

2005-2007 COMMITTEE NOTE¹

The form has been amended to delete statistical information about the debtor that no longer is required, and to substitute checkboxes similar to those on the voluntary petition form. The form also is amended to add "as to liability or amount" to the language concerning debts that are the subject of a bona fide dispute, in conformity with § 303 of the Code as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005). The petitioning creditors must now provide, to the extent known to them, all other names used by the debtor during the 8 years, rather than 6 years, before the filing of the petition. In conformity with Rule 9037, the petitioning creditors are directed to provide only the last four digits of any individual's tax-identification number. A new checkbox is provided for the petitioning creditors to identify the debtor that is a "health care business" as defined in § 101 of the Code, thereby alerting the court and the United States trustee of the necessity under § 333 of the Code to appoint an ombudsman to represent the interests of the patients of the health care business. These amendments also implement the 2005 amendments to the Code. A new checkbox also is provided for a "clearing bank," which may become a debtor upon the filing of a petition at the direction of the Board of Governors of the Federal Reserve System; this addition conforms to an amendment to § 109(b)(2) of the Code, which was enacted in 2000.

2006 COMMITTEE NOTE

The section of the form labeled "Information Regarding Debtor" is amended to facilitate, to the extent available in an involuntary case, the collection of the same statistical information that is requested in a voluntary case. Accordingly, information about whether the debtor is an individual, a corporation, or some other type of entity is separated from the checklist of types of debtors, such as health care businesses and railroads, concerning which the Code provides for specialized treatment.

2005 COMMITTEE NOTE

The form has been amended to delete statistical information no longer required and to add "as to liability or amount" to the language concerning debts that are the subject of a bona fide dispute, in conformity with § 303 of the Code as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109 - 8, 119 Stat. 23 (April 20, 2005). The petitioning creditors must now provide, to the extent known to them, all other names used by the debtor during the 8 years, rather than 6 years, before the filing of the petition. A new check box is provided for the petitioning creditors to identify the debtor that is a "health care business" as defined in § 101 of the Code, thereby alerting the court and the United States trustee of the necessity under § 333 to appoint an ombudsman to represent the interests of the patients of the health care business. These amendments also implement the 2005 amendments to the Code.

¹The 2005-2007 Committee Note incorporates Committee Notes previously published in 2005 and 2006.

A new checkbox also is provided for a “clearing bank,” which may become a debtor upon the filing of a petition at the direction of the Board of Governors of the Federal Reserve System; this addition conforms to an amendment to § 109(b)(2) of the Code which was enacted in 2000.

2003 COMMITTEE NOTE

The form is amended to require the petitioner to disclose the debtor’s employer identification number, if any, and only the last four digits of the debtor’s social security number to afford greater privacy to the individual debtor, whose bankruptcy case records may be available on the Internet. The form also is amended to delete the request for information concerning the “Type of Business,” as this data no longer is collected for statistical purposes.

2002 COMMITTEE NOTE

The form is amended to give notice that no filing fee is required if a child support creditor or its representative is a petitioner, and if the petitioner also files a form detailing the child support debt, its status, and other characteristics, as specified in § 304(g) of the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394, 108 Stat. 4106 (Oct. 22, 1994).

1992 COMMITTEE NOTE

The form has been amended to require the dating of signatures.

1991 COMMITTEE NOTE

This form has been redesigned in a box format similar to that of Form 1. See Advisory Committee Note to Form 1.

The allegations required under § 303 are grouped together, and a separate section has been provided for additional allegations based upon the prohibitions and requirements set forth in Rule 1003(a) concerning transfer of claims by petitioning creditors. Petitioners may wish to supplement the allegations set forth in the form with a further statement of facts. Additional information concerning any allegation can be requested by the debtor as part of the discovery process.

Each petitioning creditor, by signing on the line provided, signs both the petition and the unsworn declaration which 28 U.S.C. § 1746 permits instead of verification. The addresses as well as the names of individuals signing the petition in a representative capacity are required, together with disclosure of which petitioner is represented by each signatory.

This form is intended to be used in every involuntary case, including that of a partnership. The separate form for a petition by a partner has been abrogated. Pursuant to § 303(b)(3)(A) of the Code, a petition by fewer than all of the general partners seeking an order for relief with respect to the partnership is treated as an involuntary petition. Such a petition is adversarial in character because not all of the partners are joining in the petition.

Section 303(b)(3)(B) permits a petition against the partnership if relief has been ordered under the Code with respect to all of the general partners. In that event, the petition may be filed by a general partner, a trustee of a general partner's estate, or a creditor of the partnership. This form may be adapted for use in that type of case.

28 U.S.C. § 1408(1) specifies the proper venue alternatives for all persons, including partnerships, as domicile, residence, principal place of business, or location of principal assets. Venue also may be based on a pending case commenced by an affiliate, general partner, or partnership pursuant to 28 U.S.C. § 1408(2). Both options are set forth in the block labeled "Venue."

28 U.S.C. § 1746 permits the unsworn declaration instead of a verification. See Committee Note to Form 2.