



**DECEMBER 2005/JANUARY 2006  
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In November 2005, the court distributed a document which contained new procedures based on the new Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005. Some of the procedures have evolved over the last two months and are updated in this newsletter.

The Judicial Conference Rules Committee would like the bar to be aware of the fact that there will be changes to Interim Rules and other rules of practice. It is imperative that attorneys visit our website ([www.nyeb.uscourts.gov](http://www.nyeb.uscourts.gov)) often to keep themselves abreast of the latest developments.

**Information**

The Administrative Office of the U. S. Courts has developed guidance for implementing key aspects of the new BAPCPA. This product, officially titled the *Table of Guidance and Links Regarding the New Law*, is available at: <http://207.41.15.186/bk-act/grid.htm>

This guidance was developed by the Administrative Office of the U. S. Courts in coordination with a court working group established by the Director to assist the

Clerk's Offices in preparing for implementation of the BAPCPA. The guidance is a work in progress, updated as necessary to provide additional information or clarification. Unless noted otherwise (e.g., tax return guidance and IFP procedures), it does not represent the policy of the Judicial Conference of the United States, and should not be cited as a legal authority.

**Court Web Site**

The court's web site has many links to important information. On our home page ([www.nyeb.uscourts.gov](http://www.nyeb.uscourts.gov)), you will find the following:

- \*Changes in filing fees (new fee structure)
- \*Interim Bankruptcy Rules
- \*Interim Rules and Official Forms
- \*Means Testing Information
- \*Approved Credit Counseling Agencies
- \*Approved Debtor Education Providers

**Which Rules Apply?**

All cases filed prior to October 17, 2005 will be considered Bankruptcy Code cases, even if reopened after October 17, 2005. (Note, however, that fees due for reopening will be

those set forth in the fee schedule that became effective October 17, 2005.) In summary, a Code case (pre-October 17) will always be a Code case and an Act case (October 17 and out) will always be an Act case.

## **New Case Numbering System**

Bankruptcy cases filed between October 17, 2005 and December 31, 2005 utilize a new case numbering sequence. Brooklyn cases start with 05-40001 and Central Islip cases start with 05-70001. The case numbering sequence for bankruptcy cases effective January 1, 2006 will continue the post-October 17, 2005 numbering system. Brooklyn cases will begin with 06-40001 and Central Islip cases will begin with 06-70001.

Adversary Proceeding case numbers remain the same. Brooklyn cases start with 06-01000 and Central Islip cases start with 06-08000.

## **Filing Petitions**

The new petition (Form 1) must be used when filing. If you electronically file the incorrect Form 1, you will be required to submit a corrected Form 1 by using the event **Refiled Petition RE: Reform Act 2005 (pgs 1-3)** located in the **Other** category.

## **Notice to Consumer Debtor**

The attorney should retain the original Notice to Individual Consumer Debtor (Form B201) and not file it with the petition. Make sure you sign and date the applicable section Exhibit B on page two of the new Form 1 (petition).

## **Installments/IFP**

Attorneys may file an Application to Pay in Installments (Form 3A) or for a waiver of the

Chapter 7 Filing Fee/IFP (Form B3B).

If you file in installments (Form 3A), select *Installment* at the Fee Status prompt. You must enter the amount you are paying (the minimum payment is \$40) at the subsequent Fee prompt. You must separately docket the event **Pay Filing Fee in Installments** which is located in the **Motion** category. After the filing, please submit the required Installment order to the court.

If you file IFP (Form B3B), select *IFP filing fee waived* at the Fee Status prompt. You must also docket the event **In Forma Pauperis** located in the **Motion** category. After the filing, please submit the required IFP order to the court.

## **Statement of Current Monthly Income/Means Test**

The new requirement Statement of Current Monthly Income/Means Test (Forms 22A, 22B, 22C) may be uploaded as part of the petition and does not have to be a separate attachment.

During Chapter 7 case opening, you will be required to select yes, no or unknown regarding whether there is a Presumption of Abuse. Only use the choice "unknown" if you are not filing Form 22A with your petition.

When filing the Means Test (Form 22A), make sure that one of the two boxes (Presumption arises/Presumption does not arise) at the top of the form is checked and that your form matches your selection at case opening.

## **Pay Statements**

Copies of required pay statements received within sixty days of filing may be filed as an attachment to the petition. A separate docket

entry is not necessary.

Debtors are solely responsible for redacting any personal identifying information on any filing.

If you do not already own a scanner, you may wish to purchase one to be able to scan pay statements for filing.

## **Credit Counseling & the Debtor Financial Management Course**

Credit Counseling and the Debtor Financial Management Course are two distinctly different requirements.

Credit Counseling (unless waived) is required as a condition of filing and should be obtained before filing the petition.

The Debtor Financial Management Course (unless waived) is required as a condition of discharge and should be obtained after filing the petition.

The Credit Counseling Certificate must be filed as a separate docket event using the event **Certificate of Credit Counseling** located under the **Other** category.

There is no official form for the Credit Counseling Certificate. Do not use Form 23 (Debtor's Certification of Completion of Personal Financial Management Course) for the Credit Counseling Certificate. The debtor should have received a certificate from the approved credit counseling agency. Please attach that certificate when docketing.

Upon debtor's completion of the financial management course, docket the event **Certificate of Financial Management Course** located under the **Other** category. Attach a completely filled out Form 23 and any document attesting to the completion of the course supplied by the provider. If Form 23 is not completely filled out, it will not be accepted.

## **Preferred Creditor Addresses**

The Bankruptcy Noticing Center (BNC) will support the preferred creditor address requirements that go into effect under 11 U.S.C. §§ 342 (e) and (f) through an expansion of the BNC National Creditor Registration Service (NCRS). In addition, a new provision of Federal Rule of Bankruptcy Procedure 2002(g) that went into effect on December 1, 2005, will be supported through the NCRS process.

Developed with the assistance of the Bankruptcy Noticing Working Group, the expanded NCRS program will handle most aspects of these new statutory and federal rule noticing requirements. Through the expanded service, the BNC will not only continue to support preferred electronic mail addresses through the Electronic Bankruptcy Noticing (EBN) program, but it will also be able to redirect notices to a creditor's preferred U.S. mailing address.

The new service is expected to provide better service to notice recipients while further reducing the Judiciary's postage expenses. Creditors with questions about the new service should call the toll-free NCRS support line at (877) 837-3424 or visit their website at <https://www.ncrsuscourts.com/>.

## **Eastern District Newsletter**

This newsletter and previous issues are available for online viewing at [http://www.nyeb.uscourts.gov/ecf\\_news.htm](http://www.nyeb.uscourts.gov/ecf_news.htm)

Do you have suggestions for future newsletter subjects? Would you like to receive a copy of this newsletter? If so, please send an e-mail to [Charles\\_Langlois@nyeb.uscourts.gov](mailto:Charles_Langlois@nyeb.uscourts.gov) with the words "Subscribe ECF Newsletter" in the subject field.