

06 - BK-002



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To James Wannamaker/DCA/AO/USCOURTS@USCOURTS  
cc Thomas Zilly/WAWD/09/USCOURTS@USCOURTS  
Subject Official Bankruptcy Form 8

This is to follow-up on our conversation today regarding Official Bankruptcy Form 8, Chapter 7 Individual Debtor's Statement of Intention. This form has greater significance than it did pre-BAPCPA because of the provisions of sections 362(h) and 521(a)(6) both of which provide for automatic termination of the automatic stay under certain circumstances if the debtor fails to perform her obligations regarding the statement of intention.

The problem that I have noticed with the current form is in connection with secured property. The form currently includes six columns. There are no instructions on the form indicating which columns must be completed. I have noticed that a number of pro se debtors simply select the column "Property is claimed exempt" and ignore the surrender/reaffirm/redeem columns. This ignores their obligation under section 521(a)(2)(A) to both indicate whether the property is claimed exempt and to indicate whether the debtor intends to surrender, reaffirm or redeem.

I have attached a suggested revision of the pertinent part of the form that I think would make it more likely that the form would be completed in a way that supplies the information required to comply with section 521(a)(2)(A).

Thanks to you and the Rules Committee for your consideration of a comment from the trenches.

Liz Perris