

Rule 4008 - 1

Reaffirmation

(a) Agreement Not Negotiated by Attorney for Unrepresented Debtor

An individual not represented by an attorney during the course of negotiating a reaffirmation agreement shall file the agreement with the Court along with a request that the agreement be approved, prepared as prescribed by the appropriate local or national form. The request shall contain information describing the collateral that is the subject of the agreement, including a statement as to its fair market value. The Court may approve the agreement without an actual hearing or may schedule a hearing.

(b) Agreement Not Negotiated by Attorney for Represented Debtor

A debtor's attorney who has not represented the debtor during the course of negotiating a reaffirmation agreement on behalf of the debtor shall file, as a separate document, a statement to that effect or include such a statement in Part C as required by 11 USC 524(k). If such a statement is made, then section (a) above applies.

Note: This change is proposed to address those situations where a represented debtor enters into a reaffirmation agreement that was not negotiated by the attorney. Part C of the standard form reaffirmation agreement is required if the attorney represented the debtor during the course of negotiating the agreement. In reviewing these agreements, Part C is sometimes not carefully filled out, boxes are not checked, yet the form is signed, one of the boxes is deleted, sometimes the attorneys name is provided but not the signature, at times the document is filed by the attorney, sometimes by the creditor. The proposed change to the rule would require that the attorney for the debtor clearly set out either on Part C itself or by a separate document, that the attorney did not negotiate the agreement on behalf of the debtor. In such a case, then the agreement would be dealt with under 11 USC524(c)(6) as for any other "pro se" debtor. This might also assist creditors and creditors attorneys who are confronted with dealing with a "represented" person as to the bankruptcy, but perhaps not as to a reaffirmation agreement.

Related Provisions

FRBP 4008	Discharge and Reaffirmation Hearing
11 USC 524	Effect of Discharge

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