

Local Rules of the United States Bankruptcy Court for the Western District of Missouri

Rule 4008-1. Reaffirmation Agreements

A. Filing of Reaffirmation Agreement. A reaffirmation agreement pursuant to § 524(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a) of the Code. A party seeking to enlarge this time shall file a motion to extend time. Agreements to reaffirm debt pursuant to § 524(c) shall be executed on Director's Procedural Form B240 promulgated by the Administrative Office of the United States Courts and available on the Court's website.

B. Statement in Support of Reaffirmation Agreement. In compliance with Fed. R. Bankr. P. 4008, the debtor's statement required under § 524(k)(6)(A) (Part D of the reaffirmation agreement) shall be accompanied by a statement of the total income and expenses stated on Schedules I and J. If there is a difference between the income and expense amounts stated on those schedules and the statement required under § 524(k)(6)(A), the statement required by this subsection shall include an explanation of the difference. Statements in Support of Reaffirmation Agreements shall be executed on Official Form 27, Reaffirmation Agreement Cover Sheet, and shall be filed with the Reaffirmation Agreement.

C. Processing and Judicial Review of Reaffirmation Agreements. The procedures described below relate to review of reaffirmation agreements for potential undue hardship under § 524(m).

1. Review for Undue Hardship Pursuant to § 524(m).

a. If the reaffirmation agreement has been properly completed and no presumption of undue hardship arises because the income shown on Part D less the expenses shown there equals or exceeds the required payment on the debt to be reaffirmed, no judicial review or other action is necessary and a notation will be placed on the docket to that effect.

b. If the reaffirmation agreement has not been properly completed or if the presumption of undue hardship arises because the expenses shown on Part D plus the amount of the payment on the debt to be reaffirmed exceed the income shown, the reaffirmation agreement will be referred to a judge for review.

(1) If the Court determines that no presumption of undue hardship arises, no further judicial review is required and a notation on the Court's docket to that effect will be made.

(2) If the presumption of undue hardship arises and is rebutted by the explanatory information contained in Part D, the Court may approve the agreement without a hearing and an appropriate text order will be entered.

(3) If the presumption of undue hardship arises and no explanatory information is offered or the Court concludes that the presumption is not

rebutted by the explanatory information offered, the Court will set the reaffirmation agreement for hearing. The reaffirmation agreement may also be set for hearing if the reaffirmation agreement has not been properly completed or does not comply with Fed. R. Bankr. P. 4008.

c. Hearing on Reaffirmation Agreement

(1) If a reaffirmation agreement has been set for hearing, deficiencies in the reaffirmation agreement may be corrected by the filing of an amended reaffirmation agreement. Supplemental information intended to rebut a presumption of undue hardship may also be submitted in advance of the hearing and must reference the related reaffirmation agreement at the time the supplemental information is filed in ECF. Any amended reaffirmation agreement or supplemental information intended to rebut a presumption of undue hardship must be filed no later than 24 hours before the scheduled hearing. Any information filed later than that may not be considered prior to the hearing. If the Court reviews the amended reaffirmation agreement or supplemental information, and determines that it resolves any identified questions or issues or rebuts the presumption of undue hardship, the Court may enter an order finding that no presumption of undue hardship arises or that the presumption is rebutted, approving the agreement and canceling the hearing.

(2) Debtor and counsel must appear at any scheduled hearing on approval of a reaffirmation agreement. At the hearing, the Court will determine whether the reaffirmation agreement is to be approved or not. An appropriate text order will be entered subsequent to the hearing.

2. Review of Agreements not Signed by Counsel Pursuant to § 524(c)(3).

a. If the reaffirmation agreement has not been signed by counsel, it will be set for hearing. If the debt to be reaffirmed is not secured by real property, the court must approve the agreement as being in the best interest of the debtor and not imposing undue hardship on the debtor or the debtor's dependents. If the debt to be reaffirmed is secured by real property, the Court will give the debtor the admonitions required by § 524(d)(1).

b. Debtor and counsel must appear at any scheduled hearing on approval of a reaffirmation agreement. At the hearing, the court will determine whether the reaffirmation agreement is to be approved or not. An appropriate text order will be entered subsequent to the hearing.