

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
HOWARD M. METZENBAUM U.S. COURTHOUSE
201 SUPERIOR AVENUE, ROOM 148
CLEVELAND, OHIO 44114 -1238

21-BK-G

ARTHUR I. HARRIS
U. S. BANKRUPTCY JUDGE

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March 9, 2021

By email only:

Honorable Dennis Dow, Chair
Advisory Committee on Bankruptcy Rules

Professor S. Elizabeth Gibson, Reporter
Advisory Committee on Bankruptcy Rules

Re: Suggestion to amend Bankruptcy Rule 1007(b)(7) and/or
Official Form B423

Dear Judge Dow and Professor Gibson:

I suggest that the Advisory Committee on Bankruptcy Rules recommend amending Bankruptcy Rule 1007(b)(7) and/or Official Form B423 to permit debtors to file the course-provided "Certificate of Debtor Education" in lieu of the official form.

Bankruptcy Rule 1007(b)(7) currently requires that debtors use Official Form B423 "[u]nless an approved provider of an instructional course concerning personal financial management has notified the court that a debtor has completed the course after filing the petition." Debtors who file the "Certificate of Debtor Education" they receive from their course provider instead of Official Form B423, "Certification About a Financial Management Course," are not following Bankruptcy Rule 1007 and Rule 9009, which generally mandates use of official forms. For example, our clerk's office will issue deficiency notices when debtors fail to file a completed Form B423, even when the debtor files the "Certificate of Debtor Education" which includes essentially the same information. If this deficiency is not corrected, such debtors run the risk of their case being closed without a discharge.

I am also aware of other courts that already accept the course-provided "Certificate of Debtor Education" in lieu of the official form, which suggests that

these rules and official form are often honored in the breach.

Course providers are now permitted to file the “Certificate of Debtor Education” directly through ECF, and I see no reason why debtors and their attorneys should not be permitted to do the same. Pro se debtors in particular may find it difficult to download, print out, sign, and mail the Official Form 423, especially compared with the rather simple task of mailing to the court the “Certificate of Debtor Education” issued by the course provider. The “Certificate of Debtor Education” already provides the debtor’s name and bankruptcy case number, so I don’t foresee any additional burden on clerk’s offices if course certificates are provided in lieu of the official form. Nor do I see any reason why this would increase the likelihood of debtors filing false or counterfeit certificates as opposed to debtors providing false certificate numbers on the official form. Permitting debtors to file the “Certificate of Debtor Education” would also serve as a check against course providers charging debtors too much for the service of filing the certificates through ECF.

This change could be effected by inserting “the Certificate of Debtor Education or” after “shall file” in subdivisions (b)(7)(A) and (B) of Rule 1007. Other options include revising Official Form B423 or creating a national instruction to Form B423 indicating that debtors may file the course-provided “Certificate of Debtor Education” in lieu of the official form.

Thank you for your consideration, and best wishes.

Sincerely,

/s/ Arthur I. Harris

Arthur I. Harris

U.S. Bankruptcy Judge

cc: Secretary, Committee on Rules of Practice and Procedure