

Hardship Discharge

To request a hardship discharge, the debtor must file a motion.

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Hardship Discharge Process


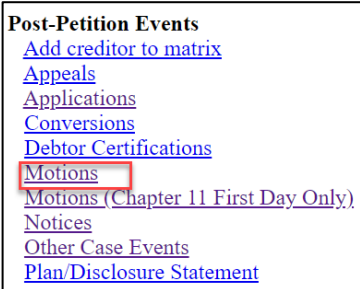
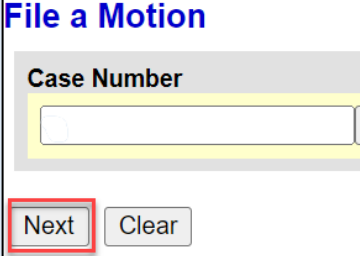
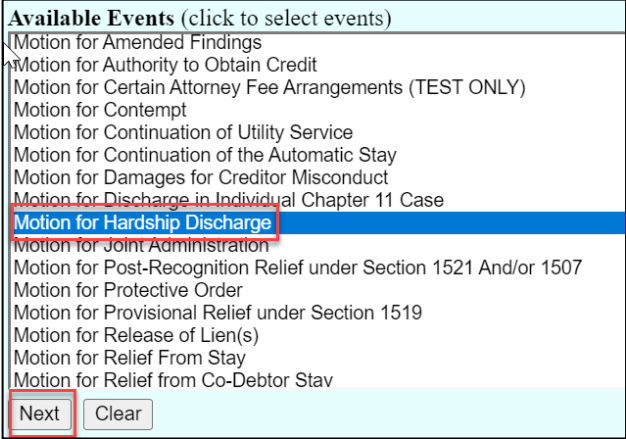
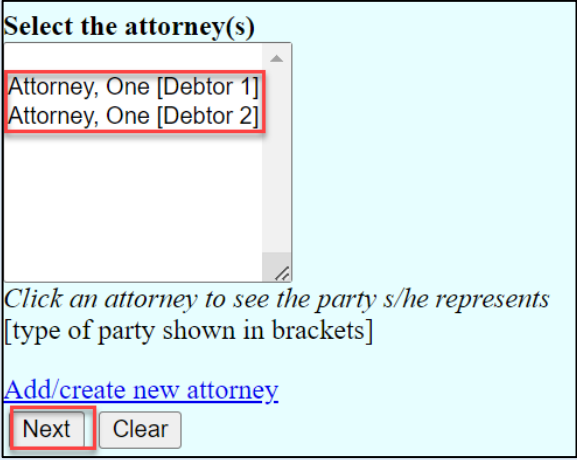
1. Debtor files a motion for hardship discharge without a notice of hearing.
2. Court enters order and notice of hearing on motion for hardship discharge.
3. Local Form 4004-1 must be filed.
4. In chapter 13 cases, the financial management certificate must be filed.
5. Court holds a hearing on the motion and either grants or denies the motion or takes it under advisement.
6. Court enters order granting or denying motion for hardship discharge.
7. If motion is granted, hardship discharge entered.

Applicable Statutes and Rules

1. 11 U.S.C. §§ 1228(b) (chapter 12) and 1328(b) (chapter 13); *see also* 11 U.S.C. §§ 1228(a)(2) (listing certain debts excepted from discharge in a chapter 12) and 1328(a)(2) (listing certain debts excepted from discharge in a chapter 13)
2. Fed. R. Bankr. P. 4007(d) (chapter 13 only)
3. 11 U.S.C. §§ 1328(g)(1) (financial management certificate requirement) and 1228(f) and 1328(h) (bases for Local Form 4004-1)

NOTE: A financial management certificate is not required in a chapter 12 case.

Filing Motion for Hardship Discharge

<p>1. CM/ECF > Bankruptcy</p>	
<p>2. Post-Petition Events > Motions</p>	
<p>3. Verify the case number. Click Next.</p>	
<p>4. Select Motion for Hardship Discharge from the menu items. Click Next.</p>	
<p>5. Select the appropriate attorney. Click Next.</p>	 <p><i>Click an attorney to see the party s/he represents [type of party shown in brackets]</i></p> <p>Add/create new attorney</p>

<p>6. Select the filing party.</p> <p>Click Next.</p>	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Select the Party:</p> <div style="border: 1px solid gray; padding: 2px;"> [Debtor 2] Add/Create New Party [Debtor 1] [U.S. Trustee] </div> <p style="text-align: center;"> <input type="button" value="Next"/> <input type="button" value="Clear"/> </p> </div>
<p>7. Indicate whether the motion is the initial motion filed or whether the motion is amended or expedited.</p> <p>Click Next.</p>	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Please indicate the type of motion you are filing:</p> <div style="border: 1px solid gray; padding: 2px;"> <input checked="" type="radio"/> Initial <input type="radio"/> Amended <input type="radio"/> Expedited </div> <p style="text-align: center;"> <input type="button" value="Next"/> <input type="button" value="Clear"/> </p> <p>Repeat the "Motion for Hardship Discharge" event. </p> </div>
<p>8. Select the documents included with the motion.</p> <p>Click Next.</p>	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">The moving party must file and serve the following items. Checking the boxes indicates which items are included in this filing.</p> <ul style="list-style-type: none"> • <input type="checkbox"/> Motion for Hardship Discharge • <input type="checkbox"/> Memorandum of Facts and Law • <input type="checkbox"/> Verification of Motion or Exhibits (if facts are at issue) • <input type="checkbox"/> Proposed Witness List (if applicable) <p style="text-align: center;"> <input type="button" value="Next"/> <input type="button" value="Clear"/> </p> </div>
<p>9. Select the main document and add any attachments.</p> <p>Click Next.</p>	<div style="border: 1px solid black; padding: 5px;"> <p>Date filed <input style="width: 100px;" type="text" value="4/12/2023"/> </p> <hr/> <p>Filename</p> <p><input type="button" value="Choose File"/> No file chosen</p> <p>Attachments to Document: <input checked="" type="radio"/> No <input type="radio"/> Yes</p> <p style="text-align: center;"> <input type="button" value="Next"/> <input type="button" value="Clear"/> </p> </div>
<p>10. Click Next.</p>	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Motion for Hardship Discharge - Attorney, Five (aty) - Outside</p> <p style="text-align: center;"> <input type="button" value="Next"/> <input type="button" value="Clear"/> </p> </div>

11. Review the motion.

Click Next.

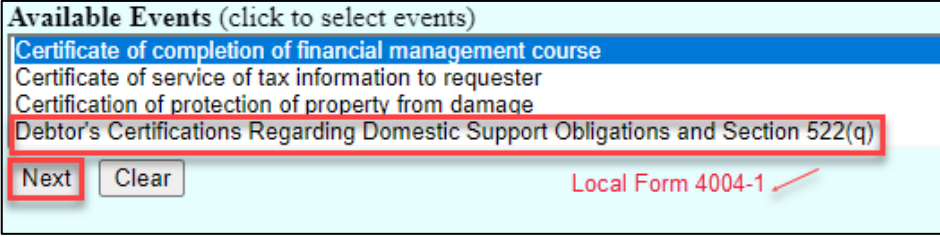
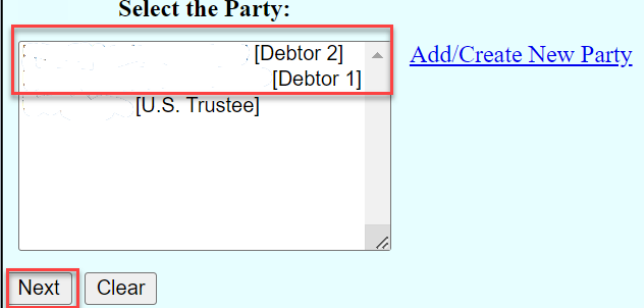
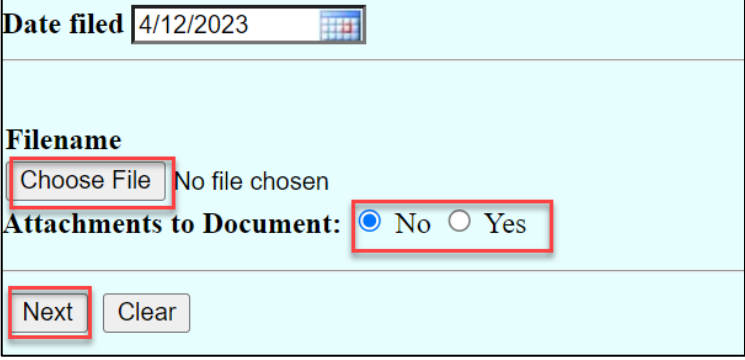
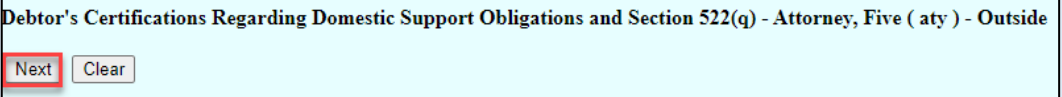
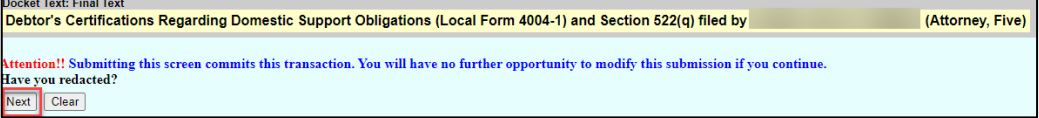
Order and Notice of Hearing on Motion for Hardship Discharge

The court will enter an order setting a hearing date and time and setting certain deadlines. The deadlines include the date to file an objection to the motion, the date to file Local Form 4004-1, and in chapter 13 cases only, the date to file the financial management certificate.

Filing Local Form 4004-1 and Financial Management Certificate


The order and notice of hearing on motion for hardship discharge sets a deadline of 14 days for filing Local Form 4004-1 (domestic support obligation certification) and, in chapter 13 cases, the deadline to file the financial management certificate.

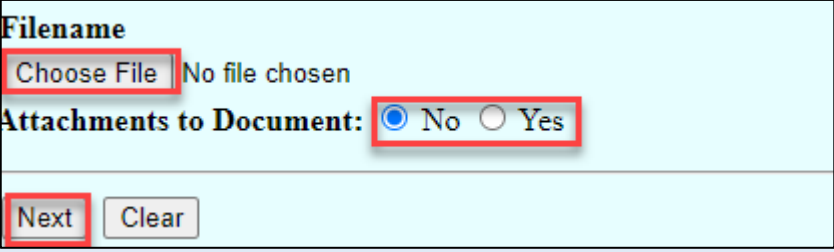
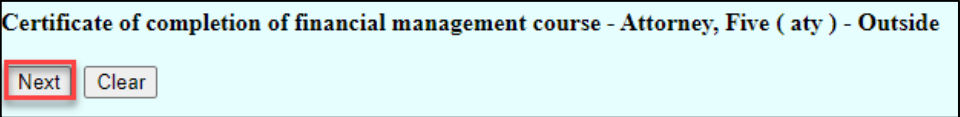
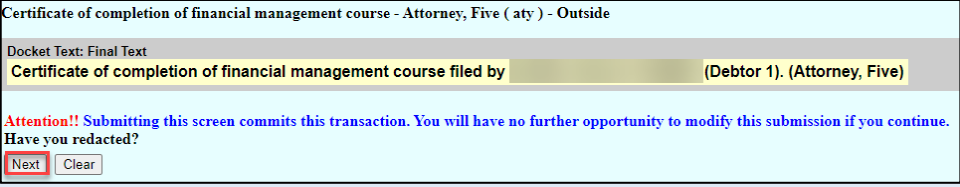
LOCAL FORM 4004-1	
1. CM/ECF > Bankruptcy	
2. Post-Petition Events > Debtor Certifications	
3. Verify the case number. Click Next.	

<p>4. Select the appropriate event. Click Next.</p>	
<p>5. Select the filing party. Click Next.</p>	
<p>6. Select the main document and add any attachments. Click Next.</p>	
<p>7. Click Next.</p>	
<p>8. Review Local Form 4004-1. Click Next.</p>	

FINANCIAL MANAGEMENT CERTIFICATE

<p>1. CM/ECF > Bankruptcy</p>	
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<p>2. Post-Petition Events > Debtor Certifications</p>	<div data-bbox="548 191 1075 653"> <p>Post-Petition Events Add creditor to matrix Appeals Applications Conversions Debtor Certifications Motions Motions (Chapter 11 First Day Only) Notices Other Case Events Plan/Disclosure Statement</p> </div>
<p>3. Verify the case number. Click Next.</p>	<div data-bbox="548 690 954 982"> <p>File a Court document</p> <p>Case Number</p> <input type="text"/> <input type="button" value="Next"/> <input type="button" value="Clear"/></div>
<p>4. Select the appropriate event. Click Next.</p>	<div data-bbox="548 1033 1502 1234"> <p>Available Events (click to select events)</p> <p>Certificate of completion of financial management course Certificate of service of tax information to requester Certification of protection of property from damage Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)</p> <input type="button" value="Next"/> <input type="button" value="Clear"/></div>
<p>5. Click Next.</p>	<div data-bbox="548 1270 1118 1423"> <input type="button" value="Next"/> <input type="button" value="Clear"/></div>
<p>6. Select the filing party. Click Next.</p>	<div data-bbox="548 1467 1458 1829"> <p>Select which debtor has completed the financial management course.</p> <p>For both debtors in a joint case, hold the control key to highlight both names.</p> <p><input type="text" value="(Debtor 1)"/> <input type="text" value="(Debtor 2)"/></p> <input type="button" value="Next"/> <input type="button" value="Clear"/> <p>Repeat the "Certificate of completion of financial management course" event. </p> </div>

<p>7. Select the main document and add any attachments.</p> <p>Click Next.</p>	
<p>8. Click Next.</p>	
<p>9. Review the financial management certificate.</p> <p>Click Next.</p>	

Order Granting/Denying Motion for Hardship Discharge

An order will be entered after the court concludes the hearing. The order will either grant or deny the motion for hardship discharge.

Order of Hardship Discharge

After the court enters an order granting the motion for hardship discharge, the actual discharge will be entered separately on an order of discharge (Official Forms B 3180FH or B 3180WH). The clerk will notice the order of discharge in accordance with Fed. R. Bankr. P. 4004(g).