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February 6, 2015

Jonathan C. Rose, Rules Committee Secretary  
Rules Committee Support Office  
Administrative Office of the United States Courts  
Washington, DC 20544

### Suggestion for Amendment to Official Bankruptcy Forms

Dear Mr. Rose:

I write to propose an amendment to the Official Bankruptcy Forms in light of the United States Supreme Court decision in United States v. Windsor, 570 U.S. 12 (2013). As I am sure you are aware, the Windsor decision found Section 3 of the Defense of Marriage Act (“DOMA”) to be unconstitutional and requires that same-sex marriages be recognized in federal statutes where the state in which the same-sex spouses reside recognizes the marriage as legal.

One of the federal statutes affected by the Windsor decision is 11 U.S.C. § 302(a), which permits spouses, and now same-sex spouses in applicable states, to file a joint petition for bankruptcy relief. Unfortunately, the bankruptcy schedules A, B, D, E, and F—Official Forms B 6A, B 6B, B 6D, B 6E, and B 6F, request that assets or debts (depending on the individual schedule) be categorized as “Husband, Wife, Joint, or Community.” Where an asset or debt belongs to one same-sex spouse debtor, but not the other—in a non-community-property state—these Official Forms do not permit the categorization of those assets or debts.

As a public-interest attorney working for a legal aid society, I have cause to file bankruptcy cases for clients to help them get a fresh start. And I will be filing a bankruptcy for two female same-sex spouses in the next few weeks, but have been unable to categorize their assets and debts correctly using the Official Forms now promulgated. In this case, I have obtained permission from the local court to alter the Official Forms to read “Debtor, Joint Debtor, Joint, or Community,” to accurately indicate the financial status of these two spouses to the Court, which is, of course, the ultimate goal of the Official Forms.

But, because this is a problem that may recur, I request that the Judicial Committee seriously consider amending the Official Bankruptcy Forms in light of Windsor so that the forms can be used equally conveniently by same sex spouses and opposite sex spouses.

Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink that reads "Derek S. Tarson". The signature is written in a cursive style with a large initial "D".

Derek S. Tarson  
Foreclosure Project Director  
Legal Aid Society  
of Rockland County, Inc.