

B-7041-2
Dismissal of Objections to Discharge

(a) A motion for the voluntary dismissal of a complaint containing an objection to a debtor's discharge, pursuant to 11 U.S.C. § 727, or a stipulation between the parties for the dismissal of such a complaint shall be served upon the United States trustee and any trustee.

(b) The motion or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of any agreement concerning the dismissal.

(c) Unless the United States trustee, the trustee or another entity seeks to intervene or to be substituted for the plaintiff in the proceeding or objects to the dismissal within twenty-one (21) days following service of the motion, the court may grant the motion, upon such terms and conditions as it deems proper, without further notice or hearing.

Commentary (1994)

This rule is designed to implement the restrictions of Rule 7041 concerning the voluntary dismissal of §727 complaints and provide for notice of the motion to the United States Trustee, any trustee and other parties, as well as establishing a time within which they should react if they believe dismissal is, for any reason, improper.

Paragraph (b) is designed to ensure that there is full disclosure of any agreement or understanding between the parties in return for the dismissal and, thus, alert the court to any improper and, arguably, illegal bargain. *See* 18 U.S.C. §152.

The language of paragraph (c), allowing dismissal upon such terms as the court deems proper, is taken directly from Rule 7041 and will allow the court to excise or void any improper agreement for dismissal.