



New Rules and forms

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Dear Bankruptcy Rules Committee:

My name is Joe Wittman, I practice in Topeka, KS. I file both Chapter 7 and 13 cases. I have practiced for over 25 years.

I have reviewed the new forms and rules and have the following comments for you to consider:

1. First the amended Schedule I and J increases the length of those forms to DOUBLE what they currently are. This is not necessary. The current form or some version of them is quite adequate.

If the attempt is to make it easier for pro se debtors to file, then I think your effort is not worth it. There are too many variations of what is "income" and what are "expenses" and whether they are "routine" or intermittent or anything of the like which will simply confuse people who are trying to fill these out on their own. In places where there are a lot of pro se filers or bankruptcy petition preparers, the expansion of the form is unnecessary. Those who are trained in the law can easily put the necessary information together on these forms and deal with the unusual case.

2. As to the NEW B22C and B22A forms I have a couple comments.

First a general comment as to the comment attached to the rules dealing with Hamilton vs. Lanning case and what that means.

The comment basically says, if there are deviations in income and/or expenses there is a place to put the relevant information which would alter or attempt to alter the outcome of the form.

However, the comment does not allow for things which the B22C and B22A don't have a line for. For instance, if a person has two old junker cars and is paying for them through the plan or even if they are mostly paid off, there is no space to put down an expense for a REPLACEMENT of a vehicle. This is certainly a change one needs to

consider if you are OVER MEDIAN if you have old junkers which will not last the length of the plan.

I believe some trustees (probably most) are interpreting Lanning as dealing ONLY with the income portion of "projected disposable income" rather than the expense side of it. The US Supreme Court indicated that this is a two part deal which deals with changes in income as well as expenses. Maybe this reading is beyond the true scope of Lanning, but I believe it certainly has merit.

Many debtors cannot make the payment that a B22C form is going to require. they are not eligible for Chapter 7. The only recourse is dismissal of their case. This is kind of the reverse side of Lanning, but the US Supreme Court talked about it in the opinion and I believe there is room to make such expense modifications in light of the "forward looking" approach of Lanning. I am sure many trustees will agree.

However, it is important to note that this issue came up during oral argument and the trustee (who happens to be my Chapter 13 trustee) even acknowledged such in discussions with the Court. So I believe there is room to argue that such expense items are things which need to be taken into account when computing the B22C.

Finally in respect to the B22C and B22A forms, if the intent of the committee is to remove many pages from the schedules where the debtor is BELOW median so those are not part of what is filed with the Court, then I believe the forms accomplish this and I applaud the result. IF the other part of the form still needs to be filed with the Court then the NEW forms increase the length of all of this to 12 pages rather than the existing 8 pages. So I am not sure how this will actually play itself out.

Again I believe that the NEW FORMS probably bring a lot more to the table than what is really needed. If the attempt is to deal with the pro se filers, then I think the attempt has problems, since no one should be filing a Chapter 13 unless they are represented by counsel.

I hope this has been helpful and you will consider these ideas, unless the forms and rules are really more or less set in stone and won't be changed.

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