

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~~.

B-4004-3

Discharge in Chapter 11 Cases ~~for Individual Debtors~~

(a) **Except for cases under subchapter V of Chapter 11**, if the debtor is an individual, in order to receive a discharge in a case under Chapter 11, the debtor must file an appropriate motion. The motion may be filed either before or after confirmation of a plan in accordance with the provisions of this rule.

~~(b)(1)~~ (1) Prior to confirmation, if the debtor would like the court to consider issuing a discharge upon confirmation of a proposed plan, it shall file a “Motion for Discharge Upon Confirmation.” The motion shall state, with particularity, the reason or reasons for issuing a discharge before payments under the plan have been completed and shall be filed prior to the hearing to consider the adequacy of the disclosure statement or at the same time the debtor files a motion under local bankruptcy rule B-3017.1-1 to dispense with such a hearing. The court will hold a hearing on the debtor’s motion for discharge, upon notice to all creditors and parties in interest, at the same time it considers confirmation of the proposed plan. Any objections to the motion must be filed within the time required by local bankruptcy rule B-9014-1(b) (no later than seven days prior to the hearing).

~~(c)(2)~~ (2) After confirmation, when the debtor would like the court to consider issuing a discharge it shall file a “Motion for Discharge.” The motion shall state how the debtor has satisfied the requirements for the entry of discharge, *see*, 11 U.S.C. § 1141(d)(5), by alleging, with particularity:

~~(1)~~ (A) that all the payments required by the confirmed plan have been completed; or,

~~(2)~~ (B) if all the payments required by the confirmed plan have not been completed, which payments have yet to be made, and

(i) the reason or reasons for issuing a discharge before payments have been completed; or

(ii) how the distribution actually made on account of each allowed unsecured claim has satisfied the best interest of creditors test and why modification of the plan is not practicable.

~~The debtor shall serve all creditors and parties in interest with notice of a motion for discharge, in accordance with local bankruptcy rule B-2002-2, giving at least twenty-one (21) days notice of the opportunity to object thereto. Unless a creditor or other party in interest files a timely objection, the court will consider the motion and may issue a discharge without holding a hearing.~~

(3) ~~Except for cases under subchapter V of Chapter 11~~, in addition to satisfying the requirements of paragraph ~~(b) or (c)~~ **(a)(1) or (a)(2)**, any motion for discharge, whether filed before or after confirmation, must also state that there is no proceeding pending in which the debtor might be found guilty of a felony of the kind described

in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11 U.S.C. § 522(q)(1) might apply to the debtor (11 U.S.C. § 1141(d)(5)(c)).

(b) For cases filed under subchapter V of chapter 11:

(1) If the debtor is an individual and if the plan was confirmed under § 1191(a), the discharge will be issued upon confirmation. *See* 11 U.S.C. §§ 1181(a), 1141(d)(5).

(2) If the debtor is an individual and the plan was confirmed under § 1191(b), in order to receive a discharge in a case under Chapter 11, the debtor must file an appropriate motion as soon as practicable after completion of all necessary payments. Such motion shall state, with particularity, how the debtor has satisfied the requirements for entry of discharge, *see*, 11 U.S.C. § 1192, including that all payments of projected disposable income or equivalent values of property have been completed and, in the event the debtor is required to pay a domestic support obligation, the name and address of the entity to whom such payment are to be made and the name and address of the debtor's employer. *See*, 11 U.S.C. § 1183(b)(6).

(3) If a Verified Motion for Entry of Discharge is not filed within thirty (30) days after the filing of the trustee's final report, *see* 11 U.S.C. §§ 1183(b)(1), 704(b)(9), the court may close the case without issuing a discharge, but doing so shall not prejudice the debtor's right to file a motion to reopen under 11 U.S.C. § 350(b).

(c) The debtor shall serve all creditors and parties in interest with notice of a motion for discharge, in accordance with local bankruptcy rule B-2002-2, giving at least twenty-one (21) days notice of the opportunity to object thereto. Unless a creditor or other party in interest files a timely objection, the court will consider the motion and may issue a discharge without holding a hearing.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated February 14, 2020, this rule was amended to implement changes mandated by the Small Business Reorganization Act of 2019 (SBRA).

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated May 11, 2009, this new rule became effective immediately.