

B-1017-1
Dismissals for Failure to File Required Documents

(a) If an individual debtor in a voluntary case under Chapter 7 or Chapter 13 fails to file documents containing the information required by 11 U.S.C. § 521(a)(1)(A) and (B)(i-iii, v, vi) within 45 days following the date of the petition, unless that deadline has been extended or the trustee files an appropriate motion, the court will issue a notice reflecting the dismissal of the case pursuant to § 521(i)(1) on the 46th day after the date of the petition or as soon thereafter as may be practicable. A debtor or other party in interest who contends such a notice was issued in error may seek relief under Rule 9024(a) of the Federal Rules of Bankruptcy Procedure. In addition to the requirements of Local Bankruptcy Rule B-9023-1, any such motion shall:

(1) Specifically indicate where in the record documents containing the required information may be found;

(2) Describe how those documents provide all the information required;
and

(3) State the date upon which they were filed.

(b) The absence of a notice reflecting dismissal of the case pursuant to § 521(i)(1) indicates that the court believes the debtor has filed the required information, and constitutes a presumption that such a dismissal has not occurred and that the case may continue to proceed. Notwithstanding the absence of such a notice, a party in interest that contends § 521(i)(1) requires dismissal of the case may file a motion for an order dismissing the case pursuant to § 521(i)(2). Such a motion must:

(1) Be filed electronically;

(2) Refer to § 521(i)(2) in both the title and the docket text entered by the movant; and

(3) Be accompanied by an affidavit from movant's counsel.

A motion which fails to so refer to § 521(i)(2) will be deemed to be a motion to dismiss for some other cause, a waiver of the court's need to act within seven days, and will be set for a hearing on notice to all creditors and parties in interest.

(c) The affidavit accompanying the motion for an order dismissing the case pursuant to § 521 (i)(2) must:

(1) Indicate that counsel has personally reviewed the docket and every page of every document filed in the case;

(2) Specifically identify what information required by § 521(a)(1)(A) and (B)(i-iii, v, vi) the debtor has failed to file;

(3) Specifically describe how the information that has been filed by the debtor does not provide what is required; and

(4) State whether the debtor has sought an extension of time to file the required documents and whether the trustee has filed a motion asking the court to decline to dismiss the case.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this new rule was adopted effective January 1, 2010. General Order 2006-01 is vacated effective with the adoption of this new rule.