



# MEMORANDUM

**To:** Bankruptcy Practitioners, Middle District of Georgia  
**From:** Kyle George, Clerk of Court  
**Subject:** Official Form Changes for December 1, 2017 November 6, 2017

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1. The purpose of this memorandum is to provide you information regarding changes to Official Forms that will occur with the federal rule changes on December 1, 2017.
2. Attached to this memorandum is a summary of the official form changes (with committee notes) for each form change. Although the form changes are not substantial, the attached summary provides you what the form changes will be in one easy-to-read format.
3. Please note that we use local Forms 309G/309H/309I for notices in Chapter 12 and 13 cases and they have been amended to remove any reference to “summary of the plan.”
4. You can review the form changes in detail at the following link:  
  
<http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments/pending-changes-bankruptcy-forms>
5. Our local form templates are being updated to conform with official form changes at the federal level.
6. If you have a question, please direct it to me at [Kyle\\_George@gamb.uscourts.gov](mailto:Kyle_George@gamb.uscourts.gov).

# Change to Official Form 101 (LINE 11): Voluntary Petition for Individuals Filing for Bankruptcy

## Old:

11. Do you rent your residence?

- No. Go to line 12.
- Yes. Has your landlord obtained an eviction judgment against you ~~and do you want to stay in your residence?~~
  - No. Go to line 12.
  - Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

## New:

11. Do you rent your residence?

- No. Go to line 12.
- Yes. Has your landlord obtained an eviction judgment against you?
  - No. Go to line 12.
  - Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

### Committee Note

Part 2, line 11, is amended to accurately reflect the requirements of § 362(l) of the Bankruptcy Code. All debtors against whom an eviction judgment has been entered with respect to their residence must fill out Official Form 101A (*Initial Statement About an Eviction Judgment Against You*), whether or not they desire to remain in their residence. Form 101A is deemed to be part of the petition.

# Change to Official Form 309F (LINE 8) : Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships)

## Old:

**8. Exception to discharge deadline**

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

You must start a judicial proceeding by filing a complaint if you want to have a debt excepted from discharge under 11 U.S.C. § 1141(d)(6)(A).

**Deadline for filing the complaint:** \_\_\_\_\_

## New:

**8. Exception to discharge deadline**

The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.

If § 523(c) applies to your claim and you seek to have it excepted from discharge, you must start a judicial proceeding by filing a complaint by the deadline stated below.

**Deadline for filing the complaint:** \_\_\_\_\_

### Committee Note

Official Form 309F (For Corporations or Partnerships), *Notice of Chapter 11 Bankruptcy Case*, is amended at Lines 8 and 11. Both lines previously stated that a creditor seeking to have a debt excepted from discharge under § 1141(d)(6)(A) must file a complaint by the stated deadline. That statement has been revised in light of ambiguities in § 1141(d)(6)(A) regarding its relationship with § 523. Specifically, the provision is unclear about whether not only a debt “owed to a domestic governmental unit” but also a debt “owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute” must be of the type described by § 523(a)(2)(A) and (B). The provision is also

unclear about whether the procedural requirements of § 523(c)(1) apply, given that § 1141(d)(6)(A) specifically refers to § 523(a) but not to § 523(c). Rather than take a position on the proper interpretation of § 1141(d)(6)(A), the form leaves to creditors the determination of whether § 523(c) applies to their claims, in which case they must commence a dischargeability proceeding by the Rule 4007(c) deadline that is stated on the form.

Official Forms 309G, (For Individual Debtors), *Notice of Chapter 12 Bankruptcy Case*, 309H, (For Corporations and Partnerships), *Notice of Chapter 12 Bankruptcy Case*, and 309I, *Notice of Chapter 13 Bankruptcy Case*, are each amended at Line 9 to remove references to “plan summaries” in conformance with amendments to Rule 3015(d) made in 2017.

# Change to Official Form 309F (LINE 11) : Notice of Chapter 11 Bankruptcy Case (For Corporations or Partnerships)

## Old:

### 11. Discharge of debts

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge under 11 U.S.C. § 1141(d)(6)(A), you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

## New:

### 11. Discharge of debts

Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge and § 523(c) applies to your claim, you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

### Committee Note

Official Form 309F (For Corporations or Partnerships), *Notice of Chapter 11 Bankruptcy Case*, is amended at Lines 8 and 11. Both lines previously stated that a creditor seeking to have a debt excepted from discharge under § 1141(d)(6)(A) must file a complaint by the stated deadline. That statement has been revised in light of ambiguities in § 1141(d)(6)(A) regarding its relationship with § 523. Specifically, the provision is unclear about whether not only a debt “owed to a domestic governmental unit” but also a debt “owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute” must be of the type described by § 523(a)(2)(A) and (B). The provision is also

unclear about whether the procedural requirements of § 523(c)(1) apply, given that § 1141(d)(6)(A) specifically refers to § 523(a) but not to § 523(c). Rather than take a position on the proper interpretation of § 1141(d)(6)(A), the form leaves to creditors the determination of whether § 523(c) applies to their claims, in which case they must commence a dischargeability proceeding by the Rule 4007(c) deadline that is stated on the form.

Official Forms 309G, (For Individual Debtors), *Notice of Chapter 12 Bankruptcy Case*, 309H, (For Corporations and Partnerships), *Notice of Chapter 12 Bankruptcy Case*, and 309I, *Notice of Chapter 13 Bankruptcy Case*, are each amended at Line 9 to remove references to “plan summaries” in conformance with amendments to Rule 3015(d) made in 2017.

## Change to **LOCAL** Forms 309G/309H/309I (**LINE 9**) : Notices of Chapter 12 or 13 Bankruptcy Cases

### Old:

#### 309G & 309H-

##### 9. Filing of plan

The debtor has not filed a plan as of this date. A copy of the plan ~~or summary~~ and a notice of the hearing on confirmation will be sent separately.

#### 309I -

##### 9. Filing of plan

The debtor has filed a plan. The plan ~~or a summary of the plan~~ is enclosed. The hearing on confirmation will be held on: \_\_\_\_\_ at \_\_\_\_\_ Location: \_\_\_\_\_

### New:

#### 309G & 309H-

##### 9. Filing of plan

The debtor has not filed a plan as of this date. A copy of the plan and a notice of the hearing on confirmation will be sent separately.

#### 309I -

##### 9. Filing of plan

The debtor has filed a plan. The plan is enclosed. The hearing on confirmation will be held on: \_\_\_\_\_ at \_\_\_\_\_, Location: \_\_\_\_\_

**We use locally generated Forms 309G/309H/309I for notices in Chapter 12 and 13 cases. They have been amended to remove any reference to “summary of the plan.”**

## Change to Numbering of Forms

Form Title	Old Number	New Number
Plan of Reorganization in Small Business Case Under Chapter 11	Official Form B25A	Official Form B425A
Disclosure Statement in Small Business Case Under Chapter 11	Official Form B25B	Official Form B425B
Small Business Monthly Operating Report	Official Form B25C	Official Form B425C
Periodic Report Regarding Value, Operations and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest	Official Form B26	Official Form B426

# Committee Notes to Changes in Form Numbering

## Committee Note

**B425A**

Official Form 425A, *Plan of Reorganization for Small Business Under Chapter 11*, replaces Official Form 25A, *Plan of Reorganization in Small Business Case Under Chapter 11*. It is revised as part of the Forms Modernization Project, making it easier to read, and includes formatting and stylistic changes throughout the form. It is intended to provide an illustrative format, rather than a specific prescription for the form's language or content of a plan in any particular case.

## Committee Note

**B425B**

Official Form 425B, *Disclosure Statement for Small Business Under Chapter 11*, replaces Official Form 25B, *Disclosure Statement in Small Business Case Under Chapter 11*. It is revised as part of the Forms Modernization Project, making it easier to read, and includes formatting and stylistic changes throughout the form. Where possible, the form parallels how businesses commonly keep their financial records. It is intended to provide an illustrative format for disclosure, rather than a specific prescription for the form's language or content.

## Committee Note

**B425C**

Official Form 425C, *Monthly Operating Report for Small Business Under Chapter 11*, replaces Official Form 25C, *Small Business Monthly Operating Report*. It is revised as part of the Forms Modernization Project, which was designed so that persons completing the forms would do so accurately and completely. To facilitate this, Official Form 425C is renumbered and includes formatting and stylistic changes throughout the form. The form requires basic financial information that the Internal Revenue Service recommends that businesses maintain.

## Committee Note

**B426**

Official Form 426, *Periodic Report Regarding Value, Operations, and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest*, is revised and renumbered as part of the Forms Modernization Project. It implements section 419 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005), which requires a chapter 11 debtor to file periodic reports on the profitability of any entities in which the estate holds a substantial or controlling interest. The form is to be used when required by Rule 2015.3, with such variations as may be approved by the court pursuant to subdivisions (d) and (e) of that rule.