



Bankruptcy Bits & Pieces

November/December 2017

Bankruptcy Bits & Pieces is published by the U.S. Bankruptcy Court for the Central District of Illinois as an information service for the practitioners of our Court. Suggestions and comments are always welcome. Please email us at: attorney_newsletter@ilcb.uscourts.gov

CM/ECF System Outage:

The Court's electronic filing system (CM/ECF) will be unavailable on November 30, 2017, from 8:00 p.m. until 5:00 a.m. December 1. We will be upgrading the system to implement December 1, 2017 Rules and Forms changes. Thank you for your patience while we perform this upgrade.

December 1st Rule Changes

As of December 1, 2017, there are several changes to the Federal Rules of Bankruptcy Procedure. A number of those changes will impact the Court's procedures and, most importantly, the normal progression of Chapter 13 cases filed in the Central District. Changes include:

- Amended Rule 3015 introduces the requirement that a form plan be used in all Chapter 13 cases (see the article below).
- Amended Rule 3012 makes clear that requests to determine the amount of nonpriority, non governmental secured claims may be made in a Chapter 13 plan.
- Amended Rule 4003 incorporates the practice of the majority of courts allowing lien avoidance to be accomplished through plan confirmation.

All persons practicing before the Court are responsible for familiarizing themselves with the new Rules and Court procedures and taking the steps necessary to account for the changes in their own practices. Please click [here](#) to view the *Notice of Federal Rules of Bankruptcy Procedures Changes Effective December 1, 2017*, posted on our website.

Model Chapter 13 Plan

Use of the Local [Chapter 13 Plan Form](#) will be mandatory as of December 1, 2017, in the Central District of Illinois.

Pursuant to the [Standing Order Regarding Mandatory Use of Local Chapter 13 Plan Form](#), all Chapter 13 plans—original or amended—filed on or after December 1, 2017, must be on the Local Chapter 13 Plan Form. Plans filed using any other form may be stricken. Practitioners are encouraged to familiarize themselves with the Local Chapter 13 Plan Form so that they are ready for its required use beginning December 1, 2017.

Important procedural information regarding the new Chapter 13 plan can be found on the Court's website at www.ilcb.uscourts.gov.

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Changes to Rule 3002-Claim Attachments

Amended Rule 3002 sets the deadline for filing a proof of claim in Chapter 12 and Chapter 13 cases at 70 days after a petition is filed or a case is converted to Chapter 12 or 13.

Amended Rule 3002 also includes a new provision allowing holders of a claim that is secured by a security interest in the debtor's principal residence to file any attachments required by Rule 3001(c)(1) and (d) as a supplement to a timely filed claim within 120 days of the order for relief.

To accommodate the rule changes, the electronic proof of claims program (ePOC) will be enhanced to include a new event for filing supplemental documents as additional attachments.

Claimants who wish to file supplemental documents required by Rule 3001(c)(1) and (d) after the initial claim is filed, may file the supplements through the ePOC program.

The 70-day deadline for filing a proof of claim also applies in voluntary Chapter 7 cases, but is still subject to Rules 2002(e) and 3002(c)(5). This Court will continue to treat all Chapter 7 cases as no asset cases and will not set a claim deadline unless requested by the trustee. And if a claims bar date is requested, the rules require a 90-day deadline.

Delegating the Noticing of Amended Plans

Effective December 1, 2017, the U.S. Bankruptcy Court for the Central District of Illinois will delegate noticing of all amended plans filed in Chapter 13 and Chapter 12 cases to debtor's counsel or debtor.

Upon the filing of an amended plan, debtor's counsel or debtor is required to serve the amended plan in accordance with the Federal Rules of Bankruptcy Procedure and file a certificate of service. The certificate of service must be captioned properly, include the date of service, the name, the address of each party served, the method of service, and state the name of the document being served.

The Clerk's Office will continue to send notices of the objection deadline and confirmation hearing on amended plans to the creditors listed on the mailing matrix through the Bankruptcy Noticing Center.

Note: Unless a party has specifically opted to receive electronic notice/service in lieu of manual notice/service, all noticing/service must be made in accordance with Federal Rule of Bankruptcy Procedure 2002. To determine whether a party is currently on the list to receive notice/service by email in a case, electronic filers can go to the "Utilities" bar in CM/ECF, then to "Mailings..." under the "Miscellaneous" heading, then to "Mailing Info for a Case." If a party is not listed on the "Electronic Mail Notice List," then manual notice/service is required.

Click [here](#) for a sample certificate of service.

A Chapter 13 landing page has been added to our website. The page contains updated information and important announcements related to Chapter 13 cases.



[Click here for the Chapter 13 landing page](#)

Procedure Change Regarding Official Form 309I, Notice of Chapter 13 Bankruptcy Case:

Effective October 2, 2017, the Clerk's Office modified its procedures regarding when the Official Form 309I, Notice of Chapter 13 Bankruptcy Case (hereinafter, First Meeting of Creditors Notice), is sent. The previous practice was to send the First Meeting of Creditors Notice for a new case when the Chapter 13 plan had been filed.

Under the new procedures, the First Meeting of Creditors Notice will be sent when a new case is opened, regardless of whether the

Chapter 13 plan has been filed. Section 9 of the First Meeting of Creditors Notice will indicate whether a copy of the plan is enclosed with the form. If the First Meeting of Creditors Notice has already been sent when the initial Chapter 13 plan is filed, the Clerk's Office will send the Chapter 13 plan to the Bankruptcy Noticing Center (BNC), along with a notice which will also be docketed to the case.

Filing Fees and Motions for Refund of Filing Fees

The Judicial Conference prohibits refunding the fees due upon filing. The Conference prohibits the clerk from refunding these fees even if the party filed the case in error, and even if the court dismisses the case or proceeding. Nevertheless, the clerk must refund any fee collected without authority. For example, the clerk has no authority to collect a fee to reopen a case unless the case is closed.

Generally, judges do not have the discretion to waive or refund filing fees. The exceptions to this are:

- Motions to Reopen BK Case. The judge may waive the reopening fee under appropriate circumstances. Refer to the Bankruptcy Court Miscellaneous Fee Schedule (28 U.S.C. § 1930).
- All refunds or waiver of filing fees must be supported by an order of the Court. Any exceptions to this are made on a case-by-case basis.

Regarding Electronic Filing Errors: The previous policy of refunding filing fees for certain electronic filing errors (duplicate case filings for example) is outdated and no longer applies.

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Filing Fee Requirement: Rule 1006

As a reminder, please note the following when filing new petitions:

(a) **GENERAL REQUIREMENT.** Every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c) of this rule. For the purpose of this rule, “filing fee” means the filing fee prescribed by 28 U.S.C. §1930(a)(1) - (a)(5) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. §1930(b) that is payable to the clerk upon the commencement of a case under the Code.

(b) **PAYMENT OF FILING FEE IN INSTALLMENTS.**

(1) *Application to Pay Filing Fee in Installments.* A voluntary petition by an individual shall be accepted for filing if accompanied by the debtor's signed application, prepared as prescribed by the appropriate Official Form, stating that the debtor is unable to pay the filing fee except in installments.

(2) *Action on Application.* Prior to the meeting of creditors, the Court may order the filing fee paid to the clerk or grant leave to pay in installments and fix the number, amount and dates of payment. The number of installments shall not exceed four, and the final installment shall be payable not later than 120 days after filing the petition. For cause shown, the Court may extend the time of any installment, provided the last installment is paid not later than 180 days after filing the petition.

(3) *Postponement of Attorney's Fees.* All installments of the filing fee must be paid in full before the debtor or Chapter 13 trustee may make further payments to an attorney or any other person who renders services to the debtor in connection with the case.

(c) **WAIVER OF FILING FEE.** A voluntary Chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor's application requesting a waiver under 28 U.S.C. §1930(f), prepared as prescribed by the appropriate Official Form.

Court Closures

The Clerk's Office will be closed the following days:

Thursday, November 23, 2017

Friday, November 24, 2017

Office Locations:

Springfield

2nd Floor Room 226
600 E. Monroe Street
Springfield, IL 62701
(217) 492-4551
Office Hours: 8 am—5 pm

Peoria

2nd Floor Room 216
100 N.E. Monroe Street
Peoria, IL 61602
(309) 671-7035
Office Hours: 8 am—5 pm

Urbana

Room 203
201 S. Vine Street
Urbana, IL 61802
(217) 974-7330
Office Hours: 8 am—5 pm