

## Involuntary Case Opening and General Processing – Chapter 7 and 11

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### Docketing Event

- Bankruptcy > Open an Involuntary Case
  - Bankruptcy > Answer/Response > Other Answers/Responses > Answer to Involuntary Petition
  - Bankruptcy > Miscellaneous > Involuntary Summons Service Executed
  - Bankruptcy > Miscellaneous > Involuntary Summons Service Unexecuted
  - Bankruptcy > Miscellaneous or Request a Summons > Request for Third Party or Involuntary Summons
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**Negative Notice:** N/A

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**Accompanying Orders:** N/A

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### Code and Rule References:

[11 U.S.C. § 303](#)

[Fed. R. Bankr. P. 1010](#)

[11 U.S.C. § 362](#)

[Fed. R. Bankr. P. 1011](#)

[28 U.S.C. § 1930\(a\)\(1\), \(3\)](#)

[Fed. R. Bankr. P. 1013](#)

[Fed. R. Bankr. P. 1002](#)

[Fed. R. Bankr. P. 1018](#)

[Fed. R. Bankr. P. 1003](#)

[Fed. R. Bankr. P. 2001](#)

[Fed. R. Bankr. P. 1004](#)

[Fed. R. Bankr. P. 2017](#)

[Fed. R. Bankr. P. 1006](#)

[Fed. R. Bankr. P. 7004\(a\), \(b\)](#)

[Fed. R. Bankr. P. 1007\(a\)\(2\)](#)

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**Fee:** Chapter 7 - \$338; Chapter 11 - \$1738

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**Applicable Chapters:** 7, 11

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**Implemented:** 7/26/2018

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**Last Revision:** 12/1/2020 9:17:11 AM

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### Description

An involuntary case is distinctly different from a voluntary case. An involuntary case is initiated with the filing of an involuntary petition that must be served with a summons. Involuntary cases may be commenced only under Chapters 7 and 11 of the bankruptcy code. Section 303(a) sets forth the criteria of who may be an involuntary debtor. A single involuntary petition cannot be filed against joint debtors. Joint Debtors require two separate involuntary petitions and separate filing fees. Section 303(b) provides the requirements that must be met before an involuntary petition may be filed. Unlike a voluntary case, there is no requirement for the involuntary case debtor to complete credit counseling. The Petitioning Creditors must serve the involuntary petition on the purported debtor along with a summons.

The order for relief is not entered upon the filing of an involuntary petition. The order for relief will be entered if the debtor consents or fails to respond to the petition. If the involuntary debtor files an answer denying the allegations in the petition, then a hearing will be scheduled to determine whether an order for relief will be entered or the petition will be dismissed. Again, unlike a voluntary Chapter 7 case no trustee is assigned and the Section 341 meeting is not scheduled until the order for relief is entered.

Section 303(i) authorizes the court to order creditors that file improper involuntary petitions to pay the costs and attorney's fees of the debtor. If the court finds that the involuntary petition was brought in bad faith, it can also order the petitioning creditors to pay for all damages incurred by the debtor caused by the filing, and may assess punitive damages.

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### **Filing Checklist:**

Confirm use of the correct and most recent [Official Form](#) for all papers.

1. Review the involuntary petition to determine if:
  - Involuntary Debtor's name is spelled correctly and all aliases are listed;
  - Involuntary Debtor's mailing address is complete and accurate;
  - The correct type of bankruptcy is selected;
  - Individual debtor/s social security number is correct and redacted on the involuntary petition;
  - Non-individual debtor's employer identification number (EIN) is complete on the involuntary petition; and
  - All petitioning creditors have signed the involuntary petition.
2. File Corporate Ownership Statement for all corporate petitioning creditors.
3. Pay filing fee.
4. Serve Involuntary Petition and Summons on involuntary debtor and file a certificate of service with the court within seven (7) days of issuance.
  - ❖ **Note: If creditor cannot effect service under Fed. R. Bankr. P. 7004, then an alias summons should be requested from the Clerk.**