

APPEARANCE OF CHILD SUPPORT CREDITOR OR REPRESENTATIVE

Applicable Law and Rules

1. Section 304(g) of the Bankruptcy Reform Act of 1994 (Public Law No. 103-394) provides:

Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding in any bankruptcy court or district court of the United States if such creditors or representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristics.

2. Although Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. 109-8, deleted the Bankruptcy Code's definition of "debt for child support," child support was included in the definition of the new term "domestic support obligation" in section 101(14A) of the Code.
3. Section 101(14A)(A) states that domestic support obligations include debts to "(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or (ii) or governmental unit . . ."
4. Section 101(14A)(B) provides that the debts must be "in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated) . . ."
5. Section 101(14A)(C) of the Code states that the domestic support obligation must be established, or subject to being established, by reason of the provisions of a separation agreement, divorce decree, or property settlement agreement; court order; or determination made by a governmental unit in accordance with nonbankruptcy law.
6. Section 523(a)(5) of the Code excepts debts for domestic support obligations from discharge under sections 727, 1141, 1228(a), 1228(b), and 1328(b).
7. Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule provides that, if a child support creditor or its representative files the form required by section 304(g) of the Bankruptcy Reform Act of 1994, no fee is to be charged to the child

support creditor or representative for filing a complaint commencing an adversary proceeding.

8. Item 20 of the Miscellaneous Fee Schedule provides that, if a child support creditor or its representative files the form required by section 304(g), no fee is to be charged to the child support creditor or representative for filing a motion to terminate, annul, modify, or condition the automatic stay, a motion to compel abandonment of property of the estate pursuant to Fed. R. Bankr. P. 6007(b), or a motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d).

Instructions

Caption

1. Identify the Judicial District in which the bankruptcy case was filed. Example: Eastern District of California.
2. “In re”: Insert the name of the debtor as it appears in the bankruptcy petition.
3. “Case No.”: Insert the bankruptcy case number assigned by the court at the time of filing.

The instructions to the rest of the form are self-evident. Attach an itemized statement of account.

General Information for the Clerk

Form B281 was issued to implement section 304(g) of the Bankruptcy Reform Act of 1994. The provision permits child support creditors or their representatives to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding if they file a form that contains information detailing the child support debt, its status, and other characteristics.