

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

PUBLIC NOTICE

INVITATION FOR COMMENT ON AMENDMENTS TO

**LOCAL BANKRUPTCY RULES 1006-1(C)(1), 1007-3(A) & (C), 3015-2(C)(1) & (3), and
5005-1(E) AND**

NEW LOCAL BANKRUPTCY RULE 1017-2

Comments are invited to amendments to Local Bankruptcy Rules 1006-1(C)(1), 1007-3(A) & (C), 3015-2(C)(1) & (3), and 5005-1(E) and new Local Bankruptcy Rule 1017-2.

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 website, at www.vaeb.uscourts.gov, under Virginia Eastern News.

Comments may be submitted, by mail, to:

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

or, by e-mail, at:

localrules@vaeb.uscourts.gov

Comments will be received by mail or at the Court's website until 5:00 P.M., local time, October 1, 2019.

William C. Redden
Clerk of Court

Date: September 3, 2019

UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA

**AMENDED LOCAL BANKRUPTCY RULES 1006-1(C)(1), 1007-
3(A) & (C), 3015-2(C)(1) & (3), 5005-1(E);**

NEW LOCAL BANKRUPTCY RULE 1017-2



Effective November 15, 2019

(Ver. 09/03//19)

RULE 1006-1 INSTALLMENT PAYMENTS, NONPAYMENTS, WAIVER, REFUNDS

(C)(1)(c) *Nonpayment*:

....

(c) *Installment Payment*. If a debtor fails to pay timely any filing fee installment payment pursuant to an Order on Debtor's Application to Have the Chapter 7 Filing Fee Waived or Order Approving Payment of Filing Fee in Installments, the Clerk shall issue a notice providing that the debtor either must (i) cure the filing fee installment payment deficiency or (ii) timely file a response and attend a hearing to explain why the case should not be dismissed.

Comments

1006-1(C)(1) These rule provisions are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4th Cir. 2018). [Changes effective 11/15/19.]

RULE 1007-3 STATEMENT OF INTENTION

(A) *Possible Dismissal of Case; Notice*: 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. If the Statement of Intention is not filed with the chapter 7 voluntary petition, the Clerk shall issue a notice that the debtor either must (1) file the Statement of Intention or a motion to extend the time for filing the same within 30 days after the filing of the petition, or on or before the date of the meeting of creditors, whichever is earlier; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed.

....

(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.~~ The Clerk's order shall further provide that the debtor either must (1) file the Statement of Intention or further motion to extend time for the same by the date set forth therein; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed.

....

Comments

1007-3(A) and (C). These rule provisions are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4th Cir. 2018). [Changes effective 11/15/19.]

RULE 1017-2 VOLUNTARY DISMISSAL OF CHAPTER 13 CASES (New)

(A) *Service*: A debtor seeking to dismiss a pending chapter 13 case that has not previously been converted shall provide the chapter 13 trustee, the United States trustee, and any creditor that has appeared or has filed a proof of claim at least 7 days' notice of such motion, unless the notice period has been shortened by the Court for cause shown.

(B) *Contents of Motion*: The motion to dismiss must state whether the case was previously converted from any other chapter of title 11 and whether there are pending motions to convert the case to chapter 7 or pending motions to dismiss the case with prejudice.

(C) *Notice*: The notice of the motion to dismiss shall contain language substantially in accordance with Official Form 420A, "NOTICE OF MOTION," and setting forth substantially the following:

NOTICE

Under Local Bankruptcy Rule 1017-2, unless a written response to this motion is filed with the Clerk of Court and served on the debtor(s) within 7 days from the date of service of this motion objecting to the relief requested, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

(D) *Requirement of Written Response*. If no response is filed and served in accordance with paragraph (C) of this Local Bankruptcy Rule, the Court, in its discretion, may enter an order dismissing the case without holding a hearing. If a response is timely filed, the debtor shall obtain from the Court a hearing date on the motion to dismiss and shall serve notice of the hearing on the respondent, the chapter 13 trustee and the United States trustee. Unless otherwise ordered by the Court, the debtor shall serve such notice of hearing not less than 7 days before the hearing.

Comments

1017-2 This new Local Bankruptcy Rule provides a procedure by which a debtor may seek to dismiss a pending chapter 13 case, provided, however, that the case previously has not been converted. The prior Local Bankruptcy Rule 1017-2, which addressed case dismissal for substantial abuse of chapter 7, was repealed effective December 1, 2009. [New Rule effective 11/15/19.]

RULE 3015-2 CHAPTER 13 PLAN REQUIREMENTS

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

(1) ***Requirement Possible Dismissal of Case; Notice***: 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. If the same is not filed on the date of commencement of the case or the date of entry of the conversion order, the Clerk shall enter issue a notice that the debtor either must (a) timely file a plan or a motion to extend time to file a plan in accordance with this subparagraph; or (b) timely file a response and attend a hearing to explain why the case should not be dismissed.

....

(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) The Clerk's order shall provide that the debtor either must (i) file the Chapter 13 Plan and Related Motions or further motion to extend time for the same by the date set forth therein; or (ii) timely file a response and attend a hearing to explain why the case should not be dismissed.

~~(b)~~(c) 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.

Comments

3015-2 Paragraphs (C)(1) and (3) are amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4th Cir. 2018).
[Changes effective 11/15/19.]

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

(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. Notwithstanding the foregoing, in the case of a petition or a notice of voluntary conversion, the Clerk shall issue a notice that the debtor either must (1) cure the deficiency within 14 days of the mailing or delivery of such notice; or (2) timely file a response and attend a hearing to explain why the case should not be dismissed.

Comments

5005-1 Paragraph (E) of this rule provision is amended as a result of the holding in *No v. Gorman*, 891 F.3d 138 (4th Cir. 2018).
[Changes effective 11/15/19.]