

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

PUBLIC NOTICE

**Changes and Modifications to Local Bankruptcy Rules
United States Bankruptcy Court for the Eastern District of Virginia
Effective September 1, 2006**

The following is a summary of the Court-approved revisions to the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia, through the entry of Standing Order No. 06-6, effective September 1, 2006:

1. *LBR 1006-1 Fees: Installment Payments – (D) Failure to Pay Installment.* LBR 1006-1(D) is repealed in light of new LBR 1006-3.
2. *LBR 1006-3 Payment of Filing Fees; Remedies for Nonpayment.* LBR 1006-3 is new and establishes a single rule for payment of filing fees and the procedure the Clerk will follow in the event of nonpayment of a required filing fee. This rule supersedes LBR 1006-1(D) and LBR 5005-1(F).
3. *LBR 1017-3 Suspension of Automatic Dismissal.* LBR 1017-3 is amended to conform to a previous amendment to LBR 3015-2.
4. *LBR 2002-1 Notice to Creditors & Other Interested Parties.* LBR 2002-1(C)(1)(a) is amended to substitute the *Washington Examiner* for the *Alexandria Journal*. The *Alexandria Journal* no longer is being published and its place has been taken by the *Washington Examiner*.
5. *LBR 2090-1 Attorneys – Right to Practice Before the Court.* LBR 2090-1(B) and (F) are amended to explicitly provide that an attorney must be and remain a member in good standing of the Bar of the Commonwealth of Virginia or the state in which the attorney is admitted. The title to the rule also is amended.
6. *Rule 3011-1 Unclaimed Funds.* LBR 3011-1(B) is amended at its third paragraph to make explicit that the procedures set forth in LBR 9013-1(M)(1) must be followed to meet the requirements set forth in LBR 3011-1(B)(3).
7. *Rule 3015-2 Chapter 13 Plan Requirements.* LBR 3015-2(F)(1)(c) and F(2)(b) are amended to include the date, time, and place of the confirmation hearing when a modified plan is being filed. The first page of the uniform form of Chapter 13 Form of Plan and Related Motions has been revised to include this change.
8. *Rule 5005-1 Filing of Petitions, Pleadings and Other Papers.* LBR 5005-1(D)(1)(a)(ii) is amended technically to clarify that the referenced application is an Application to Pay Filing Fee in Installments. LBR 5005-1(F) is repealed in light of new LBR 1006-3.
9. *Rule 7067-1 Deposit and Disbursement of Court Registry Funds.* LBR 7067-1(B) amends the elements of the Order Directing Deposit. Paragraph (C) is amended to advise that the order is available on the Court's website (at "Bankruptcy Forms"). Paragraphs (D) and (E) are new. Paragraph (F) is new. The form referenced at (F) also is available on the Court's website (at "Bankruptcy Forms"). The title to the rule also is amended.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:

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Revision of Local Rules)	Standing Order No. 06-6
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ORDER ADOPTING REVISION OF LOCAL RULES

After giving appropriate public notice and an opportunity for comment, pursuant to delegation of authority from the United States District Court, the accompanying Local Rules are hereby adopted.

Local Bankruptcy Rules 1006-1(D) (repealed), 1006-3 (new), 1017-3, 2002-1, 2090-1, 3011-1, 3015-2, 5005-1(D), 5005-1(F) (repealed) and 7067-1 shall take effect on the 1st day of September 2006, and shall govern procedures in all cases and proceedings pending on that date or filed after that date. The prior Local Rules are rescinded effective September 1, 2006.

Dated: August 17, 2006

/s/ Douglas O. Tice, Jr.
DOUGLAS O. TICE, JR.
Chief United States Bankruptcy Judge

/s/ David H. Adams
DAVID H. ADAMS
United States Bankruptcy Judge

/s/ Stephen S. Mitchell
STEPHEN S. MITCHELL
United States Bankruptcy Judge

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
United States Bankruptcy Judge

/s/ Robert G. Mayer
ROBERT G. MAYER
United States Bankruptcy Judge

REVISION

to the

LOCAL BANKRUPTCY RULES

(Version 8/14/06)

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



Effective Date: September 1, 2006

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

Revision to Local Bankruptcy Rules

1. **Rule 1006-1 FEES: INSTALLMENT PAYMENTS**

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

~~(1) **Rejection of Petition:** If a petition is filed without full payment of the filing fee or without an Application to Pay Filing Fee in Installments, or if an Application to Pay Filing Fee in Installments does not conform with the requirements of FRBP 1006 and this Local Bankruptcy Rule, the Clerk shall reject the petition.~~

~~(2) **Dismissal of Case:** Except as provided in LBR 1017-3, the Clerk shall issue an order of dismissal in any case where the initial installment payment required under FRBP 1006 and paragraph (B) of this Local Bankruptcy Rule has not accompanied the filed petition. In any case where a subsequent installment payment has not been received by the due date, the Clerk shall issue an order of dismissal.~~

Comments

1006-1 LBR 1006-1(D) is repealed in light of new LBR 1006-3.
[Change effective 9/1/06.]

2. **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.

Comments

1006-3 This rule establishes a single rule for payment of filing fees and the procedure the Clerk will follow in the event of nonpayment of a required filing fee. It supersedes LBR 1006-1(D) and LBR 5005-1(F). [New Rule effective 9/1/06].

3. Rule 1017-3 SUSPENSION OF AUTOMATIC DISMISSAL

Rule to Show Cause in Lieu of Dismissal in Certain Cases: Notwithstanding the provisions of LBR 1006-1, 1007-1(A), 1007-3-(C), 2003-1(B), 3015-1(G), 3015-2(~~C~~)(H) and 3070-1(C), the Clerk shall not enter an order dismissing the debtor's case if the case was previously converted from any other chapter of title 11 or if the debtor was a debtor in another case pending at any time within 12 months preceding the filing of the present case. In such a case, the Clerk shall, in lieu of dismissal, issue a rule to show cause to the debtor and set the rule for a hearing.

Comments

1017-3 LBR 3015-2 has been amended. The revision to LBR 1017-3 conforms to that amendment. [Change effective 9/1/06.]

4. RULE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(C) 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 *Alexandria Journal* Washington Examiner or the *Washington Post*.

Comments

2002-1 LBR 2002-1(C)(1)(a) has been amended to substitute the Washington Examiner for the Alexandria Journal. The Alexandria Journal no longer is being published and its place has been taken by the Washington Examiner. [Change effective 9/1/06.]

5. RULE 2090-1 ATTORNEYS – ~~ADMISSION~~ RIGHT TO PRACTICE BEFORE THE COURT

(B) **Qualifications for Admission and the Right to Practice Before the Court:** An attorney, to qualify for admission and to maintain the right to practice before this Court, shall be a member in good standing of the Bar of the State of Virginia and administered the oath of admission; upon the filing of an acceptable application to practice before the Court; and shall be and at all times must remain a member in good standing of the Bar of the Commonwealth of Virginia.

(F) **Attorneys Filing Pleadings:** All counsel making an appearance or presenting papers, suits or pleadings for filing; other than a request for notices under FRBP 2002(g), or making an appearance; must be members in good standing of the Bar of this Court; or and members in good standing of the Bar of the Commonwealth of Virginia or the state in which he or she is admitted. Attorneys who are not members of the Bar of this Court must have counsel who are is a members in good standing of the Bar of this Court join in the pleading by endorsement. Any counsel who is a member in good standing of the Bar of this Court as defined above and who joins in a pleading will be held accountable for the case by the Court.

Comments

2090-1 Paragraphs (B) and (F) of this Local Bankruptcy Rule have been amended to explicitly provide that an attorney must be and remain a member in good standing of the Bar of the Commonwealth of Virginia or the state in which the attorney is admitted. [Change effective 9/1/06.]

6. RULE 3011-1 UNCLAIMED FUNDS

(B) *Disposition of Unclaimed Funds*

(3) *Requirements for any other individual representing the interest of creditor/claimant:*

....
As provided for in Local Bankruptcy Rule 9013-1(M)(1), notice of the motion shall be in substantial compliance with Official Form 20A, allowing 20 days' notice for written responses objecting to the relief requested and must contain the "NOTICE" language substantially in the form set forth therein. Movant must sign a certificate of mailing reflecting that the motion was served on the United States Attorney for the Eastern District of Virginia and on the United States Trustee.

....

Comments

3011-1 The third paragraph to LBR 3011-1(B)(3) is amended to make explicit that the procedures set forth in LBR 9013(M)(1) must be followed to meet the requirements set forth in LBR 3011-1(B)(3). [Change effective 9/1/06.]

7. RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

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

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

(c) *Objections to Confirmation of Modified Chapter 13 Plan and Related Motions:* If a modified Chapter 13 Plan and Related Motions is filed, any objections must be filed not later than ten (10) days prior to the date set for the confirmation hearing. The debtor must obtain a new confirmation hearing date from the clerk; and must include the new date, time and location on the first page of the form of Chapter 13 Plan and Related Motions. The new confirmation hearing date must allow at least 35 days' notice. The debtor shall give notice of the date, time and place of the confirmation hearing by serving a copy of the modified plan on the trustee and all creditors.

(2) *Procedure where plan has been confirmed*

(b) *Where modification is requested by the debtor:* If modification of a confirmed plan is sought by the debtor, modification must be requested by filing and distributing a modified Chapter 13 Plan and Related Motions and by giving special notice required by paragraph (B) of this rule. The special notice required by paragraph (B) of this rule need not be given, however, if a Chapter 13 Plan and Related Motions has previously been confirmed providing the identical treatment of the secured creditor's claim. The debtor must obtain a new confirmation hearing date from the clerk. The new confirmation hearing date must allow at least 35 days' notice. The debtor shall give notice of the date, time and place of the confirmation hearing as set forth on the first page of the form of Chapter 13 Plan and Related Motions by serving a copy of the modified plan on the trustee and all creditors. Any objection to the modified plan must be filed not later than ten (10) days prior to the date set for the confirmation hearing.

Comments

3015-2 Subparagraphs (F)(1)(c) and F(2)(b) have been amended to include the date, time, and place of the confirmation hearing when a modified plan is being filed. The first page of the uniform Chapter 13 Form of Plan and Related Motions has been revised to include this change. [Changes effective 9/1/06.]

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

(D) *Additional Requirements*:

(1) *Voluntary Petitions*:

(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.

(F) *Rejection of Petitions, Pleadings and Other Papers*: ~~[Repealed] The Clerk shall reject any petition, pleading, or other paper not accompanied by the proper filing fee.~~

Comments

5005-1 The amendment to subparagraph (D)(1)(a)(ii) is technical in nature and clarifies the type of application referenced. [Change effective 9/1/06.]

5005-1 Paragraph (F) is repealed in light of new LBR 1006-3. [Change effective 9/1/06.]

9. RULE 7067-1 DEPOSIT ~~IN~~ AND DISBURSEMENT OF COURT REGISTRY FUNDS

(A) *Order Required*: The Clerk shall deposit into the registry of the Court any sum so directed by order.

(B) *District Registry Procedure and Form of Order*: The order proponent shall follow the District Registry Procedure. In addition to an appropriate caption and attorney identification, a proposed Order Directing Deposit shall include the following elements:

(1) the name, address and telephone number of the person or other entity paying the money into the registry of the Court,

(2) the name, and address ~~and, if applicable, employer tax number~~ of the person or other entity for whom the money is being held, and

(3) the sum of money and date to be paid into the Court,;

(4) ~~provision for the payment, when funds are disbursed, of a fee of ten percent of all interest earned by the funds while in the Court's control, and~~

(5) ~~the desired depository and specific investment instrument with the rate of interest expected to be earned thereon. If no specific deposit or investment type is specified, the Clerk will deposit the funds in an interest-bearing savings account.~~

(C) *Sample Order of Deposit*: ~~The Clerk's Office shall make available upon request a sample order satisfying the requirements of this Local Bankruptcy Rule.~~ An order satisfying the requirements of this Local Bankruptcy Rule is available on the Court's website.

(D) *Investment*: The Clerk shall deposit the funds in an interest-bearing savings account.

(E) **Provision for Payment:** In addition to an appropriate caption and attorney identification, a proposed Order Directing Disbursement shall include the following elements:

(1) the sum of money to be paid to the person or other entity receiving the money, along with any interest accrued thereon, less the Court's fee, as authorized by the Judicial Conference of the United States, and

(2) the name and address of the person or other entity receiving the money.

(F) **Order Directing Disbursement:** An order satisfying the requirements of this Local Bankruptcy Rule is available on the Court's website.

Comments

7067-1 Paragraph (B) amends the elements of the Order Directing Deposit. Paragraph (C) is amended to advise that the order is available on the Court's website (at "Bankruptcy Forms"). Paragraphs (D) and (E) are new. Paragraph (F) is new. The form referenced at (F) also is available on the Court's website (at "Bankruptcy Forms"). [Change effective 9/1/06.]