



**United States Bankruptcy Court
District of New Mexico
Office of the Clerk
Norman H. Meyer, Jr., Clerk of Court**

November 28, 2003

Notice to Practitioners No. 2003-13

Topics

- (1) Update on Privacy:
 - (a) Changes Effective December 1, 2003
 - (b) Clarifications and Corrections to October 23, 2003, Notice to Practitioners No. 2003-12 Including CHANGES to Local Rules Contained in 10-23-03 Notice to Practitioners No. 2003-12
 - (c) Notice of Change in Procedures to Enforce Requirement that Mailing List Be Submitted With Petition (IMPORTANT CHANGE IN POLICY)
 - (d) Notice of Adoption of Procedures to Enforce Requirements for Submission of Social Security Statement and for Provision of Non-filing Spouse Information
- (2) Clerk's Office Holiday Staffing and Hours Adjustments
- (3) Proposed Federal Rules of Bankruptcy Procedure Amendments Published for Comment

(1) Update on Privacy

(a) Please remember – the following changes are effective December 1, 2003:

- The Official Forms for the petition (form 1), schedules D, E, F, and I (form 6), and the statement of financial affairs (form 7) have been amended. The amended forms are available from our website, www.nmcourt.fed.us/web/BCDOCS/bcindex.html (click on the currently-featured Forms hyperlink to access them directly, or click on GENERAL INFORMATION and then FORMS).
- Individual debtors filing petitions in paper are required to submit form B21, Statement of Social Security Number(s). This form is also available from our website. Completion of the B21 form is built in to the process of filing a petition electronically. The full social security number will appear on the § 341 notice which goes to creditors in the case; only the last four digits will appear on the § 341 notice maintained in court records.
- Newly updated local forms can also be found on our website. Please check to be sure that you have the latest versions.
- It is the filer's responsibility to redact personal identifiers (social security numbers, names of minor children, dates of birth, financial account numbers [debtors may choose to include full account numbers on schedules D, E, and F to the petition to assist the trustee and creditors]). Counsel should also exercise caution when filing documents which contain:
 - (1) any personal identifying number, such as driver's license number;
 - (2) medical records, treatment and diagnosis;

- (3) employment history;
- (4) individual financial information; and
- (5) proprietary or trade secret information.

Pending amendment of § 107(b)(2) of the Bankruptcy Code, to comply with the E-Government Act of 2002, a party wishing to file a document containing personal data identifiers may file an unredacted document under seal. This document shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file. Provisions for electronic filing of a motion to file a document under seal are contained in paragraph 8 of the administrative order and notice entered August 19, 1999 (No. Misc. 99-350), which can be found at page 35 of the court's local rules as displayed on our website: www.nmcourt.fed.us/web/BCDOCS/bcindex.html [click on GENERAL INFORMATION and then LOCAL RULES]).

The clerk will not check documents filed with the court to ensure that they have been redacted. If documents are otherwise acceptable, they will be filed as-is.

Understand, however, that the judges do intend to check documents submitted to them (for example, proposed orders) to ensure that they have been redacted, and will request revision of non-compliant documents.

(b) Clarifications and Corrections to October 23, 2003, Notice to Practitioners No. 2003-12 Including CHANGES to Local Rules Contained in 10-23-03 Notice to Practitioners No. 2003-1:



As indicated in the earlier notice to practitioners, the court's local rules will be changed to mesh with the Judicial Conference privacy policy and related changes to the Federal Rules of Bankruptcy Procedure. Both amended local rule 1002-1 and new local rule 1007-5 have been CHANGED. The rules, adopted November 26, 2003, and effective December 1, 2003, read as follows:

RULE 1002-1 PETITION - DISCLOSURE OF NON-FILING SPOUSE

At the time of filing of a petition, an individual debtor shall file a separate statement containing the name and address of any non-filing spouse, or certifying that the debtor has no spouse. An individual debtor failing to file such a statement will be required to provide the notice of bankruptcy case, meeting of creditors and deadlines (the § 341 notice) to the non-filing spouse, and to file a certificate of service of the notice within two days thereafter. Failure to file the statement, to provide the notice, or to file the certificate of service may subject the individual debtor to sanctions, including dismissal of the case.

**RULE 1007-5 STATEMENT OF SOCIAL SECURITY NUMBER (PRIVACY),
INCLUDING NON-FILING SPOUSE INFORMATION**

a. An individual debtor who fails to submit the verified statement of social security number required by Fed. R. Bankr. P. 1007(f) with the petition shall provide a copy of the statement to the trustee, all creditors and indenture trustees. Within two days thereafter, a certificate of compliance with this rule shall be filed with the clerk. Failure to provide the statement or to file the certificate of compliance may subject the individual debtor to sanctions, including dismissal of the case.

b. Within five days of filing a petition, an individual debtor who has a non-filing spouse shall give the trustee, all creditors and indenture trustees notice by mail of the name, address, and the full 9-digit social security number (if known) of the non-filing spouse. The notice shall be verified by the debtor. Within two days thereafter, a certificate of compliance with this rule shall be filed with the clerk. Failure to provide the notice or to file the certificate of compliance may subject the individual debtor to sanctions, including dismissal of the case.

Reference: 11 U.S.C. §342(a).

The November 26, 2003, order will be posted to the court's website shortly.

 Clarification regarding use of Form 32, Notice of Meeting of Creditors Given to Additional Parties:

The copy of the § 341 notice which is to be attached to recipients' copies of Form 32 is the case filer's copy – the one which displays the full social security number. The copy of the § 341 notice which is to be attached to the original Form 32 and filed with the court should be redacted to display only the last four digits of a social security number. Please refer to the "Clerk's Office note to the sender of this notice" at the bottom of Form 32.

 We had previously indicated that no social security number information would be available from WebPACER. Modifications to the program have been made so that the last four digits of a social security number will be available.

(c) Notice of Change in Procedures to Enforce Requirement that Mailing List Be Submitted With Petition

It has been the Clerk's practice to send a Notice of Deadline to Submit Mailing List to a filer who has not submitted a mailing list with the petition or who has submitted a list in improper format, giving the filer five business days to correct the problem. When a case is filed without a mailing list or with an improperly-formatted mailing list, noticing of the case is delayed and processing time increases significantly. A number of practitioners have come to regard issuance of the notice as the granting of a grace period for compliance with the requirement and, as a result, processing of an increasing number of cases is delayed.

Consequently, when a petition is filed with no mailing list or with an improperly-formatted mailing list, the Court will now immediately issue an order to show cause why the case should not be dismissed. The order will require a court appearance, even if an appropriate mailing list is submitted prior to the hearing date. This new procedure is effective December 1, 2003.

(d) Notice of Adoption of Procedures to Enforce Requirements for Submission of Social Security Statement and for Provision of Non-filing Spouse Information

Please review the last sentences of the local rules printed in this notice: NM LBR 1002-1, NM LBR 1007-5(a), and NM LBR 1007-5(b). Because failure to comply with these rules in a timely manner can produce the same kinds of noticing delay and processing time increases as discussed in item (d), above, the Court is intent on ensuring compliance with these rules as well.

If the provisions of these rules are not observed as required, the Court will immediately issue an order to show cause why the case should not be dismissed. The order will require a court appearance, even if the requirements are fulfilled prior to the hearing date. These procedures are effective December 1, 2003.

(2) Clerk's Office Holiday Staffing and Hours Adjustments

The court will be closed Christmas Day, Thursday, December 25, 2003, and New Year's Day, Thursday, January 1, 2004. Please also note the following:

On Christmas Eve, Wednesday, December 24, 2003, the court will close at 12:00 noon. On Friday, December 26, and on Friday, January 2, 2004, the court will be operating with a skeleton staff, open to the public from 8:30 am to 4:30 pm.

As always, electronic filing and case information will be available from the court's website, www.nmcourt.fed.us. Filings may also be placed in the court's drop box, located on the west side of Fifth Street SW, between Gold and Silver Avenues, just south of the Fifth Street entrance to the Dennis Chavez Federal Building and United States Courthouse.

Our best wishes to you, your staff members, and your families in this holiday season.

**(3) Proposed Federal Rules of Bankruptcy
Procedure Amendments Published for Comment**

On August 15, 2003, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States published proposed amendments to Federal Rules of Bankruptcy Procedure 1007, 3004, 3005, 4008, 7004, and 9006. The deadline for comments is February 16, 2004. Comments may be submitted to the Secretary of the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, DC 20544, or electronically via the *www.uscourts.gov/rules* website.

NORMAN H. MEYER, JR.
Clerk of Court