

**UNITED STATES BANKRUPTCY COURT**  
DISTRICT OF SOUTH CAROLINA  
J. BRATTON DAVIS UNITED STATES BANKRUPTCY COURTHOUSE  
1100 LAUREL STREET  
COLUMBIA, SOUTH CAROLINA 29201-2423

CHAMBERS OF  
**John E. Waites**  
Chief Judge

(803) 253-3751

April 3, 2012

Honorable Eugene R. Wedoff, Chair  
Advisory Committee on Bankruptcy Rules  
Everett McKinley Dirksen United States Courthouse  
219 South Dearborn Street, Room 748  
Chicago, IL 60604

Dear Judge Wedoff:

I am writing on behalf of the Bankruptcy Judges Advisory Group. In our last meeting, a question was raised whether Federal Rule of Bankruptcy Procedure 1006(b) should be clarified to indicate the permissibility of requiring an initial installment filing fee payment with the voluntary petition in a bankruptcy case.

As you are aware, section 1930(a) of title 28, United States Code, requires the payment of fees for the commencement of a bankruptcy case, but permits the debtor to pay the fee in installments. Bankruptcy Rule 1006(b)(1) provides that: "A voluntary petition by an individual shall be accepted for filing if accompanied by the debtor's signed application . . . stating that the debtor is unable to pay the filing fee except in installments." Bankruptcy Rule 1006(b)(2) provides that the court "may order the filing fee paid to the clerk or grant leave to pay in installments." Relying on subsection (b)(2), several bankruptcy courts have local rules that require a first installment payment at the time the petition is filed. Other bankruptcy courts question their authority under the Rules to require an initial payment. As a result of this inquiry, the members of the Bankruptcy Judges Advisory Group have determined that clarification of the rule may be warranted.

The issue regarding minimum payments with applications to pay filing fees in installments is of particular concern because even though a debtor's obligation to pay any filing fees owed remains after a case is dismissed, collection problems arise if a case is dismissed before a debtor makes all of the required installment payments. The Advisory Group submits that permitting local courts to require a minimum payment with the application to pay the filing fee in installments strikes a reasonable balance between providing a debtor access to bankruptcy relief and the burden on the courts with regard to unpaid installment payments. The Advisory Group further submits that should a local court determine to require this payment, a reasonable

minimum payment is twenty-five percent of the total filing fee. As this suggestion requires the possible clarification of Rule 1006, the Advisory Group refers this matter to the Advisory Committee on Bankruptcy Rules for consideration.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "John E. Waites". The signature is written in black ink and is positioned above the typed name.

Bankruptcy Judge John E. Waites (SC), Chair  
Bankruptcy Judges Advisory Group