CM/ECF

 October 20, 2008 President signed the Debt Relief Act of 2008.

December 19, 2008 Effective date of Relief Act

Amends §707(b)(2)(D) of the Bankruptcy Code

Only for chapter 7 individual consumer bankruptcy debtors.

- Provides temporary exclusion from chapter 7 bankruptcy means test for:
 - National Guardsmen
 - Reservists
- Who were called to <u>active duty or homeland defense</u> activity after September 11, 2001
 - for at least 90 days

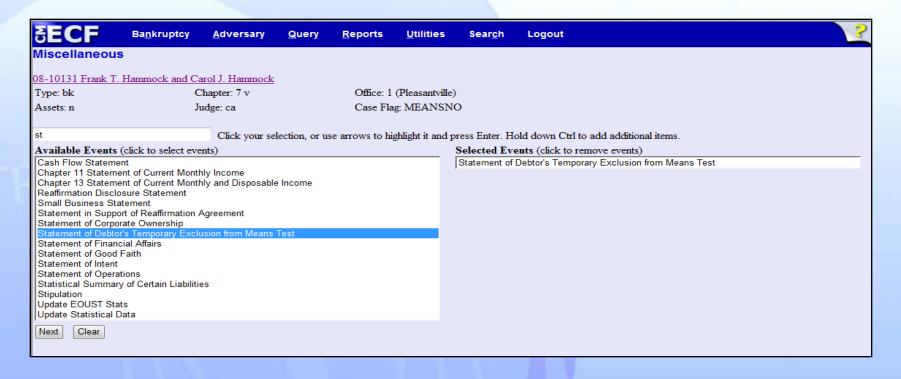
- Temporary exclusion expires 540 days after the debtor is released from active duty or no longer performing homeland defense activities.
- The amendment applies only to cases commenced in the three-year period beginning on the effective date of the Act.

- This exclusion could expire while a chapter 7 debtor's case is pending and while a motion to dismiss the case may still be filed.
 - Interim Rule Requires the clerk give the debtor notice of the need to complete the means test and the debtor must do so no later than 14 days after the exclusion has expired.

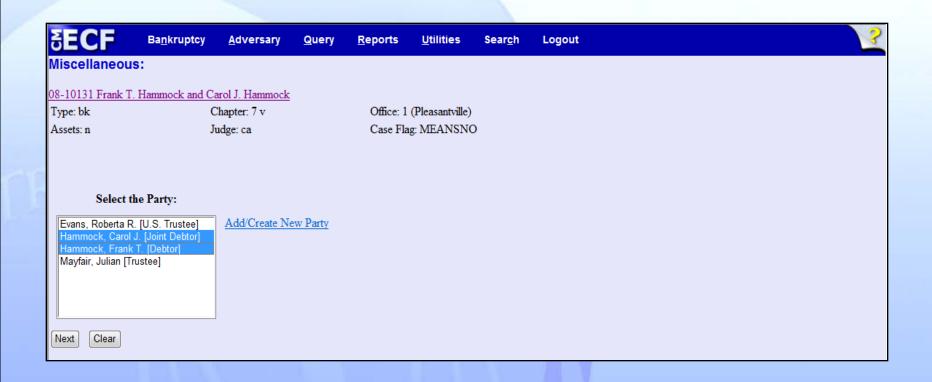
Process for temporary exclusion in CM/ECF

- Open the case
 - Single debtor case
 - set the means test flag to NO
 - Joint debtor case
 - If other debtor has the presumption of abuse, set the means test flag to YES
 - If both debtors have the exclusion, set the means test flag to NO

- Statement of Debtor's Temporary Exclusion From Means Test event
 - Can be used for single or joint debtor cases
 - Sets another flag MEANSTMPEX
 - Permanent flag
 - Can set date on which the temporary exclusion ends if debtor is no longer on active duty.
 - Can set separate deadlines for each debtor



Docket new event Statement of Debtor's Temporary Exclusion from Means Test



The event is appropriate for single or joint debtor cases. This slide shows both debtors filing this statement.



If both debtors are selected on this screen, the following process is repeated for each party so separate deadlines are created.



If both debtors have been selected, this query will be presented separately for each debtor. In the example above the debtor is still serving on active duty.



In our example, the joint debtor is no longer on active duty so we have selected "No" to this question.



For the joint debtor, the system is now requesting the date of release from active duty.



The system next calculates the exclusion deadline for the joint debtor which is the release date + 540 days.



Final docket text shows the release date and the date the temporary exclusion expires for the joint debtor. The system automatically sets a deadline for the temporary exclusion.

- If a debtor is released from active duty later in the case
 - attorney should docket the event "Release from Active Duty"
 - sets the temporary exclusion deadline for one or both debtors in a joint case
- Court must monitor this deadline

- Official Form 22A is revised (December 1, 2008)
 - New Part 1C added to Form 22A, Statement of Current Monthly Income and Means Test Calculation
 - For National Guard or Reservists claiming exemption from the means test

B22/	A (Official Form 22A) (Chapter 7) (12/08)	
In re		According to the information required to be entered on this statement (check one box as directed in Part I, III, or VI of this statement):
Case	Number:(If known)	☐The presumption arises. ☐The presumption does not arise. ☐The presumption is temporarily inapplicable.
	CHARTER 7 STATEMENT OF C	
exclu	dition to Schedules I and J, this statement must be usion in Line 1C applies, joint debtors may complete	current Monthly Income and Means-test calculation completed by every individual chapter 7 debtor, whether or not filing jointly. Unless the e a single statement. If the exclusion in Line 1C applies, each joint filer must complete a
exclu	dition to Schedules I and J, this statement must be asion in Line 1C applies, joint debtors may complete rate statement. The presumption arises. The presumption arises.	completed by every individual chapter 7 debtor, whether or not filing jointly. Unless the
exclu	dition to Schedules I and J, this statement must be usion in Line 1C applies, joint debtors may complete that rate statement. The presumption arises. If you are a disabled veter	completed by every individual chapter 7 debtor, whether or not filing jointly. Unless the e a single statement. If the exclusion in Line 1C applies, each joint filer must complete a sumption does not arise. The presumption is temporarily inapplicable. III ITARY AND NON-CONSUMER DEBTORS Tran described in the Declaration in this Part IA, (1) check the box at the beginning of the aption does not arise" at the top of this statement, and (3) complete the verification of Pa

1B	Non-consumer Debtors. If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement. □ Declaration of non-consumer debts. By checking this box, I declare that my debts are not primarily consumer debts.	
A	Reservists and National Guard Members; active duty or homeland defense activity. Members of a reserve component of the Armed Forces and members of the National Guard who were called to active duty (as defined in 10 U.S.C. § 101(d)(1)) after September 11, 2001, for a period of at least 90 days, or who have performed homeland defense activity (as defined in 32 U.S.C. § 901(1)) for a period of at least 90 days, are excluded from all forms of means testing during the time of active duty or homeland defense activity and for 540 days thereafter (the "exclusion period"). If you qualify for this temporary exclusion, (1) check the appropriate boxes and complete any required information in the Declaration of Reservists and National Guard Members below, (2) check the box for "The presumption is temporarily inapplicable" at the top of this statement, and (3) complete the verification in Part VIII. During your exclusion period you are not required to complete the balance of this form, but you must complete the form no later than 14 days after the date on which your exclusion period ends, unless the time for filing a motion raising the means test presumption expires in your case before your exclusion period ends.	
1C	☐ Declaration of Reservists and National Guard Members. By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard	
	a.	

REVIEW

1. Open the case as usual and set the presumption of abuse flag to no (MEANSNO).

NOTE: If the case is joint, and the exclusion applies to one debtor

and the other debtor has the presumption of abuse, the

case should be opened with the means YES.

- 2. Docket a new event called 'Statement of Debtor's Temporary Exclusion from Means Test.'
- 3. If the debtor is released from active duty later in the case, the attorney should docket the event 'Release from Active Duty.'
- 4. Monitor deadline if appropriate.
- 5. Do not remove MEANSTMPEX flag.
 - Will be used to monitor exclusion activity