



Comments on the proposed amendments to the Official Bankruptcy Forms

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I practice consumer bankruptcy in the Southern District of Iowa and the Central District of Illinois. I am a member of the National Association of Consumer Bankruptcy Attorneys.

Having reviewed the proposed amendments to the Official Bankruptcy Forms, I heartily concur with the comments submitted by Walter Oney at 12-Bk-012. Although modernizing the forms is a laudable goal, the addition of multiple layers of shading and areas with black backgrounds is not ecologically sound. The shading and extra space required in the new forms will result in excessive use of ink and paper. The appearance of the forms will give pro se debtors a false sense of security, leading them to believe that filing a bankruptcy is a simple matter of filling in boxes on a form.

The Bankruptcy Code has become nearly as complex as the Internal Revenue Code. "Simplifying" the forms to encourage pro se debtors to file without a full understanding of the Code will result in unnecessary loss of debtors' assets and increased demands on the courts' time as they try to sort out the financial affairs of uninformed debtors. There are good reasons to consult an attorney when filing a federal court petition. A bankruptcy petition incorrectly or untimely filed can negatively affect a debtor's future, rather than providing the hoped-for relief.

Will the instructions for the new forms explain to the pro se filer that a mistakenly filed Chapter 7 petition can't be summarily dismissed if the debtor has changed her mind or omitted a non-exempt asset? Will the instructions explain that the debtor's tax refund is an asset which may be claimed by the Chapter 7 trustee? Will the instructions explain all the exceptions to dischargeability? Will the instructions explain that, even though the form provides a line item for student loan payments in Schedule J, a number of courts have held that student loan payments are not a "basic monthly expense"?

Finally, one specific concern: In Form 3B, the Application for Waiver of Filing Fees, Line 19 asks if someone other than the debtor paid for the services of an attorney or petition preparer. The question then asks, Who paid? Parent, Brother or Sister, Friend, Pastor or Counselor, someone else. I am unable to find a section in the Code which requires this information. Will the court then ask for the name of the person who paid, review that person's financial information and ask why the person doesn't help the debtor pay her debts?

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