

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

PUBLIC NOTICE

**ORDER ADOPTING TECHNICAL AMENDMENTS TO THE LOCAL BANKRUPTCY RULES,
INCLUDING EXHIBIT 7, THERETO**

On December 22, 2020, and effective on that date, the Court entered Standing Order No, 20-27, Order Adopting Technical Amendments to the Court's Local Bankruptcy Rules, Including Exhibit 7, Thereto. This is in consequence of the Court having reformatted and streamlined its internet website home page, which includes reorganizing the placement of links that are accessible from that home page. Accordingly, it is necessary to effect a number of changes, via technical amendments, to the Court's Local Bankruptcy Rules, as follows:

Table of Contents, Page X; Exhibits Cover Page; Exhibit 7—Motions for Relief from Stay Guidelines; and Conforming Technical Updates to Comments Following Local Bankruptcy Rules 1007-1, 2003-1, 2016-1, and 2016-2.

The Court's internet website's home page is accessible at: <https://www.vaeb.uscourts.gov/wordpress/>.

William C. Redden
Clerk of Court

Date: December 22, 2020

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re)
)
Adoption of Technical Amendments) Standing Order No. 20-27
to the Local Bankruptcy Rules, Including)
Exhibit 7, Thereto)
)
)

ORDER ADOPTING TECHNICAL AMENDMENTS TO THE LOCAL BANKRUPTCY
RULES, INCLUDING EXHIBIT 7, THERETO

At <https://www.vaeb.uscourts.gov/wordpress/>, the Court has reformatted and streamlined its internet website home page, which includes reorganizing the placement of links that are accessible from that home page. As a consequence, it is necessary to effect a number of changes, via technical amendments, to the Court's Local Bankruptcy Rules, as follows:

Table of Contents, Page X; Exhibits Cover Page, Exhibit 7—Motions for Relief from Stay Guidelines; and Conforming Technical Updates to Comments Following Local Bankruptcy Rules 1007-1, 2003-1, 2016-1, and 2016-2.

NOW, THEREFORE, IT IS ORDERED that:

1. The amendments made to Table of Contents, Page X; Exhibits Cover Page; Exhibit 7—Motions for Relief from Stay Guidelines; and Conforming Technical Updates to Comments Following Local Bankruptcy Rules 1007-1, 2003-1, 2016-1, and 2016-2, are hereby adopted by the Court.
2. This order shall take effect on December 22, 2020.

Attachment

FOR THE COURT:


FRANK J. SANTORO
Chief United States Bankruptcy Judge

Date: December 22, 2020

UNITED STATES BANKRUPTCY COURT
for the
EASTERN DISTRICT OF VIRGINIA

TECHNICAL AMENDMENTS TO LOCAL BANKRUPTCY RULES:

**TABLE OF CONTENTS—PAGE X; EXHIBITS COVER PAGE; EXHIBIT 7—
MOTIONS FOR RELIEF FROM STAY GUIDELINES; AND CONFORMING
TECHNICAL UPDATES TO COMMENTS FOLLOWING LOCAL
BANKRUPTCY RULES 1007-1, 2003-1, 2016-1, AND 2016-2**



Effective: December 22, 2020

(Ver. 12/22/2020)

(J) *Chapter 13 Debtor's Statement of Completion of Instructional Course Concerning Personal Financial Management*: Pursuant to FRBP 9006(b), and as governed by FRBP 1007(c), the time to file the chapter 13 debtor(s) "**Certification About a Financial Management Course**" (Official Form 423) shall be deemed enlarged, and the chapter 13 debtor(s), unless the Court has been notified by an approved provider of a course concerning personal financial management that the chapter 13 debtor(s) has completed the course pursuant to FRBP 1007(b)(7), shall file the certification of completion of a course within the time specified in LBR 4008-2(A) for filing the Debtor(s) Certification of Compliance with 11 U.S.C. §1328.

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.] [Updated Comment effective 12/22/20.]

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 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.]

1007-1(J) Paragraph (J) is new and makes the time to file the Chapter 13 Debtor's Statement of Completion of Instructional Course Concerning Personal Financial Management the same as that specified in LBR 4008-2(A). [New paragraph (J) effective 09/03/13.]

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(B) The phrase “or has appeared not ready to proceed” has been removed where it appears in paragraph (B). [Change effective 09/03/13.]

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.] [Updated Comment effective 12/22/20.]

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.]

- (iv) In lieu of the procedure set forth in subparagraph (C)(3)(d)(i) of this Local Bankruptcy Rule, the attorney for the debtor(s) may elect to disclose a fee of \$500 plus any out-of-pocket expenses (e.g., the filing fee, title search fees or appraisal fees) to represent the debtor(s) in such an action, the disclosure of which must be made at the commencement of the adversary proceeding, appeal, or motion initiating the action to determine the extent, validity, priority or enforceability of a lien secured by the debtor's(s') principal residence.
- (e) The level of compensation set forth at subparagraphs (C)(1)(a) and (C)(3)(a) of this Local Bankruptcy Rule will be adjusted on a periodic basis to apply to the cases commenced after the adjusted level becomes effective by:
- (i) the percentage of adjustment to the rate of pay prescribed in the General Schedule for statutorily affected federal civilian employees;
 - (ii) an increase in the filing fee for a case commenced under chapter 13 of title 11, United States Code.

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.]

2016-1(C) Standing Order No. 08-1 is rescinded effective as to chapter 13 cases filed on or after the effective date of this paragraph's implementation. That standing order remains in effect, however, for previously filed chapter 13 cases. This paragraph includes procedures governing all chapter 13 cases filed on or after the effective date of this paragraph's implementation. [New Rule effective 8/1/14.]

2016-1 Subparagraphs (C)(1)(a) and (C)(3)(e) are amended to provide a means by which adjustments to dollar amounts provided for in this rule can be made available without the necessity of amending discrete rule provisions. For this purpose, the Clerk has been directed by the Court to publish an "Adjustment of Dollar Amounts" statement, and update that statement periodically, as directed by the Court. To do so, the Clerk has created an "Adjustment of Dollar Amounts" hyperlink at the Court's Internet web site home page, www.vaeb.uscourts.gov, ~~at the "Court Resources" button on that page.~~ A stylistic change also is made to subparagraph (C)(1)(a). [Changes effective 12/1/15.] [Updated Comment effective 12/22/20.]

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.)

RULE 2016-2 ADMINISTRATIVE CLAIMS OF ENTITIES OTHER THAN PROFESSIONALS

Except for fees and expenses subject to 11 U.S.C. §330, a chapter 7 trustee shall have the authority, prior to approval of the trustee’s final report, without further order of the Court, to pay: (1) reasonable and necessary administrative expenses in an aggregate amount not exceeding the amount specified in the “Adjustment of Dollar Amounts” statement published and updated periodically by the Clerk, as approved by the Court, per case; and (2) administrative taxes. The dollar limit specified in the “Adjustment of Dollar Amounts” statement will be adjusted in the same manner as the adjustments provided for by 11 U.S.C. §104(a).

Comments

2016-2 This rule is new. The adjustments under 11 U.S.C. §104(a) are made every three years, the first such adjustments having occurred on April 1, 1998, and are published in the Federal Register. The dollar limit specified in the “Adjustment of Dollar Amounts” statement is the same as the federal exemption for motor vehicles provided in 11 U.S.C. § 522(d)(2) (currently \$3,675), and therefore the periodic adjustment will be easily ascertainable by reference to that section. Use of this statement provides a means by which the information can be made available without the necessity of amending discrete rule provisions. For this purpose, the Clerk has been directed by the Court to publish an “Adjustment of Dollar Amounts” statement, and update that statement periodically, as directed by the Court. To do so, the Clerk has created an “Adjustment of Dollar Amounts” hyperlink at the Court’s Internet web site home page, www.vaeb.uscourts.gov, at the “Court Resources” button on that page. [New Rule effective 12/1/15] [Updated Comment effective 12/22/20.]

RULE 2090-1 ATTORNEYS - RIGHT TO PRACTICE BEFORE THE COURT; PRO SE PARTIES

(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:*** Effective September 1, 2019, 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 and of the Bar of the United States District Court for the Eastern District of Virginia.

EXHIBITS

The bankruptcy forms included in the above exhibits are available at the Court's internet web site at www.vaeb.uscourts.gov. The forms are in Adobe Acrobat format. [Updated effective 12/22/20.]

**UNITED STATES BANKRUPTCY COURT EASTERN
DISTRICT OF VIRGINIA**
Motions Practice and Procedure Guidelines

The United States Bankruptcy Court provides the following Guidelines pertaining to motions practice and procedure in the Eastern District of Virginia. The Court may, in certain instances, impose additional requirements if circumstances warrant.

The Guidelines do not alter the requirements regarding appearances at hearings pursuant to Local Bankruptcy Rule 2090-1(H).

Should any Guideline be construed so as to conflict with the Local Bankruptcy Rules of this Court, the provisions of the Local Bankruptcy Rules shall control.

Questions regarding the Guidelines may be directed to the Judge's Courtroom Deputy. Parties are reminded that the Clerk's Office is prohibited from providing legal advice.

Hearing Dates

Hearing dates appear on each Judge's respective Hearing Dates & Information page on the Court's website www.vaeb.uscourts.gov, which can be accessed by left clicking on the "Judges' Hearing Dates & Information" link in the drop-down menu under "Hearing Information."

A Judge may require specific matters to be heard on designated dates and/or at designated times. Dates provided may be used only for the matters designated.

A Judge may establish a maximum number of a specific type of matter that one attorney/firm may set for one docket.

Counsel should consult a Judge's ~~Hearing Dates & Information~~ Procedures for Hearings page for information regarding scheduling matters where evidence or legal argument will be presented.

Hearings must be set for the Division in which the case is pending, unless permission is otherwise granted.

Unless otherwise posted on a Judge's ~~Hearing Dates & Information~~ Procedures for Hearings page, motions must be set for hearing before the Judge to whom the case is assigned.

Counsel is responsible for ensuring a matter is set for the correct date, time, and location.

The moving party should view the Court's website prior to filing a motion to ensure that the hearing date remains available and that the time frame within which the date may be used has not expired.

If a hearing needs to be scheduled for a date beyond the dates listed, the moving party should contact the Judge's Courtroom Deputy.

The moving party should make a good faith attempt to coordinate a mutually agreeable hearing date with opposing counsel.

If a Motion for Relief from Automatic Stay is scheduled for a preliminary hearing on a date that is more than 30 days after the moving party files the motion, the moving party shall be deemed to have consented to a waiver of its rights under 11 U.S.C. §362(e)(1) relating to the automatic lifting of the stay. The stay shall remain in effect until further order of the Court. (**Further guidance for these motions may be found in the Court's separate Motions for Relief from Automatic Stay Guidelines.**)

If a proposed consent order will be tendered to the Court simultaneously with the filing of a Motion for Relief from Automatic Stay, a hearing should not be scheduled and a hearing date should not be included in the Notice of Motion.

Pursuant to Local Bankruptcy Rule 3015-2, objections to confirmation of the original Chapter 13 plan filed in a case must be noticed for hearing for the date, time, and location of the confirmation hearing as set forth in the notice regarding the § 341 Meeting of Creditors.

Objections to confirmation of a modified Chapter 13 plan must be noticed for hearing for the date, time, and location of the confirmation hearing as set forth in the modified plan.

Motions requesting an expedited hearing must comply with Local Bankruptcy Rule 9013-1(N), as well as with any additional requirements set forth on the respective Judge's ~~Hearing Dates & Information~~ Procedures for Hearings page.

Parties proceeding *pro se* (without legal counsel) may utilize the dates provided on the Judges' Hearing Dates & Information pages for scheduling hearings on the enumerated types of matters. Please note that, pursuant to Local Bankruptcy Rule 9010-1, entities other than individuals (*e.g.*, corporations, partnerships, and municipalities) may not proceed *pro se* and must retain legal counsel. All noticing requirements must be complied with, or the Court may not hear the matter.

Proper Notice of Hearing

It is the moving party's responsibility to comply with proper noticing requirements, including service upon all proper parties in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules, and to provide the correct date, time, and location of the hearing.

If a moving party's notice of hearing is insufficient, or the moving party has utilized an expired hearing date, the matter may not be heard.

Continuances

Information regarding a Judge's policy concerning continuances can be found on the Judge's ~~Hearing Dates & Information~~ Procedures for Hearings page.

The party requesting a continuance is encouraged to consult with opposing counsel, and the trustee if applicable, prior to requesting a continuance and advise the Court of the position of opposing counsel and the trustee, if applicable. Continuances should be requested only for good cause and with sufficient time to allow the Court to consider the request prior to the hearing date. All continuance requests should propose a date and time for the continued hearing from the dates available on the Judge's respective ~~Hearing Dates & Information~~ Procedures for Hearings page, if dates for such matters are provided on that page.

Telephonic Appearance

Information regarding a Judge's policy concerning telephonic appearances can be found on the Judge's ~~Hearing Dates & Information~~ Procedures for Hearings page.

Cancelling a Hearing

Pursuant to Local Bankruptcy Rule 9013-1(O), the moving party is responsible for notifying the Court of any settlement or other valid reason that a hearing or trial need not be conducted. The moving party shall notify the Court of the cancellation of a hearing or trial in the manner(s) set forth on each Judge's respective ~~Hearing Dates & Information~~ Procedures for Hearings page.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Motions for Relief from Stay Guidelines

The United States Bankruptcy Court provides the following Guidelines pertaining to motions for relief from stay filed in the Eastern District of Virginia. The Court may, in certain instances, impose additional requirements if circumstances warrant.

The Guidelines do not alter the requirements regarding appearances at hearings pursuant to Local Bankruptcy Rule 2090-1(H).

Should any Guideline be construed so as to conflict with the Local Bankruptcy Rules of this Court, the provisions of the Local Bankruptcy Rules shall control.

Questions regarding the Guidelines may be directed to the Judge's Courtroom Deputy. Parties are reminded that the Clerk's Office is prohibited from providing legal advice.

Motions for Relief from Automatic Stay

The following procedure is applicable with respect to motions for relief from stay under §362 and §1301 of the Bankruptcy Code. (Motions for relief from stay against a codebtor in chapter 13 cases under 11 U.S.C. §1301(c)(2) are addressed separately in Section II, below.) The provisions of Local Bankruptcy Rule 4001(a)-1 are applicable in relief from automatic stay proceedings as supplemented below.

I. Relief from the Automatic Stay under Sections 362, 1301(c)(1), or 1301(c)(3)

The preliminary hearing dates for scheduling motions for relief from stay pursuant to §362, §1301(c)(1), and §1301(c)(3) may be obtained from

- **the Court's Internet web site at www.vaeb.uscourts.gov ➤ ~~Hearing Information~~ ➤ ~~Judges' Hearing Dates & Information~~; or**
- **by calling the Judge's Courtroom Deputy.**

A. Selecting a Preliminary Hearing Date:

The moving party (movant) must select a preliminary hearing date from the schedule of preliminary hearing dates provided by the Clerk as set forth above. The date should be selected according to the anticipated date of filing of the motion.

If the movant selects a preliminary hearing date that is more than 30 days after filing a motion for relief, the movant shall be deemed to have consented to a waiver of the movant's