Bankruptcy Local Rule 7041-2

DISMISSAL OF ADVERSARY PROCEEDINGS
CONTESTING DISCHARGE

An adversary proceeding objecting to entry of discharge of the debtor(s) or seeking to revoke entry of discharge of the debtor(s) shall be dismissed only upon compliance with the following conditions.

(a) **Motion.**

The plaintiff shall file a motion that sets forth with particularity the grounds upon which the request for dismissal is based.

(b) **Affidavit.**

Contemporaneously with such motion, there must be filed an affidavit of the plaintiff setting forth any consideration, monetary or otherwise, received in connection with such requested dismissal.

(c) **Service of pleadings.**

Proof of service of the motion and affidavit provided for in subdivisions (a) and (b) of this rule, reflecting service upon the trustee and upon any committee appointed under the Code, must be filed within seven (7) days of the motion.

(d) **Notice to creditors and hearing.**

Notice of an intended dismissal and hearing shall be issued by the moving party and served upon all creditors and parties in interest in the debtor(s)' case, and proof of such service filed with the clerk.

(1) This requirement of notice shall not apply to dismissal of adversary proceedings brought by a trustee to deny or revoke discharge on the grounds of failure to file tax returns, failure to amend schedules, or failure to turn over property or records.

RELATED AUTHORITY

11 U.S.C. §§ 727, 1141, 1228, 1328
18 U.S.C. § 152
Fed. R. Bankr. P. 7001(4), 7041

Advisory Committee Notes:

Fed. R. Bankr. P. 7041, and case precedent limit voluntary dismissal of complaints generally objecting to discharge of debtors (as contrasted with those actions under §523 of the Code contesting dischargeability of individual debts). This rule clarifies the requirements previously imposed by the court in most cases. Subdivision (b) is, in part, in reference to the criminal prohibition upon the giving, receiving, offering or seeking to obtain any money, property or other advantage in return for acting or forbearing to act in a case under Title 11, U.S. Code.