

Rule 1017. Dismissal or Conversion of Case; Suspension

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(e) DISMISSAL OF AN INDIVIDUAL DEBTOR'S CHAPTER 7 CASE OR CONVERSION TO A CASE UNDER CHAPTER 11 or 13 FOR SUBSTANTIAL ABUSE. The court may dismiss or, with the debtor's consent, convert an individual debtor's case for ~~substantial abuse under § 707(b) only on motion by the United States trustee or on the court's own motion~~ and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entities as the court directs.

(1) Except as otherwise provided in § 704(b)(2), a ~~A~~ motion to dismiss a case for ~~substantial abuse under § 707(b) or (c) may be filed by the United States trustee only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed by the United States trustee before the time has expired, the court for cause extends the time for filing the motion to dismiss. The United States trustee party filing the motion shall set forth in the motion all matters to be considered submitted to the court for its consideration at the hearing. A motion to dismiss under § 707(b)(1) and (3) shall state with particularity the circumstances alleged to constitute abuse.~~

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Rule 1017 COMMITTEE NOTE

Subdivisions (e) and (e)(1) are amended to implement the 2005 revisions to § 707 of the Code. These revisions permit conversion of a chapter 7 case to a case under chapter 11 or 13, change the basis for dismissal or conversion from "substantial abuse" to "abuse," authorize parties other than the United States trustee to bring motions under § 707(b) under certain circumstances, and add § 707(c) to create an explicit ground for dismissal based on the request of a victim of a crime of violence or drug trafficking. The conforming amendments to subdivision (e) preserve the time limits

already in place for § 707(b) motions, except to the extent that § 704(b)(2) sets the deadline for the United States trustee to act. In contrast to the grounds for a motion to dismiss under § 707(b)(2), which are quite specific, the grounds under § 707(b)(1) and (3) are very general. Subdivision (e) therefore requires that motions to dismiss under §§ 707(b)(1) and (3) state with particularity the circumstances alleged to constitute abuse to enable the debtor to respond.