar with bankruptcy cases to understand the data provided. Nine variations of the form, designated 9A through 9I, have been created to meet the specialized notice requirements for chapters 7, 11, 12, and 13, asset and no-asset cases, and the various types of debtors.

## 1992 COMMITTEE NOTE

Forms 9B, 9D, 9F, and 9H are amended to make a technical correction in the reference to Rule 9001(5). Form 9H also contains a technical correction deleting the reference to a complaint objecting to discharge of the debtor.

## 1993 COMMITTEE NOTE

The title page of the form has been amended to conform to the headings used on Forms 9A - 9I. Alternate versions of Form 9E and Form 9F have been added for the convenience of districts that routinely set a deadline for filing claims in a chapter 11 case. When a creditor receives the alternate form in a case, the box labeled "Filing Claims" will contain information about the bar date as follows: "Deadline for filing a claim: (date)." If no deadline is set in a particular case, either the court will use Form 9E or Form 9F, as appropriate, or the alternate form will be used with the following sentence appearing in the box labeled "Filing Claims": "When the court sets a deadline for filing claims, creditors will be notified."

## 1995 COMMITTEE NOTE

The form is amended to provide notice of the claims filing period provided to "a governmental unit" by section 502(b)(9) of the Code as amended by the Bankruptcy Reform Act of 1994. A court that routinely sets a deadline for filing proofs of claim at the outset of chapter 11 cases and, accordingly, uses Form 9E(Alt.) or Form 9F(Alt.) retains the option in any case in which no deadlines actually are set to substitute a message stating that creditors will be notified if the court fixes a deadline.

The form also is amended to add, in the paragraph labeled "Discharge of Debts," a reference to dischargeability actions under section 523(a)(15) of the Code, which was added by the 1994 Act.

## 1997 COMMITTEE NOTE

Forms 9A, 9I (and the alternate versions of Forms 9E and 9F) have been amended, redesigned, and rewritten. Minor conforming changes have been made to respond to amendments made in the Bankruptcy Reform Act of 1994: the longer claims filing period for governmental units in section 502(b)(9) of the Code (see Forms 9C, 9D, 9E(Alt.), 9F(Alt.), 9G, 9H, and 9I); and a reference to dischargeability actions under section 523(a)(15) (see Forms 9A, 9C, 9E, and 9E(Alt.), 9G, and 9H). All of the forms have been substantially revised to make them easier to read and understand. The titles have been simplified. Recipients are told why they are receiving the notice. Explanations are provided on the back of the form and are set in larger type. Plain English is used. Deadlines are highlighted on the front of the form. Recipients are told that papers must be received by the bankruptcy clerk's office by the applicable deadline. The box for the trustee has been deleted from the chapter 11 notices (Forms 9E and 9F and the alternates). Various alternatives are set out in brackets in many of the forms, permitting each bankruptcy clerk's office to tailor the forms even more precisely to fit the needs of a particular case. The court may use blank spaces on the form to include additional information applicable to the particular district.

### COMMITTEE NOTE

This form replaces former Official Forms No. 19, No. 20, and No. 21. The box format and simplified language are intended to facilitate completion of the form.

The form directs the claimant to attach documents to support the claim or, if voluminous, a summary of such documents. These include any security agreement (if not included in the writing on which the claim is founded), and evidence of perfection of any security interest. See Committee Note to Rule 3001(d) concerning satisfactory evidence of perfection. If the claim includes prepetition interest or other charges such as attorney fees, a statement giving a detailed breakdown of the elements of the claim is required.

Rule 2002(g) requires the clerk to update the mailing list in the case by substituting the address provided by a creditor on a proof of claim, if that address is different from the one supplied by the debtor. The form contains checkboxes to assist the clerk in performing this duty. The form also alerts the trustee when the claim is an amendment to or replacement for an earlier claim.

### 1993 COMMITTEE NOTE

The form has been amended to accommodate inclusion of the priority afforded in § 507(a)(8) of the Code, which was added by Pub. L. No. 101-647, (Crime Control Act of 1990), and to avoid the necessity of further amendment to the form if other priorities are added to § 507(a) in the future. In addition, sections 4 and 5 of the form have been amended to clarify that only prepetition arrearages and charges are to be included in the amount of the claim.

### 1995 COMMITTEE NOTE

The form is amended to add the seventh priority granted by the Bankruptcy Reform Act of 1994 to debts for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor. The form also amends the Code reference to the priority afforded to tax debts and the dollar maximums for the priorities granted to wages and customer deposits in conformity with amendments made by the 1994 Act to section 507(a) of the Code. The 1994 Act also amended section 104 of the Code to provide for future adjustment of the dollar amounts specified in section 507(a) to be made by administrative action at three-year intervals to reflect changes in the consumer price index. The form is amended to include notice that these dollar amounts are subject to change without formal amendment to the official form.

## 1997 COMMITTEE NOTE

Numbered sections 4. and 5. of the form have been reformatted to eliminate redundant information and make it easier to complete the form correctly. A creditor will report the total amount of the claim first, and will report only that amount unless the claim is secured by collateral or entitled to a priority under § 507 of the Code.

Explanatory definitions and instructions for completing the form also have been added.

COMMITTEE NOTE

This form previously was numbered Official Form No. 17.

COMMITTEE NOTE

This form previously was numbered Official Form No. 18.

COMMITTEE NOTE

This form previously was numbered Official Form No. 28. The form is related to Rule 3017(a). Section 1125 of the Code requires court approval of a disclosure statement before votes may be solicited for or against a plan in either chapter 11 reorganization or chapter 9 municipality cases.

Objections to the disclosure statement may be filed. Rule 3017(a) specifies that the court may fix a time for the filing of objections or they can be filed at any time prior to approval of the statement.

Rule 3017(a) also specifies the persons who are to receive copies of the statement and plan prior to the hearing. These documents will not be sent to all parties in interest because at this stage of the case it could be unnecessarily expensive and confusing. However, any party in interest may request copies. The request should be made in writing (Rule 3017(a)), and sent to the person mailing the statement and plan which, as the form indicates, would usually be the proponent of the plan.

This form may be adapted for use if more than one disclosure statement is to be considered by the court.

COMMITTEE NOTE

This form is derived from former Official Form No. 29. The form may be adapted for use if more than one disclosure statement is approved by the court.



COMMITTEE NOTE

The form is derived from former Official Form No. 30. The form has been amended to facilitate the voting of a debtor's shares held in "street name." The form may be adapted to designate the class in which each ballot is to be tabulated. It is intended that a separate ballot will be provided for each class in which a holder may vote.

1997 COMMITTEE NOTE

The form has been substantially amended to simplify its format and make it easier to complete correctly.

Directions or blanks for proponent to complete the text of the ballot are in italics and enclosed within brackets. A ballot should include only the applicable language from the alternatives shown on this form and should be adapted to the particular requirements of the case.

If the plan provides for creditors in a class to have the right to reduce their claims so as to qualify for treatment given to creditors whose claims do not exceed a specified amount, the ballot should make provisions for the exercise of that right. See section 1122(b) of the Code.

If debt or equity securities are held in the name of a broker/dealer or nominee, the ballot should require the furnishing of sufficient information to assure that duplicate ballots are not submitted and counted and that ballots submitted by a broker/dealer or nominee reflect the votes of the beneficial holders of such securities. See Rule 3017(e).

In the event that more than one plan of reorganization is to be voted upon, the form of ballot will need to be adapted to permit holders of claims or equity interests (a) to accept or reject each plan being proposed, and (b) to indicate preferences among the competing plans. See section 1129(c) of the Code.

COMMITTEE NOTE

This form is derived from former Official Form No. 31. The form has been simplified to avoid the necessity of repeating the statutory requirements of 11 U.S.C. § 1129(a). In the case of an individual chapter 11 debtor, Form 18 may be adapted for use together with this form.

COMMITTEE NOTE

This form has been transferred from former Official Form No. 1, which included the form of caption for the case. Rule 9004(b) requires a caption to set forth the title of the case. Rule 1005 provides that the title of the case shall include the debtor's name, all other names used by the debtor within six years before the commencement of the case, and the debtor's social security and tax identification numbers. This form of caption is prescribed for use on the petition, the notice of the meeting of creditors, the order of discharge, and the documents relating to a chapter 11 plan, (Official Forms 1, 9, 12, 13, 14, 15, and 18). See Rule 2002(m). In the petition, (Official Form 1), and the notice of the meeting of creditors, (Official Form 9), the information required by Rule 1005 appears in a block format. A notation of the chapter of the Bankruptcy Code under which the case is proceeding has been added to the form.

1995 COMMITTEE NOTE

The form is amended to provide for the debtor's address to appear in the caption in furtherance of the duty of the debtor to include this information on every notice given by the debtor. The Bankruptcy Reform Act of 1994 amended section 342 of the Code to add this requirement.

COMMITTEE NOTE

This form of caption is prescribed for general use in filing papers in a case under the Bankruptcy Code. Rule 9004(b) requires a caption to set forth the title of the case, and Rule 1005 specifies that the title must include all names used by the debtor within six years before the commencement of the case and the debtor's social security and tax identification numbers. This information is necessary in the petition, the notice of the meeting of creditors, the order of discharge, and the documents relating to the plan in a chapter 11 case. See Rule 2002(m) and Official Form 16A. In other notices, motions, applications, and papers filed in a case, however, a short title containing simply the name of the debtor or joint debtors may be used. Additional names, such as any under which the debtor has engaged in business, may be included in the short title as needed.

1995 COMMITTEE NOTE

The title of this form is amended to specify that it can be used when section 342(c) of the Code, as added by the Bankruptcy Reform Act of 1994, is not applicable.

COMMITTEE NOTE

This form previously was numbered Official Form No. 34. A notation of the chapter of the Bankruptcy Code under which the case is proceeding has been added to the form. Rule 7010 refers to this form as providing the caption of a pleading in an adversary proceeding.

1995 COMMITTEE NOTE

The form is amended to conform to the amendments made to section 342 of the Code by the Bankruptcy Reform Act of 1994.

1995 COMMITTEE NOTE

This form of caption may be used in an adversary proceeding when section 342(c) of the Code, as added by the Bankruptcy Reform Act of 1994, is not applicable.

COMMITTEE NOTE

This form is derived from former Official Form No. 35. The form has been amended to indicate that a final order may be entered other than in an adversary proceeding.

1995 COMMITTEE NOTE

The form is amended to reflect the amendments to 28 U.S.C. § 158 concerning bankruptcy appellate panels made by the Bankruptcy Reform Act of 1994. Section 158(d) requires an appellant who elects to appeal to a district court rather than a bankruptcy appellate panel to do so "at the time of filing the appeal."

The 1994 Act also amended 28 U.S.C. § 158(a) to permit immediate appeal of interlocutory orders increasing or reducing a chapter 11 debtor's exclusive period to file a plan under section 1121 of the Code. The form is amended to provide appropriate flexibility.

1997 COMMITTEE NOTE

The form has been amended to conform to Rule 8001(a), which requires the notice to contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys. A party filing a notice of appeal pro se should provide equivalent information.

COMMITTEE NOTE

This form previously was numbered Official Form No. 27. The form has been revised to accommodate cases commenced by the filing of either a voluntary or an involuntary petition.

1995 COMMITTEE NOTE

The form is amended to include debts described in section 523(a)(15) of the Code, which was added by the Bankruptcy Reform Act of 1994, in the list of debts discharged unless determined by the court to be nondischargeable.

1997 COMMITTEE NOTE

The discharge order has been simplified by deleting paragraphs which had detailed some, but not all, of the effects of the discharge. These paragraphs have been replaced with a plain English explanation of the discharge. This explanation is to be printed on the reverse of the order, to increase understanding of the bankruptcy discharge among creditors and debtors. The bracketed sentence in the second paragraph should be included when the case involves community property.



1995 COMMITTEE NOTE

This form is new. The Bankruptcy Reform Act of 1994 requires a "bankruptcy petition preparer," as defined in 11 U.S.C. § 110, to sign any "document for filing" that the bankruptcy petition preparer prepares for compensation on behalf of a debtor, to disclose on the document certain information, and to provide the debtor with a copy of the document. This form or adaptations of this form have been incorporated into the official forms of the voluntary petition, the schedules, the statement of financial affairs, and other official forms that typically would be prepared for a debtor by a bankruptcy petition preparer. This form is to be used in connection with any other document that a bankruptcy petition preparer prepares for filing by a debtor in a bankruptcy case.

### 1997 COMMITTEE NOTE

These forms are new. They are intended to provide uniform, plain English explanations to parties regarding what they must do to respond in certain contested matters which occur frequently in bankruptcy cases. Such explanations have been given better in some courts than in others. The forms are intended to make bankruptcy proceedings more fair, equitable, and efficient, by aiding parties, who sometimes do not have counsel, in understanding the applicable rules. It is hoped that use of these forms also will decrease the number of inquiries to bankruptcy clerks' offices.

These notices will be sent by the movant unless local rules provide for some other entity to give notice.

These forms are not intended to dictate the specific procedures to be used by different bankruptcy courts. The forms contain optional language that can be used or adapted, depending on local procedures. Similarly, the signature line will be adapted to identify the actual sender of the notice in each circumstance. All adaptations of the form should carry out the intent to give notice of applicable procedures in easily understood language.