

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

**AMENDMENTS TO
LOCAL BANKRUPTCY RULES
2015-(A)-1(A), 3015-1(D), 8006-1(C), AND 9014-1(B)**



**Effective September 1, 2011
(Version 06/27/11)**

**With Exhibit 8
Revision to Interim Rule 1007-I
Effective December 19, 2011
(Version 12/19/11)**

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The bankruptcy forms included in the above exhibits are available at the Court’s Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the “Bankruptcy Forms” button on the Court’s Internet home page. The forms are in Adobe Acrobat format.

RULE 1001-1 SCOPE OF RULES

The Supreme Court of the United States has, pursuant to 28 U.S.C. §2075, prescribed rules of procedure in bankruptcy cases. Federal Rule of Bankruptcy Procedure 9029 provides that courts may adopt local rules that are not inconsistent with the Federal Rules of Bankruptcy Procedure.

These Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia are hereby prescribed and promulgated as Local Rules governing practice and procedure before the Court. They are to be cited as the "Local Bankruptcy Rules" except that individual rules may be cited in the following form: "Local Bankruptcy Rule ____" or "LBR ____."

Comments

The prior set of Local Bankruptcy Rules contained several references that were inconsistent with this rule. Therefore, all incorrect references have been edited so that they are now in compliance.

RULE 1002-1 PETITIONS – COPIES [Repealed]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1002-1 The rule is repealed in light of Local Bankruptcy Rule 5005-2, which mandates electronic case filings in the Court's Case Management/Electronic Case Files (CM/ECF) System and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 12/01/09.]

RULE 1002-2 NOTICE TO INDIVIDUAL DEBTORS OF CHAPTERS AVAILABLE UNDER BANKRUPTCY CODE [Repealed]

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 12/01/09.]

RULE 1006-1 FEES: INSTALLMENT PAYMENTS [Repealed]

Comments

1006-1(B) This revision is due to changes made by the Judicial Conference at its September 1997 session to the Bankruptcy Court Miscellaneous Fee Schedule. The changes were effective January 1, 1998.

1006-1(B) This revision is due to changes made under Public Law No. 106-113, which increased the statutory filing fee for cases commenced under Chapter 7 and Chapter 13 by \$25. These changes were effective December 29, 1999.

1006-1 This change is necessary because of the addition of LBR 1006-1 to LBR 1017-3. [Change effective 3/1/01.]

1006-1(B) This revision is due to changes made by the Judicial Conference at its September 2003 session to the Bankruptcy Court Miscellaneous Fee Schedule. [Change effective 12/1/03.]

1006-1(D)(2) This subparagraph is amended to clarify that a petition filing accompanied by an Application to Pay the Filing Fee in Installments must also be accompanied by the proper first installment payment. [Change effective 2/1/04.]

1006-1(B) The revision to the "1 Month After Filing" column at the Chapter 11 line from \$400 to \$409 effects a technical change only. [Change effective 7/1/04.]

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

1006-1 LBR 1006-1 is repealed and a new LBR 1006-1 has been promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR. [Repeal effective 12/01/09.]

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. 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.

(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 3 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 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 subparagraphs (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 credit card account that was used to pay the filing fee.
- (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. The amendment to paragraph (D)(4) recognizes that in certain situations, a credit card issued to a cardholder other than one issued to an attorney or trustee, may have been used to pay the filing fee. In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Changes effective 12/01/09.]

RULE 1006-2 FEES: ELECTRONIC REFUNDS [Repealed]

Comments

1006-2 This new rule adopts a procedure by which filing fees paid over the Internet with a credit card may be administered when errors in electronic payments are made. The rule is consistent with guidance approved, in principle, by the Judicial Conference of the United States. The rule establishes an additional Judicial Conference-authorized narrow exception to the longstanding Judicial Conference policy prohibiting the refund of fees. [New Rule effective 10/17/05.]

1006-2 LBR 1006-2 is repealed and a new LBR 1006-1 has been promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR. [Repeal effective 12/01/09.]

**RULE 1006-3 PAYMENT OF FILING FEES; REMEDIES FOR NONPAYMENT
[Repealed]**

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.]

1006-3 LBR 1006-3 is repealed and a new LBR 1006-1 has been promulgated, which consolidates selected provisions of LBRs 1006-1, 1006-2 and 1006-3 into that LBR. [Repeal effective 12/01/09.]

RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS

(A) **Dismissal of Case:** Except as provided in LBR 1017-3, in any case in which lists, schedules and statements are not filed at the time of the filing of a voluntary petition, the Clerk shall enter an order of dismissal unless the same are filed within 14 days after the filing of the petition, or a motion to extend time for filing lists, schedules and statements has been filed prior to the expiration of the 14-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. If there are more than 30 creditors in the case, the debtor need only provide notice of the motion to extend time to the 10 largest secured creditors, the 20 largest unsecured creditors and any official committee appointed in the case. The motion to extend time shall give notice that parties objecting to the extension of time shall file written objections with the Court within 7 days after service of the motion by the debtor.

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

(D) **Objections -- Determination:** If an objection 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, statements and other documents to a date less than 7 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. The Clerk shall also give notice of this Local Bankruptcy Rule in the meeting of creditors notice.

(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 to the smallest creditor. 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, 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 Electronic Case Files System, the mailing matrix shall be submitted on a computer diskette in the format specified by the Clerk. The mailing matrix shall suffice for the list of creditors referred to in FRBP 1007(a). As required under FRBP 1007(f), the debtor shall submit a verified statement that sets out the debtor's social security number (statement of social security number), or states that the debtor does not have a social security number. If not filed via the Electronic Case Files System, the debtor shall submit the statement with the petition.

(2) ***Dismissal of Case***

(a) In any case in which the list of creditors is not filed at the time of the filing of the voluntary petition, the Clerk shall enter an order of dismissal unless the same is filed in the required format not later than 3 days after the filing of the petition.

(b) In any case in which the statement of social security number in a voluntary case is not submitted at the time of the filing of the voluntary petition, the Clerk shall enter an order of dismissal unless the same statement is submitted in the required format not later than 3 days 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 upon request. In addition to the waiver request, the debtor shall file the list of creditors in the scannable format specified by the Clerk. If the court denies the request, the debtor or the attorney for the debtor shall submit the list of creditors on computer diskette not later than 3 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 7 days before the 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, 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 in which a properly completed statement of compliance referenced in paragraph (I)(1) of this Local Bankruptcy Rule, together with attached documents as specified therein, is not filed at the time of the filing of the voluntary petition, the Clerk shall enter an order of dismissal unless the same is filed not later than 3 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 14 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(A) This change is necessary because of the addition of LBR 1017-3. [Change effective 2/1/00.]

1007-1(I) This new rule is to implement the procedure approved by the Judges at their November 1997 meeting requiring the submission of the List of Creditors by diskette beginning January 1, 1999. This speeds up the case opening process and reduces overall creditor related errors. For more information on the required procedure, refer to the attached Exhibits 5, 6, and 7. Exhibits 6 (Creditor Matrix Diskette - Cover Sheet for List of Creditors) and 7 (Request for Waiver to File Conventionally) were deleted as exhibits. These forms are available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's Internet home page. The former Exhibits 6 and 7 are in Adobe Acrobat format. [Change effective 3/1/01.]

1007-1(I)(2)-(3) The rule provisions have been changed to clarify the time within which the petition filer has to cure a deficiency in the list of creditors. [Change effective 4/1/03.]

1007-1(I) This change is necessary because of the amendment to FRBP 1007, which creates a new subdivision (f) effective December 1, 2003. [Change effective 12/1/03.]

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. In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 1007-3 STATEMENT OF INTENTION

(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 in which neither the Statement of Intention nor a motion to extend the time for filing the same has been filed within 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.

(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 7 days after service of the motion.

(C) ***Order Extending Time***: Where no objections to the aforesaid motion are timely filed, the Clerk shall enter an order extending time for filing to 14 days after the scheduled meeting of creditors. If the Statement of Intention is not filed by the fourteenth day after the scheduled meeting of creditors, the Clerk shall enter an order dismissing the case.

(D) ***Hearing on Further Extension***: Any debtor requesting an extension of time to file the Statement of Intention more than 14 days after the scheduled meeting of creditors must request a hearing date and give notice to parties as set out in 11 U.S.C. § 521(a)(2)(A) and file proof of service with the motion to extend time.

(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(C) This change is necessary because of the addition of LBR 1017-3. [Change effective 2/1/00.]

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), (D) and (E), respectively. The LBR citation at new (D) is deleted and the citation to the noted title 11 provision is inserted. In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the LBR text as well. [Repeals and changes effective 12/01/09.]

RULE 1009-1 AMENDMENTS TO LISTS & SCHEDULES

(A) ***Filing of Amendment with Clerk***: 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. An Amendment Cover Sheet form and instructions for preparing the list of creditors added are available from the Clerk 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 LBR 3003-1(B).

(C) ***Adding Creditors in a Closed Case***: [Repealed]

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. Paragraph (C) has been removed as it no longer conforms to applicable case law on this subject. Stylistic changes have been made to the LBR as well. [Changes effective 12/01/09.]

RULE 1014-2 DECLARATION OF DIVISIONAL VENUE [Repealed]

Comments

1014-2 In light of 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 12/01/09.]

RULE 1015-1 JOINT ADMINISTRATION OF ESTATES

In all joint petitions filed with the Court, the case will be administered through joint administration of the estates unless the trustee or other interested party files an objection to joint administration within 14 days after the meeting of creditors and gives notice of a hearing date on such objection.

Comments

1015-1 A time-computation adjustment has been made to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Change effective 12/01/09.]

RULE 1017-1 CONVERSION

(A) ***Schedule of Unpaid Debts***: Within 14 days after conversion of a case, the debtor shall file 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 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) ***Filing of Official Form B22A, B22B or B22C Upon Conversion of Case***: 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 14 days after conversion. In a case of an individual debtor converted to chapter 11, the debtor shall file Official Form B22B, "STATEMENT OF CURRENT MONTHLY INCOME" within 14 days

after entry of the conversion order. In a case of an individual debtor converted 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 14 days after entry of the conversion order.

(D) **Report of the Debtor in Possession or Trustee:** Upon the failure of the debtor in possession or trustee in a superseded case to file the report required under FRBP 1019(5), the United States trustee shall certify the matter to the Court for appropriate action.

Comments

1017-1(A) Wording added for clarification and reference to the number of copies required upon conversion and the filing of the Schedule of Unpaid Debts.

1017-1(B) Change of wording necessary so that anything filed after the conversion date is to be treated as an amendment and the debtor is responsible for the noticing.

1017-1(D) It was felt that the responsibility for monitoring the filing of these reports was with the U.S. Trustee since FRBP 1019(5) requires the report go to the U.S. Trustee in the first place.

1017-1 LBR 1017-1 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. In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 1017-2 DISMISSAL FOR SUBSTANTIAL ABUSE OF CHAPTER 7 [Repealed]

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 12/01/09.]

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(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 matter 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.]

1017-3 A stylistic change has been made to the text of the LBR. [Change effective 12/01/09.]

RULE 1020-1 SMALL BUSINESS CHAPTER 11 REORGANIZATION CASES
[Repealed]

Comments

1020-1(A) Change from forty-five days to sixty days required due to the amendments to the FRBP that became effective December 1, 1997.

1020-1 This Rule is repealed in light of changes made under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and earlier repeal of Interim Procedure 1020-1. [Repeal effective 12/01/09.]

RULE 1071-1 DIVISIONS

(A) ***District***: The Eastern District of Virginia consists of the counties, cities and towns as set forth in 28 U.S.C. §127, and the places for holding court are therein prescribed as Alexandria, Newport News, Norfolk, and Richmond.

(B) ***Divisions***: This district shall be divided into four divisions, to be designated as the Alexandria, Newport News, Norfolk and Richmond Divisions. The place for holding court for each of said divisions shall be the city whose name the division bears, and the territory comprising, and embraced in, each of the said divisions shall be as follows:

(1) The Alexandria Division shall consist of the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park, and the counties of Arlington, Fairfax, Fauquier, Loudoun, Prince William and Stafford, and any other city or town geographically within the exterior boundaries of said counties.

(2) The Newport News Division shall consist of the cities of Hampton, Newport News, Poquoson and Williamsburg, and the counties of Gloucester, James City, Mathews and York, and any other city or town geographically within the exterior boundaries of said counties.

(3) The Norfolk Division shall consist of the cities of Cape Charles, Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, and the counties of Accomack, Isle of Wight, Northampton and Southampton, and any other city or town geographically within the exterior boundaries of said counties.

(4) The Richmond Division shall consist of the cities of Colonial Heights, Emporia, Fredericksburg, Hopewell, Richmond and Petersburg, and the counties of Amelia, Brunswick, Caroline, Charles City, Chesterfield, Dinwiddie, Essex, Goochland, Greensville, Hanover, Henrico, King and Queen, King George, King William, Lancaster, Lunenburg, Mecklenburg, Middlesex, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Spotsylvania, Surry, Sussex and Westmoreland, and any other city or town geographically within the exterior boundaries of said counties.

(5) All of the waters, and the lands under such waters, adjacent and opposite to any city, county or town shall be a part of the division of which said city, county or town is a part, and wherever there are any waters between any city, county or town which are in different divisions, then such waters and land under them shall be considered to be in both divisions.

(6) In the event of any annexation or merger of any cities and/or counties, the land lying within the merged or annexed area shall be deemed within the exterior boundaries of the original city or county to the same intent and purpose as if the annexation or merger had not occurred, unless otherwise modified by local bankruptcy rule.

Comments

1071-1 Stylistic changes have been made to the text of the LBR.
[Changes effective 12/01/09.]

RULE 1074-1 CORPORATIONS, LIMITED LIABILITY COMPANIES OR PARTNERSHIPS

A voluntary petition or consent to an involuntary petition filed by a corporation, limited liability company, general partnership, limited liability partnership or limited partnership, shall be signed by an attorney and accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing.

Comments

1074-1 In addition to a corporation, a limited liability company, general partnership, limited liability partnership, or limited partnership must meet the requirements set forth in the Rule.
[Amendment effective 12/01/09.]

RULE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(A) *Proponent to Give Notice*

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.

(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 *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 7 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.

(C) *Service on United States Trustee*

Service on the United States trustee shall be made 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

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

(E) ***Notices to Equity Security Holders***: Unless otherwise ordered by the Court, the debtor is responsible for sending notice of the filing of the bankruptcy to equity security holders except 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.

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

Comments

2002-1(D) This is a result of a suggestion from the bar to clarify and expand on service requirements on the U.S. Trustee. Whereas the Bankruptcy Code and FRBP require service of certain pleadings on the U.S. Trustee, there are many gray areas. This revision clarifies what documents not specifically required under the Bankruptcy Code and FRBP need to be served on the U.S. Trustee and what documents need to be filed with the Clerk of Court for transmittal by the Clerk to the U.S. Trustee. The prior rule only related to documents and pleadings in Chapter 11 cases, whereas this revision covers all chapters.

2002-1(E) Reference to the mailing labels has been deleted to reflect elimination of Item 15 of the Miscellaneous Fee Schedule to Bankruptcy Courts for mailing labels. If a party requests addresses or mailing labels and does not have access to PACER, the Court will provide a list of creditors in lieu of mailing labels.

2002-1(G) This change simplifies the proof of service language to note that it just needs to conform to LBR 5005-1(C)(8). [Change effective 2/1/00.]

2002-1(D)(3) This addition will allow parties the option to provide service to the United States Trustee's offices by electronic mail to a central office location. [New rule effective 4/1/03.]

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.]

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).

In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Changes effective 12/01/09.]

RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

(A) *Policy*: [Repealed]

(B) *Dismissal for Failure to Appear*

(1) *Notice of Possible Dismissal*: Notice of possible dismissal for failure to attend the meeting of creditors shall be provided in the notice of §341 meeting.

(2) *Chapter 12 and 13 Cases; No Asset Chapter 7 and 11 Cases*

(a) Except as provided in LBR 1017-3, upon certification by the United States trustee that either debtor or debtor's counsel has not appeared at a meeting of creditors, or has appeared not ready to proceed, in a chapter 12 or 13 case, the Clerk shall issue an order dismissing the case.

(b) Except as provided in LBR 1017-3, upon certification by the United States trustee that either debtor or debtor's counsel has not appeared at a meeting of creditors, or has appeared not ready to proceed, in a chapter 7 or 11 case, and it further appears, based upon information in the debtor's schedules or other reports filed by the debtor or debtor's counsel, that there will be no assets available for distribution to creditors, the Clerk shall issue an order dismissing the case.

(3) *Asset Chapter 7 and 11 Cases*: In a chapter 7 or 11 case, upon certification by the United States trustee that either debtor or debtor's counsel has not appeared at a meeting of creditors, or has appeared not prepared to proceed and that it appears that there may be assets available for distribution to creditors, the Clerk shall issue a rule to show cause to the debtor or counsel, as the case may be, and set the rule for a hearing.

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

(C) *Rescheduled Meeting of Creditors; Notice*: If the United States trustee agrees before a meeting of creditors to reschedule the meeting at the request of the attorney for the debtor(s), or

the debtor(s), if *pro se* then the attorney for the debtor(s), or the debtor(s), if *pro se*, shall forthwith obtain from the United States trustee, a new date and time for a rescheduled meeting of creditors. Within 7 days of obtaining a new date and time for a rescheduled meeting of creditors, the attorney for the debtor(s) or the debtor(s), if *pro se*, shall serve written notice of the rescheduled meeting of creditors to all creditors and other parties in interest and file proof of service with the Clerk. Notice shall be given in a form approved by the Clerk.

Comments

2003-1(B) Suggestion made by the Norfolk U.S. Trustee and Chapter 13 Trustee to require the debtor to provide the proper notice of the rescheduled meeting.

2003-1(B) This change retains the automatic dismissal provisions of the Local Bankruptcy Rules, which have proved effective, but now encourages the prompt prosecution and administration of the case. At the same time, the change limits the ability for a quick exit not subject to the review of the trustee, creditors or the court in those circumstances where abuse is likely to occur. [Change effective 2/1/00.]

2003-1(C) This change deletes the requirement that the notice of the rescheduled meeting note the automatic extension of the deadline to file objections to discharge and complaints to determine dischargeability to 60 days after the new date set forth for the meeting. Exhibit 8 has been modified to conform to this change. [Change effective 7/1/00.]

2003-1(C) Suggestion made by the Norfolk U.S. Trustee and Chapter 13 Trustee to require the debtor to provide the proper notice of the rescheduled meeting. In addition, this rule now requires that the notice of the rescheduled meeting note the automatic extension of the deadline to file objections to discharge to 60 days after the new date set for the meeting. Please refer to Exhibit 8 for a copy of the approved form notice.

Exhibit 8 (Hearings/Meetings - Notice of Rescheduled Meeting of Creditors) was deleted as an exhibit. This form is available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's internet home page. The former exhibit 8 is in Adobe Acrobat format. [Change effective 3/1/01.]

2003-1(B)(2) This change is intended to clarify the application of the rule to Chapter 7, 11, 12 and 13 cases. [Change effective 4/1/03.]

2003-1(B)(3) This change clarifies that the United States Trustee's certification for the Clerk's issuance of a rule to show cause is applicable only to Chapter 7 and 11 asset cases. [Change effective 4/1/03.]

2003-1(B)(4) While the United States Trustee is responsible for administering meetings of creditors, new meeting dates under the rule best can be provided by the Judge or by the Clerk's Office. [Change effective 4/1/03.]

2003-1(B)(4) This rule clarifies the period of time in which the attorney for the debtor(s), or the debtor(s), if *pro se*, must serve notice of a rescheduled meeting of creditors on all creditors and other parties in interest. [Change effective 8/1/03.]

2003-1(C) The first sentence of the rule has been deleted as being inconsistent with the statutory responsibilities of the United States Trustee. The rule also clarifies that only the United States Trustee may permit the rescheduling of a meeting of creditors. [Change effective 8/1/03.]

The rule also has been amended to conform to the service of notice change made in Rule 2003-1(B)(4). [Change effective 8/1/03.]

2003-1(A) This rule has been repealed to conform the Court's practice to that of the other courts in United States Trustee Region 4. [Change effective 8/1/03.]

2003-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 2004-1 EXAMINATION

(A) **Service:** Motions requesting examination under FRBP 2004 shall be served on the debtor, debtor's counsel, the deponent, deponent's counsel (if known), the standing trustee, and the United States trustee and filed with the Clerk.

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

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

(2) If no objection is filed, the movant shall include in the proposed order either a certification that the date set has been agreed to by the deponent and deponent's counsel (if known) or that a good faith effort has been made to set a date without success.

Comments

This new rule notes the requirements for examination motions and objections to them.

2004-1(B)(2) Because the current portion of this rule may place an undue burden on a movant in obtaining the agreement of the deponent and the deponent's counsel for a date to conduct the examination, this change has been made to add language noting that a good faith effort was made to set a date without success. [Change effective 2/1/00.]

2004-1 A time-computation adjustment has been made to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. A stylistic change has been made to the text of the LBR as well. [Changes effective 12/01/09.]

**RULE 2014-1 SERVICE OF MOTION FOR AN ORDER AUTHORIZING
EMPLOYMENT IN A CHAPTER 11 CASE**

The motion, declaration and any proposed order shall be served on the parties listed below. Any party moving for an order authorizing employment in a proceeding under chapter 11 of the Bankruptcy Code shall, in plain language, inform all such parties of the filing of the motion, disclosing in full and complete detail any actual or potential conflicts of interest, and shall specify the method for objecting to the proposed order. Any objections to the proposed employment shall be made in writing, filed with the Court, with a copy served on the movant and the parties listed below, within 14 days from the date of service of the motion.

The motion, declaration and proposed order shall be served on:

1. the United States trustee;
2. any trustee appointed under 11 U.S.C. §1104;
3. any committee of unsecured creditors appointed pursuant to 11 U.S.C. §1102 or, if no committee is appointed, the creditors included on the list filed under FRBP 1007(d);
4. all secured creditors; and
5. any other entity as the Court may direct.

Comments

2014-1 In several divisions, employment orders in Chapter 11 cases have been submitted for entry without notice to any other parties except for the United States Trustee, who usually endorses such orders prior to submission to a judge for entry. On several occasions, after entry of such an order, other parties have learned of the retention and moved to reconsider and vacate. This typically results in a hearing substantially after the entry of the original order with the accompanying concerns as to what happens to fees

accrued in the gap period, etc., if the employment is denied. This rule requires a motion to retain a professional person be served upon the trustee, the creditors' committee, and the creditors included on the Rule 1007(d) list. [New rule effective 2/1/00.]

2014-1 A time-computation adjustment has been made to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 2015-(a)-1(A) REQUIRED REPORTS OF DEBTORS IN POSSESSION AND TRUSTEES

(A) ***Operating Business Reports***: When the business of the debtor is authorized to be operated, the trustee in a chapter 7 or 11 case, the debtor in possession in a chapter 11 or 12 case or the debtor in a chapter 13 case in which the debtor is engaged in business, shall file with the United States trustee, with the Court and with appropriate governmental units such reports and summaries as are required under 11 U.S.C. §704(a)(8). Debtors in possession or trustees in chapter 11 cases shall continue to file operating reports with the Court and the United States trustee, on at least a calendar quarterly basis, until the case is converted, dismissed or a final decree has been entered by the Court.

(B) ***Chapter 7 Liquidation Reports***: The trustee in a chapter 7 business case in which the business is not being operated shall file semi-annual liquidation reports with the United States trustee and with the Court.

(C) ***Chapter 11 Final or Interim Report***: Chapter 11 cases with confirmed plans shall follow the District Chapter 11 Closing Procedure to prepare and file the final report and motion for final decree. The final report, or an interim report setting forth the status of the case and the reason why the case cannot be closed, shall be filed with the Court and a copy served on the United States trustee within 6 months after entry of the confirmation order.

(D) ***Clerk to Give Notice***: When the United States trustee seeks to bring matters of case administration or estate administration before the Court, the Clerk shall give appropriate notice.

Comments

2015-(a)-1 Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

015-(a)-1 A technical change has been made to the referenced title 11, United States Code provision. [Change effective 09/01/11.]

RULE 2016-1 COMPENSATION OF PROFESSIONALS

(A) ***Interim Compensation***: The party seeking interim compensation or reimbursement for services under FRBP 2016 shall obtain a hearing date from the Court and shall give notice as required in FRBP 2002(a)(6) and 2002(c)(2). The party shall file with the Court proof of service evidencing proper notice of the scheduled hearing.

(B) ***Attorney's Disclosure Statement***: Pursuant to 11 U.S.C. §329 and FRBP 2016, each attorney representing a debtor under any chapter of the Bankruptcy Code shall file an Attorney's Disclosure Statement, irrespective of the amount of fees received or requested. The Disclosure Statement, if not filed with the petition, shall be filed not later than 14 days after the later of the filing of the petition or the date that counsel is engaged. If the representation by counsel is not in a case assigned to the Electronic Case Files System, the Statement shall be filed in original only, with a certificate evidencing service upon the United States trustee and the case trustee, if any. Otherwise, the Statement shall be filed consistent with the Electronic Case Files System requirements approved by the Court.

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

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 A time-computation adjustment has been made at paragraph (B) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 2090-1 ATTORNEYS - RIGHT TO PRACTICE BEFORE THE COURT

(A) ***Bar of the Court***: Those attorneys who are admitted to practice before this Court shall comprise the Bar of the United States Bankruptcy Court for the Eastern District of Virginia.

(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 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.

(C) **Application and Procedure for Admission:** Every attorney desiring admission to practice before this Court shall file with the Clerk written application therefor accompanied by an endorsement by two qualified members of the Bar of this Court stating that the applicant is of good moral character and professional reputation and is qualified to practice bankruptcy law. The Clerk of this Court shall supply such application upon request. As a part of the application, the applicant shall certify that the said applicant has within 90 days prior to the application read or reread (1) the Federal Rules of Civil Procedure (FRCP), (2) the Federal Rules of Evidence, (3) the Federal Rules of Bankruptcy Procedure (FRBP) and (4) the Local Bankruptcy Rules of this Court.

(D) **Presentation:** A qualified member of the Bar of this Court who has examined the credentials of the applicant and, if found sufficient, may present the applicant to the Court for admission. If admitted, the applicant shall take the oath required for admission, sign the roll of the Bar of this Court and, thereafter, be issued a certificate of qualification by the Clerk.

(E) **Other Attorneys:**

(1) **Western District of Virginia:** Any attorney who is a member in good standing of the Bar of the United States Bankruptcy Court for the Western District of Virginia shall be permitted to practice in the courts of the Eastern District of Virginia upon filing with the Clerk of this Court:

(a) a certificate of the Clerk of the United States Bankruptcy Court for the Western District of Virginia stating that said attorney is a member in good standing of the Bar of that District and

(b) a certification from the applicant stating that said attorney has, within the preceding 90 days, read the Local Bankruptcy Rules of this Court.

(2) **Foreign Attorneys:**

(a) **Application:** An attorney from another state, the District of Columbia or a territory of the United States may appear and practice in cases *pro hac vice* before this Court upon motion of a member of the Bar of this Court, provided that in all appearances said attorney shall be accompanied by a member of this Bar. Applicants for *pro hac vice* admission shall complete a written application, which shall be appended to and incorporated by reference in the aforesaid motion. As a part of the application, the applicant shall certify that the said applicant has within 90 days prior to the application read or reread (1) the Federal Rules of Civil Procedure (FRCP), (2) the Federal Rules of Evidence, (3) the Federal Rules of Bankruptcy Procedure (FRBP) and (4) the Local Bankruptcy Rules of this Court. If the Court finds the application otherwise appropriate, the Court may order the *pro hac vice* admission of the applicant. Except where a party is not represented by counsel, any pleading or notice required to be signed by counsel must be signed by counsel who is a member of the Bar of this Court, who shall have entered an appearance of record in the case, with the office address in the state

where notice can be served, and who shall have such authority that the Court can deal with that attorney alone in all matters connected with the case. Such appearance shall not be withdrawn without leave of the Court. Service of notice or other proceedings on the attorney shall be equivalent to service on the client. Where a party is not represented by counsel, the party shall include on each pleading an address within the district where notice can be served.

(b) **Adversary Proceedings:** An attorney intending to appear in an Adversary Proceeding shall file the motion only in the case in which an Adversary Proceeding is pending. Admission shall apply to the case and all related Adversary Proceedings.

(c) **Reopened Cases:** A foreign attorney wishing to appear in a reopened case shall file a separate motion to appear in the case notwithstanding entry of any order in the case granting admission.

(3) **Attorneys for the United States and any State:** The following may appear and practice in this Court in the performance of their official duties: The Attorney General of the United States, any Deputy or Assistant Attorney General, any United States attorney, Assistant United States attorney or attorney employed by a department or agency of the United States Government and authorized by that department or agency to represent it in court; and the Attorney General, any Deputy or Assistant Attorney General, any Commonwealth Attorney and any Assistant Commonwealth Attorney of any state.

(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), must be members in good standing of the Bar of this Court 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 is a member 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.

(G) **Withdrawal of Appearance:** No attorney who has entered an appearance in any case or proceeding shall withdraw as counsel except for cause, on order of the Court after reasonable notice to the party on whose behalf the attorney has appeared.

(H) **Appearance at All Proceedings**

(1) **Appearance by Counsel for the Debtor:** Any attorney who is counsel of record for a debtor, or debtors, in a bankruptcy case must be present and appear at all Court proceedings involved in the case unless excused or given permission to withdraw, or unless counsel has filed a pleading stating that the debtor has no objection to, or does not oppose, the relief requested, or counsel has endorsed without objection an order resolving the motion, objection or application.

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

- (a) has been excused by the Court;
- (b) has been given permission to withdraw by order of the Court;
- (c) has provided a notification of settlement in accordance with LBR 9013-1(O);
or
- (d) has provided opposing or another counsel appearing at the initial pretrial conference with available dates so that a trial date can be established.

(I) ***Professional Ethics***: The ethical standards relating to the practice of law in this Court shall be the Virginia Rules of Professional Conduct now in force and as hereafter modified or supplemented.

(J) ***Courtroom Decorum***: Counsel shall at all times conduct and demean themselves with dignity and propriety. When addressing the Court, counsel shall rise unless excused therefrom by the Court. All statements and communications to the Court shall be clearly and audibly made from a standing position at the attorneys' lectern facing the Court or the witness. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

Examination of witnesses shall be conducted by counsel standing behind the lectern. Counsel shall not approach the witness except for the purpose of presenting, inquiring about, or examining the witness with respect to an exhibit. Only one attorney for each party may participate in the examination or cross-examination of a witness.

(K) ***Third-Year Law Student Practice Plan***: If the United States District Court for the Eastern District of Virginia has in effect any plan for third-year law student practice, the provisions of said plan apply equally to practice before this Court.

(L) ***Previous Practice Clause***: All members in good standing of the Bar of the United States District Court for the Eastern District of Virginia as of September 30, 1979, shall be deemed to be members of the Bar of the United States Bankruptcy Court for the Eastern District of Virginia.

Comments

2090-1(B) Revision required to conform with requested change to LBR 2090-1(D).

2090-1(D) Change to reflect the decision made by the Judges that attorney admissions do not have to occur in open court.

Paragraph (E)(3) is added to authorize Federal and State Attorney Generals and their assistants to appear and practice in this court in the performance of their official duties. [Changes effective 1/1/97]

2090-1(H) This change requires presence of counsel for both debtors and creditors at Court proceedings. [Change effective 2/1/00.]

2090-1(I) A reference to the Virginia Rules of Professional Conduct, which became effective January 1, 2000, has been substituted for the reference to the American Bar Association Canons of Professional Ethics and Virginia State Bar canons. [Change effective 3/1/01.]

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].

2090-1 Stylistic changes have been made to the text of the LBR. [Changes effective 12/01/09.]

RULE 3003-1 CLAIMS IN CHAPTER 11 CASES

(A) **Claims Bar Date:** The last date for the filing of claims, other than a claim of a governmental unit, in a chapter 11 case shall be 90 days after the date first scheduled for the meeting of creditors. The last date for a governmental unit to file a proof of claim shall be 180 days after the petition is filed in a voluntary chapter 11 case or an order for relief is entered in an involuntary chapter 11 case. The Clerk shall give notice of the date in a separate notice of bar date mailed with the notice for the meeting of creditors.

(B) **Claims Scheduled as Disputed, Contingent or Unliquidated:** The debtor in a chapter 11 case shall serve creditors whose claims are listed on the schedules as disputed, contingent or unliquidated with a notice of the fact within 14 days after the later of:

- (1) the conversion of the case to chapter 11;
- (2) the filing of the schedules of liabilities; or
- (3) the filing of an amendment to the schedules of liabilities adding such creditors. The debtor shall file with the Court a certification that service of the notice was made on the affected creditors within 7 days after the notice is served.

Comments

The Clerk is directed to provide a separate notice of the claims bar date in chapter 11 cases. Paragraph (B) is new. [Changes effective 1/1/97]

3003-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 3007-1 OBJECTIONS TO CLAIMS

(A) **Contents of Objection:** All objections to claims shall state with particularity the grounds therefore and shall set forth the relief or order sought.

(B) **How Objection Heard:** An objection to a proof of claim may be noticed for a hearing date obtained from the Clerk or may be accompanied by a notice providing opportunity for the creditor to request a hearing. If the notice of opportunity to request a hearing procedure is used, and the creditor serves and files a timely request for a hearing, ***it is the responsibility of the objecting party to obtain a hearing date from the clerk and give notice to the creditor of the hearing date.*** In any Division which has a regular motions day practice, the objection may be made returnable to a motions day in compliance with the motions day practice in that Division.

(C) **Number of Copies:** [Repealed]

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

(E) **Notice:** Each objection to claim, whether set to request a hearing or accompanied by notice of opportunity for hearing, shall contain or be accompanied by the following notice substantially in accordance with Official Form 20B, "NOTICE OF OBJECTION TO CLAIM", and also providing notice to the creditor in substantially the following form:

NOTICE

Under Local Bankruptcy Rule 3007-1, unless a written response and a request for hearing on this objection are filed with the Clerk of the Court and served on the objecting party and the trustee within 30 days of the service of this objection, the Court may deem any opposition waived, treat the objection as conceded, and enter an order granting the requested relief without a hearing.

Comments

The addition of this rule was made to clarify the procedures with regard to objections to claims. Given that FRBP 3007 expressly deals with objections to claims, the decision was made to add this rule and amend LBR 9013-1 as required. In addition, it notes the use of the Official Form 20B that was approved by the Judicial Conference at its September 1997 meeting with the mandatory implementation date of March 1, 1998.

3007-1 Paragraph (C) 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. In addition, time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Repeal and changes effective 12/01/09.]

RULE 3011-1 UNCLAIMED FUNDS

(A) ***Deposit of Unclaimed Funds***: All unclaimed funds collected by the Court shall be immediately deposited into the United States Treasury and not into the registry of the Court.

(B) ***Disposition of Unclaimed Funds***

(1) ***Requirements for Pro Se Creditor/Claimant - Self Representation***- A request for return of an unclaimed dividend must be in writing and in the form of a motion filed with the Court. Creditor/claimant must sign a certificate of mailing reflecting that the motion was served on the United States attorney for the Eastern District of Virginia, pursuant to 28 U.S.C. §2042, and on the United States trustee. The motion must state:

- (a) the name, address, telephone number and a brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);
- (b) whether the claim has been assigned to the creditor, and, if so, copies of all documents evidencing assignment must be appended to the motion; and
- (c) whether or not the creditor/claimant believes that any other party may be entitled to the funds.

The motion must contain a certificate of a notary public, which bears the seal of the notary, that such notary has examined the motion and documents presented by the creditor/claimant establishing identity.

If the creditor/claimant is a corporation, it must be represented by a member of the bar of this Court. In addition, if the creditor/claimant is a successor corporation, creditor/claimant shall provide documents establishing the chain of ownership of the original corporate claimant as proof of entitlement to the claim.

(2) *Requirements for the Representative of the Estate of a Deceased Claimant:* The representative must comply with all requirements in paragraph (B)(1) of this Local Bankruptcy Rule. Certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement.

(3) *Requirements for any other individual representing the interest of creditor/claimant:* The representative must be an attorney admitted to practice in accordance with these Local Bankruptcy Rules. The attorney must file a motion with the Court for an order authorizing return of an unclaimed dividend pursuant to FRBP 9013. The motion must contain the name, address, telephone number and brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution). If applicable, proof of any sale of the company, new and prior owners, a copy of the terms of any purchase agreement or stipulation by prior and new owners of right of ownership to the unclaimed funds must be provided. If the claim has been assigned to the claimant, copies of all documents evidencing assignment must be appended to the motion.

The motion must state whether or not the moving party believes that any other party may be entitled to the funds.

As provided for in LBR 9013-1(M)(1), notice of the motion shall be in substantial compliance with Official Form 20A, allowing 21 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.

An original power of attorney from the creditor/claimant authorizing the attorney to represent the interest of the creditor/claimant must be attached to the motion.

(4) *Action on Motion:* Twenty-one days following receipt of the above documentation, and if no objections have been filed, the Clerk shall prepare and submit the appropriate order to the Court. Any payment made to a claimant represented by an attorney will be issued jointly to claimant and the attorney and will be mailed to the attorney.

Comments

3011-1(B) Inclusion in subparagraph (B)(1)(c) of those items that may be presented to a notary to establish the movant's identity has resulted in some movants appending copies of forms of identification to their motions. This may have the effect of unnecessarily placing

personal identifiers into the public record. The listed forms of identification have been removed for this reason. [Change effective 12/1/03.]

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.]

3011-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 3015-1 CHAPTER 12 PLAN REQUIREMENTS

(A) **Time for Filing:** The debtor may file a chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within 90 days thereafter unless the Court, pursuant to 11 U.S.C. §1221, extends the time for filing. Any motion for extension of time to file a plan shall be filed prior to the expiration of the deadline for which the debtor seeks an extension.

(B) **Objections:** Objections to confirmation of the plan shall be filed with the Court and served on the debtor, the debtor's attorney, the trustee, and on any other entity designated by the Court, not less than 7 days prior to the scheduled confirmation hearing.

(C) **Hearing:** After notice as provided in paragraph (D) of this Local Bankruptcy Rule, the Court shall conduct a hearing within the time prescribed by 11 U.S.C. §1224 and rule on confirmation of the plan. If no objection is timely filed, the Court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues.

(D) **Notice:** The debtor shall send notice of the hearing on confirmation to all creditors, the chapter 12 trustee and equity security holders. The notice shall include the time fixed for filing objections to the proposed plan. Unless the Court fixes a different period, notice of the hearing shall be given not less than 28 days before the hearing. A copy of the plan shall accompany the notice. Forthwith upon the giving of such notice, the debtor shall file proof of service with the Clerk.

(E) **Order of Confirmation:** The debtor shall prepare a proposed Order of Confirmation which recites the Court's findings under 11 U.S.C. §1225. Notice of entry thereof shall be mailed promptly by the Clerk, or some other person as the Court may direct, to the debtor, the trustee, all creditors, all equity security holders and other parties in interest.

(F) **Retained Power:** Notwithstanding the entry of the Order of Confirmation, the Court may enter all orders necessary to administer the estate.

(G) **Dismissal**: Except as provided in LBR 1017-3, the Clerk is to monitor the filing of chapter 12 plans. If the debtor does not, within 90 days after filing the chapter 12 petition, file either a plan or a motion to extend the time to file a plan, the Clerk shall enter an order dismissing the chapter 12 case.

(H) **Notice of Dismissal Provision**: The Clerk is directed to give notice of the dismissal provision of this Local Bankruptcy Rule to the debtor or debtor's attorney not filing a plan with the petition. The Clerk shall also give notice of this Local Bankruptcy Rule in the meeting of creditors notice.

Comments

3015-1(G) This change is necessary because of the addition of LBR 1017-3. [Change effective 2/1/00.]

3015-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

LBR 3015-1(D) provides that notice of the confirmation hearing should be sent at least 21 days prior to the hearing. FRBP 2002(a)(8), however, requires 21 days notice of both the confirmation hearing and the objection deadline. Under LBR 3015-1(B), the objection deadline is 7 days prior to the confirmation hearing. To give the needed notice requires 21 days plus 7 days for a total of 28 days. [Change effective 09/01/11.]

RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

(A) **Form of Plan; Inclusion of Related Motions**: The only acceptable form for a chapter 13 plan shall be that form approved by the Court (Exhibit 1 to these Local Bankruptcy Rules) and available from the Clerk upon request or from the court's Internet web site, www.vaeb.uscourts.gov. Counsel are encouraged, however, to delete the text of inapplicable sections from the plan provided that the section numbering and section headings are retained, followed by an appropriate notation such as "None" or "Not Applicable". If applicable, and without prejudice to a debtor's right to file a stand-alone motion seeking the same relief, the plan shall include the following related motions:

(1) **Motion for Determination of Value Pursuant to 11 U.S.C. § 506(a)**.

(2) **Motion for Lien Avoidance Pursuant to 11 U.S.C. § 522(f)**: (Lien avoidance under any other provision of the Bankruptcy Code must be by separate adversary proceeding and requires service of a summons and complaint.)

(3) **Motion for Assumption or Rejection of Executory Contracts Pursuant to 11 U.S.C. § 365**.

(B) *Special Notice to Secured Creditors Whose Collateral is to be Valued or Lien Avoided:*

Unless a stand-alone motion and appropriate notice is served on the affected creditor at the same time as the plan is filed with the Clerk and transmitted to creditors, the debtor shall serve on each creditor who is the subject of an included motion for valuation under 11 U.S.C. §506(a) or an included motion for lien avoidance under 11 U.S.C. §522(f) a copy of the plan to which is attached a notice in the form approved by the Court (Exhibit 2 to these Local Bankruptcy Rules). Service of the plan and special notice must be made in the manner provided for in FRBP 7004.

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

(1) ***Requirement:*** The Chapter 13 Plan and Related Motions and any special notice to secured creditors required by this rule shall be filed with the Clerk not later than 14 days after the commencement of the case if the case was originally filed under chapter 13 or 14 days after the order converting the case to chapter 13 from some other chapter.

(2) ***Proof of Service to include names and addresses of all parties served:*** The Chapter 13 Plan and Related Motions must contain a proof of service setting forth the date and manner of service and the names and addresses of all parties to whom the plan was mailed or transmitted.

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

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

- (i) the motion for extension has been filed before the initial due date has expired and
- (ii) notice of the motion has been given by the debtor to the trustee and all creditors.

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

(D) *Distribution of Chapter 13 Plan and Related Motions:* The debtor shall distribute a copy of the original Chapter 13 Plan and Related Motions to all creditors, the standing trustee and other parties in interest at or prior to the time it is filed with the court. Upon receipt of the confirmation date, time and location, the debtor shall serve on affected creditors the special notice required by paragraph (B) of this Local Bankruptcy Rule.

(E) *Objections to Confirmation of Original Chapter 13 Plan or to Related Motions*

(1) ***Deadline for Filing:*** Any objection to confirmation of the Chapter 13 Plan or to the granting of any included Motion for Determination of Value, Motion for

Lien Avoidance, or the Motion to Assume or Reject Executory Contract or Unexpired Lease shall be filed not later than 7 days prior to the date set for the confirmation hearing. Any extension of the original objection period must be requested by motion.

(2) ***Service of Objection***: The objecting party shall file an original objection with the Court and serve copies on the standing trustee, the debtor and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

(3) ***Hearings on Objections***: All timely filed objections shall be heard at the confirmation hearing as set forth in the notice of meeting of creditors.

(F) Modified Chapter 13 Plan and Related Motions

(1) Procedure where no plan has been confirmed

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

(b) ***Distribution of Modified Chapter 13 Plan and Related Motions***: The modified Chapter 13 Plan and Related Motions, and any special notice required by paragraph (B) of this Local Bankruptcy Rule, must be distributed and served in the same manner as the original plan. The special notice required by paragraph (B) of this Local Bankruptcy Rule need not be given, however, if an order has previously been entered granting the relief sought and the modified plan does not contain any provision inconsistent with the order previously entered.

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

(d) ***Effect on a Hearing Scheduled on Objection(s) to any Previously Filed Unconfirmed Plan***

(i) Once a modified plan and related motions has been filed by the debtor, all previously filed unconfirmed plans and related motions are deemed withdrawn.

(ii) *Norfolk and Newport News Divisions.* In the Norfolk and Newport News Divisions, the filing of a modified plan and related motions does not remove a previously-scheduled hearing on objection to confirmation from the court calendar. Removal of any such hearing must be requested by the objecting party and agreed to by the Court.

(iii) *Richmond and Alexandria Divisions.* In the Richmond and Alexandria Divisions, the filing of a modified plan and related motions will remove a previously-scheduled hearing on objection to confirmation from the court calendar without further order of the Court, but without prejudice to any party's right to object to the modified plan.

(2) Procedure when a plan has been confirmed

(a) ***When modification is requested by the trustee or a creditor:*** If modification of a confirmed plan is sought by the trustee or by a creditor, the modification must be requested by motion. A hearing date shall be obtained from the Clerk, and at least 21 days' notice of the hearing shall be given to the debtor, debtor's counsel, the trustee (if the trustee is not the movant) and all creditors. The time for filing any response is governed by LBR 9013(H)(3).

(b) ***When modification is requested by the debtor:*** If modification of a confirmed plan is sought by the debtor, modification must be requested by filing and distributing a modified Chapter 13 Plan and Related Motions and by giving special notice required by paragraph (B) of this Local Bankruptcy Rule. The special notice required by paragraph (B) of this Local Bankruptcy Rule need not be given, however, if a Chapter 13 Plan and Related Motions has previously been confirmed providing the identical treatment of the secured creditor's claim. The debtor must obtain 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 7 days prior to the date set for the confirmation hearing.

(G) Confirmation of Plan and Granting of Related Motions Without a Hearing: After the time for filing objections has passed and if no objection has been timely filed, the Court may enter an

order confirming the plan and granting the relief sought in the related motions without holding a hearing, or the Court may direct that a hearing be held.

(H) *Dismissal of Case for Failure to Timely File or Distribute Plan and Notice, Except as Provided in LBR 1017-3*

(1) ***Clerk to Issue***: Except as provided in LBR 1017-3, the Clerk shall issue an order of dismissal in any chapter 13 case not meeting the timeliness of filing requirements of paragraphs B, C or D of this Local Bankruptcy Rule.

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

(4) ***Dismissal of Case upon Denial of Confirmation***: Except as provided in LBR 1017-3, if the Court denies confirmation of the debtor's original or subsequently modified Chapter 13 Plan and Related Motions, unless the Court has entered an order previously confirming a plan, the Clerk is directed to issue an order dismissing the chapter 13 case unless, within 21 days after denial of confirmation:

- (a) the debtor files a new Modified Chapter 13 Plan and Related Motions;
- (b) the debtor converts or moves to convert the case to another chapter of the Bankruptcy Code;
- (c) the debtor files a motion for reconsideration or appeals the denial of confirmation; or
- (d) the Court otherwise orders.

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

(I) *Reconversion of Case*: [Repealed]

Comments

Rule 3015-2 Revised Chapter 13 Form Plan:

Since February 15, 1988, the Eastern District of Virginia has required that chapter 13 plans follow a prescribed format. *See In re Walat*, 87 B.R. 408 (Bankr.E.D. Va 1988) (*en banc*), *aff'd* 89 B.R. 11 (E.D. Va. 1988). Following the Fourth Circuit's decisions in *Piedmont Trust Bank v. Linkous* (*In re Linkous*), 990 F.2d 160 (4th Cir. 1993) and *Cen-Pen Corp. v. Hanson*, 58 F.3d 89 (4th Cir. 1995), the form plan was expanded to include "related" motions to value collateral and avoid liens, and a separate "Notice of Chapter 13 Plan and related Motions" was adopted for service on creditors in addition to the plan itself.

In 2003, the National Association of Chapter 13 Trustees recommended a model form of chapter 13 plan which had been drafted at an Advanced Practice Institute by a group of debtors' counsel, trustees, creditors' representatives, attorneys and others. After the chapter 13 trustees in the Western District of Virginia proposed a variant of this model plan for adoption in that district, a working group of one judge and one chapter 13 trustee from each district proposed further modifications that would allow the same form of plan to be used in each district. After a period of public comment and a trial use of the model plan at a Virginia CLE Advanced Consumer Bankruptcy Seminar, a redrafted proposal was prepared by the chapter 13 trustees of both districts. This proposal, with some minor changes agreed to by the judges of both districts at two joint meetings, resulted in the current plan.

Adoption of a uniform plan is expected to benefit state-wide and national creditors (who would have only one form of plan from Virginia to decipher) as well as attorneys who practice in both districts and would no longer have to separately configure their form preparation software for each district. Because it is shorter than the existing Eastern District of Virginia plan, it should also be significantly easier for *pro se* parties (many of whom struggle with the current form of plan) to fill out.

The revised plan, like the previous plan, incorporates "related" motions to value collateral and avoid liens. To satisfy the due-process concerns in *Linkous* and *Cen-Pen*, a separate "special" notice must be attached to the copy of the plan mailed to the creditors that are the subject of those motions. [Rule effective 10/17/05.]

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.]

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.]

3015-2 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

3015-2 (E)(1), (F)(1)(c) and (F)(2)(b) The notice required for a new confirmation hearing date conforms to the time-computation changes made to paragraphs (E)(1), (F)(1)(c) and (F)(2)(b). [Changes effective 12/09/09.]

3015-2 (I) The text at paragraph (I) has been removed as no longer being required. [Repeal effective 12/01/09.]

RULE 3016-1 CHAPTER 11 PLAN REQUIREMENTS

(A) **Transmission of Notice of Hearing on Disclosure Statement:** The proponent seeking approval of the disclosure statement shall transmit notice of the hearing on the disclosure statement and other materials as required by FRBP 2002(b) and 3017(a). The court-approved notices, other materials and proof of service shall be filed with the Court.

(B) **Objections to Disclosure Statement:** Objections to the disclosure statement shall be filed with the Court not later than 7 days prior to the date set for hearing on the disclosure statement.

(C) **Transmission and Notice to Creditors and Equity Security Holders:** Upon approval of the disclosure statement, the proponent of the plan shall transmit to all required parties such notices and materials as required by FRBP 2002(b) and FRBP 3017(d) and shall file with the Court the court-approved notices, other materials transmitted and proof of service.

(D) **Summary of Ballots:** Any proponent of a plan in a reorganization case shall file a summary of ballots (acceptances and rejections) with the Clerk prior to the hearing on confirmation in the form approved by the Court. The ballots are not to be filed with the Clerk unless the Court so orders.

(E) **Objection to Confirmation:** Any objection to confirmation of the plan shall be filed with the Court not later than 7 days prior to the date set for the initial hearing on confirmation. The objecting party shall serve a copy of the objection on the United States trustee and the parties designated in FRBP 3020(b)(1).

Comments

3016-1(E) This change clarifies that an objection to confirmation must be filed not later than five (5) business days before the initial hearing on confirmation. Absent leave of Court, an objection that is filed later than five (5) business days before the initial hearing on confirmation is not timely and shall not be considered by the Court [Change effective 7/1/02.]

3016-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 3017-1 APPROVAL OF DISCLOSURE STATEMENT [Repealed]

Comments

3017-1 FRBP 3017.1 obviates the need for this Local Bankruptcy Rule. [Repeal effective 12/01/09.]

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 14 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 not later than 30 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 shall

certify the same to the Clerk. Upon receipt of such a certification, the Clerk shall enter an order dismissing the 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(C) This change is necessary because of the addition of LBR 1017-3. [Change effective 2/1/00.]

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). Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 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(c), (d), (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 (Official Form 20A) 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 14 days from the date of service of this motion, you must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this 14-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14-day period.

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

(D) *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 post-petition;
- (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) 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 7 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 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 as provided in LBR 7003-1.

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) of this Local Bankruptcy Rule.

(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 21 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(C) The notice conforms substantially with Official Form 20A so that movant is not required to serve a separate "notice of motion." The subsection of 11 U.S.C. §1301 under which a party is proceeding must now be clearly stated in the caption of the motion for relief of codebtor stay. [Changes effective 1/1/97.]

4001(a)-1(G)(2) This adjustment was made to note the proper 20 days for response instead of 15, in line with 11 U.S.C. § 1301(d). [Change effective 2/1/00.]

4001(a)-1(D) This rule is new. The rule requires the inclusion of relevant information so that interested parties can formulate a position on the motion prior to the preliminary hearing. The requirements of Local Bankruptcy Rule 9022-1, regarding court orders, apply with respect to motions for relief from the automatic stay. [New Rule effective 8/1/03.]

4001(a)-1 Paragraph (B) of the rule has been amended to effect a technical change in that contested matter (CM) numbers no longer are required. [Change effective 7/1/04.] [Stylistic change effective 1/1/07.]

4001(a)-1 Paragraph (C), at the fourth and final paragraph of the "NOTICE", is amended by deleting the phrase "by the CLERK" to conform to the procedures to be used in those divisions where available dates may be obtained on-line. Subparagraphs (E)(2) and (E)(4) are repealed in light of the amendments to the Court's CM/ECF Administrative Procedures at new subparagraph IC7, effective

December 1, 2006. Subparagraph (F)(2) is amended by adding a bracketed statement regarding action that a movant must take in Alexandria and Richmond division cases only. [Changes effective 1/15/07.]

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 12/01/09.]

4001(a)-1 A technical change has been made at paragraph (G)(2). Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 4002-1 DUTIES OF THE DEBTOR [New]

(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 service of the motion by the creditor on the debtor and debtor's attorney, if any and a hearing. 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)(b) of this Local Bankruptcy Rule, 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) *Discovery:* Paragraph (A) of this Local Bankruptcy Rule shall have no effect on discovery proceedings 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 matter for a hearing.

Comments

4002-1 This rule is new. It is derived from former Interim Procedure 4002-1. [New Rule effective 12/01/09.]

4002-1 A technical change has been made at subparagraph (A)(2)(c). A caption has been added to subparagraph (A)(2)(d). Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 4003-2 LIEN AVOIDANCE

All motions filed under FRBP 4003(d) are contested matters and are governed by 11 U.S.C. §522(f), FRBP 9014, and these Local Bankruptcy Rules. Except as provided in LBR 3015-2 governing Chapter 13 Plan Requirements, if no response to a motion for lien avoidance is filed within 21 days after service of the motion, relief may be granted without a hearing.

Comments

Revision required to conform with the changes to LBR 3015-2.

4003-1 A time-computation adjustment has been made to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Changes effective 12/01/09.]

RULE 4008-1 REAFFIRMATION

(A) **Notice of Rights Under 11 U.S.C. §524(d)**: The Clerk shall, within 14 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 reaffirmation agreement in substantial compliance with the applicable form promulgated by the Administrative Office of the United States Courts and Official Form B27, "REAFFIRMATION AGREEMENT COVER SHEET." The Clerk is directed to provide such forms to the public upon request.

Comments

4001-1(B) The current LBR requires the debtor to file summary of reaffirmation agreement. This change allows either the debtor or creditor to do so. [Change effective 2/1/00.]

4008-1(D) This new rule allows reaffirmation agreements to be one of the items that can be filed and docketed in a closed case.

4008-1 The amendments to LBR 4008-1(A) and (B) are derived from former Interim Procedure 4008-1. Paragraph (B) 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 12/01/09.]

4008-1 The new reaffirmation agreement cover sheet, effective December 1, 2009, has been added to paragraph (B). A time-computation adjustment has been made to paragraph (A) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Changes effective 12/01/09.]

**RULE 4008-2 CHAPTER 13 DISCHARGE AND CERTIFICATION OF COMPLIANCE;
DUTY OF DEBTOR TO COOPERATE WITH CHAPTER 13 TRUSTEE**

(A) ***Certification of Compliance with 11 U.S.C. §1328***: The debtor(s) shall file the form of Debtor's(s') Certification of Compliance with 11 U.S.C. §1328 within 45 days of the mailing of the Notice to Debtor(s) and Creditors Concerning Issuance of Discharge. The failure to timely file this certification may result in the case being closed without the entry of a discharge order.

(B) ***Debtor's Duty to Cooperate with Chapter 13 Trustee Upon Completion of Plan Payments***: Upon completion of chapter 13 plan payments, the debtor shall comply within 14 days with any requirement of the chapter 13 trustee for information needed to provide the notices required by 11 U.S.C. §1302(d). Further, if the trustee determines that the debtor has failed to timely provide the trustee with such information, the trustee shall within 30 days of completion of chapter 13 plan payments, file a certification of non-compliance wherein the Clerk shall issue a show cause order to the debtor and the debtor's attorney, if any, why sanctions, including dismissal of the case without a grant of discharge, should not be imposed. The Clerk shall set the show cause order for a hearing.

Comments

4008-2 This rule is new and is applicable in all Chapter 13 cases filed on or after October 17, 2005. [New Rule effective 10/15/07.]

4008-2 A time-computation adjustment has been made paragraph (B) to conform to a revision to the Federal Rules of Bankruptcy Procedure that take effect December 1, 2009. A stylistic change has been made to paragraph (A). [Changes effective 12/01/09.]

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

(A) ***Filing in Proper Division***

(1) ***Petitions***: A petition seeking relief under the Bankruptcy Code shall be filed 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 180 days immediately preceding the filing of the petition.

(2) ***All Other Documents***: All motions, pleadings, complaints and other documents relating to a bankruptcy case or proceeding shall be filed 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 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 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:** 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 shall be in substantial compliance with the Federal Rules of Bankruptcy Procedure, Official Forms and Local Bankruptcy Rules. Each document filed, except the petition, shall bear the debtor's name, the case number, chapter and adversary proceeding number, if applicable.

(3) **Size, Margins, etc.:** 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. All multi-page pleadings and documents shall be fastened into sets at the top.

(4) **Signature Required:** All petitions, motions, pleadings and other 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 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 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 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 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.

(7) **Acknowledgment Copy:** To receive acknowledgment of filing of a petition, pleading or other document, an extra copy must be submitted. 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 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 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 25 or fewer. When service is made on more than 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) 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) a List of Creditors, in the form at specified by the Clerk, as required by LBR 1007-1(H);
- (b) a verification by signature of the attorney for the debtor and an unsworn declaration with the signature of all debtors;
- (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 LBR 1074-1; and
- (d) if a chapter 11 petition, the List of Creditors Holding 20 Largest Unsecured Claims, as required by LBR 1007-1(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 as provided in LBR 7003-1.

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

(a) the proper filing fee and

(b) proof of service indicating service of the motion upon the parties required to be served pursuant to LBR 4001(a)-1(F).

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

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

(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 documents not meeting the requirements of these Local Bankruptcy Rules will receive a Notice of Deficient Filing allowing for 14 days to correct the deficiency or to file a request for a hearing on the matter. Failure to cure the deficiency, or to request a hearing within the time allowed, may result in the pleading or other document being stricken without further notice.

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

(G) ***Judicial Conference Policy Regarding Public Access to Electronic Case Files***: [Repealed]

Comments

Paragraph (C)(4) is amended to clarify who may sign pleadings on behalf of counsel of record. [Changes effective 1/1/97]

Paragraph (C)(6) is new. Although the court does not accept fax filings directly to its own fax machines, it will, with the adoption of this local bankruptcy rule, accept for filing papers that originated from a fax machine. Since the faxed petition, pleading or other paper constitutes an original, no other "original" should later be filed. Papers intended for filing with the court could be sent to a fax machine at the court's onsite copy service, some

other copy or courier service, a law firm, or other third party. As before, the actual filing takes place when the paper is received by the Clerk's Office. [Changes effective 1/1/97]

5005-1(C) 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.

5005-1(C)(3) Additional language noting the requirement that certain filings be pre-punched with two holes at the top as prescribed by the Judicial Conference. Sufficient top margin should be allowed so that neither the caption nor text is destroyed or obscured.

5005-1(C)(6) This revision is due to the problems encountered while trying to scan a faxed list of creditors and the addition of LBR 1007-1(I) which requires the list to be filed on diskette. The Instructions for Preparing Lists of Creditors has been updated to reflect this change.

5005-1(C)(7) The purpose of this addition is to clearly set forth the need for an extra copy of the item filed as well as a self-addressed, stamped envelope in order for an acknowledgment copy to be sent.

5005-1(C)(8) This addition deals with the concern in bankruptcy cases involving the adequacy of notice. In many instances, the question of proper notice could not be determined by review of the movant's certificate of service. Instead of specifically naming the intended recipients of the pleading, the certificate of service often merely indicated that service was made upon "all parties in interest" or "all necessary parties." In addition, movants often did not attach a copy of the certificate of service to the service copies of the document. It is then impossible for the Court and other affected parties to determine who was served with the document in question.

5005-1(D) This is one of the changes 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.

5005-1(D)(4) Revision providing information on the number of copies required when a claim is filed.

5005-1(D)(6) Revision required to conform with the changes to LBR 3015-2.

5005-1(F) Addition based on a decision by the Judges to clearly state that filings not accompanied by the proper filing fee will be rejected by the Clerk’s Office.

5005-1(C)(8) The current LBR requires names and addresses in all circumstances with regard to the proof of service. While this is not a burden in small cases, it is in larger cases. Therefore, this change notes that if there are more than 25 names, service copies need only refer to the service list filed with the original. [Change effective 2/1/00.]

5005-1(G) This paragraph is new. It addresses the privacy policy promulgated by the Judicial Conference of the United States regarding public access to electronic case files. [New rule effective 01/01/04.]

5005-1(B) A stylistic change has been made to conform this rule provision. [Change effective 10/17/05.]

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

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 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. A technical change has been made at subparagraph (D)(2)(b). In addition, a time-computation adjustment has been made to paragraph (E) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Repeals and changes effective 12/01/09.]

**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 5010-1 REOPENING CASES

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

Comments

The appropriate fee to reopen a case must be paid when the motion is filed. [Changes effective 1/1/97]

5010-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that take effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 5011-1 WITHDRAWAL OF REFERENCE

(A) **Form of Request; Place for Filing:** A request for withdrawal, in whole or in part, of the reference of a case or proceeding referred to the Bankruptcy Court, other than a *sua sponte* request by a bankruptcy judge, shall be by motion filed with the Clerk of the Bankruptcy Court. All such motions shall conform to LBR 9013-1 and shall be accompanied by the proper filing fee. In addition, all such motions shall clearly and conspicuously state that "RELIEF IS

SOUGHT FROM A UNITED STATES DISTRICT COURT JUDGE.”

(B) **Stay:** The filing of a motion to withdraw the reference does not stay proceedings in the Bankruptcy Court. The procedures relating to stay shall be those set forth in FRBP 5011.

(C) **Designation of Record:** The moving party shall serve on all interested parties and file with the Clerk of the Bankruptcy Court, together with the motion to withdraw the reference, a designation of those portions of the record of the case or proceeding in the Bankruptcy Court that the moving party believes will reasonably be necessary or pertinent to the District Court's consideration of the motion. Within 14 days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. If the record designated by any party includes a transcript of any hearing or trial, or a part thereof, that party shall immediately after filing the designation, deliver to the court reporter and file with the Clerk of the Bankruptcy Court a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any action necessary to enable the Clerk to assemble and transmit the record.

(D) **Responses to Motions to Withdraw the Reference; Reply:** Opposing parties shall file with the Clerk of the Bankruptcy Court, and serve on all parties to the matter for which withdrawal of the reference has been requested, their written responses to the motion to withdraw the reference, within 14 days after being served with a copy of the motion. The moving party may serve and file a reply within 14 days after service of a response.

(E) **Transmittal to and Proceedings in District Court:** When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court shall promptly transmit to the Clerk of the District Court the motion and the portions of the record designated. After the opening of a docket in the District Court, documents pertaining to the matter under review by the District Court shall be filed with the Clerk of the District Court, but all documents relating to other matters in the bankruptcy case or adversary proceeding or contested matter shall continue to be filed with the Clerk of the Bankruptcy Court.

Comments

While this does not get raised that often within the District, this addition clarifies where the motion should be filed and puts the responsibility on parties to designate the record to go to the U.S. District Court.

5011-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Changes effective 12/01/09.]

**RULE 5073-1 PHOTOGRAPHY, RECORDING DEVICES,
AND BROADCASTING**

(A) **Photographs and Electronic Recordings:** Except with the express written permission of the Court, photography, electronic recording, videotaping and broadcasting are not permitted in the courtroom and its environs during the progress of or in connection with judicial proceedings, whether or not court is actually in session.

(B) **Definition of "Environs":** "Environs", as used in this Local Bankruptcy Rule, shall include any floor on which any courtroom or hearing room is located, including all hallways, stairways, windows and elevators immediately adjacent to any such floor.

(C) **Exception:** With the written permission of the Court and of the party or parties to be photographed, pictures may be taken of any permanent occupant of any office within the environs aforesaid when court is not in session.

RULE 5077-1 TRANSCRIPTS

(A) **Certification of Record by Reporter:** [Repealed]

(B) **Copies of Transcripts Available to Public:** Subject to any applicable Judicial Conference policy limiting electronic access to transcripts, the Clerk shall provide copies of any filed transcript to the public upon request and the payment of prescribed copy fees, unless the Court orders that copies of the transcript not be made or that the transcript be sealed.

(C) **Use of Transcripts by Multiple Parties:** [Repealed]

(D) **Perfecting Record on Appeal:** [Repealed]

(E) **Payment for Transcripts:** The obligation to pay the reporter or transcriber for any and all transcripts shall be the joint and several personal obligation of the attorney and the party for whose benefit the transcript was obtained to the extent so ordered. Any charges for a transcript shall be payable upon the completion of the transcript or any segment thereof when a proper bill for same has been submitted by the reporter or transcriber.

(F) **Clerk's Duty to Make Transcripts Remotely Available Electronically; Redaction:**
[Repealed]

Comments

5077-1(C)-(D) The Administrative Office of the U.S. Courts has provided guidance to the courts on the statutory and policy requirements for copying official court transcripts of court proceedings filed with the clerk of court. Accordingly, paragraphs (C) and (D) of LBR 5077-1 are repealed. [Change effective 4/1/03.]

5007-1 Former Local Bankruptcy Rule 5077-1 is re-designated as Local Bankruptcy Rule 5007-1. Paragraph (A) is repealed. The first sentence of FRBP 5007(a) adequately addresses the requirement set forth in the deleted sentence and the second sentence is addressed by different means with the reporter. Paragraphs (B) through (E) remain unchanged. Paragraph (F) is new. This paragraph balances the promotion of remote electronic access by the public to transcripts filed with the Clerk with the need to protect personal privacy concerns and other legitimate interests. The procedure set forth therein provides a means by which personal data identifiers and other information may be redacted from a transcript before the transcript is made remotely available electronically to the public. [Re-designated Rule 5007-1, amended Paragraph (A) and new Paragraph (F) effective 1/15/07.]

5007-1 Former Local Bankruptcy Rule 5007-1 is re-designated as Local Bankruptcy Rule 5077-1. [Re-designated Rule 5077-1 effective 03/16/09.]

5007-1(B) Paragraph (B) is amended to conform to requirements established by the Judicial Conference that limit electronic access to transcripts. [Amendment effective 03/16/09.]

5007-1(E) Paragraph (E) is amended to include the obligation to pay a transcriber for an ordered transcript. [Amendment effective 03/16/09.]

5007-1(F) Paragraph (F) is repealed and a standing order has been entered in view of a new policy of the Judicial Conference of the United States to make electronic transcripts of court proceedings available to the public. [Change effective 03/16/09.]

RULE 6004-1 SALE OF ESTATE PROPERTY

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

Comments

6004-1 The cross-reference to LBR 9022-1(D) has been added to remind the practitioner of the requirement that orders approving the sale of real estate or any interest therein, like all orders, must stand alone without reference to external documents, e.g., the order should not purport to approve the sale of the real estate or any interest therein “in accordance with the terms of the contract attached to the motion” but should state the essential terms of the sale, e.g., “to John and Joanna Doe for the price of \$173,000.” [Change effective 3/1/01.]

RULE 6004-2 USE, SALE OR LEASE OF PROPERTY

(A) **Notice:** Notice of a proposed use, sale or lease of property other than in the ordinary course of business, shall be given by the proponent of the notice, and the original notice and proof of service shall be filed with the Court. The notice shall comply with FRBP 2002(a)(2) and FRBP 2002(c)(1).

(B) **Objection to Proposed Use, Sale or Lease:** An objection to a proposed use, sale or lease, other than in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action not less than 7 days before the date set for the proposed action. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

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

(D) **Report of Sale:** The trustee or debtor in possession shall file with the Court a report of any sale of estate property outside the ordinary course of business. The report shall be filed within 30 days after the sale with service on the United States trustee.

Comments

6004-2 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

**RULE 6004-3 SALE OR REFINANCE OF PROPERTY BY
CHAPTER 13 DEBTOR AFTER CONFIRMATION**

(A) A debtor seeking approval for the sale or refinance of real property following confirmation of a plan that reverts such property in the debtor shall provide the chapter 13 trustee and all creditors and parties in interest 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) In addition to setting forth the information required by FRBP 2002(c)(1), the notice shall state:

(1) the total proposed sale price or maximum amount to be secured by the refinancing, as the case may be, and, in the case of refinancing, the amount of existing secured debt to be paid thereby;

(2) the amount of the sale or loan proceeds to be applied to the debtor's obligations under the confirmed plan;

(3) whether such payment will result in full payment of all allowed claims; and

(4) if all allowed claims will not be paid in full, the amount of the sale or loan proceeds that will be paid to the debtor.

(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 sale or refinance without holding a hearing.

Comments

6004-3 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the Rule. [Changes effective 12/01/09.]

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

(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 12/01/09.]

RULE 6007-1 ABANDONMENT

(A) **Notice of Abandonment:** The Clerk shall give notice in the meeting of creditors notice that the trustee may, at the meeting of creditors, give notice of intention to abandon property of the estate that is burdensome or of inconsequential value to the estate. The Clerk shall give notice that parties in interest who object to such abandonment may state their oral objections at the meeting of creditors, obtain a hearing date from the Court, transmit notice of a hearing on their objection and file such notice with proof of service with the Court, within 14 days after the meeting of creditors.

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

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

Comments

6007-1(C) This new provision conforms to the amendment to LBR 9022-1(D). [Change effective 3/1/01.]

6007-1 A time-computation adjustment has been made at paragraph (A) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Change effective 12/01/09.]

RULE 6008-1 REDEMPTION

A party seeking redemption of property from a lien or sale shall request from the Court a hearing date, transmit the motion and notice of hearing to all parties in interest, and file the motion, notice and proof of service with the Clerk. Provided, however, that if the redemption is uncontested the Court may direct that no hearing be held.

Comments

Change to note that the Court may direct that no hearing is required if the initial request is uncontested.

RULE 7003-1 ADVERSARY PROCEEDING COVER SHEET

At the time of filing an adversary proceeding, counsel, or a *pro se* litigant, shall file with the complaint a properly completed adversary proceeding cover sheet in substantial compliance with the applicable form promulgated by the Administrative Office of the United States Courts. The Clerk is directed to provide such forms to the public upon request.

Comments

7003-1 The reference to the adversary proceeding cover sheet form number has been deleted should the form reference change. [Change effective 12/01/09.]

RULE 7004-2 SUMMONS

(A) **Issuance:** The Clerk shall issue to the plaintiff for service a summons for each party as listed on the adversary cover sheet.

(B) **Time Limit for Service:** If a summons is not timely delivered or mailed within 14 days following issuance of the summons, the party responsible for the original service shall bear the responsibility for issuance of further process.

Comments

7004-2 A time-computation adjustment has been made at paragraph (B) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. [Change effective 12/01/09.]

RULE 7007-1 FINANCIAL DISCLOSURE

(A) **Required Disclosure:** [Repealed]

(B) **Time for Filing:** [Repealed]

(C) **Statement Delivered to Judge:** [Repealed]

Comments

The Committee on Codes of Conduct of the Judicial Conference of the United States is undertaking to develop a national rule requiring parties in district and bankruptcy courts to disclose their corporate parents. Pending completion of a national rule that addresses this issue, LBR 7007-1 has been promulgated for the purpose of establishing the required interim financial disclosure. The statement referenced in LBR 7007-1, Financial Interest Disclosure Statement form, is attached as new Exhibit 6. [New Rule effective 3/1/01.]

7007-1 This rule was promulgated as an interim measure pending creation of FRBP 7007.1, which governs the filing of financial disclosure statements. Accordingly, with the exception of the number of statement copies to be filed using the form attached as Exhibit 6, this rule no longer is needed. [Change effective 12/1/03.]

7007-1 The remainder of 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 12/01/09.]

RULE 7013-1 COUNTERCLAIMS [Repealed]

Comments

7013-1 This rule is repealed upon a finding that it is no longer needed. [Repeal effective 10/17/05.]

RULE 7016-1 PRETRIAL PROCEDURES

(A) ***In Default Cases:*** Where the defendant is in default and there has been no appearance on the defendant's behalf, the procedure outlined herein shall not be applicable, but the Court may direct the party not in default to appear for the purpose of noting a default, the entry of a default judgment and for scheduling a date for trial on the issue of damages if required by law. If the party not in default fails to take action to prosecute its claim after reasonable notice to appear or take such action, the Court may dismiss the proceeding for failure to prosecute.

(B) ***In All Other Cases:*** In all other adversary proceedings, as promptly as possible after suit has been filed, the Court may schedule an initial pretrial conference at which trial counsel shall be present. At such pretrial conference, the Court may issue an order fixing dates for:

- (1) the amendment of pleadings and joinder of additional parties;
- (2) the completion of discovery;
- (3) the filing and hearing of motions; and
- (4) a final pretrial conference and/or trial.

(C) ***Optional Items in Scheduling Order:*** The Court may include in such order, or any supplemental order, such other provisions as are appropriate to assist in expediting the trial or other disposition of the case and may specify the requirements of any final pretrial conference order, which shall be presented to the Judge for entry at the time of the final pretrial conference. While the primary obligation of preparing the final pretrial conference order rests upon counsel for plaintiff, all counsel are requested to meet at least 7 days in advance of the conference with

the Court in order to discuss and prepare such order, and the Court may require such meeting of counsel by its order.

(D) ***Continuance of Dates Set in Scheduling Order***: The parties and their counsel are bound by the dates specified in said order and no extensions or continuances thereof shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

Comments

7016-1 Stylistic changes have been made in the text of the Rule.
[Changes effective 12/01/09.]

RULE 7026-1 DISCOVERY

(A) ***Objections to be in Writing***: All objections to interrogatories, depositions, requests or applications under FRBP 7026 through FRBP 7037, as well as all motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may waive this requirement.

(B) ***Objections to Discovery Process***: An objection to any interrogatory, deposition, request or application under FRBP 7026 through FRBP 7037, shall be served within 14 days after service of the interrogatory, deposition, request or application, unless otherwise ordered by the Court. Any such objection shall be specific and the reasons for the objection shall be stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically objected to.

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

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

(E) ***Replies to Discovery Motions***: Replies to discovery motions mentioned in paragraphs (C), (D) and (I) of this Local Bankruptcy Rule shall be filed within 14 days after service of the motion and memorandum unless otherwise ordered by the Court. Responses, if any, to all other discovery motions also shall be filed within 14 days.

(F) ***Compliance with Discovery Orders***: After the Court has ruled on a discovery motion, any answer, production, designation, inspection or examination required by the Court shall be

completed within 14 days after the entry of the order of the Court, unless otherwise ordered by the Court.

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

(H) ***Consultation Among Counsel***: Counsel are encouraged to participate in pretrial discovery conferences in order to decrease, in every way possible, the filing of unnecessary discovery motions. No motion concerning discovery matters may be filed until counsel shall have explored with opposing counsel the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning discovery matters unless the motion is accompanied by a statement of counsel that a good-faith effort has been made between counsel to resolve the discovery matters at issue.

(I) ***Extensions***: Depending upon the facts of the particular case, the Court in its discretion may, upon appropriate written motion by a party, allow an extension of time in excess of the time provided by the Federal Rules of Civil Procedure, these Local Bankruptcy Rules, or previous court order, within which to respond to or complete discovery or to reply to discovery motions. Any agreement between counsel relating to any extension of time is of no force or effect; only the Court, after appropriate motion directed thereto, may grant an extension of time. Unless otherwise specifically provided, such extension will be upon the specific condition that, regardless of what may be divulged by such discovery, it will not in any manner alter the schedule of dates and procedure previously adopted by the Court in the particular case.

(J) ***Sanctions***: Should any party or the party's attorney fail to comply with any of the provisions of this Local Bankruptcy Rule, or otherwise fail or refuse to meet and confer in good faith in an effort to narrow the areas of disagreement concerning discovery, sanctions provided by FRBP 7037 may be imposed.

(K) ***Applicability to Contested Matters***: See LBR 9014-1.

(L) ***Expert Disclosure***

(1) ***Agreement upon Disclosure***: Counsel are encouraged to agree upon the sequence and timing of the expert disclosures required by FRBP 7026. All such agreements must be in the form of a consent order entered by the Court.

(2) ***Timing of Mandatory Disclosure***: Absent such a consent order, or unless otherwise ordered, the disclosures required by FRBP 7026 shall be made as follows:

(a) ***Adversary Proceedings***: In adversary proceedings, the disclosures required by FRBP 7026 shall first be made by the plaintiff not later than 60 days before the date set for completion of discovery; then by the defendant 30 days before the

date set for completion of discovery. Within 14 days after defendant's disclosure, plaintiff shall disclose any evidence that is solely contradictory or rebuttal evidence to the defendant's disclosure.

(b) ***Contested Matters Except Relief from Stay***: LBR 9014-1 generally excludes the application of FRBP 7026 in contested matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026 shall be made by the movant or applicant, as the case may be, within 30 days prior to the hearing date; then by the respondent or objecting party, on the later of 14 days after the movant or applicant presents the required disclosures, or on the date that a response to the motion or application is due.

(c) ***Relief from Stay***: LBR 9014-1 generally excludes the application of FRBP 7026 in relief from stay matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026 shall be made by the parties within 14 days prior to the date set for final hearing on the motion. The parties shall disclose 7 days after disclosure any evidence that is solely contradictory or rebuttal evidence to each other's disclosure.

(3) ***Failure to Comply***: Any party who fails to comply with these mandatory disclosure requirements may, at the court's discretion, be prohibited from using the undisclosed expert testimony at trial.

(4) ***General Provisions***: For purposes of this Local Bankruptcy Rule, counterclaim-plaintiffs, cross-plaintiffs and third-party plaintiffs shall be plaintiffs as to all elements of the counterclaim, cross-claim and third-party claim. Answers to interrogatories directed at clarification of the written reports of expert witnesses disclosed pursuant to FRBP 7026 shall be due 14 days after service, unless otherwise ordered.

(M) ***Filing With Court***: Unless otherwise permitted by the Court, on its own initiative or for good cause shown by motion, discovery materials, depositions upon oral examination and upon written questions, interrogatories, requests for documents, requests for admission and answers and responses or objections to such discovery requests shall not be filed with the pleadings or papers in any case or proceeding. When specific discovery material appropriately may support or oppose a motion, the specific discovery material in question shall be appended as an exhibit to the motion, or in response thereto, without having been previously filed. Discovery material otherwise permitted to be used at trial may be properly so used, if otherwise admissible, without having been previously filed.

Comments

The purpose of this change is to resolve the apparent conflict between 7026-1(D) and 7026-1(P) by noting that the objection is to be served rather than filed within fifteen days after the initial discovery request. If approved, it would bring the rule into

compliance with the corresponding local rule for the U.S. District Court.

Paragraph (O) is new and incorporates herein the same rule as in the U.S. District Court for the Eastern District of Virginia. [Changes effective 1/1/97.]

The original language of Paragraphs (A), (B) and (N) opting out of certain provisions of the Federal Rules of Bankruptcy Procedure have been eliminated since such opt out no longer is permitted under the national rules. Rules 26(a)(1), (3) and (4), (b)(1)-(2), (d) and (f), 5(d), 30(d) and 37(c) of the Federal Rules of Civil Procedure were amended effective December 1, 2000. Original Paragraphs (A) and (B) have been repealed. Original Paragraphs (C) through (K) have been redesignated Paragraphs (A) through (I). Original Paragraph (L), (dealing with unnecessary discovery motions or objections) which was repealed effective February 1, 2000, has been eliminated. Original Paragraphs (M) through (P) have been redesignated Paragraphs (J) through (M). The heading and text to original Paragraph (N) (dealing with opt-out provisions) have been eliminated and a new Paragraph (K), which references new LBR 9014-1, has been substituted to conform to F.R.Civ.P. 26. [Changes effective 12/1/00.]

7026-1(L) This paragraph is repealed since it was felt that the paragraph no longer is needed. [Change effective 2/1/00.]

7026-1(L)(2)(b) Under the current rule provision, the respondent or objecting party may not have had an affirmative duty to make the required disclosures if the movant or applicant did not make any such disclosures. The amended rule provision makes clear that the expert disclosure requirement of a respondent or objecting party is independent of the requirement imposed on a movant or applicant. [Change effective 3/1/01.]

7026-1(L)(2)(b) and (c) These changes result from an amendment to LBR 9014-1, which added FRBP 7026(a)(2) to those subdivisions of Rule 7026 that are excluded generally from application in contested matters and in relief from stay matters. [Change effective 7/1/02.]

7026-1 Time-computation adjustments have been made, as needed, to conform to a revision to the Federal Rules of Bankruptcy Procedure that take effect December 1, 2009. A technical change has been made at paragraph (E). Stylistic changes have been made to the text of the
LBR as well. [Changes effective 12/01/09.]

RULE 7030-1 DEPOSITIONS

(A) ***Deposition of Party***: Any party or representative (officer, director or managing agent) of a party filing an adversary proceeding in the proper division of this Court ordinarily may be required to submit to a discovery deposition at a place designated within the division. Exceptions to this general rule may be made on order of the Court when the party, or representative of a party, is of such age or physical condition, or special circumstances exist, as reasonably may interfere with the orderly taking of a deposition at a place within the division. A defendant, who becomes a counter-claimant, cross-claimant or third-party plaintiff, shall be considered as having filed an action in this Court for the purpose of this Local Bankruptcy Rule. This subdivision shall not apply to an involuntary plaintiff or an interpleader plaintiff.

(B) ***Recording and Transcribing of Discovery Deposition***: The expense of recording a deposition shall be paid by the party seeking to take same. The expense of transcribing the deposition shall be paid by any party ordering the preparation of the original. Any other party desiring a copy of said deposition shall pay for same at the copy rate. Parties may, by agreement, equally share the costs of attendance and transcribing, including such copies as desired. The costs of the original transcript shall be included in the taxable costs, but only if the prevailing party has made use of the deposition during the trial, unless the parties otherwise agree.

(C) ***Attorneys' Fees***: Unless the services of associate counsel are retained in lieu of travel expense, it is not the policy of the Court to make an allowance of counsel fees in attending any deposition, except to the extent provided by statute and otherwise in this Local Bankruptcy Rule, but the Court reserves the right to make a reasonable allowance where the circumstances of the case may justify the same.

(D) ***Travel Expense***: As provided in this Local Bankruptcy Rule, the "costs of travel" shall consist of the actual cost of travel by air or other public transportation, or an allowance for travel by private automobile at mileage rates as set forth in 28 U.S.C. §1821, whichever means of transportation is actually used, including the cost of transportation from the office or residence to the terminal of the public transportation and from the destination terminal to the place of the taking of the deposition and/or overnight accommodations, if deemed necessary, and return. The Court may, in its discretion, make an appropriate allowance for food and lodging.

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 FRCP 45(b)(1) 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 100 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 100 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.

(E) **Reviewing Depositions Prior to Jury Trials:** Whenever depositions are expected to be presented in evidence, counsel shall, prior to the final pretrial conference or, if same are not then available, prior to the day of jury trial, review such depositions and:

- (1) extract therefrom a short statement of the qualifications of any expert witness to be read to the jury;
- (2) eliminate unnecessary and/or irrelevant matters; and
- (3) eliminate all objections and statements of counsel to avoid reading same to a jury.

In the event counsel are unable to agree on what shall be eliminated, they shall submit same to the Court for a ruling thereon before the date of trial. Failure to do so will constitute a waiver of objections.

(F) **Summaries of Depositions:** [Repealed]

(G) **Reasonable Notice:** As a general rule, 7 days in advance of the contemplated taking of a deposition shall constitute reasonable notice of the taking of a deposition in the continental United States, but this will vary according to the complexity of the contemplated testimony and the urgency of taking the deposition of a party or witness at a particular time and place.

Comments

7030-1 This rule was changed from 7027-1 to 7030-1; FRBP 7027 refers to depositions taken before the filing of an adversary proceeding in order to preserve the testimony; rule 7030 is the general rule concerning depositions. [Change effective 2/1/00.]

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

Rule effect 7030-1(F) is repealed as no longer being needed. [Change effective 3/17/08.]

7030-1 A technical change has been made in the second paragraph to paragraph (D). A time-computation adjustment has been made at paragraph (G) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 7041-1 DISMISSAL OF ADVERSARY PROCEEDINGS

At least 14 days' written notice of a hearing on the proposed voluntary dismissal of a complaint (or count within a complaint) objecting to the debtor's discharge shall be given to the United States trustee, the trustee, any creditor or party in interest who has filed a request for notices, and, in an individual chapter 11 case, the members of the creditors' committee, or, if no creditors committee has been appointed, the creditors on the list of 20 largest unsecured creditors. The notice shall fully and clearly state any consideration paid or promised to be paid by the debtor to the plaintiff in connection with such dismissal. Whether an actual hearing will be required if no objections are filed is within the discretion of the judge.

Comments

7041-1 FRBP 7041 provides that "a complaint objecting to the debtor's discharge shall not be dismissed at the plaintiff's instance without notice to the trustee, the United States trustee, *and such other persons as the court may direct...*" This leads to something of a cumbersome situation where a plaintiff does seek to dismiss such a complaint (or count within a complaint). Literally, it seems that the plaintiff would first have to advise the court of such intent and obtain an order directing to whom the notice should be given, then appear again to have the actual order of dismissal considered and entered. This new rule is intended to clarify matters as to who had to be given notice. [New rule effective 2/1/00.]

7041-1 A time-computation adjustment has been made at paragraph (G) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well. [Changes effective 12/01/09.]

RULE 7054-1 COSTS

(A) **Taxation Generally:** Costs shall be taxed as provided by law in all actions in this Court and, if not otherwise provided by law, in accordance with these Local Bankruptcy Rules.

(B) **Payment in Advance:** All fees and costs due the Clerk in adversary proceedings shall be paid in advance except:

- (1) in actions brought on behalf of seamen;
- (2) where a party has been authorized to proceed *in forma pauperis*; or
- (3) where a party is otherwise exempt by law, such as the debtor (other than a debtor in possession) in a chapter 7, 11, 12 or 13 case, the United States, or in a proceeding where the United States trustee, acting as trustee, or a trustee in a case under title 11 is the

plaintiff, the filing fee shall be payable only from the estate and to the extent there are funds in the estate.

(C) **RESERVED**

(D) **Bonds and Security for Costs:** No bond or security for costs shall be required of parties instituting adversary proceedings, unless otherwise ordered by the Court.

(E) **Clerk to Tax:** The Clerk may tax costs in an adversary proceeding as provided by FRBP 7054(b).

Comments

7054-1 Stylistic changes have been made to the text of the Rule.
[Changes effective 12/01/09.]

RULE 7056-1 SUMMARY JUDGMENT

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

Comments

LBR 7056-1 is new and provides a cross-reference to LBR 9013-1 (M)(3), which also is new. [New Rule effective 3/1/01.]

RULE 7067-1 DEPOSIT 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 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.

(C) **Order of Deposit:** 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) and subparagraph (B)(2) are amended to bring the rule in line with the Judicial Conference policy on privacy and public access to electronic case files and with conforming amendments to the Federal Rules of Bankruptcy Procedure. The District Registry Procedure makes provision for any required submission of the order proponent's social security number. [Change effective 12/1/03.]

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.]

7067-1 Stylistic changes have been made to the text of the Rule. [Changes effective 12/01/09.]

RULE 8005-1 APPEAL BOND

(A) **Exemption From Appeal Bond:** The Commonwealth of Virginia, or any political subdivision or any office or agent thereof, shall not be required, unless otherwise ordered by the Court, to post a supersedeas bond or other undertaking which includes security for the payment of costs on appeal.

(B) **Failure to Post Appeal Bond:** In any case in which a monetary judgment is entered, and in such other cases as the Court may order, any party desiring to appeal from the adverse effect of such judgment shall be required, unless otherwise ordered by the Court, to post a supersedeas bond with sufficient security to respond to the judgment of the Court in the event of affirmance on appeal. In the event of failure to give such bond with security, the prevailing party may enforce such judgment as provided by law without regard to the pendency of said appeal.

(C) *Stipulation of Parties*: In lieu of any supersedeas bond, the parties may stipulate with respect to any agreement or undertaking. In lieu of any cost bond, the parties may stipulate with respect to any agreement or undertaking conditioned that the moneys and properties of the Court are fully protected or prepaid.

RULE 8006-1 RECORD ON APPEAL

(A) *Record on Appeal- Exclusions*: Unless otherwise directed by the Court, the record on appeal in any matter shall not include counsel's opening statements or arguments of counsel, including arguments of counsel on motions.

(B) *Designating Record on Appeal*: Unless the parties file a timely written designation of record with the Clerk pursuant to FRBP 8006 designating the papers which shall constitute the record on appeal, the Clerk shall forward to the proper appellate court a certification that no designation of record was filed.

(C) *Copies of Record*: The party filing a designation of items to be included in the record on appeal shall file with the designation a complete and correct copy of all designated exhibits that were not filed electronically.

Comments

8006-1 A technical change has been made at paragraph (C)(2).
[Change effective 12/01/09.]

8006-1 Changes have been made at paragraph (C) and (1)-(2)
Therein to conform to an internal procedure for administering
the record on appeal between the Bankruptcy and District Clerk's
Offices. [Changes effective 09/01/11.]

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, transfer of claim or a transcript of court proceedings, no party or entity other than a natural person acting in his or her own behalf or, to the extent permitted by §304(g) of Pub.L. 103-394, a child support enforcement agency, may appear in a bankruptcy case or proceeding, sign pleadings, or perform any act constituting the practice of law except by counsel permitted to appear under LBR 2090-1. This Local Bankruptcy Rule applies to corporations, partnerships, limited liability companies, associations, and trusts, as well as to individuals acting in a representative capacity (such as under a power of attorney) for another. Any petition, pleading or paper, other than those set forth in this Local Bankruptcy Rule, filed on behalf of an entity that is not a natural person acting in his or her own behalf and not signed by counsel permitted to

appear under LBR 2090-1 shall be stricken by the Clerk, or in the case of a petition, dismissed, unless the deficiency is cured within 14 days of the mailing or delivery of a notice of deficiency.

Comments

9010-1 [New rule effective 2/1/00.]

9010-1 This rule adds several new items to the list of items that may be filed with the court without legal representation.
[Change effective 10/17/05.]

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.]

9010-1 A time-computation adjustment has been made at paragraph (G) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well.
[Changes effective 12/01/09.]

RULE 9013-1 MOTIONS PRACTICE

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

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

(B) **Requirement of Written Motion:** In all cases or proceedings, all motions shall be in writing unless made during a hearing or trial. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(C) **Grounds for, relief sought and whether a hearing has been requested to be stated:** All motions, responses, objections, applications (other than for compensation) and similar requests

shall state with particularity the grounds therefor and shall set forth the relief or order sought. If a hearing on the motion has been set or requested by the movant, the motion shall so state.

(D) ***Number of Copies***: [Repealed]

(E) ***Use of Forms***: Forms, including motions and interrogatories, may be used only if all inapplicable references have been deleted and the proponent so certifies.

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

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

(1) Unless the Court directs otherwise and except as noted below, all motions shall be accompanied by a written memorandum setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. The memorandum and the motion or response thereto, may be combined in a single pleading.

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

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

(H) Responses to Motions

(1) **Requirement of written response:** Except as otherwise provided by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, or by order of the Court, responses in opposition to motions must be in writing, state with particularity the grounds therefor, be filed with the Court and served upon all parties affected thereby and the United States trustee.

(2) **Requirement of memorandum:** Unless otherwise directed by the Court, except as herein above noted, the party filing a response in opposition to a motion shall file therewith a memorandum of points and authorities setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the party relies. The memorandum and the motion or response thereto, may be combined in a single pleading.

(3) Time for filing response and memorandum

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

(b) **When a hearing has been set on at least 21 days' notice,** the opposing party may file a response, with a supporting memorandum, not later than 7 days before the date of the hearing.

(c) **When a hearing has been set on less than 21 days' notice,** unless the Court directs otherwise, the opposing party may file a response, with a supporting memorandum, not later than 3 days before the date of the hearing.

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

(4) **Effect of not timely filing an objection with a supporting memorandum:** If a response with a supporting memorandum is not timely filed and served, the Court may deem the opposition waived, treat the motion, application, pleading, or proposed action as conceded, and enter an appropriate order granting the requested relief. If no objection with supporting memorandum is timely filed, the movant shall, within 14 days thereafter, file and serve a proposed order which satisfies the requirements of LBR 9022-1.

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

(J) **Continuances:** A motion for continuance of a hearing or trial date shall not be granted by mere agreement of counsel. Any such motion will be considered by the Court only in the presence of all counsel, and no continuance will be granted other than for good cause and upon such terms as the Court may impose.

(K) **Extensions:** Any request for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

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

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

(1) **When no hearing is requested or required:** The notice of any motion where no hearing is required or requested (i.e., a notice of opportunity for a hearing, where a hearing is set only if a response is filed objecting to the requested relief or requesting a hearing), shall contain language substantially in accordance with Official Form 20A, “NOTICE OF MOTION” and setting forth the requirement of a response under subparagraph (H)(3)(a) of this Local Bankruptcy Rule in substantially the following form:

NOTICE

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within 14 [or 21] days of the service of this notice objecting to the relief requested, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(2) **When a hearing is required or requested:** The notice of any motion where a hearing is required or requested shall contain language substantially in accordance with Official Form 20A and setting forth the requirement of a response under subparagraph (H)(3)(b) or (H)(3)(c) in substantially the following form:

NOTICE

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party at least 7 [or 3] days before the scheduled hearing date, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(3) ***When a summary judgment is requested against pro se party***: The notice of any motion seeking summary judgment in which the non-moving party is *pro se* shall conform substantially to Official Form 20A and, in addition, shall set forth the requirement for a response in substantially the following form:

NOTICE

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

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

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

(O) *Cancellation of Scheduled Hearings:* It is the responsibility of counsel for the plaintiff/movant to advise the Court of any settlement or any other valid reason that a Court scheduled pretrial conference, hearing or trial need not be conducted. Counsel are advised to provide the Court with such notification as far in advance of any such conference, hearing or trial as is practical under the circumstances. Failure of such counsel to properly and timely notify the Court may result in the imposition of sanctions.

Comments

9013-1(A) Revision required conforms with the addition of LBR 3007-1.

9013-1(D) Change recommended to add written memorandum to the list of items requiring an additional copy at the time of filing.

9013-1(F) Change recommended to note the procedure to be used in those Divisions where a regular motions day practice is in place.

9013-1(J) Change recommended to make the provisions for continuances applicable also to hearings.

9013-1(M) These changes note the use of Official Form 20A approved by the Judicial Conference at its September 1997 meeting with the mandatory implementation date of March 1, 1998.

New paragraph (H)(3)(d) sets the time period for filing a response to the filing of an objection to a claim. Paragraph (M) is rewritten to include the language for the notice of opportunity to respond. Paragraph (N) is amended to emphasize the need for a Priority Handling Cover Sheet for requests for expedited hearing. Paragraph (O) is new and includes rules for canceling scheduled hearings. [Changes effective 1/1/97]

9013-1 (M)(3) The additional requirements with respect to summary judgment motions against *pro se* parties are included to comply with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), and to conform with changes in the Local Rules of Practice of the United States District Court for the Eastern District of Virginia. [Change effective 3/1/01.]

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. [Change effective 12/01/09.]

9013-1 A technical change has been made in paragraph (G)(2). In addition, time-computation adjustments have been made at paragraph (G) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009.

Stylistic changes have been made to the text of the LBR as well.
[Changes effective 12/01/09.]

9013-1(M)(2) The amendment to paragraph (M)(2) is intended to clarify that the written response, as set forth in the Rule's Notice language, must be filed "at least 7 [or 3] days before the scheduled hearing date." [Change effective 07/01/10.]

**RULE 9014-1 WHETHER HEARING IS EVIDENTIARY OR
PRELIMINARY**

(A) *Discovery in Contested Matters and Relief from Stay Matters*: [Repealed]

(B) *Whether Hearing is Evidentiary or Preliminary*

(1) Except as provided for in the Bankruptcy Code, the Federal Rules of

Bankruptcy Procedure, these Local Bankruptcy Rules or as otherwise ordered by the Court on its own motion or on motion of a party, all parties shall be prepared to present evidence and testimony at any scheduled hearing where the hearing has been set on at least 30 days notice unless the parties agree or the Court orders that evidence and testimony will be presented at any scheduled hearing that is set on less than 30 days' notice.

(2) Notwithstanding paragraph (B)(1), a preliminary hearing on a contested motion for relief from stay shall be non-evidentiary unless the Court orders that evidence and testimony will be presented at any such scheduled preliminary hearing.

Comments

This new Local Bankruptcy Rule clarifies how the requirements of F.R.Civ.P. 26, as incorporated by reference in FRBP 7026, apply to contested matters. [New rule effective 12/1/00.]

9014-1 This change reflects the addition of FRBP 7026(a)(2) to LBR 9014-1. [Change effective 7/1/02.]

9014-1(B) This new provision is intended to conform the Court's practice to new FRBP 9014(e) regarding whether a hearing will be evidentiary or preliminary so as to avoid unnecessary expense and inconvenience. [New rule effective 8/1/03.]

9014-1 With the amendment to FRBP 9014(c) that became effective December 1, 2004, paragraph (A) is repealed as no longer being needed [Change effective 10/17/05.]

9014-1 A technical change has been made to the caption at paragraph (A). Stylistic changes have been made to the text of the LBR. [Changes effective 12/01/09.]

9014-1 Paragraph (B) is reorganized with new paragraphs (B)(1) and (B)(2). Paragraph (B)(2) provides that a preliminary hearing on a motion for relief from stay shall be non-evidentiary unless exception set forth therein otherwise occurs. [Changes effective 09/01/11.]

RULE 9016-1 SUBPOENAS

(A) **Request for Subpoena:** Requests for subpoenas shall be in writing and, except as provided in paragraph (G) with respect to a subpoena for a deposition to be taken in a proceeding pending in another jurisdiction, signed by counsel qualified to practice in this Court and noted of record in the action in which the subpoenas are to issue. Attorneys admitted to practice in this Court may also issue and sign a subpoena on behalf of:

- (1) a court in which the attorney is authorized to practice or
- (2) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

Individuals appearing *pro se* may apply for subpoenas in their own behalf.

Each request for subpoena shall:

- (1) be accompanied by a subpoena which has been completed except for issuance by the Clerk and
- (2) unless the party is exempt therefrom, be accompanied by a check made payable to the witness for at least one day's attendance plus mileage at the rate allowed by law.

(B) **Return Date of Subpoenas:** All subpoenas shall be made returnable to the place, date and time of trial or hearing unless otherwise ordered by the Court.

(C) **Service of Subpoenas:** Unless the party requesting same is:

- (1) authorized to proceed *in forma pauperis* pursuant to 28 U.S.C. §1915, or is a seaman authorized to proceed under 28 U.S.C. §1916,
- (2) the United States or an officer or agency of the United States or
- (3) otherwise ordered by the Court,

all subpoenas shall be served by a person who is not a party or otherwise interested in the proceeding and is not less than 18 years of age. Proof of service by such person shall be made as provided for proof of service for summons and complaint in FRBP 7004(a). The person serving the subpoena shall make proof of service thereof to the Court promptly and in any event within the time during which the person served must respond to the subpoena. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to the party summoned the fee for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered. Mileage shall be computed and tendered even though the witness to be subpoenaed lives within the city limits. The United States marshal, Deputy United States marshal, or any other person serving subpoenas shall do so only in strict compliance with this Local Bankruptcy Rule, except that a party authorized to proceed *in forma pauperis* need not tender witness and mileage fees.

(D) ***Subpoenas to Officials***: Without permission of the Court first obtained, no subpoena shall be issued for the attendance at any hearing, trial or deposition of (1) the Governor, Lieutenant Governor, or Attorney General of any State; (2) the Judge of any court; (3) the President or Vice President of the United States; (4) any member of the President's Cabinet; (5) any Ambassador or Consul; (6) any member of the United States Congress; or (7) any military officer holding the rank of Admiral or General.

(E) ***Subpoena Duces Tecum***: Whenever a subpoena *duces tecum* has been directed to any person to produce any books, papers, documents or tangible things to any court and to attend and give testimony at the time scheduled for the trial, taking of depositions or other hearing, the person requested therein to produce, or whenever all parties agree, an alternate, shall produce such items to the Clerk on or before 9:00 a.m. on the day designated, unless the Court orders otherwise, to enable counsel to review the same prior to commencement of the trial or the hearing. Provided, however, if a party has good reason not to produce and surrender custody of same to the Clerk, that party shall so advise the Court in writing promptly upon receipt of the subpoena to enable the Court to rule on the objection. Counsel are required to promptly inspect said items so as to enable the trial to proceed promptly.

The provisions hereof are not intended in any way to change or modify the provisions of FRBP 7026 or FRBP 9016 or any other applicable Federal Rule of Bankruptcy Procedure or Federal Rule of Civil Procedure, but to supplement the provisions of FRBP 9016.

(F) ***Timely Requests for Subpoenas***: All requests for the issuance of subpoenas for the attendance of witnesses at hearings or trials shall be filed with the Clerk not later than 14 days before the date upon which the witness will be directed to appear. If the request is made within 14 days prior to the date of the trial or hearing, it may be issued by the Clerk but no continuance will be granted if said witness fails to appear even though served.

(G) ***Deposition Subpoenas***: Proof of service of a notice to take depositions as provided in FRCP 30(a) and FRCP 31(a) constitutes sufficient authorization for the issuance of a subpoena by the Clerk for the district in which the deposition is to be taken for the attendance of persons named or described therein. The subpoena may command the person to whom it is directed to produce

designated books, papers, documents or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by FRCP 26(b), but in that event the subpoena will be subject to the provisions FRCP 30(b) and FRCP 45(b). No subpoena for the taking of depositions shall be issued by the Clerk unless there be exhibited to the Clerk a copy of the notice to take deposition together with a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. FRCP 45(d)(1).

(H) **Place of Taking Depositions:** The Clerk shall issue a subpoena upon request, or an attorney may issue a subpoena in accordance with paragraph (A) of this Local Bankruptcy Rule for FRBP 2004 examinations or for taking a deposition requiring the appearance of any party or witness in any city or county within the division of the district wherein the party or witness resides or is employed or transacts business, or in any city contiguous to any such county or city, without prior order of the Court; provided, however, that no such subpoena shall direct any party or witness who may reside in either Accomack or Northampton Counties to appear in any other city or county, nor may any party or witness residing in any other county or city be required to appear in Accomack or Northampton Counties, unless said party or witness is employed or transacts business in the city or county wherein the deposition is to be taken, or unless otherwise ordered by the Court. Contiguous cities or counties shall be considered as such even though separated by water but only when located within the particular division of the district. The right is reserved to any party or witness directed to attend a deposition in any contiguous city to insist that said deposition be taken within the city (or county) provided by the Federal Rules of Civil Procedure upon a showing of inconvenience of travel, or infirmities of body, or age.

(I) **Subpoenas in Blank:** Whenever there is a question as to whether or not a subpoena in blank should be issued by the Clerk, the request shall be referred to a Judge of this Court for a final determination. Before the Clerk may issue a subpoena in blank, the Clerk shall determine the actual pendency of the action and the date and time set for hearing or trial. Except for good cause shown, a subpoena returnable in one division will not be issued out of another division. Blank subpoenas shall recite the title and number of the case and shall be complete in every detail except the name and address of the witness. Returns of service shall be made promptly and filed with the Clerk. All service shall be made strictly in accordance with these Local Bankruptcy Rules.

Comments

9016-1 Stylistic changes have been made to the text of the LBR.
 [Changes effective 12/01/09.]

RULE 9017-1 EVIDENCE

(A) **Presence of Witnesses:** Any counsel desiring to ascertain the presence of witnesses summoned for any particular case shall, before the opening of Court, furnish the Clerk with a list of the names of such witnesses.

(B) **Qualifications of Experts:** Unless the qualifications of an expert witness, including any party litigant, are admitted, a duplicate written statement of such qualifications will be submitted

on the morning of trial. As to experts who are expected to appear frequently, a statement of their qualifications may be filed with the Clerk in each of the divisions of the Court for use at trial. When so filed, the Clerk will maintain the statement in a file kept for that purpose. Counsel desiring to make use of the statement will be responsible for obtaining the same from the Clerk.

(C) *Hypothetical Questions*: [Repealed]

(D) *Physical Examination of Litigant*: No doctor or other expert will be permitted to testify as to the nature and extent of the injuries to any litigant unless said expert has previously examined or interviewed such person, or unless such testimony is to be based on hypothetical questions. This Local Bankruptcy Rule is not intended to limit an expert, having previously examined the party, from properly demonstrating any of the injuries of a party.

Comments

9017-1(C) This paragraph of LBR 9017-1 is repealed since it was felt that the paragraph no longer is needed. [Change effective 2/1/00.]

9017-1 A stylistic change has been made to paragraph (B) of the LBR. [Change effective 12/01/09.]

RULE 9019-1 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

Rule 83.6, Settlement and Alternative Dispute Resolution, Local Rules of Practice of the United States District Court for the Eastern District of Virginia, applies in adversary proceedings before the Court. For purposes of the Settlement and Alternative Dispute Resolution provisions set out at Rule 83.6, references to: the “court” are to the bankruptcy court; “judge” are to bankruptcy judges assigned to the case; and “Chief Judge” are to the Chief Judge of the District Court.

Comments

LBR 9019-1 cross references Rule 83.6 of the Local Rules of Practice of the United States District Court for the Eastern District of Virginia, which makes that rule applicable to adversary proceedings in case before the Court. [New rule effective 3/1/01.]

RULE 9022-1 COURT ORDERS

(A) *Identification of Attorney Filing Proposed Order*: On the first page of each proposed order 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.

(B) *Service List*: With each proposed order:

(1) when submitted, as provided for by an electronic means established by the Court, the order proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same and shall comply with all other requirements set forth therein; or

(2) except as the presiding judge in a case otherwise may direct, when submitted by conventional means, the order proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same.

(C) **Endorsement:** With all proposed orders, the proponent shall file either:

(1) **Certification of Endorsement by All Parties:** A certification that the proposed order or proposed consent order has been endorsed by all necessary parties or

(2) **Proof of Service:** A certification that the proposed order has been served upon all necessary parties and indicating upon whom served and the date and manner of such service.

(D) **Form and Content:** Any proposed order shall be sufficient in description to stand alone without reference to any motion, pleading or other document (except for exhibits attached to the order itself). Orders authorizing the sale of real estate or otherwise affecting title to real estate (e.g., abandonments, avoidance of transfers, avoidance or imposition of liens, or adjudication of lien property) shall contain a legal description sufficient to pass title. Orders for sale of property of the estate or any interest therein shall state the identity of the purchaser and the price to be paid unless sale is to be at public auction, in which event the order shall state the date, time and place of the auction.

(E) **Consent Orders:** All proposed consent orders shall meet the requirements in paragraphs (A), (B), (C) and (D) of this Local Bankruptcy Rule.

(F) **Order After Trial, Hearing or Other Disposition of the Matter:** Unless the Court specifies otherwise, the prevailing party shall, in addition to the requirements in paragraphs (A), (B), (C) and (D) of this Local Bankruptcy Rule, prepare a proposed order and file the same with the Court within 14 days after the conclusion of the trial, hearing, or other disposition of the matter at issue. If no order is filed within the required period, the Clerk may issue a Notice of Failure to Prosecute. If an order is still not filed in response to that notice, the Clerk may dismiss the original pleading or other paper without further notice.

Comments

9022-1(C)(1) & 9022-1(E) Minor changes have been made to include new language concerning consent orders.

9022-1(F) This language is added to clearly state the interest in seeing that supposedly resolved items are properly closed out. Parties need to submit a stamped envelope for panel trustees.

[Changes effective 1/1/97]

9022-1(D) Since the need for an order affecting title to real estate to contain a proper legal description is not limited to orders approving sale of real estate or any interest therein, the requirement has been placed at LBR 9022-1. A cross-reference has been added to LBR 6004-1 as well to remind the practitioner of the requirement that orders approving the sale of real estate or any interest therein, like all orders, must stand alone without reference to external documents, e.g., the order should not purport to approve the sale of the real estate or any interest therein “in accordance with the terms of the contract attached to the motion” but should state the essential terms of the sale, e.g., “to John and Joanna Doe for the price of \$173,000.”
[Changes effective 3/1/01.]

9022-1(B) These technical changes are necessary to conform this subdivision of the LBR to the process of filing proposed orders as provided for by an electronic means established by the Court.
[Change effective 7/1/02.]

9022-1 Subparagraphs (B)(2)(a) and (b) are 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. The caption to paragraph (B) is amended for this reason as well. In addition, a time-computation adjustment has been made at paragraph (F) to conform to a revision to the Federal Rules of Bankruptcy Procedure that takes effect December 1, 2009. Stylistic changes have been made to the text of the LBR as well.
[Repeal and changes effective 12/01/09.]

RULE 9070-1 EXHIBITS

(A) **Numerous Exhibits:** Whenever the exhibits in any case, to be presented by either party, exceed 5, the party intending to offer such exhibits shall place them in a binder, properly tabbed, numbered and indexed, unless otherwise ordered by the Court.

(B) **Listing and Marking Exhibits:** All exhibits, except such as are prepared in open court or by expert witnesses, must be listed in the final pretrial order in any adversary proceeding and shall be marked by the proponent thereof, in the manner specified by the Clerk, prior to the commencement of the trial unless the Court otherwise directs. Such exhibits, unless too large, shall be seen by opposing counsel at or before the final pretrial conference. At any final pretrial conference, the Court may rule upon the admissibility of any exhibit or reserve ruling thereon. Exhibits agreed upon shall be admitted in evidence; all others shall be considered as numbered and marked for identification.

(C) **Number of Copies:** An original and two copies of both the exhibits and the Exhibit List should be filed with the Court by the date set forth in the pretrial order. Sufficient copies should be made available for each opposing counsel.

(D) ***Custody and Disposition of Models and Exhibits***

(1) **Custody:** After being marked for identification, exhibits of a documentary nature offered or admitted into evidence in any cause pending or tried in this Court shall be placed in the custody of the Clerk unless otherwise ordered by the Court. All other exhibits, models and material not offered and admitted into evidence shall be retained in custody of the attorney or party producing same at trial, unless otherwise directed by the Court.

(2) **Removal:** Whenever any models, diagrams, exhibits or material have been placed in custody of the Clerk for introduction into evidence, and same are not admitted or marked for identification, such articles shall be removed by the party who filed them with the Clerk, unless otherwise directed by the Court, immediately following the conclusion of the trial or settlement of the case.

(E) **Disposition of Exhibits:** All exhibits, models, diagrams, depositions, transcripts, briefs, tables, charts or other items or material or things, introduced, tendered or marked in the trial of a matter or filed with or delivered to the Clerk in anticipation of their introduction into evidence or for use at trial, shall be withdrawn by the parties to the litigation or their counsel within 30 days after the judgment and the time for appeal or motion for a rehearing or further hearing shall have passed. If such items, material or things are not so removed within the time stated, the Clerk may forward them to counsel or the party entitled thereto, or shall destroy or make such other disposition or use of them as the Clerk may deem appropriate.

Comments

9070-1(A) The threshold number of exhibits for binding was reduced from fifteen to five.

9070-1(C) Change to note information already included in the Instructions for Preparing Exhibit List and Pre-Marking Exhibits.

9070-1 Stylistic changes have been made to the text of the LBR.
[Changes effective 12/01/09.]

EXHIBITS

The bankruptcy forms included in the following exhibits are available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's Internet home page. The forms are in Adobe Acrobat format.

UNITED STATES BANKRUPTCY COURT
_____ DISTRICT OF VIRGINIA
_____ Division

CHAPTER 13 PLAN
AND RELATED MOTIONS

Name of Debtor(s):

Case No:

This Plan, dated _____, is:

the *first* Chapter 13 Plan filed in this case.

a modified Plan that replaces the

confirmed or unconfirmed Plan dated _____

Date and Time of Modified Plan Confirmation Hearing:

Place of Modified Plan Confirmation Hearing:

The Plan provisions modified by this filing are:

Creditors affected by this modification are:

NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this Plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.

This Plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than seven (7) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.

The debtor(s)' schedules list assets and liabilities as follows:

- Total Assets:
- Total Non-Priority Unsecured Debt:
- Total Priority Debt:
- Total Secured Debt:

1. **Funding of Plan.** The debtor(s) propose to pay the Trustee the sum of \$_____ per _____ for ____ months. Other payments to the Trustee are as follows: _____ . The total amount to be paid into the Plan is \$_____.

2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.

A. Administrative Claims under 11 U.S.C. § 1326.

- 1. The Trustee will be paid the percentage fee fixed under 28 U.S.C. § 586(e), not to exceed 10%, of all sums disbursed except for funds returned to the debtor(s).
- 2. Debtor(s)' attorney will be paid \$_____ balance due of the total fee of \$_____ concurrently with or prior to the payments to remaining creditors.

B. Claims under 11 U.S.C. § 507.

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u>	<u>Type of Priority</u>	<u>Estimated Claim</u>	<u>Payment and Term</u>
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3. **Secured Creditors: Motions to Value Collateral ("cramdown"), Collateral being Surrendered, Adequate Protection Payments, and Payment of certain Secured Claims.**

A. Motions to Value Collateral (other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) or by the final paragraph of 11 U.S.C. § 1325(a)). Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion to value collateral as set forth herein.

This section deals with valuation of certain claims secured by real and/or personal property, other than claims protected from "cramdown" by 11 U.S.C. § 1322(b)(2) [real estate which is debtor(s)' principal residence] or by the final paragraph of 11 U.S.C. § 1325(a) [motor vehicles purchased within 910 days or any other thing of value purchased within 1 year before filing bankruptcy], in which the replacement value is asserted to be less than the amount owing on the debt. **Such debts will be treated as secured claims only to the extent of the replacement value of the collateral. That value will be paid with interest as provided in sub-section D of this section. You must refer to section 3(D) below to determine the interest rate, monthly payment and estimated term of repayment of any "crammed down" loan. The deficiency balance owed on such a loan will be treated as an unsecured claim to be paid only to the extent provided in section 4 of the Plan.** The following secured claims are to be "crammed down" to the following values:

Creditor Collateral Purchase Date Est. Debt Bal. Replacement Value

B. Real or Personal Property to be Surrendered.

Upon confirmation of the Plan, or before, the debtor(s) will surrender his/her/their interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled may be paid as a non-priority unsecured claim. Confirmation of the Plan shall terminate the automatic stay as to the interest of the debtor(s) and the estate in the collateral.

Creditor Collateral Description Estimated Value Estimated Total Claim

C. Adequate Protection Payments.

The debtor(s) propose to make adequate protection payments required by 11 U.S.C. § 1326(a) or otherwise upon claims secured by personal property, until the commencement of payments provided for in sections 3(D) and/or 6(B) of the Plan, as follows:

Creditor Collateral Adeq. Protection Monthly Payment To Be Paid By

Any adequate protection payment upon an unexpired lease of personal property assumed by the debtor(s) pursuant to section 6(B) of the Plan shall be made by the debtor(s) as required by 11 U.S.C. § 1326(a)(1)(B) (payments coming due after the order for relief).

D. Payment of Secured Claims on Property Being Retained (except only those loans provided for in section 5 of the Plan):

This section deals with payment of debts secured by real and/or personal property [including short term obligations, judgments, tax liens and other secured debts]. After confirmation of the Plan, the Trustee will pay to the holder of each allowed secured claim, which will be either the balance owed on the indebtedness or, where applicable, the collateral's replacement value as specified in sub-section A of this section, **whichever is less**, with interest at the rate provided below, the monthly payment specified below until the amount of the secured claim has been paid in full. **Upon confirmation of the Plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed with and sustained by the Court.**

Creditor Collateral Approx. Bal. of Debt or "Crammed Down" Value Interest Rate Monthly Payment & Est. Term

E. Other Debts.

Debts which are (i) mortgage loans secured by real estate which is the debtor(s)' primary residence, or (ii) other long term obligations, whether secured or unsecured, to be continued upon the existing contract terms with any existing default in payments to be cured pursuant to 11 U.S.C. § 1322(b)(5), are provided for in section 5 of the Plan.

4. Unsecured Claims.

A. Not separately classified. Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately _____ %. The dividend percentage may vary depending on actual claims filed. If this case were liquidated under Chapter 7, the debtor(s) estimate that unsecured creditors would receive a dividend of approximately _____ %.

B. Separately classified unsecured claims.

<u>Creditor</u>	<u>Basis for Classification</u>	<u>Treatment</u>
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5. Mortgage Loans Secured by Real Property Constituting the Debtor(s)' Primary Residence; Other Long Term Payment Obligations, whether secured or unsecured, to be continued upon existing contract terms; Curing of any existing default under 11 U.S.C. § 1322(b)(5).

A. Debtor(s) to make regular contract payments; arrears, if any, to be paid by Trustee. The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below, without interest unless an interest rate is designated below for interest to be paid on the arrearage claim and such interest is provided for in the loan agreement.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Arrearage Interest Rate</u>	<u>Estimated Cure Period</u>	<u>Monthly Arrearage Payment</u>
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B. Trustee to make contract payments and cure arrears, if any. The Trustee shall pay the creditors listed below the regular contract monthly payments that come due during the period of this Plan, and pre-petition arrearages on such debts shall be cured by the Trustee either pro rata with other secured claims or with monthly payments as set forth below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate on Arrearage</u>	<u>Monthly Payment on Arrearage & Est. Term</u>
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- C. **Restructured Mortgage Loans to be paid fully during term of Plan.** Any mortgage loan against real estate constituting the debtor(s)' principal residence upon which the last scheduled contract payment is due before the final payment under the Plan is due shall be paid by the Trustee during the term of the Plan as permitted by 11 U.S.C. § 1322(c)(2) with interest at the rate specified below as follows:

<u>Creditor</u>	<u>Collateral</u>	<u>Interest Rate</u>	<u>Estimated Claim</u>	<u>Monthly Payment & Term</u>
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6. **Unexpired Leases and Executory Contracts.** The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.

- A. **Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts:

<u>Creditor</u>	<u>Type of Contract</u>
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- B. **Executory contracts and unexpired leases to be assumed.** The debtor(s) assume the following executory contracts. The debtor(s) agree to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Type of Contract</u>	<u>Arrearage</u>	<u>Monthly Payment for Arrears</u>	<u>Estimated Cure Period</u>
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7. **Liens Which Debtor(s) Seek to Avoid.**

- A. **The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f).** The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. **Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien.** If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u>	<u>Collateral</u>	<u>Exemption Basis</u>	<u>Exemption Amount</u>	<u>Value of Collateral</u>
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- B. **Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f).** The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons

accompanying such pleadings as to the requirements for opposing such relief. The listing here is for information purposes only.

<u>Creditor</u>	<u>Type of Lien</u>	<u>Description of Collateral</u>	<u>Basis for Avoidance</u>
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8. Treatment and Payment of Claims.

- All creditors must timely file a proof of claim to receive any payment from the Trustee.
- If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the Plan, the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
- If a claim is listed in the Plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the Plan.
- The Trustee may adjust the monthly disbursement amount as needed to pay an allowed secured claim in full.

9. Vesting of Property of the Estate. Property of the estate shall revert in the debtor(s) upon confirmation of the Plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, encumber real property or enter into a mortgage loan modification without approval of the Court after notice to the Trustee, any creditor who has filed a request for notice and other creditors to the extent required by the Local Rules of this Court.

10. Incurrence of indebtedness. The debtor(s) shall not voluntarily incur additional indebtedness exceeding the cumulative total of \$5,000 principal amount during the term of this Plan, either unsecured or secured against personal property, except upon approval of the Court after notice to the Trustee, any creditor who has filed a request for notice, and other creditors to the extent required by the Local Rules of this Court.

11. Other provisions of this Plan:

Signatures:

Dated: _____

Debtor

Debtor(s)' Attorney

Joint Debtor

**Exhibits: Copy of Debtor(s)' Budget (Schedules I and J);
Matrix of Parties Served with Plan**

Certificate of Service

I certify that on _____, I mailed a copy of the foregoing to the creditors and parties in interest on the attached Service List.

Signature

Address

Telephone No.

Ver. 09/17/09 [effective 12/01/09]

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VIRGINIA
Division

In re:

Case No. _____

Chapter 13

Debtor(s)

SPECIAL NOTICE TO SECURED CREDITOR

To: _____, Attn: _____
Name of creditor

Description of collateral

1. The attached chapter 13 plan filed by the debtor(s) proposes (*check one*):

- To value your collateral. **See Section 3 of the plan.** Your lien will be limited to the value of the collateral, and any amount you are owed above the value of the collateral will be treated as an unsecured claim.
- To cancel or reduce a judgment lien or a non-purchase money, non-possessory security interest you hold. **See Section 7 of the plan.** All or a portion of the amount you are owed will be treated as an unsecured claim.

2. ***You should read the attached plan carefully for the details of how your claim is treated.*** The plan may be confirmed, and the proposed relief granted, unless you file and serve a written objection by the date specified and appear at the confirmation hearing. A copy of the objection must be served on the debtor(s), their attorney, and the chapter 13 trustee.

Date objection due: _____

Date and time of confirmation hearing: _____

Place of confirmation hearing: _____

Name(s) of debtor(s)

By: _____
Signature

- Debtor(s)' Attorney
- Pro se debtor

Name of attorney for debtor(s)

Address of attorney [or pro se debtor]

Tel. # _____

Fax # _____

CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Notice and attached Chapter 13 Plan and Related Motions were served upon the creditor noted above by

- () first class mail in conformity with the requirements of Rule 7004(b), Fed.R.Bankr.P; or
- () certified mail in conformity with the requirements of Rule 7004(h), Fed.R.Bankr.P

on this _____ day of _____, 200__.

Signature of attorney for debtor(s)

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

In re:))
))
Filing, Signing, Retaining and) Standing Order No. 06-4
Verification of Pleadings and))
Papers in the Case Management/))
Electronic Case Filing (CM/ECF)))
System))

ORDER ADOPTING CASE MANAGEMENT/ ELECTRONIC CASE FILING PROCEDURES

[Rescinded Effective 3/17/08]

Administrative Procedures for Filing, Signing, Retaining
and Verification of Pleadings and Papers in the
Case Management/Electronic Case Filing (CM/ECF) System

Exhibit to Standing Order No. 06-4
(VERSION 06/09/06)

DECEMBER 2006

[Rescinded Effective 3/17/08]

EXHIBIT 5**INSTRUCTIONS FOR CREDITOR MATRIX DISKETTE**

Last Revised: December 1, 2009

The following instructions are applicable to all word processing software and third-party bankruptcy software packages:

1. Open your word processing software and enter the creditor information, making sure of the following:
 - a. Creditors are listed in a single column.
 - b. There are two blank spaces separating each creditor.
 - c. The second line of each creditor listed must be either a street address or a P.O. Box, with the periods included (e.g., 200 South Main Street or P.O. Box 241).
 - d. The last line of each creditor must be in the format of City, State (two-letter abbreviation), Zip (e.g., Alexandria, VA 22314).
 - e. No Account numbers may be included within the creditor information.

2. Choose the 'Save As' function in your word processing software. In earlier versions of WordPerfect, this is known as 'Text In/Out'. In most software packages, there will be a box that will indicate the format of the document (e.g. Word 5.0 format, WordPerfect 5.1). This box usually is located just below where the name of the file is entered. The format for all diskettes should be one of the following (depending on your software): ASCII DOS Text, Plain DOS Text or Text Only. These are the only formats that will be accepted. When you have selected the correct format, save the file.

EXHIBIT 6

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

In re:

Debtor(s)

Case

No.

Plaintiff(s)

Chapter

v.

Defendant(s)

Adversary

No.

FINANCIAL INTEREST DISCLOSURE STATEMENT

Pursuant to Federal Rule of Bankruptcy Procedure 7007.1 and to enable the Judges to evaluate possible disqualification or recusal, the undersigned counsel for

in the above captioned action, certifies that the following is a (are) corporation(s), other than the debtor or a governmental unit, that directly or indirectly own(s) 10% or more of any class of the corporation's(s') equity interests, or states that there are no entities to report under FRBP 7007.1:

None [Check if applicable]

Date

Signature of Attorney or Litigant
Counsel for _____

EXHIBIT 7

MOTIONS DAY PROCEDURE FOR ALEXANDRIA DIVISION

Note: The following procedure is applicable only in the Alexandria Division of the United States Bankruptcy Court for the Eastern District of Virginia, and only with respect to motions, other than relief from stay motions, that can be heard in 30 minutes or less. In the Norfolk, Newport News, and Richmond Divisions, hearing dates for motions must in all instances be obtained from the Court in accordance with Local Bankruptcy Rule 9013-1(F).

MOTIONS DATES

- * Motions dates for each judge will be posted in the Clerk's office up to 3 months in advance but should be verified by counsel or an unrepresented party prior to sending out notice in order to ensure that the date remains available. ***A judge may require that specified types of matters be returnable to a specified time on a motions day, and counsel or parties setting matters for hearing are responsible for making the motion returnable to the correct time.*** The motion must be set on the motions day for the judge assigned to the case and may not be set on the calendar of another judge except with the express authorization of the assigned judge. If for any reason a problem arises with a hearing date after the date has been posted, the Clerk will notify counsel with a new date, and the attorney or party filing the motion will be responsible for re-noticing the matter.
- * Motions dates may be used for motions, objections and applications that will take less than one-half hour to hear. There will be at least 1 such day a month. The following matters may **not** be set on a motions day unless specifically authorized by the Court: matters that will take over one-half hour, motions for relief from the automatic stay, confirmation hearings, pretrial conferences and expedited or emergency hearings.
- * ***If a judge has a separate Chapter 13 docket, all motions, objections, and applications arising in a Chapter 13 case must be set on that docket and not on the general motions docket.*** Objections to confirmation of the **original** plan filed in a Chapter 13 case **must** be noticed for the date and time of the confirmation hearing as set forth in the 341 notice or separate notice of confirmation hearing given by the Clerk. Objections to confirmation of a modified Chapter 13 plan may be set on any Chapter 13 motions day that provides proper notice.
- * The notice of hearing, motion, objection or application must be filed with the Court, ***in an original and one copy***, together with an orange motions day cover sheet no later than **14 days** prior to the hearing date. The notice of hearing and the motion, objection or application must be served upon all parties entitled to notice in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules. If such rules do not specify a time period for service, then service must be made no later than 14 days prior to the hearing. There will be **no** exceptions unless shorter notice has been specifically authorized by the

judge to whom the matter is assigned. Any matter not timely noticed will **not** be set on the calendar but will be reassigned by the Clerk to the next available date that complies with the applicable notice requirement, and the counsel or party bringing the matter will be responsible for re-noticing it.

- * Motions to be heard on a motions day must be filed, together with a notice of hearing, in an original and one copy. The copy must be attached to an orange notice of hearing cover sheet (available from the Clerk's office). The copy attached to the orange cover sheet need not contain supporting memoranda or exhibits. ***The orange cover sheet is not a substitute for any required notice of hearing.*** The orange cover sheet will alert the intake deputy to deliver the motion and notice of hearing to the courtroom deputy. ***If a copy of the motion and notice is not filed with an orange cover sheet, the matter will not be placed on the motions docket and will have to be reset.***

MOTIONS REQUIRING MORE THAN ONE-HALF HOUR

- * For those matters that will take over one-half hour, the counsel or party bringing the motion, objection or application must request a hearing date from the Clerk and must certify to the Court the moving party's estimate of the time required to hear the matter. A certification of time estimate cover sheet is obtainable from the Clerk's office and is the preferred form for requesting a hearing date.
- * If a matter is set for a motions day on the good faith belief that it will take less than one-half hour, but it subsequently becomes apparent that the matter will take more than one-half hour, counsel may request a date and time from the Clerk for hearing the matter, provided notice of the rescheduled hearing can be and is given to all affected parties at least **14 days** prior to the scheduled hearing. Otherwise, the moving party or counsel will be required to appear in Court to schedule the matter for final hearing.

CONSENT ORDERS

- * A courtroom deputy will be available to take all **fully-endorsed** consent orders and stipulations, including consent orders for a continuance to another scheduled motions day, between 8:45 and 9:15 a.m. on the day that the hearing is scheduled. An order will **not** be treated as a "consent" order merely because no opposition has been filed to the motion, objection, or application.
- * **If counsel or an unrepresented party, in lieu of personally presenting a consent order to the courtroom deputy, transmits the order by messenger or mail, or presents it at the intake counter, the counsel or party tendering the order is responsible for verifying with the courtroom deputy that she or he has received it.** Any consent order submitted within 2 days of a hearing **must** be accompanied by a yellow expedited handling cover sheet. Failure to comply with these requirements with respect to an order not personally presented to the

courtroom deputy on the morning of the hearing may, in the Court's discretion, result in the motion, objection, or application being dismissed for failure to prosecute.

- * Any consent order continuing a relief from stay hearing must contain language continuing the automatic stay in full force and effect pending a ruling by the Court at such continued hearing. Additionally, if a consent order in a relief from stay motion grants relief from the stay, and such order has not been noticed under Bankruptcy Rule 4001(d), a certification must be attached stating either that the order provides no greater or different relief than requested in the motion or that Bankruptcy Rule 4001(d) does not require notice.

COUNSEL HAVING MATTERS BEFORE MORE THAN ONE JUDGE

- Counsel or an unrepresented party having matters before more than one judge on a motions day **must advise the courtroom deputy that the counsel or party is in another courtroom and must provide an estimated time when such counsel or party will be available.** If counsel or a party is in another courtroom when a particular matter is called, and has **not** checked in, the Court may summarily dismiss or dispose of the matter or may hold the offending counsel or party in contempt.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)	
)	
Adoption of Revision)	Standing Order No. 11-5
to Interim Rule 1007-I)	
)	

ORDER ADOPTING REVISION TO INTERIM RULE 1007-I

On October 20, 2008, the National Guard and Reservists Debt Relief Act of 2008 (the Act) was enacted into law; and

The provisions of the Act became effective December 19, 2008; and

The Advisory Committee on Bankruptcy Rules prepared a new Interim Rule 1007-I, Lists, Schedules, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion in addition to an amendment to Official Form 22A, Statement of Current Monthly Income and Means Test Calculation creating a then new Part 1C therein.

The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States approved the new Interim Rule and form amendment and recommended the adoption of both by the Judicial Conference of the United States to provide for uniform procedures and means by which to implement the Act; and

The Judicial Conference of the United States, which had approved both recommendations, transmitted the Interim Rule to the courts for adoption by standing order, effective December 19, 2008; and

The Court adopted Interim Rule 1007-I, in its entirety without change, effective December 19, 2008.

Interim Rule 1007-I previously was revised, effective December 1, 2009, to conform to time deadline changes in Federal Rule of Bankruptcy Procedure 1007 (Rule 1007), as follows: the 10-day period in Rule 1007(h) and the 15-day periods in subdivisions (a)(2), (a)(3), (c), (f) of the rule all became 14-day periods, as part of a comprehensive package of changes to time periods in all federal rules of practice and procedure; and

Interim Rule 1007-I further was revised, effective December 1, 2010, to conform to a deadline change in Rule 1007(c), as follows: the time for the individual debtor to file the statement of completion of a course in personal financial management in a chapter 7 case is extended from within 45 days after the first date set for the meeting of creditors to within 60 days after the first date set for the meeting of creditors.

It is necessary to make further revision to Interim Rule 1007-I, effective December 19, 2011, to conform to an amendment effected by the National Guard and Reservist Debt Relief Extension Act of 2011 (2011 Act), which extends the 2008 Act's original three-year period to a seven-year period commencing December 19, 2008.

NOW, THEREFORE, IT IS ORDERED that:

Pursuant to 28 U.S.C. section 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached revised Interim Rule 1007-I is adopted by the chief judge of the Court, effective December 19, 2011, conforming to the 2008 Act and 2011 Act. For cases and proceedings not governed by the 2008 Act, as amended by the 2011 Act, the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, other than Interim Rule 1007-I, as further revised, shall apply. The 2008 Act, as amended by the 2011 Act, applies only to cases commenced in the seven-year period beginning on the effective date of the 2008 Act, December 19, 2008. Interim Rule 1007-I, as further revised, shall remain in effect until further order of the Court.

Dated: December 19, 2011

FOR THE COURT:

/s/ Douglas O. Tice Jr.
DOUGLAS O. TICE JR.

United States Bankruptcy Judge

Chief

**Interim Rule 1007-I¹. Lists, Schedules, Statements, and Other Documents;
Time Limits; Expiration of Temporary Means Testing Exclusion²**

1 * * * * *

2 (b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS
3 REQUIRED.

4 * * * * *

5 (4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) §
6 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein
7 extends beyond the period specified by Rule 1017(e),
8 an individual debtor in a chapter 7 case shall file a statement of current monthly
9 income prepared as prescribed by the appropriate Official Form, and, if the current
10 monthly income exceeds the median family income for the applicable state and
11 household size, the information, including calculations, required by § 707(b),
12 prepared as prescribed by the appropriate Official Form.

13 * * * * *

14 (c) TIME LIMITS. In a voluntary case, the schedules, statements, and other
15 documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the
16 petition or within 14 days thereafter, except as otherwise provided in subdivisions
17 (d), (e), (f), (h), and (n) of this rule. In an involuntary case, the list in subdivision

¹ Interim Rule 1007-I was adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No: 110-438, as amended by the National Guard and Reservist Debt Relief Extension Act of 2011, Public Law No. 112-64. The Act, as amended, provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. It applies to bankruptcy cases commenced in the seven-year period beginning December 19, 2008.

² Incorporates (1) time amendments to Rule 1007 which took effect on December 1, 2009, and (2) an amendment, effective December 1, 2010, which extended the time to file the statement of completion of a course in personal financial management in a chapter 7 case filed by an individual debtor.

18 (a)(2), and the schedules, statements, and other documents required by subdivision
19 (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief.
20 In a voluntary case, the documents required by paragraphs (A), (C), and (D) of
21 subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise,
22 a debtor who has filed a statement under subdivision (b)(3)(B), shall file the
23 documents required by subdivision (b)(3)(A) within 14 days of the order for relief.
24 In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7)
25 within 60 days after the first date set for the meeting of creditors under § 341 of
26 the Code, and in a chapter 11 or 13 case no later than the date when the last payment
27 was made by the debtor as required by the plan or the filing of a motion for a
28 discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any
29 time and in its discretion, enlarge the time to file the statement required by
30 subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8)
31 no earlier than the date of the last payment made under the plan or the date of the
32 filing of motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the
33 Code. Lists, schedules, statements, and other documents filed prior to the conversion
34 of a case to another chapter shall be deemed filed in the converted case unless the
35 court directs otherwise. Except as provided in § 1116(3), any extension of time to
36 file schedules, statements, and other documents required under this rule may be
37 granted only on motion for cause shown and on notice to the United States trustee,
38 any committee elected under § 705 or appointed under § 1102 of the Code, trustee,
39 examiner, or other party as the court may direct. Notice of an extension shall be
40 given to the United States trustee and to any committee, trustee, or other party as the

41 court may direct.

42 * * * *

43 (n) TIME LIMITS FOR, AND NOTICE TO, DEBTORS TEMPORARILY
44 EXCLUDED FROM MEANS TESTING.

45 (1) An individual debtor who is temporarily excluded from means testing
46 pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations
47 required by subdivision (b)(4) no later than 14 days after the expiration of the
48 temporary exclusion if the expiration occurs within the time specified by Rule
49 1017(e) for filing a motion pursuant to § 707(b)(2).

50 (2) If the temporary exclusion from means testing under § 707(b)(2)(D)(ii)
51 terminates due to the circumstances specified in subdivision (n)(1), and if the debtor
52 has not previously filed a statement and calculations required by subdivision (b)(4),
53 the clerk shall promptly notify the debtor that the required statement and calculations
54 must be filed within the time specified by subdivision (n)(1).

COMMITTEE NOTE

This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(1) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and calculations, subdivision (n)(2) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(1).

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