

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER 06-07

**REGARDING REAFFIRMATION AGREEMENTS
UNDER 11 U.S.C. § 524 IN CASES FILED ON
OR AFTER OCTOBER 17, 2005**

WHEREAS during the ten months since the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), the affect of the new law on reaffirmation agreements filed in this Court has become clear; and

WHEREAS the Administrative Office of the U.S. Courts has issued a new version of Form 240 - Reaffirmation Agreement that became effective August 1, 2006; and

WHEREAS this Court wishes to clarify the process for obtaining approval of reaffirmation agreements;

THEREFORE, IT IS ORDERED that the portion of Standing Order # 05-09 that addressed the process for obtaining reaffirmation of debts is VACATED;

IT IS FURTHER ORDERED, effective today, that the process for obtaining approval of a reaffirmation of a debt is as follows:


1. In the event a debtor and creditor enter into a reaffirmation agreement, the reaffirmation agreement shall comply with 11 U.S.C. §524 and be filed on the approved national form 240 - Reaffirmation Agreement.
2. No motion for approval, or order of approval, of a reaffirmation agreement is necessary for reaffirmations (a) of debts secured by real property, or (b) of debts held by a Credit Union (as defined in §19(b)(1)(a)(iv) of the Federal Reserve Act). However, if a party files a motion for an order approving reaffirmation of either of these kinds of debts, then the agreement must comply with all requirements of 11 U.S.C. §524 and all procedural requirements of this Court, and if it does not, the motion may be set for hearing.
3. Any reaffirmation agreement filed in this Court that does not comply with 11 U.S.C. §524 will be presumed unenforceable.
4. Motions to approve reaffirmation agreements will be set for hearing if any of the following circumstances are present:
 - a. the debtor is not represented by an attorney;
 - b. the debtor is represented by an attorney, but "Part C: Certification by Debtor's Attorney" is incomplete, or not signed;
 - c. the debtor is represented by an attorney, but "Part C: Certification by Debtor's Attorney" is modified;

- d. the stated monthly expenses exceed the stated monthly income;
- e. in “Part D: Debtors’ Statement in Support of Reaffirmation Agreement,” the debtor’s net income available to make the required payments is less than amount of payment and there is no explanation as to how the debtor can afford the payment;
- f. the monthly expenses and income listed in Part D do not match the debtor’s current schedules I and J;
- g. the monthly expenses listed in Part D do not reflect payments due under other reaffirmation agreements the debtor has filed; and /or
- h. the reaffirmation agreement is not signed by debtor.

5. Upon the filing of a reaffirmation agreement, a separate certification shall be filed, in electronic or conventional form (which may be appended to the reaffirmation agreement) under penalty of perjury, that the reaffirmation agreement, as filed, is in strict compliance with the requirements of 11 U.S.C. §524. In the event the position is taken that the requirements of 11 U.S.C. §524 do not apply, the bases for that position shall be certified. The certification and the subject reaffirmation agreement shall be served upon the debtor, the debtor’s attorney, if any, the case trustee and the United States trustee. If a reaffirmation agreement lacks such certification, the Court may (a) deny approval of the reaffirmation agreement, with prejudice; (b) schedule the motion to approve the reaffirmation agreement for a hearing; or (c) grant such other relief it deems just and proper under the specific circumstances presented.

SO ORDERED.

Rutland, Vermont
August 29, 2006



Colleen A. Brown
United States Bankruptcy Judge