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LOCAL BANKRUPTCY RULE 1001-1
SCOPE OF RULES

(a) General Applicability: These rules and forms supplement the Federal Rules of Bankruptcy Procedure (“FED. R. BANKR. P.”) and the Bankruptcy Official Forms (“Official Forms”) and govern practice and procedure in the United States Bankruptcy Court for the District of Colorado.

(b) Applicability of Rules to Persons Appearing without Counsel: Individuals who appear before the court who are not represented by an attorney are bound by the L.B.R. and any reference to “attorney” applies to individuals who are not represented by an “attorney” unless otherwise noted.

(c) Citation to the Rules: The rules are to be cited as the Local Bankruptcy Rules (“L.B.R.”), the forms as the Local Bankruptcy Forms (“L.B. Forms”), and the appendix as the Local Bankruptcy Rules Appendix (“L.B.R. ____ App.”).

(d) Uniform Numbering System: The numbering system in these L.B.R. and L.B. Forms is based on the Uniform Numbering System for Local Bankruptcy Court Rules developed by the Judicial Conference Advisory Committee on Bankruptcy Rules. Any gaps in the numbering system are intentional.

(e) Reference to Debtor: Any reference to “debtor” in the L.B.R. and L.B. Forms includes both “debtors” in a joint case.

Commentary

[Source: COB LBR 101 and C.D. Cal]

LOCAL BANKRUPTCY RULE 1002-1
MINIMUM INITIAL FILING REQUIREMENTS ON PETITION DATE

(a) Initial Filing Requirements: Along with the submission of a voluntary petition, Official Form 1, the debtor must also complete and file the following:

(1) Cover Sheet: In paper filed cases only, a cover sheet in substantial conformity with L.B. Form 1002-1.1.

(2) Certificate of Credit Counseling: In the event the debtor is an individual,

(A) the debtor’s Certificate of Credit Counseling evidencing that the debtor has complied with the credit counseling requirements set forth in 11 U.S.C. § 109(h)(1), or

(B) a written explanation as to why a temporary exemption or exception should apply under 11 U.S.C. § 109(h)(3) or (4) shall be provided on the Official Form Exhibit D.

(3) Filing Fees: Pay the applicable filing fee in full. If the debtor is an individual, the debtor may file an application to pay the filing fee in installment payments or an application for a waiver of the filing fee. See 28 U.S.C. § 1930, FED. R. BANKR. P. 1006 and applicable Official Forms for further information on filing fees.

(4) Statement of Social Security Number: In the event the debtor is an individual, Official Form 21 - Statement of Social Security number. See [L.B.R. 1007-5](#) for further information on Social Security numbers and privacy.

(5) Creditor Address Mailing Matrix: A proper Creditor Address Mailing Matrix. See 11 U.S.C. § 521(a)(1), FED. R. BANKR. P. 1007(a)(1), [L.B.R. 1007-2](#) and [L.B.R. 1007-2App.](#) for further information on filing a proper Creditor Address Mailing Matrix.

(6) List of 20 Largest Unsecured Creditors: For a petition under chapter 9 or a voluntary chapter 11, the list containing the name, address and estimated claim of the creditors that hold the 20 largest unsecured claims as required by FED. R. BANKR. P. 1007(d).

(b) Notice of Non-Filing and Return of Deficient Petition: The Clerk may decline to accept for filing any bankruptcy petition tendered in paper for filing that does not contain the minimum requirements as stated in [L.B.R. 1002-1\(a\)](#).

Commentary

[Source: [L.B.R. 102](#), Transitional Local Bankruptcy Form 1002-1, Transitional Local Bankruptcy Form 1007-1, and GPO 2002-2]

See [L.B.R. 1017-3](#) for information on dismissal for failure to file documents and the United States Trustee's Standing Motion to Dismiss.

A schedule of the current fees can be found at the bankruptcy court's website at www.cob.uscourts.gov.

LOCAL BANKRUPTCY RULE 1007-1 LISTS, SCHEDULES, STATEMENTS & OTHER DOCUMENTS

FED. R. BANKR. P. 1002 through 1008 govern the documents required to be filed at or near the commencement of a case. [L.B.R. 1007-1App.](#) contains a list, in proper sequence, of the documents required to be filed to constitute a complete bankruptcy filing. [L.B.R. 1007-1App.](#) also includes references to applicable Official Forms, Director's Procedural Forms and L.B. Forms.

Commentary

[Source: T.L.B.R. 1007-1]

LOCAL BANKRUPTCY RULE 1007-2 CREDITOR ADDRESS MAILING MATRIX

(a) Content: The debtor must file a verified list of creditors, referred to as the Creditor Address Mailing Matrix, pursuant to 11 U.S.C. § 521(a)(1)(A) in the form and manner described in **L.B.R. 1007-2App.** The debtor must file a Verification of Creditor Address Mailing Matrix in substantial conformity with **L.B. Form 1007-2.1.**

(b) Assignment: In addition to the requirements of FED. R. BANKR. P. 1007(a), if an assignment of the account or debt is known to the person verifying such information, the full names and addresses of both the original creditor and assignee must be listed. If the debt is in the hands of an attorney or other agent for collection, the full names and addresses of both the creditor and attorney or other agent should be listed, if known.

(c) Amendments: See **L.B.R. 1007-2App.** and **L.B.R. 1009-1** for information on amendments to the schedules and Creditor Address Mailing Matrix.

Commentary

[Source: L.B.R. 107(c)]

LOCAL BANKRUPTCY RULE 1007-4 FINANCIAL DISCLOSURE BY CORPORATE DEBTOR

(a) The following financial disclosures are required of business debtors:

(1) Corporate Ownership Statement pursuant to FED. R. BANKR. P. 1007(a)(1) in substantial conformity with **L.B. Form 1007-4.1.**

(2) List of Equity Interest Holders pursuant to FED. R. BANKR. P. 1007(a)(3) in substantial conformity with **L.B. Form 1007-4.2.**

(3) Balance Sheet, Statement of Operations, Cash-Flow Statement, Federal income tax return for Small Business Debtors pursuant to 11 U.S.C. § 1116(1)(A) or a statement under penalty of perjury that such documents do not exist pursuant to 11 U.S.C. § 1116(1)(B).

Commentary

[Source: New.]

See FED. R. BANKR. P. 7007.1 and **L.B.R. 7007.1-1** for additional information on filing a Corporate Ownership Statement in adversary proceedings.

LOCAL BANKRUPTCY RULE 1007-5 SOCIAL SECURITY NUMBER (PRIVACY)

(a) Petition: When filing the petition electronically, the electronic filer must enter the debtor's full Social Security number when opening a case, but must include only the last four digits on the petition, Official Form 1.

(b) Statement of Social Security Number:

(1) Official Form 21: All voluntary petitions in individual debtor cases must be accompanied by the filing of

(i) Official Form 21, Statement of Social Security number, in conventional paper format; or

(ii) For petitions that are filed electronically, Official Form 21, using the proper secured event to prevent public access to the form.

(2) Receipt: A receipt of the Statement of Social Security number will be entered on the docket, but will not be available for public inspection at the court or over the internet.

(3) Amended Statement of Social Security number:

(i) Correction: An incorrect Social Security number must be corrected by the debtor by submitting an Amended Statement of Social Security number. The Amended Statement must include the originally submitted and the correct Social Security numbers and must be filed within seven (7) days of the debtor discovering or being informed of the error.

(ii) Service: Within three (3) days of filing the Amended Statement of Social Security number as prescribed above, the debtor must file a certificate of service evidencing service of the Amended Statement of Social Security number on the United States Trustee, the trustee, and all creditors.

(4) Failure to File the Statement of Social Security number: Failure to file or serve the Statement of Social Security number, or any amendment thereto, in accordance with this L.B.R. may result in dismissal of the case.

(c) Proof of Claim form: Creditors claiming wages owed from the debtor should disclose only the last four digits of their Social Security number on Official Form 10, Proof of Claim.

(d) Redaction of personal identifiers: It is the responsibility of any party filing documents with the court, not the Clerk, to redact Social Security numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children. This includes copies of employee payment advices, tax returns, or other financial documents that may be filed or attached as an exhibit to documents filed with the court. In the event a petition or other document is tendered for filing that bears the entire Social Security number of the debtor, the Clerk will file said petition or document as tendered without taking any action to redact the first five digits of the Social Security number.

Commentary

See **L.B.R. 4002-1** for privacy of tax return information and **L.B.R. 9004-2** for information on captions.

See also FED. R. BANKR. P. 1009 and FED. R. BANKR. P. 9037.

[Source: **L.B.R. 107(c)** and **GPO 2003-4**]

LOCAL BANKRUPTCY RULE 1007-6 EMPLOYEE PAYMENT ADVICES

(a) Filing Requirement: The debtor must file the required payment advices pursuant to 11 U.S.C. § 521(a)(1)(B)(iv) or a statement as to why the debtor has not complied. The statement must be in substantial conformity with **L.B. Form 1007-6.1**.

(b) Failure to File Any Payment Advices: If no payment advices are filed with the petition and the debtor has not filed a statement in substantial conformity with L.B. Form 1007-6.1, the court may issue a notice of deficiency. The failure to cure the deficiency may result in the dismissal of the case pursuant to 11 U.S.C. § 521(i) and **L.B.R. 1017-3**.

(c) Motions or Objections Regarding Filed Payment Advices: All parties in the case have until the latter of forty-five (45) days after the petition is filed, or thirty (30) days after the payment advices are filed, to file a motion to modify a docket entry that states a payment advice was filed or to challenge the court's acceptance of documents in satisfaction of the payment advice filing requirement. The failure to timely file such a motion or challenge will result in the documents being deemed accepted and sufficient in satisfaction of the filing requirement in 11 U.S.C. § 521(a)(1)(B)(iv), unless otherwise ordered by the court.

Commentary

[Source: Paragraphs (a) and (b) are new. Paragraph (c) is from **GPO 2006-2**]

**LOCAL BANKRUPTCY RULE 1009-1
AMENDMENTS TO LISTS & SCHEDULES**

(a) Amendments to Add Creditors or Other Information: An amendment to Schedules D, E, F, G and H pursuant to FED. R. BANKR. P. 1009 made after the initial 11 U.S.C. § 341 meeting, must be:

- (1) shown on a schedule separate from the schedule originally filed; or
- (2) highlighted, i.e., marked by an asterisk, underscored, etc., if such amendment has been incorporated in a revised edition of the schedule originally filed; and
- (3) shown on an amended Creditors Address Mailing Matrix in the form and manner described in **L.B.R. 1007-2** and **L.B.R. 1007-2App** that is separate and apart from any other Creditor Address Mailing Matrix previously filed in the case; and
- (4) must be accompanied by payment of any fee prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b).

(b) Notice of Amendment: In addition to the requirements of 11 U.S.C. § 342(c)(1) and FED. R. BANKR. P. 1009(a), upon the filing of an amendment adding creditors or parties in interest, the debtor must mail to the newly added creditors or parties a copy of the following documents:

- (1) the amended schedule,
- (2) the Notice of Amendment to Schedule, **L.B. Form 1009-1.1**,
- (3) the Notice of Meeting of Creditors, and
- (4) any notice of possible dividend or notice of a bar date for filing proofs of claim, along with a proof of claim form.

(c) Certificate of Service: The debtor must file a certificate of service showing compliance with this L.B.R. within three (3) days of filing the amendment.

(d) Creditor Requests to Modify Creditor Address Mailing Matrix: If a creditor wishes to modify the address listed in the schedules or on the Creditor Address Mailing Matrix the creditor may file or modify a proof of claim or file a notice of change of address and mail a copy to the debtor and debtor's counsel.

Commentary

[Source: W.D. Mo., D. Colo. 109 and GPO 2005-1]

**LOCAL BANKRUPTCY RULE 1015-1
JOINT ADMINISTRATION**

(a) Motions: On motion of any party in interest, on notice to the United States trustee, any case trustee, and such further notice as the court may direct, separate cases enumerated in FED. R. BANKR. P. 1015(b) may, upon order of the court, be jointly administered.

(b) Order: Parties seeking joint administration must submit a proposed order in substantial conformity with **L.B. Form 1015-1.1**.

(c) Notice: When an order granting joint administration is entered, the Clerk, or such other person as the court may direct, must provide notice to all creditors and parties in interest that the administrative procedures listed below apply. The court may, in its discretion, order that the debtor(s) maintain a comprehensive notice list of creditors from all jointly administered estates.

(1) Unless otherwise ordered, jointly administered cases will be reassigned to the judge to whom the lower-numbered (first) case was assigned. The lower-numbered case will be known as the “lead case.”

(2) Unless otherwise ordered, all motions, pleadings, and other documents filed in the jointly-administered case shall bear a combined caption which includes the full name and number of each specific case as in Official Bankruptcy Form 16A, and must be filed, docketed and processed in the lead case, except for the following:

(A) a motion which applies to less than all jointly administered debtors must clearly indicate in the caption and title to which debtor(s) the motion applies, but must still be filed in the lead case;

(B) all proofs of claim must be filed in the specific case to which they apply;

(C) monthly financial reports must be filed in the specific case to which they apply; and

(D) amendments to schedules, statements, lists and other required documents in FED. R. BANKR. P. 1002 and 1007 must be filed in the specific case to which the amendments apply.

(d) This L.B.R. does not affect the substantive issues of the jointly-administered estates, either individually or collectively, nor does it affect the requirements of FED. R. BANKR. P. 2009.

Commentary

[Source: L.B.R. 115]

This L.B.R. is intended to deal with joint administration, as opposed to substantive consolidation.

**LOCAL BANKRUPTCY RULE 1017-1
DEBTOR'S REQUEST FOR, NOTICE OF, CONVERSION**

(a) Conversion From Chapter 7 to Chapter 11, 12 or 13:

(1) No Prior Conversion: To convert a case from chapter 7 to chapter 11, 12 or 13 pursuant to 11 U.S.C. § 706(a), where eligible, the debtor must file a Motion for Voluntary Conversion in accordance with Fed. R. Bankr. P. 1017(f)(2), whereupon the Clerk will, if the case has not been previously converted under 11 U.S.C. §§ 1112, 1208 or 1307, enter a virtual text order effecting the conversion.

(2) Prior Conversion: In the event that the case has been previously converted, the debtor must comply with 11 U.S.C. § 706(c) and file a motion for conversion with notice to creditors pursuant to **L.B.R. 9013-1**.

(b) Conversion From Chapter 11 to Chapter 7:

(1) Generally: The debtor, where eligible, must file a Motion for Voluntary Conversion. Upon receipt of the application fee, the Clerk may then enter a virtual order converting the case.

(2) Limitations: Where the provisions of 11 U.S.C. §§ 1112(a) apply, the debtor must file a Motion for Voluntary Conversion with notice pursuant to **L.B.R. 9013-1**.

(c) Fees: The court will not act upon motion to convert until all required fees pursuant to 28 U.S.C. § 1930 have been paid.

(d) Reconsideration: Any party in interest may file a motion to reconsider the conversion of the case within the time specified by FED. R. BANKR. PRO. 9023 and 9024.

Commentary

[Source: **L.B.R. 117 and GPO 2003-6**]

A schedule of the current fees can be found at the bankruptcy court's website at www.cob.uscourts.gov.

This L.B.R. is intended to address issues raised by *Marrama v. Citizens Bank of Massachusetts (In re Marrama)*, 127 S.Ct. 1105 (2007).

Where debtor is seeking conversion for a second time, *see In re Murth*, 378 B.R. 302 (Bankr. D. Colo 2007); *but see In re Johnson*, 376 B.R. 763 (Bankr. D. N.M. 2007).

LOCAL BANKRUPTCY RULE 1017-2
DISMISSAL OR SUSPENSION – CASE OR PROCEEDING
(Failure to Provide Tax Returns)

(a) Motion to Dismiss Pursuant to 11 U.S.C. § 521(e)(2): If the debtor fails to provide the trustee or timely requesting creditor with the federal income tax return or transcript under 11 U.S.C. § 521(e)(2)(A), the trustee or requesting creditor may file a combined motion to dismiss and notice in substantial conformity with **L.B. Form 1017-2.1**.

(b) Service and Notice: The motion and notice must be served on the debtor, debtor’s counsel, the case trustee and the United States Trustee. Pursuant to FED. R. BANKR. P. 9006(c), the time to object to the Motion is fourteen (14) days. The notice must include a specific objection deadline.

(c) Objection: The debtor’s objection must explain why the failing to provide tax returns was not within the debtor’s control as required by 11 U.S.C. § 521(e)(2).

(d) Order and Hearing: If no objection is filed, the court may enter an order granting the Motion upon the filing of a Certificate of Noncontested Matter, **L.B. Form 9013-1.3** and the case will be converted. If an objection is filed, the court may set the matter for a hearing upon the filing of a Certificate of Contested Matter, **L.B. Form 9013-1.4**.

Commentary

[Source: L.B.R. 117 and T.L.B.R. 1017]

See FED. R. BANKR. P. 4002 and 9037 and **L.B.R. 1007-5** and **4002-1** for privacy of tax return information.

LOCAL BANKRUPTCY RULE 1017-3
DISMISSAL OR SUSPENSION – CASE OR PROCEEDINGS
(Failure to File Documents and the United States Trustee’s
Standing Motion to Dismiss)

(a) Deficient Filings:

(1) “Deficiency” Defined: A filing to commence a bankruptcy case is deemed to be “deficient” if the lists, schedules, statements and other required documents to commence a case are not filed in compliance with, and in the time specified in, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these L.B.R. and L.B. Forms, including applicable appendices attached hereto.

(2) Cause for Dismissal: In the event a case is deficient, such deficient filing may constitute cause for dismissal.

(3) Standing Motion to Dismiss by United States Trustee: The United States Trustee has filed with the court a document entitled United States Trustee's Standing Motion to Dismiss Deficient Case (the "Standing Motion to Dismiss," **L.B.R. 1017-3App.**). The Standing Motion to Dismiss applies to a deficient case filed with the Clerk.

(4) Notice: In the event a deficient voluntary case is filed, the Clerk may provide notice of the deficiency and Standing Motion to Dismiss, notice to the debtor and the debtor's attorney will be prepared and served on the addresses shown on the petition.

(5) Objections: Any party desiring to object to the dismissal of the case may do so by filing an objection and request for hearing in accordance with **L.B.R. 9013-1** within the time fixed for the filing of objections as set forth in the notice of deficiency, or such other time as may be fixed by the court. The debtor must state why the failure to file tax returns was due to circumstances beyond the debtor's control.

(6) Dismissal Order: A deficient voluntary case may be dismissed unless the deficiency is timely cured or an objection is filed. Notice to the creditors and other interested parties will be served by the Clerk to the addresses of the creditors and other interested parties, if any, as shown on the Creditor Address Mailing Matrix.

Commentary

[Source: **L.B.R. 505**, **GPO 2002-2** and **GPO 2002-4**.]

See **L.B.R. 1002-1** and **1007-1** for initial filing requirements.

See **L.B.R. 2081-3** for motions to dismiss chapter 11 cases.

See **L.B. Forms 1017-3.1** and **1017-3.2** for dismissal of chapter 13 cases.

Note the difference between the Clerk rejecting a filing for failing to meet the minimum documentation requirements of **L.B.R. 1002-1(b)** versus accepting the filing but issuing a notice of deficiency pursuant to **L.B.R. 1017-3**.

LOCAL BANKRUPTCY RULE 1019-1 PROCEDURE FOLLOWING CONVERSION TO CHAPTER 7

(a) Schedule of Unpaid Post-Petition Debts: The party filing the schedule of unpaid debts required by FED. R. BANKR. P. 1019(5), must give written notice by mailing a copy of the schedule to:

- (1) the United States Trustee;
- (2) the trustee assigned to the case;
- (3) each entity named therein;
- (4) the United States; and
- (5) any state or any subdivision thereof wherein the debtor transacted business.

(b) Notice: The notice must include a statement advising that creditors scheduled therein may file a proof of claim in accordance with FED. R. BANKR. P. 3001(a) through (d) and 3002.

(c) **Certificate of Service:** The party filing the schedule of unpaid debts must file a certificate of service showing compliance with this L.B.R. within three (3) court days of filing the schedule.

Commentary

[Source: L.B.R. 119]

LOCAL BANKRUPTCY RULE 1073-1 ASSIGNMENT OF CASES

(_) **Assignment of Cases:** Cases are assigned to judges by random selection to the extent possible.

(_) **Related Cases:** A case related to another pending case may be assigned or reassigned to the judge with the earliest filed case. A case is “related” to another case if one of the debtors in one case is an “affiliate” or an “insider” of a debtor in another case, as those terms are defined in 11 U.S.C. § 101.

(_) **Sequential Cases:** If the debtor has filed a bankruptcy case in the previous eight years, the Clerk may reassign the case to the judge to whom the previous bankruptcy case was assigned.

Commentary

[Source: GPO 1996-1, 3rd Amended]

LOCAL BANKRUPTCY RULE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(a) **Who Must Give Notice:** Unless otherwise ordered, the movant or applicant must give the notices required by FED. R. BANKR. P. 2002.

(b) **Content of Notice:** Notices must:

- (1) be in substantial conformity with **L.B. Form 9013-1.1**;
- (2) contain a specific statement describing the requested relief or intended action to be taken, in sufficient detail to meaningfully inform the parties receiving the notice;
- (3) contain the specific date of the deadline to object and request a hearing, not just the number of days which must be a date on which the court is scheduled to be open for business; and
- (4) comply with FED. R. BANKR. P. 2002(c).

(c) Creditor Address Mailing Matrix: For notice to all creditors and parties in interest, the movant must use, at a minimum, all of the addresses contained on the most current version of the Creditor Address Mailing Matrix.

(d) Designation of Preferred Creditor Addresses: The court designates any entity approved by the Administrative Office of the United States Courts as a notice provider to support the preferred address requirements under U.S.C. § 342(f) and FED. R. BANKR. P. 2002(g)(4).

Commentary

[Source: L.B.R. 202 and T.L.B.R. 2002-1]

See L.B.R. 1007-2App for Instructions Regarding Creditor Address Mailing Matrix.

In addition to the FED. R. BANKR. P., the mechanism for bringing motions before the court, providing notice and effecting service is set out in L.B.R. 9013-1.

Parties are advised to be mindful of the distinction between notice (as required for parties covered by FED. R. BANKR. P. 2002) and service (as required for parties against whom relief is sought and as described in L.B.R. 9013-1 and other FED. R. BANKR. P., including Rules 9014 and 7004).

Parties seeking expedited hearings on motions brought immediately after the filing of a chapter 11 petition should refer to L.B.R. 2081-1.

LOCAL BANKRUPTCY RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

(a) Debtor's Request for Continuance of 11 U.S.C. § 341 Meeting of Creditors Prior to Scheduled Meeting: A debtor's request for a continuance of the meeting of creditors must be in writing and served on the appropriate trustee no less than seven (7) days prior to the date and time of the scheduled meeting. A request for a continuance is not filed with the court. If a trustee consents to the continuance, the debtor must immediately file a notice of continued meeting with the court, must timely serve a copy of the notice on the trustee and all creditors and parties in interest, and must immediately file a certificate of service with the court evidencing same.

(b) Continuance of 11 U.S.C. § 341 Meeting of Creditors At the Scheduled Meeting: In the event an 11 U.S.C. § 341 meeting of creditors is continued at the scheduled meeting, no later than three (3) days following the date first set for the meeting of creditors or any subsequent continued meeting date, the chapter 7 trustee or chapter 13 trustee, as applicable, must file an electronic docket entry indicating that the meeting is continued and the date and time of the continued meeting.

(c) Continuance of §§ 522, 523 and 727 Deadlines: A continuance of the meeting of creditors does not automatically continue the deadline to object to the debtor's claim of exemptions, the discharge of a debtor in a Chapter 7 or the dischargeability of a particular debt owed by the debtor in either Chapter 7 or Chapter 13. Extensions of these deadlines must be requested by timely motion and require the entry of an order.

Commentary

[Source: L.B.R. 203 and GPO 2006-3]

The purpose of L.B.R. 2003-1 is to assist in the appropriate administration of chapter 7 and chapter 13 cases. It is imperative for the court's docket sheet to clearly reflect all continued meetings of creditors and the date to which the meeting is continued.

LOCAL BANKRUPTCY RULE 2004-1 DEPOSITIONS & EXAMINATIONS

(a) Ex Parte Application: An order for examination pursuant to FED. R. BANKR. P. 2004 may be issued by the court on the ex parte application of a party in interest. The moving party must file an appropriate motion together with a proposed order. Such proposed order may not contain provisions in substitution of a subpoena or subpoena duces tecum available pursuant to FED. R. BANKR. P. 45.

(b) Time: Unless otherwise ordered by the court for good cause shown, the date for the examination or production of documents sought must be not less than fourteen (14) days after service, by the movant, of the examination order on the party to whom it is directed.

Commentary

[Source: L.B.R. 204]

Large document production requests on a fourteen (14) day notice of deposition are not favored. It is good practice for the parties to discuss the dates, times and locations of the requested exam prior to submitting a request to the court, and to indicate any agreement or lack of agreement in the motion.

LOCAL BANKRUPTCY RULE 2012-1 NOTICE OF SUBSTITUTION OF TRUSTEE AND NOTICE OF SUCCESSOR TRUSTEE'S ACCOUNTING

(a) Chapter 11 Trustee: Promptly after a trustee or successor trustee is appointed in a chapter 11 case, the trustee must file and serve notice of such appointment on all creditors and parties in interest, and to such other parties as the court may direct, in each pending action, proceeding or matter.

(b) Accounting: When a successor trustee files with the court an accounting of a prior administration of the estate pursuant to FED. R. BANKR. P. 2012(b), such accounting must reflect the collection or disbursement of receipts by the prior trustee. The successor trustee must send notice of the filing of the accounting to all creditors, and parties in interest in the case including the prior trustee, unless the court otherwise orders for good cause shown.

Commentary

[Source: L.B.R. 212]

LOCAL BANKRUPTCY RULE 2014-1 APPOINTMENT OF PROFESSIONAL PERSONS

(a) Ex Parte Application: Subject to the limitations of FED. R. BANKR. P. 6003, applications for appointment of professional persons pursuant to FED. R. BANKR. P. 2014 and 11 U.S.C. § 327 may be granted nunc pro tunc as of the date of filing of the ex parte application.

(b) Reconsideration: Any party may request that the court reconsider any ex parte relief under this L.B.R. upon a request filed within ten (10) days of service of notice of the entry of the order approving the application.

(c) Applications Requiring Notice: The court may require the applicant to mail notice of the application pursuant to **L.B.R. 9013-1**, or as otherwise directed by the court, particularly when any of the following events or conditions are present:

(1) The professional receives or proposes to receive payment or a retainer in connection with a bankruptcy case and approval of the retainer is sought in the same application seeking appointment of the professional. In such cases, the application and notice must state:

- (A) the amount of any retainer received or proposed;
- (B) the source of the payment or retainer; and
- (C) whether the professional's fees are paid by a principal, insider, or affiliate of the debtor.

(2) The professional files an application for retention which identifies a potential conflict may exist. In such cases, the application and notice must state sufficient facts for third parties to determine whether a conflict of interest exists, including whether the professional represented the debtor pre-petition.

(3) The professional's retainer or other fees have been, or will be, paid by a third-party payor.

(4) The professional represents multiple debtors in related or jointly-administered cases.

(5) The professional proposes to be paid under non-traditional compensation arrangements (*e.g.* flat fee agreement or contingency fee agreement).

(6) The professional asserts a lien in or on the debtor's property.

(d) Verified Statement: A verified statement pursuant to FED. R. BANKR. P. 2014 is required. When notice of the application is required, a copy of the verified statement filed pursuant to FED. R. BANKR. P. 2014 must be attached to the notice.

Commentary

[Source: L.B.R. 214 and from G11 working group notes]

LOCAL BANKRUPTCY RULE 2015-1 REPORTS

Any report of operations that the court or the United States Trustee may require the trustee or the debtor-in-possession to file in a case under any chapter of the Bankruptcy Code must be filed with the court within the time frames established by FED. R. BANKR. P. 2015 or the United States Trustee. Copies of such reports must be provided to the trustee, United States Trustee, and any committee appointed pursuant to **L.B.R. 2081-2(b)**.

Commentary

[Source: L.B.R. 215(a)]

See 11 U.S.C. §§ 704(a)(8) or 1106(a)(7).

See also the United States Trustee's Operating Guidelines and Reporting Requirements for that office's filing requirements at www.usdoj.gov. This L.B.R. does not relieve the trustee or debtor-in-possession from the obligation to act in accordance with those guidelines.

See also **L.B.R. 3022-1** for more information on the filing of a final report and motion for final decree in chapter 11 cases.

LOCAL BANKRUPTCY RULE 2016-1 COMPENSATION OF PROFESSIONALS

(a) Form of Fee Application: Except for those applying for fees pursuant to **L.B.R. 2016-3**, every fee application filed pursuant to 11 U.S.C. §§ 330 or 331 must include a cover sheet in substantial conformity with **L.B. Form 2016-1.1** and contain the following information:

(1) Introduction: The introductory statement must contain a general statement of the status of the case and include the information required on **L.B. Form 2016-1.1**.

(2) Narrative by Category: The professional fee application must contain a narrative that describes the work performed divided into categories of major/significant services. Within each category, the narrative must describe:

- (A) the nature of the services,
- (B) the result obtained,
- (C) the benefit to the estate,
- (D) a general description of what additional work remains to be done with respect to the matter,
- (E) a statement of the number of hours spent on the particular matter and by whom, and
- (F) the portion of the total fee applicable to the particular category.

(3) Time Entries:

(A) Generally: The narrative description must refer to a separate exhibit containing copies of detailed time entries from records contemporaneously kept by the applicant which support the fee sought with respect to each particular matter or category, including the date the work was performed, the individual performing the work, the time spent on each task (expressed in tenths of hours), the total fee for each task, and a detailed description of the work performed.

(B) Jointly-Administered Cases: In jointly-administered cases, the narrative must also provide a description of the overall work done in each case, as applicable, and provide the court with an approximate percentage of the time spent on each case.

(4) Record of Expenses: The applicant should retain cost/expense invoices or documentation for amounts over \$25 for possible review by the court.

Commentary

[Source: L.B.R. 216]

LOCAL BANKRUPTCY RULE 2016-2 MONTHLY INTERIM COMPENSATION PROCEDURES IN CHAPTER 11 CASES

(a) Motions for Interim Compensation Procedures: A motion seeking approval of interim compensation procedures in a chapter 11 case must include the following:

- (1) a statement of the cause necessitating interim compensation procedures;
- (2) verification that the debtor's cash flow allows it to pay its professionals and other potential administrative priority claimants on a monthly or other specified interim basis;

- (3) a projection of monthly fees and expenses by the professional(s) seeking interim compensation; and
- (4) any additional information necessary and appropriate to support the allowance of interim compensation.

(b) Interim Compensation Procedures: The court may approve interim compensation procedures in appropriate cases and has established guidelines for professionals seeking approval of interim compensation. The guidelines are located at **L.B.R. 2016-2App.**

Commentary

[Source: New]

LOCAL BANKRUPTCY RULE 2016-3 COMPENSATION OF CHAPTER 13 DEBTOR'S COUNSEL

(a) Short Form Fee Application:

(1) Eligibility: In order to be eligible to use the Short Form Fee Application (the "SFFA") procedure, the applicant must:

(A) request a fee that is at or below the presumptively reasonable fee (the "PRF") amount provided in the General Procedure Order published by the Clerk, In the Matter of Procedures for Fee Applications in Chapter 13 Cases, as amended from time to time (the "Chapter 13 Fee GPO"), and

(B) provide the basic services listed in the Chapter 13 Fee GPO (the "Basic Services"), as necessary and appropriate.

(2) Presumptively Reasonable Fee: The chapter 13 trustee may recommend or the court may determine, in appropriate cases, that a lower fee be allowed. In converted cases, the chapter 13 trustee and the court will take into consideration the compensation already received.

(3) Basic Services: The applicant must submit an affirmative declaration, in conjunction with the filing of the SFFA, that:

(A) the applicant is not excluding any of the Basic Services; and

(B) the applicant has provided a copy of the Basic Services list to the debtor with the engagement letter or fee agreement.

(4) Form of Application: Applications for allowance of fees and reimbursement of expenses pursuant to the SFFA procedure must be made using **L.B. Form 2016-3.1**. Applicant need not supplement **L.B. Form 2016-3.1**, except upon formal objection, written request of the chapter 13 trustee, or order by the court.

(5) Service, Notice and Objections: Debtor’s counsel must serve a copy of the SFFA, **L.B. Form 2016-3.1**, along with a notice in substantial conformity with **L.B. Form 2016-3.3**, on the chapter 13 trustee, debtor and those parties requesting notice. Parties will have twenty-one (21) days from the date of service to file an objection.

(b) Long Form Fee Application: If the applicant requests allowance of a fee in excess of the PRF amount (not including expenses) or any of the Basic Services are excluded, the attorney cannot use the SFFA procedure and must use the Long Form Fee Application (the “LFFA”) procedure.

(1) Form of Applications: Applications for allowance of fees and reimbursement of expenses pursuant to the LFFA procedure must be made using **L.B. Form 2016-3.2**, and must be supplemented by the attachments outlined in **L.B. Form 2016-3.2**.

(2) Service, Notice and Objections: Debtor’s counsel must serve a copy of the LFFA, **L.B. Form 2016-3.2**, along with a notice in substantial conformity with **L.B. Form 2016-3.3**, on the chapter 13 trustee, the debtor, all creditors, claimants and parties in interest. Parties will have twenty-one (21) days from the date of service to file an objection.

(c) Timing: Fee applications under both the SFFA and LFFA must be filed no sooner than the date of entry of the order confirming the chapter 13 plan and no later than fourteen (14) days after the date of entry of the order confirming the chapter 13 plan.

(d) Order: The attorney must submit a form of order in substantial conformity with **L.B. Form 2016-3.4**, listing the specific amount of fees and expenses requested, the amount received outside of the plan or previously paid, and the amount payable from plan payments.

(e) Hearing: If no objection is filed, the court may allow the requested fee in full or in part, upon the filing of a Certificate of Noncontested Matter in substantial conformity with **L.B. Form 9013-1.3**, or may order further supplementation or set the application for hearing. Any order or notice setting a hearing on an unopposed application may identify the court’s concerns or questions regarding inadequacies or deficiencies in the application which may result in reduction or disallowance of the requested fees or expenses. If an objection is filed, the applicant is responsible for filing a Certificate of Contested Matter and Request for Hearing in substantial conformity with **L.B. Form 9013-1.4**. Upon the filing of the Certificate of Contested Matter, the court may set the matter for hearing.

Commentary

[Source - GPO 2007-2, currently found at GPO2009-___, as may be amended from time to time in **L.B.R. 2016-3APP**]

When requesting fees using the SFFA procedure, attorneys are not required to submit their engagement letter or other fee agreement, detailed time slips, or a narrative unless requested by the trustee or otherwise ordered by the court. However, attorneys are advised that if their fees

are questioned, it may be quite difficult to prevail without the assistance of some or all of those items.

It is expected that the engagement will last through the earlier of consummation of the plan, entry of discharge, or the conversion or dismissal of the case. The SFFA procedure is for requesting fees and is not intended to limit the scope of chapter 13 engagements. The SFFA process does not and should not limit the ability of debtor's attorneys to provide services post-confirmation. The court will entertain further fee applications, supported by time records, for post-confirmation work.

LOCAL BANKRUPTCY RULE 2016-4 COMPENSATION OF PETITION PREPARERS

Disclosure of Compensation of Petition Preparer: Every person or entity who prepares a petition and/or related papers for filing a case for the debtor, but does not represent the debtor as an attorney of record, must file with the petition and concurrently transmit to the United States Trustee and trustee assigned to the case, a disclosure of compensation in substantial conformity with the Disclosure of Compensation of Bankruptcy Petition Preparer, Director's Procedural Form 280.

Commentary

[Source: L.B.R. 216]

LOCAL BANKRUPTCY RULE 2018-1 INTERVENTION BY UNITED STATES OR A STATE ON CONSTITUTIONAL QUESTION

(a) Acts of Congress: If, in any case or proceeding in which neither the United States nor any agency, officer, or employee thereof (other than the United States Trustee) is a party, a party raises a question concerning the constitutionality of any act of Congress affecting the public interest, such party must notify the judge by filing a motion with the court, with a copy to the United States Trustee and the United States Attorney, of the existence of the question, identifying the statute in question, the grounds upon which it is claimed to be unconstitutional, and the title of the case and/or proceeding.

(b) State Statutes: If, in any proceeding in which neither a state nor any agency, officer, or employee thereof is a party, a party raises a question concerning the constitutionality of a statute of such state affecting the public interest, such party must notify the judge by filing a motion with the court, with a copy to the United States Trustee and the state Attorney General, of the existence of the question, identifying the statute in question, the grounds upon which it is claimed to be unconstitutional, and the title of the case and/or proceeding.

(c) Applicability: This rule applies to all matters brought before the court, including those governed by FED. R. BANKR. P. 7001 et seq. and 9014. In an adversary proceeding, the question of constitutionality must be raised by motion and notice given to appropriate parties no later than the deadline for completion of discovery.

Commentary

[Source: L.B.R. 218]

See 28 U.S.C. § 2403(a) and (b).

This rule applies to both the main bankruptcy case and adversary proceedings.

LOCAL BANKRUPTCY RULE 2081-1 CHAPTER 11 - GENERAL (Initial Motions)

(a) Initial Motions: During the first twenty-one (21) days following entry of the Order for Relief, the debtor may obtain expedited consideration for entry of orders by filing a Motion Seeking Expedited Entry of Order(s) and Notice of Impending Hearing Thereon (the “Motion”) as follows:

(1) Motion: The Motion must contain sufficient factual recitations regarding the nature of the debtor’s business and the need for the types of relief sought. The Motion need not be accompanied by briefs or authorities. If the Motion presents novel issues of law, a brief of no more than five (5) pages without any factual recitations may be submitted. The movant must certify that the relief sought by the Motion is needed by the debtor on an expedited basis. If the Motion requests more than one (1) order, the motion must separately identify and discuss each requested relief or intended action.

(2) Cover sheet: The Motion must be accompanied by a cover sheet in substantial conformity with **L.B. Form 2081-1.1**.

(3) Affidavits: The Motion must be accompanied by one or more factual affidavits by a representative of the movant or executed by an individual having personal knowledge of the facts therein supporting the requested relief.

(4) Notice: The Motion must be accompanied by a notice in substantial conformity with **L.B. Form 2081-1.2** and a copy of a response form in substantial conformity with **L.B. Form 2081-1.3**.

(5) Proposed Order: The Movant must file a proposed order for each type of requested relief. The proposed order must clearly state the relief requested, but should not contain proposed findings of fact or conclusions of law.

(b) Service of the Motion:

(1) Service on the United States Trustee: A copy of the Motion, cover sheet, affidavits, notice, and proposed orders must be hand-delivered or e-mailed to the United States Trustee, either before or within four (4) hours after the Motion is filed.

(2) Service on other parties: A copy of the Motion, cover sheet, affidavits, notice, and proposed orders must be served by hand-delivery, over-night mail, facsimile or e-mail initiated on the day the Motion is filed, to:

- (A) any appointed chapter 11 trustee or examiner,
- (B) any creditors' or equity security holders' committee pursuant to **L.B.R. 2081-2**,
- (C) if there is no committee, the 20 largest unsecured creditors,
- (D) any indenture trustee,
- (E) the IRS and other relevant government entities,
- (F) all parties who have requested notice, and
- (G) any party whose interest in property of the estate will be directly affected by any order requested.

(c) Hearing:

(1) Scheduling the Hearing: The chambers of the judge assigned to the case will provide movant's counsel with a hearing date to be held that is, if possible, not more than three (3) court days after the date of the filing of the Motion. For purposes of this hearing only, if the judge's calendar cannot be arranged to accommodate a hearing within three court days, the judge's staff will notify the Clerk of the court who may refer the matter to any other available judge.

(2) Service of Notice of Hearing: As soon as the movant is notified of the hearing date, the movant must serve notice of the date and time of the hearing in substantial conformity with **L.B. Form 2081-1.4** to:

- (A) the United States Trustee;
- (B) any creditors' or equity security holders' committee pursuant to **L.B.R. 2081-2**. If no creditors' committee has been appointed, the twenty (20) largest unsecured creditors;
- (C) any party whose interest in property of the estate will be directly affected by any order requested; and
- (D) those parties who have responded to the Motion by requesting notice of the hearing on **L.B. Form 2081-1.3**.

The movant must notify each of the above of the date, time and place of the hearing by e-mail or facsimile, as requested in such party's response, within the later of: (i) four (4) hours after movant receives responder's request for notice, or (ii) four (4) hours of being notified by the court of the date and time of the hearing. To the extent that time and

circumstances permit, the movant must also give notice of the date, time and place of the hearing to other parties in interest identified in **subparagraph (b)(2)** above.

(3) Proof of Service: The debtor must file an affidavit of compliance with the service requirements of this L.B.R. prior to the commencement of any hearing pursuant to this L.B.R.

(4) Objections: Parties may file an objection in writing prior to the hearing and appear at the hearing to state or supplement their objection orally.

(5) Procedure at Hearing: At any hearing set pursuant to this L.B.R., the parties will proceed in accordance with the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence. The movant must be prepared to present testimony in support of its Motion. Any unopposed request may be granted in the court's discretion on the basis of affidavits, arguments, or representations of the parties or counsel, as appropriate.

(d) Orders: At the conclusion of any hearing held pursuant to this L.B.R., the court will make such findings of fact only as are supported by the record and will:

(1) enter or deny any or all of the orders requested,

(2) enter any or all of the orders requested on an interim basis pending such additional notice as the FED. R. BANKR. P. or the court may direct, and/or

(3) continue the hearing with respect to any or all of the orders requested.
Only interim orders will be entered pursuant to this L.B.R. respecting cash collateral or post-petition financing.

(e) Ex Parte Relief: The availability of expedited consideration of motions under this L.B.R. will not preclude ex parte relief or other emergency relief where appropriate upon specific request.

Commentary

[Source: GPO 2002-6]

See L.B. Forms **2081-1.1** through **2081-1.4**.

LOCAL BANKRUPTCY RULE 2081-2 CHAPTER 11 – GENERAL (Notice in Chapter 11 Cases)

(a) Notice to Twenty Largest Unsecured Creditors: If notice to the twenty (20) largest unsecured creditors is required, and there are less than 20 unsecured creditors of the estate, the certificate of notice must indicate that all unsecured creditors were noticed.

(b) Notice on Committees: If notice to a creditors' or equity security holders' committee is required, notice must be made on the committee's counsel. If the committee has no counsel of record, notice must be made upon all members of the committee.

(c) Limited Notice List: A chapter 11 debtor may file a motion to establish a limited notice list.

(1) Motion: A motion seeking a limited notice list must include the following:

- (A) a statement of the cause necessitating a limited notice list;
- (B) the types of pleadings the limited notice list will apply to (i.e. limited notice on one pleading or throughout the remainder of the case); and
- (C) the names of the creditors and parties the debtor seeks to place on the limited notice list.

(2) Minimum Requirement: Unless otherwise ordered, a limited notice list must include the following:

- (1) the United States Trustee,
- (2) any appointed chapter 11 trustee or examiner,
- (3) any appointed creditors' or equity security holders' committee,
- (4) if there is no committee, the 20 largest unsecured creditors,
- (5) all secured creditors (Schedule D),
- (6) all priority creditors (Schedule E),
- (7) those parties who have filed an entry of appearance and request for all notices,
- (8) parties against whom relief is sought by the particular intended action, and
- (9) any additional parties as directed by the court.

Commentary

[Source: New.]

This rule does not eliminate the need for notice pursuant to the code and the rules. Use of the Limited Notice List is not effective until an order is entered by the court. See **L.B.R. 1015-1** regarding comprehensive service lists.

Motions applying to less than all of the jointly-administered cases are to be filed in the lead case.

LOCAL BANKRUPTCY RULE 2081-3 CHAPTER 11 – GENERAL (Motion to Dismiss or Convert)

(a) Applicability: This rule applies to motions to dismiss or convert a chapter 11 case pursuant to 11 U.S.C. § 1112.

(b) Selecting a Hearing Date: Each division of the court maintains a chapter 11 dismissal motion calendar. Information as to the time and dates of each division's calendar may be

obtained from the court's website at www.cob.uscourts.gov or the assigned judge's staff. All dismissal motions must be set for hearing on the calendar of the division to which the case is assigned.

(1) Notice Period: Pursuant to FED. R. BANKR. P. 9006(c), the court finds cause existsto shorten the time to object to fourteen (14) days.

(2) Hearing Date: A party filing a dismissal motion in a pending chapter 11 case must select from the calendar of available hearing dates a proposed hearing date, which must be the latest hearing date available on the assigned judge's calendar which is not more than thirty (30) days from the date the dismissal motion is filed with the court. In the event the movant sets a hearing date beyond thirty (30) days, the movant is deemed to have waived its right under 11 U.S.C. § 1112(b)(3) to a hearing within thirty (30) days.

(3) Notice of Hearing: Subject to the time limitations set forth in subsections (1) and (2) above, the movant must comply with the provisions of **L.B.R. 9013-1**. The notice of hearing must specify the following:

- (A) the hearing date, time and location;
- (B) that an objection and request for hearing must be filed by a date certain that is at least fourteen (14) days after notice of the motion; and
- (C) that, if no objection is timely filed, the requested relief in the motion may enter without a hearing, upon the filing of a certificate of non-contested matter.

(4) Notice: The notice and motion must be noticed to the debtor, the debtor's counsel, the United States Trustee, any case trustee and those requesting notice. The notice must also be noticed to all creditors and parties in interest.

(c) Procedures for Preliminary Hearings: The following procedures apply at preliminary hearings on motions to dismiss:

(1) No testimony will be taken. Evidence will only be accepted by way of an oral offer of proof and exhibits. Such offers must provide sufficient detail to enable the court to make specific findings based thereon and must include the identity of the witnesses available to testify at an evidentiary hearing and an explanation of their expected testimony. Written summaries of witnesses' testimony are not required but may be submitted.

(2) Parties must exchange all exhibits they intend to use, or may reasonably anticipate using, 24 hours prior to the preliminary hearing. The exhibits must be tendered to the court at the hearing, together with a statement identifying the witness or witnesses who would be called to identify and lay the foundation for the introduction of such exhibits.

(3) Objections to tendered evidence should be made at the conclusion of each party's declaration. Any objection must identify the evidence objected to and specify the grounds for the objection.

(4) The court will treat the hearing as a preliminary hearing and, based on the proffers of evidence, if the movant establishes sufficient cause, may set the matter over for a final hearing. In the alternative, the court may consider the offers of proof and, absent the need for an evidentiary hearing, grant or deny the request for dismissal.

(5) Expert Witnesses: Any party anticipating the use of an expert witness for a final hearing will, at the initial hearing, comply with FED. R. BANKR. P. 7026(a)(2).

(d) Telephonic Hearings: Parties, through counsel, are required to attend the hearing in person except on prior request and approval of a telephonic appearance by the judge to whom the case is assigned. Telephonic appearances must be requested by filing a motion. If a telephonic appearance is permitted, the parties must exchange witness lists and exhibits and file them with the court no later than 24 hours prior to the hearing.

(e) Waiver of 30 Day Hearing: In the event that the movant does not select a hearing date pursuant to (b), movant must follow the motion practice procedures set forth in **L.B.R. 9013-1**, and conform to the notice period as directed by FED. R. BANKR. P. 2002(a)(4). Using the L.B.R. 9013-1 procedures constitutes a waiver by the movant of the hearing and ruling time requirements of 11 U.S.C. § 1112(b)(3).

Commentary

[Source: GPO 2007-1]

See **L.B.R. 1017-1, 2, and 3** for other local rules on conversion and dismissal.
See also **L.B.R. 9070-1** for information on witnesses and exhibits.

Selecting a hearing date is intended to make it possible for the parties and the court to comply with the notice requirements of FED. R. BANKR. P. 2002(a)(4) and the hearing requirements of 11 U.S.C. § 1112(b)(3). In order to best comply with the Bankruptcy Code, the court has found cause to shorten the notice period for self-calendared motions pursuant to FED. R. BANKR. P. 9006(c).

LOCAL BANKRUPTCY RULE 2082-1 CHAPTER 12 – GENERAL

(a) Motion to Confirm and Order Confirming Chapter 12 Plan:

(1) Motion to Confirm: The debtor must file with the plan a motion to confirm in substantial conformity with **L. B. Form 2082-1.1**. This motion must be verified by the debtor and served on the chapter 12 trustee and all creditors and parties in interest. The motion must contain facts sufficient to enable the court to make appropriate findings in accordance with the requirements of chapter 12.

(2) Order of Confirmation: The proposed order of confirmation must be in substantial conformity with **L.B. Form 2082-1.2**, and must be prepared by the debtor and filed with the plan. Notice of entry thereof shall be mailed promptly by the clerk, or some other entity as the court may direct, to the debtor, chapter 12 trustee, all creditors, equity security holders, and other parties in interest.

(b) Notice and Hearing on Motion to Confirm Chapter 12 Plan:

(1) Contested Matter: Hearings on motions to confirm Chapter 12 plans are contested matters subject to FED. R. BANKR. P. 9014 and the service requirements of FED. R. BANKR. P. 7004.

(2) Notice:

(A) Form and Service: The debtor must prepare a notice in substantial conformity with **L.B. Form 2082-1.3**, and must serve a copy of the notice, the motion to confirm, and the plan on the chapter 12 trustee and all creditors and parties in interest.

(B) Contents: The notice must contain the date for the confirmation hearing and the date for filing objections to the plan. At the time the plan is filed the debtor must obtain from the court the date for the hearing on confirmation of the plan. Unless the court fixes a shorter period, notice of the hearing must be given not less than twenty-one (21) days prior to the hearing.

(C) Certificate of Service: The debtor must file a copy of the notice with the court within three (3) court days after service thereof, and must file with it a certificate of service showing compliance with this L.B.R.

(3) Objections: Objections to confirmation of the plan must be filed with the court and served on the debtor, the chapter 12 trustee, and on any other entity designated by the court, at least three (3) court days prior to the hearing or within such other time as may be fixed by the court. Objections must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. General objections will not be considered.

(4) Hearing:

(A) If no objection to confirmation is timely filed, the court, at the hearing on confirmation, may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues. The court may enter an order confirming the plan, if it otherwise meets the requirements of 11 U.S.C. 1222 and 1225, based on such evidence and/or representations as are sufficient to the court.

(B) If objections to confirmation are filed, the court will use the hearing on confirmation as a preliminary hearing and status conference for the purposes of

- (i) framing the issues to be heard at the final hearing on confirmation,
- (ii) the entry of orders pertaining to discovery,
- (iii) the setting of the final hearing on the confirmation of the plan, and
- (iv) the entry of such other orders pertaining to the debtor's motion to confirm as are appropriate.

(C) No evidence will be taken and no witnesses need appear at the first hearing on confirmation.

(D) In accordance with 11 U.S.C. § 1224, except for cause, the hearing must be concluded not later than forty-five (45) days after the filing of the plan.

(c) Amending a Chapter 12 Plan Prior to Confirmation: In the event the debtor amends the original chapter 12 plan prior to confirmation, the amended plan, and such notice as the court may order, must be served upon the chapter 12 trustee and all creditors and parties in interest, or as otherwise ordered by the court. If the plan is amended after the filing of a motion to confirm, a new motion to confirm, verified by the debtor and conforming to the amended plan, must be filed. A motion to confirm an amended plan acts as a notice of withdrawal of, or a motion to withdraw, any previously filed motion to confirm and must be subject to FED. R. BANKR. P. 7041.

(d) Modification of Chapter 12 Plan After Confirmation: In the event the debtor, the trustee, or the holder of an allowed unsecured claim desires to modify a confirmed chapter 12 plan, the **movant** must file the proposed modified plan together with a motion requesting modification which must state with particularity the date the plan was originally confirmed, the reason for the modification and the effect upon distribution to each creditor class should the modification be approved. If the modification is proposed after the expiration of the period for the filing of claims, service may be limited to the trustee, any party expressly affected by the modification and upon those creditors who have filed proofs of claims.

Commentary

[Source: L.B.R. 320, L.B.R. 319]

LOCAL BANKRUPTCY RULE 2083-1 CHAPTER 13 – GENERAL

(Preconfirmation Adequate Protection Payments on Personal Property)

(a) Preconfirmation Payments Pursuant to 11 U.S.C. § 1326(a)(1): Unless otherwise ordered by the court, all preconfirmation adequate protection payments made by the debtor pursuant to 11 U.S.C. § 1326(a)(1) must be paid to the chapter 13 trustee, not the secured claimant. The

preconfirmation plan payments to the trustee must include the amount required under 11 U.S.C. § 1326(a)(1), plus the necessary trustee's fee.

(b) Calculation of Adequate Protection: For the purpose of this rule, calculation of adequate protection is calculated as one percent (1%) of the outstanding principal balance due as of the date of the filing of the petition, unless otherwise ordered by the court.

(c) Creditor's Rights: Payment of preconfirmation adequate protection is without prejudice to the secured creditor's right to object to confirmation of the debtor's plan or to seek determination as to value of the claim or the amount needed to provide adequate protection.

(d) Preconfirmation Disbursements: Preconfirmation disbursements by the chapter 13 trustee under 11 U.S.C. § 1326(a)(1) are hereby authorized without further order, but such disbursements must not be made unless such creditor has filed a proof of claim with the court. Preconfirmation disbursements under 11 U.S.C. § 1326(a)(1) must commence within 30 days of filing the proof of claim, unless the trustee has not received sufficient, cleared or good funds to make such payment. The trustee is authorized to deduct all 11 U.S.C. § 1326(a)(1) preconfirmation disbursements from an allowed claim and to retain the amount necessary to pay the trustee's statutory fee based upon the preconfirmation payments distributed by the trustee.

[Source: T.L.B.R. 2083-1.]

See **L.B.R. 3015-1** and **L.B. Form 3015-1** for information on filing a chapter 13 plan.

LOCAL BANKRUPTCY RULE 3001-1 CLAIMS AND EQUITY SECURITY INTERESTS – GENERAL

See FED. R. BANKR. P. 3001(e)(2) and Director's Procedural Forms 210A and 210B regarding the transfer of a claim other than for security after the proof of claim has been filed.

[Source: New, L.B. Form 210]

LOCAL BANKRUPTCY RULE 3003-1 FILING PROOF OF CLAIM IN CHAPTER 11 CASE

Upon motion for an order establishing procedures and a bar date for the filing of proofs of claim in chapter 11 cases or for a bar date for filing motions for allowance of chapter 11 administrative expense claims, the court may issue an order and require notice in substantial conformity with **L.B. Forms 3003-1.1 through 3003-1.4**, respectively.

Commentary

[Source: New.]

**LOCAL BANKRUPTCY RULE 3004-1
FILING OF PROOF OF CLAIM BY DEBTOR OR TRUSTEE**

A debtor or trustee filing a proof of claim on behalf of a creditor pursuant to 11 U.S.C. § 501(c) and FED. R. BANKR. P. 3004 must file and serve a notice of the filing upon the creditor on whose behalf the claim is filed. The notice must be in substantial conformity with **L.B. Form 3004.1-1**, and be sent to the creditor, its counsel of record, if any, the debtor and case trustee. The party filing the proof of claim must attach a copy of the proof of claim with the notice.

Commentary

[Source: **L.B.R. 304**]

**LOCAL BANKRUPTCY RULE 3005-1
FILING OF PROOF OF CLAIM BY GUARANTOR, SURETY, INDORSER OR OTHER
CO-DEBTOR**

When an entity or its attorney files a proof of claim on behalf of a creditor pursuant to 11 U.S.C. § 501(b) and FED. R. BANKR. P. 3005, the person filing the claim must comply with the procedure set forth in **L.B.R. 3004-1**. In addition to the parties required to be served in L.B. R. 3004-1, the notice must also be provided to any other obligors.

Commentary

[Source: **L.B.R. 305**]

**LOCAL BANKRUPTCY RULE 3007-1
OBJECTIONS TO CLAIMS**

(a) Procedure for Objections: Any party objecting to the allowance of any claim must file an objection stating with particularity the allegations of fact and grounds for the objection. The objection must comply with and be prosecuted in the manner prescribed in FED. R. BANKR. P. 3007 and **L.B.R. 9013-1**.

(b) Trustee's Objections to Claims in Chapter 13 Cases:

- (1) As soon as practicable after the expiration of the last day for filing of claims in each case, the chapter 13 trustee must submit a report of claims to the debtor and debtor's attorney. The chapter 13 trustee must file a certificate of compliance with this L.B.R.
- (2) Within fourteen (14) days from the date of the chapter 13 trustee's report of claims is submitted, the debtor must file with the chapter 13 trustee a written response to the report, setting forth any grounds for objections to claims. The debtor's failure to make and file the response constitutes a waiver of all objections thereto, provided, however, that for good cause shown, the court may relieve the debtor from the effects of this L.B.R. to prevent manifest injustice.

(3) If the debtor's response to the chapter 13 trustee's report of claims includes objections to the allowance, amount, or classification of any of the claims filed, the chapter 13 trustee or the debtor may file an objection to such claims and give notice thereof as specified in subsection (a), above;

(4) In addition to the foregoing procedures, it is the chapter 13 trustee's and debtor's attorney's duty to examine all proofs of claims and, if appropriate, to file objections in the manner specified in subsection (a), above.

Commentary

[Source: L.B.R. 307]

LOCAL BANKRUPTCY RULE 3012-1 VALUATION OF COLLATERAL AND DETERMINATION OF SECURED STATUS PURSUANT TO 11 U.S.C. § 506

(a) Real Property:

(1) How Raised: A debtor's request for the valuation of real property and determination of secured status under 11 U.S.C. § 506 must be made by separate motion and referenced within the proposed plan. A separate adversary proceeding is not required.

(2) Required Information: The motion must include the name of the creditor, a description of the collateral, amount of debt owed to the creditor, and the debtor's contention of value of the collateral. The motion must also include the amounts owed to other senior lienholders. The description of collateral must include a legal description of the affected real property and any identifying information with respect to the affected mortgage lien, including the date of the deed of trust, recording date, county, book and page or reception number of the recording.

(3) Service: The debtor must serve creditors affected by the debtor's valuation of collateral in the manner specified in FED. R. BANKR. P. 9014 and 7004.

(4) Notice: Notice of the motion is governed by **L.B.R. 9013-1**.

(5) Objections: Objections to the motion must recite the basis of the objection, including the amount and basis of the alternative value proposed by the objector. In the absence of a written objection, the valuation asserted by the debtor will be accepted by the court and shall be used in the court's determination of the amounts to be distributed under the plan. Objections to the plan proposing treatment under 11 U.S.C. § 506 must be filed separately within the applicable deadlines.

(6) No Objections: If no objections are filed, the movant must file a certificate of noncontested matter in substantial conformity with **L.B. Form 9013-1.3**.

(7) Hearing: Objections to the valuation of collateral under 11 U.S.C. § 506 will be considered in conjunction with the hearing on confirmation. If the objection requires an evidentiary hearing, the court will use the hearing on confirmation as a status and scheduling conference to set an evidentiary hearing date and related deadlines.

(8) Order on Motion: The attorney must submit a proposed order in substantial conformity with **L.B. Form 3012-1.1**.

(9) Order Extinguishing Lien: Upon successful completion of the debtor's plan, the debtor may request an order that the lien is extinguished. See **L.B. Form 3015-1.11** and **3015-1.12** (Chapter 13 Debtor's Certification to Obtain Discharge) and **L.B. Form 3022-1.2** (Chapter 11 Individual Debtor Final Report and Motion for Final Decree).

(b) Personal Property:

(1) How Raised: A debtor's request for the valuation of personal property and determination of secured status under 11 U.S.C. § 506 may be made in the proposed plan. A separate motion or adversary proceeding is not required.

(2) Required Information:

(A) Motor Vehicles: Requests for valuation of a motor vehicle must include a description of the affected vehicle, including the year, make, model and vehicle identification number (VIN).

(B) Other Personal Property: Requests for valuation of other personal property must include a description of the affected property and any identifying information with respect to the underlying contract or transaction.

(3) Service, Objections, Hearing, and Order: Requirements regarding service, objections, hearing and order are governed by the confirmation requirements of the applicable chapter under which the case is pending.

Commentary

See 11 U.S.C. § 506 and FED. R. BANKR. P. 3012.

Although the "lien-avoiding effect of the confirmed plan" is established at confirmation, actual lien avoidance is contingent upon the debtor completing the plan and receiving a discharge. If the case is dismissed or plan payments are not otherwise completed, liens avoided under § 506(d) are reinstated. 11 U.S.C. § 349(b)(1)(C).

**LOCAL BANKRUPTCY RULE 3015-1
FILING OF CHAPTER 13 PLAN**

(a) **Chapter 13 Confirmation Process – Forms:**

The court has developed the following Local Bankruptcy Forms in connection with this L.B.R. 3015-1.

(1) **L.B. Form 3015-1.1 – Chapter 13 Plan:** The Chapter 13 Plan form must be used when filing the original plan, as well as with any amendment to the plan.

(2) **L.B. Form 3015-1.2 – Notice of Filing of Chapter 13 Plan, Deadline for Filing Objections Thereto, and Hearing on Confirmation:** This notice may be used when the plan is filed after the petition date. In a case that is converted to chapter 13, this notice may be used when the plan is filed after the conversion date. This notice may also be used if creditors are added to the schedules after the petition date.

(3) **L.B. Form 3015-1.3 – Notice of Continued Dates for Meeting of Creditors and Hearing on Confirmation of Plan:** This notice may be used if the Meeting of Creditors is continued to a date *after* the Hearing on Confirmation.

(4) **L.B. Form 3015-1.4 – Verification of Confirmable Plan:** The Verification is to be filed when (a) there are no pending objections to the plan or amended plan, as applicable, (b) the debtor has complied with the verification requirements and (c) the debtor requests confirmation of the plan.

(5) **L.B. Form 3015-1.5 – Certificate and Motion to Determine Notice:** The Certificate and Motion to Determine Notice addresses objections, amendments, and notice of a chapter 13 plan and is to be filed by the debtor when objections or amendments to the plan are filed.

(6) **L.B. Form 3015-1.6 – Notice of Filing Amended Chapter 13 Plan Prior to Hearing on Confirmation and Deadline for Filing Objections Thereto:** To be used to provide notice of an amended chapter 13 plan that is filed and served prior to the original hearing on confirmation date.

(7) **L.B. Form 3015-1.7 – Notice of Filing Amended Chapter 13 Plan and Deadline for Filing Objections Thereto:** To be used when directed by the court to utilize notice procedures under **L.B.R. 2002** and/or **9013**.

(8) **L.B. Form 3015-1.8 – Notice of Filing Amended Chapter 13 Plan, Deadline for Filing Objections Thereto, and Hearing on Confirmation:** To be used when directed by the court to utilize notice procedures under **L.B.R. 2002** and/or **9013** and the court provides the debtor with a new hearing on confirmation date.

(9) **L.B. Form 3015-1.9 – Chapter 13 Confirmation Order:** The court may use this form order or a virtual order to confirm the plan.

(10) L.B. Form 3015-1.10 – Order Modifying Confirmed Chapter 13 Plan: The court may use this form order to modify a confirmed plan.

(11) L.B. Form 3015-1.11 – Chapter 13 Debtor’s Certification to Obtain Discharge: To be used after all of the plan payments are completed and the debtor seeks a chapter 13 discharge.

(12) L.B. Form 3015-1.12 – Order on Chapter 13 Debtor’s Certification to Obtain Discharge: The court may use this form order in response to L.B. Form 3015-1.11.

(b) Filing of the Chapter 13 Plan:

(1) The chapter 13 plan must be filed in accordance with FED. R. BANK. P. 3015. The form of the plan must conform to **L.B. Form 3015-1.1.**

(2) The failure to timely file the plan will result in the dismissal of the case pursuant to **L.B.R. 1007-1 and 1017-4** and the United States Trustee’s Standing Motion to Dismiss Deficient Case, without further notice, certification or hearing.

(3) The chapter 13 confirmation process is a contested matter subject to FED. R. BANKR. P. 7004 and 9014. If the debtor is proposing to modify the rights of secured creditors, the debtor must specifically serve such creditors in the manner specified by the FED. R. BANKR. P.

(c) Notice of the Chapter 13 Plan and Hearing on Confirmation:

(1) When the plan is filed with the petition, or at the time of conversion to chapter 13, the court will mail a copy of the plan along with the Notice of Meeting of Creditors containing the date and time of the hearing on confirmation and the deadline to file objections to the plan. The court will mail the plan by means of first class mail to the Chapter 13 trustee, the United States Trustee and to the addresses for parties as listed on the Creditor Address Mailing Matrix filed in the case at the time of the mailing, subject to the redirection of mail by the Bankruptcy Noticing Center under 11 U.S.C. § 342. The above mailing by the court may not satisfy the service requirements of FED. R. BANKR. P. 9014 and 7004; if not, the debtor is responsible for satisfying any applicable service requirements under those rules.

(2) In addition to the requirements of FED. R. BANKR. P. 3015, when the plan is filed after the petition date, or after the date of conversion to chapter 13, the debtor must forthwith serve a copy of the plan along with a legally sufficient notice setting forth the date, time and location of the confirmation hearing and the deadline to file objections to the plan on all parties listed in **paragraph (c)(1) above**. The debtor may mail a copy of the Notice of Meeting of Creditors with the plan to comply with this notice requirement, or use **L.B. Form 3015-1.2.**

(3) No later than three (3) days following the debtor's mailing or transmission of the plan or any amended plan, the debtor must file a certificate of service setting forth the name of the document mailed and all parties and addresses to whom notice was provided.

(4) The debtor is responsible for providing legally sufficient service and notice of the plan, the deadline to file objections thereto, and the hearing on confirmation to any additional creditors added at any time during the case.

(d) Continued Meeting of Creditors:

(1) Consistent with **L.B.R. 2003-1**, a debtor's request for a continuance of the 11 U.S.C. § 341(a) meeting of creditors must be in writing and served on the chapter 13 trustee no less than seven (7) days prior to the date and time of the scheduled meeting. A request for a continuance of the meeting of creditors is not filed with the court.

(2) In the event that the meeting of creditors is continued to a date *prior to* the original hearing on confirmation date, the hearing on confirmation will remain as scheduled.

(3) In the event that the meeting of creditors is continued to a date *after* the original hearing on confirmation date, the debtor must file a motion to continue the hearing on confirmation or appear at the originally scheduled date for the hearing on confirmation.

(4) Within three (3) days of the entry of an order granting a motion to continue the hearing on confirmation, the requesting party shall file and serve a Notice of Continued Dates for Meeting of Creditors and Hearing on Confirmation of Plan in substantial compliance with **L.B.Form 3015-1.3** on all parties in interest, and file proof of such service with the court.

(e) Filing Objections to Confirmation of Chapter 13 Plan:

(1) No later than three (3) court days prior to the date first set for the meeting of creditors, objections to the plan must be filed with the court and served on the chapter 13 trustee, the debtor and debtor's counsel.

(2) Parties in interest may seek leave to file a late objection. A motion to file a late objection must include the proposed objection as an exhibit.

(3) Objections must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. General objections will not be considered by the court and the failure to plead with specificity may result in the court striking the objection.

(A) A creditor's objection as to the claim amount owed as provided in the plan must be accompanied by an attached payment history and categorical calculation (*e.g.*, fees, costs, principal, and interest) of the amount the creditor asserts is owed.

(B) Objections to the debtor's expenses or Current Monthly Income calculations must specify each expense item or calculation to which an objection is raised and the basis for the objection.

(C) Objections to the debtor's request for valuation of collateral and determination of secured status under 11 U.S.C. § 506 must comply with **L.B.R. 3012-1**, including the amount and basis of the alternative value proposed by the objector.

(4) Unless otherwise ordered, previously filed objections to confirmation are deemed moot and new objections must be timely filed addressing any amended plan *if*, after court approval, the amended plan is sent on notice with an opportunity to object. Objections to a debtor's motion for valuation of real property under 11 U.S.C. § 506 and **L.B.R. 3012-1** will be deemed continued until the objection is withdrawn, resolved, granted or denied.

(f) If No Objections Are Filed:

(1) No Amendment to the Plan.

(A) If no objections are filed, no amendments are necessary and the debtor has complied with the verification requirements, the debtor must file a Verification of Confirmable Plan no earlier than seven (7) days following the debtor's first attendance at the meeting of creditors but no later than four (4) court days prior to the original hearing on confirmation.

(B) The Verification of Confirmable Plan must be in substantial conformity with, and contain all of the information in, **L.B. Form 3015-1.4**.

(C) A copy of the Verification of Confirmable Plan must be served on the chapter 13 trustee and any parties requesting notice.

(D) Upon the filing of the Verification of Confirmable Plan the court may confirm the plan without requiring any parties to appear at the hearing on confirmation.

(2) Amendments to the Plan *Prior to Originally Scheduled Hearing on Confirmation* When No Objections Are Filed.

(A) If no objections are filed, and an amendment to the plan is necessary, the debtor must file the amended plan, along with a Certificate and Motion to Determine Notice, no earlier than the day following the debtor's first attendance at the meeting of creditors and no later than four (4) court days prior to the hearing on confirmation.

(B) The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in, **L.B. Form 3015-1.5**.

(C) The debtor must provide a copy of the amended plan and Certificate and Motion to Determine Notice to the chapter 13 trustee, any objecting party, and those parties requesting notice.

(D) After the filing of a Certificate and Motion to Determine Notice, the court will order what notice, if any, is required and provide instructions regarding the setting of any further hearing either at the hearing on confirmation or by separate written order.

(E) The debtor may *file and serve* the amended plan prior to the *originally* scheduled hearing on confirmation if there is at least twenty-five (25) days between the date of service and the scheduled hearing on confirmation to allow for the following:

(i) at least a twenty-one (21) day objection period, and

(ii) the filing of a Certificate and Motion to Determine Notice (if objections are filed) or a Verification of Confirmable Plan (if no objections are filed) no later than four (4) days prior to the hearing on confirmation.

(iii) For the purpose of this subsection only, this L.B.R. expressly authorizes a shortening of the objection period to twenty-one (21) days. Any request to limit notice or for a further shortening of the objection period must be made in the Certificate and Motion to Determine Notice. The debtor must serve the amended plan with a notice in substantial conformity with **L.B. Form 3015-1.6**. If the debtor cannot meet these timeframes on notice and service prior to the originally scheduled hearing on confirmation, then the debtor should provide copies to the Trustee and any objecting parties, but wait to serve the amended plan until the court enters an order on the Certificate and Motion to Determine Notice.

(g) If Objections Are Filed:

(1) Obligation to Meet and Confer.

(A) In an effort to resolve or narrow the issues in dispute, no later than seven (7) days prior to the hearing on confirmation, the debtor and any objecting party must Meet and Confer, as that term is defined in **L.B.R. 9001**.

(B) The failure to comply with the obligation to Meet and Confer may result in the court striking the objection or denying confirmation, as applicable.

(2) No Amendment to the Plan.

(A) If there are objections to the plan and the debtor is not filing an amended plan to resolve the objections, the debtor must file a Certificate and Motion to Determine Notice, no earlier than the day following the debtor's first attendance at the meeting of creditors and no later than four (4) court days prior to the hearing on confirmation.

(B) The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in, **L.B. Form 3015-1.5**.

(C) The debtor must provide a copy of the amended plan and Certificate and Motion to Determine Notice to the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those requesting notice.

(D) After the filing of a Certificate and Motion to Determine Notice, the court may order what notice, if any, is required and provide instructions regarding the setting of any further hearing either at the hearing on confirmation or by separate written order.

(3) Amendments to the Plan *Prior to Originally Scheduled Hearing on Confirmation When Objections Are Filed.*

(A) If there are objections to the plan and the debtor is filing an amended plan to resolve some or all of the objections, the debtor must file the amended plan, along with a Certificate and Motion to Determine Notice, no earlier than the day following the debtor's first attendance at the meeting of creditors and no later than four (4) court days prior to the hearing on confirmation.

(B) The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in, **L.B. Form 3015-1.5**.

(C) The debtor must provide a copy of the amended plan and Certificate and Motion to Determine Notice to the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those requesting notice.

(D) After the filing of a Certificate and Motion to Determine Notice, the court may order what notice, if any, is required and provide instructions regarding the setting of any further hearing either at the hearing on confirmation or by separate written order.

(E) The debtor may *file and serve* the amended plan according to the court's instructions in the order referenced in **(g)(3)(D) above**, prior to the *originally*

scheduled hearing on confirmation if there is at least twenty-five (25) days between the date of service and the scheduled hearing in accordance with **L.B.R. 3015-1(f)(2)(E)** above.

(4) Objections Resolved.

(A) If there are no pending objections or objections have been formally withdrawn to the plan or amended plan, as applicable, the debtor has complied with the certification requirements, and the plan is otherwise ready for confirmation, the debtor must file the Verification of Confirmable Plan to obtain an order confirming the plan.

(B) The Verification of Confirmable Plan must be in substantial conformity with, and contain all of the information in, **L.B. Form 3015-1.4**.

(C) A copy of the Verification of Confirmable Plan must be served on the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those requesting notice.

(D) Upon the filing of the Verification of Confirmable Plan the court may confirm the plan at the hearing on confirmation, or by separate court order without requiring any parties to appear at the hearing on confirmation.

(h) Hearings: The debtor and objecting parties must appear or be represented at any scheduled hearing on confirmation, unless otherwise ordered by the court.

(i) Amendments to the Plan *After* the Scheduled Hearing on Confirmation: The court will direct what procedures apply for amendments to a plan after the scheduled hearing on confirmation, including utilizing the procedures set forth in **L.B.R. 2002-1 and 9013-1**. The court may require the debtor to use **L.B. Form 3015-1.8** to provide notice of an amended plan, the deadline for filing objections thereto, and the setting of a new hearing on confirmation. In the alternative, the court may require the debtor to use **L.B. Form 3015-1.7** to provide notice of an amended plan and the deadline for filing objections thereto, without the further setting of new hearing on confirmation.

(j) Modification of Chapter 13 Plan After Confirmation:

(1) Proposed Modified Plan: In the event the debtor, the trustee, or the holder of an allowed unsecured claim desires to modify a confirmed chapter 13 plan, the movant must file the proposed modified plan together with a motion requesting modification which must state with particularity the date the plan was originally confirmed, the reason for the modification and the effect upon distribution to each creditor class should the modification be approved. If the modification is proposed after the expiration of the period for the filing of claims, service may be limited to the trustee, any party whose interest is affected by the modification and upon those creditors who have filed proofs of claim.

(2) **Notice:** Notice of the proposed modified plan is governed by FED. R. BANKR. P. 3015(g) and L.B.R. 2002-1 and 9013-1.

Commentary

[Source: T.L.B.R. 3015-1 and L.B.R. 315, 319, and 320]

Parties may check the judge's webpage for options to appear by telephone and the process for doing so.

The definition of Meet and Confer is contained in L.B.R. 9001-1. The court believes that the obligation to Meet and Confer is an important process for the exchange of information and facilitates the prompt resolution of disputes. The initial burden to timely commence the Meet and Confer is on the debtor, however the chapter 13 trustee or objector may do so as well. Parties are encouraged to initiate the Meet and Confer as close to the time the objection is filed, but in no case later than seven (7) days prior to the hearing on confirmation.

LOCAL BANKRUPTCY RULE 3017-1 DISCLOSURE STATEMENT – NOTICE AND OBJECTIONS

(a) Notice: The plan proponent must mail the order and notice of hearing on disclosure statement and notice of objection deadlines pursuant to FED. R. BANKR. P. 2002(b) and 3017, or as otherwise directed by the court.

(b) Objections: Objections to the adequacy of a proposed disclosure statement must be served upon those parties in interest specified in the FED. R. BANKR. P. 3017(a) within the time fixed by the court. Objections must specify clearly the grounds upon which they are based, including the citation of supporting legal authority, if any, and reference to the particular portions of the disclosure statement to which the objection is made. General objections will not be considered by the court.

Commentary

[Source: L.B.R. 317]

See Official Form 13, *Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof*.

Guidelines for the adequacy and contents of disclosure statements may be found on the United States Trustee website at www.usdoj.gov/ust/.

LOCAL BANKRUPTCY RULE 3017.1-1
CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT
IN SMALL BUSINESS CASES

(a) Motion for Conditional Approval of Disclosure Statement: A small business debtor who seeks conditional approval of a disclosure statement, must file the disclosure statement and a motion for conditional approval of the disclosure statement pursuant to 11 U.S.C. § 1125(f)(3)(A) (“Motion for Conditional Approval”). The debtor must attach the proposed plan as an exhibit to the Motion, but not file it as a separate document until the court has ruled on the Motion.

(1) Filing Requirement: In order to assist the small business debtor and the court in meeting the time requirements of 11 U.S.C. §§ 1121(e)(3) and 1129(e), in the Motion for Conditional Approval, the debtor must set forth the following *proposed* deadlines and dates:

- (A) Date by which the debtor will need the court’s conditional approval in order to meet all other deadlines.
- (B) Date by which the debtor must file its chapter 11 plan, if not filed contemporaneously with the disclosure statement and Motion for Conditional Approval.
- (C) Date by which the debtor must mail its plan, disclosure statement, and ballot to all creditors and other parties in interest pursuant to FED. R. BANKR. P. 2002(b) and 3017.
- (D) Deadline for all parties to file written objections to the disclosure statement.
- (E) Deadline for all parties to file written acceptances or rejections of the plan.
- (F) Deadline for all parties to file written objections to the plan.
- (G) Date by which the debtor will need a hearing on final approval of the disclosure statement (if any objection is timely filed) and on confirmation of the plan in order to stay within the deadlines in 11 U.S.C. §§ 1121(e) and 1129(e).

The proposed adequacy of disclosure statement and plan objection deadlines and the proposed deadline for acceptance or rejection of the plan may be the same date.

(2) Notice: The debtor must serve the Motion for Conditional Approval on the United States Trustee, any case trustee and parties requesting notice.

(3) Orders: The court may, in its discretion, enter an order without a hearing on notice as the court may direct.

(b) Order: If the court conditionally approves the disclosure statement, the court will issue an order in substantial conformity with **L.B. Form 3017.1-1.1**.

(1) Notice: The debtor must serve the order, plan, disclosure statement, and ballot on all creditors and other parties in interest pursuant to FED. R. BANKR. P. 2002(b) and 3017.

(2) Certificate of Service: The debtor must file a certificate of service as to the order, plan, disclosure statement and ballot within three (3) days of service.

(c) Objections: Objections to the adequacy of the disclosure statement must comply with **L.B.R. 3017-1(b)**.

Commentary

[Source: New, based on Director's Procedural Form 13S (Form 13S)]

See Official Bankruptcy Form B25A (Plan of Reorganization in Small Business Case under Chapter 11) and B25B (Disclosure Statement in Small Business Case under Chapter 11). See also Director's Procedural Form 13S and 15S.

Although a hearing is not required, should the debtor request an expedited hearing on conditional approval of the disclosure statement, the court will attempt to accommodate the debtor's proposed deadlines and dates to the extent it is able. Notwithstanding the debtor's requested or proposed dates, the debtor must comply with the applicable time frames and requirements to obtain an extension pursuant to 11 U.S.C. §§ 1121(e) and 1129(e).

LOCAL BANKRUPTCY RULE 3017-2 COMBINED CHAPTER 11 PLAN AND DISCLOSURES IN SMALL BUSINESS CASES

(a) Motion to File a Chapter 11 Plan Without a Separate Disclosure Statement: A small business debtor who seeks to file a plan without a separate disclosure statement pursuant to 11 U.S.C. § 1125(f)(1), must *first* file a motion for determination that the plan itself provides adequate information and that a separate disclosure statement is not necessary (the "Motion").

(1) Filing Requirement: In order to assist the small business debtor and the court in meeting the requirements of 11 U.S.C. §§ 1121(e) and 1129(e), the Motion must set forth the following *proposed* deadlines and dates:

(A) Date by which the debtor will need the court's initial determination regarding adequate information in order to meet all other deadlines.

(B) Date by which the debtor must file its chapter 11 plan.

(C) Date by which the debtor must mail its plan and ballot to all creditors and other parties in interest pursuant to FED. R. BANKR. P. 2002(b) and 3017.

(D) Deadline for all parties to file written acceptances or rejections of the plan.

(E) Deadline for all parties to file written objections to the plan and final determination under 11 U.S.C. § 1125(f)(1).

(F) Date by which the debtor will need a hearing on confirmation of the plan in order to stay within the deadlines in 11 U.S.C. §§ 1121(e) and 1129(e).

The proposed plan and disclosures objection deadline and proposed acceptance or rejection deadline may be the same date.

(2) Notice: The debtor must serve the Motion on the United States Trustee, any case trustee and parties requesting notice.

(3) Orders: The court may, in its discretion, enter an order without a hearing on notice as the court may direct.

(b) Order: If the court initially determines that the plan itself provides adequate information and that a separate disclosure statement is not necessary, the court will issue an order in substantial conformity with **L.B. Form 3017-2.1**.

(1) Notice: The debtor must serve the order, plan and ballot on all creditors and other parties in interest pursuant to FED. R. BANKR. P. 2002(b).

(2) Certificate of Service: The debtor must file a certificate of service as to the order, plan and ballot within three (3) days of service.

(c) Objections: Objections to the information and disclosures contained in the plan must comply with **L.B.R. 3017-1(b)**.

Commentary

[Source: New, based on Director's Procedural Form B13S (Form 13S) (08/07)]

The court will attempt to accommodate the debtor's proposed deadlines and dates to the extent it is able. Notwithstanding the debtor's requested or proposed dates, the debtor must comply with the applicable timeframes and requirements to obtain an extension pursuant to 11 U.S.C. §§ 1121(e) and 1129(e).

LOCAL BANKRUPTCY RULE 3022-1 FINAL REPORT/DECREE (CHAPTER 11)

(a) Chapter 11 Final Report and Motion for Final Decree: Immediately after the estate is fully administered, the debtor-in-possession must file a final report and motion for final decree in substantial conformity with L.B. Form 3022-1.1 (business debtor) or L.B. Form 3022-1.2 (individual debtor) and serve it on the U.S. Trustee and anyone requesting notice.

(b) Objection: If no objection has been filed within 30 days of the filing of the final report and motion for final decree, the court will presume that the estate has been fully and properly administered and a final decree will enter.

(c) Final Decree: The final report and motion for final decree must be accompanied by a proposed order in substantial conformity with L.B. Form 3022-1.3 (business debtor) or L.B. Form 3022-1.4 (individual debtor).

Commentary

[Source – L.B.R. 215(b). Added on 6/13/08 based on EEB forms provided during last comment period.]

See the *Amended Memorandum of Understanding Between the Executive Office for United States Trustees and the Administrative Office of the United States Courts Regarding Case Closings and Post Confirmation Chapter 11 Monitoring*, dated April 1, 1999.

See also [L.B.R. 2015-1](#) for other reporting requirements.

LOCAL BANKRUPTCY RULE 4001-1 RELIEF FROM AUTOMATIC STAY

(a) Motions for Relief From Automatic Stay Under 11 U.S.C. § 362(d) Against Debtor:

(1) Selection of Hearing Date: Each division maintains a separate motion for relief from stay calendar. Information as to the time and dates of each division's calendar may be obtained from the assigned judge's staff or the court's website at www.cob.uscourts.gov. All motions for relief from stay must be set for hearing on the calendar of the division to which the case is assigned. A party desiring to file a motion for relief from stay in a bankruptcy case will select from the calendar of available hearing dates a proposed hearing date, which must be the latest hearing date available on the assigned judge's calendar which is not more than thirty (30) days from the date the motion for relief from stay is filed with the court.

(2) Waiver of Rights under 11 U.S.C. § 362(e): In the event the movant sets a hearing date beyond thirty (30) days, the movant is deemed to have waived its right under 11 U.S.C. § 362(e) to automatic relief after thirty (30) days.

(3) Notice of Hearing and Time to Object: Subject to the provisions of this L.B.R., the movant must comply with the provisions of [L.B.R. 9013-1](#). In addition to the parties specified in FED. R. BANKR. P. 4001, the notice and motion must be served on the debtor and debtor's counsel, the United States Trustee, the case trustee, and any party with an interest, such as a party claiming lien rights in property against which the movant seeks relief. The notice of hearing must specify that any objection and request for hearing must be filed at least seven (7) days prior to the hearing date and that, if no objection to the requested relief is timely filed, the relief requested in the motion may enter without a hearing.

(4) Mandatory Motion Requirements: In addition to complying with [L.B.R. 9013-1](#), the movant must:

(A) plead with specificity facts supporting the requirements of 11 U.S.C. § 362(d);

(B) if, as a basis for relief, a default is alleged as to payment on a business or consumer debt, attach a detailed, understandable payment history regarding the debt and arrearages;

(C) file and serve a notice in substantial conformity with **L.B. Form 4001-1.1**;

(D) file and serve a relief from stay cover sheet in substantial conformity with **L.B. Form 4001-1.2**;

(E) if the debtor is an individual, file a Servicemembers Civil Relief Act (“SCRA”) Affidavit pursuant to **L.B.R. 4002-2(c)**;

(F) file and serve a proposed order in substantial conformity with **L.B. Form 4001-1.4**; and

(G) pay the prescribed filing fee.

(5) No objections: If no objections are filed, the Movant **must** file a certificate of non-contested matter, **L.B. Form 4001-1.3**, at least three (3) days prior to the scheduled hearing.

(b) Motions for Relief from Stay Under 11 U.S.C. §§ 1201 or 1301 Against Co-Debtor: The procedures for seeking relief from the co-debtor stay are the same as that specified **in (a) above** except:

(1) the party must select a hearing date that is not more than twenty (20) days from the date of the motion, and

(2) the response and request for hearing must be filed not more than fourteen (14) days following the filing of the motion for relief from stay.

In the event that the movant sets a hearing date beyond twenty (20) days, the movant is deemed to have waived its right to relief within twenty days under 11 U.S.C. § 1201(d) and 1301(d). If the movant files a combined motion under 11 U.S.C. § 362(d) and § 1201 or 1301, the movant will be deemed to have waived their rights under § 1201(d) or § 1301(d) to automatic relief after twenty (20) days.

(c) Procedures for Preliminary Hearings: The following procedures apply at preliminary hearings on motions for relief from stay:

(1) No testimony will be taken. Evidence will only be accepted by way of an oral offer of proof and exhibits. Such offers must provide sufficient detail to enable the court to make specific findings based thereon and must include the identity of the witnesses

available to testify at an evidentiary hearing and an explanation of their expected testimony. Written summaries of witnesses' testimony are not required but may be submitted.

(2) Parties must exchange all exhibits they intend to use, or may reasonably anticipate using, 24 hours prior to the preliminary hearing. The exhibits must be tendered to the court at the hearing, together with a statement identifying the witness or witnesses who would be called to identify and lay the foundation for the introduction of such exhibits.

(3) Objections to tendered evidence should be made at the conclusion of each party's declaration. Any objection must identify the evidence objected to and specify the grounds for the objection.

(4) The court will treat the hearing as a preliminary hearing and, based on the proffers of evidence, if there is a reasonable likelihood that the party opposing relief will prevail at a final hearing, may set the matter over for a final hearing. In the alternative, the court may consider the offers of proof and, absent the need for an evidentiary hearing, grant or deny the request for relief from stay.

(5) Expert Witnesses: Any party anticipating the use of an expert witness for a final hearing will, at the initial hearing, comply with FED. R. BANKR. P. 7026(a)(2).

(d) Telephonic Hearings: Parties, through counsel, are required to attend the hearing in person except on prior request and approval of a telephonic appearance by the judge to whom the case is assigned. Telephonic appearances must be requested by filing a motion. If a telephonic appearance is permitted, the parties must exchange witness lists and exhibits and file them with the court no later than 24 hours prior to the hearing.

Commentary

See FED. R. BANKR. P. 4001 and 9014.

Parties are advised to use the proper forms applicable to this L.B.R. 4001-1 (relief from stay) and not those applicable to L.B.R. 4001-2 (termination/absence of stay).

Telephonic appearances may be requested by motion or pursuant to other procedures which may be established by the presiding judge. Parties should review each judge's website for additional information.

See Servicemembers Civil Relief Act of 2003 ("SCRA"), 50 App. U.S.C. § 501 et seq. and [L.B.R. 4002-2](#) for further information on SCRA.

[Source: [L.B.R. 401 and GPO 2005-2](#)]

**LOCAL BANKRUPTCY RULE 4001-2
TERMINATION, ABSENCE, OR EXTENSION OF AUTOMATIC STAY**

(a) Procedures: Motions filed pursuant to this L.B.R. 4001-2 are subject to the procedures in L.B.R. 4001-1(a)(1) Selection of Hearing Date, (a)(3) Notice of Hearing and Time to Object, (c) Procedures for Preliminary Hearing and (d) Telephonic Hearings.

(b) Forms: Parties must file and serve a notice and proposed order in substantial conformity with **L.B. Forms 4001-2.1** and **4001-2.2**, respectively.

(c) Requests Pursuant to 11 U.S.C. § 362(c)(3)(B) (to continue and extend the stay) and 11 U.S.C. § 362(c)(4)(B) (for the stay to take effect):

(1) Motions filed pursuant to 11 U.S.C. § 362(c)(3)(B) and (c)(4)(B) must:

(A) explain why this later case is filed in good faith as to the creditor(s) to be stayed, and specify whether the request extends to all creditors or only specified creditors; and

(B) unless ordered otherwise, give at least fourteen (14) days notice of the objection date and hearing date to the applicable trustee, debtor, debtor's attorney and all affected creditors.

(2) If seeking to extend the stay to certain property of the estate, service of the motion and notice must also comply with the requirements of FED. R. BANKR. P. 7004 and 11 U.S.C. § 342 as to any creditor who holds or asserts an interest in such property of the estate.

(3) Motions filed pursuant to 11 U.S.C. § 362(c)(3)(B) should be filed with the petition or promptly thereafter in order to permit compliance with statutory time limits.

(4) Motions filed pursuant to 11 U.S.C. § 362(c)(4)(B) must be filed within 30 days after filing of the petition.

(d) Requests Pursuant to 11 U.S.C. § 362(h)(1) (to terminate the stay for failure to comply with duties under 11 U.S.C. § 521(a)(2) with respect to personal property): The movant must plead the following with sufficient specificity:

(1) recital of the facts supporting the requested relief pursuant to the terms of 11 U.S.C. § 362(h)(1);

(2) a detailed description of the property interest securing the debtor's obligation to the movant; and

(3) a statement of whether the debtor timely filed, and performed under, a statement of intention pursuant to 11 U.S.C. § 521(a)(2).

(e) Requests Pursuant to 11 U.S.C. § 362(h)(2) (determination that property is of consequential value or benefit):

(1) The motion must explain the basis for the belief that the property is of consequential value or benefit to the estate, describe what adequate protection is appropriate to protect the creditor's interest and whether or not the debtor has delivered the collateral to the trustee.

(2) Service of the motion and notice must also comply with the requirements of FED. R. BANKR. P. 7004 and 11 U.S.C. § 342 as to any creditor who holds or asserts an interest in such property of the estate.

(3) Motions filed pursuant to 11 U.S.C. § 362(h)(2) must be filed within thirty (30) days after the first date set for the meeting of creditors.

(f) Requests Pursuant to 11 U.S.C. § 362(j) (confirming termination of the stay): The movant must plead the following with sufficient specificity to permit the court to grant the motion:

(1) the requirements of 11 U.S.C. § 362(c); and

(2) the facts supporting the requested relief, including the following information regarding the previous case or cases:

- (A) case name,
- (B) case number,
- (C) court where filed,
- (D) date filed,
- (E) date dismissed,
- (F) whether the dismissal was pursuant to 11 U.S.C. § 707(b),
- (G) as to a request under 11 U.S.C. § 362(c)(3)(A), describe any formal pre-petition action commenced by the movant; and
- (H) any additional relevant information.

Commentary

[Source: modified guideline]

Parties are advised to use the proper forms applicable to this L.B.R. 4001-2 (termination/absence of stay) and not those applicable to L.B.R. 4001-1 (relief from stay).

Motions to extend the stay under 11 U.S.C. § 362(c)(3)(B) may be summarily denied if they are not timely filed such that meaningful due process can be afforded and a hearing held before the end of the 30-day period set forth in 11 U.S.C. § 362(c)(3)(B). Typically, a motion filed within

seven (7) to ten (10) calendar days of the commencement of the case can be timely prosecuted under these guidelines, depending upon the assigned judge's relief from stay hearing dates.

LOCAL BANKRUPTCY RULE 4001-3 CASH COLLATERAL AND POST-PETITION FINANCING

(a) Motions: Except as provided herein and elsewhere in these L.B.R., all cash collateral and/or financing requests under 11 U.S.C. §§ 363 and 364 must be made by motion filed pursuant to FED. R. BANKR. P. 2002, 4001 and 9014 and **L.B.R. 2081-1 and 9013-1** as applicable ("Financing Motions").

(1) Provisions to be highlighted: All Financing Motions must:

(A) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated in the appendix at **L.B.R. 4001-3App.**;

(B) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement by page, paragraph and/or line number; and

(C) provide the justification for the inclusion of each such provision.

(2) Mandatory inclusions: All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing including, but not limited to:

(A) the maximum borrowing available on a final basis,

(B) the interim borrowing limit,

(C) borrowing conditions,

(D) interest rate,

(E) maturity,

(F) events of default,

(G) use of funds limitations,

(H) protections afforded under 11 U.S.C. §§ 363 and 364,

(I) a line-item budget for both the interim and final order periods, unless the court orders otherwise, and

(J) any other information deemed necessary.

(b) Interim Relief: When Financing Motions are filed with the court on or shortly after the date of the entry of the order for relief pursuant to **L.B.R. 2081-1**, the court may grant interim relief pending review by the interested parties of the proposed debtor-in-possession financing arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court may not

approve interim financing orders that include any of the provisions not previously generally approved, as specified in **L.B.R. 4001-3App.**

(c) Final Orders: A final order will be entered only after providing parties notice and an opportunity for a hearing pursuant to FED. R. BANKR. P. 4001 and **L.B.R.9013-1.**

Commentary

[Source: LRRC requested this rule. From D. Del.; Appendix 4001-3App. from N.D. Cal. UST]

LOCAL BANKRUPTCY RULE 4001-4 FORMS OF COMMUNICATION NOT IN VIOLATION OF THE AUTOMATIC STAY

(a) Forms of Communication; Issuance of Monthly Statements is not a Stay Violation: The following communication and issuance of monthly statements are declared appropriate and not a violation of the automatic stay:

(1) Permissible contact with the debtors: Secured creditors may contact the debtors about the status of insurance coverage on property that is collateral for the creditor's claim, may respond to inquiries and requests for information about the account from debtors, and may send the debtor statements, payment coupons, or other correspondence that the creditor sends to its nondebtor customers, without violating the automatic stay, provided none of these communications includes an attempt to collect the debt. Permissible forms of communication are those which are sent to debtors by creditors in the ordinary course of business, to the address that the debtor last provided to the creditor by agreement between the debtor and the creditor. In order for communication to be protected under this L.B.R., the communication must indicate it is provided for information purposes and does not constitute a demand for payment.

(2) Manner of contacting debtors: Permissible communications may be transmitted via electronic mail, facsimile, United States Postal Service, commercial communications carrier, or such other mode as is mutually acceptable to the parties.

Commentary

[Source: GPO 2008-1, March 13, 2008]

This L.B.R. directs that, to the greatest degree possible, the routine flow of information from secured creditors to debtors continue post-petition with respect to secured loans constituting consumer debt (as that term is defined by 11 U.S.C. § 101(8)), in each bankruptcy case where the debtor retains possession of the collateral and continues to make regular installment payments directly to the secured creditor.

**LOCAL BANKRUPTCY RULE 4002-1
DUTIES REGARDING TAX INFORMATION**

(a) Motions Regarding Tax Returns.

(1) Motions to dismiss pursuant to 11 U.S.C. § 521(e)(2) are governed by **L.B.R. 1017-2** and **L.B. Form 1017-2.1**.

(2) Motions to compel compliance with 11 U.S.C. § 521(f) are governed by **L.B.R. 9013-1**.

(b) Redaction of Personal Information in Tax Returns: The redaction of personal information from tax returns or transcripts provided to the trustee or requesting creditor, or filed with the court, is governed by FED. R. BANKR. P. 9037.

(c) Failure to Redact Personal Information: The court will not redact any information if the debtor fails to make the redactions required under FED. R. BANKR. P. 9037.

Commentary

All tax information filed electronically with the court must be submitted under the “tax information” event which is not publicly available.

Confidentiality of tax returns is governed by FED. R. BANKR. P. 4002(b)(5) and 9037 and the procedures established by the Director of the Administrative Office of the United States Courts. This includes the *Director’s Interim Guidance Regarding Tax Information Under 11 U.S.C. § 521* (September 20, 2005), and any amendments thereto or final guidance that may be established. The Director’s guidance may be located at the U.S. Court’s website at www.uscourts.gov/bankruptcycourts.

See **L.B.R. 1007-5** for information on Social Security numbers and privacy, and **L.B.R. 1017-2** for dismissal for failure to provide tax returns under 11 U.S.C. § 521(e)(2).

[Source: **T.L.B.R. 1017-1** and **T.L.B.R. 4002-1**]

**LOCAL BANKRUPTCY RULE 4002-2
SERVICEMEMBERS CIVIL RELIEF ACT OF 2003 (“SCRA”)**

(a) Debtor’s Statement of Military Service: In order to assist the court in its determination of a debtor’s status under the Servicemembers Civil Relief Act of 2003 (“SCRA”), 50 App. U.S.C. § 501 et seq., a debtor should inform the court if the debtor is a servicemember subject to the provisions of SCRA at the time of the filing of the bankruptcy petition by filing Director’s Procedural Form 202. If, at any time during the pendency of the bankruptcy proceedings a debtor becomes entitled to the protections of SCRA, he or she should inform the court of the

change in military status within fourteen (14) days of the change in status by filing an amended Director's Procedural Form 202.

(b) Debtor's Failure to Comply: Failure by the debtor to inform the court of his/her military status does not constitute a waiver of the debtor's protections under SCRA, and does not alter the responsibility of a party to investigate the debtor's servicemember status before filing any of the papers referred to in **L.B.R. 4001-1 and 7055-1**.

(c) Affidavit Required for Motion for Default Judgment and Motions for Relief from the Automatic Stay: At the time of the filing of a motion for default judgment in an adversary proceeding pursuant to FED. R. BANKR. P. 7055 or a motion for relief from stay under FED. R. BANKR. P. 4001, the plaintiff/movant must file an affidavit with the court which states (1) whether or not the defendant/respondent is in the military service, and indicating the necessary facts to support said affidavit; or (2) if the plaintiff/movant is unable to determine whether or not the defendant/respondent is in the military service, a statement that the plaintiff/movant is unable to so determine. The court will deny motions for default judgment and motions for relief from stay if the plaintiff/movant does not supply the required affidavit. If the court is unable to ascertain the defendant's/respondent's military status from the affidavit, it may require the plaintiff/movant to post a bond before entering a default judgment or an order lifting the stay.

Commentary

[Source: GPO 2005-2]

Information on how to obtain verification of the military status of an individual is available from the Clerk's office or online at the court's website at www.cob.uscourts.gov.

LOCAL BANKRUPTCY RULE 4003-1 EXEMPTIONS

(a) Objections: Objections to exemptions must be prosecuted according to the procedures in **L.B.R. 9013-1**.

(b) Notice: The objection must be accompanied by a notice in substantial conformity with **L.B. Form 9013-1.1** with at least fourteen (14) days for the filing of a response.

(c) Hearing: Upon the filing of a Certificate of Non-contested Matter, the court may enter an order without a hearing. Upon the filing of a Certificate of Contested Matter, the court may set a hearing on the matter.

[Source: New, added in on 6/17/08. Suggestion by HRT.]

**LOCAL BANKRUPTCY RULE 4003-2
LIEN AVOIDANCE**

(a) Motions to Void Judicial Liens Under 11 U.S.C. § 522(f): A motion to void judicial liens under 11 U.S.C. §522(f) (the “Motion”) must include the following:

(1) Identification of the lien creditor. The caption, title of pleading, or introductory paragraph must clearly identify the affected lien creditor. It is not sufficient to only attach a copy of a transcript of judgment, without also identifying the affected creditor in the body of the pleadings, and

(2) Specific grounds for relief under 11 U.S.C. § 522(f) (e.g. whether the lien impairs the debtor’s exemption, the purported value of the property, the amount of the various liens filed against the property, whether the debtor claimed a homestead exemption on Schedule C), and

(3) Evidence that a lien was actually recorded against the homestead (e.g. specific recording information and/or a copy of the transcript of judgment).

(b) Notice: The Motion must be accompanied by a notice in substantial conformity with **L.B. Form 9013-1.1** with at least fourteen (14) days for the filing of an objection.

(c) Certificate of Service: The Motion must be accompanied by a Certificate of Service showing that both the Motion and notice were served on the affected lien creditor in the manner required by FED. R. BANKR. P. 7004 and 9014.

(d) Proposed Order: The Motion must be accompanied by a proposed order. The proposed order must contain an adequate description of the property and must not purport to do anything more than declare the lien void. The proposed order should not place an affirmative duty on the lien creditor to file something to remove the lien from the chain of title.

Commentary

[Source: New, added in on 4/23/08. EEB Checklist on website]

**LOCAL BANKRUPTCY RULE 4004-1
DISCHARGE**

(a) Financial Management Course Certification in individual debtor Chapter 7 and 13 cases: The court cannot grant a discharge to individual debtors in Chapter 7 and 13 cases without receipt of a statement regarding completion of a course in personal financial management as required by FED. R. BANKR. P. 1007(b)(7). Chapter 7 and 13 cases that have been fully administered, other than the granting of a discharge and the filing of the financial management course certification, will be closed by the court without the entry of a discharge. A new filing fee

will be required to reopen the case to file the financial management certification and to permit the entry of the discharge.

(b) Individual debtor cases in which 11 U.S.C. § 522(q)(1) applies: The court cannot grant a discharge if there is reasonable cause to believe that 11 U.S.C. § 522(q)(1) may be applicable to the debtor and there is a conviction of a felony as defined in 18 U.S.C. § 3156, or pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or may be liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B). Prior to the entry of the discharge, any party, including the debtor, a creditor, case trustee, and United States Trustee, with knowledge that 11 U.S.C. § 522(q)(1) may apply to the debtor shall file a statement justifying the assertion that there is reasonable cause to believe 11 U.S.C. § 522 (q)(1) applies.

Commentary

See **L.B. Form 3015-1.10**, Chapter 13 Debtor's Certification to Obtain Discharge and **L.B. Form 3022-1.2**, Chapter 11 Final Report and Motion for Final Decree (for individual chapter 11 debtor).

[Source: T.L.B.R. 4004-1]

LOCAL BANKRUPTCY RULE 4008-1 REAFFIRMATION OF DISCHARGEABLE DEBTS

(a) Motion: A motion for approval of a reaffirmation agreement pursuant to 11 U.S.C. § 524(d) may be filed in accordance with 11 U.S.C. § 524(d) and FED. R. BANKR. P. 4008 by either the debtor or a creditor who is a party to the agreement.

(b) Form:

(1) Cover Sheet: Use of **L.B. Form 4008-1.1** is mandatory and must be completed in its entirety and filed along with any reaffirmation agreement.

(2) Reaffirmation Agreement: Use of Director's Procedural Form 240A is mandatory. A reaffirmation agreement without a completed Director's Procedural Form 240A, including Part D (income and expenses) and a narrative, will not be considered by the court.

(3) Attachment: The underlying debt instrument must be attached as an exhibit.

(c) Hearing:

(1) Certification by debtor's attorney: If the debtor's attorney has certified that the reaffirmation agreement will not impose an undue hardship on the debtor and the court

has no other concerns regarding the agreement, no hearing will be conducted and no order will be entered.

(2) No certification by debtor's attorney: If the debtor's attorney has not certified the reaffirmation agreement for any reason, the court may set the matter for hearing and may require the debtor's attorney to participate in the hearing.

Commentary

[Source: L.B.R. 408 and GPO 2008-2]

LOCAL BANKRUPTCY RULE 5001-2 CLERK – OFFICE LOCATION AND HOURS

(a) Office Location: The Clerk for the United States Bankruptcy Court, District of Colorado, is located at 721 19th Street, Denver, CO 80202-2508.

(b) Internet Address: www.cob.uscourts.gov

(c) Regular Business Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, court closures due to inclement weather or other court order.

(d) Public Access to the Docket:

(1) Internet Access: Any person or organization may obtain access to the “read only” area of the court's Internet site at www.cob.uscourts.gov by obtaining a password and paying any fees established for such access. Those who have access to the court's electronic filing system but who are not Electronic Filers may retrieve docket sheets and documents, but they may not file documents.

(2) Access at the Court: Access to all public documents filed with the court is available, without obtaining a password, in the Clerk's office during regular business hours. Conventional and certified copies of electronically filed documents may be purchased at the Clerk's office during regular business hours. The fee for copying and certifying must be in accordance with the Schedule of Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b) which can be found on the court's website.

Commentary

[Source: New]

LOCAL BANKRUPTCY RULE 5003-1 RECORDS RETENTION

The Clerk will maintain paper records according to the following schedule:

- (a) Statement of Social Security number – five (5) years from the filing date;
- (b) Proofs of Claim – three (3) years from the filing date; and
- (c) All others – six (6) months from the filing date.

Commentary

[Source: GPO 2007-3]

If a party objects to the destruction of records, it may file a motion to extend the time period.

LOCAL BANKRUPTCY RULE 5005-4 ELECTRONIC FILING

(a) Application of Rule: This L.B.R. applies to attorneys who file, on average, one or more documents per week and others as ordered or authorized by the court. The attorneys subject to this L.B.R. must register to be electronic filers. Any attorney who is an electronic filer and who signs a document intended for filing as an attorney must file the document electronically. Attorneys who file, on average, less than one document per week may, at their discretion, file documents in an electronic format. Only attorneys and their supervised staff may become electronic filers.

(b) Mandatory Electronic Filing Requirements: In lieu of filing petitions, pleadings and other papers in hard copy format as prescribed in **L.B.R. 9004-1** and other rules, electronic filers must file documents in an electronic format. The court may, in any matter at any time, request that a copy of a document be submitted to the judge in paper format.

(c) Electronic Records: Except for documents that exceed the court's electronic storage capability found on the court's website, all documents filed with the court, either electronically or in paper format, will be converted to and stored as electronic documents. The electronic files, consisting of the images of documents filed in cases or proceedings and documents filed by electronic means, constitute the official record of the court together with any other records kept by the Clerk.

(d) Electronic Signature: The use of an attorney's password to file a document electronically constitutes the original signature of that attorney for purposes of FED. R. BANKR. P. 9011.

(e) Password Non-Transferable: Each attorney, law firm or other person that obtains a password for electronic filing is responsible for its security and use. No attorney, law firm or other person may knowingly permit or cause to permit an electronic filer's password to be utilized by anyone other than an authorized member, employee or agent of the electronic filer's law firm.

(f) Waiver of Notice and Service by Mail: The request for and receipt of an electronic filing password from the court constitutes a request for, and consent to, electronic service pursuant to FED. R. BANKR. P. 9036 of all notices, orders, decrees and judgments *issued by the court* and, except as otherwise provided in these L.B.R., a waiver of the right to receive all notice and service by mail *from the court*.

(g) ECF Procedures: Electronic filers must follow the ECF Procedures as defined in **L.B.R. 9001-1(a)(6)**. Future versions of the procedures as published by the court will be effective the date of the published revision. In case of conflict between these L.B.R. and the ECF Procedures, the ECF Administrative Procedures in L.B.R. 5005-4App. control.

(h) Registration and Filing Requirements: Information regarding the procedures for registration and instructions on how to file cases electronically are found in L.B.R. 5005-4App. Categorization of documents can be found on the court's website at www.cob.uscourts.gov.

(i) Electronic Filer Agreement: Electronic filers must enter into an agreement with the court contained on the Electronic Filer Registration Form found in the ECF Administrative Procedures in **L.B.R. 5005-4App**.

(j) Docket: The electronic filing of a document in accordance with the ECF Procedures constitutes entry of that document on the docket kept by the Clerk pursuant to FED. R. BANKR. P. 5003. All orders, decrees, judgments and proceedings of the court will, in accordance with the ECF Procedures, be entered on the docket kept pursuant to FED. R. BANKR. P. 5003 and for the purposes of FED. R. BANKR. P. 9021.

(k) Retention of Original Signatures: Electronic filers may file all electronic documents with electronic signatures. Documents that require the signature of the debtor shall be maintained by the electronic filer with the original signature(s) in paper form for two years following the expiration of all time periods for appeals after entry of a final order terminating the case or proceeding. Documents required to be retained by counsel with actual signatures of the debtor include Form 21, voluntary petition, statements, schedules, lists and amendments thereto.

(l) Correction of Errors or Omissions:

(1) Electronic filers notified by the Clerk via a public docket entry of an error or omission in an electronic filing must correct the error or omission by close of business on the next court day following transmission of the Clerk's docket entry. Failure to timely correct the error or omission, unless the court orders otherwise, will result in the erroneous document not being acted upon by the court.

(2) If electronic filers use the incorrect event for the public docket when filing a document, the Clerk may re-enter the document correctly if it is an objection or a document that is easily identified from the document's caption as an emergency motion or a time sensitive motion. Such steps are taken to safeguard the integrity of the court's docket while timely providing an accurate public record for proper case administration,

(m) Temporary Deactivation or Revocation of Password and Authority to File

Electronically: The court reserves the right to temporarily deactivate an electronic filer's password for failure to comply with this rule, the electronic filer Registration Form agreement or the ECF Administrative Procedures. In addition, the court reserves the right to revoke an attorney's authority to file electronically after notice and hearing before the judge assigned to the specific case in which the attorney has failed to comply with the ECF Procedures or has engaged in other misuse of the electronic case filing system.

Commentary

[Source: GPO 2001-8]

See L.B.R. 9004-1, 9011-1, 9036-1, and L.B.R. 5005-4App. Parties should also check the court's website.

Documents requiring signatures of more than one party may be filed electronically provided the document contains all necessary signatures whether those signatures are electronic or original.

**LOCAL BANKRUPTCY RULE 5007-1
TRANSCRIPTS**

The transcription service preparing a transcript of any hearing, or of any meeting conducted by the United States Trustee or a case trustee, must comply with the provisions of 28 U.S.C. § 753(b) governing requests for transcripts.

Commentary

[Source: L.B.R. 507(a)]

See the court's website at www.cob.uscourts.gov for information on requesting transcripts.

See also L.B.R. 9070-1 for Witnesses and Exhibits and L.B.R. 8004-1 and 8007-1 for transcripts in appeals.

**LOCAL BANKRUPTCY RULE 5010-1
REOPENING CASES**

(a) Motions: Motions to reopen bankruptcy cases must be accompanied by the payment of any prescribed filing fees. Copies of the motion must be served on the United States Trustee, the trustee previously assigned to the case, the twenty (20) largest unsecured creditors in a chapter 11 case, and upon any party against whom relief will be sought upon reopening of the case.

(b) Filing Fees: Payment of the filing fee to reopen a bankruptcy case, when a motion is filed by a trustee to reopen a case due to the discovery of additional assets in the estate, is payable at the

time the motion to reopen is filed. The trustee may file a motion to have the payment of the fee delayed until there are sufficient assets in the estate to pay such fee.

(c) Filing Complaint to Determine Dischargeability of Debt: An adversary proceeding to determine the dischargeability of a debt under FED. R. BANKR. P. 4007(b) or for declaratory relief regarding the effect of a discharge under 11 U.S.C. § 524(a) may be commenced, maintained and concluded whether or not the underlying bankruptcy case has been closed under FED. R. BANKR. P. 5009 or reopened under FED. R. BANKR. P. 5010.

Commentary

[Source: L.B.R. 510]

Absent a court order, there is no exception to the requirement to pay the appropriate filing fees for a motion to reopen a case in order for the debtor to file the Debtor's Financial Management Certificate so that a discharge may be entered.

LOCAL BANKRUPTCY RULE 5011-1 MOTIONS FOR WITHDRAWAL OF THE REFERENCE

(a) Motion: A motion for withdrawal of a case or proceeding must be accompanied by payment of the prescribed filing fee and be filed with the Clerk together with such other portions of the record as may be necessary for consideration of the motion.

(b) Service: Copies of the motion must be served on the debtor, the United States Trustee, any case trustee, the twenty (20) largest unsecured creditors in a chapter 11 case, those requesting notice and upon any party against whom relief is sought in the proceeding.

(c) Objection: Within fourteen (14) days after service of a copy of the motion, a party in interest may file with the Clerk, and serve on the movant and the other parties to the proceeding, an objection to the motion and a designation of any additional portions of the record for the district court's determination of the motion.

(d) Reply: The movant may file a reply within seven (7) days of service of an objection.

(e) Record: The Clerk of the Bankruptcy Court will refer the motion and record to the Clerk of the U.S. District Court for hearing before that court pursuant to FED. R. BANKR. P. 5011(a).

Commentary

[Source: L.B.R. 511]

LOCAL BANKRUPTCY RULE 5073-1 PHOTOGRAPHY, RECORDING DEVICES & BROADCASTING

The use or operation of any camera, recording device, photo-capable cellular phone or other mechanical means for the visual reproduction of the likeness of an individual or object, or for the auditory reproduction of a voice or sound, is prohibited inside all courtrooms occupied by the court and in all rooms used for meetings pursuant to 11 U.S.C. § 341 except as otherwise provided by the Judicial Conference. This rule also applies to those participating in a hearing or meeting by telephone, video conference, or other means from outside the courtroom or meeting rooms. The use or operation of any such device is further prohibited in all other premises occupied by the court except as proscribed by the District Court. This L.B.R. is not applicable to employees of the court or designees of the United States Trustee acting pursuant to their official duties or to any certified court reporter. The court in its discretion may waive this L.B.R.

Commentary

[Source: L.B.R. 507(c)]

LOCAL BANKRUPTCY RULE 5095-1 INVESTMENT OF ESTATE FUNDS

Deposits to the Registry: No funds may be deposited to or withdrawn from the court registry except as authorized by court order. Such an order must specify in detail the amounts deposited by or to be paid to any party, and must state the names and addresses of any person or company to whom funds are to be paid. Funds may be deposited into an interest-bearing account upon obtaining a specific order so directing. A copy of the order must be personally served on the Clerk by the party who obtained the order.

Commentary

[Source: L.B.R. 505(c)]

See also FED. R. BANKR. P. 7067, Deposit into Court.

LOCAL BANKRUPTCY RULE 6004-1 SALE OF ESTATE PROPERTY

(a) Sales Free and Clear of Liens: A motion to sell free and clear of liens under 11 U.S.C. § 363(f) must identify by name the lienholders whose property rights are affected by the motion. The affected lienholders must be served with a complete set of moving papers pursuant to FED. R. BANKR. P. 7004(b). The motion must allege the factual basis demonstrating that the motion comes within one or more subsections of 11 U.S.C. § 363(f)(1)-(5). If the motion does not so identify the lienholders, it will be considered as an application to sell property subject to existing liens.

(b) Bidding Procedures: A motion to approve procedures for bidding for an asset or assets may be filed separately in advance of filing a sale motion or combined with the sale motion, and in appropriate circumstances, on more limited and shortened notice than the sale motion.

(c) Form of Order: The proposed form of order granting a motion to sell free and clear of liens must specify each lienholder whose interest is to be affected by the order and whether such liens will attach to the proceeds of the sale.

Commentary

[Source: L.B.R. 604 and N.D. Cal.]

See L.B.R. 2002-1, 2081-1, 9013-1 and FED. R. BANKR. P. 6003 and 9006.

LOCAL BANKRUPTCY RULE 7001-1 ADVERSARY PROCEEDINGS - GENERAL

(a) Adversary Captions: All pleadings in an adversary action must have a caption in substantial conformity with Director's Procedural Form 16D. The caption must also state the initials of the judge assigned to the complaint.

(b) Cover Sheet: A cover sheet in substantial conformity with Director's Procedural Form 104 must accompany all adversary proceeding complaints that are not electronically filed.

(c) Proper Sequence for Adversary Proceeding Filings (Paper Filers Only): The following forms are separate documents. Please do not staple them together:

- (1) Adversary Proceeding Cover Sheet (Director's Procedural Form 104) - Original Only
- (2) Complaint - Original
- (3) Summons - Original.
- (4) Emergency Motions, if any

Commentary

[Source: LBR 105(c) and 102(f)]

Electronic filers should follow current ECF Procedures which can be found on the court's website at www.cob.uscourts.gov and L.B.R. 5005-4App.

LOCAL BANKRUPTCY RULE 7007-1 ADVERSARY PROCEEDINGS – RESPONSES TO MOTIONS

Response Period: Unless otherwise ordered by the court, any response to a **contested (?)** motion must be filed with the court and served on interested parties within fourteen (14) days after

service of the motion. Replies to responses to motions may be filed only after obtaining leave of the court. Motions will be set for oral argument only if the court determines oral argument may be of assistance.

Commentary

[Source: New]

Parties should refer to **L.B.R. 9013-1 and L.B.R. 9014-1** for procedures relating to contested matters.

LOCAL BANKRUPTCY RULE 7007.1-1 CORPORATE OWNERSHIP STATEMENT

The Corporate Ownership Statement required under FED. R. BANKR. P. 7007.1 must be in substantial conformity with **L.B. Form 1007-4.1**.

Commentary

[Source: New.]

See **L.B.R. 1007-4**.

LOCAL BANKRUPTCY RULE 7016-1 PRE-TRIAL PROCEDURE FOR RELATED ADVERSARY PROCEEDINGS

Each division will provide parties with instructions once the case is at issue.

Commentary

For additional information, see L.B.R. 7026-1 and each division's website.

LOCAL BANKRUPTCY RULE 7026-1 DISCOVERY - GENERAL

(a) Discovery and Trial Schedule: When an adversary proceeding is at issue, the court may direct the parties to develop a discovery plan and pre-trial deadlines and file a joint report on the same pursuant to FED. R. CIV. P. 26(b) or, in its discretion, may set a trial.

(b) Depositions: Unless otherwise agreed by the parties and the deponent or ordered by the court, reasonable notice for the taking of depositions or conducting examinations under FED. R. BANKR. P. 7030 (FED. R. CIV. P. 30(b)(1)) is at least fourteen (14) days.

(c) Discovery Material: Discovery materials - - including deposition transcripts, interrogatories and answers, requests for production or inspection, requests for admissions and responses to

them, and all initial disclosures - - are not to be filed with the court unless they are the subject of a discovery motion or as otherwise ordered. If interrogatories, requests, answers, responses, or other disclosures are to be used at hearing or trial, the portions to be used shall be marked and prepared for offering as evidence(s) at the outset of the hearing or trial insofar as their use can reasonably be anticipated.

(d) Production or Inspection: A request for production or inspection under FED. R. BANKR. P. 7034 must fix the date, time, and place therefor with at least fourteen (14) days' notice.

(e) Motions to Compel or for Protective Orders: Motions under FED. R. BANKR. P. 7026 and 7037 seeking the type of relief provided for in FED. R. CIV. P. 26(c) and 37(a), directed to interrogatories or requests under FED. R. BANKR. P. 7033 or 7034, or to responses thereto, must set forth the interrogatory, request and response constituting the subject matter of the motion. The filing of a motion for protective order stays the discovery in question pending further order of the court.

Commentary

[Source: L.B.R. 726]

This rule is intended to supplement the Federal Rules of Civil Procedure with respect to discovery and discovery disputes, Fed. R. Bankr. P. 7026 through 7037.

LOCAL BANKRUPTCY RULE 7026-2 SPECIAL PROVISIONS REGARDING LIMITED AND SIMPLIFIED DISCOVERY

(a) Applicability: Unless modified by order of the court or by written agreement of the parties, the provisions of this L.B.R. apply in all adversary proceedings and contested matters under FED. R. BANKR. P. 7001 and 9014.

(b) Depositions: A party may take the deposition of only three (3) persons.

(c) Interrogatories: A party may serve only one (1) set of written interrogatories upon each adverse party. The number of interrogatories to any one party must not exceed thirty (30), each of which shall consist of a single question.

(d) Requests for Admission: A party may serve only one (1) set of requests for admissions upon each adverse party. The requests for admissions shall not exceed twenty (20) in number, each of which must consist of a single request.

(e) Other Discovery: In all other respects, the Federal Rules of Bankruptcy Procedure govern the procedures and manner of taking discovery.

(f) Additional Discovery: A request for discovery beyond that which is provided for herein may be **made** by the parties in their joint FED. R. BANKR. P. 7026 written report. Unless the parties otherwise agree, any requests after the filing of the written report must be made by motion.

Commentary

[Source: L.B.R. 726.1]

LOCAL BANKRUPTCY RULE 7041-1 NOTICE REQUIREMENTS FOR DISMISSAL OF PROCEEDINGS TO DENY DISCHARGES

Motion Required to Dismiss Complaint Denying or Revoking Discharge: No adversary proceeding objecting to a debtor's discharge under 11 U.S.C. §§ 727, 1141, 1228 or 1328 will be dismissed except on motion filed in the adversary proceeding, with notice and an opportunity to object served upon the United States Trustee and the case trustee, and other parties as the court may direct. The motion must disclose all terms of any agreement made between the plaintiff and the debtor in relation to the litigation and its proposed dismissal.

Commentary

[Source: New. LRRC Request]

See L.B. Form 7041-1

LOCAL BANKRUPTCY RULE 7055-1 DEFAULT – FAILURE TO PROSECUTE

(a) Entry of Default: To obtain entry of default pursuant to FED. R. CIV. P. 55(a), the party seeking entry of default must file a motion requesting entry of Clerk's default, together with a supporting affidavit verifying the following:

- (1) The party against whom default is sought has been properly served with a summons and a complaint, including the date of the issuance of the summons and the date of service of the summons and complaint. A copy of the summons and the proof of service must be attached as exhibits;
- (2) The party has failed to plead or otherwise defend within the allowed time;
- (3) The party against whom default is sought has not requested or has not been granted an extension of time to plead or otherwise defend.

(b) Default Judgment: A party seeking the entry of a default judgment must file a motion for default judgment containing the following:

- (1) A request for entry of default judgment;
- (2) An affidavit in support of default judgment, executed by an individual having personal knowledge of the facts therein, which sets forth with specificity each element of any claim on which judgment is requested. In cases involving individuals, the supporting affidavit must allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action;
- (3) In cases involving individuals, the SCRA affidavit required by L.B.R. 4002-2;
- (4) If appropriate, documentary evidence to support the allegations in the affidavit (attached as exhibits);
- (5) A proposed form of order approving the motion; and
- (6) A proposed form of judgment.

(c) Proof Hearing: The court will advise the party seeking entry of default judgment of the time and date of a proof hearing, if required.

Commentary

[Source: New. LRRC Request]

See also FED. R. BANKR. P. 9023 and 9024 and FED. R. CIV. P. 55.

LOCAL BANKRUPTCY RULE 7056-1 SUMMARY JUDGMENT

(a) Motion and Memorandum in Support: Any motion for summary judgment pursuant to FED. R. BANKR. P. 7056, must include:

- (1) a statement of the burden of proof;
- (2) the elements of the claim(s) that must be proved to prevail on the claim(s);
- (3) a short and concise statement, in numbered paragraphs containing only one fact each, of the material facts as to which the moving party contends there is no genuine issue to be tried;
- (4) a statement or calculation of damages, if any; and
- (5) any and all citations of law in support of judgment as a matter of law, explaining the relevance of each citation.

(b) Response and Memorandum in Opposition: Papers opposing a motion for summary judgment must include:

- (1) any competing statements concerning the burden of proof, including burden shifting, together with legal authority supporting such statements;

- (2) any defenses to the elements of the claim(s) that must be proved to defeat such claim(s);
- (3) a short and concise statement of agreement or opposition, in numbered paragraphs corresponding to those of the moving party, of the material facts as to which it is contended there is a genuine issue to be tried;
- (4) a short and concise statement, in numbered paragraphs containing only one fact, of any additional facts as to which the opposing party contends are material and disputed,
- (5) a statement or calculation of damages, if any; and
- (6) any and all citations of law in opposition to judgment as a matter of law, with a parenthetical to explain the relevance of each citation.

(c) Supporting Evidence: Each statement by the movant or opponent pursuant to subdivisions (a) or (b) of this rule, including each statement controverting any statement of material fact by a movant or opponent, shall be followed by citation to admissible evidence either by reference to a specific paragraph number of an affidavit under penalty of perjury or fact contained in the record. Affidavits must be made on personal knowledge and by a person competent to testify to the facts stated, which are admissible in evidence. Where facts referred to in an affidavit are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached with the relevant passages marked or highlighted.

(d) Admission of Facts: Each numbered paragraph in the statement of material facts served by the moving party shall be deemed admitted for purposes of the motion unless specifically controverted by a correspondingly numbered paragraph in the statement served by the opposing party.

(e) Responsive Pleadings: Unless otherwise ordered by the court, a response to a motion for summary judgment must be filed and served no later than fourteen (14) days from the date of service of the motion. Replies of any kind may only be filed as provided in the pretrial order or upon leave of court.

(f) Compliance with Federal Rules: The statements required by this L.B.R. are in addition to the material otherwise required by these rules and the applicable Federal Rules of Bankruptcy Procedure.

(g) Non-Compliance: Non-compliance with this L.B.R. is grounds for denial of the motion at the court's discretion.

Commentary

[Source: SBB order, S.D. N.Y. and LRRC]

**LOCAL BANKRUPTCY RULE 7069-1
PAYMENT OF JUDGMENT**

(a) Forms: Except as otherwise directed by the judge, parties must use the applicable forms approved by the State of Colorado for use in Colorado courts whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in FED. R. BANKR. P. 7064 and 7069. The caption must conform to Bankruptcy Official Form 16B rather than the form of caption used in the Colorado courts.

(b) Discovery in Aid of Enforcement of Judgments: A judgment creditor may not use FED. R. BANKR. P. 2004 to collect information for use in enforcing a judgment.

Commentary

[Source: C.D. Cal.]

**LOCAL BANKRUPTCY RULE 8001-1
NOTICE OF APPEALS**

(a) Appeals Filed with the Bankruptcy Court: An original notice of appeal in substantial conformity with Bankruptcy Official Form 17 must be filed with the Clerk.

(b) Electronic Filing: L.B.R. 5005-4 applies to appeals and therefore appeals are not exempt from the electronic filing procedure. Mandatory electronic filers must file appeals from bankruptcy court orders and all appellate related documents required to be filed with this court through the ECF system. Appellate related documents required to be filed with the appellate court must be filed in accordance with the practice of that court.

(c) Filing Fees: Parties must submit the appropriate filing fee to the bankruptcy court.

Commentary

[Source: COB LBR 801]

Parties are advised to become familiar with the Local Rules of the court before which their appeal is filed. Once the appeal is docketed by the appellate court, additional papers must be filed with the appropriate appellate court.

**LOCAL BANKRUPTCY RULE 8001-3
ELECTION FOR DISTRICT COURT DETERMINATION OF APPEAL**

(a) District Court Election:

(1) Appellant: If appellant elects to have the appeal heard in the district court pursuant to 28 U.S.C. § 158(c)(1) that fact must be stated clearly in a separate pleading which must be filed at the same time as the notice of appeal.

(2) Any Other Party: Any other party may elect to have the appeal heard by the district court not later than 30 days after service of the notice of the appeal by filing a notice of election with the Bankruptcy Appellate Panel.

(b) Cross-Appeals: Each party filing a notice of appeal electing to have its appeal heard in the district court pursuant to 28 U.S.C. § 158(c)(1) must state that fact clearly in a separate pleading which must be filed at the same time as the notice of appeal.

Commentary

[Source: OKEB LBR 8001-3]

In the event of a cross-appeal, if the cross-appellant does not make an election, the cross-appeal will be sent to the BAP regardless of where the original appeal is being heard.

See Bankruptcy Appellate Panel Local Rule 8001-1.

**LOCAL BANKRUPTCY RULE 8004-1
SERVICE OF NOTICE OF APPEAL**

(a) Appeal Service List: In order to comply with FED. R. BANKR. P. 8004, immediately upon the filing of a notice of appeal or motion for leave to appeal an interlocutory order, the Clerk will create and file an appeal service list.

(b) Service: In addition to the provisions of FED. R. BANKR. P. 8004, the Clerk will serve the following upon the parties specified in the appeal service list:

(1) Appeal as of Right: In the case of a notice of appeal pursuant to FED. R. BANKR. P. 8001(a):

(A) copies of the docket bearing the title and document number, if applicable, of all documents recorded within the case which relate to the cause of action and order being appealed;

(B) a transcript order form;

(C) an instruction sheet which is included as an exhibit to the Clerk's notice; and

(D) a copy of the appeal service list.

(2) Appeal by Leave: In the case of a motion for leave to appeal an interlocutory order pursuant to FED. R. BANKR. P. 8001(b), in addition to the notice of appeal:

(A) an instruction sheet; and

(B) a copy of the appeal service list.

Commentary

[Source: COB LBR 804]

LOCAL BANKRUPTCY RULE 8006-1 DESIGNATION OF RECORD - APPEAL

Designation of Record on Appeal: The provisions of FED. R. BANKR. P. 8006 govern the designation of the record on appeal. Supplemental designations of record will not be allowed except upon motion with notice to opposing parties and counsel, and only by order of the court.

Commentary

[Source: COB LBR 806]

LOCAL BANKRUPTCY RULE 8007-1 COMPLETION OF RECORD - APPEAL

Notice of Transcript Request: If a party has requested that a transcript be prepared by a transcription service, that party must notify the Clerk by filing a Notice of Transcript Request, including the anticipated arrival date of the transcript, concurrently with the filing of the designation of record. Upon the filing of a notice of appeal, the Clerk will notify the appellate court of its filing, which constitutes transmission of the record on appeal.

Commentary

[Source: COB LBR 807]

See also **L.B.R. 5007-1** for Transcripts.

**LOCAL BANKRUPTCY RULE 8008-1
FILING PAPERS - APPEAL**

Service: Parties to an appeal must comply with the service provisions of FED. R. BANKR. P. 8008(b) by serving copies of all papers filed upon all persons on the appeal service list prepared under L.B.R. 8004-1(a).

Commentary

[Source: COB LBR 808]

**LOCAL BANKRUPTCY RULE 9001-1
DEFINITIONS**

(a) In these rules the following definitions apply in addition to the definitions in section 101 of title 11 of the United States code, and FED. R. BANKR. P. 9001:

- (1) “certificate of service” means a statement specifically identifying who was served, when they were served and the method of service.
- (2) “Clerk” means Clerk of the Bankruptcy Court or such appointed deputies.
- (3) “CM/ECF” means Case Management/Electronic Case Filing.
- (4) “Creditor Address Mailing Matrix” means a list of all creditors and parties in interest in the case as provided by the debtor, stored by the court and accessible as described in L.B.R. 1007-2 and L.B.R. 1007-2App.
- (5) “days” means “calendar days,” unless otherwise specified as “court days.” FED. R. BANKR. PRO. 9006(a)’s time computation rules are *not* superseded by these L.B.R.
- (6) “ECF Procedures” means electronic case filing procedures as provided, and updated, in (a) these L.B.R., (b) the L.B.R. Appendix, including the ECF Administrative Procedures at L.B.R. 5005-4App., and (3) the court’s webpage.
- (7) “Electronic Service” or “Electronic Notice” means documents sent via electronic mail with “Notice of Pleadings” in the subject line.
- (8) “e-mail” means electronic mail.
- (9) “meet and confer” means a conference between opposing parties initiated by the movant in an effort to resolve the dispute. If a conference has not taken place, the movant or respondent, or their counsel, must submit a statement describing the efforts made to accomplish the required meet and confer.

(10) “pro se” means a person who is not represented by an attorney.

(11) “verification” or “verified pleading” means an unsworn declaration as defined in 28 U.S.C. § 1746, including a statement in substantial conformity with the following: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

Commentary

[Source: New]

Meet and confer: The purpose of requiring a “meet and confer” is to assist the parties in resolving their disputes without the necessity and expense of court intervention. Therefore, facsimiles and electronic mail by themselves may not suffice. Despite advances in technology, human contact is often necessary for conflict resolution. Therefore, if a meet and confer is unsuccessful when done by e-mail, it may be necessary to communicate by telephone or in person.

LOCAL BANKRUPTCY RULE 9004-1 PAPERS – REQUIREMENTS OF FORM

(a) Form of Documents Submitted to the Court: All petitions, pleadings, and other documents filed or served in hard copy or electronically must be plainly and legibly typewritten on single sided paper, without being materially defaced by erasures, interlineations, or strikeovers. If the pleading must be handwritten, it must be printed legibly in blue or black ink. The use of abbreviations other than those approved by the current edition of The Blue Book Uniform System of Citation is prohibited.

(b) Form of Paper Submissions: For hard copy documents submitted to the court, the paper used must be standard weight, white, and approximately 8 1/2 by 11 inches in size. Unless otherwise specified in these L.B.R., the upper margin of each sheet must be not less than 1/2 inch, the left-hand margin must be not less than one inch, the print size must be no smaller than 12 point font, and the pages must be fastened with a paperclip, not stapled, at the top-left without backs or covers.

(c) Form of Documents Sent for Notice: In the interest of conserving paper, documents sent for notice may use 10 point font and may be printed using “book style” (two pages of text on one side front and back of one piece of paper) so long as it is legible.

(d) Page Limitations: Page limits are set at the discretion of the court. Documents that are longer than twenty (20) pages must include a table of contents and a table of authorities.

(e) Identifying Information: All petitions, pleadings, and other documents must contain:

(1) Attorneys: the business address, telephone number, facsimile transmission (FAX) number and electronic mail (e-mail) address, if any, and attorney registration number of the attorney filing the document; or

(2) Pro Se (Unrepresented) Parties: the home address, the mailing address (if different), telephone number, facsimile transmission (FAX) number and e-mail address, if any.

(f) Attachments: All documents that are exhibits or attachments to a pleading which is being electronically filed at the same time and by the same party must be electronically filed together under one docket number, e.g. the motion, supporting affidavit or other attachments and proposed order.

(g) Copies Generally: The court may, in any matter at any time, request that a copy of a document be submitted to the judge in paper format.

Commentary

[Source: L.B.R. 904]

See L.B.R. 5005-4, L.B.R. 9011-4, L.B.R. 9036-1 and L.B.R. 5005-4App. for additional information on electronic filing, registration and procedures.

Handwritten submissions are strongly discouraged. In the event that a party has no other options, the pleadings must be written in clear and legible print so that the court can easily review and convert the documents to electronic form as necessary.

LOCAL BANKRUPTCY RULE 9004-2 CAPTION – PAPERS, GENERAL

(a) Captions: In addition to meeting the requirements of FED. R. BANKR. P. 1005 and Bankruptcy Official Form 16A, the official caption of all pleadings, documents, notices and orders must state:

(1) the full and correct first, middle, and last names of the debtor. If the debtor has no middle name or if he or she has only a middle initial, that fact must be indicated parenthetically in the caption. If the debtor's name has changed, it should be listed with the new name followed by "f.k.a." ("formerly known as") and the old name;

(2) the chapter of the Bankruptcy Code under which the case is filed;

(3) the debtor's federal employer identification number or the last four digits of the debtor's Social Security number or tax identification number (except that notices of the meeting of creditors that are mailed to creditors must include the debtor's full Social Security number); and

(4) the case number and judge's initials assigned to the proceeding.

(b) Captions in Matters Concerning Relief from the Automatic Stay: All motions, pleadings, and responses thereto filed pursuant to **L.B.R. 4001-1** must bear a caption in substantial conformity with Bankruptcy Official Form 16D, except that the parties must be identified as Movant and Respondent rather than Plaintiff and Defendant. Separate case numbers will not be assigned to such motions.

(c) Responses: Any objection, reply or other responsive pleading must contain as part of its caption a verbatim recital of the title of the pleading to which the response is directed.

Commentary

[Source: L.B.R. 105 and 904]

See L.B.R. 1007-5 for information on Social Security numbers and privacy.

LOCAL BANKRUPTCY RULE 9009-1 FORMS

Forms designated by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these L.B.R. must be in substantial conformity with the applicable Official Form, Director's Procedural Form or Local Bankruptcy Form. Orders issued by the court may vary from the form order depending on the circumstances of each case.

[Source: L.B.R. 909]

LOCAL BANKRUPTCY RULE 9010-1 ATTORNEYS – NOTICE OF APPEARANCE

(a) Attorneys Admitted to the U.S. District Court for the District of Colorado: An attorney admitted and in good standing to practice in the U. S. District Court for the District of Colorado is qualified to practice in this bankruptcy court, subject to the following:

(1) Address of Record: The official address of record for an attorney appearing in a bankruptcy case or proceeding is the address appearing below the signature of said attorney on the petition, complaint, motion, pleading, entry of appearance, change of address or other paper most recently filed in the case or proceeding. This address will appear in the respective case or proceeding in the court's automated docket system database notwithstanding other addresses, if any, which may be of record on behalf of the attorney in other cases or proceedings in which the attorney has made an appearance.

(2) Notice of Change of Address in Each Specific Case or Proceeding: Attorneys must file and serve a separate notice of change of address in each pending case or proceeding in which the attorney has previously entered an appearance.

(3) Local Counsel: Regardless of whether an attorney is admitted to practice in Colorado or in the U.S. District Court for the District of Colorado, when an attorney is located outside of Colorado and does not have an office in Colorado, the court, in its sole discretion, may impose additional requirements for practice before the bankruptcy court, including that such out-of-state counsel retain local counsel qualified to practice before this court.

(b) Attorneys Not Admitted to the U.S. District Court for the District of Colorado (Pro Hac Vice): An attorney who is a member in good standing of the bar in any other state or of any other court of the United States, but not authorized to appear in this court, may, upon motion for admission to practice pro hac vice filed in the bankruptcy court, participate in the conduct of a particular case in this court. Such motions may be made in open court provided that papers are filed within three (3) court days of the hearing. Unless otherwise ordered by the court, the motion will be allowed only if the attorney associates with an active member in good standing of the bar of the United States District Court for the District of Colorado, who maintains an office within the district and who will meaningfully participate in the case. The resident attorney must sign the first pleading filed and at least participate in the initial hearing on the matter or as otherwise ordered by the court. Any notice, pleading, or other paper may be served on the resident attorney with the same effect as if served on the non-resident attorney within the state.

(c) Scope of Employment/Unbundling of Services: See Administrative Order 2007-6 from the United States District Court for the District of Colorado, and any amendments thereto.

(d) Disciplinary Matters: The bankruptcy judges of this court may refer issues relating to professional responsibility or other disciplinary matters to the Disciplinary Panel or Committee on Conduct of the U. S. District Court for the District of Colorado or any other grievance committee of any bar or court of which the attorney in question may be a member.

(e) Representation of a Corporation, Partnership, or Other Unincorporated Organization: No corporation, partnership, or other unincorporated organization may file a petition under Title 11 of the United States Code, or otherwise appear in cases or proceedings before this court, unless it is represented by an attorney authorized to practice in this court. Where a corporate debtor is involved, the attorney representing such an entity must sign the petitions and pleadings.

(f) Entry of Appearance: Attorneys who enter appearances in a case will be placed on the Creditor Address Mailing Matrix for the case as a party in interest and will receive only copies of notices, orders, and other documents to which parties in interest may be entitled pursuant to FED. R. BANKR. P. 2002 or these L.B.R. In order to receive all documents, counsel must also file a request for all notices.

Commentary

[Source: L.B.R. 910]

See D.C.Colo.LCivR 83.3, The Bar Of The Court.

See also U. S. District Court Administrative Order 2007-6, In the Matter of Rules of Professional Conduct.

**LOCAL BANKRUPTCY RULE 9010-3
SUPERVISED LAW STUDENTS**

(a) Generally:

(1) With the approval of the bankruptcy judge to whom a bankruptcy case or adversary proceeding has been assigned, an eligible law student who is engaged in a law school clinical program may, under the supervision of an attorney admitted to practice in this court, appear in that matter on behalf of any party who has consented in writing.

(2) Unless otherwise limited, such appearance authorizes the student to appear in a matter in court or other related proceedings when accompanied by the supervising attorney and to prepare and sign court papers which are also signed by the supervising attorney.

(b) Student Eligibility: To be eligible, the student must:

(1) be enrolled in a law school accredited by the American Bar Association or, following graduation, be preparing to take a written bar examination or awaiting admission to the Bar following that examination;

(2) be enrolled in, or have successfully completed a law school clinical program;

(3) have completed two full semesters of law school, including a course in evidence;

(4) be certified by the law school dean (or the dean's designee) as qualified to provide the legal representation permitted by this rule. This certification may be withdrawn by the certifier at any time by mailing notice to the court;

(5) be introduced to the court by the supervising attorney;

(6) not receive compensation of any kind from the client. This shall not affect the ability or right of an attorney or law school clinical program to seek attorney fees which may include compensation for student services; and

(7) certify in writing that he/she is familiar with the FED. R. CIV. P., Federal Rules of Evidence, FED. R. BANKR. P. and this court's L.B.R. and website (www.cob.uscourts.gov).

(c) Supervising Attorney: The attorney supervising a student must:

(1) be a member in good standing of the bar of this court;

(2) supervise students in a clinical program of an eligible law school;

- (3) maintain appropriate professional liability insurance for the supervising attorney and eligible students;
- (4) introduce the student to the court;
- (5) assume professional responsibility for the student's work;
- (6) be present whenever the student appears;
- (7) sign all pleadings; and
- (8) file a written agreement to supervise a student in accordance with this L.B.R..

(d) Admission Procedure:

- (1) The student, dean (or designee), supervising attorney and the client must complete the Law Student Appearance form, **L.B. Form 9010-3.1**, as found on the court's website which must be filed with the Clerk.
- (2) The student's appearance is not authorized until approved by the bankruptcy judge, which approval may be withheld or withdrawn for any reason without notice or hearing.

Commentary

[Source: GPO 2005-3 which is an adoption of General Order 2005-3 of the U.S. District Court for the District of Colorado.]

**LOCAL BANKRUPTCY RULE 9010-4
ATTORNEYS - WITHDRAWAL**

(a) Withdrawal of Appearance: An attorney who has appeared in a case or proceeding may seek to withdraw on motion showing good cause. Withdrawal is only effective upon court order after proper service of the motion and notice. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the Rules of Professional Conduct. This L.B.R. also applies to substitute counsel.

(b) Notice Requirements for Withdrawal: Any attorney requesting to withdraw as counsel for a client must make a reasonable effort to give actual notice to the client and file a motion pursuant to **L.B.R. 9013-1** including the following:

- (1) the attorney wishes to withdraw;
- (2) the court retains jurisdiction;
- (3) the client's last known address and telephone number;
- (4) the client has the burden of keeping the court informed of the mailing address where notices, pleadings or other papers may be served;

(5) the client has the obligation either to prepare personally for any hearing or trial in a contested matter or adversary proceeding or to hire another attorney to prepare for any future hearing or trial;

(6) the client is responsible for complying with all court orders and time limitations established by any applicable statute, rule, or L.B.R.

(7) if another attorney is not hired, the client has the obligation to decide whether to respond to any motion that may be filed in the case after the withdrawal of counsel, to file a timely response, and to respond to any court orders requiring the client to respond;

(8) if the client fails or refuses to meet these burdens, the client may suffer sanctions, including default or dismissal of the pending contested matter, adversary proceeding, or the client's bankruptcy case in some circumstances;

(9) the dates of any pending matters and filing deadlines, including trials and hearings on contested matters or adversary proceedings, and a warning that such matters will not be delayed or affected by the withdrawal of counsel;

(10) service of process may be made upon the client at the client's address in the court's database;

(11) where the withdrawing attorney's client is a corporation, partnership, or other legal entity, that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity including dismissal or conversion of its case if it is a debtor; and

(12) the client or other parties in interest have the right to object to the proposed withdrawal of counsel by filing with the court an objection to the attorney's motion to withdraw within fourteen (14) days of service of the notice.

(c) Service: The motion to withdraw and notice must be filed with the court and served on the client and all counsel of record.

Commentary

[Source: (1) L.B.R. 910, (2) U.S. District Court Rule 83.3.D. (3) C.R.C.P. Rule 121, Section 1-1]

LOCAL BANKRUPTCY RULE 9011-4 SIGNATURES AND E-FILING

Electronic Signature: Any petition, schedule, statement, declaration, claim, order, opinion, judgment, notice, minutes of proceeding or other document filed and authorized or subscribed

under any method (digital, electronic, scanned) will be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though manually signed or subscribed.

Commentary

[Source: GPO 2001-8, 4th Amended and N.B. Cal. 9011-1]

See L.B.R. 5005-4, L.B.R. 9004-1, L.B.R. 9036-1, L.B.R. 5005-4App and additional ECF Procedures on the court's webpage at www.cob.uscourts.gov.

LOCAL BANKRUPTCY RULE 9013-1 MOTIONS PRACTICE

(a) Seeking Relief:

(1) Motion, Application or Other Request for Relief:

(A) Documents to be Served: When a statute, rule, or court order requires service of a motion or other pleading, service must include copies of the motion, including exhibits, notice and any proposed order.

(B) Service of Documents: Service of the documents in (a)(1)(A) must be made on those parties against whom relief is sought pursuant to FED. R. BANKR. P. 7004 and 9014, or as otherwise required by statute, rule or court order.

(2) Notice: When a statute, rule or court order requires “notice and a hearing” or other similar phrase, the following applies:

(A) Form of Notice: The movant must use the form of notice in substantial conformity with **L.B. Form 9013-1.1**. The notice must contain a specific statement describing the requested relief or intended action to be taken, in sufficient detail to meaningfully inform the parties receiving the notice.

(B) Notice of Deadline to File an Objection and Request for Hearing: The notice must state the specific date of the deadline to object and request a hearing, which must be a date on which the court is scheduled to be open for business, and not just the number of days within which to object. Unless otherwise ordered by the court, the objection deadline date must not be less than is prescribed in the FED. R. BANKR. P. or these L.B.R. If no deadline is provided for in the FED. R. BANKR. P. or the L.B.R., then it must not be less than fourteen (14) days from the date of service.

(C) Notice to All: For notice to all creditors and parties in interest see Creditor Address Mailing Matrix in **L.B.R. 1007-2** and **2002-1**.

(3) Certificate of Service: Movant must use the form of certificate of service in substantial conformity with **L.B. Form 9013-1.2**.

(b) Objections and Requests for Hearing: Objections and requests for hearing must be filed with the court and a copy thereof must be served upon counsel for the movant (or movant, if unrepresented) on or before the objection deadline set forth in the notice. Objections and requests for hearing must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. General objections will not be considered. Failure of the responding party to timely file a written opposition may be deemed a waiver of any opposition to granting of the motion, the relief requested, or the action to be taken.

(c) Certificates Requesting Court Action:

(1) Movant's Certificate of Non-Contested Matter: In the event that no objection is filed or a stipulation has been reached, the movant should, not earlier than three (3) court days following the objection deadline set forth in the notice, file movant's Certificate of Non-Contested Matter and Request for Entry of Order, **L.B. Form 9013-1.3**. The Certificate of Non-Contested Matter must be verified by the movant, or movant's counsel, and include all information and docket numbers required by **L.B. Form 9013-1.3**.

(2) Movant's Certificate of Contested Matter: In the event that an objection is filed, the movant **should**, not earlier than three (3) court days following the date to object specified in the notice, file movant's Certificate of Contested Matter and Request for Hearing, **L.B. Form 9013-1.4**. The Certificate of Contested Matter must be verified by counsel and include all information and docket numbers required by **L.B. Form 9013-1.4**. A copy of the Certificate of Contested Matter must be served on each respondent.

(3) Respondent's Certificate of Contested Matter: Although the movant bears the burden of timely filing a Certificate of Contested Matter, the respondent may, not earlier than seven (7) days following the date to object specified in the notice, file respondent's Certificate of Contested Matter and Request for Hearing, **L.B. Form 9013-1.4**. The Certificate of Contested Matter must include all information and docket numbers required by **L.B. Form 9013-1.4**. A copy of the Certificate of Contested Matter must be served on the movant and any other respondent.

(d) Hearing:

(1) Hearing: Upon the filing of the Certificate of Contested Matter, the court will issue a notice of the date, time and place of the hearing. The notice will be served by the court to the movant and respondents at their addresses or their attorneys' addresses of record (either by U.S. mail or electronically) and to such other parties as the court may designate.

(2) Evidentiary or Non-Evidentiary Hearing: The notice of hearing will advise the parties whether the hearing will be an evidentiary or non-evidentiary hearing.

(3) Expedited Hearings: Motions for expedited hearings may be filed pursuant to FED. R. BANKR. P. 9006(c) and **L.B.R. 2081-1**. Such requests must be filed as its own motion.

(e) Service:

(1) Service by Mail: The time limits established in these L.B.R. contemplate that, unless otherwise ordered, service of all documents governed by these rules will be accomplished by first class mail.

(f) Defective or Deficient Motion: Failure to comply with the motion, notice and service requirements of the FED. R. BANKR. P. or these L.B.R. may result in the denial of your motion, application or other request for relief.

(g) Non-Prosecuted Motions: Any contested matter unresolved at the time the bankruptcy case is closed is moot and will be deemed denied for lack of prosecution. Any such denial is without prejudice.

Commentary

This process is strictly a mechanism for providing an opportunity to be heard without requiring the court to unnecessarily calendar all motions and applications for a hearing. Parties must read this L.B.R. in conjunction with other applicable Code sections and FED. R. BANKR. P. to address the questions of (1) whom to serve; (2) with what; (3) in what manner; and (4) the amount of time afforded to file an objection. Parties are advised to be mindful of the distinction between notice (as may be required by FED. R. BANKR. P. 2002 and other notice provisions) and service (as may be required by FED. R. BANKR. P. 9014 incorporating FED. R. BANKR. P. 7004).

See also **L.B.R. 1007-2** and **L.B.R. 1007-2App** for more information on the Creditor Address Mailing Matrix.

This Rule Does Not Apply:

- (1) to any pleadings, motions, or notices in adversary proceedings under Part VII of the FED. R. BANKR. P.;
- (2) to hearings set under 11 U.S.C. § 1125;
- (3) to hearings on confirmation of a plan pursuant to chapter 9, 11, 12, or 13 when no objections have been filed; and
- (4) as otherwise provided by these L.B.R. or the FED. R. BANKR. P.

The summary of issues in the Certificate of Contested Matter is intended to identify the nature of the pending dispute(s) and aid the court in setting the hearing time.

Movant should refer to **L.B.R. 7007-1** for motions filed in an adversary proceeding.

[Source: L.B.R. 202 and new]

LOCAL BANKRUPTCY RULE 9013-2 CERTIFICATE OF SERVICE - MOTIONS

When a statute, rule or order requires a party to serve a pleading, the party must file a certificate of service specifically identifying who was served, when they were served and the method of service. The certificate of service must be filed within three (3) days of the filing of the pleading and must be in substantial conformity with [L.B. Form 9013-1.3](#).

Commentary

[Source: New]

See L.B.R. 9001-1 for definition of certificate of service.

See also L.B.R. 2081-2 for information on service and motions to limit notice in chapter 11 cases.

LOCAL BANKRUPTCY RULE 9014-1 CONTESTED MATTERS

Unless otherwise provided for in the FED. R. BANKR. P., these L.B.R., or court order, the notice required under FED. R. BANKR. P. 9014 must be served with the motion pursuant to [L.B.R. 9013-1](#) and in substantial conformity with [L.B. Form 9013-1.1](#).

Commentary

[Source: L.B.R. 914 and New. L.B.R. 9014-1 added on 5/29/08]

LOCAL BANKRUPTCY RULE 9019-2 ALTERNATIVE DISPUTE RESOLUTION

(a) Assignment of Matters to Mediation: The court may refer a matter to mediation *sua sponte*, upon written stipulation by the parties to the matter, upon motion by a party to the matter, or upon motion by the United States Trustee. Participation by the parties in mediation is voluntary, however, the court in its discretion may order any party or party in interest to participate.

(b) Matters Subject to Mediation: Unless otherwise ordered by the court, all controversies arising in cases under title 11, U.S.C., adversary proceedings, contested matters and any other disputes in bankruptcy cases are eligible for referral to mediation.

(c) Deadlines: Unless otherwise ordered by the court, the referral of a matter to mediation does not operate to stay, postpone or extend any deadlines for taking any action required or allowed by law, court order or applicable rule.

(d) Confidentiality; Nondisclosure:

(1) Protection of Information: Unless as otherwise agreed by the parties or ordered by the court, all parties to the mediation and the mediator are prohibited from disclosing or producing in any manner, outside the context of the mediation, any oral or written information related to the mediation. Federal Rule of Evidence 408 governing compromises and offers to compromise, and any other applicable law relating to the privileged and confidential nature of settlement discussions, apply to the mediation. Notwithstanding the confidentiality of the mediation, information otherwise discoverable or admissible as evidence does not become exempt from discovery or inadmissible merely because it may be disclosed in and related to the mediation.

(2) Discovery from Mediator: The mediator shall not be compelled by the court, the parties or any person or entity to disclose or produce any written or oral information received or compiled while serving as a mediator in a matter. The mediator shall not testify or be compelled to testify concerning the mediation in any proceeding of any nature. Any party or entity demanding or seeking to compel the mediator to disclose or testify to matters subject to this L.B.R. are liable to the mediator for the mediator's reasonable costs and attorneys' fees in resisting such demands.

(e) Report of Mediation: As soon as practicable after the conclusion of the mediation, the mediator must file with the court a Report of Mediation, advising only:

- (1) the date(s) that the parties conducted the mediation;
- (2) the parties in attendance at the mediation; and
- (3) whether the parties resolved the matter.

No other information must be disclosed in the Report of Mediation.

(f) Termination of Mediation: The mediation will terminate upon the earlier of:

- (1) the filing of the mediator's Report of Mediation; or
- (2) entry of a court order withdrawing the referral of the matter to mediation.

(g) Noncompliance; Sanctions: A party's failure to comply with the provisions of this L.B.R. may result in the imposition of appropriate sanctions by the court against such party, or counsel for such party, or both.

Commentary

[Source: L.B.R. 919 and Faculty of Federal Advocates]

Litigation in bankruptcy cases frequently imposes economic burdens on parties and may delay the resolution of disputes. Alternative dispute resolution, including mediation, often reduces the costs and associated burdens of litigating disputed issues in bankruptcy cases and facilitates settlements. The purpose of this L.B.R. is to allow parties a means of submitting disputed issues

in bankruptcy cases, including contested matters and adversary proceedings, to mediation. Mediation as contemplated by this L.B.R. is not administered by the court, but the parties and mediators remain subject to court supervision and all applicable rules and court orders in the case. Mediation is just one form of alternative dispute resolution and the decision to engage in, or refrain from mediation does not preclude any other form of alternative dispute resolution to which the parties in a case may agree.

LOCAL BANKRUPTCY RULE 9023-1
SERVICE OF MOTION TO ALTER OR AMEND JUDGMENT

Service of a motion to alter or amend a judgment filed pursuant to FED. R. BANKR. P. 9023 must be on all parties to whom the judgment and final order was mailed pursuant to FED. R. BANKR. P. 9022(a). Responses are due within fourteen (14) days of service of the motion.

Commentary

[Source: L.B.R. 923]

LOCAL BANKRUPTCY RULE 9024-1
SERVICE OF MOTION FOR RELIEF FROM JUDGMENT OR ORDER

Service of a motion for relief from judgment or order filed pursuant to FED. R. BANKR. P. 9024 must be on all parties to whom the judgment and final order was mailed pursuant to FED. R. BANKR. P. 9022(a). Responses are due within fourteen (14) days of service of the motion.

Commentary

[Source: New]

LOCAL BANKRUPTCY RULE 9025-1
BONDS

(a) A party, the spouse of a party, or an attorney in a case will not be accepted as a personal surety on any bond filed in that case.

(b) Where the surety on a bond is a surety company approved by the United States Department of Treasury, a power of attorney showing the authority of the agent signing the bond must be on file with the Clerk.

Commentary

[Source: L.B.R. 925]

See the website for the United States Department of Treasury at www.ustreas.gov for a list of approved companies.

LOCAL BANKRUPTCY RULE 9029-1
LOCAL BANKRUPTCY RULES AND PROCEDURES

(a) Modification of Rules and Procedures: Any of these L.B.R., Standing Orders or General Procedure Orders may, for good and compelling cause shown, be subject to such modification as may be necessary to meet a bona fide emergency, to avoid irreparable injury or harm, or as may otherwise be necessary to do substantial justice and promote appropriate case administration.

Commentary

[Source: L.B.R. 929]

LOCAL BANKRUPTCY RULE 9036-1
NOTICE BY ELECTRONIC TRANSMISSION

(a) Registration Constitutes Waiver of Service/Notice by Traditional Methods From the Court: The request for and receipt of an electronic filing password from the court constitutes a request for electronic service pursuant to FED. R. BANKR. P. 9036 of all notices, orders, decrees and judgments *issued by the court*, and except as otherwise provided in the ECF Administrative Procedures, a waiver of the right to receive notice and service *from the court by mail*. Electronic filers will receive electronic notification of notices, orders, decrees and judgments in cases where they enter their appearance. Registration does not constitute waiver of the right to personal service or service by first class mail from other parties in the case. Registration does not constitute consent to electronic service/notice from other parties in the case.

(b) Case Specific Consent to Electronic Service/Notice From Other Parties: An electronic filer may file a specific waiver of the right to personal service or first class mail and consent to electronic service/notice from other parties in each case pursuant to FED. R. BANK. P. 9036. Whenever service is required to be made on a person who has filed a case specific waiver/consent, service and notice must be accomplished by electronic mail to the e-mail address on file with the court. Any notice sent via e-mail from a party other than the court must contain “Notice of Pleadings” in the subject or “re” line. The certificate of service must contain the email addresses and name(s) of the person(s) to whom electronic service was affected.

Commentary

[Source: GPO 2001-8, attachment II.C.]

See L.B.R. 5005-4, L.B.R. 9011-4, L.B.R. 5005-4App and additional ECF Procedures on the court’s webpage at www.cob.uscourts.gov.

Those parties who are registered electronic filers are not entitled to and will not receive hard copies from the court.

The electronic case filing system automatically generates a “Notice of Electronic Filing” at the time a document is filed with the system. The notice indicates the time of filing, the name of the

party and electronic filer filing the document, the type of document, and the text of the docket entry. It also contains an electronic link (hyperlink) to the filed document, allowing anyone receiving the notice by e-mail to retrieve the document automatically. The system automatically sends this notice to all electronic filers participating in the case.

See FED. R. CIV. P. 5(b)(2)(E) and FED. R. BANKR. P. 7005 for electronic service in adversary proceedings.

LOCAL BANKRUPTCY RULE 9070-1 WITNESSES & EXHIBITS

(a) Witnesses and Exhibits: Unless otherwise set forth in a notice of hearing or trial or otherwise ordered by the court, the following requirements regarding witnesses and exhibits apply in all evidentiary hearings and adversary proceedings.

(1) Filing Requirement:

(A) List of Witnesses and Exhibits: Parties intending to introduce evidence at any contested hearing must file a list of witnesses and exhibits no later than three (3) days prior to the hearing. Any list of witnesses and exhibits must be in substantial conformity with **L.B. Form 9070-1.1**.

(B) Exhibits: Copies of the exhibits must be exchanged with opposing counsel, but not filed with the court, no later than three (3) days prior to the hearing.

(2) Hearing Requirements:

(A) List of Witnesses and Exhibits: Parties must provide three (3) copies of the witness and exhibit lists to the Law Clerk or Courtroom Deputy and one (1) copy to each opposing counsel or party.

(B) Exhibits and Exhibit Notebooks: Parties must provide the original plus two (2) copies of the exhibits intended to be offered at the hearing to the Law Clerk or Courtroom Deputy and one (1) copy to each opposing counsel or party. Parties granted permission to appear by telephone must file such documents. Original exhibits are to be used by the witnesses. Each exhibit must be individually marked for identification prior to the trial or hearing. Multi-page exhibits must be individually paginated/numerated for ease of reference. Exhibits should be placed in a binder and indexed substantially in the form of **L.B. Form 9070-1.1**.

(C) Marking of Exhibits: Exhibits must be marked for identification as follows:

- (i) Plaintiff, Movant or Claimant: numbers (1, 2, 3...)

(ii) Defendant, Respondent or Objector: letters (A, B, C... Y, Z, AA, BB, ... YY, ZZ, AAA, etc.)

(iii) In the event there are multiple plaintiffs, movants, defendants, or objectors, designate exhibits by name as well as by numbers or letters.

(3) Post-Hearing Requirements: Upon the conclusion of a trial or hearing, counsel for the parties must retain custody of their respective original exhibits and deposition transcripts until such time as all need for the exhibits and deposition transcripts has terminated and the time for appeal has expired, or all appellate proceedings have been terminated, plus 60 days. In the event an appeal is filed, counsel must return their respective exhibits to the Clerk as directed, in the same form and manner as the exhibits were tendered and used at trial to enable the Clerk to comply with the requirements of L.B.R. 8006-1.

Commentary

[Source: New]

See L.B.R. 5007-1, Transcripts.

