

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

PUBLIC NOTICE

**INVITATION FOR COMMENTS ON LOCAL BANKRUPTCY RULES –
PROPOSED INCORPORATION OF DESIGNATED INTERIM PROCEDURES INTO
LOCAL BANKRUPTCY RULES, REPEAL OF NON-DESIGNATED INTERIM PROCEDURES,
SELECTED AMENDMENTS TO LOCAL BANKRUPTCY RULES AND
NEW LOCAL BANKRUPTCY RULES**

Comments are invited on a proposed revision to the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Virginia, as follows:

1. Rule 1002-1 Petitions – Copies. The proposed Comments statement addresses the recommendation to repeal this Rule.
2. Rule 1002-2 Notice to individual Debtors of Chapters Available under Bankruptcy Code. The proposed Comments statement addresses the recommendation to repeal this Rule. Interim Procedure 1002-2 also is recommended for repeal.
3. Rule 1006-1 Fees: Installment Payments. Rule 1006-1 and Interim Procedure 1006-1 are recommended for repeal. Selected provisions of the Rule are incorporated into a new Rule 1006-1, which also incorporates provisions from Rules 1006-2 and 1006-3. Interim Procedure 1006-1(B) will be recommended for incorporation into a standing order, which will streamline the process of making changes resulting from adjustments to fees in cases filed under chapters 7, 11, 12, and 13 of the Bankruptcy Code. Interim Procedure 1006-1(F), Chapter 7 Fee Waiver, will be incorporated, as appropriate, into the Clerk's Office on-line internal administrative procedures and external on-line Attorney Online Manual.
4. Rule 1006-2 Fee: Electronic Refunds. Rule 1006-2 is recommended for repeal. Its provisions are incorporated into a new Rule 1006-1, which incorporates selected provisions from Rules 1006-1, 1006-2 and 1006-3.
5. Rule 1006-3 Payment of Filing Fees; Remedies for Nonpayment. Rule 1006-3 is recommended for repeal. Its provisions are incorporated into a new Rule 1006-1, which incorporates selected provisions from Rules 1006-1, 1006-2 and 1006-3.
6. New Rule 1006-1 Fees: Installments Payments, Waiver, Refunds. This Rule is new and incorporates selected provisions from current Rules 1006-1, 1006-2 and 1006-3.
7. Rule 1007-1 Lists, Schedules and Statements. The proposed Comments statement addresses the recommendation to amend this Rule, which includes the incorporation of selected provisions from Interim Procedure 1007-1. That Interim Procedure is recommended for repeal.
8. Rule 1007-3 Statement of Intention. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 1007-3 is recommended for repeal.
9. Rule 1009-1 Amendments to Lists & Schedules. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 1009-1 is recommended for repeal.

10. Rule 1014-2 Declaration of Divisional Venue. The proposed Comments statement addresses the recommendation to repeal this Rule.
11. Rule 1017-1 Conversion. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 1017-1 is recommended for repeal.
12. Rule 1017-2 Dismissal for Substantial Abuse of Chapter 7. The proposed Comments statement addresses the recommendation to repeal this Rule. Interim Procedure 1017-2 is recommended for repeal.
13. Rule 2002-1 Notice to Creditors & Other Interested Parties. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 2002-1 is recommended for repeal.
14. Interim Procedure 2007.2(a)-1 Appointment of Patient Care Ombudsman in a Health Case Business Case. With the promulgation of FRBP 2007.2, this Interim Procedure no longer is required and is recommended for repeal.
15. Interim Procedure 2015.1-1 Patient Care Ombudsman. With the promulgation of FRBP 2015.1, this Interim Procedure no longer is required and it is recommended for repeal.
16. Rule 3017-1 Approval of Disclosure Statement. In light of FRBP 3017.1, this Rule no longer is required and is recommended for repeal. Interim Procedure 3017.1-1 is recommended for repeal.
17. Rule 3070-1 Payments in Chapter 12 and Chapter 13 Cases. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 3070-1 is recommended for repeal.
18. Rule 4001(a)-1 Relief from Automatic Stay. The proposed Comments statement addresses the recommendation to amend this Rule. Interim Procedure 4001(a)-1 is recommended for repeal.
19. Rule 4002-1 Duties of the Debtor. This Rule is derived from Interim Procedure 4002-1. Interim Procedure 4002-1 is recommended for repeal.
20. Rule 4008-1 Reaffirmations. The amendments to this Rule are derived from Interim Procedure 4008-1. Internal Clerk's Office procedures address paragraph (C) of the Rule. It is recommended for repeal. Paragraph (D) is recommended for repeal in light of the recent amendment to FRBP 4008(a) and 4004(c) (1) (J). Interim Procedure 4008-1 is recommended for repeal.
21. Rule 5005-1 Filing of Petitions, Pleadings and Other Papers. Stylistic changes are made throughout the Rule. References to the Declaration of Divisional Venue form are removed. References to the filing of paper copies are removed. Paragraph (G) is removed in light of FRBP 9037. Interim Procedure 5005-1 is recommended for repeal.

22. Rule 6004-4 Mortgage Loan Modification by Chapter 13 Debtor after Confirmation.

This rule is new and provides a procedure, including the manner in which notice shall be given and the contents of the notice, for a chapter 13 debtor to request court approval to modify a real property mortgage loan following confirmation of a debtor's Plan.

23. Rule 9013-1 Motions Practice. The proposed Comments statement addresses the recommendation to amend this Rule.

The proposed revision to the Local Bankruptcy Rules is available at the Alexandria, Norfolk, Richmond and Newport News divisions of the Court and may be accessed at the Court's Internet web site:

<http://www.vaeb.uscourts.gov/home/localrules.html> under Local Rules > Public Notice.

Comments may be submitted, by mail, to:

Local Rule Change
c/o William C. Redden
U.S. Bankruptcy Court
701 East Broad Street
Suite 4000
Richmond, VA 23219-1888

or, by e-mail, at:

Localrules@vaeb.uscourts.gov

Comments will be received by mail or at the Court's web site until 5:00 p.m., local time, Thursday, July 16, 2009.

Proposed new language is underlined and deleted language is struck though in the attached proposed revision to the Local Bankruptcy Rules.

William C. Redden
Clerk of Court

Date: June 17, 2009

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
(Version 06/16/09)**

**PROPOSED INCORPORATION OF DESIGNATED INTERIM
PROCEDURES INTO
LOCAL BANKRUPTCY RULES, REPEAL OF NON-DESIGNATED
INTERIM PROCEDURES, SELECTED AMENDMENTS TO
LOCAL BANKRUPTCY RULES AND NEW LOCAL BANKRUPTCY RULES**



Effective Date: September 1, 2009

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

RULE 1002-1 PETITIONS – COPIES

~~(A) *Chapter 7, 12 and 13 Petitions*: An original and three copies of all chapter 7, 12 and 13 petitions shall be filed with the Court or by electronic means established by the Court.~~

~~(B) *Chapter 9 and 11 Petitions*: An original and five copies of all chapter 9 and 11 petitions shall be filed with the Court or by electronic means established by the Court.~~

LBR Standing Committee Recommendation: That LBR 1002-1 be repealed.

Comments

~~Changes have been made to allow for the filing of documents by electronic means provided under FRBP 5005(a)(2). For more detail on how this has been implemented on a pilot basis in the Alexandria Division see the “Order Adopting Electronic Case Filing Procedures” attached as Exhibit 3 and the “Administrative Procedures for Electronically Filed Cases” attached as Exhibit 4. It is planned that the ability to file electronically will expand to the other divisions during 1999.~~

1002-1 The rule is repealed in light of Local Bankruptcy Rule 5005-2, which mandates electronic case filings in the Court’s Case Management/Electronic Case Files (CM/ECF) System and authorizes the Clerk to promulgate and revise the Court’s Electronic Case Files (CM/ECF) Policy. [Repeal effective 09/01/09.]

**RULE 1002-2 NOTICE TO INDIVIDUAL DEBTORS
OF CHAPTERS AVAILABLE UNDER BANKRUPTCY CODE**

(A) ~~**Requirement:**~~ Section 342(b) of title 11 of the United States Code states that "Prior to the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give written notice to such individual that indicates each chapter of this title under which such individual may proceed."

(B) ~~**Distribution to Counsel:**~~ To comply with this requirement, the Clerk is directed to provide such notice on approved forms and to distribute such notice to all members of the bar who regularly file bankruptcy cases.

(C) ~~**Copy to be Filed with Petition:**~~ Any individual debtor who files a petition in this Court must file with such petition the form referred to above, properly signed by the debtor(s).

(D) ~~**RESERVED**~~

(E) ~~**Inapplicability to Chapter 12 Cases:**~~ This Local Bankruptcy Rule does not apply to cases filed under chapter 12 of the Bankruptcy Code.

Comments

1002-2 The contents of the rule are substantially set forth in 11 U.S.C. § 342(b). The rule is repealed for this reason and, further, is repealed in light of Local Bankruptcy Rule 5005-2, which mandates electronic case filings in the Court's Case Management/Electronic Case Files (CM/ECF) System and authorizes the Clerk to promulgate and revise the Court's Electronic Case Files (CM/ECF) Policy. [Repeal effective 09/01/09.]

**INTERIM PROCEDURE 1002-2 NOTICE OF ALTERNATIVES TO INDIVIDUAL DEBTORS OF
CHAPTERS AVAILABLE UNDER BANKRUPTCY CODE AND OTHER REQUIRED
INFORMATION**

(A) ~~**Requirement:**~~ Section 342(b) of title 11 of the United States Code states that: "Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give written notice to such individual containing (1) a brief description of (A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and (B) the types of services available from credit counseling agencies; and (2) statements specifying that (A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and (B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General."

(B) ~~**Distribution to Counsel and to Others:**~~ To comply with this requirement, the Clerk is directed to provide such notice on approved forms to all individuals, including bankruptcy petition preparers and debtors, requesting copies of the local forms containing the required notice provisions and to distribute such notice to all members of the bar who regularly file bankruptcy cases.

(C) ~~**Certificate to be Filed with Petition:**~~ Any individual debtor whose debts are primarily consumer debts and files a petition in this Court must file with such petition the certificate referred to at 11 U.S.C. §521(a)(1)(B)(iii)(I)-(II), properly signed by the debtor(s).

LBR Standing Committee Recommendation: That LBR 1002-2 and IP 1002-2 be repealed.

RULE 1006-1 FEES: INSTALLMENT PAYMENTS

~~(A) **Application:** Any individual debtor desiring to pay the filing fee in installments must file an application with the Clerk substantially conforming to that local form entitled " Application to Pay Filing Fee in Installments Eastern District of Virginia.". The application form is available from the Clerk's Office. To be in substantial conformity, the application must:~~

~~(1) include a statement that the debtor has not paid any money or transferred any property to the debtor's attorney or any other person for services in connection with the bankruptcy, nor will any such payment be made until the filing fee is paid in full;~~

~~(2) include a statement that the debtor understands that the case will be dismissed if any installment payment is not received by the date due;~~

~~(3) include a schedule of payments as prescribed in (B) below, and~~

~~(4) be signed by both the debtor and the debtor's attorney (if any).~~

~~(B) **Schedule of Payments:** Any Application to Pay Filing Fee in Installments shall propose a payment plan in accordance with the following schedule:~~

At _____	1 Month	2 Months	
	Filing	After Filing	After Filing
Chapter 7	\$75	75	59
Chapter 11	\$430	409	—
Chapter 12	\$105	75	59
Chapter 13	\$70	70	54

~~Payments are due as shown, on the same day of the month as the date on which the petition was filed. If that date falls on a day that the Court is closed, payment is due not later than on the next business day. The initial payment for all cases includes the first \$30 of the administrative fee which is due at the time of filing of the petition and the final schedule payment includes the balance of this fee.~~

~~(C) **Entry of Order Approving Installment Fees:** If an Application to Pay Filing Fee in Installments conforms to the requirement of this Local Bankruptcy Rule, the Clerk shall enter an order approving the same.~~

~~(D) **Failure to Pay Installment:** [Repealed]~~

~~(E) **Notice of Possible Dismissal:** The Clerk is to give notice of the dismissal provisions of this Local Bankruptcy Rule to a debtor or debtor's counsel at the time an Application to Pay Filing Fee in Installments is filed.~~

INTERIM PROCEDURE 1006-1 FEES: INSTALLMENT PAYMENTS

~~(A) **Application:** Any individual debtor desiring to pay the filing fee in installments must file an application with the Clerk substantially conforming to that local form entitled "Application to Pay Filing Fee in Installments Eastern District of Virginia". The application form is available from the Clerk's Office. To be in substantial conformity, the application must:~~

(1) include a statement that until the filing fee is paid in full, the debtor will not make additional payment or transfer any additional property to an attorney or any other person for services in connection with the bankruptcy case;

(2) include a statement that the debtor understands that the case will be dismissed if any installment payment is not received by the date due;

(3) include a schedule of payments as prescribed in (B) below; and

(4) be signed by both the debtor and the debtor's attorney (if any).

(B) **Schedule of Payments:** Any Application to Pay Filing Fee in Installments shall propose a payment plan in accordance with the following schedule:

Chapter	At Filing	1 Month After Filing	2 Months After Filing
Chapter 7	\$100	100	99
Chapter 11	\$430	409	200
Chapter 12	\$105	75	59
Chapter 13	\$ 90	90	94

Payments are due as shown, on the same day of the month as the date on which the petition was filed. If that date falls on a day that the Court is closed, payment is due not later than on the next business day.

(F) **Chapter 7 Fee Waiver:**

(1) **Clerk's Dismissal of Chapter 7 Petition:** If the application requesting a waiver under 28 U.S.C. §1930(f), prepared as prescribed by the appropriate official form, does not accompany the petition and the required fee has not been paid, or if the application does not conform to the requirements of FRBP 1006, Interim Rule 1006(e) and this Interim Procedure, the Clerk shall proceed in the manner provided for in LBR 1006-3(C).

(2) **Completion by Debtor of Filing Fee Waiver Application; Review by Court and Standard of Eligibility; Court Determination:**

(a) The debtor shall file a properly completed application requesting a filing fee waiver along with the bankruptcy petition. The application must conform substantially to Official Form B3B "Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments." The application shall be submitted promptly by the Clerk to the Court for determination of the application.

(b) Unless otherwise ordered by the Court, the application will be considered on an *ex parte* basis. In considering the circumstances of the debtor's application, the Court's determination shall be guided by the standard of eligibility set forth at H.A. of the *Judicial Conference of the United States Interim Procedures Regarding the Chapter 7 Fee Waiver Provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005* ("JCUS IFP Procedures").

(c) The Court either will direct that no hearing be held and enter an order granting or denying the application or direct that an early hearing on the application be set on ten (10) days notice given to the United States trustee, the trustee, the debtor, and the debtor's attorney, if any. If the application is denied, the debtor shall pay the filing fee in full no later than ten (10) days after the entry of the order or make the required installment payments as set forth in the order denying the application. The Schedule of Payments set forth in the order shall conform to the schedule prescribed below:

Chapter 7	Entry of Order Plus Ten (10) Days \$ 100	1 Month After Entry of Order \$ 100	2 Months After Entry of Order \$ 99
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Payments are due as shown, on the same day of the month on which the order was entered. If any required payment date falls on a day that the Court is closed, payment is due not later than on the next business day. The order will include a provision advising the debtor that if the debtor fails to take such action, the Clerk shall enter an order dismissing the case.

(3) Post-Petition Application by Debtor to Waive Filing Fee: If a debtor files an application to pay the filing fee in installments and later applies for a waiver of the filing fee, the Court may waive any unpaid balance on the filing fee, if the circumstances so warrant. The waiver application must be filed prior to the next installment payment to avoid dismissal of the debtor's case for nonpayment.

(4) Conversion of Case from Chapter 12 or 13 to Chapter 7: If a case is converted from chapter 12 or 13 to chapter 7, the Court may waive any unpaid balance of the filing fee, if the circumstances described in II.A. of the JCUS IFP Procedures are present.

(5) Conversion of Case from Chapter 7 to Chapter 12 or 13: If the filing fee of an individual chapter 7 debtor is waived by the Court and the debtor's case later is converted to chapter 12 or 13, the debtor shall pay, as applicable, the full chapter 12 or 13 filing fee. The order converting the debtor's case to one under chapter 13 shall include a provision directing the debtor either to pay the filing fee in full or propose a payment plan that shall conform to the schedule set forth at subparagraph (F)(2)(c) of this Local Bankruptcy Rule with the first payment being filed no later than ten (10) days after entry of the Court's order of conversion. Payments are due as shown, on the same day of the month on which the order was entered. If any required payment date falls on a day that the Court is closed, payment is due not later than on the next business day. The order will include a provision advising the debtor that if the debtor fails to pay the filing fee in full or to propose a payment plan in accordance with the Court's order, the Clerk shall enter an order dismissing the case.

(6) Vacating Order Granting Filing Fee Waiver: The Court, on its own initiative or on motion of the United States trustee or trustee, may vacate an order waiving the filing fee if developments in the case or administration of the estate demonstrate that the waiver no longer remains warranted. In the event an order vacating the order waiving the filing fee is entered, the debtor shall pay the filing fee in full. The debtor may propose a payment plan that conforms to the schedule set forth at subparagraph (F)(2)(c) of this Local Bankruptcy Rule with the first payment being filed no later than ten (10) days after entry of the Court's order vacating the earlier entered order waiving the filing fee. Payments are due as shown, on the same day of the month on which the order was

entered. If any required payment falls on a day that the Court is closed, payment is due not later than on the next business day. The order will include a provision advising the debtor that if the debtor fails to pay the filing fee in full or to propose a payment plan in accordance with the Court's order, the Clerk shall enter an order dismissing the case.

~~(7) *Waiver of Other Fees Constituting Filing Fees by the Court:* Other fees constituting filing fees scheduled by the Judicial Conference under 28 U.S.C. §1930(b) and (c) may be waived by the Court for an individual chapter 7 debtor whose filing fee has been ordered waived by the Court.~~

~~(8) *Payment of Trustee Compensation and Fee:* If a debtor's application to waive the filing fee is granted by the Court, payment of \$45 to the trustee serving in the case from the chapter 7 filing fee, as otherwise provided for at 11 U.S.C. §330(b)(2), and the additional \$15 fee as otherwise provided for at §330(b)(2) and as further provided for at Item (9) of the Bankruptcy Court Miscellaneous Fee Schedule, shall not be made to the trustee as there is no alternative authorized payment source from which such payment may be made.~~

LBR Standing Committee Recommendation: That LBR 1006-1 and IP 1006-1 be repealed and that a new LBR 1006-1 be promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR.

RULE 1006-2 FEES: ELECTRONIC REFUNDS

(A) Request for Refund

~~(1) An attorney or trustee may request a refund of a filing fee paid electronically in a case or proceeding in which payment was made by credit card when:~~

~~(a) a fee was paid for filing a duplicate document, bankruptcy petition or adversary proceeding;~~

~~(b) a fee was paid for filing a document in the wrong case or proceeding, or~~

~~(c) the movant is entitled to an exemption from the filing fee paid.~~

~~(2) A trustee or debtor in possession may request a refund of a filing fee paid electronically when payment was made by credit card and the trustee or debtor in possession is eligible for deferral of the filing fee in a case in which no funds from the estate exist for payment of the filing fee.~~

(B) Motion Required: ~~The request shall be made promptly after the payment error is discovered by a motion for a refund:~~

~~(1) and to dismiss the case or proceeding when the fee charged resulted from filing a duplicate petition or adversary proceeding;~~

~~(2) and to strike the pleading when the fee charged resulted from filing a duplicate pleading or from filing a pleading in the wrong case or proceeding, or~~

~~(3) when the trustee or debtor in possession is eligible for deferral of the filing fee in a case or proceeding in which no funds from the estate exist for payment of the filing fee.~~

(C) Motion Contents: ~~The motion must contain a complete explanation as to why the payment should be refunded. The motion need not contain a supporting memorandum or be noticed for a hearing.~~

(D) Clerk Authorized Actions: ~~Upon verification of the grounds set forth in the motion, the Clerk is authorized to dismiss the filing or strike the pleading as the case may be, and to effect a refund only if the refund may be processed as a credit to the attorney's or trustee's credit card.~~

(E) Clerk's Referral to the Court: ~~The Clerk may refer a motion set forth in paragraph (B) of this Local Bankruptcy Rule to the attention of the judge assigned to the case or proceeding for such further determination and action as the judge may find appropriate.~~

(F) Request for Clearance: ~~A movant may request clearance of the "filing fee due" status in a case or proceeding in which the fee has not yet been paid by contacting a deputy clerk in the appropriate division of the Clerk's Office.~~

LBR Standing Committee Recommendation: That LBR 1006-2 be repealed and that a new LBR 1006-1 be promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR.

RULE 1006-3 PAYMENT OF FILING FEES; REMEDIES FOR NONPAYMENT

~~(A) *Payment of Filing Fees*: All petitions, complaints, pleadings and other papers shall be accompanied by the proper filing fee.~~

~~(B) *Rejection of Partial Payments*: The Clerk is authorized to reject any partial payment of any filing fee but shall not reject the petition, complaint, pleading or other paper.~~

~~(C) *Dismissal for Nonpayment*: If a petition, complaint, pleading, or other paper is not accompanied by the proper filing fee or an application to pay installments with the first installment, or in a voluntary chapter 7 case filed by an individual, an application requesting a waiver of the filing fee, the Clerk will give notice to cure the filing fee deficiency. Unless the filing fee is paid or the party requests a hearing on the matter by the close of business on the next business day after the notice to cure is given, the Clerk will dismiss the petition or complaint or strike the pleading or other paper without further notice. Except as provided for in LBR 1017-3, the Clerk shall issue an order of dismissal in any case where an installment payment has not been received by the due date.~~

~~(D) *Form of Notice and Notice Period*: The Clerk may give notice personally, electronically, telephonically or by mail. The notice period shall commence for personal, electronic and telephonic notice when the notice is given and shall commence for mailed notices three days after the notice is mailed.~~

LBR Standing Committee Recommendation: That LBR 1006-3 be repealed and that a new LBR 1006-1 be promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR.

RULE 1006-1 FEES: INSTALLMENT PAYMENTS, WAIVER, REFUNDS - New

(A) **Installment Payments:** Any individual debtor desiring to pay the filing fee in installments must file an application with the Clerk that substantially conforms to that local form entitled “APPLICATION TO PAY FILING FEE IN INSTALLMENTS – EASTERN DISTRICT OF VIRGINIA.” The application form is available from the Clerk’s Office. If the application meets all the requirements of that local form, the Clerk shall enter an order approving the same. The Clerk is to give notice of the dismissal provisions, as set forth in the application, 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 that substantially conforms to that local form entitled “APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE FOR INDIVIDUALS WHO CANNOT PAY THE FILING FEE IN FULL OR IN INSTALLMENTS.” The application form is available from the Clerk’s Office.

(C) **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. The Clerk may provide such notice personally, electronically, telephonically or by mail. The notice period shall commence for personal, electronic, and telephonic notice when the notice is given and shall commence for mailed notices three days after the notice is mailed. Unless the fee is paid or the party requests a hearing on the matter by the close of business on the next business day after the notice to cure is given, the Clerk shall dismiss the petition or complaint or strike the pleading or other document without further notice. The Clerk shall reject any partial payment of any fee.

(D)(1) **Request for Refunds:** An attorney or trustee may file a motion for refund of a filing fee paid in a case or proceeding in which payment was made by credit card when:

(a) a fee was paid for filing a duplicate document, bankruptcy petition or adversary proceeding,

(b) a fee was paid for filing a document in the wrong case or proceeding,

(c) the movant is entitled to an exemption from the filing fee paid, or

(d) a trustee or debtor in possession is eligible for deferral of the filing fee in a case in which no funds from the estate exist for payment of the filing fee.

(2) **Motion Required:** The request shall be made promptly after the payment error is discovered by filing a motion for refund. The motion must contain a complete explanation as to why the payment should be refunded. The motion need not contain a supporting memorandum or be noticed for a hearing.

(3) **Motion Required for Disposition of Document:** A separate motion to dispose of a document filed in error, as identified in subparagraph (D)(1)(a) and (b) of this Local Bankruptcy Rule, is also required.

(4) **Clerk-Authorized Action:** Upon verification of the grounds set forth in the motion the Clerk is authorized to enter an order dismissing or striking the document. The Clerk is also authorized to enter a separate order refunding the filing fee if the refund can be processed as a credit to the attorney's or trustee's credit card.

(5) **Clerk's Referral to the Court:** The Clerk may refer a motion set forth in paragraph (D)(2) of this Local Bankruptcy Rule to the judge assigned to the case or proceeding for such further determination and action as the judge may find appropriate.

(6) **Request for Clearance:** A movant may request clearance of the "filing fee due" status in a case or proceeding in which the fee has not yet been paid by contacting a deputy clerk in the appropriate division of the Clerk's Office.

Comments

1006-1 This expanded rule selectively incorporates the fee-related procedures set forth in current Local Bankruptcy Rules 1006-1, 1006-2 and 1006-3. As set forth in paragraph (D)(3), a separate motion is required to dispose of a document filed in error. [Effective 09/01/09.]

LBR Standing Committee Recommendation: That a proposed new LBR 1006-1 be adopted. The Clerk's Office has made additional revisions to this Local Bankruptcy Rule.

RULE 1007-1 LISTS, SCHEDULES, ~~AND~~ STATEMENTS AND OTHER DOCUMENTS

(A) ***Dismissal of Case:*** Except as provided in LBR 1017-3, in any case ~~where in which~~ lists, schedules, ~~and~~ statements and other documents are not filed at the time of the filing of a voluntary petition, the Clerk shall enter an order of dismissal unless the same are filed within ~~fifteen~~ 15 days after the filing of the petition, or a motion to extend the time for filing ~~lists, schedules and, statements~~ has been filed prior to the expiration of the ~~fifteen~~ 15-day period.

(B) ***Motion to Extend Time:*** Such motion to extend the time for filing 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. ~~Where~~ If there are more than ~~thirty~~ 30 creditors in the case, the debtor need only provide notice of the motion to extend time to the ~~ten~~ 10 largest secured creditors, the ~~twenty~~ 20 largest unsecured creditors and any official committee appointed in the case. The motion to extend time shall give notice that parties objecting to the extension of time shall file written objections with the Court within five business days after service of the motion by the debtor.

(C) ***Order Extending Time:*** ~~Where~~ If no objections to the motion to extend the ~~are~~ time for filing is timely filed with the Court, the Clerk shall enter an order extending time for filing to not later than the fourth business day prior to the scheduled meeting of creditors. If the lists, schedules ~~and, statements and other documents~~ are not filed by said date, the Clerk shall enter an order dismissing the case.

(D) ***Objections -- Determination:*** ~~Where~~ If ~~an~~ objections ~~are~~ is filed to the motion for extension of time, the Clerk shall submit the motion and objections to the Court for determination of the motion.

(E) ***Hearing on Further Extension:*** Any debtor requesting an extension of time to file lists, schedules, ~~and~~ statements and other documents ~~after to a date less than~~ four business days prior to the scheduled meeting of creditors must request a hearing date and give notice to parties as set forth in paragraph (B) of this Local Bankruptcy Rule and file a proof of service with the motion to extend time.

(F) ***Notice of Possible Dismissal:*** The Clerk shall give notice of this Local Bankruptcy Rule to a debtor or debtor's counsel who files a petition not accompanied by all required lists, schedules, ~~and~~ statements and other documents. The Clerk shall also give notice of this Local Bankruptcy Rule in the meeting of creditors notice.

~~(G) ***Number of Copies:*** The number of copies of the lists, schedules and statements to be filed shall correspond to the number of copies of the petition required by Local Bankruptcy Rule 1002-1.~~

~~(H)~~ (G) ***List of Creditors Holding 20 Largest Unsecured Claims:*** To assist the United States ~~Trustee~~ in appointing a creditors' committee, the list required by FRBP 1007(d) shall include the amount owed, by amount of debt ranging from the largest creditor ~~in amount owed~~ to the smallest creditor, ~~in amount owed~~. The list shall also include the name and telephone number of a contact person or representative of the unsecured creditor. If a minor child is one of the creditors holding the 20 largest unsecured claims, indicate that by stating "a minor child" and do not disclose the child's name.

(H) List of Creditors, ~~and~~ 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. If not filed via the ECF system, ~~The~~ mailing matrix shall be submitted on a computer diskette in the format specified by the Clerk's Office. 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. In a voluntary case, the debtor shall submit the statement with the petition.

(2) Dismissal of Case:

(a) In any case ~~where~~ in which the list of creditors is not filed at the time of the filing of the voluntary petition, the Clerk shall enter an order of dismissal unless the same is filed in the required format no later than three ~~(3)~~ business days after the filing of the petition.

(b) In any case ~~where~~ 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 enter an order of dismissal unless the same statement is submitted in the required format no later than one ~~(1)~~ business day after the filing of the petition.

(3) **Waiver:** An exception to the requirement of submission of creditors on computer diskette 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's Office upon request. In addition to the waiver request, the debtor shall file the list of creditors in the scannable format specified by the Clerk's Office. If the court denies the request, the debtor or the attorney for the debtor shall submit the list of creditors on computer diskette no later than three ~~(3)~~ business days after the clerk's notification that the request has been denied.

(4) Payment Advices or Other Evidence of Payment: Copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the debtor from an employer of the debtor shall:

(a) not be filed with the Court unless otherwise ordered, and

(b) be provided to the trustee, and any creditor (who timely requests copies of the payment advices or other evidence of payment) at least seven (7) days before the ~~time~~ date of the meeting of creditors conducted pursuant to 11 U.S.C. §341.

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

(1) **Filing:** A debtor who is an individual shall file with the voluntary petition a properly completed statement of compliance with credit counseling requirement, together with attached documents as specified therein, substantially conforming to that local form entitled "EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT-EASTERN DISTRICT OF VIRGINIA".

(2) *Dismissal of Case; Notice:* In any case where in which a properly completed statement of compliance with credit counseling requirement 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 enter an order of dismissal unless the same is filed no later than three (3) business days after the filing of the petition. 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) within 15 days of the order for relief, the Clerk shall enter an order of dismissal. 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 Selected text from former Interim Procedure 1007-1(A), (C), (E) and (F) have been incorporated into LBR 1007-1(A), (C), (E) and (F). LBR 1007-1(G) is repealed. Selected text from Interim Procedure 1007-1(H) is incorporated into new LBR 1007-1(G). Interim Procedure 1007-1(I) is incorporated into new LBR 1007-1(I). The term "time" has been deleted and the term "date" inserted in lieu thereof into LBR 1007-1(H)(4)(b). Selected text from Interim Procedure 1007-1(J)(1) and (4) has been incorporated into LBR 1007-1(I)(1) and (2), respectively. Stylistic changes have been made to the text of the LBR as well. [Changes effective 09/01/09.]

INTERIM PROCEDURE 1007-1 LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS

~~(A) *Dismissal of Case:* Except as provided in LBR 1017-3, in any case where lists, schedules, statements, and other documents, including Form B22A (Chapter 7) "Statement of Current Monthly Income and Means Test Calculation", Form B22B (Chapter 11) "Statement of Current Monthly Income" or Form B22C (Chapter 13) "Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income", are not filed at the time of the filing of a voluntary petition, the Clerk shall enter an order of dismissal unless the same are filed within 15 days after the filing of the petition, or a motion to extend time for filing lists, schedules, statements, and other documents has been filed prior to the expiration of the 15-day period.~~

~~(B) *Motion to Extend Time:* Such motion to extend time for filing 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. Where there are more than thirty creditors in the case, the debtor need only provide notice of the motion to extend time to the ten largest secured creditors, the twenty largest unsecured creditors and any official committee appointed in the case. The motion to extend time shall give notice that parties objecting to the extension of time shall file written objections with the Court within five (5) business days after service of the motion by the debtor.~~

~~(C) *Order Extending Time:* Where no objections to the motion to extend time to file the lists, schedules, statements, and other documents, as referenced in paragraph (A) of this Interim Procedure, are timely filed with the Court, the Clerk shall enter an order extending time for filing to not later than the fourth business day prior to the scheduled meeting of creditors. If the lists, schedules, statements, and other documents, as referenced in paragraph (A) of this Interim Procedure, are not filed by said date, the Clerk shall enter an order dismissing the case.~~

~~(E) *Hearing on Further Extension:* Any debtor requesting an extension of time to file lists, schedules, statements, and other documents, as referenced in paragraph (A) of this Interim Procedure, after four~~

business days prior to the scheduled meeting of creditors must request a hearing date and give notice to parties as set forth in paragraph (B) of this Interim Procedure and file a proof of service with the motion to extend time.

~~(F) **Notice of Possible Dismissal:** The Clerk shall give notice of this Interim Procedure to a debtor or debtor's counsel who files a petition not accompanied by all required lists, schedules, statements, and other documents, as referenced in paragraph (A) of this Interim Procedure. The Clerk shall also give notice of this Interim Procedure in the meeting of creditors notice.~~

~~(H) **List of Creditors Holding 20 Largest Unsecured Claims:** To assist the United States trustee in appointing a creditors' committee, the list required by FRBP 1007(d) shall include the amount owed, by amount of debt ranging from the largest creditor in amount owed to the smallest creditor in amount owed. The list shall also include the name and telephone number of a contact person or representative of the unsecured creditor. If a minor child is one of the creditors holding the 20 largest unsecured claims, indicate that by stating "a minor child" and do not disclose the child's name.~~

~~(J) **Individual Debtor's Statement of Compliance with Credit Counseling Requirement:**~~

~~(3) **Filing:** A debtor who is an individual shall file with the voluntary petition a properly completed statement of compliance with credit counseling requirement, together with attached documents as specified therein, substantially conforming to that local form entitled "EXHIBIT D—INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT—EASTERN DISTRICT OF VIRGINIA".~~

~~(2) **Temporary Exemption; Exigent Circumstances Certification:** The debtor shall file a certification with the statement of compliance with credit counseling requirement referenced in subparagraph (J)(1) of this Local Bankruptcy Rule in support of a request citing exigent circumstances that the debtor has attempted, but was unable, to obtain credit counseling within five (5) days from making the request, the Court may grant a temporary exemption from the requirements specified in 11 U.S.C. §109(h)(3)(B). The request may be granted if the request is satisfactory to the Court. The certification must set forth the amount of additional time requested. A temporary exemption from the requirements specified at §109(h)(3)(B) shall expire no later than 30 days after the petition filing date, except that the Court, for cause, may grant an additional extension of 15 days. The debtor must cite with particularity the circumstances that would support granting the debtor's request. The Court will review the certification and if a determination is made that the certification satisfies the requirements set forth under §109(h)(3)(A) and is satisfactory to the Court, the Court may enter an order without notice or hearing granting a temporary exemption from the requirements of §109(h)(1).~~

~~(3) **Permanent Exemption from Credit Counseling Requirement:** The debtor shall file a motion with the statement of compliance with credit counseling requirement referenced in subparagraph (J)(1) of this Local Bankruptcy Rule in support of requesting a permanent exemption from the credit counseling requirement, the motion shall be served by the debtor on the trustee and the United States trustee. If the trustee or United States trustee files an objection within ten (10) days following service of the motion, the Court shall set a hearing on the objection. If no objection is timely filed, and if the Court determines that the debtor should be granted a permanent exemption from the requirements set forth at 11 U.S.C. §109(h) upon a finding of incapacity, disability, or active military duty in a military combat zone as provided for under §109(h)(4), the debtor need not take a credit counseling course.~~

~~(4) **Dismissal of Case; Notice:** In any case where a properly completed statement of compliance with credit counseling requirement referenced in subparagraph (J)(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 enter an order of dismissal unless the same is filed no later than three (3) business days after the filing of the petition. Unless the Court orders otherwise, if the debtor has filed a statement under Interim Rule 1007(b)(3)(B) but does not file the documents required by Interim Rule 1007(b)(3)(A) within 15 days of the order for relief, the Clerk shall enter an order of dismissal. The Clerk shall give notice of this Local Bankruptcy Rule to a debtor or debtor's counsel who files a petition not accompanied by the required statement of compliance with credit counseling requirement referenced in subparagraph (J)(1) of this Local Bankruptcy Rule.~~

~~(K) **Involuntary Small Business Case and Voluntary Small Business Case:**~~

~~As provided for in 11 U.S.C. §1116(1), in an involuntary small business case, the trustee or debtor in possession shall “file not later than [seven] (7) days after the date of the order for relief— (A) its most recent balance sheet, statement of operations, cash flow statement and Federal income tax return; or (B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash flow statement has been prepared and no Federal income tax return has been filed[.]” If any of these required documents are not filed within the prescribed time, a motion to extend time for filing these documents shall be filed prior to the expiration of the seven (7) day period and conform to the requirements set forth in paragraph (B) of this Local Bankruptcy Rule. In a voluntary small business case, these same prescribed documents shall be appended to the petition unless a motion to extend time for filing these documents is filed with the petition. Such motion shall conform to the requirements set forth paragraph (B) of this Local Bankruptcy Rule. The Court shall grant the motion only for cause shown and on notice to the entities set forth at Interim Rule 1007(e). Cause shown may include requiring the time provided for in Interim Rule 1020 and §1116 for a debtor to designate in a voluntary or involuntary case whether the debtor is a small business debtor.~~

LBR Standing Committee Recommendation: Incorporate selected text from IP 1007-1(A), (C), (E) and (F) into LBR 1007-1. Repeal (G) and make (H) new (G). Incorporate selected text from IP 1007-1(H), now (G), into LBR 1007-1. Change IP 1007-1(I) to (H) and incorporate into LBR 1007-1. Delete “time” and insert “date” at modified LBR 1007-1(H)(4)(b). Incorporate IP 1007-1(J)(1) and (4) into LBR 1007-1 as new (I)(1) and (2), respectively. IP 1007-1(2) and (3) are deleted. Delete IP 1007-1(K). Repeal IP 1007-1. Stylistic changes have been to the text as well.

RULE 1007-3 STATEMENT OF INTENTION

~~(A) **Requirement:**~~ Pursuant to 11 U.S.C. §521(a)(2)(A), each individual chapter 7 debtor with consumer debts secured by property of the estate shall file a Chapter 7 Individual Debtor's Statement of Intention ["Statement of Intention" hereafter]. The original statement shall be accompanied by such copies or proof of service as required by paragraph (B) of this Local Bankruptcy Rule. The statement shall be filed within thirty days after the petition is filed or on or before the meeting of creditors, whichever is earlier.

~~(B) **Service**~~

~~(1) **Upon Trustee**~~

~~(a) **Prior to Receipt of Meeting of Creditors Notice:**~~ The debtor shall file with the original Statement of Intention a photocopy to be routed by the Clerk to the United States Trustee. No proof of service on the trustee is required. Such service shall satisfy the requirement of service on the trustee as specified in FRBP 1007(b)(2).

~~(b) **After Receipt of Meeting of Creditors Notice:**~~ The debtor shall serve a copy of the Statement of Intention on the trustee appointed in the case. The original Statement of Intention filed with the Court shall be accompanied by proof of service evidencing proper service on the trustee.

~~(2) **Upon Affected Creditors:**~~ Prior to filing the Statement of Intention with the Court, the debtor shall serve a copy of the same upon each creditor listed thereon.

~~(C)(A) **Dismissal of Case:**~~ Except as provided in LBR 1017-3 and 11 U.S.C. § 521(a)(2)(A), the Clerk shall monitor the filing of a Statement of Intention and enter an order of dismissal in any applicable chapter 7 case ~~where~~ in which neither the Statement of Intention nor a motion to extend the time for filing the same has been filed within ~~thirty~~ 30 days after the date of the filing of the petition, or on or before the date of the meeting of creditors, whichever is earlier.

~~(D)(B) **Motion to Extend Time:**~~ A motion to extend time for filing a Statement of Intention shall be accompanied by proof of service evidencing service on the United States Trustee, any appointed trustee and all affected secured creditors. The motion to extend time shall state that any party objecting to the extension of time must file a written objection with the Clerk within five business days after service of the motion.

~~(E)(C) **Order Extending Time:**~~ ~~Where~~ If no objections to the aforesaid motion ~~are~~ is timely filed, the Clerk shall enter an order extending time for filing to ~~ten~~ 10 days after the scheduled meeting of creditors. If the Statement of Intention is not filed by the tenth day after the scheduled meeting of creditors, the Clerk shall enter an order dismissing the case.

~~(F) **Objections — Determination:**~~ ~~Where~~ objections are filed to the motion for extension of time, the Clerk shall submit the motion and objections to the Court for determination.

~~(G)(D) **Hearing on Further Extension:**~~ Any debtor requesting an extension of time to file the Statement of Intention more than ~~ten~~ 10 days after the scheduled meeting of creditors must request a hearing date and give notice to parties as set out in ~~paragraph (B) of this Local Bankruptcy Rule~~ 11 U.S.C. §521(a)(2)(A) and file proof of service with the motion to extend time.

~~(H)~~(E) *Notice of Possible Dismissal*: The Clerk shall give notice of this Local Bankruptcy Rule to a debtor or debtor's counsel who files a petition unaccompanied by the Statement of Intention.

Comments

1007-3 LBR 1007-3(A), (B) and (F) are repealed. LBR 1007-3(C), (D), (E), (G) and (H) are re-designated LBR 1007-3(A), (B), (C), and (D) and (E), respectively. The LBR citation at new (D) is deleted and the citation to the noted title 11 provision is inserted. Stylistic changes have been made to the LBR text as well. [Amendments effective 09/01/09.]

INTERIM PROCEDURE 1007-3 STATEMENT OF INTENTION

~~(A) **Requirement**: Pursuant to 11 U.S.C. §521(a)(2)(A), each individual chapter 7 debtor with debts secured by property of the estate shall file a Chapter 7 Individual Debtor's Statement of Intention ["Statement of Intention" hereafter]. The original Statement of Intention shall be accompanied by such copies or proof of service as required by paragraph (B) of Local Bankruptcy Rule 1007-3. The Statement of Intention shall be filed within thirty days after the petition is filed or on or before the meeting of creditors, whichever is earlier.~~

LBR Standing Committee Recommendation: That LBR 1007-3(A), (B) and (F) be repealed. LBR 1007-3(C), (D), (E), (G) and (H) are re-designated LBR 1007-3(A), (B), (C) and (D) and (E), respectively. The LBR citation at new (D) is deleted and the citation to the noted title 11 provision is inserted. That IP 1007-3 be repealed. Stylistic changes have been made to the text as well.

RULE 1009-1 AMENDMENTS TO LISTS & SCHEDULES

~~(A) **Notice to Affected Parties:** Where the debtor files any amendment to the petition, lists, schedules or statements previously filed, the debtor shall send notice of the same to the United States Trustee, any trustee appointed, and to any and all entities affected by the amendment. Where the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly listed creditor a copy of the following:~~

- ~~(1) the amendment,~~
- ~~(2) the meeting of creditors notice,~~
- ~~(3) the order granting discharge (if any),~~
- ~~(4) any other filed document affecting the rights of said creditor, and~~
- ~~(5) the notice required by Local Bankruptcy Rule 3003-1 (B).~~

~~(B) **Filing of Amendment with Clerk's Office**~~

~~(1) Each amendment shall be filed in original only and accompanied by:~~

~~(a) **Amendment Cover Sheet:** a properly completed Amendment Cover Sheet. A form Amendment Cover Sheet shall be available from the Clerk's Office upon request, and, if applicable:~~

~~(b) **List of Creditors Added:** When an amendment adds creditors to a bankruptcy case, the amendment shall be accompanied by a list of the creditors so added. The list shall be in the format specified by the Clerk's Office. Instructions for preparing the list are available from the Clerk's Office upon request.~~

(A) **Filing of Amendment with Clerk's Office:** Each amendment shall be accompanied by a properly completed Amendment Cover Sheet. When an amendment adds creditors to a bankruptcy case, the amendment shall be accompanied by a list of the creditors so added. The list shall be in the format specified by the Clerk's Office. An Amendment Cover Sheet form and instructions for preparing the list of creditors added are available from the Clerk's Office upon request.

(B) **Notice to Affected Parties:** If the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly-listed creditor a copy of the following:

- (1) the amendment,
- (2) the meeting of creditors notice,
- (3) the order granting discharge (if any),
- (4) any other filed document affecting the rights of said creditor, and
- (5) the notice required by Local Bankruptcy Rule 3003-1(B).

(C) ***Adding Creditors in a Closed Case:*** If the case is a closed chapter 7 case with no distribution to creditors, a ~~“Certificate and Affidavit for Adding Creditors to Schedules in a Closed Case”~~ **"CERTIFICATE AND AFFIDAVIT FOR ADDING CREDITORS TO SCHEDULES IN A CLOSED CASE"** must be completed and filed. This form is available from the Clerk's Office upon request.

Comments

1009-1 The text at LBR 1009-1(A) and (B) have been removed and substitute text has been adopted for both paragraphs. LBR 1009-1(C) remains unchanged. Stylistic changes have been made to the LBR as well. [Amendments effective 09/01/09.]

INTERIM PROCEDURE 1009-1 AMENDMENTS TO PETITION, LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS

~~(A) ***Notice to Affected Parties:***~~ Where the debtor files any amendment to the petition, lists, schedules, statements, or other documents previously filed, as referenced in Interim Procedure 1007-1(A), the debtor shall send notice of the same to the United States trustee, any trustee appointed, and to any and all entities affected by the amendment. ~~Where the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly listed creditor a copy of the following:~~

- ~~(1) the amendment,~~
- ~~(2) the meeting of creditors notice,~~
- ~~(3) the order granting discharge (if any),~~
- ~~(4) any other filed document affecting the rights of said creditor, and~~
- ~~(5) the notice required by Local Bankruptcy Rule 3003-1(B).~~

LBR Standing Committee Recommendation: That the text at LBR 1009-1(A) and (B) be removed and the noted substitute text adopted for both paragraphs. LBR 1009-1(C) remains unchanged. Repeal IP 1009-1(A). Stylistic changes have been made to the text as well.

RULE 1014-2 DECLARATION OF DIVISIONAL VENUE

~~At the time of filing a bankruptcy petition, counsel, or a *pro se* debtor, shall file with the petition a properly completed Declaration of Divisional Venue form. This form will be provided by the Clerk's Office upon request.~~

Comments

1014-2 In light of the changes made to Official Form 1, Voluntary Petition, the Declaration of Venue form no longer is required and this LBR is repealed for that reason. [Repeal effective 09/01/09.]

LBR Standing Committee Recommendation: That LBR 1014-1 be repealed and the form referenced therein be rescinded.

RULE 1017-1 CONVERSION

(A) ***Schedule of Unpaid Debts:*** Within ~~fifteen~~ 15 days after conversion of a case, the debtor shall file ~~an original and sufficient copies pursuant to LBR 1007-1(G)~~ of either:

(1) a schedule of unpaid debts incurred after commencement of the original bankruptcy case, and a list of creditors in the format required by the Clerk's Office, or

(2) a certification that no unpaid debts have been incurred since the commencement of the case.

(B) ***Filing of Schedule of Unpaid Debts:*** If the debtor fails to file the schedule and list referred to in paragraph (A)(1) of this Local Bankruptcy Rule on the date of conversion of the case, any such subsequent filing shall be treated as an amendment under LBR 1009-1 and the debtor shall give all required notices.

~~(C) ***RESERVED***~~

(C) Filing of Official Form B22A, B22B or B22C Upon Conversion of Case: In a case of an individual debtor converted to chapter 11, the debtor shall file Official Form B22B, "STATEMENT OF CURRENT MONTHLY INCOME", or to chapter 13, the debtor shall file Official Form B22C, CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME", within 15 days after entry of the conversion order. Unless otherwise ordered by the Court, in a case converted from chapter 11, 12 or 13 to chapter 7, the debtor shall file Official Form B22A, "CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION FOR USE IN CHAPTER 7", within 15 days after conversion.

(D) ***Report of the Debtor in Possession or Trustee:*** ~~The debtor in possession or trustee in a superseded case shall, within thirty days after conversion of the case, file the final report and account required by FRBP 1019(5). The order of conversion is to direct such filing. Upon the failure of the debtor in possession or trustee in a superseded case to file the required report required under FRBP 1019(5) and account within thirty days, the United States Trustee shall certify the matter to the Court for appropriate action.~~

Comments

1017-1 LBR 1017-1(A) is amended. Reserved (C) is removed and a new paragraph (C) from former Interim Procedure 1017-1(C) is inserted. Paragraph (D) has been amended. Stylistic changes have been made to the text of the LBR as well. [Changes effective 09/01/09.]

INTERIM PROCEDURE 1017-1 CONVERSION

~~(C) *Filing of Official Form B22A, B22B or B22C Upon Conversion of Case:* In a case of an individual debtor converted to chapter 11, the debtor shall file Official Form B22B, “Statement of Current Monthly Income”, or to chapter 13, the debtor shall file Official Form B22C, “Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income”, within 15 days after entry of the conversion order. Unless otherwise ordered by the Court, in a case converted from chapter 11, 12 or 13 to chapter 7, the debtor shall file Official Form B22A, “Statement of Current Monthly Income and Means Test Calculation for Use in Chapter 7”, within 15 days after conversion.~~

LBR Standing Committee Recommendation: Amend LBR 1017-1(A) and remove Reserved (C) and insert new (C) from IP 1017-1(C). Amend (D). Stylistic changes have been made to the text as well. Repeal IP 1017-1(C).

RULE 1017-2 DISMISSAL FOR SUBSTANTIAL ABUSE OF CHAPTER 7

~~The Clerk shall give notice of any hearing on possible dismissal under 11 U.S.C. §707(b). The United States Trustee and the trustee appointed in the chapter 7 case shall appear and be heard.~~

Comments

1017-2 Although the Clerk will continue to provide notice, under FRBP 1017(e), doing so need no longer be established by Local Bankruptcy Rule. [Repeal effective 09/01/09.]

INTERIM PROCEDURE 1017-2 DISMISSAL OR CONVERSION OF CASE FOR ABUSE OF CHAPTER 7

~~*Dismissal or Conversion Pursuant to 11 U.S.C. §707(b)(1):* As set forth in Interim Rule 1017(e), an individual debtor's voluntary case may be dismissed or, with the consent of the debtor, converted for abuse under section 707(b) only on motion filed by the United States trustee, trustee, or any party in interest, and only if the debtor's debts are primarily consumer debts, after a hearing on notice to the entities set forth therein and to any other entities as the Court may direct. If the United States trustee is the movant, the Clerk shall give notice of any hearing on possible dismissal or, with the individual debtor's consent, conversion of the debtor's case, under 11 U.S.C. §707(b). The United States trustee, the trustee appointed in the chapter 7 case, and the movant, if not the United States trustee or trustee, shall appear and be heard. In addition, the Court, acting on the Court's own initiative, may direct the Clerk to issue a rule to show cause. The Clerk shall give notice of any hearing or rule on possible dismissal or, with the individual debtor's consent, conversion of the debtor's case, under 11 U.S.C. §707(b), to the entities set forth in Interim Rule 1017(e) and any other entities as the court may direct.~~

LBR Standing Committee Recommendation: That LBR 1017-2 and IP 1017-2 be repealed.

RULE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(A) *Proponent to Give Notice*

~~(1) **Generally**~~: Except as stated elsewhere in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, or by order of the Court, the proponent of any action shall give notice to all parties affected thereby.

~~(2) **Of Plan in Reorganization Case**~~: All proponents of plans in reorganization cases shall give the notice required under FRBP 2002 (b), in a form approved by the Clerk of Court, and shall file proof of service with the Court.

~~(B) **Authority for Agreements to Give Notice**~~: The Clerk is authorized to enter into agreements with debtors wherein they will provide all required notices to interested parties in cases where the interests of justice and efficiency are served thereby. The Clerk shall approve the form of all such notices, and proof of service shall be filed with the Court.

~~(C)~~ (B) *Notice by Publication*

(1) **Place of Publication**: All notices requiring advertisement shall be published at least once unless otherwise required by rule or statute, and such notice shall be published in newspapers of general circulation as follows:

- (a) In proceedings at Alexandria, in the *Alexandria Gazette Packet*, ~~the Washington Examiner or the Washington Post~~.
- (b) In proceedings at Newport News, in the *Daily Press*.
- (c) In proceedings at Norfolk, in *The Virginian-Pilot*.
- (d) In proceedings at Richmond, in the *Times-Dispatch*.

(2) **Time of Publication**: All notices shall be published at least six business days prior to requiring any action, and a longer notice shall be given when required by rule or statute or where deemed proper by the Court.

~~(D)~~(C) *Notices/Copies for Service on United States Trustee*

~~(1) **Filing of Copies of Documents for Transmittal to the United States Trustee by the Clerk**~~: The party submitting to the Clerk of Court for filing any document listed below shall submit a copy thereof for transmittal by the Clerk to the United States Trustee:

- ~~(a) petition;~~
- ~~(b) list of creditors;~~
- ~~(c) schedule of assets and liabilities;~~
- ~~(d) schedule of current income and expenditures;~~

- ~~(e)~~ statement of financial affairs;
- ~~(f)~~ disclosure of attorney compensation;
- ~~(g)~~ statement of executory contracts and unexpired leases;
- ~~(h)~~ statement of intent;
- ~~(i)~~ list of 20 largest unsecured creditors in chapter 11 case;
- ~~(j)~~ list of equity security holders in chapter 11 case;
- ~~(k)~~ Official Forms B22A, B22B and B22C.

~~(2) **Service of Documents upon the United States Trustee:**~~ In addition to those documents, pleadings, and notices required to be timely furnished to or served upon the United States Trustee pursuant to the Federal Rules of Bankruptcy Procedure, a copy of the following documents shall be timely served on the United States Trustee by the debtor, the trustee or the moving party:

~~(a) **Chapter 11 Cases:**~~ All pleadings, documents, applications, plans, disclosure statements, monthly financial reports, and motions except: proofs of claim or interests.

~~(b) **Chapter 7, Chapter 12, and Chapter 13 Cases:**~~ All pleadings, documents, applications, monthly financial reports, and motions except: proofs of claims, or objections thereto, reaffirmation agreements, plans, lien avoidances, motions for relief from stay, and adversary proceedings not involving the trustee or United States Trustee and not raising an objection to discharge under §727.

~~(3) **Alternative Service of Documents upon the United States Trustee:**~~ For all cases being administered by electronic means established by the Court and those remaining cases being administered by conventional means, ~~s~~Service on the United States Trustee may alternatively shall be made by electronic means by delivery electronically to the following e-mailbox addresses:

Alexandria Division: USTPRegion04.AX.ECF@usdoj.gov

Richmond Division: USTPRegion04.RH.ECF@usdoj.gov

Norfolk and Newport News Divisions: USTPRegion04.NO.ECF@usdoj.gov

~~(E)~~(D) **Inspection of List of Creditors:** ~~Where~~ When any person orders and receives a list of creditors from the Clerk's Office, it shall be the responsibility of that person ~~to inspect the labels~~ to ensure that all parties required to receive notice are included thereon.

~~(F)~~(E) **Notices to Equity Security Holders:** Unless otherwise ordered, the debtor is responsible for sending notice of the filing of the bankruptcy to equity security holders except ~~where~~ when either:

- (1) the list of equity security holders is filed with the petition, or
- (2) the equity security holders are included on the list of creditors filed with the petition.

~~(G)~~(F) **Requirement of Proof of Service:** At the end of each pleading, motion or other ~~paper~~ document required to be served upon a party, ~~there shall be a~~ the proof of service shall be signed by counsel (or the *pro se* party) conforming to LBR 5005-1(C)(8).

~~(H)~~(G) **Definition of "Business Day":** As used in these Local Bankruptcy Rules, "business day" shall mean any day other than a Saturday, Sunday, federal holiday or any other day on which the Clerk's Office is closed.

~~(H)~~(H) **Implementation of Notice of Preferred Addresses Under 11 U.S.C. §342(f) and National Creditor Registration Service:**

(1) An entity and a notice provider may agree that when the notice provider is directed by the Court to give a notice to that entity, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

(2) The filing of a notice of preferred address pursuant to 11 U.S.C. §342(f) by a creditor directly with the agency or agencies that provide noticing services for the Court will constitute the filing of such a notice with the Court.

(3) Registration with the National Creditor Registration Service ("NCRS") must be accomplished through the agency that provides noticing services for the Court. Forms and registration information is available at www.ncrsuscourts.com. The Clerk is directed to forward a notice of preferred address filed with the Court pursuant to 11 U.S.C. §342(f) to the NCRS for processing.

Comments

2002-1 Paragraph (A)(2) is deleted as is the heading to paragraph (A)(1). Paragraph (B) is deleted. Paragraphs (C), (D), (E), (F), (G) and (H) become paragraphs (B), (C), (D), (E), (F) and (G), respectively. New subparagraph (B)(1)(a) is amended. New paragraph (C) is amended by re-titling the header, striking paragraph (C)(1) and (C)(2), deleting the header at paragraph (C)(3) and modifying the text by deleting all text through the word "means" and making other noted changes; and deleting the word "paper" at paragraph (F) and inserting in lieu thereof the Word "document." Stylistic changes have been made to The text as well. LBR 2002-1(H) is derived from former Interim Procedure 2002-1(I). [Amendments effective 09/01/09.]

INTERIM PROCEDURE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

~~(D)~~ ***Notices/Copies for United States Trustee***

~~(1)~~ ***Filing of Copies of Documents for Transmittal to the United States Trustee by the Clerk:***

- ~~(j)~~ list of equity security holders in chapter 11 case;
- ~~(k)~~ Official Forms B22A, B22B and B22C.

~~(1) Implementation of Notice of Preferred Addresses Under 11 U.S.C. §342(f) and National Creditor Registration Service:~~

~~(1) An entity and a notice provider may agree that when the notice provider is directed by the Court to give a notice to that entity, the notice provider shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.~~

~~(2) The filing of a notice of preferred address pursuant to 11 U.S.C. §342(f) by a creditor directly with the agency or agencies that provide noticing services for the Court will constitute the filing of such a notice with the Court.~~

~~(3) Registration with the National Creditor Registration Service ("NCRS") must be accomplished through the agency that provides noticing services for the Court. Forms and registration information is available at www.ncrsuscourts.com. The Clerk is directed to forward a notice of preferred address filed with the Court pursuant to §342(f) to the NCRS for processing.~~

LBR Standing Committee Recommendation: That LBR 2002-1 be amended as follows: Paragraph (A)(2) is deleted as is the heading to (A)(1). Paragraph (B) is deleted. Paragraphs (C), (D), (E), (F), (G) and (H) become paragraphs (B), (C), (D), (E), (F) and (G), respectively; Subparagraph (B)(1)(a) is amended; Paragraph (C) is amended by re-titling the header, striking paragraphs (C)(1) and (C)(2), deleting the header at paragraph (C)(3) and modifying the text by deleting all text through the word "means" and making other noted changes; and deleting the word "paper" at (F) and inserting in lieu thereof the word "document." Stylistic changes have been made to the text as well. IP 2002-1(D) is deleted and IP 2002-1(I) becomes LBR 2002-1(H). That IP 2002-1 be repealed.

**INTERIM PROCEDURE 2007.2(a)-1 APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A
HEALTH CARE BUSINESS CASE**

~~(B) *Reference to Health Care Ombudsman*: There being no “health care ombudsman” provided for under 44 U.S.C. §3333(a), the reference to “health care ombudsman in the first paragraph of the Committee Note following Interim Rule 2007.2(a) shall be deemed to reference “patient care” ombudsman.~~

LBR Standing Committee Recommendation: That IP 2007.2(a)-1 be repealed.

INTERIM PROCEDURE 2015.1-1 PATIENT CARE OMBUDSMAN

~~There being no “health care ombudsman” provided for under 11 U.S.C. §333(a), the reference to “health care ombudsman under §333(e)” at Interim Rule 2015.1(b) shall be deemed to reference “patient care ombudsman under §333(e).”~~

LBR Standing Committee Recommendation: That IP 2015.1-1 be repealed.

RULE 3017-1(C) APPROVAL OF DISCLOSURE STATEMENT

~~(A) **Conditional Approval:** If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case, the Court may, upon request of the plan proponent, conditionally approve the disclosure statement filed in accordance with FRBP 3016. A copy of the plan, disclosure statement and request for conditional approval of the disclosure statement shall be served on the Office of the United States Trustee. On or before conditional approval of the disclosure statement, the Court shall:~~

- ~~(1) fix a time within which the holders of claims and interests may accept or reject the plan;~~
- ~~(2) fix a time for filing objections to the disclosure statement;~~
- ~~(3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and~~
- ~~(4) fix a date for the hearing on confirmation.~~

~~(B) **Application of FRBP 3017:** If the disclosure statement is conditionally approved, FRBP 3017(a), (b), (c), and (e) and Local Bankruptcy Rule 3016-1(A), (B) and (C) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying FRBP 3017(d).~~

~~(C) **Objections and Hearing on Final Approval:** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with FRBP 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the Court at any time before final approval of the disclosure statement or by an earlier date as the Court may fix. If a timely objection to the disclosure statement is filed, the Court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.~~

Comments

3017-1 FRBP 3017.1 obviates the need for this Local Bankruptcy Rule. [Repeal effective 09/01/09.]

INTERIM PROCEDURE 3017.1-1 APPROVAL OF DISCLOSURE STATEMENT

~~(A) **Conditional Approval:** If, under Interim Rule 3016(b), “the plan is intended to provide adequate information under §1125(f)(1), it shall be so designated and [Interim] Rule 3017.1 shall apply as if the plan is a disclosure statement.” As provided for in Interim Rule 3017.1, in a small business case, the Court may, upon application of the plan proponent, or on the Court’s own initiative, conditionally approve the disclosure statement filed in accordance with FRBP 3016. A copy of the plan, disclosure statement and request for conditional approval of the disclosure statement shall be served on the United States trustee. On or before conditional approval of the disclosure statement, the Court shall:~~

- ~~(1) fix a time within which the holders of claims and interests may accept or reject the plan;~~
- ~~(2) fix a time for filing objections to the disclosure statement;~~

- (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
- (4) fix a date for the hearing on confirmation.

~~(C) **Objections and Hearing on Final Approval:** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with FRBP 2002(b) and 11 U.S.C. §1125(f)(3)(B) and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the Court at any time before final approval of the disclosure statement or by an earlier date as the Court may fix. If a timely objection to the disclosure statement is filed, the Court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.~~

LBR Standing Committee Recommendation: That LBR 3017-1(A), (B) and (C) and IP 3017.1-1(A) and (C) be repealed.

RULE 3070-1 PAYMENTS IN CHAPTER 12 AND CHAPTER 13 CASES

(A) ***Payments to Creditors by Trustee:*** In chapter 12 and chapter 13 cases, no payment in an amount less than \$25 shall be distributed by the trustee to any creditor. Funds not distributed because of this Local Bankruptcy Rule shall be paid whenever the accumulation totals at least \$25. Any funds remaining shall be distributed with the final payment.

(B) ***Distribution of Estate Funds Upon Dismissal of Case Prior to Confirmation of Plan:***

(1) ***Noticing Fees Payable to Clerk of Court:*** The trustee shall pay all noticing fees due the Clerk out of estate funds before returning any funds to the debtor. If, pending dismissal, the funds on hand are not sufficient to pay all administrative expenses, the trustee shall pay to the Clerk the pro rata portion of the fees due.

(2) ***Notice of Proposed Distribution:*** The trustee may file a notice of proposed distribution of estate assets on hand, with copies to the debtor and debtor's counsel. The proposed distribution may include payment to the trustee for compensation as allowed by law and reimbursement of the trustee's out-of-pocket expenses incurred in the case. The notice shall state that if no objection to the proposed distribution is filed within ~~ten~~ 10 days, the trustee is authorized to proceed with distribution.

(C) ***Debtor's Failure to Commence Payments in Chapter 13 Case:*** Except as provided in LBR 1017-3, each chapter 13 debtor shall commence payments proposed by the plan ~~within~~ not later than thirty 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, is filed unless the Court has set some different time. If payments are not received as required, the trustee shall certify the same to the Clerk. Upon receipt of such a certification, the Clerk shall enter an order dismissing the ~~debtor's~~ case.

(D) Chapter 13 Pre-Confirmation Payments of Personal Property Leases: Pre-confirmation payments of personal property leases governed by 11 U.S.C. §1326(a)(1)(B) shall be made by the debtor to the chapter 13 trustee as part of the total payment to the trustee, and the trustee shall pay the lessor, both before and after confirmation, unless the debtor's plan provides that lease payments will be made directly by the debtor or no plan provision addresses payment of the debtor's lease obligation, in which event the debtor shall make the pre-confirmation payments directly to the lessor and furnish proof of such payments to the trustee.

(E) Chapter 13 Pre-Confirmation Adequate Protection Payments: Pre-confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C) shall be made by the debtor to the chapter 13 trustee as part of the total payment to the trustee, and the trustee shall pay the amount provided for by the plan to the secured creditor both before and after confirmation, unless the debtor's plan provides that such payments will be made directly by the debtor or no plan provision addresses payment of the secured claim, in which event the debtor shall make the pre-confirmation payments directly to the secured creditor and furnish proof of such payments to the trustee.

Comments

3070-1 The amendments to paragraph (C) and new paragraphs (D) and (E) are derived from former Interim Procedure 3070-1(C), (D) and (E). [Amendments effective 09/01/09.]

INTERIM PROCEDURE 3070-1 PAYMENTS IN CHAPTER 12 AND CHAPTER 13 CASES

~~(C) *Debtor's Failure to Commence Payments in Chapter 13 Cases*: Except as provided in LBR 1017-3, each chapter 13 debtor shall commence payments proposed by the plan not later than thirty days after the date of the filing of the plan or the order for relief, whichever is earlier, unless the Court has set some different time. If payments are not received as required, the trustee may certify the same to the Clerk. Upon receipt of such a certification, the Clerk shall enter an order dismissing the debtor's case.~~

~~(D) *Chapter 13 Pre-Confirmation Payments of Personal Property Leases*: Pre confirmation payments of personal property leases governed by 11 U.S.C. §1326(a)(1)(B) shall be made by the debtor to the chapter 13 trustee as part of the total payment to the trustee, and the trustee shall pay the lessor, both before and after confirmation, unless the debtor's plan provides that lease payments will be made directly by the debtor or no plan provision addresses payment of the debtor's lease obligation, in which event the debtor shall make the pre confirmation payments directly to the lessor and furnish proof of such payments to the trustee.~~

~~(E) *Chapter 13 Pre-confirmation Adequate Protection Payments*: Pre confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C) shall be made by the debtor to the chapter 13 trustee as part of the total payment to the trustee, and the trustee shall pay the amount provided for by the plan to the secured creditor both before and after confirmation, unless the debtor's plan provides that such payments will be made directly by the debtor or no plan provision addresses payment of the secured claim, in which event the debtor shall make the pre confirmation payments directly to the secured creditor and furnish proof of such payments to the trustee.~~

LBR Standing Committee Recommendation: That LBR 3070-1(C) is amended and new paragraphs (D) and (E) are added from IP 3070-1(C), (D) and (E). That IP 3070-1 be repealed.

RULE 4001(a)-1 RELIEF FROM AUTOMATIC STAY

(A) **Applicability of Contested Matter Rules:** All motions for relief from stay, except those under paragraph ~~(F)~~ (G) herein of this Local Bankruptcy Rule, are contested matters and are governed by FRBP 9014, 11 U.S.C. §362~~(c)~~, (d), and (e), (h), (l) and (m), and these Local Bankruptcy Rules.

(B) **Caption:** The motion for relief from stay, and any pleading or other paper (excepting exhibits) filed pursuant to such a motion, shall include the same caption as an adversary proceeding except that the caption shall not include an adversary proceeding (AP) number.

(C) **Response Period:** A separate notice of motion (OF20A) 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:

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 ~~fifteen~~ (15) 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 ~~fifteen~~ 15-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 ~~fifteen~~ 15-day period.

You will be notified separately of the hearing date on the motion.

(D) ~~Contents of Motion for Relief from Stay~~ **Contents of Motion for Relief from Stay**: The following material, when applicable, must be included in a motion for relief from stay:

- (1) a detailed statement of the debt owed to the movant;
- (2) if periodic payments are in arrears, the amount of arrears accrued prepetition and the amount of arrears accrued postpetition;
- (3) a description of the property encumbered;
- (4) a description of the security interest and its perfection;
- (5) a statement of the basis for the relief claimed, such as, a lack of adequate protection or the absence of equity and that the property is not necessary for an effective reorganization. The specific facts constituting cause shall be set forth if a motion is brought for cause;

(6) if the movant asserts a valuation of the subject property, the motion shall state the amount of the valuation, the date, and the basis therefore (appraisal, bluebook, etc); and

(7) the specific nature of the relief from stay that is requested.

(E) **Filing Requirements:** With the original motion for relief from stay, the proponent shall also file:

(1) the proper filing fee, and

(2) [Repealed]

(3) 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 paragraph (F)(1) of this Local Bankruptcy Rule;

(4) [Repealed]

(F) **Service:**

(1) **Of Motion:** The movant shall serve a copy of the motion upon the debtor, and if applicable, upon:

(a) the debtor's attorney,

(b) the trustee,

(c) ~~any creditors'~~ each official committee appointed in the case or its authorized representatives,

(d) if a chapter 11 case, any additional creditors if required by FRBP 4001(a)(1), and

(e) any other party as directed by the Court.

The movant shall file, with the motion, proof of service certifying proper service of the motion.

(2) **Of Notice of Hearing:** The Clerk shall, within five days after the date the motion was filed, assign a hearing date and serve notice of such hearing upon the parties indicated in the proof of service filed pursuant to paragraph (E)(3) of this Local Bankruptcy Rule. For Alexandria and Richmond division cases only, ~~the~~ the movant must select a preliminary hearing date and time from the schedule provided by the Clerk.

(G) **Requests for Additional Relief:** If a motion filed pursuant to FRBP 4001(a) requests relief beyond the termination, modification or conditioning of the automatic stay, and such additional relief is within the scope of FRBP 7001, it is deemed an adversary proceeding and it shall be accompanied by:

(1) an adversary proceeding filing fee, and

(2) a properly completed Adversary Proceeding Cover Sheet.

If a party seeks an expedited hearing under 11 U.S.C. §362(e), only the specific issue of the automatic stay shall be considered at such hearing, unless the Court otherwise directs.

(H) ***Relief from Codebtor Stay in Chapter 13 Cases***: Motions for relief from a stay of action against a codebtor in a chapter 13 case are contested matters and are governed by FRBP 9014, 11 U.S.C. §1301 and these Local Bankruptcy Rules. The motion shall clearly state in the caption of the motion the subsection of 11 U.S.C. §1301 under which the party is proceeding.

(1) ***Caption***: The caption for a motion for relief from codebtor stay, and any pleading or other paper (excepting exhibits) filed pursuant to such a motion, shall include the caption described in paragraph (B) herein.

(2) ***Service and Time for Response***: Service shall be as set forth in paragraph (F)(1) of this Local Bankruptcy Rule. The time for response is ~~twenty~~ 20 days from the date of service of the motion. The notice served upon the codebtor in any relief action shall include notice of the response period. In addition, in a relief action under 11 U. S. C. §1301(c)(2) the notice shall include the following language: "If you do not file a written response by the deadline shown, the law provides that the stay protecting you from further legal action against you by this creditor will automatically terminate [see 11 U.S.C. §1301(d)]."

(I) Rent Deposit and Transmittal Procedure Under 11 U.S.C. §362(l): Any deposit of rent made by or on behalf of the debtor, pursuant to §362(l)(1)(B), shall be made in the form of a certified check or money order payable to the order of the lessor, and delivered to the Clerk upon the filing of the petition. The Clerk is directed to promptly transmit the rent deposit to the lessor, by certified mail, return receipt requested, to the address listed on the petition.

Comments

4001(a)-1 Former Interim Procedure 4001(a)-1(A) is incorporated, as modified, into LBR 4001(a)-1. Former Interim Procedure 4001(a)-1 is incorporated as new paragraph (I). Paragraphs (E) and (F) are amended. Stylistic changes have been made to the text of the LBR as well. [Amendments effective 09/01/09.]

INTERIM PROCEDURE 4001(a)-1 RELIEF FROM AUTOMATIC STAY

~~(A) ***Applicability of Contested Matter Rules***: All motions for relief from stay, except those under paragraph (G) herein, are contested matters and are governed by FRBP 9014, 11 U.S.C. §362(e), (d), (e), (h), (l), and (m) and the Local Bankruptcy Rules and these Interim Procedures.~~

~~(J) ***Rent Deposit and Transmittal Procedure Under 11 U.S.C. §362(l)***: In those cases governed by 11 U.S.C. §362(l)(1)(B), a debtor must deposit with the Clerk any rent that would become due during the 30-day period after the filing of the bankruptcy petition and the Clerk, pursuant to 11 U.S.C. §362(l)(5)(D), shall arrange for the prompt transmittal of the rent so deposited to the lessor. If the debtor is required by 11 U.S.C. §362(l)(1)(B) to deposit with the Clerk the rent becoming due during the 30-day period after the filing of the bankruptcy petition, the following procedures shall apply. Any deposit of rent made by or on behalf of the debtor, pursuant to §362(l)(1)(B), shall be made in the form of a certified check or money order payable to the order of the lessor, and delivered to the Clerk upon the filing of the petition and the certification made under §362(l)(1)(A).~~

~~Upon the Clerk's receipt of a certified check or money order payable to the order of the lessor, with a copy of the judgment for possession, tendered by the debtor pursuant to §362(l)(1), the Clerk is directed to promptly transmit the certified check or money order to the lessor, by certified mail, return receipt requested, to the address listed on the petition. Consistent with the requirements set forth in this paragraph (I), the deposit and transmittal of rent funds shall conform to procedures established by the Clerk.~~

LBR Standing Committee Recommendation: That IP 4001(a)-1(A) be incorporated, as modified, into LBR 4001(a)-1, and that IP 4001(a)-1(J) be incorporated into LBR 4001(a)-1 as new (I); and that IP 4001(a)-1 be repealed. (E) and (F) are amended. Stylistic changes have been made to the text as well.

RULE 4002-1 DUTIES OF THE DEBTOR

(A) Tax Information Under 11 U.S.C. §521:

(1) Pre-petition Tax Information Dismissal of Debtor's Case

Pursuant to 11 U.S.C. §521(e)(2)(B), if the debtor fails to comply with either §521(e)(2)(A)(i) or (ii), unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor, the Court shall dismiss the debtor's case upon either:

(a) certification by the trustee wherein the Clerk shall issue a rule to show cause to the debtor and the debtor's attorney, if any, and set the matter for a hearing; or

(b) motion by a creditor and after a hearing on service of the motion by the creditor on the debtor and debtor's attorney, if any. Any motion to dismiss filed by a creditor must state with particularity that the creditor timely requested a copy of the tax return under FRBP 4002(b)(4).

(2) Procedure for Requesting Debtor to File Post-petition Tax Information with the Court:

(a) Motion by Requestor for Court Order Directing Debtor to File Tax Information or Statement: If the debtor does not file the requested tax information or statement with the Court required by 11 U.S.C. §521(f), the movant may file a motion requesting that the Court enter an order directing the debtor to file the requested tax information or statement with the Court. The motion shall be set for hearing in accordance with LBR 9013-1. The Court may determine the motion without oral hearing in accordance with LBR 9013-1(L).

(b) Motion Requesting Access to Tax Information or Statement: The movant may file a motion with the Court requesting access to tax information or statement filed by the debtor. The motion shall be served on the debtor and the debtor's attorney, if any. The motion shall include:

(i) a description of the movant's status in the case, to allow the Court to ascertain whether the movant may properly be given access to the requested tax information or statement;

(ii) a description of the specific tax information or statement sought;

(iii) a statement indicating that the information or statement cannot be obtained by the movant from any other source; and

(iv) a statement showing a demonstrated need for the tax information or statement.

The motion shall be set for hearing in accordance with LBR 9013-1. The Court may determine the motion without an oral hearing in accordance with LBR 9013-1(L).

(c) *Safeguarding the Confidentiality of Tax Information or Statement:* If the Court grants the motion filed by the movant pursuant to subparagraph (A)(2)(c) the tax information or statement shall be confidential and shall not be disseminated or disclosed to any person or entity or used for any purpose other than in connection with the case. Sanctions may be imposed for improper use, disclosure or dissemination.

(d) Paragraph (A) shall have no effect on discovery proceeding under FRBP 2004, 7026, or 7028-7037.

(B) *Dismissal for Failure to Provide Payment Advices or Other Evidence of Payment:* Upon certification by the trustee that the debtor failed to provide the trustee with all payment advices or other evidence of payment, as required by LBR 1007-1(I), the Clerk shall issue a rule to show cause to the debtor and the debtor's attorney, if any, and set the rule matter for a hearing.

Comments

4002-1 This rule is new. It is derived from former Interim Procedure 4002-1. [New Rule effective 09/01/09.]

INTERIM PROCEDURE 4002-1 DUTIES OF THE DEBTOR

~~(A) *Tax Information Under 11 U.S.C. §521:*~~

~~(1) *Procedure for Debtor to Cooperate with Trustee and Provide Requesting Trustee and Creditor with Pre-petition Tax Information; Dismissal of Debtor's Case:*~~

~~(a) *Debtor's Duty to Cooperate with Trustee and Provide Pre-petition Tax Information to Requesting Trustee and Creditor; Debtor's Duty Not to File with the Court:* The debtor shall provide the tax information specified in §521(e)(2)(A)(i) to the trustee and any requesting creditor within the time specified in §521(e)(2)(A)(ii). The debtor is not required to file any tax information specified under 11 U.S.C. §521(e)(2)(A)(i), (A)(ii) or (C) with the Court.~~

~~(b) *Dismissal of Debtor's Case:* Pursuant to 11 U.S.C. §521(e)(2)(B), the Court shall dismiss the debtor's case if the debtor fails to comply either with §521(e)(2)(A)(i) or (ii) unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor. Absent the debtor making such a demonstration, the Court shall dismiss the debtor's case either upon:~~

~~(i) certification by the trustee wherein the Clerk shall issue a rule to show cause to the debtor and the debtor's attorney, if any, and set the rule for a hearing; or~~

~~(ii) upon motion by a creditor and after a hearing on service of the motion by the creditor on the debtor and debtor's attorney, if any. Any motion to dismiss filed by a creditor must state with particularity that the creditor timely requested a copy of the tax return under Interim Rule 4002(b)(4).~~

~~(2) *Procedure for Requesting Debtor to File Post-petition Tax Information with the Court:*~~

~~(a) *Access to Debtor's Tax Information:* To gain access under 11 U.S.C. §521(f)(1), (2), or (3) to a debtor's tax information in a case under chapter 7, 11, or 13 where the debtor is an~~

individual, or under §521(f)(4), to a statement of the income and expenditures of the debtor (“statement”), where the debtor is an individual in a case under chapter 13, the United States trustee, trustee, or party in interest, including a creditor, shall file with the Court a written request that the debtor file copies of tax information, or statement, with the Court pursuant to the applicable subsection(s) of §521(f) and served on the debtor and debtor’s attorney, if any. The Court may request tax information or statement on its own initiative. The debtor shall file the requested tax information or statement, as applicable, with the Court at the times set forth in the appropriate subsections of §521(f). The Court need take no further action regarding the written request absent the filing of a motion to obtain access to the debtor’s tax information.

(b) *Motion by Requestor for Court Order Directing Debtor to File Tax Information or Statement:* ~~If the debtor does not file the requested tax information or statement with the Court, the movant may file a motion requesting that the Court enter an order directing the debtor to file the requested tax information or statement with the Court. The motion shall be set for hearing in accordance with LBR 9013-1. The Court may determine the motion without oral hearing in accordance with LBR 9013-1(L).~~

(c) *Motion Requesting Access to Tax Information or Statement:* ~~The movant may file a motion with the Court requesting access to tax information or statement filed by the debtor. The motion shall be served on the debtor and the debtor’s attorney, if any. The motion shall include:~~

- ~~(i) a description of the movant’s status in the case, to allow the Court to ascertain whether the movant may properly be given access to the requested tax information or statement;~~
- ~~(ii) a description of the specific tax information or statement sought;~~
- ~~(iii) a statement indicating that the information or statement cannot be obtained by the movant from any other source; and~~
- ~~(iv) a statement showing a demonstrated need for the tax information or statement.~~

~~The motion shall be set on hearing in accordance with LBR 9013-1. The Court may determine the motion without an oral hearing in accordance with LBR 9013-1(L).~~

(d) *Safeguarding the Confidentiality of Tax Information or Statement:* ~~If the Court grants the motion filed by the movant pursuant to Interim Procedure 4002-1(A)(2)(c) the tax information or statement shall be confidential and shall not be disseminated or disclosed to any person or entity or used for any purpose other than in connection with the case. Sanctions may be imposed for improper use, disclosure, or dissemination.~~

~~(e) This Interim Procedure 4002-1(A) shall have no effect on discovery proceeding under Federal Rule of Bankruptcy Procedure 2004, 7026, or 7028-7037.~~

(B) *Dismissal for Failure to File Tax Returns:*

~~(1) In cases governed by 11 U.S.C. §521(j)(1), a taxing authority may file a written request with the Court certifying that the debtor had not filed a tax return that became due either after the case was commenced or after properly obtaining an extension to file the return with the taxing authority and requesting that the Court enter an order to dismiss or convert the debtor’s case. The taxing authority shall submit such a request in the form of a motion.~~

~~(2) As provided for in 11 U.S.C. §521(j)(2), if the debtor does not, within 90 days after the request is filed with the Court, file the return or obtain an extension of time to file the return from the taxing authority, the taxing authority may file a motion with the Court, requesting that the Court enter an order to dismiss or convert the debtor's case. The taxing authority shall serve the motion on the debtor and debtor's attorney, if any. The motion shall be set for hearing in accordance with LBR 9013-1. The Court may determine the motion without an oral hearing in accordance with LBR 9013-1(L).~~

~~(C) ***Dismissal for Failure to Provide Payment Advices or Other Evidence of Payment:*** Upon certification by the trustee that the debtor failed to provide the trustee with all payment advices or other evidence of payment, as required by Interim Procedure 1007-1(I), the Clerk shall issue a rule to show cause to the debtor and the debtor's attorney, if any, and set the rule for a hearing.~~

LBR Standing Committee Recommendation: That IP 4002-1, as modified, be incorporated into the LBRs and adopted as new LBR 4002-1. That IP 4002-1 be deleted.

RULE 4008-1 REAFFIRMATION

(A) ***Notice of Rights Under 11 U.S.C. §524(d)***: The Clerk shall, within ~~fifteen~~ 15 days after the discharge has been granted, give written notice to each discharged debtor of the debtor's rights under 11 U.S.C. §524(d).

(B) ***Reaffirmation Agreements***: Any debtor or creditor seeking to reaffirm a debt of the kind specified in 11 U.S.C. §524(c) shall file with the Clerk a ~~summary of said~~ properly completed reaffirmation agreement in substantial compliance with the applicable form promulgated by the Administrative Office of the United States Courts. ~~The summary shall specify with particularity that the requirements of §524(c) have been met and shall be signed by the debtor, the debtor's attorney, if any, and the creditor. The Clerk shall, upon request, supply a form meeting the requirements of this provision. The Clerk is directed to provide such form to the public upon request.~~

(C) ***Court Consideration of Reaffirmation Agreement***: ~~If the reaffirmation agreement is based on a consumer debt not secured by real property of the debtor, the reaffirming debtor or the creditor may, or if the debtor is not represented by an attorney, must request that a reaffirmation hearing be scheduled pursuant to 11 U.S.C. §524(d)(2).~~

(D) ***Filing of Summary of Reaffirmation Agreements in Closed Cases***: ~~The summary of a reaffirmation agreement entered into prior to discharge in compliance with 11 U.S.C. §524(c) and §524(d) may be filed in a closed case.~~

Comments

4008-1 The amendments to LBR 4008-1(A) and (B) are derived from former Interim Procedure 4008-1. Paragraph (C) is repealed as no longer being necessary. Paragraph (D) is repealed in light of the recent amendment made to FRBP 4008(a) and 4004(c)(1)(J). [Amendments effective 09/01/09.]

INTERIM PROCEDURE 4008-1 REAFFIRMATION

(A) ***Notice of Rights Under 11 U.S.C. §524(d)***: ~~The Clerk shall, within (15) days after the discharge has been granted, give written notice to each discharged debtor of the debtor's rights under 11 U.S.C. §524(d).~~

(B) ***Reaffirmation Agreements***: ~~Any debtor or creditor seeking to reaffirm a debt of the kind specified in 11 U.S.C. §524(c) shall file with the Clerk a properly completed form of reaffirmation agreement substantially in compliance with A.O. Form B240 Reaffirmation Agreement. The Clerk is directed to provide such form to the public upon request.~~

(C) ***Court Consideration of Reaffirmation Agreement***: ~~If the reaffirmation agreement is based on a consumer debt not secured by real property of the debtor, the reaffirming debtor or the creditor may, or if the debtor is not represented by an attorney either in the debtor's case or during the negotiation of the reaffirmation agreement, the debtor must request that a reaffirmation hearing be scheduled pursuant to 11 U.S.C. §524(d)(2). If there exists a presumption of undue hardship that would require a hearing before the Court, the debtor must request that a hearing on the reaffirmation agreement be scheduled.~~

(D) ***Filing of Reaffirmation Agreements in Closed Cases***: ~~A reaffirmation agreement entered into prior to discharge that is in compliance with 11 U.S.C. §524(c) and §524(d), and in the form of a properly completed~~

~~reaffirmation agreement substantially in compliance with A.O. Form B240 Reaffirmation Agreement, may be filed in a closed case.~~

LBR Standing Committee Recommendation: That LBR 4008-1 be amended, as shown, and that IP 4008-1 be repealed. Stylistic changes have been made as well.

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

(A) Filing in Proper Division

(1) ***Petitions***: A petition seeking relief under the Bankruptcy Code shall be filed ~~(or submitted by electronic means established by the Court)~~ in the division in which the debtor's domicile, residence, principal place of business or principal assets were located for the greater part of the ~~one hundred eighty~~ 180 days immediately preceding the filing of the petition. The debtor must file with the petition, ~~(or submit by electronic means established by the Court)~~, a properly completed Declaration of Divisional Venue form as required by LBR 1014-2.

(2) ***All Other Papers Documents***: All motions, pleadings, complaints and other ~~papers documents~~ relating to a bankruptcy case or proceeding shall be filed ~~(or submitted by electronic means established by the Court)~~ in the divisional office of the court in which the bankruptcy case is pending.

(B) Proponent to be Member of Bar: Any attorney offering a petition, pleading or other ~~paper document~~ other than a request for notices under FRBP 2002(g), for filing on behalf of a client, must be a member in good standing of the bar of this Court.

(C) Requirements of Form: All petitions, pleadings, and other ~~papers documents~~ offered for filing shall meet the following requirements of form unless submitted as provided for by an electronic means established by the Court:

(1) ***Legibility***: ~~Papers Documents~~ shall be plainly and legibly typewritten, printed or reproduced on one side of the paper only.

(2) ***Caption, Official Forms***: The caption and form ~~of all petitions, pleadings, schedules and other papers~~ shall be in substantial compliance with the Federal Rules of Bankruptcy Procedure, Official Forms and Local Bankruptcy Rules. Each ~~paper or set of papers document~~ filed, except the petition, shall bear the debtor's name, the case number, and chapter ~~of the case to which it pertains~~, and adversary proceeding number, if applicable.

(3) ***Size, Margins, etc.***: ~~Papers Documents~~, including attachments and exhibits, shall be of standard weight and letter size (8 1/2 by 11 inches), photo-reduced if necessary, with a top margin of not less than 1 1/2 inches, ~~and except for exhibits, pre-punched with two holes at the top~~. All multi-page pleadings and documents shall be fastened into sets at the top. ~~All papers presented for filing at the same time shall be arranged in case number order.~~

(4) ***Signature Required***: All petitions, motions, pleadings and other ~~papers documents~~ shall be signed by counsel of record, or another attorney in the same firm, who shall have been admitted to practice before this Court. *Pro se* individuals shall sign on their own behalf. All ~~papers documents~~ submitted on behalf of corporations, other than proofs of claim, shall be signed by counsel.

(5) ***Identification of Attorney***: On the first page of each pleading or other ~~paper document~~ filed with the court, the attorney filing the same shall be identified by name, State Bar

number, complete mailing address, telephone number and the name of the party whom the attorney represents.

(6) ***Filing of Faxed Petitions, Pleadings and Other Papers Documents***: Petitions, pleadings; and other papers which have been transmitted by facsimile equipment may be filed with the Court except for the List of Creditors, which must be in the format specified by the Clerk's Office as required under LBR 1007-1(I). Once filed, the faxed document constitutes the original and no other copy bearing an original signature should later be filed. All applicable filing requirements must be met, including the payment of any filing fee due, and the providing of the required number of copies.

(7) ***Acknowledgment Copy***: To receive acknowledgment of filing of a petition, pleading or other document, an extra copy must be submitted, ~~in addition to the number of copies required for filing pursuant to these Local Bankruptcy Rules.~~ If the acknowledgment copy is to be returned by mail, a self-addressed, stamped envelope, large enough to accommodate the copy being returned, must be included with the filing. Failure to submit the additional copy and/or the stamped, self-addressed envelope will result in the acknowledgment copy not being returned.

(8) ***Proof of Service***: Proof of service must be made by declaration of the person accomplishing the service. That declaration shall include the following information:

- (a) The day of service;
- (b) The specific persons and or entities served;
- (c) The method of service employed (e.g., personal, mail, substituted, etc.);
- (d) Identification of the ~~papers~~ documents served;
- (e) The exact address at which service was made; and
- (f) The capacity in which the person was served.

The full names and addresses should be listed for each person or entity served, *including* when service is made upon the list of the ~~twenty~~ 20 largest unsecured creditors and insured depository institutions as required under FRBP 7004(h). Service copies shall contain a complete certificate of service, including names and addresses of parties served, if the number of persons and parties served is ~~twenty-five~~ 25 or fewer. ~~Where~~ When service is made on more than ~~twenty-five~~ 25 persons or parties, the certificate of service attached to the service copies need not contain the complete list of names and addresses, but may reference a service list attached to the original filed with the court.

(D) ***Additional Requirements***: The following requirements are in addition to those set out in paragraphs (A) through (C) ~~above~~ of this Local Bankruptcy Rule unless provided for by an electronic means established by the Court:

(1) ***Voluntary Petitions***: Each petition filed must include an unsworn declaration with the signature of all debtors and must be verified by the signature of the debtor's attorney, if any.

More than one entity cannot be listed as the debtor, except that husband and wife may file a joint petition. Each petition filed must be accompanied by:

~~(a) either:~~

~~(i) the proper filing fee in a form other than personal check, or~~

~~(ii) an Application to Pay the Filing Fee in Installments accompanied by the proper first installment payment. The Application to Pay the Filing Fee in Installments must conform to the requirements of Local Bankruptcy Rule 1006-1.~~

~~(b) payment in full of the past due amount, if the debtor still owes a filing fee or portion thereof for a previously filed petition.~~

~~(c) a properly completed and signed Declaration of Divisional Venue form, as required by Local Bankruptcy Rule 1014-2.~~

~~(d)(a) a List of Creditors, in the format specified by the Clerk's Office, as required by LBR 1007-1(H)(H).~~

~~(e)(b) a verification by signature of the attorney for the debtor and an unsworn declaration with the signature of all debtors.~~

~~(f) if the debtor is an individual, an acknowledged copy of the notice required by Local Bankruptcy Rule 1002-2.~~

~~(g)(c) if the debtor is a corporation, the petition must be signed by an attorney and be accompanied by a copy of the corporate resolution authorizing the filing as required by Local Bankruptcy Rule 1074-1.~~

~~(h)(d) if a chapter 11 petition, the List of Creditors Holding ~~Twenty~~ 20 Largest Unsecured Claims, as required by Local Bankruptcy Rule 1007-1(H)(G).~~

(2) **Complaints:** Each complaint commencing an adversary proceeding must be accompanied by:

(a) the proper filing fee, and

(b) a properly completed Adversary Proceeding Cover Sheet (Form B 104).

(3) **Motions for Relief from Stay:** Each motion for relief from stay must be accompanied by:

(a) the proper filing fee,

~~(b) one additional copy of the motion,~~

~~(c) (b) proof of service indicating service of the motion upon the parties required to be served pursuant to Local Bankruptcy Rule 4001(a)-1(F);~~

~~(d) a stamped, addressed envelope for each party, including the movant, to receive the notice of hearing from the Clerk.~~

(4) **Claims:** Each proof of claim presented for filing must specify the name of the debtor; ~~and the case number~~ of the applicable bankruptcy case number, and must be properly signed by the claimant or the claimant's authorized agent. ~~The number of copies required is:~~

~~(a) Chapters 7, 9 and 11—original only~~

~~(b) Chapters 12 and 13—original and one copy~~

(5) **Amendments:** Each amendment filed shall be accompanied by a properly completed Amendment Cover Sheet, as required by Local Bankruptcy Rule 1009-1(B)(A).

(6) **Chapter 13 Plan:** As required by LBR 3015-2, each Chapter 13 Plan and Related Motions presented for filing shall be accompanied by a properly completed proof of service.

~~(7) **Papers Filed Within Seventy-two Hours of Hearing:** If any paper is filed within seventy-two hours prior to a hearing or trial in which the paper is to be considered by the Court, the proponent shall include therewith a completed "Priority Handling Cover Sheet" stating the date and time of the trial (or hearing) and the name of the assigned Judge. The computation of the seventy-two hours shall not include weekends or national holidays. The Priority Handling Cover Sheet shall be yellow in color, and the Clerk shall provide sample copies of the form upon request.~~

(E) **Notice of Deficient Filing:** The Clerk shall review each filing for compliance with the requirements of these Local Bankruptcy Rules. Those pleadings or other papers documents not meeting the requirements of these Local Bankruptcy Rules will receive a Notice of Deficient Filing allowing for ~~ten~~ 10 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, ~~will~~ may result in the pleading or other paper document being stricken without further notice.

(F) **Rejection of Petitions, Pleadings and Other Papers:** [Repealed]

(G) **Judicial Conference Policy Regarding Public Access to Electronic Case Files:** ~~In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court or required by statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms.~~

~~(1) **Social Security Numbers:** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.~~

~~(2) **Names of Minor Children:** If the involvement of a minor child must be mentioned, only the initials of that child should be used. On schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (e.g., son, age 6).~~

- (3) ~~**Dates of Birth:** If an individual's date of birth must be included in a pleading, only the year should be used. On schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.~~
- (4) ~~**Financial Account Numbers:** If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Form 6, debtors, if they choose, may include their full account numbers to assist the trustee and creditors.~~

~~In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may file an unredacted document under seal. The document shall be accompanied by a request that the document be filed under seal pursuant to paragraph (G) of this rule. This document shall be retained by the Court as part of the record. Except as the presiding judge in a case otherwise may direct, the party shall file a redacted copy for the public file.~~

~~The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.~~

Comments

5005-1 Subparagraphs (D)(1)(a), (b), (c) and (f) are repealed. Subparagraphs (D)(1)(d), (e), (g) and (h) are re-designated as subparagraphs (D)(1)(a), (b), (c) and (d), respectively. Subparagraphs (D)(3)(b) and (d) are repealed. Subparagraph (D)(1)(c) is re-designated as subparagraph (D)(1)(b). Paragraph (D)(7) is repealed. Paragraph (D)(4) is amended. Paragraph (G) is repealed. Stylistic changes have been made to the text of the LBR as well. [Changes effective 09/01/09.]

INTERIM PROCEDURE 5005-1 FILING OF PETITIONS, PLEADINGS AND OTHER PAPERS

~~(D) Additional Requirements:~~

~~(1) **Voluntary Petitions:** Each petition filed must include an unsworn declaration with the signature of all debtors and must be verified by the signature of the debtor's attorney, if any. More than one entity cannot be listed as the debtor, except that husband and wife may file a joint petition.~~

~~(a) Each petition filed must be accompanied by:~~

~~(i) the proper filing fee in a form other than the debtor's personal check, or~~

~~(ii) an "Application to Pay the Filing Fee in Installments" accompanied by the proper first installment payment. The application must conform to the requirements of Local Bankruptcy Rule 1006-1, or~~

~~(iii) if applicable, in a chapter 7 case filed by an individual, an "Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments." The application must conform to the requirements of Interim Procedure 1006-1(F).~~

LBR Standing Committee Recommendation: That LBR 5005-1 be amended by repealing (D)(1)(a), (b),(c) and (f) and re-designating (d), (e), (g) and (h) as (a), (b), (c) and (d), respectively; that (D)(3)(b) and (d) be repealed and that (c) be re-designated as (b); that (D)(7) be repealed; that the identified text at (D)(4) be repealed; and that (G) be repealed. Stylistic changes have been made to the text as well. That IP 5005-1(D) be repealed.

RULE 6004-4 MORTGAGE LOAN MODIFICATION BY CHAPTER 13 DEBTOR AFTER CONFIRMATION

(A) Unless provided in a Consent Order resolving a Motion for Relief from Stay, a debtor(s) seeking approval for the modification of a mortgage on real property following confirmation of a plan that reverts such property in the debtor(s) shall provide the chapter 13 trustee and any creditor who has filed a request for all notices in the case at least 21 days notice of the motion seeking such approval unless the notice period has been shortened by the court for cause shown.

(B) The notice shall state:

(1) All terms of the modification including the term, principal, interest rate, and any future payment changes or balloon payments that will occur during the term of the chapter 13 plan;

(2) The current mortgage payment and the new payment after the loan modification;

(3) If the modification results in a higher monthly payment, the source of the funds to be used to make that payment; and

(4) If the modification results in a lower monthly payment, whether the debtor intends to increase the amount of his plan payment.

(C) If no objection is filed within the objection period, the court, in its discretion, may enter an order endorsed by the chapter 13 trustee approving the loan modification.

Comments

6004-4 This rule is new and provides a procedure, including the manner in which notice shall be given and the contents of the notice, for a chapter 13 debtor to request court approval to modify a real property mortgage loan following confirmation of the debtor's Plan. [New Rule effective 09/01/09.]

RULE 9013-1 MOTIONS PRACTICE

(N) ***Request for Expedited Hearing***: A motion requesting an expedited hearing shall be accompanied by a ~~Priority Handling Cover Sheet~~ and a certification verifying that the proponent:

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

Comments

9013-1 Paragraph (N) is amended by removing the reference to a Priority Handling Cover Sheet. The word “emergency” is deleted at paragraph (N)(1) and the word “expedited” is substituted in lieu thereof. [Changes effective 09/01/09.]

LBR Standing Committee Recommendation: That LBR 9013-1(N) be amended, as shown.