

PROCEDURES FOR ENTERING HARDSHIP DISCHARGE FOR CHAPTER 13 DEBTORS IN BAPCPA CASES

A Debtor who files a Chapter 13 case on and after October 17, 2005 and later requests the entry of a hardship discharge under §1328(b) of the Bankruptcy Code must file certain documents with the Court and with the Trustee. The following procedures are to be followed when there is a request for a hardship discharge in a Chapter 13 BAPCPA case:

1. The Debtor(s) will complete a Motion for Entry of Hardship Discharge and Statement Regarding Bankruptcy Rule 1007(b)(8) (Exhibit 1). A statement setting forth the reasons for the debtor's inability to complete the plan must be attached to the Motion. The Debtor must file the Motion with the Court and serve a copy on the Trustee and all creditors and other parties in interest in the case. A certificate of service is to be filed with the Motion.
2. The Debtor(s) will complete the Disclosure of Information Regarding Domestic Support Obligations form (Exhibit 2) and send it directly to the Trustee. **This will not be filed with the Court.**
3. The Clerks Office will review the Debtor's Motion for Hardship Discharge and ensure that the Certificate of Financial Management referred to in Item #5 of the Motion has been filed. If this has been filed, an Order will be entered pursuant to Bankruptcy Rule 4007(d) which will set forth the deadline for the filing of complaints for dischargeability of debts under §523(a)(6) and schedules a hearing on the Debtor's Motion for Hardship Discharge. Creditors must be given no less than 30 days' notice of the deadline. The order will be sent to the debtor(s), Trustee, and all creditors and parties in interest. If the Certificate of Financial Management has not been filed, the Clerks Office will contact the attorney for the debtor regarding the requirement for the filing of the document.
4. After the hearing, an Order will be entered by the Court that either grants or denies the Motion for Entry of a Hardship Discharge. If the Court's order grants the Motion, the Clerks Office will enter the Order Granting the Motion on the case docket and will prepare the standard form "Chapter 13 Hardship Discharge"(Exhibit 3), which will be entered on the case docket and served via BNC on all creditors and parties in interest. If the Court denies the Motion, the Order Denying the Motion will be entered on the case docket and will be served by the Clerks Office via BNC on all creditors and parties in interest. To ensure compliance with Rule 4004 (c)(3), the Chapter 13 Hardship Discharge will not be entered earlier than 30 days after the filing of the Debtor's Motion.
5. If the Court enters an Order granting the Motion for Hardship Discharge, the Trustee will subsequently file the Chapter 13 Trustee's Final Report and Account and Trustee's Notice of filing of Final Report (Notice provides that parties have 30 days to object to Final Report). Notice of Filing of Final Report is served by the Trustee on all creditors.
6. If no objections are timely filed to the Trustee's Final Report, the Clerks Office will enter the Final Decree, which discharges the Trustee, and will administratively close the case.

If objections are filed, a hearing will be scheduled.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA

IN RE:)
)
) Chapter 13
)
 Debtor(s)) Case No.

**DEBTOR’S MOTION FOR ENTRY OF HARDSHIP DISCHARGE and
STATEMENT REGARDING BANKRUPTCY RULE 1007 (b)(8)**

The debtor makes the following statements and certifications:

1. I hereby move for a hardship discharge for the reasons set forth in Exhibit A attached hereto.
2. _____ I am not required to pay any Domestic Support Obligations.

_____ I am required to pay Domestic Support Obligations and all amounts payable under such obligations are paid as of this date, including amounts that were due before the petition was filed, to the extent provided for by the plan, and I have filed the Debtor’s Disclosure of Information Regarding Domestic Support Obligations with the Chapter 13 Trustee’s Office.
3. The provisions of 11 U.S.C. §522(q)(1) are not applicable to me.
4. There is not pending a proceeding in which I may be found guilty of a felony of the kind described in §522(q)(1)(A) or liable for a debt of the kind described in §522(q)(1)(B).
5. I have completed an instructional course concerning personal financial management and a certificate regarding my attendance as required by Bankruptcy Rule 1007(b)(7) has been filed with the Court.
6. I meet the requirements of 11 U.S.C. §1328(b) and am entitled to a hardship discharge.

I declare under penalty of perjury that the information provided in this certification and motion is true and correct and move the Court to enter a hardship discharge in this case.

Dated: _____ Debtor

Dated: _____ Joint Debtor

Dated: _____ Attorney for Debtor(s)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Entry of Hardship Discharge and Statement Regarding Rule 1007(b)(8) has been served on the Chapter 13 Trustee, all creditors, and parties in interest in this case.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA

In Re:)
)
DEBTOR XXX-XX-XXXX) Case No.:
)
)
)
Debtor(s))

**DEBTOR'S DISCLOSURE OF INFORMATION REGARDING
DOMESTIC SUPPORT OBLIGATIONS**

The Chapter 13 Debtor provides the following information to the Chapter 13 Trustee for the purpose of obtaining a hardship discharge under 11 U.S.C. §1328(b).

Debtor's Current Address: _____

Debtor's Current Employer: _____

Debtor's Current Employer's Address: _____

Name and Address of Each Holder of a Domestic Support Obligation is as follows:

Name	Address
_____	_____
_____	_____

List of debts not discharged under Paragraph 2 or 4 of 11 U.S.C. §523(a): _____

List of debts reaffirmed under 11 U.S.C. §524(c): _____

I declare under the penalty of perjury that the information provided in this disclosure is true and accurate:

Dated: _____
Debtor

Mail to: Chapter 13 Trustee