

Rule 4008-1 [Proposed]

REAFFIRMATION AGREEMENTS

(a) ***Form of Reaffirmation Agreement.*** The Court requires the use of Official Forms B240A and B27, available on the Court's website, www.flmb.uscourts.gov, and will consider failures to use the required forms on a case-by-case basis.

(b) ***Execution.*** The Court does not require creditors to sign proposed reaffirmation agreements prior to sending them to debtors. If a debtor receives a reaffirmation from a creditor that the creditor has not signed, the debtor shall return the reaffirmation agreement to the creditor for final signature and filing with the Court.

(c) ***Debtors Not Represented by Counsel.*** Reaffirmation agreements by debtors not represented by counsel will be scheduled for hearing.

(d) ***Debtors Represented by Counsel.*** Reaffirmation agreements by debtors represented by counsel will be scheduled for hearing only if (1) the attorney has not signed the reaffirmation agreement or (2) the attorney indicates on the Cover Sheet (Official Form B27) that a presumption of undue hardship arises, unless the Court has reviewed the reaffirmation agreement and has determined that no hearing is necessary to address the stated undue hardship.

(e) ***Extension of Time to Enter into Reaffirmation Agreement.*** The Court routinely grants motions under Fed. R. Bankr. P. 4008(a) for extensions of time to file reaffirmation agreements of up to 60 days provided that the motion is filed prior to entry of the discharge. The Court may set a hearing on a request for an extension that exceeds 60 days to allow the movant to establish good cause for the length of the request.

(f) ***Parties Must Agree to Reaffirm Debts Prior to Entry of Discharge.*** Absent extraordinary circumstances, the Court will not set aside discharges to consider untimely agreements to reaffirm a debt and will not set hearings on reaffirmations made after entry of the discharge. However, the Court will consider reaffirmation agreements made before the entry of the discharge even if the written agreement is filed after entry of the discharge.

(g) ***Reaffirmation Agreements Filed After Case Is Closed.*** Motions to reopen closed Chapter 7 cases to file reaffirmation agreements timely reached but not filed prior to the entry of the discharge and closing of the case need not be served upon creditors and will be considered without a hearing. An order granting the motion may be submitted when the motion to reopen is filed. Absent a showing of good cause, the Court will not waive the case reopening fee.

(h) ***No Presumption of Enforceability.*** The Court's approval of a reaffirmation agreement shall not constitute a presumption that the terms of the reaffirmation agreement are enforceable against the debtor.

Notes of Advisory Committee

2015

This rule incorporates procedures adopted by the Court as set forth in a memorandum to counsel from Chief Judge Jennemann dated August 27, 2014 (available under Emailed Blast Notifications on the Court's website).