

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

**PUBLIC NOTICE**

**INVITATION FOR COMMENT ON AMENDMENTS TO**

**LOCAL BANKRUPTCY RULES 1006-1(C)(1), 1007-1(A), (C), (H)(1)-(3) & (I)(2), 2003-1(B)(2), 2016-1(C)(3), 3015-1(G), 3015-2(F)(1), (G)(1) & (2), and (H)(1) & (3), 3070-1(C), 8007-1(A), (B) & (C), 9010-1, and 9022-1(F)**

**AND**

**AMENDED EXHIBIT 5: INSTRUCTIONS FOR CREDITOR MATRIX**

**AND**

**ABROGATED LOCAL BANKRUPTCY RULE 1017-3**

Comments are invited to amendments to Rules 1006-1(C)(1), 1007-1(A), (C), (H)(1)-(3) & (I)(2), 2003-1(B)(2), 2016-1(C)(3), 3015-1(G), 3015-2(F)(1), (G)(1) & (2), and (H)(1) & (3), 3070-1(C), 8007-1(A), (B) & (C), 9010-1, and 9022-1(F) and amended Exhibit 5: Instructions for Creditor Matrix, and abrogated Rule 1017-3 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia. The Local Bankruptcy Rules revision, as set forth above, takes effect December 1, 2018.

The above cited revision to the Local Bankruptcy Rules will be available at the Alexandria, Norfolk, Richmond, and Newport News divisions of the Court and may be accessed at the Court's Internet web site, at [www.vaeb.uscourts.gov](http://www.vaeb.uscourts.gov), under Virginia Eastern News.

Comments may be submitted, by mail, to:

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

or, by e-mail, at:

[localrules@vaeb.uscourts.gov](mailto:localrules@vaeb.uscourts.gov)

Comments will be received by mail or at the Court's web site until 5:00 P.M., local time, Tuesday, November 13, 2018.

William C. Redden  
Clerk of Court

Date: October 15, 2018

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

**AMENDED LOCAL BANKRUPTCY RULES 1006-1(C)(1), 1007-1(A), (C), (H)(1)-(3) & (I)(2), 2003-1(B)(2), 2016-1(C)(3), 3015-1(G), 3015-2(F)(1), (G)(1) & (2), and (H)(1) & (3), 3070-1(C), 8007-1(A), (B) & (C), 9010-1, and 9022-1(F)**

**AMENDED EXHIBIT 5: INSTRUCTIONS FOR CREDITOR**

**MATRIX**

**AND**

**ABROGATED LOCAL BANKRUPTCY RULE 1017-3**



**Effective December 1, 2018**

**(Public Comment Ver. 10/15/18)**

**RULE 1006-1 INSTALLMENT PAYMENTS, NONPAYMENTS, NONPAYMENT.  
WAIVER, REFUNDS**

(C)(1) **Nonpayment:** If a petition, complaint or other document is not accompanied by the proper filing fee or, if applicable, an application as set forth in paragraph (A) or (B) of this Local Bankruptcy Rule, the Clerk shall give notice to cure the filing fee deficiency. The Clerk may provide such notice by mail or by e-mail if the Debtor has elected to receive notices through the Court's Debtor Electronic Bankruptcy Noticing system. The notice period shall commence for mailed notices 3 days after the notice is mailed and for e-mailed notice when the notice is e-mailed. 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. With respect to a petition for which the fee is not paid, the Clerk shall issue an order for the debtor and, if applicable, counsel for the debtor, to appear and explain why the petition should not be dismissed. The Clerk shall reject any partial payment of any fee.

**Comments**

1006-1(C)(1) These rule provisions are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). [Changes effective 12/01/18.]

**Rule 1007-1 LISTS, SCHEDULES AND STATEMENTS**

(A) **Dismissal of Case** ~~Except as provided in LBR 1017-3, i~~n 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 issue an order for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed 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.

(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~~ issue an order dismissing for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.

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

(2) **Possible Dismissal of Case**

(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~~ issue an order for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed ~~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~~ issue an order ~~of dismissal~~ for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed 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~~ flash drive will be considered by the Court only upon submission of a waiver request filed with the petition. The form shall be provided by the Clerk upon request. In addition to the waiver request, the debtor shall file the list of creditors in the scannable format specified by the Clerk. If the Court denies the request, the debtor or the attorney for the debtor shall submit the list of creditors on ~~computer diskette~~ flash drive not later than 3 days after the Clerk's notification that the request has been denied. If the debtor fails to do so, the Clerk shall issue an order for the debtor, and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.

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

(2) **Possible Dismissal of Case; Notice**: In any case in which a properly completed statement of compliance referenced in paragraph (I)(1) of this Local Bankruptcy Rule, together with attached documents as specified therein, is not filed at the time of the filing of the voluntary petition, the Clerk shall ~~enter~~ issue

~~an order of dismissal for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed 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 issue an order for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed 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), (C), (H)(1) and (2) and (I)(2) These rule provisions are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). These rule provisions also have been amended to update the identified media that should be used to provide the referenced documents to the Clerk. [Changes effective 12/01/18.]

#### **~~RULE 1017-3 SUSPENSION OF AUTOMATIC DISMISSAL~~**

~~*Show Cause Hearing in Lieu of Dismissal in Certain Cases:* Notwithstanding the provisions of LBR 1006-1, 1007-1(A), LBR 1007-3(A), 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. In such a case, the Clerk shall, in lieu of dismissal, issue a notice to show cause to the debtor and debtor's attorney.~~

#### **Comments**

1017-3 This rule is abrogated as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). [Change effective 12/01/18.]

#### **RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS**

##### **(B) Possible 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, u~~Upon certification by the United States trustee that either debtor or debtor's counsel has not appeared at a meeting of creditors, in a chapter 12 or 13 case, the Clerk shall issue an

order dismissing for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.

(b) ~~Except as provided in LBR 1017-3, u~~Upon certification by the United States trustee that either debtor or debtor’s counsel has not appeared at a meeting of creditors, 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 for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.

### **Comments**

2003-1 Subparagraph (B)(2)(a) and (b) are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018).  
[Changes effective 12/01/18.]

## **RULE 2016-1 COMPENSATION OF PROFESSIONALS**

### **(C) *For Debtor's Attorney in Chapter 13 Case***

....

#### **(3) *Amount of “No-Look” Fee Specified under Subparagraphs (C)(1)(a) and (C)(3)(a)***

(a) If the initial fee charged to a debtor(s) for services in a Chapter 13 case does not exceed the fee, as specified in the “Adjustment of Dollar Amounts” statement published and updated periodically by the Clerk, as approved by the Court, (excluding the initial filing fee), a formal application for approval and payment of the unpaid amount through the chapter 13 plan will not be required if the total fee and the unpaid portion clearly is set forth in the chapter 13 plan, and the fee is consistent with the disclosure of compensation statement filed under Federal Rule of Bankruptcy Procedure 2016 at the commencement of the case. An election under this subparagraph must be made at the commencement of the case; otherwise, it shall be deemed waived and compensation and reimbursement of expenses shall be requested in the manner set forth in subparagraph (C)(3)(d)(i) and (ii) of this Local Bankruptcy Rule.

....

(iii) Alexandria and Richmond Divisions: Any objection to allowance and payment of compensation in the amount stated in the chapter 13 plan must be filed no later than the last day for filing objections to confirmation of the plan. If no objection is filed, the Court may approve

the disclosed compensation and confirm the plan without holding a hearing when the plan is confirmed.

(iv) Norfolk and Newport News Divisions: Any objection to allowance and payment of compensation in the amount stated in the chapter 13 plan must be filed no later than the last day for filing objections to confirmation of the plan. If no objection is filed, the Court may approve the disclosed compensation when the plan is confirmed after holding a hearing.

(iv) The attorney for the debtor(s) should not send a bill directly to the debtor(s). If the debtor(s) receive(s) a bill from the debtor's(s') attorney, the debtor(s) should send a copy of the bill to the chapter 13 trustee.

(vi) Notwithstanding the provisions of subparagraph (C)(3)(a)(iii) of this Local Bankruptcy Rule, nothing will prevent or prohibit the United States trustee or the chapter 13 trustee from filing pleadings or otherwise challenging fees awarded under this rule to the attorney for the debtor(s) after confirmation of the debtor's(s) plan, should circumstances warrant such a challenge. Any such challenge shall be determined by the Court after notice and a hearing. In addition, the Court, *sua sponte*, may suspend the application of this rule to the debtor's(s') attorney. In such case, the attorney for the debtor(s) may request a hearing within 14 days of the Court's ruling.

### **Comments**

2016-1 Subparagraph (C)(3)(a)(iii) is amended, a new (iv) is added, and current (iv) and (v) are re-designated (v) and (vi), respectively, in light of the referenced change in procedure for the Norfolk and Newport News divisions. (See combined Norfolk Standing Order No. 18-1 and Newport News Standing Order No. 18-1, which was entered on October 9, 2018, and provides that, "Confirmation Hearings will be held with regard to all Chapter 13 original and amended plans filed on or after October 29, 2018," in the aforesaid divisions of the Court.) [Changes effective 12/01/18.]

### **RULE 3015-1 CHAPTER 12 PLAN REQUIREMENTS**

(G) **Possible 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~~ issue an order ~~dismissing~~ for the debtor and, if applicable, counsel for the debtor, to appear and explain why the chapter 12 case should not be dismissed.

### Comments

3015-1 Paragraph (G) of this rule provision is amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). [Changes effective 12/01/18.]

## LBR 3015-2 CHAPTER 13 PLAN REQUIREMENTS

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

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

....

#### (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.~~

(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:

(1) *Richmond and Alexandria Divisions:* ¶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.



**(2) Norfolk and Newport News Divisions:**

(a) A confirmation hearing will be held even if no objections have been filed.

(b) A scheduled confirmation hearing will not be convened when:

(i) an amended plan is filed prior to the scheduled confirmation hearing; or

(ii) a consent resolution to an objection to confirmation anticipates the filing of an amended plan and the objecting party removes the scheduled confirmation hearing prior to 3:00 p.m. on the last business day before the confirmation hearing.

**(H) Possible 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, t~~The Clerk shall issue an order of dismissal for the debtor and, if applicable, counsel for the debtor, to appear and explain why the chapter 13 case should not be dismissed in any chapter 13 case not meeting the timeliness of filing requirements of paragraphs B, C or D of this Local Bankruptcy Rule.

....

(3) ***Possible Dismissal of Case upon Denial of Confirmation:*** ~~Except as provided in LBR 1017-3, i~~f 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 for the debtor and, if applicable, counsel for the debtor, to appear and explain why the chapter 13 case should not be dismissed 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.

#### Comments

3015-2 Subparagraphs (F)(1)(d) and (G)(1) and (2) are amended in light of the referenced change in procedure for the Norfolk and Newport News divisions. (See combined Norfolk Standing Order No. 18-1 and Newport News Standing Order No. 18-1, which was entered on October 29, 2018, and provides that, "Confirmation Hearings will be held with regard to all Chapter 13 original and amended plans filed on or after October 29, 2018," in the aforesaid divisions of the Court.) Subparagraphs (H)(1) and (3) are amended as a result of the holding in No. v. Gorman, 891 F.3d 138 (4th Cir. 2018). [Changes effective 12/01/18.]

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

(C) *Debtor's Failure to Commence Payments in Chapter 13 Case*: ~~Except as provided in LBR 1017-3, e~~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 issue~~ enter issue an order ~~dismissing for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.~~

#### Comments

3070-1(C) This rule provision is amended as a result of the holding in No. v. Gorman, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). [Change effective 12/01/18.]

#### **RULE 8007-1 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~~ supersedeas bond or other security ~~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 or other~~ 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 or other security, 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.

#### Comments

8007-1 Paragraphs (A), (B), and (C) of this rule are amended to conform to a revision to the Federal Rule of Bankruptcy Procedure 8007 that takes effect December 1, 2018. [Changes effective 12/01/18.]

### **RULE 9010-1 REPRESENTATION AND APPEARANCES: POWERS OF ATTORNEY**

*Requirement for Counsel*: Except for filing or withdrawing a proof of claim, notice of mortgage payment change, notice of postpetition mortgage fees, expenses, and charges, response to a notice of final cure payment, request for notices or notice/service, notice of appearance, reaffirmation agreement, creditor change of address, transfer of claim or a transcript of court proceedings, no party or entity other than a natural person acting in his or her own behalf or, to the extent permitted by §304(g) of Pub.L. 103-394, a child support enforcement agency, may appear in a bankruptcy case or proceeding, sign pleadings, or perform any act constituting the practice of law except by counsel permitted to appear under LBR 2090-1. This Local Bankruptcy Rule applies to corporations, partnerships, limited liability companies, associations, and trusts, as well as to individuals acting in a representative capacity (such as under a power of attorney) for another. The Clerk shall advise the Court if a ~~any petition~~, pleading or paper, other than those set forth in this Local Bankruptcy Rule, is 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. The Court may direct ~~shall be stricken by the Clerk to strike the referenced pleading or paper, or in the case of a petition, dismissed,~~ unless the deficiency is cured within either the earlier of 14 days of the mailing or delivery of a notice of deficiency or before a hearing is held. In the case of a petition, the Clerk shall issue an order for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed.

#### Comments

9010-1 This rule is amended to provide that except as otherwise provided for in this Rule, the Clerk shall advise the Court if a referenced pleading or paper does not conform to the requirements of LBR 2090-1. The Court may direct the Clerk to strike the referenced pleading

or other paper. In the case of a petition, the rule is amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4<sup>th</sup> Cir. 2018). [Changes effective 12/01/18.]

## **RULE 9022-1 COURT ORDERS**

(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~~ shall issue a Notice of Failure to Prosecute. If an order is still not filed in response to that notice, the ~~Clerk~~ Court may dismiss the original pleading or direct the Clerk to strike the other paper without further notice.

### **Comments**

9022-1 Paragraph (F) is amended to provide that the Clerk shall issue a Notice of Failure to Prosecute if an order is not timely filed after disposition of a matter. Failure to heed the Notice may result in the Court dismissing the referenced pleading. [Changes effective 12/01/18.]

**INSTRUCTIONS FOR CREDITOR MATRIX DISKETTE**Last Revised: December 1, ~~2009~~ 2018

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 or dollar amounts 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.~~
2. Save your creditor matrix to a flash drive in plain text format.