

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

PUBLIC NOTICE

**INVITATION FOR COMMENTS ON LOCAL BANKRUPTCY RULES
2016-1(C) (Repealed); 3015-2(I) (New); 7030-1(D) (Amended); 7030-1(F) (Repealed);
5005-2 (New); and 9010-1 (Amended)**

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. The repeal of Local Bankruptcy Rule 2016-1(C);
2. The promulgation of Local Bankruptcy Rule 3015-2(I);
3. A revision to Local Bankruptcy Rule 7030-1(D);
4. The repeal of Local Bankruptcy Rule 7030-1(F);
5. The promulgation of Local Bankruptcy Rule 5005-2; and
6. A revision to Local Bankruptcy Rule 9010-1.

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/> under "Local Rules" > "Public Notice."

Comments may be submitted, by mail, to:

Local Rule Change
c/o William C. Redden
U.S. Bankruptcy Court
1100 East Main Street, Room 310
Richmond, VA 23219-3515

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., Tuesday, March 4, 2008.

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

William C. Redden
Clerk of Court

Date: February 4, 2008

PROPOSED REVISION

to the

**LOCAL BANKRUPTCY RULES
(Version 02/01/08)**

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



Effective Date: March 17, 2008

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

RULE 2016-1 COMPENSATION OF PROFESSIONALS

(C) *For Debtor's Attorney in Chapter 13 Case* [Repealed]

~~(1) **Generally:** The Court may award fees to the attorney for a debtor in a chapter 13 case with or without a hearing, at the Court's discretion. Any application for compensation filed under this provision must include the applicant's statement that the chapter 13 plan provides sufficient reserves or may be extended in time so that the payment(s) requested may be made without prejudice to any creditor, or that any prejudice to any creditor as the result of an award of additional attorney's fees shall be completely, fully and adequately disclosed to all creditors and parties in interest in the case, allowing ten days to object and request a hearing.~~

~~(2) **Fees Requested Not in Excess of \$1,250 [For All Cases and Proceedings Pending Prior to 1/1/03]:** Where the application for compensation does not exceed \$1,250, the Court may award compensation in such amount or less, plus reimbursement of actual and necessary expenses, with or without a hearing, upon the following notice:~~

~~(a) **Notice:** The debtor's attorney shall serve a copy of the application on the debtor and the standing trustee, along with notice that they have ten days in which to file any objection.~~

~~(b) **Proof of Service:** With the application for compensation, the debtor's attorney shall file a proof of service evidencing proper service under subparagraph (C)(2)(a) of this Local Bankruptcy Rule.~~

~~(3) **Fees Requested in Excess of \$1,250 [For All Cases and Proceedings Pending Prior to 1/1/03]:** Where the application for compensation does exceed \$1,250, the Court may award compensation in such amount or less, plus reimbursement of actual and necessary expenses, with or without a hearing, upon the following notice:~~

~~(a) **Notice:** The debtor's attorney shall serve a copy of the application on the debtor, the standing trustee and all creditors, along with notice that they have ten days in which to file any objection.~~

~~(b) **Proof of Service:** With the application for compensation, the debtor's attorney shall file proof of service evidencing proper service under subparagraph (C)(3)(a) of this Local Bankruptcy Rule.~~

~~(4) **Fees and Expenses Requested After the Filing of the Petition [For All Cases and Proceedings Pending Prior to 1/1/03]:** Any fee in excess of the maximum established in this rule will require an application for allowance of compensation and reimbursement of expenses by separate and distinct pleading. Any such application shall comply with 11 U.S.C. § 330, FRBP 2016 and the other provisions of this Local Bankruptcy Rule. The attorney shall not send a bill directly to the debtor. Should the debtor receive a bill from that person's attorney, the debtor should send a copy of such bill to the trustee. Service and notice of the application shall be given in accordance with subparagraph (C)(2) or (3) of this Local Bankruptcy Rule.~~

~~(5) **Fees Requested Not in Excess of \$1,500 [For All Cases and Proceedings Filed on or After 1/1/03]:** Where the Rule 2016-1 disclosure of compensation does not exceed \$1,500, the Court may award compensation in such amount or less, plus~~

reimbursement of actual and necessary expenses, with or without a hearing, upon the following:

(a) ~~**Notice:** The debtor's attorney shall serve a copy of the Rule 2016-1 disclosure of compensation and Chapter 13 Plan and Related Motions on the debtor and the standing trustee, along with notice that they have ten (10) business days from the meeting of creditors in which to file an objection to the fees requested in the Rule 2016-1 disclosure of compensation opposing said fees in their entirety, or in a specific amount. Counsel for the debtor may file a request for hearing with the Court and notice of same shall be served upon the debtor(s), the standing trustee, and the United States Trustee. At any such hearing, each of the parties shall have the burden of proof established in 11 U.S.C. §§328, 329 and 330. In the absence of notification of objection by the debtor or the standing trustee, the fees will be allowed as disclosed.~~

(b) ~~**Proof of Service:** With the Rule 2016-1 disclosure of compensation, the debtor's attorney shall file a proof of service evidencing proper service under subparagraph (C)(5)(a) of this Local Bankruptcy Rule.~~

~~(6) **Fees and Expenses Requested After the Filing of the Petition [For All Cases and Proceedings Filed on or After 1/1/03]:** Any fee in excess of the maximum established in the rule will require an application for allowance of compensation and reimbursement of expenses by separate and distinct pleading. Any such application shall comply with 11 U.S.C. §330, FRBP 2016 and the other provisions of this Local Bankruptcy Rule. The attorney shall not send a bill directly to the debtor. Should the~~

~~debtor receive a bill from that person's attorney, the debtor should send a copy of such bill to the standing trustee. Service and notice of the application shall be given in accordance with paragraph (C)(5) of this Local Bankruptcy Rule.~~

Comments

2016-1(B) This change clarifies how compensation should be paid or disclosed when new counsel is substituted. [Change effective 2/1/00.]

2016-1(C) This paragraph is repealed. Its provisions will be governed by standing order of the Court.[Repeal effective 3/17/08.]

~~2016-1(C)(1) This change clarifies the Code provision providing for priority of payment for administrative expenses.~~
[Change effective 2/1/00.]

~~2016-1(C)(2) This change is to clarify the fee structure in Chapter 13 cases.~~ [Change effective 2/1/00.]

~~2016-1(C)(3) This change is to clarify the fee structure in Chapter 13 cases.~~ [Change effective 2/1/00.]

~~2016-1(C)(4) Revision to clarify how fees are to be handled after the filing of the petition.~~

~~2016-1(C)(5) (6) These changes are to clarify the fee structure in Chapter 13 cases, and to afford maximum flexibility in the establishment of fees to counsel for the debtors. It is also designed to afford a review function by the standing trustee and to provide access to the Court in the event of a dispute over the propriety of a fee in any specific case.~~ [Changes effective 2/12/03.]

RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

(I) **Reconversion of Case:** Unless the Court orders otherwise, after a case converts from Chapter 13 to another chapter under the Bankruptcy Code and subsequently reconverts back to Chapter 13, the Chapter 13 Plan confirmed by the Court, if any, in the original Chapter 13 case shall be deemed reinstated with full force and effect.

Comments

3015-2(I) This paragraph is new. It provides that a Chapter 13 Plan approved by the Court in the original Chapter 13 case, if any, is deemed reinstated with full force and effect when that case reconverts back to Chapter 13. [New Rule effective 3/17/08.]

RULE 7030-1 DEPOSITIONS

(D) ***Travel Expense:*** The "costs of travel" as herein defined shall apply to any witness other than a party, or representative of a party, required to attend the taking of a deposition. As to any witness attending a trial or hearing pursuant to Rule 45~~(e)~~(1)(b), FRCP, the expense of such costs of travel shall be taxed as costs if said witness testifies or if it is reasonably necessary for the witness to appear, but said costs of travel shall be limited to what would have been expended if said witness resided one-hundred miles or more from the place of the trial or hearing, together with such reasonable allowance, if required for the purpose of the witness testifying, for overnight accommodations and food. If the witness resides within one-hundred miles of the place of trial or hearing, the costs of travel shall be limited to the mileage and attendance fees as provided by law.

~~(F) *Summaries of Depositions*: In all cases or proceedings set for bench trial, counsel shall attach to any deposition a summary of the examination of the testimony of each witness, identifying the salient points to be noted by the Court.~~

Comments

Rule 7030-1 A technical modification referencing FRCP 45 is made in the text to Paragraph (D) of the rule. [Change effective 3/17/08.]

Rule 7030-1 is repealed as no longer being needed.

[Change effective 3/17/08.]

RULE 5005-2 FILING OF PETITIONS, PLEADINGS AND OTHER PAPERS BY ELECTRONIC MEANS

All petitions, motions, memoranda of law, or other pleadings, documents and papers filed with the Court shall be filed through the Case Management/Electronic Case Files System (CM/ECF), except as otherwise provided for in the Court's *Electronic Case Files Policy* (CM/ECF Policy), which shall be promulgated and revised as specified by the Clerk. The CM/ECF Policy governs if there is a conflict between that Policy and these Local Bankruptcy Rules as to the technicalities of electronic case filing.

Comments

This rule 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. [New rule effective 3/17/08.]

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

Requirement for Counsel: Except for filing or withdrawing a proof of claim, request for notices or notice/service, notice of appearance, reaffirmation agreement, creditor change of address, ~~notice of~~ transfer of claim, or a transcript of court proceedings, no party or entity other than a natural person acting in his or her own behalf or, to the extent permitted by §304(g) of Pub.L.103-394, a child support enforcement agency, may appear in a bankruptcy case or proceeding, sign pleadings, or perform any act constituting the practice of law except by counsel permitted to appear under LBR 2090-1. This rule applies to corporations, partnerships, limited liability companies, associations, and trusts, as well as to individuals acting in a representative capacity (such as under a power of attorney) for another. Any petition, pleading or paper, other than those set forth in this rule, filed on behalf of an entity that is not a natural person acting in his or her own behalf and not signed by counsel permitted to appear under LBR 2090-1 shall be stricken by the clerk, or in the case of a petition, dismissed, unless the deficiency is cured within ten days of the mailing or delivery of a notice of deficiency.

Comments

Rule 9010-1 Modifications are made to the list of items that may be filed with the court without legal representation. The rule conforms to Interim Procedure 9010-1, which is repealed.

[Change effective 3/17/08.]