



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO
José V. Toledo Post Office & Courthouse Federal Building
300 Recinto Sur St, Suite 109
San Juan, Puerto Rico 00901

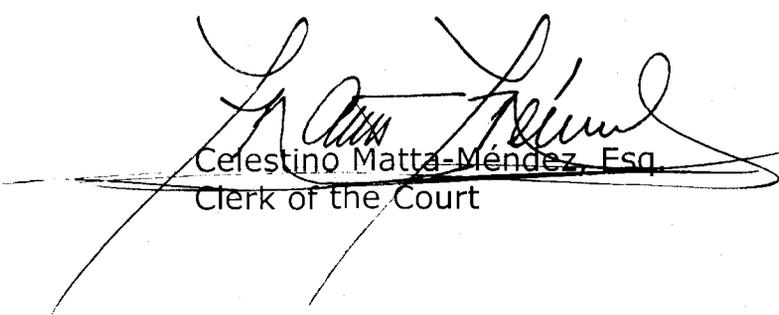
Notice to the Bar and the Public

In Re: Changes to Miscellaneous Fee Schedules

Please, be advised that the Judicial Conference of the United States (Judicial Conference) has approved several changes to the Bankruptcy Court Miscellaneous Fee Schedule and the Court of Appeals Miscellaneous Fee Schedule relating to the implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and the Deficit Reduction Act of 2005. The changes to these fees take effect on **January 1, 2007**.

Please refer to attached document.

In San Juan, Puerto Rico, this ^{22nd} day of December, 2006


Celestino Matta-Méndez, Esq.
Clerk of the Court

Changes to Bankruptcy Fees

Below are descriptions of the Judicial Conference actions regarding the Bankruptcy Court Miscellaneous Fee Schedule.

Item 6 - Adversary Filing Fee

- **Adversary Filing Fee to be de-linked from civil action filing fee; Adversary Filing Fee amount to remain \$250**

Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule currently requires a fee for filing an adversary proceeding in the same amount as the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting any civil action. The Deficit Reduction Act of 2005 (DRA) increased the civil action filing fee to \$350, effective April 9, 2006. The Judicial Conference, at its March 2006 session, stayed an increase in the adversary fee until the Committee on the Administration of the Bankruptcy System and the Committee on Case Administration and Management had reviewed the fee. After this review, the Judicial Conference, at its September 2006 session, amended Item 6 to remove the linkage to the civil action filing fee and to set the fee for filing an adversary proceeding at \$250.

Item 10 - Fee for Conversions

- **New fee for converting a case from a chapter with a lower filing fee to a chapter with a higher filing fee; fee to be the difference between the two filing fees**

The Conference also approved the creation of a new fee to be included in Item 10 of the Bankruptcy Court Miscellaneous Fee Schedule. This new fee, which will not apply to sua sponte conversions, will be assessed whenever the filing fee of the chapter to which a case is converted exceeds the filing fee of the chapter under which the case was initially filed.¹ This change allows for uniformity in fees and ensures that all debtors pay the same amount for the same type of cases and relief.² Therefore, the following fees will apply for conversion:

¹ Conversions to Chapter 11 from Chapter 7 or 13 are excluded from this new fee, as fees are assessed for these conversions pursuant to 28 U.S.C. § 1930(a).

² In the event that a case is converted to a chapter with a lower filing fee, however, no refund will be given.

- For converting a Chapter 13 case to a Chapter 7, a fee of \$25 will be charged. Item 10 currently requires a fee of \$15 for converting to a Chapter 7, and an additional \$10 - the difference between the Chapter 7 filing fee (\$245) and the Chapter 13 filing fee (\$235) - will be charged.
- For converting a Chapter 12 case to a Chapter 7 case, a fee of \$60 will be charged. Item 10 currently requires a fee of \$15 for converting to a Chapter 7, and an additional \$45 - the difference between the Chapter 7 filing fee (\$245) and the Chapter 12 filing fee (\$200) - will be charged.
- For converting a Chapter 12 case to a Chapter 13 case, a fee of \$35 - the difference between the Chapter 13 filing fee (\$235) and the Chapter 12 filing fee (\$200) - will be charged.

Item 11 - Reopening Fee

- **New fee to reopen a Chapter 15 case - same amount as Chapter 15 filing fee**
- **Expanded definitions for exemptions to reopening fee and clarification that exemption from the reopening fee for actions related to a discharge applies only in cases in two particular instances and only in cases in which a discharge was granted**
- **New \$15 fee to be collected when a Chapter 7 case is reopened**

Chapter 15 Reopening Fee

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule requires clerks to charge the statutory filing fees prescribed by 28 U.S.C. § 1930(a) to reopen a bankruptcy case.³ The filing fee for Chapter 15⁴ is a miscellaneous fee, and, because the language of the reopening fee references only statutory fees, no fee is currently charged for reopening a Chapter 15 case. The Judicial Conference amended Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule to create a reopening fee for Chapter 15 cases equal to the Chapter 15 filing fee contained in Item 16 of the Bankruptcy Court Miscellaneous Fee Schedule as of the date of the request to reopen.

³ The fees set forth in § 1930(a) vary depending on the chapter of the Bankruptcy Code under which a case is filed.

⁴ The BAPCPA established a new bankruptcy chapter, Chapter 15, which relates to cross-border insolvencies.

Exemption for Actions Related to Discharge

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule currently provides that the fee for reopening a case shall not be charged “for actions related to the debtor’s discharge.” Since the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), however, there has been some controversy about whether to charge this fee when a case is being reopened for the purposes of filing a certificate of completion of a financial management course, which is required in order to be eligible for discharge. Some courts are of the view that such reopenings fall under the “related to discharge” exception from the fee.

In order to resolve any ambiguity with regard to the exemption from the reopening fee, the Judicial Conference amended Item 11 of the Bankruptcy Court Miscellaneous Court Fee Schedule to expressly state that the fee applies to a request to reopen a case in which the court did not enter a discharge and to clarify the two situations in which the exemption from the reopening fee for “actions related to the debtor's discharge” are applicable. The two situations in which the exemption applies are: (1) to permit a party to file a complaint to obtain a determination under Rule 4007(b), and, (2) when a creditor is violating the terms of the discharge under 11 U.S.C. § 524.

New \$15 Fee for Chapter 7 Reopening

Although Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule requires petitioners to pay the statutory filing fee for reopening a case, it does not require payment of other miscellaneous fees normally due at the time of filing of a new case. The \$15 fee required by Item 9 is currently not collected when a Chapter 7 case is reopened. The Judicial Conference has amended Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule to add an additional \$15 to the fee for reopening a Chapter 7 case.

Item 19 - Splitting a Joint Case

- **New \$15 fee to be collected when a joint Chapter 7 case is split**

New Fee for Splitting a Chapter 7 Case

Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule states that when a “joint case filed under § 302 of Title 11 is divided into two separate cases at the request of the debtor(s),” a fee equal to the current filing fee for the chapter under which the joint case was commenced shall be charged. This item requires the collection of the statutory filing fee and does not currently include any other fees such as the \$15 fee required by Item 9. The Judicial Conference amended Item 19 of the Bankruptcy Court Miscellaneous Fee Schedule to include an additional \$15 to be paid when a joint Chapter 7 case is split into two cases.

Items 15 and 21 - Filing Fees for Appeals and Fee for Direct Appeals

- **Fee for filing an appeal or a cross appeal is to be de-linked from Item 1 of the Court of Appeals Miscellaneous Fee Schedule; Fee for filing an appeal or a cross appeal to remain at \$250**
- **New fee of \$200 for direct appeals authorized by the Court of Appeals**
- **Clarification of exemption from Item 1 of Court of Appeals Miscellaneous Fee Schedule**

Remove Linkage to Court of Appeals Filing Fee/Appeal from Bankruptcy Court Decision to Remain \$250

Item 15 of the Bankruptcy Court Miscellaneous Fee Schedule establishes the fee for docketing an appeal, and Item 21 establishes the fee for docketing a cross appeal. Both fees are currently linked to Item 1 of the Court of Appeals Miscellaneous Fee Schedule, which was increased by the DRA from \$250 to \$450. The Judicial Conference has approved an amendment to remove the linkage to the Court of Appeals filing fee and to set the fee for filing an appeal or a cross appeal from a bankruptcy court decision at \$250.

New Direct Appeal Fee

The Judicial Conference also established a new fee to be included in Item 15 and Item 21 of the Bankruptcy Court Miscellaneous Fee Schedule for taking a direct bankruptcy appeal to the court of appeals. The filing of an appeal of a district court decision to the court of appeals requires payment of \$450 (Item 1 of the Court of Appeals Miscellaneous Fee Schedule). The fee for taking a direct appeal or a cross appeal from a bankruptcy court decision to the court of appeals would be only \$250 as required by Item 15 of the Bankruptcy Court Miscellaneous Fee Schedule. In order to correct this disparity, the Conference approved the establishment of an additional fee of \$200 (representing the difference between the bankruptcy appellate docketing fee and the court of appeals docketing fee) when the court of appeals authorizes a direct appeal or cross appeal.

Clarification of Exemption from Court of Appeals Filing Fee

The Conference also approved an amendment to the Court of Appeals Miscellaneous Fee Schedule Item 1, to clarify that only one docketing fee is required for a direct bankruptcy cross appeal. Thus, the current exemption from the appellate docketing fee for direct bankruptcy appeals has been expanded to include direct bankruptcy cross appeals.

Reopening and Splitting Fees

- **The fees for reopening a case and for splitting a joint case will remain linked to the statutory filing fees. The fee to reopen or split a case will be the same amount as the statutory fee for filing a case under the appropriate chapter.**

Title X of the DRA revised the statutory fees for filing a Chapter 7 and Chapter 13 bankruptcy case and also increased the fee for filing a civil action in district court. These changes to the filing fees impacted certain fees in the Bankruptcy Court Miscellaneous Fee Schedule because several of the miscellaneous fees are linked to statutory filing fees, and thus would have changed when the statutory fee changed. However, the Judicial Conference, at its March 2006 session, agreed to stay all increases in miscellaneous fees until the Court Administration and Case Management Committee and the Committee on the Administration of the Bankruptcy System had an opportunity to review the increases.

Item 11 of the Bankruptcy Court Miscellaneous Fee Schedule prescribes that a fee for reopening a case shall be collected in the same amount as the filing fee prescribed by 28 U.S.C. § 1930(a) for commencing a new case on the date of reopening. Likewise, when a joint case is split into two separate cases, Item 19 requires a fee equal to the current filing fee for the chapter under which the joint case was commenced. The Conference decided that both the fee to reopen a case and the fee to split a joint case should remain linked to the statutory fee for initiating the same type of case. Therefore, the stay imposed by the Conference in March is terminated. The fee for reopening a case will be the same as the statutory filing fee for the chapter under which the case was originally commenced. As a result of this action:

- the total of fees charged for reopening a Chapter 7 case will be \$260⁵,
- the fee for reopening a Chapter 13 case will be \$235; and
- with respect to splitting a joint chapter 7 case, the total fees will be \$260⁶;
- the fee for splitting a Chapter 11 case will remain \$1,000; and
- the fee for splitting a Chapter 13 case will be \$235.

⁵ The total fee collected for reopening a Chapter 7 case will include the statutory chapter 7 filing fee of \$245 plus the additional \$15 fee authorized by the Judicial Conference.

⁶ This amount includes the statutory filing fee of \$245 plus the additional \$15 fee authorized by the Conference.

Changes to Court of Appeals Fees

Below are descriptions of the Judicial Conference actions regarding the Court of Appeals Miscellaneous Fee Schedule.

Clarification of Exemption from Court of Appeals Filing Fee

The Judicial Conference approved an amendment to the Court of Appeals Miscellaneous Fee Schedule Item 1, to clarify that only one fee is required for a direct bankruptcy cross appeal. Thus, the current exemption from the appellate docketing fee for direct bankruptcy appeals has been expanded to include direct bankruptcy cross appeals.