

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**IMPORTANT NOTICE TO THE BAR AND PUBLIC
GUIDANCE FOR IMPLEMENTING PRIVACY-RELATED RULES AND FORM
CHANGES EFFECTIVE DECEMBER 1, 2003**

As previously posted in two prior notices dated October 15th, and October 27th, 2003, at its September 2002 session, the Judicial Conference approved proposed amendments to the Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms which will, *inter alia*, implement the conference policy on privacy and public access to electronic case files. *These amendments are scheduled to take effect December 1, 2003.*

The amendments are consistent with the Judicial Conference's September 2001 policy statement regarding documents in bankruptcy cases. That policy states that such documents generally should be available electronically with the proviso that the Bankruptcy Code and Rules should be amended as necessary to allow the Court to collect a debtor's full Social Security number but display only the last four digits.

Information regarding the entirety of the Rule and Form amendments, including the new privacy requirements, is available on the Federal Rulemaking page of the Judiciary's website at <http://www.uscourts.gov/rules/index.html>. Click on "Pending Rules Amendments Waiting Final Action," and then select "Amendments Submitted to the Judicial Conference (Sept. 2002)."

The purpose of the two previous privacy-related *Notices to the Bar and Public* dated October 15th and October 27, 2003 was to provide a synopsis of the key privacy-related amendments to the national Bankruptcy Rules and Forms, as well as guidance regarding their *local implementation* by the Bankruptcy Court for the District of New Jersey.

The purpose of this third Notice is to provide direction to the bar and public concerning the responsibilities of debtors and counsel with respect to the submission of a debtor's Social Security number pursuant to the amendment to Fed. R. Bankr. P. 1007(f) which provides:

Rule 1007. Lists, Schedules, and Statements; Time Limits

f) An individual debtor shall submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an involuntary case, the debtor shall submit the statement within 15 days after the entry of the order for relief.

The Rule is amended effective December 1, 2003, to add a requirement that a debtor “submit” a statement (*new national Form B-21*) setting out the debtor’s Social Security number. The addition is necessary because of the corresponding amendment to Bankruptcy Rule 1005 which now provides that the caption of the petition includes only the final four digits of the debtor’s social security number. The amendment will provide more protection of the debtor’s privacy while continuing access to the information to those persons with legitimate need for that data. The debtor must disclose the information, but the method of disclosure is by a verified statement that is submitted to the clerk. The statement is not filed in the case and does not become a part of the court record. Therefore, it enables the clerk to deliver that information to the creditors and the trustee in the case, but it does not become a part of the Court record governed by section 107 of the Bankruptcy Code and is not available to the public.

Local Procedures for Compliance with Rule 1007(f)

1. Procedure for submission of debtor’s Social Security number for petitions filed conventionally

If a petition is filed as a paper document, a signed paper copy of the Social Security Number Statement (*Form B-21*) should be submitted at the same time. Because the signed paper copies of the Statement will be filed by pro se debtors and by some attorneys (those attorneys who are not subject to the mandatory filing requirements), the Clerk of the Court will be the custodian of these paper documents.

Given the importance of the timely submission of the Social Security number to the Clerk’s ability to prepare the section 341 Meeting of Creditors Notice, attorneys and pro se filers failing to submit the Social Security number with the petition, pursuant to the Court’s instructions, will be issued a notice of deficiency requiring the Social Security number to be submitted by a date certain or the case may be dismissed on expedited notice.

2. Procedure for submission of debtor’s Social Security number for petitions filed electronically in the Court’s Case Management/Electronic Case Filing System (“CM/ECF”)

CM/ECF Participants - Please take note of the following two part process:

- a. **Enter Social Security number into CM/ECF case opening screens -**
The Bankruptcy Court for the District of New Jersey implemented electronic case filing in CM/ECF on April 1, 2002. Consequently, the Administrative Office of the United States Courts (“AOUSC”), has approved the submission of just the Social Security number without the text of the official form as part of the electronic case upload application or

when completing the case opening screens within CM/ECF itself (*Guidance for Implementing Privacy-Related Rules Changes, July 2003*). **Therefore, CM/ECF Participants should submit the full Social Security number in the screens provided when inputting the case into CM/ECF.**

- b. **Debtor's Signature and Attorney/Participant's Retention of Paper/Verified Statement of Social Security Number (Form B-21)** - In order to ensure that the debtor has verified the number as required by Rule 1007(f), when the Social Security number is submitted electronically during the bankruptcy case filing, the debtor's attorney must ***retain the signed paper copy of the Statement bearing debtor's original signature (Form B-21)***, for a period of seven (7) years, pursuant to *para. II C.2 of the Court's Administrative Procedures for the Filing, Signing and Verification of Documents*.

As previously published in two prior Notices to the Bar and Public, dated October 15th and October 27th, 2003, attorneys and parties should use the current versions of the Official Bankruptcy Forms - including the voluntary Petition, Involuntary Petition, Schedules, Statement of Financial Affairs, and Proof of Claim - through November 30, 2003 and the revised forms on and after December 1, 2003, as required by the Bankruptcy Rules. ***All attorneys and parties filing documents in this Court should begin now to review the changes to ensure that their offices have the correct forms available as of December 1st.*** Attorneys and pro se filers using old forms that include the debtors Social Security number, after that date, will be issued a notice of deficiency. An attorney's persistence in filing petitions using old forms, may result in an order to show cause being issued by the Court for appropriate action.

Attorneys should consult the two prior Notices to the Bar and Public with regard to their specific redaction responsibilities with respect to documents filed in CM/ECF. For the ease of reference of the Bar and Public, these Notices are posted to the Court's website www.njb.uscourts.gov. *The Clerk will not review each pleading for redaction. If documents are filed with the full Social Security number or other personal identifiers, the documents will be available electronically with all of the information they contained when filed.*

The Office of the Clerk appreciates the active and ongoing participation of the public and bar in successfully implementing both electronic case filing, as well as the above referenced privacy-related changes to the Rules and Forms. If we can be of additional assistance to you, please feel free to contact us.

November 5, 2003

JAMES J. WALDRON
Clerk