

Rule 1007-2

DEBTOR'S AFFIDAVIT AND PROPOSED CASE CONFERENCE ORDER TO BE FILED IN CHAPTER 11 CASES - Amended [December 1, 2009]

- (a) *Contents of Affidavit.* A debtor in a chapter 11 case shall file an affidavit setting forth:
- (1) the nature of the debtor's business and a concise statement of the circumstances leading to the debtor's filing under chapter 11;
 - (2) if the case originally was commenced under chapter 7 or chapter 13, the name and address of any trustee appointed in the case and, in a case originally commenced under chapter 7, the names and addresses of the members of any creditors' committee;
 - (3) the names and addresses of the members of, and attorneys for, any committee organized prior to the order for relief in the chapter 11 case, and a brief description of the circumstances surrounding the formation of the committee and the date of its formation;
 - (4) the following information with respect to each of the holders of the 20 largest unsecured claims, excluding insiders: the name, the address (including the number, street, apartment or suite number, and zip code, if not included in the post office address), the telephone number, the name(s) of person(s) familiar with the debtor's account, the amount of the claim, and an indication of whether the claim is contingent, unliquidated, disputed, or partially secured;
 - (5) the following information with respect to each of the holders of the five largest secured claims: the name, the address (including the number, street, apartment or suite number, and zip code, if not included in the post office address), the amount of the claim, a brief description and an estimate of the value of the collateral securing the claim, and whether the claim or lien is disputed;
 - (6) summary of the debtor's assets and liabilities;
 - (7) the number and classes of shares of stock, debentures, or other securities of the debtor that are publicly held, and the number of holders thereof, listing separately those held by each of the debtor's officers and directors and the amounts so held;
 - (8) a list of all of the debtor's property in the possession or custody of any custodian, public officer, mortgagee, pledgee, assignee of rents, or secured creditor, or agent for any such entity, giving the name, address, and telephone number of each such entity and the court in which any proceeding relating thereto is pending;
 - (9) a list of the premises owned, leased, or held under other arrangement from which the debtor operates its business;
 - (10) the location of the debtor's substantial assets, the location of its books and records, and the nature, location, and value of any assets held by the debtor outside the territorial limits of the United States;
 - (11) the nature and present status of each action or proceeding, pending or threatened, against the debtor or its property where a judgment against the debtor or a seizure of its property may be imminent; and
 - (12) the names of the individuals who comprise the debtor's existing senior management, their tenure with the debtor, and a brief summary of their relevant responsibilities and experience.

(b) *Additional Information if Business is to Continue.* If the debtor intends to continue to operate its business, the affidavit shall so state and set forth:

(1) the estimated amount of the weekly payroll to employees (exclusive of officers, directors, stockholders, and partners) for the 30 day period following the filing of the chapter 11 petition;

(2) the amount paid and proposed to be paid for services for the 30 day period following the filing of the chapter 11 petition --

(A) if the debtor is a corporation, to officers, stockholders, and directors;

(B) if the debtor is an individual or a partnership, to the individual or the members of the partnership; and

(C) if a financial or business consultant has been retained by the debtor, to the consultant; and

(3) a schedule, for the 30 day period following the filing of the chapter 11 petition, of estimated cash receipts and disbursements, net cash gain or loss, obligations and receivables expected to accrue but remain unpaid, other than professional fees, and any other information relevant to an understanding of the foregoing.

(c) *When to File.* In a voluntary chapter 11 case, the affidavit shall accompany the petition. In an involuntary chapter 11 case, the affidavit shall be filed within 14 days after the date on which (i) the order for relief is entered, or (ii) a consent to the petition is filed.

(d) *Waiver of Requirements.* Upon motion of the debtor on notice to the United States Trustee showing that it is impracticable or impossible to furnish any of the foregoing information, the Court may dispense with any of the foregoing provisions, with the exception of those contained in paragraphs (1), (2), (3), and (4) of subdivision (a) of this rule.

(e) *Proposed Case Conference Order.* There shall be submitted to the Court with the chapter 11 petition a proposed case conference order in the following [form](#). Any initial conference shall be conducted approximately 30 days after the filing of the petition or at such other time as the Court may direct.

Comment

This rule is derived from Former Local Bankruptcy Rule 52, with the exception of subdivisions (a)(5) and (a)(11), which are derived from former Standing Order [M-147](#).

Subdivision (e) of this rule, added in 1996, is intended to aid in the implementation of Local Bankruptcy [Rule 9076-1](#).

Subdivision (c) of this rule was amended in 2009 to change the time period from 15 to 14 days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than 30 days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.