
Making Your Case Sail Smoothly: A Trustee Panel

Hon. Steven W. Rhodes (Moderator)

U.S. Bankruptcy Court (E.D. Mich.); Detroit

Carl L. Bekofske

Chapter 13 Trustee; Flint, Mich.

Kelly M. Hagan

Chapter 7 Trustee; Acme, Mich.

Gene R. Kohut

Chapter 7 Trustee; Grosse Pointe Farms, Mich.

Michael A. Stevenson

Chapter 7 Trustee; Southfield, Mich.

Tammy L. Terry

Chapter 13 Trustee; Detroit

Mary K. Viegelahn Hamlin

Chapter 13 Trustee; Kalamazoo, Mich.

Making Your Case Go Smoother: A Trustee Panel

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Detroit 2009 Consumer Bankruptcy Conference

1. Filing Schedules
 - a. Note that the W.D. has a local rule requiring the filing of an Asset Protection Report in every case (see enclosed)
 - i. Please also note the enclosed information regarding common issues with APRs
 - b. Schedule A
 - i. Please be sure to use property addresses
 - c. Schedule B
 - i. Please complete in full and use descriptive information for property (“½ carat diamond ring” is better than “ring”)
 - d. Schedule D
 - i. Please use descriptive information for collateral (“vehicle” is not helpful; “1998 Chevy Silverado” is)
 - e. Schedule E
 - i. Be sure to include the mailing address for any DSO claimants
 - f. Schedule I
 - i. If you have a DSO claimant on Schedule E, be sure the mailing information for the employer is complete
 - g. Schedules I and J
 - i. Be sure to provide itemized business income and expenses, where required
2. 341 Documents
 - a. Please email all documents to 341Docs@haganlawoffices.com
 - b. See the enclosed guidelines for assistance with the production of documents
 - c. I have enclosed a checklist and cover sheet for income information
 - i. I do not require either form; they are for your use if they are helpful
 - d. When including documents showing perfected liens, be sure to include recorded UCC-1 financing statements (in addition to recorded mortgages, titles, etc.)
 - e. Vehicle titles
 - i. If your client does not have a copy of the vehicle or other proof of perfection of security interest, there are forms and instructions on my website which can be used to obtain a copy of the title application from the Secretary of State
 - (1) Note that there is a different form depending on whether the debtor is currently the owner or not
 - f. If you must mail your 341 documents, please avoid using staples, as it makes it difficult to scan
 - g. Note that I receive all my faxes by email, so email is the preferred method of receipt.
3. The 341 Meeting
 - a. Acceptable forms of picture identification at the 341(a) meeting of creditors include the following original documents: (1) valid driver’s license, (2) a government ID, (3) a state picture ID, (4) a student ID, (5) a US passport, (6) a military ID or (7) resident alien card. Any other form of identification must be approved by the Office of the U.S. Trustee.

- b. Acceptable proof of social security number includes the following original documents (containing a complete social security number: (1) a social security card, (2) a medical insurance card, (3) a pay stub, (4) a W-2 form, (5) an IRS form 1099, or (6) a Social Security Administration report. Any other form of proof must be approved by the Office of the U.S. Trustee.
 - c. Maps to the courtrooms (Lansing and Traverse City) are available on my website
 - d. Note that no cameras or camera phones are permitted in the Lansing courthouse
 - e. I adjourn meetings to 8:59 am for control purposes only; no appearances are required; if an appearance is required, I will schedule for a time between 9:00 am and 5:00 pm
 - f. If you engage in any conversation in the courtroom, please keep it to a whisper
4. Asset Cases
- a. I will negotiate with debtors, for example if there is a lien avoidance claim on a vehicle and the debtor wishes to keep the vehicle, or a claim against a relative and the debtor does not want to involve the relative, and wants to settle my claims against the relative
 - b. I will accept payments in conjunction with a settlement
5. Stipulations/Motions for Relief from Stay
- a. Note that the E.D. local rule requiring concurrence is not a local rule in the W.D.
 - b. My office procedure
 - i. As the trustee in a case, I will review stipulations for relief from stay
 - ii. Please send the proposed stipulation, along with proof of perfection (where appropriate) to me, preferably at my email address (kelly@haganlawoffices.com)
 - iii. Please note that I will not stipulate to facts (such as amounts owed, vehicle values, or any such information); I will simply stipulate to entry of an order granting a creditor relief from the stay

Contact Information

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LBR 1007-2
Additional Required Documents

(a) *Corporate Resolution* - When filing a bankruptcy petition, a corporate debtor shall file a copy of a corporate resolution which authorizes such filing.

(b) *Mailing Matrix* -

(1) A debtor who is a Paper Filer shall file with the petition a mailing matrix which must adhere to the matrix guidelines published by the Clerk. (Instructions for the preparation of matrices are appended to these Local Bankruptcy Rules as Exhibit 1).

(2) The ECF Filer shall upload a mailing matrix in accordance with established procedures for submission into CM/ECF.

(c) *Verification of Matrix* - The debtor shall file with the petition, a Verification of Matrix along with a copy of the Matrix. (A Verification Matrix form is appended to these Local Bankruptcy Rules as Exhibit 2).

(d) *Asset Protection Report* -

(1) A Chapter 7 debtor shall file an asset protection report with the petition.

(2) Any debtor who moves this Court to convert a case from Chapter 11, 12 or 13 to Chapter 7 shall file an asset protection report with the motion to convert.

(3) If the conversion is involuntary, the debtor shall file the asset protection report within 5 days of the entry of the order for conversion.

(4) Failure to comply with the terms of this Local Bankruptcy Rule may result in the dismissal of the case, or other appropriate relief as determined by the Court.

(5) Copies of the approved asset protection report form may be obtained from the Clerk or via the Court's website at www.miwb.uscourts.gov. (A copy of the asset protection report is also appended to these Local Bankruptcy Rules as Exhibit 3).

(e) *Notice of Alternatives* -

(1) In accordance with 11 U.S.C. §342(b), the Notice of Alternatives shall be made available by the Clerk on the Court's website at www.miwb.uscourts.gov. The Notice of Alternatives shall indicate each chapter of Title 11 under which an individual may proceed. (A copy of the Notice of Alternatives is appended to these Local Bankruptcy Rules as Exhibit 4).

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN RE:

Case No.: _____
Chapter 7

Debtor(s)

ASSET PROTECTION REPORT

Pursuant to Local Bankruptcy Rule 1007-2(c), debtors filing Chapter 7 petitions and debtors in cases converting to Chapter 7 must file an Asset Protection Report giving information about the status of insurance coverage on assets in the estate. The back of this page shall be completed with the following information: (1) description of the asset and location; (2) the debtor's insurance agent for the asset, or if none, the insurance underwriter; (3) the policy limit of the policy with respect to the asset; (4) the expiration date of the policy and (5) if the asset is secured, the name of the secured party and whether the debtor insures the interest of that party. If the debtor has sufficient insurance coverages to protect any exemptible interest in real or personal property or does not want the trustee of the estate to use estate funds to procure such coverages, the debtor(s) may sign the waiver below.

Debtors are requested to provide the trustee with copies of all insurance policies and/or declarations representing each insurable asset with fifteen (15) days of the filing of the petition.

**REQUEST TO TRUSTEE
NOT TO INSURE EXEMPTIBLE ASSETS**

I(we) declare, under penalty of perjury, I(we) intend to provide insurance protection for any exemptible interests in real or personal property in this estate, and I request that the trustee not expend estate funds to procure insurance coverage for my exemptible assets.

Date: _____

Debtor

At: _____

Date: _____

Joint Debtor (if any)

At: _____

Type of Asset	Description & Location	Name & Address of Insurance Agent or Underwriter	Policy Limit and Expiration Date	Secured Parties Do you insure their interest?
Real Property (Include any property in which the debtor has an interest, including leased property if the lease requires the debtor to maintain insurance coverages)				
Personal Property 1. Household Goods 2. Motor Vehicles 3. Boats, Motors, Snowmobiles, etc. 4. Livestock 5. Equipment & Fixtures 6. Inventory 7. Misc. Other Property				

Date: _____

Debtor _____

Joint Debtor (if any) _____

Issue	Preferred Practice
<p>Asset is not listed.</p> <p>Asset is listed, but no other information is listed.</p>	<p>Although one might assume that this means the asset in is not insured, I would prefer not to assume anything. Please list all assets. If any asset is not insured, please state “not insured” (“not insured” or “uninsured” is preferred to “none.”)</p>
<p>Leased vehicles and real property are not listed.</p>	<p>Leased vehicles and real property must be listed, as with all other property.</p>
<p>Form is incomplete.</p>	<p>The form requires (and I require) the following information: Asset Description, Name and Address of Insurance Agent or Underwriter, Expiration Date, and other information.</p>
<p>Address is incomplete.</p>	<p>“Dewitt, Michigan” or “517-333-5555” is not an adequate address. The address must include a complete mailing address, including ZIP code.</p>
<p>Expiration date for real property is blank.</p>	<p>If debtor believes that the insurance policy does not have an expiration policy because insurance payments are paid to and escrowed by the mortgage company, then in lieu of an expiration date, enter “paid through escrow” or something to that effect.</p>
<p>Asset is not adequately described.</p>	<p>Please be certain that on Schedules A, B, D and the APR that property is adequately described. For real property, this requires a street address and city (state if not Michigan). For vehicles, this requires a year, make and model. What happens too frequently is Schedule D contains “mortgage” or “real property” or “vehicle” or “auto loan” for consideration, Schedule A or B lists more than one piece of collateral, and I have to put together a puzzle from the values what property is lienied by what creditor (and which creditor to contact).</p>
<p>APR is not filed in conversion cases.</p>	<p>Local Bankruptcy Rule 1007-2(c)(1)(B) requires the debtor file a completed APR with the motion to convert the case or within 5 days after the order for conversion, if the conversion is involuntary. Please file an APR in converted cases, and please do so timely.</p>
<p>APR is not dated.</p>	<p>Please be certain that the filed APR is dated both on page 1 and page 2.</p>
<p>Expiration date is before the § 341(a) meeting</p>	<p>This is very common, and unavoidable. However, when completing the APR, remember that the § 341(a) meeting is scheduled between 20 and 60 days after filing. If the APR lists an expiration date prior to the meeting, then I generally contact your office (meaning you contact your client) to see if the insurance has been renewed. To avoid this extra work, I suggest that when the expiration date may fall before the meeting of creditors, that you note “Debtor will renew” on the APR if that is the debtor’s intention.</p>

Production of Documents to Kelly M. Hagan, Chapter 7 Trustee

Providing Documents to Trustee: Please email documents sent in preparation for the § 341(a) meeting to our 341 Documents mailbox, at 341Docs@haganlawoffices.com. (Please mail all other documents to the individual who has requested those documents.) Upon receipt of your email, an automatic reply will be sent, notifying you that the email has been received. If you do not receive such a response, you may want to seek confirmation that our office has received the documents. If emailing documents slows your system down significantly or an email is rejected, you may consider reducing the resolution on your scanner to 200 dpi.

Production of Documents Regarding Income. Please submit the following documents for each case:

1. *Payment advices for 60 days IMMEDIATELY prior to filing date pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).* Each payment advice is required. The relevant time period is 60 calendar days, not two months. For example, if a case was filed on April 15, 2007, we would need payment advices for the period February 14 - April 15. If the debtor received unemployment, please advise as to when he/she started receiving unemployment income and provide unemployment stubs for the applicable period. If the debtor receives social security disability income, workers compensation income, or some other form of disability income, please advise as to when they started receiving it and provide benefit letter or bank statements showing deposits. You must provide payment advices from all jobs.
2. *Proof of income for debtor(s) for six FULL calendar months prior to filing case.* The relevant time period is six full calendar months, beginning the month before the month of filing. For example, if the case was filed on April 15, you must provide proof of income for October 1 - March 31. It is not necessary to provide every single stub during the six month period, provided the debtor's payment advices list year-to-date information. For example, you may provide the first stub received in October which shows year-to-date income and the last stub received in March showing ytd income. When the MTF period straddles two calendar years, such as a February 15 filing (with a MTF period of August 31-January 31), you must also provide a stub showing year-end information for December 31.

You must provide proof of income for all income used to prepare the MTF. If the debtor had more than one job during the MTF, then proof of income from all jobs must be provided.

If debtor selects box c. or d. under Part II of the Means Test Form, debtor must also provide six months of means test income support for non-filing spouse.

3. *Copy of most recent filed tax return.* The statute requires production of the last filed tax return, even if the debtor last filed 10 years ago. Please also include all supporting W2s, 1099s, tax forms and schedules.

Production of Documents Regarding Income in Converted Cases. The following documents are required in conversion cases.

1. Amended Schedules I and/or J which reflect the change in circumstances which presumably led to the conversion should be filed where appropriate.
2. Provide three paystubs for each debtor supporting the amended Schedule I, if filed.
3. A Chapter 7 Means Test Form, if the Chapter 13 case was filed after October 17, 2005 and the case meets the requirements for this form set forth in the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA), must be filed. **Please note this form must be filed even if a Chapter 13 Means Test Form was previously filed.**
4. Income information which supports Chapter 7 Means Test Form must be provided. Note that the six months of income in support of the means test period is for the six FULL months prior to the ORIGINAL petition date, NOT the conversion date.
5. Payment advices must be provided for the 60 day period immediately prior to ORIGINAL filing date, not conversion date.

AMERICAN BANKRUPTCY INSTITUTE

TRUSTEE'S CHECKLIST FOR DEBTORS

All debtors must bring picture identification* and an original document containing the complete Social Security Number** to the meeting of creditors.

Please note that no cameras or phones with cameras are permitted in the U.S. Courthouse in Lansing.

Please also provide **COPIES** (no originals) of the following documents, preferably at least one week prior to the meeting of creditors:

- ___ RECORDED mortgage(s) and deed (1st page with the recording stamp and the last page(s) with the signatures and notarization)
- ___ Real and personal property tax statement(s)
- ___ Appraisals, market analyses, and BPOs of real property done in last 2 years
- ___ Vehicle titles (including titles for any vehicle owned in the 3 months prior to the bankruptcy)
- ___ Mobile/manufactured home titles
- ___ Sixty days of payment advices for the period immediately prior to the bankruptcy (**must be produced no later than 10 days prior to the scheduled meeting**)
- ___ Proof of income used for means test form (e.g., 6 months of paystubs) (**please produce no later than 7 days prior to the scheduled meeting**)
- ___ Last federal tax return that was filed (including all schedules and other attachments) (**must be produced no later than 7 days prior to the scheduled meeting**)
- ___ Documents regarding any credit card balance transfers in the three months prior to the bankruptcy totaling more than \$500 to one creditor
- ___ Documents regarding any transfer totaling \$600 or more to any unsecured creditor in the three months prior to the bankruptcy

**Additional Documents for
BUSINESS DEBTORS and SELF EMPLOYED DEBTORS**

- ___ Check register for the one year period prior to filing
- ___ Bank statements for the one year period prior to filing
- ___ Paid invoices for the ninety day period prior to filing
- ___ Canceled checks for the one year period prior to the filing
- ___ Tax returns for the two year period prior to filing
- ___ List of accounts receivable: current name, address and amount of money owed

*acceptable picture identification: (1) valid driver's license, (2) a government ID, (3) a state picture ID, (4) a student ID, (5) a US passport, (6) a military ID or (7) resident alien card. Any other form must be approved by the United States Trustee.

**acceptable proof of social security number: (1) a social security card, (2) a medical insurance card that includes Debtor's SSN, (3) a pay stub that indicates the Debtor's SSN, (4) a W-2 form, (5) an IRS form 1099, or (6) a Social Security Administration report. Any other form of proof must be approved by the United States Trustee.

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TAX RETURNS, PAYMENT ADVICES, and MTF PROOF OF INCOME

(form to be completed for each debtor and non-filing spouse)

Do not send original documents, as they will not be returned

DEBTOR NAME:

PETITION DATE:

60 DAY PAYMENT ADVICE PERIOD:

6 MONTH MEANS TEST PERIOD:

TAX RETURNS (please select one)

- Most recently filed federal tax return attached (with all supporting documents, such as W2s, and schedules)
 Debtor has not filed the return, but will file, and a copy will be provided to the trustee by the 341 meeting
 Debtor does not file returns

60 DAYS OF PAYMENT ADVICES

Employment status during this period (please check one)

- Debtor was employed at the same job all 60 days prior to the petition
 Debtor was unemployed all 60 days prior to the petition
 Debtor had more than one source of income during this period (complete the following)
 Employment income from 1st job, during the period: _____
 Employment income from 2nd job, during the period: _____
 Unemployment income, during the period: _____
 Other income _____, during the period: _____

Payment advices (please check all that apply and complete date range information)

- All payment advices are attached for the period listed above
 All unemployment stubs are attached for the period listed above
 The following documents are not attached but will be provided no later than 10 days prior to the 341:

MEANS TEST FORM (MTF) SUPPORT

Employment status during this period (please check one)

- Debtor was employed during the entire MTF period
 Debtor was unemployed during the entire MTF period
 Debtor had more than one source of income during this period (complete the following)
 Employment income from 1st job, during the period: _____
 Employment income from 2nd job, during the period: _____
 Unemployment income, during the period: _____
 Other income _____, during the period: _____

Proof of income (please check one)

- Attached are all copies of proof of MTF income for the MTF period (complete the following)
 YTD information for the beginning and end of the MTF period (2 sets if MTF covers more than one calendar year)
 All individual paystubs are attached
 Other: (explain) _____
 The following documents are not attached but will be provided no later than 10 days prior to the 341:

MTF income calculation

Wages from employment during MTF period: _____
Wages from unemployment during MTF period: _____
Other income (explain): _____
Divided by 6 months = _____ ("CMI" for MTF)