

# 06 - BK - 041



**James  
Ishida/DCA/AO/USCOURTS**

02/15/2007 03:34 PM

To Gale Mitchell/DCA/AO/USCOURTS@USCOURTS, Jennifer  
Noell/DCA/AO/USCOURTS@USCOURTS

cc

bcc

Subject Fw: Proposed Bankruptcy Amendments

----- Forwarded by James Ishida/DCA/AO/USCOURTS on 02/15/2007 03:34 PM -----



**"Wendell Sherk"**  
<[wjsherk@sherk-swope.com](mailto:wjsherk@sherk-swope.com)>

02/15/2007 02:40 PM

To <[Rules\\_Comments@ao.uscourts.gov](mailto:Rules_Comments@ao.uscourts.gov)>

cc

Subject Proposed Bankruptcy Amendments

I write to endorse the comments submitted recently for the National Association of Consumer Bankruptcy Attorneys, by Henry Sommer.

In particular, the extension of of the exemption objection deadline would delay unnecessarily the closing of many more cases without clearly answering a desperate need for added time in virtually any cases.

I also have read and generally endorse the recommendations of Judge Keith Lundin. They are very thorough, thought-provoking and well- argued.

I do disagree with Judge Lundin's argument that Lines 3 & Line 4 should be modified to ignore the business-related expenses of a debtor in formulating the CMI calculation. The current form strikes a fair balance in trying to define the term "receives" in 101(10A) to exclude the operating expenses of a self-employed debtor, as that debtor's household does not have those expenditures available in any sense to support it. The debtor only "receives" the funds related to the business expenses to the extent that they are recirculated into further income-generation. As the result under Form 22C of excluding these income-generation expenses from the CMI calculation would be to force virtually all self-employed and rental-based debtors into five-year commitment periods -- although the reality may be that their pre-tax, post-expense income would be well-below the median income and therefore qualify them for a 3-year commitment period -- such a change will do far more harm with little or no material benefit to any party to the proceeding.

Wendell J. Sherk  
Sherk & Swope, LLC  
1620 S. Hanley Road  
St. Louis, MO 63144  
(314) 781-3400  
[wjsherk@alum.wustl.edu](mailto:wjsherk@alum.wustl.edu)