

United States Bankruptcy Court  
Western District of New York  
1400 UNITED STATES COURTHOUSE  
ROCHESTER, NEW YORK 14614

RECEIVED  
1/27/05

04-BK-009

Hon. John C. Ninfo, II  
CHIEF UNITED STATES  
BANKRUPTCY JUDGE

January 21, 2005

Peter G. McCabe  
Secretary of the Committee on Rules of Practice and Procedure  
Administrative Office of the United States  
Washington, DC 20544

**Re: Proposed New Bankruptcy Rule 4002(b)(2)**

Dear Mr. McCabe:

I have reviewed the December 16, 2004 letter of Chief Judge Rhodes (a copy of the first page of that letter is attached) in connection with the proposed new Rule 4002(b)(2).

I am personally in complete agreement with the position of Chief Judge Rhodes that the list of documentation that debtors should be required to provide at their 341 Meeting of Creditors should be expanded, as set forth in his letter.

In this regard, I have also attached a copy of our Standing Order in the Western District of New York. It requires debtors to produce a number of items, including several on the expanded list recommended by Chief Judge Rhodes.

Our experience in the Western District of New York is that an expanded list works well both for trustees, who also generally represent debtors in consumer cases, and debtors' attorneys. It allows the more expeditious closing of 341 Meetings without a number of adjournments, because the trustee at the Section 341 Meeting is able to make a more complete inquiry into the financial affairs of the debtors.

Very truly yours,

  
Hon. John C. Ninfo, II  
Chief U.S. Bankruptcy Judge

JCN/ams  
Encl.

cc: Steven Rhodes, Chief Judge (w/ enc.)

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE EASTERN DISTRICT OF MICHIGAN**  
**SUITE 1800**  
**211 W. FORT STREET**  
**DETROIT, MICHIGAN 48226**

**OFFICE OF**  
**STEVEN RHODES**  
**(313) 234-0020**  
**CHIEF UNITED STATES BANKRUPTCY JUDGE**

December 16, 2004

Peter G. McCabe  
Secretary of the Committee on Rules of Practice and Procedure  
Administrative Office of the United States  
Washington, D.C. 20544

Re: Proposed New Bankruptcy Rule 4002(b)(2)

Dear Mr. McCabe,

I write to comment on proposed new Bankruptcy Rule 4002(b)(2), which would require the debtor to bring to the meeting of creditors certain specified documents. I also reiterate my previous request to testify before the Advisory Committee on Bankruptcy Rules in Washington on February 3, 2005.

My empirical research, discussed below, confirms significant problems with the disclosures that are required of a debtor as a condition of receiving bankruptcy relief - the problems of *carelessness* in the preparation of bankruptcy papers (the petition, the schedules, the statement of financial affairs, the statement of intention and the statement of fees), and the problem of *undisclosed assets* in those papers. This research and the conclusions it compels establish a manifest need to expand the list of documents that a debtor should be required to provide by the new Bankruptcy Rule 4002(b)(2).

As proposed, the rule would only require the debtor to provide documentation regarding income (pay stubs and tax returns) and deposit accounts. While a good start, this brief list should be markedly expanded to include:

- Certificates of title for titled assets including vehicles, boats and mobile homes
- Real property documents such as leases; mortgages; deeds; land contracts; current property tax statements
- Life and property damage insurance policies
- Asset appraisals
- Divorce judgments and property settlement agreements
- Lawsuit papers
- Stock certificates

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

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In Re: Production of Records and Documents  
at Initial Meetings of Creditors.

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**STANDING ORDER**

The documents and records that parties filing petitions for relief under Chapter 7, Chapter 12, or Chapter 13 of the Bankruptcy Code shall produce at initial meetings of creditors for review by the Bankruptcy Trustee include, but are not limited to, the following:

1. Titles to all motor vehicles, boats and other vessels, motorcycles, trailers, and mobile homes which were manufactured within the last ten years;
2. Proof of balances due on mortgages;
3. Federal tax returns for the prior two years;
4. Any and all real estate appraisals and/or market analyses or opinions of value issued in the last two years which are in the possession or control of the debtor.

Pursuant to Bankruptcy Rule 1009, any amendment to the Bankruptcy Petition must be served on the Trustee in conjunction with the filing of the amendment.

**SO ORDERED.**

Dated: April 9, 2001  
Buffalo, New York

/s/ John C. Ninfo, II

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**John C. Ninfo, II, Chief U.S.B.J.**

/s/ Michael J. Kaplan

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**Michael J. Kaplan, U.S.B.J.**

/s/ Carl L. Bucki

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**Carl L. Bucki, U.S.B.J.**