



COMMONWEALTH OF VIRGINIA  
COUNTY OF HENRICO

OFFICE OF THE COUNTY ATTORNEY

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99-BK-I

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October 13, 1999

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**Secretary Peter G. McCabe  
Committee of Rules of Practice and Procedure  
Administrative Office of the U.S. Courts  
Washington, D.C. 20544**

**Re: Proposed Amendments to the Bankruptcy Rules**

Dear Honorable Secretary:

I read with interest in the September 14, 1999 edition of U.S. Law Week that you were soliciting comments on the proposed Bankruptcy Rules amendments. I commend the Committee on its effort through these amendments to improve the efficacy of notices required under the Bankruptcy Rules. At the appropriate time, I ask that you also consider an amendment to Rule 6007(a) which would require that a trustee list the specific property he intends to abandon when the notice of abandonment is given only with the notice of the meeting of creditors. This change comports with the spirit of current Rule 6007(a).

I am enclosing a copy of Local Rule 6007-1 from the Eastern District of Virginia Bankruptcy Court. Under this Local Rule, the Chapter 7 Trustee includes in his form notice of the meeting of creditors a statement that he may abandon property at the meeting of creditors. I have attached a copy of this form notice for your reference. Since it is impractical for creditors to attend all the meetings of creditors, most will not receive notice that property has been abandoned until the trustee objects to the creditor's claim at the time of the distribution. By this time, the property value has decreased and the property may have been sold and thus the creditor's lien of little, if any, value. If Rule 6007 explicitly required that the notice designate which pieces of property will be abandoned, creditors would be able to take timely action to protect their interests in abandoned property.

Secretary Peter G. McCabe  
Committee of Rules of Practice and Procedure  
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Thank you for your consideration. If I can provide any additional information, please contact me at 804-501-5091. I appreciate the courtesy of your reply.

Very sincerely yours,



Rhysa Griffith South

Enclosure

**EXPLANATIONS**

FORM B9A(9/97)

<p>Filing of Chapter 7 Bankruptcy Case</p>	<p>A bankruptcy case under chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.</p>
<p>Creditors May Not Take Certain Actions</p>	<p>Prohibited collection actions are listed in Bankruptcy Code §362. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages.</p>
<p>Meeting of Creditors</p>	<p>A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice.</p>
<p>Do Not File a Proof of Claim at This Time</p>	<p>There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time.</i> If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim.</p>
<p>Discharge of Debts</p>	<p>The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code §727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code §523(a)(2), (4), (6), or (15), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint Objecting to Discharge of the Debtor or to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and the required filing fee by that Deadline.</p>
<p>Exempt Property</p>	<p>The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.</p>
<p>Bankruptcy Clerk's Office</p>	<p>Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of property claimed as exempt, at the bankruptcy clerk's office.</p>
<p>Legal Advice</p>	<p>The staff of the bankruptcy clerk's office cannot give legal advice. You may want to consult an attorney to protect your rights.</p>

**---Refer to Other Side For Important Deadlines and Notices---**

**LOCAL RULE DISMISSAL WARNING:** Case may be dismissed for failure to timely file lists, schedules and statements, or to attend meeting of creditors. (Local Bankruptcy Rules 1007-1, 1007-3, and 2003-1.) Trustee may at the meeting give notice of intention to abandon property burdensome or of inconsequential value or intent to sell nonexempt property that has an aggregate gross value less than \$2,500. Objections thereto must be filed pursuant to Local Bankruptcy Rules 6004-2 and 6007-1.

**PHOTOCOPIES:** May be obtained by calling LASON at (804)649-7738, Fax (804)649-7735.  
Case/docket information available on Internet @ [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

service shall be filed with the Court. The notice shall comply with FRBP 2002(a)(2) and 2002(c)(1).

**(B) *Objection to Proposed Use, Sale or Lease:*** An objection to a proposed use, sale or lease, other than in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action not less than five business days before the date set for the proposed action. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

**(C) *Sale of Property When Value of Estate Does Not Exceed \$2,500:*** The trustee or debtor in possession may give general notice of intent to sell property when all of the non-exempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the Clerk is to provide notice in the meeting of creditors notice that this procedure may be followed. An objection to such sale must be filed by a party in interest and served upon the proponent of the sale not later than ten days after the meeting of creditors. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

**(D) *Report of Sale:*** The trustee or debtor in possession shall file with the Court a report of any sale of estate property outside the ordinary course of business. The report shall be filed within thirty days after the sale with a copy to the United States Trustee.

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#### **RULE 6007-1 ABANDONMENT**

**(A) *Notice of Abandonment:*** The Clerk shall give notice in the meeting of creditors notice that the trustee may, at the meeting of creditors, give notice of intention to abandon property of the estate that is burdensome or of inconsequential value to the estate. The Clerk shall give notice that parties in interest who object to such abandonment may state their oral objections at the meeting of creditors, obtain a hearing date from the Court, transmit notice of a hearing on their objection and file such notice with proof of service with the Court, within ten days after the meeting of creditors.

**(B) *Order of Court Directing Abandonment:*** Any party in interest requesting the Court to order the trustee to abandon any property of the estate shall obtain a hearing date from the Court, transmit copies of the motion and notice containing the hearing date to all parties in interest, and file with the Clerk the motion, notice and proof of service.

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#### **RULE 6008-1 REDEMPTION**

A party seeking redemption of property from a lien or sale shall request from the Court a hearing date, transmit the motion and notice of hearing to all parties in interest, and file the motion, notice and proof of service with the Clerk. Provided, however, that if the redemption is uncontested the Court may direct that no hearing be held.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

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December 13, 1999

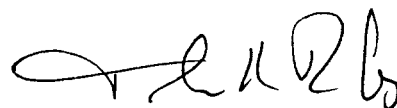
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County of Henrico  
Parham and Hungary Spring Roads  
P.O. Box 27032  
Richmond, Virginia 23273-7032

Dear Ms. South:

Thank you for your suggestion to amend Bankruptcy Rule 6007(a). A copy of your letter was sent to the chair and reporter of the Advisory Committee on Bankruptcy Rules for their consideration.

We welcome your suggestion and appreciate your interest in the rulemaking process.

Sincerely,



Peter G. McCabe

cc: Honorable Adrian G. Duplantier  
Professor Jeffrey W. Morris