

Form Reform: Major Bankruptcy Form Overhaul Takes Effect December 1, 2015

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For the first time in two decades, the official forms used in U.S. Bankruptcy Court are getting a comprehensive facelift. The Forms Modernization Project aims to bring bankruptcy into the 21st century by making virtually all forms – from the petitions used by debtors to initiate bankruptcy cases, to creditors' proofs of claim – easier to read and comprehend, with the goal of eliciting more complete and accurate responses.

Graphically, the modernized forms have a different look and feel. The old forms were designed to cram as much as possible into each page, with instructions often relegated inconspicuously to the end of the form. The new forms, with instructions interspersed throughout, are not only easier on the eyes but easier to understand. Wherever possible, plain English in a conversational tone replaces "legalese" to minimize the potential for confusion.

Perhaps the most striking difference is that the new forms are separated into a "100 series" of forms tailored for individual debtors and a "200 series" of forms tailored for corporate debtors. Before, all debtors used the same forms in a one-size-fits-all approach that led to confusion as debtors – especially individual debtors filing without the aid of an attorney – struggled to complete questions not relevant to their situations. By using specialized petitions, schedules of assets and liabilities, and statements of financial affairs, the new forms eliminate superfluous questions and allow relevant areas of inquiry to be more thoroughly explored. Failure to use these updated forms can have dire consequences for debtors. After issuing a warning to cure the deficiency, the Bankruptcy Court can dismiss the bankruptcy case of a debtor who uses the old forms.

The changes do not just affect debtors; creditors will notice changes as well. The retooled proof of claim form – formerly crammed into a single page – now sprawls over three more easily digested pages. The content is largely the same, with the exception of a new question for claims based on leases. Unlike most of the other new forms, the same proof of claim form can be used in cases involving both individual and corporate debtors.

The new forms go into effect on December 1, 2015. For bankruptcy practitioners accustomed to the old forms, the new forms may take some getting used to, but ultimately the new forms will benefit creditors, debtors, and the attorneys advocating for them by promoting the fundamental bankruptcy principle of complete and accurate disclosure.

Members of White and Williams LLP's Financial Restructuring and Bankruptcy Practice Group regularly represent debtors and secured and unsecured creditors in commercial bankruptcy and collection matters both in and out of court. Please contact Amy Vulpio (215.864.6250; vulpioa@whiteandwilliams.com) with any questions.

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