

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA

TO: THE BAR AND PUBLIC

The United States Bankruptcy Court for the Northern District of Indiana is seeking public comment concerning a proposed change to the Court's Local Rules. The change involves the following rule:

- B-4004-2 Discharge in Chapter 13 Cases, *adding a new rule concerning the entry of a discharge in chapter 13 cases filed after the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.*

The proposed amendments are available online at the court's website, <http://www.innb.uscourts.gov/>, or in hard copy at the clerk's office. Please send comments and suggestions by **April 16, 2008**, to:

Christopher M. DeToro
Clerk of Court
United States Bankruptcy Court, Northern District of Indiana
401 South Michigan Street
South Bend, IN 46601-2365
(574) 968-2100

Dated: March 17, 2008

Proposed change to the local rules for the United States Bankruptcy Court for the Northern District of Indiana. New material is indicated by **redline**, and deleted material is indicated by **strikeout**.

**Proposed Local Rule
B-4004-2
Discharge in Chapter 13 Cases**

1 (a) In any case filed on or after October 17, 2005, in order to receive a discharge after
2 completing all the payments under a confirmed plan, the debtor shall file a Verified Motion for
3 the Entry of a Chapter 13 Discharge.

4 (b) (1) The Verified Motion for the Entry of a Chapter 13 Discharge shall separately affirm
5 under penalties of perjury that the debtor has fulfilled each of the statutory requirements for a
6 discharge. At the time of the adoption of this rule, those requirements are:

7 (A) that the debtor has completed all the payments required by the confirmed plan,
8 whether made to the Chapter 13 trustee, or made directly to creditors (11 U.S.C. §
9 1328(a));

10 (B) if the debtor is required by any judicial or administrative order, or any statute, to
11 pay a domestic support obligation, as defined by 11 U.S.C. § 101(14A), that the
12 debtor has paid all amounts payable under such order or such statute that are due on
13 or before the date of the certification (including amounts due before the petition was
14 filed to the extent payment of such amounts was provided for by the plan (11 U.S.C.
15 §1328(a));

16 (C) that the debtor did not receive a discharge under Chapter 7, 11, or 12 of the
17 United States Bankruptcy Code during the four years prior to the date of the order for
18 relief under Chapter 13 in the case (11 U.S.C. § 1328(f)(1));

19 (D) that the debtor did not receive a discharge under Chapter 13 of the United States
20 Bankruptcy Code during the two years prior to the date of the order for relief under
21 Chapter 13 in the case (11 U.S.C. § 1328(f)(2));

22 (E) that, after filing the petition, the debtor completed a course concerning personal
23 financial management, and that a copy of the certificate of completion of that course
24 has been filed with the court, or that the court has exempted the debtor from
25 completing such a course (11 U.S.C. § 1328(g)); and

26 (F) that there is no proceeding pending in which the debtor might be found guilty of a
27 felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the
28 kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11
29 U.S.C. § 522(q)(1) might apply to the debtor (11 U.S.C. §1328(h)).¹

30 (2) In the event the debtor is required to pay a domestic support obligation, the verified
31 motion shall also contain the name and address of the entity to whom such payments are to be
32 made and the name and address of the debtor's employer. (See, 11 U.S.C. § 1302(d)(1)(C)).

33 (3) Local Bankruptcy Form LBF-4004-2 shall be used to file a motion for discharge, and
34 any other form of motion may be subject to summary denial without notice or hearing. If the
35 debtor is represented by counsel, the motion shall also be signed by debtor's counsel.

36 (c) The clerk will issue notice of a Motion for the Entry of a Chapter 13 Discharge and give
37 all creditors and parties in interest at least thirty (30) days notice of the opportunity to object
38 thereto. Absent timely objection, the motion may be granted and a discharge issued, without a
39 hearing.

40 (d) If a Motion for the Entry of a Chapter 13 Discharge is not filed within thirty (30) days

¹This requirement is applicable to cases filed on or after April 20, 2005.

41 after the filing of the trustee's final report, the court may close the case without issuing a
42 discharge, but doing so shall not prejudice the debtor's right to file a motion to reopen under 11
43 U.S.C. § 350(b).