

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

**ATTORNEY CM/ECF FILING INSTRUCTIONS FOR CHANGES MADE BY THE  
BANKRUPTCY ACT OF 2005  
(Effective for cases filed 10/17/2005)**

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Act) requires that new documents be filed in cases in which the petition was filed on or after October 17, 2005. Changes have been made to the Case Opening process in CM/ECF and additional docket entries have been added to the list of filings for the new documents required.

1. CASE OPENING

a. The first change in case opening is at the following screen.

<b>Type of debtor</b>				
<input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Corporation (includes LLC & LLP)	<input type="checkbox"/> Clearing Bank	<input type="checkbox"/> Commodity Broker	<input type="checkbox"/> Single Asset Real Estate
<input type="checkbox"/> Partnership	<input type="checkbox"/> Stockbroker	<input type="checkbox"/> Railroad	<input type="checkbox"/> Health Care Business	<input type="checkbox"/> Other
Fee status	<input type="text" value="Paid"/>	Asset notice	<input type="text" value="No"/>	
Nature of debt	<input type="text" value="consumer"/>	Estimated number of creditors	<input type="text" value="1 - 49"/>	
Voluntary	<input type="text" value="voluntary"/>	Estimated assets	<input type="text" value="\$100,001-\$500,000"/>	
Origin	<input type="text" value="Zero"/>	Estimated debts	<input type="text" value="\$100,001-\$500,000"/>	
Date split/transfer	<input type="text"/>			
<input type="button" value="Next"/> <input type="button" value="Clear"/>				

The new petition form contains both debtor type and nature of business selections.

Type of Debtor (Form of Organization) (Check one box.)	Nature of Business (Check all applicable boxes.)
<input type="checkbox"/> Individual (includes Joint Debtors)	<input type="checkbox"/> Health Care Business
<input type="checkbox"/> Corporation (includes LLC and LLP)	<input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B)
<input type="checkbox"/> Partnership	<input type="checkbox"/> Railroad
<input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and provide the information requested below.)	<input type="checkbox"/> Stockbroker
State type of entity: _____	<input type="checkbox"/> Commodity Broker
_____	<input type="checkbox"/> Clearing Bank
	<input type="checkbox"/> Nonprofit Organization qualified under 15 U.S.C. § 501(c)(3)

For type of debtor, you should select individual, corporation (includes LLC or LLP), partnership or other, then, for a business, you would also check the same box that was checked on the petition. For example, if filing a corporate case where the debtor operates a health care business, both boxes would be checked.

Type of debtor	<input type="checkbox"/> Individual	<input checked="" type="checkbox"/> Corporation (includes LLC & LLP)	<input type="checkbox"/> Clearing Bank	<input type="checkbox"/> Commodity Broker	<input type="checkbox"/> Single Asset Real Estate
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Stockbroker	<input type="checkbox"/> Railroad	<input checked="" type="checkbox"/> Health Care Business	<input type="checkbox"/> Other

- b. If you are not filing all the listed required documents with the petition, you should have marked the deficiencies, y, on the first screen and then check those documents that are not being filed with the petition.

Case type

Date filed 9/20/2005

Chapter

Joint Petition

Deficiencies

**Deficiency List**

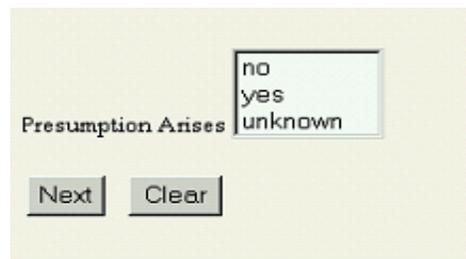
*Check item(s) NOT included in the petition*

- Schedules A-J
- Statement of Financial Affairs
- Attorney Disclosure Statement
- Chapter 13 Plan
- Stmt of Current Monthly Income
- Payment Advices Delcaration

Please note that there are two new required documents that, if not filed with the petition, must be filed within 15 days, the Individual Chapter 7 Debtor Statement of Current Monthly Income (and Means Test (here listed as Ch. 7 Means Test Statement) or the Individual Chapter 11 Debtor and Chapter 13 Statements of Current Monthly Income and the Payment Advices (by General Order a Declaration will be required to be filed with copies of any Payment Advices attached.)

Also please note that the Mailing List and Credit Counseling Certificate are not included in this list because you do not have 15 days to file or upload these two items. If the creditor list is not uploaded on the date the petition is filed, it must be uploaded no later than 5 calendar days from the date of the filing of the petition or the case will be dismissed. The new law requires the clerk, in certain instances, to give notice to all creditors within ten days of the date of the filing of the petition. (Local Bankruptcy Rule 1007(1)(b) never provided for a ten day grace period to file the mailing list, it provided that a mailing list shall be filed with the petition and if it was filed in an improper format, then the debtor had ten days to submit a mailing list in the proper format. This rule will be amended to provide for 5 calendar days to re-file the mailing list in a proper format.) Interim Bankruptcy Rule 1007(c) requires that the credit counseling certificate, certificate of exigent circumstances or application to waive requirement be filed with the petition. If it is not filed on the date the petition is filed, it must be filed within 5 days or the case may be dismissed.

- c. Means Test. The following new screen will prompt you to select yes, no or unknown to the question of whether a Presumption of Abuse Arises. If you are filing the Individual Debtor Chapter 7 Statement of Current Monthly Income and Means Test with the petition, then you would select yes or no as marked on that statement. If you are not filing that Statement with the petition, but will be filing it within 15 days, then you may select unknown. If yes is selected, the meeting of creditors notice will state: *the presumption of abuse arises*. If no is selected, the creditors meeting notice will state: *the presumption of abuse does not arise*. If unknown is selected, the notice will state: *Insufficient information has been filed to date to permit the clerk to make any determination concerning the presumption of abuse. If more complete information, when filed, shows that the presumption has arisen, creditors will be notified*.



The image shows a screenshot of a web form. The form has a light yellow background. At the top, there is a label "Presumption Arises" followed by a dropdown menu. The dropdown menu is open, showing three options: "no", "yes", and "unknown". Below the dropdown menu, there are two buttons: "Next" and "Clear".

If you have selected unknown, when you do later file the Statement of Current Monthly Income and Means Test, there will be two filing entries to choose from depending on whether the statement you are filing is marked Presumption arises or Presumption does not arise. You need to file the statement using the correct entry so that the proper notice can be given.

Chapter 7 Individual Debtor Statement of Monthly Income and Means Test  
(Presumption arises)

or

Chapter 7 Individual Debtor Statement of Monthly Income and Means Test  
(Presumption does not arise)

2. NEW DOCUMENTS TO BE FILED

- a. The following three new documents are to be filed within the times indicated. The case will be dismissed pursuant to Local Rules 1007-1 and 1017-2 (as amended for cases filed under the Act) if any one of these three documents are not timely filed.
- i. Credit Counseling Certificate (any debt repayment plan is required to be attached), Certificate of Exigent Circumstances under Section 109(h)(3) or an Application to Waive the Credit Counseling Requirement pursuant to Section 109(h)(4). Interim Rule 1007(c) requires that one of these documents be filed with the petition. If not filed within 5 days of the date of the filing of the petition, the case may be dismissed.
  - ii. Chapter 7, 11 and 13 Individual Debtor Statement of Current Monthly Income (In a chapter 7 case, this includes the means test). If not filed with the petition, Interim Rule 1007(c) requires that it be filed within 15 days. If not filed within 15 days, the case may be dismissed.
  - iii. Payment Advices Declaration. Interim Rule 1007(c) requires that copies of payment advices be filed no later than 15 days from the date of the filing of the petition. If not timely filed, the case may be dismissed. Pursuant to a general order of the court, a declaration regarding the payment advices must be filed (copies of payment advices may be attached to the declaration.)

**If these three filings are made at the time you file the petition, schedules and statements, then these documents may all be included with the opening petition entry (except if filing a Certificate of Exigent Circumstances or an Application for Waiver of the Credit Counseling Requirement in lieu of the Credit Counseling Certificate, then either of those two documents must be filed as separate documents using the below specific entries.) If any one or more of these three filings are not filed with the petition, but are filed later (even if filed later with the schedules), they then must be filed as separate documents using the below specific entries. Except for the Application to Waive which is under Bankruptcy Motions/Applications, these entries are located in the Bankruptcy Other filings.**

**Waiver of Credit Counseling Requirement (Application for)  
Certificate That Debtor was Unable to Obtain Credit Counseling Due to  
Exigent Circumstances  
Credit Counseling Certificate (Include any Debt Repayment Plan)  
Chapter 7 Individual Debtor Statement of Monthly Income and Means Test**

**(Presumption arises)**  
**Chapter 7 Individual Debtor Statement of Monthly Income and Means Test**  
**(Presumption does not arise)**  
**Chapter 13 Debtor Statement of Current Monthly Income and Disposable Income**  
**Chapter 11 Individual Debtor Statement of Current Monthly Income Declaration of Filing Payment Advices**

- b. **Mailing List of Creditors. If the mailing list of creditors is not uploaded on the date the petition is filed, it must be uploaded no later than 5 calendar days from the date of the filing of the petition. If not uploaded within 5 calendar days, the case may be dismissed pursuant to Local Rules 1007-1 and 1017-2 as amended for cases filed under the new Act.**
- c. Other new filing entries in ECF that are to be used to file certain new documents required by the Act. It is important that these entries be used when filing the document as opposed to using a more generic filing entry.

**Located in Bankruptcy Other Filing Category**

**Certificate of Chapter 13 Debtor that all Support Obligations are Current**  
(This filing is required by Section 1328(a) for the debtor to receive a chapter 13 discharge in those chapter 13 cases where the debtor is required to pay a domestic support obligation)

**Chapter 13 Debtor Statement of Income and Expenditures for Tax Year**  
(This filing is required by Section 521(f)(4))

**Debtor Tax Information**

(This entry is to be used to file copies of Federal income tax returns when required to be filed by Section 521(f). It is your responsibility to redact the SSN or other personal identifiers before filing them. **Copies of Pre-petition tax returns that are to be provided the trustee pursuant to Section 521(e) are NOT to be filed with the court, but are to be provided directly to the trustee.**

**Financial Management Course Certificate**

(This entry is to be used to file this certificate which is required by Sections 727 and 1328 for a debtor to receive a chapter 7 or chapter 13 discharge. **If the debtor does not file this certificate (or obtain a waiver pursuant to Section 727(11) and 109(h)(4)), the case can be closed without a discharge. If closed without a discharge, for the debtor to reopen the case to file the missing certificate and obtain a discharge, the debtor will be required to pay the reopening filing fee of 220.00 for a chapter 7 and 150.00 for a chapter 13.)**

**Request That Debtor File Tax Information Pursuant to Section 521(f)**

**Located in Bankruptcy Motions/Applications Filing Category**

**Delay or Postpone Discharge Pursuant to Section 727(a)(12), 1141(d) or 1328 (Motion to)**

**Dismiss Case for Failure of Debtor to Provide Requested Tax Information (Motion to)**

**Enter Dismissal Order for Failure of Debtor to File Documents Required by Section 521(a)(1) (Motion to)**

**Entry of Order Confirming That No Stay is in Effect under Section 362(c)(4) (Motion for)**

**Entry of Order that Section 362(a) Stay Take Effect pursuant to Section 362(c)(4) (Motion for)**

**Waiver of Financial Management Requirement (Application for)**

**Located in Bankruptcy Appeal Filing Category**

**Request to Certify Direct Appeal to Circuit Court of Appeals**

**Located in Bankruptcy Trustee/US Trustee Filing Category**

These filings are to be made only by the case trustee, an attorney for the case trustee or the US Trustee.

**Trustee Motion to Dismiss Case for Failure or Debtor to Provide Tax Information**

**Trustee Motion to NOT Dismiss Case for Failure of Debtor to File Required Documents**

**Trustee Motion to Enter Dismissal Order for Failure of Debtor To File Documents Required by Section 521**

3. FILING FEE CHANGES

a. The petition filing fees under the Act change to the following:

Chapter 7	274.00 (increase of 65.00)
Chapter 13	189.00 (decrease of 5.00)
Chapter 12	239.00 (no change)
Chapter 11	1039.00 (increase of 200.00)
Chapter 15	1039.00
(Foreign proceeding, replaces Section 304 petition)	

b. If you are filing an application to pay the filing fee in installments or an application to waive the Chapter 7 filing fee, then follow the separate 10/17/2005 Attorney Filing Fee Installment and Filing Fee Waiver Instructions.

c. Conversion Filing Fees for conversions that occur 10/17/2005 or later are as follows:

Conversion to from any chapter to Chapter 7	15.00 (no change)
Conversion from Chapter 7 to Chapter 11	780.00
Conversion from Chapter 13 to Chapter 11	850.00

d. The Reopen filing fees also change as follows (these new fees are effective to all motions to reopen filed on or after 10/17/2005, even though the case being reopened was filed prior to 10/17/2005).

Chapter 7	220.00
Chapter 13	150.00
Chapter 12	200.00
Chapter 11	1000.00

e. The adversary filing fee increased to \$250.00 effective with complaints or removals filed 9/20/2005.

4. CREDITOR MAILING MATRIX

- a. The creditor mailing matrix will now be available in a 3 column format.

Creditor Mailing Matrix

Case number 05-1

Special mailing group All (High) sg1

Format  3 columns  raw data format

Run Report Clear

- b. 11 USC Section 3429(f), a new provision added by the Act, provides that an entity may file with any bankruptcy court a notice of address to be used, by all bankruptcy courts or by only particular bankruptcy courts, as specified by the entity, to provide notice to the entity in all chapter 7 and 13 cases. Creditors will be directed to file such notices directly with the Bankruptcy Noticing Center (BNC) and any such notices filed with the bankruptcy court will be forwarded to the BNC for processing.

The BNC will maintain these preferred addresses in a central data base. If you need to send a notice to creditors in a case, when you generate a Creditor Mailing Matrix as shown above, our ECF system will link to the BNC database and if any of the creditors in the case have a preferred address in the BNC data base, the preferred address will be substituted for the address in our ECF system. The mailing list you receive when the report is generated will contain the BNC preferred address instead of the address that is listed in the ECF system. This preferred address will not replace the address listed in ECF, it will only be substituted for the ECF address on the mailing list generated.

- c. The three column mailing list generated will look like the following. While the court's address will be listed, please do not mail a paper copy to the bankruptcy court.

Label Matrix for local noticing 1111-2 Case 2:05-bk-00001-CGC DISTRICT OF ARIZONA Phoenix Tue Sep 27 15:30:51 MST 2005	U.S. Bankruptcy Court, Arizona 230 North First Avenue, Suite 101 Phoenix, AZ 85003-1727	ABC BANK PO BOX 12345 PHOENIX AZ 85001
DAVID A. BIRDSHELL 214 N. CENTER MESA, AZ 85201	INGO PITTIPUL 444 ANGEL WAY AZO, AZ 99999	TONI ATTORNEY CHRISTENSEN, ATTORNEY, BENTON 22255 WEST FIFTH AZO, AZ 95059

DOCUMENTS REQUIRED BY BAPCPA  
ATTORNEY FILED CASES

1. Sections 342(b). An attorney is required to give the debtor the Notice to Individual Consumer Debtor required by Section 342(b)(1). While this notice does not need to be filed with the court, you may e-file it as part of the schedules and statements. The new petition form contains a certification for an attorney to certify that they delivered to the debtor the notice required by Section 342(b). **Bankruptcy software providers will likely include revised form once it is available from the [www.uscourts.gov](http://www.uscourts.gov) web site.**
2. Section 527 also requires that an attorney provide the debtor with a clear and conspicuous written notice containing the disclosures stated in Section 527(a)(2). **This notice is not to be filed with the court. Attorney is to retain a copy for two years. No official form, the statute contains the required disclosure. Bankruptcy software providers will likely include as form.**
3. Section 527(b). An attorney is to provide the debtor in a document titled Notice of Important Information About Bankruptcy Assistance Services From an Attorney all the information included in subsection (b). **This notice is not filed with the court. Attorney is to retain a copy for two years. No official form, the statute contains the required disclosure. Bankruptcy software providers will likely include as form.**
4. Section 527(c). An attorney is to provide the debtor sufficient information, in a clear and conspicuous writing, on how to provide all the information the debtor is required to provide under Section 521 and those additional items stated in 527(c). **This notice is not filed with the court. Attorney is to retain a copy for two years. No official form, the statute contains the required disclosure. Bankruptcy software providers will likely include as form.**
5. Section 528. An attorney is to execute a written contract with the debtor that explains clearly and conspicuously the services that will be provided the debtor, the fees or charges for such services and the terms of payment. The debtor is to be provided a copy of the fully executed and completed contract. **This document is not filed with the court**
6. Sections 109(h) and 521(b) and Interim Bankruptcy Rule 1007(b)(3). Credit Counseling Certificate to include any debt repayment plan, a certificate of exigent circumstances under section 109(h)(3) or an application to waive the credit counseling requirement under section 109(h)(4) Interim Rule 1007(c) requires that one of these be filed with the petition and the case is subject to dismissal if not filed within 5 days.
7. Sections 707(b), 1129(a)(15) and 1325(b)(2) and Interim Bankruptcy Rule 1007(b)(4), (5) and (6). Individual Chapter 7, 11 or 13 Debtor Statement of Current Monthly Income. Interim Rule 1007(c) requires that, if not filed with the petition, that this statement is to be filed within 15 days and the case is subject to dismissal if not filed.

8. Section 521(a)(1)(B)(iv) and Interim Bankruptcy Rule 1007(b)(1)(E). A new General Order will require that a Declaration Regarding Payment Advices be filed, to which copies of the payment advices may be attached. Interim Rule 1007(c) requires that, if not filed with the petition, that this declaration is to be filed within 15 days and the case is subject to dismissal if not filed.

**IT IS IMPORTANT TO NOTE THAT EACH OF THESE THREE NEW REQUIRED DOCUMENTS (described in 6, 7 and 8 above) WILL BE SEPARATELY TRACKED FOR FILING AND A CASE MAY BE DISMISSED IF ANY ONE OF THESE THREE FILINGS ARE NOT TIMELY MADE.**

# ATTORNEY FILING FEE INSTALLMENT AND FILING FEE WAIVER INSTRUCTIONS

(10/17/2005)

1. Pursuant to Interim Rule of Bankruptcy Procedure 1006 (applicable to cases file 10/17/2005 or later), an individual (not a corporation, partnership, limited liability company, trust or other artificial entity) may pay the filing fee in installments. If you are filing a petition for an individual or joint debtors who are unable to pay the filing fee in full and are going to file an application to pay the filing fee in installments, you may file the petition and open the case without having the full filing fee charged to your credit card. Only the 50.00 or a larger amount if you desire will be charged to your credit card.

The new Act also permits the debtor to apply for a waiver of a Chapter 7 filing fee (only chapter 7 fees may be waived.) If you do have occasion to file a chapter 7 case where the debtor may be eligible for waiver of the filing fee, you also can open the case on ECF with no charges to your credit card and then file an Application for Waiver of the Chapter 7 Filing Fee (an official form, which is available at [www.uscourts.gov](http://www.uscourts.gov) must be used.)

2. Please also be advised that under General Order No. 91, a debtor who is filing a petition without paying the full filing fee, and is filing an application to pay the filing fee in installments, is required to pay an initial installment of \$50.00 at the time the petition is filed. The debtor may then apply to pay the balance of the filing fee in installments.
3. To open a case and file a petition without paying the full filing fee, when the statistical screen is displayed, change the Fee status from the paid default to installment.

Type of debtor	<input checked="" type="checkbox"/> Individual	<input type="checkbox"/> Corporate (include partnerships)
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Stock
Fee status	Installment	
Nature of debt	consumer	
Voluntary	voluntary	
Origin	Zero	
Date split/transfer		
Next		
Clear		

- You will then be able to change the amount of the fee to the amount that you will be paying when filing the petition (50.00 minimum or more) if filing an Application to Pay the Filing Fee in Installments. If filing an Application for Waiver of the Chapter 7 Filing fee change the amount to 0.00.

**Open New Bankruptcy Case**

Electronic Filing Declaration due date 01/10/2005

Fee: \$

At the conclusion of the filing, you will be prompted to pay this amount online using your credit card. If you have input 0.00 for an amount, the following screen will not appear.

**Summary of current charges:**

Date Incurred	Description	Amount
2004-12-21 09:09:22	Voluntary Petition (Chapter 7)(2:04-bk-00419) [other,volp7] ( 50.00)	\$ 50.00
		<b>Total: \$ 50.00</b>

- After filing the petition (and any schedules and statements) and opening the case, you need to file the debtor’s application to pay the filing fee in installments or the application for waiver of the chapter 7 filing fee. An order will then be entered providing for the dates and amounts the installments are to be paid or granting or denying the waiver application. Those installment payments, if made by the attorney must be by check and if made directly by the debtor must either be by cash in person or by money order or cashier’s check if made by mail.