

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA**

**PUBLIC NOTICE**

**INVITATION FOR COMMENT ON:**

1. AMENDMENTS TO LOCAL BANKRUPTCY RULES 1006-1, 1007-1, 1007-3, 1017-2, 2003-1, 2004-1, 2016-1, 3007-1, 3011-1, 3015-1, 3015-2, 4001(a)-1, 5005-1, 5010-1, 6004-2, 6007-1, 6008-1, 7056-1, 9010-1 AND 9013-1,
2. NEW LOCAL BANKRUPTCY RULE 3002.1.
3. AMENDMENTS TO:
  - A. EXHIBIT 7 – MOTIONS PRACTICE AND PROCEDURES GUIDELINES; MOTIONS FOR RELIEF FROM STAY; AND
  - B. EXHIBIT 13 – (E) INTERIM PROCEDURE 3016-1: CHAPTER 11 PLAN REQUIREMENTS.
  - C. NEW EXHIBIT 17 – CHAPTER 13 FORM OF NOTICE OF FINAL CURE PAYMENT.
  - D. AMENDED LOCAL BANKRUPTCY RULE 9013-1(H)(1) NEW NEGATIVE NOTICE LIST.

Comments may be submitted, by mail, to:

Local Rules Changes  
c/o William C. Redden  
U.S. Bankruptcy Court  
701 East Broad Street Suite 4000  
Richmond, VA 23219-1888  
or, by email, at  
[localrules@vaeb.uscourts.gov](mailto:localrules@vaeb.uscourts.gov)

Comments will be received by mail or at the Court's website until 5:00 P.M., local time, June 30, 2023.

William C. Redden  
Clerk of Court

Date: June 1, 2023

Attachment

**UNITED STATES BANKRUPTCY COURT  
FOR THE  
EASTERN DISTRICT OF VIRGINIA**

**AMENDMENTS TO LOCAL BANKRUPTCY RULES 1006-1,  
1007-1, 1007-3, 1017-2, 2003-1, 2004-1, 2016-1, 3007-1, 3011-1, 3015-  
1, 3015-2, 4001(a)-1, 5005-1, 5010-1, 6004-2, 6007-1, 6008-1, 7056-1,  
9010-1 AND 9013-1,**

**NEW LOCAL BANKRUPTCY RULE 3002.1**

**AMENDMENTS TO EXHIBIT 7 – MOTIONS PRACTICE  
AND PROCEDURES GUIDELINES; MOTIONS FOR RELIEF  
FROM STAY; AND EXHIBIT 13 – (E) INTERIM  
PROCEDURE 3016-1: CHAPTER 11 PLAN REQUIREMENTS**

**NEW EXHIBIT 17 – CHAPTER 13 FORM OF NOTICE OF  
FINAL CURE PAYMENT**

**AND**

**AMENDED LOCAL BANKRUPTCY RULE 9013-1(H)(1)  
NEW NEGATIVE NOTICE LIST**



**Effective: \_\_\_\_ \_\_, 2023**

**(Draft Ver. 05/31/2023)**

**RULE 1006-1 FEES: INSTALLMENT PAYMENTS, NONPAYMENT, WAIVER,  
REFUNDS**

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(C)(1) **Nonpayment:** If a petition, complaint or other document is not accompanied by the proper filing fee or, if applicable, an application as set forth in paragraph (A) or (B) of this Local Bankruptcy Rule, the Clerk shall give notice to cure the filing fee deficiency by the close of business on the next day after the notice to cure is given. The Clerk may provide such notice by mail or by e-mail if the Debtor has elected to receive notices through the Court's Debtor Electronic Bankruptcy Noticing system. The notice period shall commence for mailed notices 3 days after the notice is mailed and for e-mailed notice when the notice is e-mailed. The Clerk shall reject any partial payment of any fee.

(a) Petition. The Clerk's notice shall provide that the debtor either must (a) timely cure the filing fee deficiency or (ii) ~~timely file a response and attend a hearing to explain why the petition should not be dismissed, unless excused by the Court or the Court deems the filing fee deficiency cured and cancels the hearing.~~

(b) Complaint or Other Document. Unless the fee is paid or the party requests a hearing on the matter by the close of business on the next day after the notice to cure is given, the Clerk shall dismiss the complaint or strike the pleading or other document without further notice.

(c) Installment Payment. If a debtor fails to pay timely any filing fee installment payment pursuant to an Order on Debtor's Application to Have the Chapter 7 Filing Fee Waived or Order Approving Payment of Filing Fee in Installments, the Clerk shall issue a notice providing that the debtor either must (i) cure the filing fee installment payment deficiency by the close of business on the next day after the notice to cure is given or (ii) ~~timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the filing fee installment payment deficiency cured and cancels the hearing.~~

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**RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS**

(A) **Possible Dismissal of Case:** In any case in which lists, schedules and statements are not filed at the time of the filing of a voluntary petition, the Clerk shall give notice to cure the deficiency. The Clerk's notice shall provide that the debtor either must (1) file the lists, schedules and statements or a motion to extend time for the same within 14 days after the filing of the petition, or (2) ~~timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.~~

(B) ~~**Motion to Extend**~~ **Extension of Time to File Lists, Schedules and Statements:** ~~Such~~ A motion to extend time for filing lists, schedules and statements may be granted by the Clerk to a

date no later than 7 days prior to the scheduled meeting of creditors if the motion is filed before the initial due date to file the document(s) has expired and is shall be accompanied by a proof of service evidencing notice to the United States trustee, any appointed trustee, any official committee appointed in the case and all creditors. If there are more than 30 creditors in the case, the debtor need only provide notice of the motion to extend time to the 10 largest secured creditors, the 20 largest unsecured creditors and any official committee appointed in the case. The motion to extend time shall give notice that parties objecting to the extension of time shall file written objections with the Court within 7 days after service of the motion by the debtor.

~~(C) **Order Extending Time:** If no objection to the motion to extend the time for filing is timely filed with the Court, the Clerk shall enter an order extending time for filing to not later than the seventh day prior to the scheduled meeting of creditors. The Clerk's order shall further provide that the debtor either must (1) file the lists, schedules and statements or further motion to extend time for the same by the date set forth therein; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.~~

~~(D) **Objections -- Determination:** If an objection is filed to ~~the~~ a motion for extension of time filed pursuant to paragraph (B) of this Local Rule prior to the entry of an order by the Clerk, the Clerk shall submit the motion and objections to the Court for determination of the motion.~~

~~(E) **Hearing on Further Motions for Extension of Time Requiring a Hearing:** Any debtor requesting an A motion for extension of time to file lists, schedules, and statements ~~and other documents~~ that is filed after the due date for the document(s) has expired or that seeks an extension of time to a date less than 7 days prior to the scheduled meeting of creditors must be scheduled for hearing in accordance with LBR 9013-1 and notice must be given request a hearing date and give notice to parties as set forth in paragraph (B) of this Local Bankruptcy Rule and file a proof of service with the motion to extend time.~~

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~~(H)(1) **List of Creditors, Statement of Social Security Number, and Payment Advices or Other Evidence of Payment**~~

(1) **Filing:** The debtor shall file with the petition a list containing the name and address of each creditor which shall serve as a mailing matrix; provided, however, nothing shall prevent the debtor from seeking court authority to file such list under seal to protect individuals against potential identity theft, or other cause. If not filed via the Electronic Case Files System, the mailing matrix shall be submitted on a flash drive in the format specified by the Clerk. The mailing matrix shall suffice for the list of creditors referred to in FRBP 1007(a). As required under FRBP 1007(f), the debtor shall submit a verified statement that sets out the debtor's social security number (statement of social security number), or states that the debtor does not have a social security number. If not filed via the Electronic Case Files System, the debtor shall submit the statement with the petition.

(2) **Possible Dismissal of Case; Notice**

(a) In any case in which the list of creditors is not filed at the time of the filing of the voluntary petition, the Clerk shall issue a notice that the debtor either must (i) file the same in the required format not later than 3 days after the filing of the petition; or (ii) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

(b) In any case in which the statement of social security number in a voluntary case is not submitted at the time of the filing of the voluntary petition, the Clerk shall issue a notice that the debtor either must (i) submit the statement in the required format not later than 3 days after the filing of the petition; or (ii) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

(3) **Waiver:** An exception to the requirement of submission of creditors on a flash drive will be considered by the Court only upon submission of a waiver request filed with the petition. The form shall be provided by the Clerk upon request. In addition to the waiver request, the debtor shall file the list of creditors in the scannable format specified by the Clerk. If the Court denies the request, the Clerk shall issue a notice that the request has been denied. The notice shall further provide that the debtor either must (a) submit the list of creditors on a flash drive not later than 3 days after the Clerk's notification that the request has been denied; or (b) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

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**(1) Individual Debtor's Statement of Compliance with Credit Counseling Requirement**

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(2) **Possible Dismissal of Case; Notice:** In any case in which a properly completed statement of compliance referenced in paragraph (I)(1) of this Local Bankruptcy Rule, together with attached documents as specified therein, is not filed at the time of the filing of the voluntary petition, the Clerk shall issue a notice that the debtor either must (a) file the same not later than 3 days after the filing of the petition; or (b) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing. Unless the Court orders otherwise, if the debtor has filed a statement under FRBP 1007(b)(3)(B), but does not file the documents required by FRBP 1007(b)(3)(A), the Clerk shall issue a notice that the debtor either must (a) file the same within 14 days of the order for relief; or (b) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing. The Clerk shall give notice of this Local Bankruptcy Rule to the debtor or debtor's counsel who files a petition not accompanied by the required statement of compliance with credit counseling requirement referenced in paragraph (I)(1) of this Local Bankruptcy Rule.

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### RULE 1007-3 STATEMENT OF INTENTION

(A) ***Possible Dismissal of Case; Notice:*** Except as provided in 11 U.S.C. § 521(a)(2)(A), the Clerk shall monitor the filing of a Statement of Intention. If the Statement of Intention is not filed with the chapter 7 voluntary petition, the Clerk shall issue a notice that the debtor either must (1) file the Statement of Intention or a motion to extend the time for filing the same within 30 days after the filing of the petition, or on or before the date of the meeting of creditors, whichever is earlier; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

(B) ***Motion to Extend Extension of Time to File Statement of Intention:*** A motion to extend time for filing a Statement of Intention may be granted by the Clerk to a date no later than 14 days after the scheduled meeting of creditors if the motion is filed before the initial due date to file the Statement of Intention has expired and is shall be accompanied by proof of service evidencing service on the United States trustee, any appointed trustee, and all affected secured creditors. ~~The motion to extend time shall state that any party objecting to the extension of time must file a written objection with the Clerk within 7 days after service of the motion.~~

(C) ***Order Extending Time:*** ~~Where no objections to the aforesaid motion are timely filed, the Clerk shall enter an order extending time for filing to 14 days after the scheduled meeting of creditors. The Clerk's order shall further provide that the debtor either must (1) file the Statement of Intention or further motion to extend time for the same by the date set forth therein; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.~~

(D) ***Hearing on Further Motions for Extension of Time Requiring a Hearing:*** ~~Any debtor requesting an~~ A motion for extension of time to file the Statement of Intention that is filed after the due date to file the Statement of Intention has expired or that seeks an extension of time of more than 14 days after the scheduled meeting of creditors must be scheduled for request a hearing in accordance with LBR 9013-1 date and give notice must be given to parties as set out in 11 U.S.C. § 521(a)(2)(A) and file proof of service with the motion to extend time.

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### RULE 1017-2 VOLUNTARY DISMISSAL OF CHAPTER 13 CASES

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(C) ***Notice:*** The notice of the motion to dismiss shall contain language substantially in accordance with Official Form 420A, "NOTICE OF MOTION," and setting forth substantially the following using bold print and capitalized text:

## NOTICE

**UNDER LOCAL BANKRUPTCY RULE 1017-2, UNLESS A WRITTEN RESPONSE IN OPPOSITION TO THIS MOTION IS FILED WITH THE CLERK OF COURT AND SERVED ON THE DEBTOR(S) WITHIN 7 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, THE COURT MAY DEEM ANY OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE RELIEF REQUESTED WITHOUT FURTHER NOTICE OR HEARING.**

~~Under Local Bankruptcy Rule 1017-2, unless a written response to this motion is filed with the Clerk of Court and served on the debtor(s) within 7 days from the date of service of this motion objecting to the relief requested, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.~~

(D) *Requirement of Written Response*: If no response in opposition is filed and served in accordance with paragraph (C) of this Local Bankruptcy Rule, the Court, in its discretion, may enter an order dismissing the case without holding a hearing. If a response in opposition is timely filed, the debtor shall ~~obtain from the Court~~ select a hearing date ~~on the motion to dismiss and shall serve notice of the hearing on the respondent, the chapter 13 trustee, and the United States trustee, and all creditors and parties in interest. Unless otherwise ordered by the Court, the debtor shall serve such notice of hearing not less than 7 days before the hearing.~~

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### RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

(A) *Policy*: [Repealed]

(B) *Possible Dismissal for Failure to Appear*

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(4) *Rescheduled Meeting of Creditors; Notice*: If the order dismissing the case is subsequently vacated by the Court, ~~the Court will then the attorney for the debtor(s), or the debtor(s), if pro se, shall forthwith obtain from the judge assigned to the case or the Clerk assign a new date and time for a rescheduled meeting of creditors. The order vacating the prior dismissal of the case will~~ Within 7 days of obtaining a new date and time for a rescheduled meeting of creditors, the attorney for the debtor(s), or the debtor(s), if pro se, shall serve constitute proper written notice to all creditors and other parties in interest of the rescheduled meeting of creditors pursuant to this rule and file proof of service with the Clerk. Notice shall be given in the form approved by the Clerk.

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### RULE 2004-1 EXAMINATION

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(B) **Objections:** Parties shall have 7 days from the date of service to object to the motion.

(1) If an objection is filed, the movant shall select request from the Court a hearing date, transmit the notice of hearing to all parties in interest, and file the notice and proof of service with the Clerk.

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### RULE 2016-1 COMPENSATION OF PROFESSIONALS

(A) **Interim Compensation:** For applications seeking in excess of the amount specified in the “Adjustment of Dollar Amounts” statement published and updated periodically by the Clerk, as approved by the Court, ~~t~~The party seeking interim compensation or reimbursement for services under FRBP 2016 shall ~~obtain~~ select a hearing date ~~from the Court~~ and shall give notice as required in FRBP 2002(a)(6) and 2002(c)(2). The party shall file with the Court proof of service evidencing proper notice of the scheduled hearing.

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### RULE 3002.1 CLAIMS IN CHAPTER 13 CASES SECURED BY THE SECURITY INTEREST IN A DEBTOR’S PRINCIPAL RESIDENCE (NEW)

(A) **Debtor’s Certification:** In any chapter 13 case (1) that involves any claim that is secured by a security interest in the debtor’s principal residence for which the plan provides that either the trustee or debtor will make contractual installment payments and (2) where there is no order terminating or annulling the automatic stay related to such claim, the debtor(s) shall file, within 30 days of completion of the plan payments due under the terms of any confirmed plan, a certification as to whether all contractual installment payments due during the life of the case have been made. If the debtor fails to timely file a certification, the standing trustee shall file a motion to dismiss.

(B) **Hearing on Response to Notice of Final Cure Payment:** The standing trustee shall file, pursuant to FRBP 3002.1(f), a Notice of Final Cure Payment, a sample of which is an exhibit to these Local Rules, as Exhibit 17. If, within 21 days of the service of the Notice of Final Cure Payment, the creditor files and serves a statement pursuant to FRBP 3002.1(g) indicating either (1) the debtor has not paid in full the amount required to cure the default on the claim or (2) the debtor is not otherwise current on all payments consistent with 11 U.S.C. §1322(b)(5), then the debtor, if represented by counsel, shall set the matter for hearing in the ordinary course. If the debtor is not represented by counsel, the standing trustee shall set the matter for hearing in the ordinary course.

(1) If a debtor, who is represented by counsel, fails to file a notice of hearing as contemplated by this Local Rule within 30 days after a creditor’s response is filed, the Court may consider whether a reduction of the approved amount of attorney’s fees is appropriate upon motion by the standing trustee.



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## RULE 3007-1 OBJECTIONS TO CLAIMS

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(B) ***How Objection Heard:*** A hearing on an objection to claim is not required unless the creditor files a response or requests a hearing. If the creditor serves and files a timely response in opposition or request for a hearing, it is the responsibility of the objecting party to set a hearing for a date that is at least 14 days after the expiration of the response period set forth in subparagraph (D) and An objection to a proof of claim may be noticed for a hearing date obtained from the Clerk or may be accompanied by a notice providing opportunity for the creditor to request a hearing. If the notice of opportunity to request a hearing procedure is used, and the creditor serves and files a timely request for a hearing, it is the responsibility of the objecting party to obtain a hearing date from the clerk and give notice to the creditor of the hearing date, time, and location. In any Division which has a regular motions day practice, the objection may be made returnable to a motions day in compliance with the motions day practice in that Division. The hearing date must be selected from the assigned Judge's hearing dates webpage located on the Court's website based upon the type of motion and operating chapter of the bankruptcy case.

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(D) ***Requirement of Written Response:*** A creditor served with an objection to claim shall file and serve on the objecting party, a response thereto within 30 days of service ~~if a notice of opportunity to request a hearing is given, or 7 days prior to the hearing if the objection is accompanied by a notice of hearing.~~ If no response is filed, the court may treat the objection as conceded, and may enter an order without holding a hearing disallowing the claim in whole or part as set forth in the objection to claim.

(E) ***Notice:*** Each objection to claim, whether set to request a hearing or accompanied by notice of opportunity for hearing, shall contain or be accompanied by the following notice substantially in accordance with Official Form 420B, "NOTICE OF OBJECTION TO CLAIM", and also providing notice to the creditor in substantially the following form, using bold print and capitalized text:

### NOTICE

**UNDER LOCAL BANKRUPTCY RULE 3007-1, UNLESS A WRITTEN RESPONSE IN OPPOSITION AND A REQUEST FOR HEARING ON THIS OBJECTION ARE FILED WITH THE CLERK OF THE COURT AND SERVED ON THE OBJECTING PARTY AND THE TRUSTEE WITHIN 30 DAYS OF THE SERVICE OF THIS OBJECTION, THE COURT MAY DEEM ANY OPPOSITION WAIVED, TREAT THE OBJECTION AS CONCEDED, AND ENTER AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT A HEARING.**

## RULE 3011-1 UNCLAIMED FUNDS

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(G) ***Entry of an Order by the Court:*** After 21 days has elapsed, if the Application has been properly served and there are no Objections, the Court may enter an Order directing the Clerk to disburse the funds. ~~If any Objections are filed within the 21-day period, the Clerk will set the Application for a hearing.~~ The Court retains the discretion to set any Application for a hearing whether or not an Objection has been filed. The Clerk will disburse the funds upon the expiration of the 14-day appeal period following the entry of an Order directing the disbursement of unclaimed funds.

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## RULE 3015-1 CHAPTER 12 PLAN REQUIREMENTS

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(G) ***Possible Dismissal of Case; Notice:*** The Clerk is to monitor the filing of chapter 12 plans. If the debtor does not file a plan with the chapter 12 petition, the Clerk shall issue a notice that the debtor either must (1) file the chapter 12 plan or a motion to extend time to file a plan within 90 days after filing the chapter 12 petition; or (2) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

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## RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

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### (C) ***Filing of Original Chapter 13 Plan and Related Motions***

- (1) ***Possible Dismissal of Case; Notice:*** The Chapter 13 Plan and Related Motions and any special notice to secured creditors required by this rule shall be filed with the Clerk not later than 14 days after the commencement of the case if the case was originally filed under chapter 13 or 14 days after the order converting the case to chapter 13 from some other chapter. If the same is not filed on the date of commencement of the case or the date of entry of the conversion order, the Clerk shall issue a notice that the debtor either must (a) timely file a plan or a motion to extend time to file a plan in accordance with this subparagraph; or (b) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

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**(3) Extension of Time to File Chapter 13 Plan and Related Motions**

(a) A motion to extend the time to file a Chapter 13 Plan and Related Motions may be granted by the Clerk for an additional 14 days, if

(i) the motion for extension has been filed before the initial due date has expired and

(ii) notice of the motion has been given by the debtor to the trustee and all creditors.

(b) The Clerk's order shall provide that the debtor either must (i) file the Chapter 13 Plan and Related Motions or further motion to extend time for the same by the date set forth therein; or (ii) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

(c) Any motion that is filed after the due date or that seeks an extension of time beyond the dates specified in subparagraph (C)(3)(a) of this Local Bankruptcy Rule shall be noticed for a hearing before the judge assigned to the case.

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**(F) Modified Chapter 13 Plan and Related Motions**

**(1) Procedure where no plan has been confirmed**

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**(c) Objections to Confirmation of Modified Chapter 13 Plan and Related Motions:** If a modified Chapter 13 Plan and Related Motions is filed, any objections must be filed not later than 7 days prior to the date set for the confirmation hearing. The debtor must ~~obtain~~ select a new confirmation hearing date ~~from the Clerk and must~~ include the new date, time and location on the first page of the form of Chapter 13 Plan and Related Motions. The new confirmation hearing date shall not be earlier than the date originally set for the confirmation of the original plan filed in the case and must allow at least 35 days' notice. The debtor shall give notice of the date, time and place of the confirmation hearing by serving a copy of the modified plan on the trustee and all creditors.

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**(2) Procedure when a plan has been confirmed**

**(a) When modification is requested by the trustee or a creditor:** If modification of a confirmed plan is sought by the trustee or by a creditor, the modification must be requested by motion. A hearing date shall be selected by the movant ~~obtained~~

~~from the Clerk~~, and at least 21 days' notice of the hearing shall be given to the debtor, debtor's counsel, the trustee (if the trustee is not the movant) and all creditors. The time for filing any response is governed by LBR 9013-1(HG)(3).

(b) *When modification is requested by the debtor:* If modification of a confirmed plan is sought by the debtor, modification must be requested by filing and distributing a modified Chapter 13 Plan and Related Motions and by giving special notice required by paragraph (B) of this Local Bankruptcy Rule. The special notice required by paragraph (B) of this Local Bankruptcy Rule need not be given, however, if a Chapter 13 Plan and Related Motions has previously been confirmed providing the identical treatment of the secured creditor's claim. The debtor must ~~obtain~~ select a new confirmation hearing date ~~from the Clerk, which~~ The new confirmation hearing date must allow at least 35 days' notice. The debtor shall give notice of the date, time and place of the confirmation hearing as set forth on the first page of the form of Chapter 13 Plan and Related Motions by serving a copy of the modified plan on the trustee and all creditors. Any objection to the modified plan must be filed not later than 7 days prior to the date set for the confirmation hearing.

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**(H) Possible Dismissal of Case for Failure to Timely File or Distribute Plan and Notice**

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(2) *Dismissal of Case upon Denial of Confirmation:* If the Court denies confirmation of the debtor's original or subsequently modified Chapter 13 Plan and Related Motions at a hearing on an objection to confirmation, unless the Court has entered an order previously confirming a plan, the Clerk is directed to issue an order dismissing the chapter 13 case unless, within 21 days after denial of confirmation:

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**RULE 4001(a)-1 RELIEF FROM AUTOMATIC STAY**

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(C) *Response Period:* A separate notice of motion (Official Form 420A) is not required, however, unless provided otherwise by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or order of the Court. The motion for relief from stay shall clearly state and conspicuously provide the following notice, using bold print and capitalized text:

**NOTICE**

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY**

**CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)**

**IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN 14 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS 14-DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

**IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE 14-DAY PERIOD.**

~~You will be notified separately of the hearing on the motion~~

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(J) *Motions for Relief from Stay Guidelines*: The Court has adopted guidelines supplementing the Local Bankruptcy Rule to facilitate and provide for uniformity pertaining to motions practice and procedures including motions for relief from stay. These guidelines shall be published and updated periodically by the Clerk, as approved by the Court (Exhibit 7 to these Local Bankruptcy Rules) and available from the Clerk upon request or from the Court's internet web site, [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

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## **RULE 5005-1 FILING OF PETITIONS, PLEADINGS AND OTHER PAPERS**

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(F) *Notice of Deficient Filing*: The Clerk shall review each filing for compliance with the requirements of these Local Bankruptcy Rules. Those pleadings or other documents not meeting the requirements of these Local Bankruptcy Rules will receive a Notice of Deficient Filing allowing for 14 days to correct the deficiency ~~or to file a request for a hearing on the matter~~. Failure to cure the deficiency, ~~or to request a hearing~~ within the time allowed, may result in the pleading or other document being stricken without further notice. Notwithstanding the foregoing, in the case of a petition or a notice of voluntary conversion, the Clerk shall issue a notice that the debtor either must (1) cure the deficiency within 14 days of the mailing or delivery of such notice; or (2) ~~timely file a response and~~ attend a hearing to explain why the case should not be

dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

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### **RULE 5010-1 REOPENING CASES**

A party seeking to reopen a case for purposes not related to the debtor's discharge, shall file a motion with the Court and shall give 21 days' notice to all parties in interest. The motion shall be served upon the United States trustee, the previously appointed trustee, and any party being added, if any, as a creditor or party in interest in the case. The motion shall be accompanied by the appropriate fee to reopen the case, a notice containing the hearing date as obtained from the Court and proof of service. ~~The motion shall also state that any objections to the reopening of the case must be filed at least 7 days prior to the hearing.~~

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### **RULE 6004-2 USE, SALE OR LEASE OF PROPERTY**

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(B) ***Objection to Proposed Use, Sale or Lease:*** An objection to a proposed use, sale or lease, other than in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action within the time permitted under Local Bankruptcy Rule 9013-1(G)(3) ~~not less than 7 days before the date set for the proposed action. If an objection is timely filed, the~~ movant party objecting shall select obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

(C) ***Sale of Property When Value of Estate Does Not Exceed \$2,500:*** The trustee or debtor in possession may give general notice of intent to sell property when all of the non-exempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the Clerk is to provide notice in the meeting of creditors notice that this procedure may be followed. An objection to such sale must be filed by a party in interest and served upon the proponent of the sale not later than 14 days after the meeting of creditors. The party objecting shall select obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

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### **RULE 6007-1 ABANDONMENT**

(A) ***Notice of Abandonment:*** The Clerk shall give notice in the meeting of creditors notice that the trustee may, at the meeting of creditors, give notice of intention to abandon property of the estate that is burdensome or of inconsequential value to the estate. The Clerk shall give notice that parties in interest who object to such abandonment may state their oral objections at the meeting of creditors, ~~obtain~~ select a hearing date from the Court, transmit notice of a hearing on

their objection and file such notice with proof of service with the Court, within 14 days after the meeting of creditors.

(B) **Motion for Court Order of Court Directing Abandonment**: Any party in interest requesting the Court to order the trustee to abandon any property of the estate shall ~~obtain~~ select a hearing date ~~from the Court~~, transmit copies of the motion and notice containing the hearing date to all parties in interest and the United States trustee and file with the Clerk the motion, notice and proof of service.

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### RULE 6008-1 REDEMPTION

A party seeking redemption of property from a lien or sale shall select ~~request from the Court~~ a hearing date, transmit the motion and notice of hearing to all parties in interest, and file the motion, notice and proof of service with the Clerk. ~~Provided, however, that if the redemption motion is uncontested the Court may direct that no hearing be held~~ accompanied by a consent order, a hearing is not required.

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### RULE 7056-1 SUMMARY JUDGMENT

Motions for summary judgment are governed by LBR 9013-1. ~~Where the non-moving party is pro se, the notice of hearing on the motion shall comply with LBR 9013-1(M)(3).~~

(A) **Timing**: A motion for summary judgment must be filed in accordance with the deadline set forth in the pretrial or scheduling order in the case or proceeding. If not otherwise ordered, a party may file a motion for summary judgment at any time until 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought.

(B) **Hearing**: Upon the filing of a motion for summary judgment, the Court will issue a hearing date. The movant must file and serve notice of such hearing within 7 days of issuance of the date. If the movant fails to timely notice the hearing date, the hearing will not be convened, and the movant must file a written request for a new hearing date.

(C) **Memorandum and Statement of Undisputed Material Facts**: Unless the Court orders otherwise, a motion for summary judgment must be accompanied by a memorandum in support. The memorandum in support shall include a section entitled "Statement of Undisputed Material Facts" that lists, in numbered paragraphs, all material facts as to which the movant contends there is no genuine dispute. Each material fact as to which the movant contends there is no genuine dispute shall be cited to the specific portion(s) of any pleading, affidavit, deposition, interrogatory answer, or other admissible evidence relied upon to establish that fact. Any evidence cited that is not included in the Court's record must be attached to the memorandum as an exhibit.

(D) *Response in Opposition*: A response in opposition to a motion for summary judgment must be filed in accordance with the deadline set forth in the pre-trial or scheduling order in the case or proceeding. If not otherwise ordered, a party may file a response in opposition to a motion for summary judgment not later than 7 days prior to the hearing scheduled on the motion.

(E) *Memorandum and Statement of Disputed Facts*: Unless the Court orders otherwise, a response in opposition to a motion for summary judgment must be accompanied by a memorandum in support. The memorandum in support shall include a section entitled “Statement of Disputed Material Facts” that lists, in numbered paragraphs, the disputed facts that the party contends demonstrate a genuine issue of material fact precluding the entry of summary judgment. Each disputed fact shall be cited to the specific portion(s) of any pleading, affidavit, deposition, interrogatory answer, or other admissible evidence relied upon to establish the existence of a genuine issue of material fact precluding summary judgment. Any evidence cited that is not included in the Court’s record must be attached to the memorandum as an exhibit.

(F) *Reply and Surreply Briefs*: Reply and surreply briefs may be filed if permitted by the pre-trial or scheduling order entered by the Court in the case or proceeding.

(G) *Summary Judgment Against a Pro Se Party*: The notice of any motion seeking summary judgment in which the non-moving party is pro se shall conform substantially to Official Form 420A and, in addition, shall set forth the requirement for a response in substantially the following form, using bold print and capitalized text:

NOTICE

**[INCLUDE ONLY IF AN OPPOSING PARTY IS PRO SE: A MOTION FOR SUMMARY JUDGMENT IS A REQUEST THAT ONE OR MORE ISSUES IN A CASE BE DECIDED WITHOUT HOLDING A TRIAL. MOTIONS FOR SUMMARY JUDGMENT ARE GOVERNED BY RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURE. SUMMARY JUDGMENT MAY BE GRANTED IF (A) THE MATERIAL FACTS ARE NOT GENUINELY DISPUTED AND (B) BASED ON THOSE FACTS, THE PARTY ASKING FOR SUMMARY JUDGMENT IS ENTITLED TO JUDGMENT AS A MATTER OF LAW.]**

**IF YOU WISH TO OPPOSE THE MOTION, YOU MUST FILE WITH THE COURT AND SERVE ON THE OTHER PARTY A WRITTEN RESPONSE AND SUPPORTING MEMORANDUM PURSUANT TO LOCAL BANKRUPTCY RULE 7056-1(D) AND (E) NO LATER THAN [DEADLINE FOR RESPONSES UNDER SUBPARAGRAPH (D) OF THIS RULE]. UNLESS A WRITTEN RESPONSE IN OPPOSITION IS TIMELY FILED, THE COURT MAY DEEM ANY OPPOSITION WAIVED AND TREAT THE MOTION AS CONCEDED. FAILURE TO DISPUTE IN THE WRITTEN RESPONSE ANY FACT ASSERTED IN THE MOTION FOR SUMMARY JUDGMENT MAY RESULT IN THE COURT TREATING SUCH FACT AS UNDISPUTED.**



**A HEARING TO CONSIDER THE RELIEF REQUESTED IN THIS  
MOTION IS SCHEDULED FOR [HEARING DATE, TIME, AND  
LOCATION].**

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**RULE 9010-1 REPRESENTATION AND APPEARANCES; POWERS OF ATTORNEY**

***Requirement for Counsel:*** Except for filing or withdrawing a proof of claim, notice of mortgage payment change, notice of postpetition mortgage fees, expenses, and charges, response to a notice of final cure payment, request for notices or notice/service, notice of appearance, reaffirmation agreement, creditor change of address, transfer of claim or a transcript of court proceedings, no party or entity other than a natural person acting in his or her own behalf or, to the extent permitted by §304(g) of Pub. L. 103-394, a child support enforcement agency, may appear in a bankruptcy case or proceeding, sign pleadings, or perform any act constituting the practice of law except by counsel permitted to appear under LBR 2090-1. This Local Bankruptcy Rule applies to corporations, partnerships, limited liability companies, associations, and trusts, as well as to individuals acting in a representative capacity (such as under a power of attorney) for another. Any pleading or paper, other than those set forth in this Local Bankruptcy Rule, filed on behalf of an entity that is not a natural person acting in his or her own behalf and not signed by counsel permitted to appear under LBR 2090-1 shall be stricken by the Clerk unless the deficiency is cured within 14 days of the mailing or delivery of a notice of deficiency. In the case of a petition, the Clerk shall issue a notice that the debtor either must (A) cure the deficiency within 14 days of the mailing or delivery of such notice; or (B) ~~timely file a response and~~ attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.

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**RULE 9013-1 MOTIONS PRACTICE**

(A) ***Definition of Motion:*** For the purposes of this Local Rule, “motion” shall include any motion, application, other request for relief from the Court, or proposed action to be taken under the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or Local Bankruptcy Rules but shall not include:

- (1) any petition commencing a case under the Bankruptcy Code;
- (2) any complaint commencing an adversary proceeding under the Federal Rules of Bankruptcy Procedure;
- (3) any motion for relief from the automatic stay [see LBR 4001(a)-1];
- (4) any proposed order; ~~or~~
- (5) objection to claim [see LBR 3007-1]; or

(6) motion for summary judgment [see LBR 7056-1]

....

~~(F) **Return Date, Conference of Counsel:**~~ Except as otherwise provided by an order of the Court or by the rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. In any Division that has a regular motions day practice, the objection may be made returnable to a motions day in compliance with the motions day practice in that Division. Before requesting a hearing date on any motion, the proponent shall confer with opposing counsel, in person or by telephone, in a good faith effort to narrow the area of disagreement.

~~(G)~~(F) **Memorandum of Points and Authorities**

....

(2) A memorandum need not accompany a motion or response thereto:

- (a) for a more definite statement;
- (b) for an extension of time to respond to pleadings, unless the time has already expired;
- (c) for a default judgment;
- (d) solely related to discovery matters, except as set forth in LBR 7026-1(C), (D) and (I);
- (e) for a continuance;
- (f)(i) for a voluntary dismissal or conversion of a case under chapters 7, 11, 12 or 13 of title 11, United States Code that is (i) voluntary; or (ii) stipulated to by all parties in interest; or
- (g) to avoid a lien pursuant to §522(f).

~~(H)~~(G) **Responses to Motions**

(1) **Requirement of written response:** Except as otherwise provided by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, or by order of the Court, responses in opposition to motion2004s must be in writing, state with particularity the grounds therefor, be filed with the Court and served upon all parties affected thereby; to the trustee assigned to the case in a case filed under chapter 7, 12, or 13; and to the United States trustee and any appointed trustee in a chapter 11 case.

(2) **Requirement of memorandum:** Unless otherwise directed by the Court,

except as herein above noted, the party filing a response in opposition to a motion shall file therewith a memorandum of points and authorities setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the party relies. The memorandum and ~~the motion or~~ response thereto, may be combined in a single pleading.

**(3) Time for filing response and memorandum:**

~~(a) When no hearing has been set or requested, the opposing party may file a response, with a supporting memorandum, within 14 days, but not thereafter without leave of the Court unless the motion relates to a matter for which a 21-day notice is required under FRBP 2002(a), in which event a response may be filed within 21 days. The movant may file a rebuttal memorandum within 7 days after the filing of the opposing party memorandum. For good cause, a party may be given additional time or may be required to file a response, memorandum and supporting documents within such shorter period of time as the Court may specify. The opposing party may file a response or objection, with a supporting memorandum—~~

(i) no later than 21 days after service of the motion unless the motion relates to a matter for which another notice period is specified under the Federal Rules of Bankruptcy Procedure or these Local Bankruptcy Rules, in which case no later than the period set forth in such rule; or

(ii) no later than 1 business day prior to the hearing on the motion if a hearing has been set on an expedited basis under paragraph (N) of this Local Bankruptcy Rule. Such response shall be served on all required parties using a method reasonably calculated to provide timely notice to all affected parties.

~~(b) When a hearing has been set on at least 21 days' notice, the opposing party may file a response, with a supporting memorandum, not later than 7 days before the date of the hearing. For good cause, a party may be given additional time or may be required to file a response, memorandum and supporting documents within such shorter period of time as the Court may specify.~~

~~(c) When a hearing has been set on less than 21 days' notice, unless the Court directs otherwise, the opposing party may file a response, with a supporting memorandum, not later than 3 days before the date of the hearing. A hearing may not be set by a party on less than 14 days' notice unless the Court grants a motion requesting an expedited hearing pursuant to paragraph (N) of this Local Bankruptcy Rule. If a hearing is set on an expedited basis, the opposing party may file a response, with a supporting memorandum,~~

~~not later than 1 day before the date of the hearing or as otherwise directed by the Court. The movant may file a rebuttal memorandum within 7 days after the filing of the opposing party's memorandum.~~

~~(d) When an objection to a claim is filed, the opposing party may file a response, with supporting memorandum, within 30 days of the filing of the objection. If no response is filed, the Court may enter an order without a hearing.~~

(4) ***Effect of not timely filing an objection a response in opposition with a supporting memorandum:*** ~~If a response in opposition with a supporting memorandum is not timely filed and served, the Court may deem the any opposition waived, and treat the motion, application, pleading, or proposed action request for relief as conceded, and enter an appropriate order granting the requested relief. Within 14 days after the time for filing a response or objection has expired, if no objection with supporting memorandum is timely filed, the movant shall, within 14 days thereafter, file and serve a proposed order in compliance with these Local Bankruptcy Rules and submit such order to the Court for consideration which satisfies the requirements of LBR 9022-1.~~

**(H) Hearings:**

**(1) No hearing is required (negative notice):** The Court maintains a Negative Notice List of matters upon which no hearing is required on the Court's website at [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov). The Negative Notice List may be amended by the Court from time to time.

(a) If a response in opposition is filed with respect to any matter on the Negative Notice List, the movant is required to schedule the matter for hearing in accordance with LBR 9013-1(H)(3).

(b) If the Court sets a hearing on a matter on the Negative Notice List, the Clerk will issue a hearing date. The movant must file and serve notice of such hearing within 7 days of issuance of the date. If the movant fails to timely notice the hearing date, the hearing will not be convened, and the movant must file a written request for a new hearing date.

**(2) A hearing is required:** The following motions require a hearing:

(a) Motions filed by pro se individuals other than fee waiver applications, applications to pay filing fee in installments, and motions to extend time to file lists, schedules, statements, or chapter 12/13 plans within the parameters of these Local Bankruptcy Rules;

(b) Any request for relief on a nunc pro tunc basis;

(c) Any matter not included on the Negative Notice List [see LBR 9013-

1(H)(1)].

(3) **Scheduling**: For motions requiring a hearing under LBR 9013-1(H)(1)(a) or (H)(2)—

(a) The Court will schedule and send notice of hearing on any motion filed by a *pro se* individual that requires a hearing.

(b) For movants represented by counsel, counsel must obtain and notice an appropriate hearing date and time from the assigned Judge's hearing dates webpage located on the Court's website based upon the type of motion and operating chapter of the bankruptcy case, subject to the following exceptions for which the Court will provide a hearing date:

(i) Hearings in Complex Chapter 11 cases [see LBR Ex. 15];

(ii) Chapter 11 Disclosure Statements;

(iii) Chapter 11 Confirmation Hearings;

(iv) First Day Motions;

(v) Motions for Hardship Discharge;

(vi) Expedited hearings;

(vii) Reaffirmation Agreements requiring Court approval under 11 U.S.C. §§ 524(c)(6) or (m); and

(viii) Hearings on matters not listed in (i) – (vii), above, which the movant has advised the Clerk will require the presentation of evidence or will require longer than 30 minutes to adjudicate.

The movant must file and serve notice of a hearing date issued by the Court within 7 days of issuance. If the movant fails to timely notice the hearing date, the hearing will not be convened, and the movant must file a written request for a new hearing date.

(c) The movant is responsible for selecting a hearing date sufficient to allow the applicable response deadline [see LBR 9013-1(G)(3)] and any additional time required under Federal Rule of Bankruptcy Procedure 9006(f) to elapse prior to the scheduled hearing and to afford any notice of the hearing required under the Federal Rules of Bankruptcy Procedure or these Local Bankruptcy Rules.

(i) A hearing may not be set by a party on less than 14 days' notice unless the Court grants a motion requesting an expedited hearing pursuant to paragraph (N) of this Local Bankruptcy Rule.

(4) **Required Appearances:** The following parties must appear at any scheduled hearing, and failure to appear when required will be deemed as consent to an adverse ruling:

(a) Counsel for the movant or the moving party, if unrepresented;

(b) Counsel for the opposing party or the opposing party, if unrepresented;

(c) The chapter 13 trustee assigned to the case or counsel for the chapter 13 trustee if the hearing relates to a chapter 13 case;

(d) The United States trustee, Assistant United States trustee, or counsel for the United States trustee if the hearing relates to a chapter 11 case or a notice of possible dismissal due to a case deficiency in a chapter 7 case; and

(e) Any party required to appear at a scheduled hearing by Court order.

(5) **Conference of Counsel:** Before a hearing on any motion, the proponent shall confer with opposing counsel in a good-faith effort to narrow the area of disagreement.

~~(I) **Summary Judgment – Time of Filing:**[Repealed]: A party desiring to file a motion for summary judgment must act with reasonable dispatch. No motion for summary judgment will be considered unless filed within a reasonable time prior to the date of trial, thus permitting time for the Court to hear arguments and consider the merits after completion of the schedule specified in this Local Bankruptcy Rule.~~

(J) **Continuances:** A motion for continuance of a hearing or trial date must be in writing and shall not be granted by mere agreement of counsel. The party requesting a continuance should, however, consult with opposing counsel and the trustee, if applicable, prior to requesting a continuance. The motion for continuance should state the position(s) of opposing counsel and the trustee, if applicable. The motion must include a proposed date and time for the continued hearing from the assigned Judge’s hearing dates page on the Court’s website or, in the alternative, the length of the requested continuance. Counsel shall notify the Court of any motion for continuance filed less than one business day prior to the scheduled hearing. Any such motion will be considered by the Court only in the presence of all counsel, and no will may grant a motion for continuance immediately upon filing if parties who have opposed the underlying motion consent or if the Court finds there is other good cause and the exigencies so require will be granted other than only for good cause and upon such terms as the Court may impose.

(K) **Motions Practice and Procedures Guidelines; ~~Motions for Relief from Stay Guidelines:~~** The Court has adopted guidelines supplementing the Local Bankruptcy Rule to facilitate and provide for uniformity pertaining to motions practice and procedures ~~including motions for relief from stay.~~ These guidelines shall be published and updated periodically by the Clerk, as approved by the Court (Exhibit 7 to these Local Bankruptcy Rules) and available from the Clerk upon request or from the Court's internet web site, [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

(L) ***Determination of Motions Without Oral Hearing:*** In accordance with FRCP 78, the Court may rule upon motions without an oral hearing, unless otherwise required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules.

(M) ***Giving Notice of a Motion or Hearing***

(1) ***When no hearing is requested or required:*** The notice of any motion where no hearing is required or requested (i.e., a notice of opportunity for a hearing, where a hearing is set only if a response is filed objecting to the requested relief or requesting a hearing), shall contain language substantially in accordance with Official Form 420A, "NOTICE OF MOTION" and setting forth the requirement of a response under subparagraph (H)(3)(a) of ~~the~~ this Local Bankruptcy Rule in substantially the following form, using bold print and capitalized text:

**NOTICE**

**UNDER LOCAL BANKRUPTCY RULE 9013-1, UNLESS A WRITTEN RESPONSE IN OPPOSITION TO THIS MOTION AND SUPPORTING MEMORANDUM ARE FILED WITH THE CLERK OF COURT AND SERVED ON THE MOVING PARTY WITHIN ~~14 OR 21~~ 21 [OR APPLICABLE NOTICE PERIOD UNDER THE FEDERAL RULES OF BANKRUPTCY PROCEDURE OR THESE LOCAL BANKRUPTCY RULES] DAYS OF THE SERVICE OF THIS NOTICE ~~OBJECTING TO THE RELIEF REQUESTED~~, THE COURT MAY DEEM ANY OPPOSITION WAIVED, TREAT THE MOTION [OR APPLICATION OR PROPOSED ACTION] AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

(2) ***When a hearing is required under LBR 9013-1(H)(2) or requested by the moving party at the time of filing:*** The notice of any motion where a hearing is either required under subparagraph (H)(2) of this Local Bankruptcy Rule or requested shall contain language substantially in accordance with Official Form 420A and setting forth the requirement of a response under subparagraph ~~(H)(3)(b) or (H)(3)(c)(G)~~ in substantially the following form, using bold print and capitalized text:

**NOTICE**

**UNDER LOCAL BANKRUPTCY RULE 9013-1, UNLESS A WRITTEN RESPONSE IN OPPOSITION TO THIS MOTION AND SUPPORTING MEMORANDUM ARE FILED WITH THE CLERK OF COURT AND SERVED ON THE MOVING PARTY ~~AT LEAST 7 OR 3~~ AT LEAST 7 [OR APPLICABLE NOTICE PERIOD UNDER THE FEDERAL RULES OF BANKRUPTCY PROCEDURE OR THESE LOCAL BANKRUPTCY RULES] DAYS OF THE SERVICE OF THIS NOTICE, THE COURT MAY DEEM ANY OPPOSITION WAIVED, AND TREAT THE**

**MOTION [OR APPLICATION OR PROPOSED ACTION] AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

**A HEARING TO CONSIDER THE RELIEF REQUESTED IN THIS MOTION IS SCHEDULED FOR [HEARING DATE, TIME, AND LOCATION].**

**(3) When a hearing is required upon the filing of a response in opposition or is set by the Court on a matter proceeding on negative notice or pursuant to subparagraph (H)(3)(b)(i)-(viii):** The notice of any hearing that is required under subparagraphs (H)(1)(a) or (b) of this Local Bankruptcy Rule shall provide a hearing date, time, and location. The hearing date must allow the applicable response deadline [see LBR 9013-1(G)(3)] to elapse prior to the scheduled hearing and to afford any notice of the hearing required under the Federal Rules of Bankruptcy Procedure or these Local Bankruptcy Rules.

(3) When a summary judgment is requested against pro se party: The notice of any motion seeking summary judgment in which the non-moving party is pro se shall conform substantially to Official Form 420A and, in addition, shall set forth the requirement for a response in substantially the following form:

NOTICE

A motion for summary judgment is a request that one or more issues in a case be decided without holding a trial. Motions for summary judgment are governed by Rule 56, Federal Rules of Civil Procedure. Summary judgment may be granted if (a) the material facts are not genuinely disputed and (b) based on those facts, the party asking for summary judgment is entitled to judgment as a matter of law. If you wish to oppose the motion, you must file with the court and serve on the other party, a written response at least 3 [or 7] days prior to the hearing. If you fail to file a timely written response to the motion, the court may assume you do not oppose the motion and may grant the motion without holding a hearing. If you disagree with any of the facts stated by the other party, you must include with your response sworn statements from yourself or other knowledgeable witnesses supporting your version of the facts. A sworn statement may take the form either of an affidavit or a declaration signed under penalty of perjury. Any documents you want the court to consider should be identified in, and attached to, the sworn statements. If you are unable to obtain sworn statements supporting your position, you must file a sworn statement stating why you are unable to obtain such statements at this time.

**(4) When a hearing is set on an expedited basis:** The notice of any hearing that is set on an expedited basis under paragraph (N) of this Local Bankruptcy Rule shall, as soon as possible, be filed with the Court and served on all



required parties using a method reasonably calculated to provide timely notice to all affected parties. Such notice shall provide the hearing date, time, and location, as well as the applicable response period under paragraph (G)(3)(a)(ii).

(N) ***Request for Expedited Hearing:*** A motion requesting an expedited hearing shall be served, along with the underlying motion on which expedited consideration is sought, using a method reasonably calculated to provide timely notice to all affected parties, specify the date by which a hearing is requested, why a hearing is needed on an expedited basis, and be accompanied by a certification verifying that the proponent:

- (1) has carefully examined the matter and concluded that there is a true need for an expedited hearing;
- (2) has not created the emergency through any lack of due diligence; and
- (3) has made a *bona fide* effort to resolve the matter without hearing.

(O) ***Request to Shorten Notice Period:***

(1) A request to shorten a notice period must be made by separate motion that

(a) is filed concurrently with the notice of the underlying motion containing the shortened notice period; and

(b) states the reason(s) why shortened notice of the underlying motion is necessary.

(2) Service of a motion to shorten notice period and service of the underlying motion must be effectuated using a method reasonably calculated to provide timely notice to all affected parties.

(3) Responses in opposition to a motion to shorten notice period may be filed at any time prior to the expiration of the notice period requested for the underlying motion.

(P) ***Cancellation of Scheduled Hearings:*** It is the responsibility of counsel for the plaintiff/movant to advise the Court of any settlement or any other valid reason that a Court scheduled pretrial conference, hearing or trial need not be conducted. Counsel are advised to provide the Court with such notification as far in advance of any such conference, hearing or trial as is practical under the circumstances. Failure of such counsel to properly and timely notify the Court may result in the imposition of sanctions. Hearing cancellations must be submitted using the Court's Hearing Cancellation Module. However, if the cancellation concerns a matter excluded from the Hearing Cancellation Module or the cancellation is requested after 3:00 p.m. on the last business day prior to the hearing, the party requesting the hearing cancellation must contact the assigned Judge's courtroom deputy, and the Court will determine whether to permit the cancellation on a case-by-case basis. The Court further reserves the right to restore any cancelled hearing to the docket.

(Q) *Non-Prosecuted Motions*: Upon the closure of a bankruptcy case, any motion that remains pending due to the moving party's failure to either bring the matter before the Court for a hearing or tender an appropriate order shall be deemed abandoned for want of prosecution. Any such abandonment is without prejudice.

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EXHIBIT 7

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Motions Practice and Procedure Guidelines**

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*The United States Bankruptcy Court provides the following Guidelines pertaining to motions practice and procedure in the Eastern District of Virginia. The Court may, in certain instances, impose additional requirements if circumstances warrant.*

*The Guidelines do not alter the requirements regarding appearances at hearings pursuant to Local Bankruptcy Rule 2090-1(H).*

*Should any Guideline be construed so as to conflict with the Local Bankruptcy Rules of this Court, the provisions of the Local Bankruptcy Rules shall control.*

*Questions regarding the Guidelines may be directed to the Judge's Courtroom Deputy. Parties are reminded that the Clerk's Office is prohibited from providing legal advice.*

**Hearing Dates**

Hearing dates appear on each Judge's respective Hearing Dates & Information page on the Court's website [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

A Judge may require specific matters to be heard on designated dates and/or at designated times. Dates provided may be used only for the matters designated.

A Judge may establish a maximum number of a specific type of matter that one attorney/firm may set for one docket.

Counsel should consult a Judge's Procedures for Hearings page for information regarding scheduling matters where evidence or legal argument will be presented.

Hearings must be set for the Division in which the case is pending, unless permission is otherwise granted.

Unless otherwise posted on a Judge's Procedures for Hearings page, motions must be set for hearing before the Judge to whom the case is assigned.

Counsel is responsible for ensuring a matter is set for the correct date, time, and location.

The moving party should view the Court's website prior to filing a motion to ensure that the hearing date remains available and that the time frame within which the date may be used has not expired.

If a hearing needs to be scheduled for a date beyond the dates listed, the moving party should contact the Judge's Courtroom Deputy.

The moving party should make a good faith attempt to coordinate a mutually agreeable hearing date with opposing counsel.

If a Motion for Relief from Automatic Stay is scheduled for a preliminary hearing on a date that is more than 30 days after the moving party files the motion, the moving party shall be deemed to have consented to a waiver of its rights under 11 U.S.C. §362(e)(1) relating to the automatic lifting of the stay. The stay shall remain in effect until further order of the Court. (*\*Further guidance for these motions may be found in the Court's separate Motions for Relief from Automatic Stay Guidelines.\**)

If a proposed consent order will be tendered to the Court simultaneously with the filing of a Motion for Relief from Automatic Stay, a hearing should not be scheduled and a hearing date should not be included in the Notice of Motion.

Pursuant to Local Bankruptcy Rule 3015-2, objections to confirmation of the *original* Chapter 13 plan filed in a case must be noticed for hearing for the date, time, and location of the confirmation hearing as set forth in the notice regarding the § 341 Meeting of Creditors. Objections to confirmation of a *modified* Chapter 13 plan must be noticed for hearing for the date, time, and location of the confirmation hearing as set forth in the modified plan.

Motions requesting an expedited hearing must comply with Local Bankruptcy Rule 9013-1(N), as well as with any additional requirements set forth on the respective Judge's Procedures for Hearings page.

The Court will schedule and send notice of hearing on any motion filed by a *pro se* individual that requires a hearing. ~~Parties proceeding *pro se* (without legal counsel) may utilize the dates provided on the Judges' Hearing Dates & Information pages for scheduling hearings on the enumerated types of matters.~~ Please note that, pursuant to Local Bankruptcy Rule 9010-1, entities other than individuals (e.g., corporations, partnerships, and municipalities) may not proceed *pro se* and must retain legal counsel. ~~All noticing requirements must be complied with, or the Court may not hear the matter.~~

### **Proper Notice of Hearing**

It is the moving party's responsibility to comply with proper noticing requirements, including service upon all proper parties in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules, and to provide the correct date, time, and location of the

hearing.

If a moving party's notice of hearing is insufficient, or the moving party has utilized an expired hearing date, the matter may not be heard.

### **Continuances**

~~Information regarding a Judge's policy concerning continuances can be found on the Judge's Procedures for Hearings page.~~

~~The party requesting a continuance is encouraged to consult with opposing counsel, and the trustee if applicable, prior to requesting a continuance and advise the Court of the position of opposing counsel and the trustee, if applicable. Continuances should be requested only for good cause and with sufficient time to allow the Court to consider the request prior to the hearing date. All continuance requests should propose a date and time for the continued hearing from the dates available on the Judge's respective Procedures for Hearings page, if dates for such matters are provided on that page. Requests for continuances are governed by Local Bankruptcy Rule 9013-1(J).~~

### **Telephonic Appearance**

Information regarding a Judge's policy concerning telephonic appearances can be found on the Judge's Procedures for Hearings page.

### **Cancelling a Hearing**

~~Pursuant to Local Bankruptcy Rule 9013-1(O), the moving party is responsible for notifying the Court of any settlement or other valid reason that a hearing or trial need not be conducted. The moving party shall notify the Court of the cancellation of a hearing or trial in the manner(s) set forth on each Judge's respective Procedures for Hearings page. Hearing cancellations are governed by Local Bankruptcy Rule 9013-1(P). In most cases, hearings must be cancelled via the Hearing Cancellation Module. Instructions for using the Hearing Cancellation Module are linked from each Judge's hearing dates webpage. If you are having difficulty utilizing the Hearing Cancellation Module, please contact the assigned Judge's courtroom deputy.~~

### **Hypothetical Motions Practice Scenarios**

*The following examples apply various subsections of Local Bankruptcy Rule 9013-1. These examples are not exhaustive and should be used as a practice aid only. The applicable rules will govern in the event of any conflict between these examples and those rules.*

#### **9013-1(H)(1): Motion on Negative Notice List; no objection filed; order must be tendered by counsel.**

- Motion to Compel Abandonment filed June 12, 2023. No parties are served by mail.

- Objections due within 14 days per FRBP 6007 (thus overriding the general 21-day period set forth in LBR 9013-1(G)(3)(a)(i)).
- The motion must be filed and served with the notice of motion required by LBR 9013-1(M)(1), setting forth the 14-day objection period.
- No objections filed by June 26, 2023.
- Order should be submitted to the Court within 14 days (or by July 10, 2023) under LBR 9013-1(G)(4).

**9013-1(H)(1)(a): Motion on Negative Notice List; objection filed; matter must be set for hearing by counsel.**

- Motion to Suspend Plan Payments filed June 15, 2023. No parties are served by mail.
- No specific FRBP or LBR governs the objection period for this type of motion, so the general 21-day objection period under LBR 9013-1(G)(3)(a)(i) applies; thus, the deadline for objections is July 6, 2023.
- The motion must be filed and served with the notice of motion required by LBR 9013-1(M)(1), setting forth the 21-day objection period.
- Objection filed June 21, 2023, by the chapter 13 trustee. Therefore, a hearing is required pursuant to LBR 9013-1(H)(1)(a).
- Under LBR 9013-1(H)(3)(b), counsel for the moving party must obtain a hearing date and time from the assigned Judge's hearing dates page on the Court's website. The matter is pending before Judge Kindred, so counsel must select an appropriate hearing date and time from her Honor's available chapter 13 hearing dates.
- Per LBR 9013-1(H)(3)(c), the chapter 13 hearing date selected from Judge Kindred's hearing dates page must meet two criteria: (1) it must be after the expiration of the objection deadline for the motion to permit the filing of further timely objections in advance of the scheduled hearing **and** (2) it must allow for at least 14 days' notice. Counsel must file and serve a notice of hearing in accordance with LBR 9013-1(M)(3). The following are examples of how counsel would determine the hearing date parameters:
  - If notice of the hearing is sent on June 21, 2023, the hearing date must be no earlier than July 7, 2023 (while July 5, 2023, would permit at least 14 days' notice of the hearing, the objection period does not expire until July 6, 2023, so the earliest possible hearing date is July 7, 2023)
  - If notice of the hearing is sent on June 23, 2023, the hearing date must be no earlier than July 7, 2023 (this date permits at least 14 days' notice of the hearing and allows the objection period to expire).
  - If notice of the hearing is sent July 10, 2023, the hearing date must be no earlier than July 24, 2023 (while the objection period expired prior to setting the matter for hearing, the hearing must still be set on at least 14 days' notice).
- On June 23, 2023, counsel sends notice of hearing to all parties who received notice of the Motion to Suspend Plan Payments. The notice of hearing lists a hearing date of July 13, 2023, which was available on Judge Kindred's hearing dates page for hearings in chapter 13 cases and meets the parameters described above.
- On June 29, 2023, a creditor files an objection to the Motion to Suspend Plan Payments. The creditor is aware of the July 13 hearing scheduled on the motion for July 13, 2023, having received the notice of hearing.

- On July 13, 2023, Judge Kindred holds the hearing on the Motion to Suspend Plan Payments and rules on the two objections to the motion.

**9013-1(H)(1)(b): Motion on Negative Notice List; no objection filed; order submitted but rejected; hearing date issued by the Court.**

- Application to Employ in a Chapter 11 case filed July 10, 2023. Application is served on at least one party by mail.
- Objections due within 14 days per LBR 2014-1 (thus overriding the general 21-day period set forth in LBR 9013-1(G)(3)(a)(i)).
- The motion must be filed and served with the notice of motion required by LBR 9013-1(M)(1), setting forth the 14-day objection period.
- No objections filed by July 27, 2023 (14 days + an additional 3 days under FRBP 9006(f) due to the service of the application by mail on at least one party).
- Order with proper endorsements received by the Court on August 7, 2023, which is within the 14-day period after the expiration of the objection period under LBR 9013-1(G)(4).
- Judge Kenney is the assigned Judge and determines that a hearing should be set on the Application to Employ under LBR 9013-1(H)(1)(b). On August 9, 2023, the Clerk issues a hearing date for September 8, 2023.
- The movant must file and serve notice of the hearing under LBR 9013-1(M)(3) within 7 days of the issuance of the hearing date, or by August 16, 2023, under LBR 9013-1(H)(1)(b). If the hearing date is not noticed by August 16, 2023, the hearing will not be convened, and the movant must file a written request for a new hearing date.

**9013-1(H)(2)(b): Hearing required because motion seeks *nunc pro tunc* relief; matter must be set for hearing by counsel.**

- Motion for Approval of Loan Modification *Nunc Pro Tunc* filed in a chapter 13 case on July 13, 2023. No parties are served by mail.
- Objections are due August 3, 2023, which is 21 days' notice as required by LBR 6004-4(A).
- Hearing is required under 9013-1(H)(2)(b) because *nunc pro tunc* relief is sought.
- The motion must be filed and served with the notice set forth in 9013-1(M)(2). The notice must provide both the 21-day objection period and the date, time, and location for the hearing on the motion.
- The matter is pending before Judge Huennekens; counsel must select an appropriate date from his Honor's available chapter 13 hearing dates and set the matter for the appropriate time for loan modification motions.
- The hearing date selected cannot be prior to the expiration of the August 3, 2023 response deadline per LBR 9013-1(H)(3)(c).

**9013-1(H)(2)(c): Hearing required because motion is not on Negative Notice List; matter must be set for hearing by counsel.**

- Motion to Reopen filed in a chapter 7 case on June 12, 2023. Motion is served on at least one party by mail.
- Hearing is required under 9013-1(H)(2)(c) because motions to reopen are not on the Negative Notice List.
- Objections are due July 6, 2023, which provides both the 21 days' notice as required by LBR 5010-1 plus an additional 3 days under FRBP 9006(f) due to the service of the motion by mail on at least one party.
- The motion must be filed and served with the notice set forth in 9013-1(M)(2), which provides both the 21-day objection period and the hearing date (which must be after July 6, 2023), time, and location.
- The matter is pending before Chief Judge Santoro in Newport News; counsel must select an appropriate date from his Honor's available Newport News hearing dates and set the matter for the appropriate time for motions in chapter 7 cases. Hearing can be scheduled for a date no earlier than July 7, 2023.

**9013-1(H)(2)(c): Hearing required on matter on which the Court issues the hearing date; hearing must be noticed by counsel.**

- Motion for Hardship Discharge filed June 14, 2023. No parties are served by mail.
- Hearing is required under 9013-1(H)(2)(c) because motions for hardship discharge are not on the Negative Notice List.
- There is no specific FRBP or LBR governing the objection period for this type of motion, so the general 21-day objection period under LBR 9013-1(G)(3)(a)(i) applies; thus, responses are due July 5.
- On June 16, 2023, the Court provides hearing date, pursuant to 9013-1(H)(3)(b)(v), of July 25, 2023, which the movant must notice within 7 days pursuant to LBR 9013-1(H)(3)(b). If the hearing date is not noticed by June 23, 2023, the hearing will not be convened, and the movant must file a written request for a new hearing date.
- Notice of the hearing must be filed in accordance with LBR 9013-1(M)(3).

**9013-1(O): Motion on Negative Notice List; Motion to Shorten Notice period filed.**

- Debtor's counsel files a Motion to Incur Debt to purchase a vehicle on July 18, 2023. No parties are served by mail.
- A hearing is not required on the Motion to Incur Debt because it is included on the Negative Notice List.
- Typically, the general 21-day objection period under LBR 9013-1(G)(3)(a)(i) applies to motions to incur debt because there is no specific FRBP or LBR governing the objection period for this type of motion.
- However, Debtor's counsel also files, under LBR 9013-1(O), a separate Motion to Shorten Notice concurrently with the underlying Motion to Incur Debt.
- The Motion to Shorten Notice indicates the debtor needs to minimize his expenditure on a rental car, which the debtor must rent to get to and from work until he obtains court approval to purchase a vehicle to replace his previous vehicle that became inoperable and too costly to repair.
- The Motion to Shorten Notice seeks to reduce the notice period on the Motion to Incur Debt from 21 days to 7 days. Thus, under LBR 9013-1(O)(3), the notice of motion for

the Motion to Shorten Notice provides an objection period of 7 days. Objections to the Motion to Shorten Notice must be filed no later than July 25, 2023.

- Based on the concurrently filed Motion to Shorten Notice, the Motion to Incur Debt is filed and served with the notice set forth in 9013-1(M)(1), setting forth a 7-day objection period, rather than the 21-day period that would typically be required.
- Counsel for the Debtor serves the Motion to Shorten Notice and the Motion to Incur Debt in a manner reasonably calculated to provide timely notice to all affected parties of their opportunity to object.
- If no objections are filed to either motion, debtor's counsel can submit orders granting the Motion to Shorten Notice and the Motion to Incur Debt as soon as July 26, 2023, and, in any event, no later than August 8, 2023.
- If an objection is filed to the Motion to Shorten Notice, debtor's counsel must set the matter for hearing, in accordance with LBR 9013-1(H)(1)(a) and LBR 9013-1(H)(3)(c)(i), ensuring that at least 14 days' notice of the hearing is given. Notice of the hearing must be promulgated in accordance with LBR 9013-1(M)(3). Neither an order on the Motion to Shorten Notice nor an order on the Motion to Incur may be tendered until the objection has been adjudicated by the Court or has been resolved between the parties.

**9013-1(N): Motion on Negative Notice List; objection filed; Motion for Expedited Hearing filed.**

- Debtor's counsel files a Motion to Sell real property on June 23, 2023. The Debtor's closing date is July 24, 2023. No parties are served by mail.
- A hearing is not required on the Motion to Sell because it is included on the negative notice list.
- Objections are due July 14, 2023, which is 21 days' notice as required by LBR 6004-3 because the debtor has a confirmed chapter 13 plan.
- An objection to the Motion to Sell is filed on July 13, 2023.
- Because a hearing is now required under LBR 9013-1(H)(1)(a) due to the filing of the objection, but the closing date is only 11 days away, debtor's counsel files a Motion for Expedited Hearing pursuant to LBR 9013-1(N) on July 14, 2023, to obtain a hearing date on the Motion to Sell sooner than the 14-day period provided in LBR 9013-1(H)(3)(c)(i) so that the Debtor can close the transaction by the settlement date in the sales contract.
- The Court grants the expedited hearing request and sets the hearing on the Motion to Sell for July 20, 2023. Counsel for the debtor must send notice of the hearing pursuant to LBR 9013-1(M)(3).

**9013-1(N): Motion for Expedited Hearing on a motion that is not on the Negative Notice List.**

- Debtor's counsel files a Motion to Impose Automatic Stay pursuant to 11 U.S.C. § 362(c)(4)(B) on June 26, 2023, the day after the voluntary petition is filed. No parties are served by mail.
- The general 21-day objection period under LBR 9013-1(G)(3)(a)(i) applies to motions to impose automatic stay because there is no specific FRBP or LBR governing the objection period for this type of motion. Thus, the objection deadline is July 17, 2023.



- A hearing is required under 9013-1(H)(2)(c) because motions to impose automatic stay are not on the Negative Notice List.
- The motion must be filed and served with the notice set forth in 9013-1(M)(2), which provides both the 21-day objection period and the hearing date (which must be after July 17, 2023), time, and location.
- However, the debtor's car is in danger of being repossessed because no stay is in effect due to the debtor's two prior bankruptcy filings in the past year.
- Debtor's counsel files, simultaneously with the Motion to Impose Automatic Stay, a Motion for Expedited Hearing under LBR 9013-1(N) to obtain a hearing date earlier than July 17, 2023, and prevent the repossession.
- The Court grants the expedited hearing request and sets the hearing on the Motion to Impose Automatic Stay for July 6, 2023.
- Debtor's counsel must provide notice of the hearing under LBR 9013-1(M)(2) that includes the deadline for filing objections to the Motion to Impose Automatic Stay, which is 1 business day prior to the hearing under LBR 9013-1(G)(3)(a)(ii) because the Court granted the request for expedited hearing.

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Motions for Relief from Stay Guidelines**

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*The United States Bankruptcy Court provides the following Guidelines pertaining to motions for relief from stay filed in the Eastern District of Virginia. The Court may, in certain instances, impose additional requirements if circumstances warrant.*

*The Guidelines do not alter the requirements regarding appearances at hearings pursuant to Local Bankruptcy Rule 2090-1(H).*

*Should any Guideline be construed so as to conflict with the Local Bankruptcy Rules of this Court, the provisions of the Local Bankruptcy Rules shall control.*

*Questions regarding the Guidelines may be directed to the Judge's Courtroom Deputy. Parties are reminded that the Clerk's Office is prohibited from providing legal advice.*

**Motions for Relief from Automatic Stay**

The following procedure is applicable with respect to motions for relief from stay under § 362 and § 1301 of the Bankruptcy Code. (Motions for relief from stay against a codebtor in chapter 13 cases under 11 U.S.C. § 1301(c)(2) are addressed separately in Section II, below.) The provisions of Local Bankruptcy Rule 4001(a)-1 are applicable in relief from automatic stay proceedings as supplemented below.

*I. Relief from the Automatic Stay under Sections 362, 1301(c)(1), or 1301(c)(3)*

The preliminary hearing dates for scheduling motions for relief from stay pursuant to § 362, § 1301(c)(1), and § 1301(c)(3) may be obtained from

- **the Court's Internet web site at [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov) or**
- **by calling the Judge's Courtroom Deputy.**

*A. Selecting a Preliminary Hearing Date*

The moving party (movant) must select a preliminary hearing date from the schedule of preliminary hearing dates provided by the Clerk as set forth above. The date should be selected ~~according to the anticipated date of filing of the motion~~ to permit the response period under Local Bankruptcy Rule 4001(a)-1(C) and/or Local Bankruptcy Rule 4001(a)-1(H)(2) and any additional time required under Federal Rule of Bankruptcy Procedure 9006(f) to elapse prior to the scheduled hearing.

If the movant selects a preliminary hearing date that is more than 30 days after filing a motion for relief, the movant shall be deemed to have consented to a waiver of the movant's rights under 11 U.S.C. §362(e)(1) relating to the automatic lifting of the stay. The stay shall remain in effect until further order of the Court.

If the movant fails to select a preliminary hearing date, the movant shall be deemed to have consented to a waiver of the automatic lifting of the stay pursuant to 11 U.S.C. §362(e), and the Court may, in its discretion, either schedule a hearing on the motion or deny the relief sought.

**All Amended Motions for Relief from Stay *must* include an appropriate hearing date. The original preliminary hearing date may *only* be used if sufficient notice time remains prior to the hearing date, pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules. The failure to select an appropriate hearing date and otherwise comply with these procedures may result in the denial of the relief sought.**

**For Motions for Relief from Stay filed simultaneously with a proposed consent order: *DO NOT* schedule a hearing or include a hearing date.**

*B. Notice of Motion and Response Period*

The movant must prepare a notice of motion, which shall include notice of the appropriate response period together with notice of the date, time, and location of the preliminary hearing.

A separate notice of motion (Official Form 420A) is not required, however, unless provided otherwise by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or order of the Court. The motion for relief from stay shall clearly state and conspicuously provide the following notice, which contains the response period applicable to the nature of the relief requested:

**NOTICE**

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)**

**IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THIS MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN 14 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS 14-DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

**IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE 14-DAY PERIOD.**

**(\*\*Please note:** Pursuant to Local Bankruptcy Rule 4001(a)-1(H)(2), the notice period for

motions for relief from the codebtor stay filed pursuant to Sections 1301(c)(1) or (c)(3) is **14 days**. The notice period for a motion for relief from the codebtor stay under § 1301(c)(2) is **20 days.**\*\*) )

*C. Service and Transmittal of the Motion and Notice*

At least 21 days prior to the preliminary hearing date, ~~†~~The movant must serve the Motion and Notice of Preliminary Hearing pursuant to Local Bankruptcy Rule 4001(a)-1(F), and simultaneously file with the Court, in accordance with Local Bankruptcy Rule 4001(a)-1(E) and in the manner set forth in Section I.D., below, the following items:

1. The original motion for relief from stay and notice of hearing captioned as a contested matter;
2. a properly completed proof of service indicating that the movant served the motion for relief from stay upon each party required to receive notice under Local Bankruptcy Rule 4001(a)-1(F); and
3. the proper filing fee.

*D. Method of Filing*

1. Registered movant attorney users of the CM/ECF System must file the items set forth in Section I.C. electronically in accordance with the Court's CM/ECF Policy and the applicable Local Bankruptcy Rules. The filing fee shall be paid by the filer electronically.
2. Non-registered movant attorneys must file with the Court the items set forth in Section I.C., in accordance with CM/ECF Policy 1(C)~~on a diskette or CD-ROM in Microsoft Word, WordPerfect, DOS text, or Acrobat PDF format.~~ The filing fee shall be paid to the Clerk.
3. Movants who are individuals and unrepresented by counsel (*pro se*) shall file with the Court the items set forth in Section I.C., conventionally, on paper. The filing fee shall be paid to the Clerk.

*II. Relief from Codebtor Stay in Chapter 13 Cases under 11 U.S.C. § 1302(c)(2)*

A. A movant filing a motion for relief from stay against a codebtor in a chapter 13 case under 11 U.S.C. § 1301(c)(2) must follow the procedures, as set forth in Local Bankruptcy Rule 4001(a)-1(H), and file the following items in the manner set forth in Section I.D., above:

1. the § 1301 motion clearly stating in the caption the subsection of 11 U.S.C. § 1301 under which the party is proceeding;
2. the passive notice of motion, which shall include notice of the 20-day response period and the language set forth in Local Bankruptcy Rule 4001(a)-1(H)(2)(b); and
3. a proof of service certifying proper service of the motion pursuant to Local Bankruptcy Rule 4001(a)-1(F).

B. If an objection or response is not filed with the Court and served upon the movant no

later than 20 days from the date of the filing of the motion, the movant should submit to the Court a proposed order granting the relief being sought by the movant. A hearing need not be scheduled on a § 1302(c)(2) motion unless it is combined in a single pleading with a request for relief under § 362 or § 1301(c)(1) or (3) or an objection is filed.

If an objection is filed to the § 1301(c)(2) motion, ~~it will be scheduled for hearing and notice will be given by the Clerk's Office~~ the moving party must select an appropriate hearing date from the assigned Judge's hearing dates webpage located on the Court's website and send notice of the hearing.

## INTERIM PROCEDURES

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**(E) INTERIM PROCEDURE 3016-1:  
CHAPTER 11 PLAN REQUIREMENTS**

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**(C) Chapter 11 Plan Filed in a Subchapter V Case:** In a case under subchapter V of chapter 11, the debtor may file a plan with the petition. If a plan is not filed with the petition, it shall be filed within 90 days thereafter unless the Court, pursuant to 11 U.S.C. § 1189, extends the time for filing. Any motion for extension of time to file a plan shall be filed prior to the expiration of the deadline for which the debtor seeks an extension. Unless otherwise ordered in specific cases, the only acceptable form for such a plan shall be Official Form 425A, Plan of Reorganization for Small Business Under Chapter 11, which is available from the Clerk upon request or from the Court's Internet web site, [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov).

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**(3) Possible Dismissal of Case; Notice:** In cases under subchapter V of chapter 11, the Clerk shall monitor the filing of the plan. ~~If the debtor does not timely file a subchapter V chapter 11 plan, the Clerk shall issue an order directing the debtor to appear at a hearing to explain why the case should not be dismissed.~~ If the subchapter V chapter 11 plan is not filed on date of commencement of the case, the Clerk shall issue a notice that the debtor must either (a) timely file a plan or a motion to extend the time to file a plan in accordance with this subparagraph; or (b) ~~timely file a response and attend a hearing to explain why the case should not be dismissed, unless excused by the Court or the Court deems the deficiency cured and cancels the hearing.~~

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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA**

\_\_\_\_\_ **Division**

**IN RE:****DEBTOR 1 NAME****DEBTOR 2 NAME (IF ANY),  
DEBTOR(S).****CASE NO. XX-XXXXX-XXX****CHAPTER 13**

**NOTICE OF FINAL CURE PAYMENT**

Pursuant to Federal Rule of Bankruptcy Procedure 3002.1(f), the Chapter 13 Trustee files this Notice of Final Cure Payment. The amount required to cure the default in the claim listed below has been paid in full.

**Mortgage Information:**

Name of creditor: \_\_\_\_\_

Property address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Cure Amount:**

Court claim no.: \_\_\_\_\_

Account No. [last 4 digits]: \_\_\_\_\_

Amount asserted: \_\_\_\_\_

Amount allowed: \_\_\_\_\_

**Total amount paid by Chapter 13 Trustee:** \_\_\_\_\_**Post petition Mortgage Payment is paid:**

\_\_\_\_\_ Through Chapter 13 Conduit

\_\_\_\_\_ Directly by the Debtor

**RESPONSE REQUIRED:**

Within 21 days of the service of the Notice of Final Cure Payment, the creditor MUST file and serve a Statement as a supplement to the holder's proof of claim on the debtor, debtor's counsel and the Chapter 13 Trustee, pursuant to Fed. R. Bankr. P. 3002.1(g), indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim; and (2) whether the debtor is otherwise current on all payments consistent with 11 U.S.C. § 1322(b)(5).

The statement shall itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder’s proof of claim and is not subject to Rule 3001(f). Failure to notify may result in sanctions.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Final Cure Payment was served on the parties listed below by certified mail as required and otherwise by regular U.S. mail or served electronically through the Court’s CM/ECF system at the e-mail address registered with the Court on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Debtor(s) mailing address

Electronic service – attorney mailing address

Electronic service – United States Trustee

“Registered Agent/CEO” Creditor address

Creditor address

Creditor address

Date:

\_\_\_\_\_  
[Chapter 13 Trustee Signature Block]



**LOCAL BANKRUPTCY RULE 9013-1(H)(1) No hearing is required – Negative Notice List (for placement on the Court’s website at [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov))**

1. Motion to extend time to file:
  - a) original chapter 12 plan
  - b) original chapter 13 plan (within the parameters of LBR 3015-2(C)(3)(a))
  - c) lists, schedules, and statements (within the parameters of LBR 1007-1(B))
  - d) statement of intention (within the parameters of LBR 1007-3(B))
2. Motion to appear pro hac vice
3. Application to pay filing fee in installments
4. Application to waive chapter 7 filing fee
5. Motion for refund pursuant to LBR 1006-1
6. Motion to deposit funds into court registry
7. Motion for release of funds from court registry
8. Application for payment of unclaimed funds
9. Motion to amend complaint or pleading in an adversary proceeding (on consent of parties)
10. Motion to divide case (bifurcation)
11. Motion to convert
  - a) from chapter 7 to chapter 13 filed by debtor (unless case previously converted)
  - b) from chapter 7 to chapter 11 filed by debtor (unless case previously converted)
  - c) from chapter 11 to chapter 7 filed by debtor (unless debtor is not a DIP; case commenced as an involuntary case; or case previously converted to chapter 11)
12. Motion to convert joint debtor filed by joint debtor
  - a) from chapter 7 to chapter 13
  - b) from chapter 11 to chapter 7
13. Notice of voluntary conversion from chapter 12/13 to chapter 7
14. Motion to dismiss case
  - a) filed by chapter 12 or chapter 13 debtor
15. Motion to defer discharge filed by debtor
16. Amendment to confirmed chapter 12 plan
17. Motion for relief from stay filed with proposed consent order
18. Motion for relief from codebtor stay pursuant to Sections 1201(c)(2) or 1301(c)(2)
19. Objection to claim
20. Motion to avoid lien
21. Motion to declare secured claim satisfied and lien released pursuant to FRBP 5009
22. Motion to redeem (if accompanied by consent order)
23. Motion to sell property free & clear of liens under Section 363

24. Motion to refinance real property after confirmation pursuant to LBR 6004-3
25. Notice of intent to sell
26. Motion for entry of default by Clerk
27. Motion for entry of default judgment by Clerk
28. Chapter 7 trustee final reports (unless the trustee chooses to schedule a hearing thereon)
29. Motion to restrict public access to sensitive case information
30. Applications to Employ
31. Motion to Incur Debt
32. Motion to Shorten Time
33. Motion to Substitute Counsel
34. Motion to Suspend Plan Payments
35. Notice of Default Pursuant to Order Modifying Stay
36. Motion to Continue
37. Motion to Approve Compromise/Settlement
38. Motion for Approval of Loan Modification
39. Application for Compensation under 11 U.S.C. § 330 for amounts \$5,839\* or less
40. Motion to Assume/Assign/Reject Executory Contract
41. Motion for Rule 2004 Examination

\* Amount is specified in the “Adjustment of Dollar Amounts” statement published and updated periodically by the Clerk, as approved by the Court