

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

PUBLIC NOTICE

**ENTRY OF STANDING ORDER 23-13 ADOPTING A REVISION TO THE
LOCAL BANKRUPTCY RULES**

Pursuant to the entry of Standing Order 23-13, the Court adopted the following revision to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Virginia: New Local Bankruptcy Rule 3002.1-1 and New Exhibit 17; and amendments to Local Bankruptcy Rules 1006-1, 1007-1, 1007-3, 1017-2, 1075-1, 2003-1, 2004-1, 2016-1, 2090-1, 3007-1, 3011-1, 3015-1, 3015-2, 4001(a)-1, 5005-1, 5010-1, 6004-1, 6004-2, 6007-1, 6008-1, 7026-1, 7056-1, 9010-1 and 9013-1 (to include the Negative Notice List to be posted on the Court's website), and to Exhibit 7, Exhibit 13, and Exhibit 15. This revision to the Local Bankruptcy Rules shall take effect on August 1, 2023, and shall govern procedures in all cases pending on that date or filed thereafter.

The Court's adoption of the above-described revision follows a public comment period, with any such comments received having been reviewed and considered.

To account for the additional work required of counsel in chapter 13 cases as a result of the adoption of New Local Bankruptcy Rule 3002-1.1, which was not within the scope of services contemplated by the presumptively reasonable fee that counsel may elect under Local Bankruptcy Rule 2016-1(C)(1)(a) and (C)(3)(a), the Court has directed the Clerk to increase the amount set forth in the "Adjustment of Dollar Amounts" statement by \$500.00 effective for chapter 13 cases filed on or after August 1, 2023.

William C. Redden
Clerk of Court

Date: July 14, 2023

Attachment

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:)
)
REVISION TO)
LOCAL BANKRUPTCY RULES,) Standing Order 23-13
)
)

ORDER ADOPTING REVISION TO LOCAL BANKRUPTCY RULES

Amendments the following Local Bankruptcy Rules have been made and are hereby adopted: Local Bankruptcy Rules 1006-1, 1007-1, 1007-3, 1017-2, 1075-1, 2003-1, 2004-1, 2016-1, 2090-1, 3007-1, 3011-1, 3015-1, 3015-2, 4001(a)-1, 5005-1, 5010-1, 6004-1, 6004-2, 6007-1, 6008-1, 7026-1, 7056-1, 9010-1 and 9013-1 (to include the Negative Notice List to be posted on the Court's website).

Amendments the following Exhibits to the Local Bankruptcy Rules have been made and are hereby adopted: Exhibit 7 – Motions Practice and Procedures Guidelines and Motions for Relief for Stay Guidelines, Exhibit 13 – Interim Procedures Governing Practice and Procedure Under the Small Business Reorganization Act of 2019, and Exhibit 15 – Procedures for Complex Chapter 11 Case in the Eastern District of Virginia.

New Local Bankruptcy Rule 3002.1-1 is hereby adopted along with New Exhibit 17 – Chapter 13 Form of Notice of Final Cure Payment.

NOW, IT IS THEREFORE ORDERED that:

The above amended and new Local Bankruptcy Rules and Exhibits shall take effect on August 1, 2023, and shall govern procedures in all cases pending on that date or filed thereafter.

FOR THE COURT:



FRANK J. SANTORO
Chief United States Bankruptcy Judge

Dated: July 14, 2023

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

**AMENDMENTS TO LOCAL BANKRUPTCY RULES 1006-1,
1007-1, 1007-3, 1017-2, 1075-1, 2003-1, 2004-1, 2016-1, 2090-1,
3007-1, 3011-1, 3015-1, 3015-2, 4001(a)-1, 5005-1, 5010-1, 6004-1,
6004-2, 6007-1, 6008-1, 7026-1, 7056-1, 9010-1 AND 9013-1 (TO
INCLUDE THE NEGATIVE NOTICE LIST TO BE POSTED ON
THE COURT'S WEBSITE)**

NEW LOCAL BANKRUPTCY RULE 3002.1-1

**AMENDMENTS TO EXHIBIT 7 – MOTIONS PRACTICE
AND PROCEDURES GUIDELINES AND MOTIONS FOR
RELIEF FROM STAY GUIDELINES; EXHIBIT 13 –
INTERIM PROCEDURES GOVERNING PRACTICE AND
PROCEDURE UNDER THE SMALL BUSINESS
REORGANIZATION ACT OF 2019; AND EXHIBIT 15 –
PROCEDURES FOR COMPLEX CHAPTER 11 CASES IN
THE EASTERN DISTRICT OF VIRGINIA**

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



Effective: August 1, 2023

(Ver. 07/14/2023)

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

(A) **Installment Payments:** Any individual debtor desiring to pay the filing fee in installments must file Official Form 103A with the Clerk. The application form is available from the Clerk on the Court’s web site. No response period is required for the application, and the applicant does not need to file a notice of motion with the application. The Court shall give notice of the dismissal provisions, as set forth in the order, to the debtor and debtor’s counsel.

(B) **Waiver:** Any individual debtor that files a voluntary chapter 7 petition may request a waiver of the filing fee by filing an application with the Clerk using Official Form 103, “**Application to Have the Chapter 7 Filing Fee Waived.**” The form is available on the Court’s web site. No response period is required for the application, and the applicant does not need to file a notice of motion with the application.

(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.

.....

Comments

1006-1(A), (B) Amendments to these paragraphs clarify that neither a response period nor a notice of motion is required for an application to either pay the filing

fee in installments or waive the filing fee, so as to align this rule with simultaneous changes to Rule 9013-1. [Changes effective 08/01/23.]

1006-1(C) These rule provisions are amended to remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. [Changes effective 08/01/23.]

RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS

(A) ***Possible Dismissal of Case:*** In any case in which all required 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 first 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 initial 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. No response deadline is required for a first motion to extend time under this paragraph. 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 a 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 motion for extension of time to file lists, schedules, and statements and other documents to which paragraph (B) hereof does not apply 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(H)(3) and notice must be given in accordance with LBR 9013-1(M)(2) request a hearing date~~

~~and give notice to the parties as set forth in paragraph (B) of this Local Bankruptcy Rule and file a proof of service with the motion to extend time.~~

....

(H) ~~(H)~~ *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.

....

(I) Individual Debtor’s Statement of Compliance with Credit Counseling Requirement

....

(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.

....

Comments

1007-1(A), (C), (H), (I) These rules are amended to remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. A stylistic change has been made to paragraph (A) as well. [Changes effective 08/01/23.]

1007-1(B) These amendments incorporate, from paragraph (C) of the current rule, the extension the Clerk is authorized to grant as a matter of course for filing lists, schedules and statements, provided the motion is filed prior to the initial due date for such documents. The rule is also amended to indicate that the extension date is calculated relative to the initial scheduled meeting of creditors. The rule is further amended to clarify that no notice period need be given for a first motion to extend time, so long as the motion otherwise meets the paragraph’s requirements, to align with simultaneous changes to Rules 1007-3, 3015-2 and 9013-1. [Changes effective 08/01/23.]

1007-1(D) This rule is amended to reference paragraph (B) of the rule. [Change effective 08/01/23.]

1007-1(E) These amendments clarify that a hearing is required on a motion to which Rule 1007-1(B) does not apply and the responsibility of the movant to schedule and give notice of such hearing in accordance with Rule 9013-1. [Changes effective 08/01/23.]

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 first 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 initial 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. No response deadline is required for a first motion to extend time under this paragraph. 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 a 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 motion for extension of time to file the Statement of Intention to which paragraph (B) hereof does not apply more than 14 days after the scheduled meeting of creditors must be scheduled for request a hearing in accordance with LBR 9013-1(H)(3) date and give notice must be given in accordance with LBR 9013-1(M)(2) to the parties as set forth in paragraph (B) of this Local Bankruptcy Rule out in 11 U.S.C. § 521(a)(2)(A) and file proof of service with the motion to extend time.~~

....

Comments

1007-3(A), (C) These rules are amended to remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from a deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. A stylistic change has been made to paragraph (C) as well. [Changes effective 08/01/23.]

1007-3(B) These amendments incorporate, from LBR 1007-3(C), the extension the Clerk is authorized to grant as a matter of course for filing the Statement of Intention, provided the motion is filed prior to the document's initial due date. The rule is also amended to indicate that the extension date is calculated relative

to the initial scheduled meeting of creditors. The rule is further amended to clarify that no notice period need be given for a first motion to extend time, so long as the motion otherwise meets the paragraph's requirements, to align the rule with simultaneous changes to Rules 1007-1, 3015-2 and 9013-1. [Changes effective 08/01/23.]

1007-3(D) The amendments to this paragraph clarify that a hearing is required on a motion to which LBR 1007-3(B) does not apply and the responsibility of the movant to schedule and give notice of such hearing in accordance with Rule 9013-1. The rule is further amended to clarify to whom notice must be sent. [Changes effective 08/01/23.]

RULE 1017-2 VOLUNTARY DISMISSAL OF CHAPTER 13 CASES

....

(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.~~

Comments

1017-2(C) This paragraph is amended to require the notice language be provided in more conspicuous typeface. The notice language is augmented to clarify that written responses in opposition must be filed by the stated deadline. [Changes

effective 08/01/23.]

1017-2(D) This paragraph is amended to incorporate the response descriptor added in Rule 1017-2(C); to clarify the moving party must select a hearing date and schedule same in the event of a response in opposition; and to include all creditors and parties in interest among the required recipients of notice of such hearing. To avoid conflict between this rule and simultaneous changes to Rule 9013-1, the amendments delete the timing requirement of service of the notice of hearing. [Changes effective 08/01/23.]

RULE 1075-1 PROCEDURES FOR COMPLEX CHAPTER 11 CASES

The “Procedures for Complex Chapter 11 Cases in the Eastern District of Virginia” (Exhibit 15 to these Local Bankruptcy Rules), as may be amended from time to time, shall apply to Complex Cases, as such term is defined therein. In the event of any internal inconsistency between these Local Bankruptcy Rules and the Procedures for Complex Chapter 11 Cases in the Eastern District of Virginia, the Procedures for Complex Chapter 11 Cases in the Eastern District of Virginia shall control.

Comments

1075-1 This rule is amended to clarify and confirm that inconsistencies between the Complex Case procedures in Exhibit 15 and the Local Bankruptcy Rules shall be resolved in favor of the former, so as to align with existing language in Exhibit 15. [Change effective 08/01/23.]

RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

....

(B) Possible Dismissal for Failure to Appear

....

(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.~~

....

Comments

2003-1(B) This rule is amended to conform to the Court’s standard practice of issuing an order that provides notice of a rescheduled meeting of creditors where such meeting is a condition of the Court’s order vacating dismissal of a case. [Changes effective 08/01/23.]

RULE 2004-1 EXAMINATION

....

(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~~ serve the notice of hearing to all parties in interest, and file the notice and proof of service with the Clerk.

....

Comments

2004-1(B) This rule is amended to clarify the moving party must select a hearing date and serve notice of such hearing in the event of an objection. [Changes effective 08/01/23.]

RULE 2016-1 COMPENSATION OF PROFESSIONALS

(A) **Interim Applications for 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.

....

Comments

2016-1(A) The amendments to this rule provide that applicants seeking compensation (whether interim or final) above the amount specified by the Clerk in the “Adjustment of Dollar Amounts” statement must schedule such applications for hearing. [Changes effective 08/01/23.]

RULE 2090-1 ATTORNEYS - RIGHT TO PRACTICE BEFORE THE COURT; PRO SE PARTIES

....

(E) **Other Attorneys:**

....

(3) *Foreign Attorneys:*

(a) ***Application:*** Upon written motion by a member of the Bar of this Court admitted or authorized to practice under paragraph (B), (B)(1), (E)(1), (E)(2) or (E)(4)(a)(i), an attorney, qualified to practice in the United States District Court of another state, the District of Columbia or a territory of the United States may apply for *pro hac vice* admission in a specific case and sign pleadings and other filings, provided that:

(i) The rules of the federal court of the district in which the attorney maintains an office extend a similar privilege to members of the Bar of this Court; and

(ii) That such attorneys from another state, the District of Columbia, or a territory of the United States shall be accompanied by a member of the bar of this Court in all appearances before this Court.

No response period or notice of motion is required for a motion for *pro hac vice* admission.

....

(H) *Appearance at All Proceedings:*

....

(2) ***Appearance by Other Counsel of Record:*** Any attorney who has filed a pleading in a bankruptcy case must be present and appear at all Court proceedings involving that pleading unless Counsel:

(a) has been excused by the Court;

(b) has been given permission to withdraw by order of the Court;

(c) has provided a notification of settlement in accordance with LBR 9013-1(~~O~~)(P); or

(d) has provided opposing or another counsel appearing at the initial pretrial conference with available dates so that a trial date can be established.

....

Comments

2090-1(E) This paragraph is amended to clarify that neither a response period nor a notice of motion is required for a motion for admission *pro hac vice*. [Changes effective 08/01/23.]

2090-1(H) This rule provision is amended to conform to the simultaneous amendments made to LBR 9013-1. [Change effective 08/01/23.]

RULE 3002.1-1 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 (in addition to the certification required under LBR 4008-2(A)) 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, or if the debtor's certification states that not all contractual installment payments were made during the Chapter 13 case, the standing trustee shall file a motion to dismiss without a discharge.

(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.

Comments

3002.1-1 This rule is new. Along with the referenced new Exhibit 17, the rule requires the debtor to, in addition to the certification required by Rule 4008-2(A), certify the status of post-petition contractual installment payments on the debtor's principal residence where the automatic stay has been neither terminated nor annulled. The rule also requires the standing trustee to seek dismissal without a discharge if the debtor either fails to comply or certifies not all contractual installment payments were made. The rule further requires that if the creditor files a statement pursuant to FRBP 3002.1(g) indicating either pre-petition or post-petition amounts have not been paid, debtors represented by counsel must schedule a hearing thereon; the standing trustee will schedule such hearing in the instance of an unrepresented debtor. Where counsel for the debtor fails to notice such hearing, the standing trustee may file a motion seeking reduction of attorney's fees. [Rule effective 08/01/23.]

RULE 3007-1 OBJECTIONS TO CLAIMS

....

(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 and give notice to the creditor of the hearing date, time, and location. 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.*** 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 web page located on the Court's web site based upon the type of motion and applicable chapter of the bankruptcy case. The hearing date selected must be after the expiration of the response period set forth in paragraph (D) hereof and must allow for at least 14 days' notice of the hearing.

....

(D) ***Requirement of Written Response:*** A creditor served with an objection to claim ~~may~~ 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 in opposition 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.

~~Under Local Bankruptcy Rule 3007-1, unless a written response 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.~~

Comments

3007-1(B) The amendments to this rule clarify that a hearing is not required on a claim objection absent a response in opposition or request for hearing being filed by the creditor and to further provide that the objecting party must select a hearing date and schedule same in such event. [Changes effective 08/01/23.]

3007-1(D) This paragraph is amended to remove the alternate response deadlines and includes stylistic changes to conform to paragraph (B) of the rule. [Changes effective 08/01/23.]

3007-1(E) This paragraph is amended to require the notice language be provided in conspicuous typeface. [Change effective 08/01/23.]

RULE 3011-1 UNCLAIMED FUNDS

....

(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.

....

(H) ***Pro Se Parties; Parties Who Must Be Represented by Counsel***

....

(2) Applications filed by parties who are not individuals – including corporations, limited liability companies and business trusts – must be signed and filed by a member in good standing of the Bar of this Court. *See* Local Rule 2090-1 (Attorneys – Right to Practice Before the Court; Pro Se Parties).

....

(K) ***Deficiencies:*** If an Application for Payment of Unclaimed Funds does not comply with the provisions of this Local Bankruptcy Rule, the Clerk shall serve a notice of deficiency listing the deficiencies. If the deficiencies are not cured within 14 days after the date of the notice of deficiency, ~~or the claimant does not request a hearing within the said 14 days,~~ the Clerk shall strike the application.

Comments

3011-1(G) The amendment to this rule places the responsibility of scheduling a hearing on an Application for Payment of Unclaimed Funds on the applicant, if an objection is filed, to align with simultaneous changes to LBR 9013-1. [Change effective 08/01/23.]

3011-1(H) A stylistic change is made to this paragraph. [Change effective 08/01/23.]

3011-1(K) This rule is amended to delete language concerning a request for hearing on a Notice of Deficient Filing where there is no entitlement to same. [Change effective 08/01/23.]

RULE 3015-1 CHAPTER 12 PLAN REQUIREMENTS

....

(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.

....

Comments

3015-1(G) This paragraph is amended to remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. [Change effective 08/01/23.]

RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

....

(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.

....

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

(a) A first 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.

No response deadline is required for a first motion to extend time under this subparagraph.

(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 to which that is filed after the due date or that seeks an extension of time beyond the dates specified in subparagraph (C)(3)(a) hereof of this Local Bankruptcy Rule does not apply shall must be scheduled ~~noticed~~ for a hearing in accordance with LBR 9013-1(H)(3) before the judge assigned to the case and notice must be given in accordance with LBR 9013-1(M)(2) to the parties set forth in subparagraph (C)(3)(a)(ii) of this Local Bankruptcy Rule.

....

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

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

(a) ***Time for Filing:*** Unless confirmation of a prior plan has been denied, a modified plan may be filed at any time prior to confirmation. If confirmation of a prior plan has been denied, a modified plan must be filed within the period stated in paragraph (H)~~(3)~~ of this Local Bankruptcy Rule unless the order denying confirmation states some other period.

....

(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.

....

(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.

....

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

~~(1) Possible Dismissal of Case; Notice:~~ The Clerk shall give notice of this Local Bankruptcy Rule to the debtor or debtor's counsel at the time the petition is filed. The Clerk shall also ~~give notice of this Local Bankruptcy Rule in the notice of meeting of creditors.~~

~~(H)(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:

~~(1)(a)~~ the debtor files a new Modified Chapter 13 Plan and Related Motions;

~~(2)(b)~~ the debtor converts or moves to convert the case to another chapter of the Bankruptcy Code;

~~(3)(e)~~ the debtor files a motion for reconsideration or appeals the denial of confirmation; or

~~(4)(d)~~ the Court otherwise orders.

An order previously entered by the Court confirming a chapter 13 plan shall remain in full force and effect if a subsequently modified Chapter 13 Plan and Related Motions is denied confirmation by the Court.

....

Comments

3015-2(C) The amendments to subparagraphs (1) and (3)(b) of this rule remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. Subparagraph (3)(a) is amended to clarify that a response period is not required for a first motion to extend time, so long as the motion otherwise meets the paragraph's requirements, to align the rule with simultaneous changes to Rules 1007-1, 1007-3 and 9013-1. Finally, amendments to subparagraph 3(c) clarify that a hearing is required on a motion filed pursuant to Rule 3015-2(C)(3) to which subparagraph (3)(a) does not apply and the responsibility of the movant to schedule and give notice of such hearing in accordance with Rule 9013-1. [Changes effective 08/01/23.]

3015-2(F) This rule is amended to clarify that the proponent of the modified plan (either debtor or moving party) must select a hearing date and schedule same. A technical amendment is also made to conform to the amendments made to paragraph (H) of the rule. [Changes effective 08/01/23.]

3015-2(H) Current Rule 3015-2(H)(1) is deleted, as the reference to the Clerk providing notice of the possible dismissal of a case for failure to timely file a Chapter 13 Plan and Related Motions is duplicative of language already contained in paragraph (C)(1) of the Rule, and the directive that the Clerk provide notice of the rule in the notice of the meeting of creditors is unnecessary. The remainder of the Rule is redesignated as (H)(1)-(4), inclusive, and is amended to clarify that the Clerk shall enter an order dismissing a chapter 13 case only where confirmation is denied at a hearing on an objection to confirmation, provided a plan has not been confirmed previously. [Change effective 08/01/23.]

RULE 4001(a)-1 RELIEF FROM AUTOMATIC STAY

....

(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.

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.~~

....

(J) Motions for Relief from Stay Guidelines: The Court has adopted guidelines supplementing the Local Bankruptcy Rules 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.

Comments

4001(a)-1(C) This paragraph is amended to require the notice language be provided in conspicuous typeface and to remove language from the required notice indicating that a separate notice of hearing will be provided. [Change effective 08/01/23.]

4001(a)-1(J) This paragraph is new and references the Court's Motions for Relief from Stay Guidelines, which appear at Exhibit 7 to the Rules; this reference was previously set forth in Rule 9013-1(K). [New paragraph (J) effective 08/01/23.]

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

....

(B) ~~Judge Assignments (Provisional):~~ In the ordinary course, judges are randomly assigned overnight for cases filed the immediately preceding day.

....

(C) *Proponent to be Member of Bar:* Any attorney offering a petition, pleading or other document other than a request for notices under FRBP 2002(g) or as provided in LBR 9010-1, for filing on behalf of a client, must be a member in good standing of the bar of this Court.

....

(G) *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 ~~may~~ 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 ~~shall~~ 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.

....

Comments

5005-1(B) This paragraph is amended to remove the label and status of same as “Provisional.” [Change effective 08/01/23.]

5005-1(C) Paragraph (C) is amended to include, additionally, the exceptions set forth in Rule 9010-1 to the requirement that a proponent be a member in good standing of the bar of this Court. [Change effective 08/01/23.]

5005-1(G) This rule is amended to delete language concerning a request for hearing on a Notice of Deficient Filing where there is no entitlement to same and to clarify that if a pleading deficiency thereunder is not cured timely, the pleading will be stricken by the Clerk. The amendments further remove language concerning the filing of a response to a notice of deficiency regarding a petition or notice of voluntary conversion; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. [Changes effective 08/01/23.]

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 to reopen a case with the Court and must be scheduled for hearing in accordance with LBR 9013-1(H)(3) and notice must be given in accordance with LBR 9013-1(M)(2) to shall give 21 days' notice to all parties in interest. The motion shall be served upon the United States trustee, the previously appointed trustee, any affected party, 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 or a request for a waiver of the reopening fee, 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.~~

Comments

5010-1 This Rule is amended to clarify that it is the movant's responsibility to schedule and give notice of a hearing on a motion to reopen in accordance with Rule 9013-1. The amendments add the affected party as among those to receive notice and indicate that a motion to reopen should be accompanied by a request to waive the reopening fee if such fee is not paid when the motion is filed. To avoid conflict between this rule and simultaneous changes to Rule 9013-1, the objection period has been amended to reference Rule 9013-1. [Changes effective 08/01/23.]

RULE 6004-1 SALE OF ESTATE PROPERTY

All motions or complaints for sale of real property or any interest therein shall contain the legal description of said real property sufficient to effect a proper conveyance thereof. Orders approving the sale of property of the estate or any interest therein shall comply with LBR 9022-1(D)(E).

Comments

6004-1 This rule provision is amended to conform to the current version of LBR 9022-1. [Change effective 08/01/23.]

RULE 6004-2 USE, SALE OR LEASE OF PROPERTY

....

(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 LBR 9013-1(G)(3) not less than 7 days before the date set for the proposed action. ~~The party objecting shall 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.

....

Comments

6004-2(B) To avoid conflict between this rule and Rule 9013-1, the amendments delete the objection period in favor of a reference to amended Rule 9013-1. The amendments further clarify that the movant, rather than an objecting party, must schedule the motion for hearing. [Changes effective 08/01/23.]

6004-2(C) This paragraph is amended to clarify the objecting party must select a hearing date and schedule same. The requirement to include proof of service is deleted as such is required with all pleadings, including responsive pleadings. [Change effective 08/01/23.]

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 to Compel 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.

(C) **Order of Court Approval of Abandonment:** Orders for approval of abandonment of property of the estate shall comply with LBR 9022-1~~(D)~~(E).

Comments

6007-1(A) This paragraph is amended to clarify the objecting party must select a hearing date and schedule same. [Change effective 08/01/23.]

6007-1(B) The title of this paragraph is amended to more precisely indicate the nature of such motion and to clarify the moving party must select a hearing date and schedule same. [Changes effective 08/01/23.]

6007-1(C) This rule provision is amended to conform to the current version of LBR 9022-1. [Change effective 08/01/23.]

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, h~~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.

Comments

6008-1 This rule is amended to both clarify the moving party must select a hearing date and schedule same on such motions but that if the noted motion is accompanied by a consent order, a hearing need not be scheduled. [Changes effective 08/01/23.]

RULE 7026-1 DISCOVERY

....

(C) **Motions to Compel:** After a discovery request is objected to or not timely complied with, and if not otherwise resolved, it is the responsibility of the party initiating discovery to place the matter before the Court by a proper motion pursuant to FRBP 7037, to compel an answer, production, designation or inspection. Such motion must be accompanied by a memorandum as required by LBR 9013-1(~~G~~)(F).

(D) **Other Discovery Motions:** A motion for a protective order pursuant to FRBP 7026 or a motion for an order compelling disclosure or discovery pursuant to FRBP 7037, or a motion to compel physical or mental examination pursuant to FRBP 7035, shall be accompanied by a memorandum as required by LBR 9013-1(~~G~~)(F).

....

(G) **Failure to Comply with Order:** Should a party fail to comply with an order of the Court concerning discovery motions, it is the responsibility of the party objecting to such failure to comply to place the matter before the Court by a proper motion for supplementary relief pursuant to FRBP 7037. Such motion must be accompanied by a written memorandum as required by LBR 9013-1(~~G~~)(F).

....

Comments

7026-1(C), (D), (G) These rule provisions are amended to conform to the amendments made to LBR 9013-1. [Changes effective 08/01/23.]

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 unless the Court has ordered that the moving party must select the hearing date from the assigned Judge's hearing dates web page located on the Court's web site. 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 with support as provided in Federal Rule of Civil Procedure 56(c)(1), as made applicable to bankruptcy proceedings by FRBP 7056. 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 pretrial or scheduling order in the case or proceeding. If not ordered otherwise, a party may file a response in opposition to a motion for summary judgment not later than 14 days after service of the motion for summary judgment.

(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 with support as provided in Federal Rule of Civil Procedure 56(c)(1), as made applicable to bankruptcy proceedings by FRBP 7056. Any evidence cited that is not included in the Court’s record must be attached to the memorandum as an exhibit.

(F) *Objections to Inadmissible Evidence*. If not ordered otherwise, any objections to the admissibility of material cited to support or dispute a fact must be filed no later than 3 days prior to the hearing scheduled on the motion.

(G) *Reply and Surreply Briefs*: Reply briefs 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 reply brief no later than 7 days after service of a response in opposition under paragraph (D) of this Local Bankruptcy Rule. Surreply briefs may be filed if permitted by the pretrial or scheduling order entered by the Court in the case or proceeding.

(H) *Notice*: The notice of any motion seeking summary judgment 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. The notice of any motion seeking summary judgment in which the non-moving party is *pro se* shall also include the bracketed text contained in the first full paragraph below:

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.

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.

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

Comments

7056-1 The prior text of this rule is deleted and replaced with provisions specifically addressing the following aspects of summary judgment motions: timing of filing; scheduling hearings; memorandums in support; responses and memorandums in opposition; replies and surreplies; and the required notice. [Changes effective 08/01/23.]

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.~~

Comments

9010-1 This paragraph is amended to remove language concerning the filing of a response; and to permit the Court to either excuse a debtor from the deficiency hearing or to cancel the hearing if appropriate in the event of an untimely cured deficiency. A stylistic change has been made as well. [Changes effective 08/01/23.]

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:

....

(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) that is stipulated to by all parties in interest; or

....

~~(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 motions 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, or the time is shortened or extended by order of the Court, in which case no later than the period set forth in such rule or order; 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, unless excused, waived or otherwise ordered by the Court. 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 with-out 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. For matters that do not require a hearing pursuant to paragraph (H)(1) hereof, within 14 days after the time for filing a response in opposition 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 web site at 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) The moving party may set any matter included on the Negative Notice List for hearing and may remove such hearing from the Court's docket by order or hearing cancellation if no response in opposition is timely filed, provided that the moving party gave notice in accordance with LBR 9013-1(M)(3), informing recipients that the Court may grant the requested relief without holding the scheduled hearing if there is no timely filed response in opposition.

(c) 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 first 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 notice an appropriate hearing date and time from the assigned Judge's hearing dates web page located on the Court's web site based upon the type of motion and applicable 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.

(d) If the date, time, and/or location in a notice of hearing is incorrect or does not comply with applicable rules, the hearing on a matter may not appear on the Court docket.

(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:** The moving party should make a good faith attempt to coordinate a mutually agreeable hearing date with opposing counsel. Before a hearing on any motion, the moving party 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 web site 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 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 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 Rules 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.

....

(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 (HG)(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 21 [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, TREAT THE MOTION [OR APPLICATION OR PROPOSED ACTION] AS CONCEDED AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

NOTICE

~~Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within 14 [or 21] 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 pro-posed 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:~~ The notice of any motion where a hearing is 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)(e)(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 WITHIN 21 [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.

A HEARING TO CONSIDER THE RELIEF REQUESTED IN THIS

MOTION IS SCHEDULED FOR [HEARING DATE, TIME, AND LOCATION].

NOTICE

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party at least 7 [or 3] days before the scheduled hearing date, 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.

(3) When a hearing on an item on the Negative Notice List is scheduled by the moving party at the time of filing: The notice of any motion where a hearing is scheduled by the moving party under subparagraph (H)(1)(b) of this Local Bankruptcy Rule shall contain language substantially in accordance with Official Form 420A and setting forth the requirement of a response under paragraph (G) in substantially the following form, using bold print and capitalized text:

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 21 [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, 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]. HOWEVER, THE MOVING PARTY MAY CANCEL THIS HEARING IF THERE IS NO TIMELY FILED RESPONSE IN OPPOSITION TO THE RELIEF REQUESTED.

~~(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 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 (c) 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.

(5) 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 motion, which may be combined with a request for expedited hearing under paragraph (N) hereof, if applicable, 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.

Comments

9013-1(A) This paragraph is amended to include the specific rule reference for motions for relief from automatic stay and to add motions for summary judgment to the list of items to which Rule 9013-1 does not apply. [Changes effective 08/01/23.]

9013-1(F) This paragraph is deleted, with certain portions reworded and relocated to new Rule 9013-1(H). [Change effective 08/01/23.]

9013-1(G) This paragraph is redesignated as (F) and is amended to clarify that motions for dismissal or conversion that are either voluntary or stipulated are excepted from the memorandum requirement. [Changes effective 08/01/23.]

9013-1(H) This paragraph is redesignated as (G) and is amended to include the chapter 7, 12, or 13 trustee, and any appointed chapter 11 trustee among the required recipients of responses in opposition to motions. The Rule is further amended to simplify the response period where neither the Federal Rules of Bankruptcy Procedure nor these Rules specify a different response period. The Rule is also amended to require submission of an order for motions that do not require a hearing where no opposition is filed and the notice period has expired. A stylistic change has been made as well. [Changes effective 08/01/23.]

9013-1(H) New paragraph (H) adopts a Negative Notice List of matters on which no hearing is required but may be scheduled in the movant's discretion; addresses the matters on which hearings are required; distinguishes matters on which the movant selects a hearing date from those for which the Court provides a hearing date; prohibits hearings from being set on less than 14 days' notice except where an expedited hearing request is granted; warns that an incorrect or non-compliant notice of hearing may result in the matter not appearing on the Court docket; sets forth required appearances at hearings; and requires counsel to exercise good faith in coordinating a hearing date and narrowing the issues prior to said hearing. [New paragraph (H) effective 08/01/23.]

9013-1(I) Paragraph I is repealed in light of the simultaneous adoption of amendments to Rule 7056-1. [Change effective 08/01/23.]

9013-1(J) This paragraph is amended to require continuance motions to be in writing, state the desired continuance by time or date, and to notify the Court of such motions filed less than one business day prior to the scheduled hearing. The Rule is further amended to provide that the Court may grant a continuance immediately where there is consent or other good cause in consideration of the exigencies present. [Changes effective 08/01/23.]

9013-1(K) This paragraph is amended to remove the reference to the Motions for Relief from Stay Guidelines, which reference has been relocated to new Rule 4001(a)-1(J). A stylistic change has been made as well. [Change effective 08/01/23.]

9013-1(M) This paragraph is amended to provide distinct forms of notice dependent upon whether a hearing is requested or required at the time of filing or at some point thereafter. The Rule is further amended to require the various notices to be provided in more conspicuous typeface. The notice language therein is amended to incorporate the new default response period under amended Rule 9013-1(G). Finally, the amendments address providing notice of an expedited hearing. [Changes effective 08/01/23.]

9013-1(N) This paragraph is amended to set forth service and substantive requirements for motions for expedited hearings. [Changes effective 08/01/23.]

9013-1(O) This paragraph is new and sets forth the process for requesting notice periods be shortened, service of such motions, and responses thereto and to provide that a motion to shorten the notice period may be combined with a motion

requesting an expedited hearing. [New paragraph (O) effective 08/01/23.]

9013-1(P) This paragraph is redesignated from (O) in light of the adoption of new paragraph (O). The amendments set forth the method and parameters for notifying the Court of the settlement of proceedings as well as to provide that the Court may restore any cancelled hearing to the docket. [Changes effective 08/01/23.]

9013-1(Q) This paragraph is new and sets forth that the closure of a bankruptcy case will result in unprosecuted motions being deemed abandoned without prejudice. The Clerk's Office will no longer prompt parties to submit tardy orders. [New paragraph (Q) effective 08/01/23.]

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

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 Rules 2090-1(H) or 9013-1(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.

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 web page. If you are having difficulty utilizing the Hearing Cancellation Module, please contact the assigned Judge's courtroom deputy.~~

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

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 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.

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.~~

(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 Section 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)-l(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)-l(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 web page located on the Court's web site 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.

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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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**PROCEDURES FOR COMPLEX CHAPTER 11 CASES
IN THE EASTERN DISTRICT OF VIRGINIA
(Effective February 15, 2022)**

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V. MOTIONS PRACTICE

A. *Waiver of Memorandum of Points and Authorities.* Notwithstanding Local Bankruptcy Rule 9013-1(~~G~~)(F), motions filed without a separate memorandum of points and authorities shall be deemed to include a request for a waiver of a separate memorandum or deemed a single memorandum and motion as allowed by Local Bankruptcy Rule 9013-1(~~G~~)(F).

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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]