

**United States Bankruptcy Court
Eastern District of Michigan**

Notice Regarding Adoption of Amended Local Rules

The United States District Court has approved the attached amended local bankruptcy rules.

These amended rules are effective on May 5, 2008.

The changes in the attached amended local bankruptcy rules are substantial. They were motivated by three significant events:

- The advent of Electronic Case Filing;
- The enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005; and,
- The sunset of the experimental chapter 11 local rules.

Each existing local rule was reviewed to determine whether ECF requires any changes. Most of the changes resulting from this review simplify or eliminate service requirements because of the automatic service that ECF accomplishes.

Upon the enactment of BAPCPA 2005 on October 17, 2005, the Court adopted interim local rules by administrative order to create several necessary procedures. Those procedures are generally deemed adequate to address the requirements of the new act, and those interim local rules are adopted in these rules with some minor changes, clarifications and additions.

The chapter 11 local rules were adopted on an experimental basis on November 5, 2004. That experiment is generally considered successful. As a result, upon the recommendation of the local bankruptcy rules advisory committee, those local rules are adopted with some minor changes and clarifications.

Other changes were also made. Each local rule was reviewed to clarify and simplify as appropriate.

The numbering of each rule was also reviewed and changed as necessary. Under F.R.Bankr.P. 9029(a), the numbering of local bankruptcy rules is prescribed by the Judicial Conference of the United States according to subject matter. Our proposed local rules are not sequentially numbered because the local rules do not address all of the potential subjects in the prescribed numbering system.

Finally, the Court reviewed each of the general and administrative orders adopted over the years to determine which are still relevant and which should be incorporated into the local rules. As a result, most existing general and administrative orders will be abrogated.

These amended local rules are the result of a process that commenced in the summer of 2006 when the Court requested that the rules subcommittee of the Court's advisory committee review the

local rules and propose a draft that would incorporate any necessary and recommended changes in the Court's local rules. That committee accepted the challenge with vigor and commitment. It divided its work among four subcommittees, which met on multiple occasions. The committee also sought and received comments from the bar. The committee then compiled its subcommittees' recommendations and submitted its report and recommendation to the Court on March 28, 2007. The Court is profoundly appreciative of dedicated work of the 48 members of the committee.

For the next several months, the Court reviewed and seriously considered each of the committee's proposed changes. Then, on September 21, 2007, the Court published the proposed amended rules for comments with a deadline of October 24, 2007. In this comment period, the Court received 17 comments from 13 attorneys. In addition, the rules subcommittee reviewed the proposed amended rules in depth again and submitted extensive comments and proposed additional changes for the Court's consideration. Each comment and the committee's analysis were distributed to each of the bankruptcy judges and were given full consideration. The judges met in five meetings over several hours to review each of the comments. In addition, the judges met twice with the chapter 13 trustees of the district to clarify, simplify and expedite our chapter 13 discharge procedures.

Explanatory comments are attached to each amended local rule. Those comments are offered to explain the source and scope of any changes, rather than to explain or clarify the proposed rules themselves.

The amended local rules require the use of several new local forms and refer to other items on the Court's website. A list of these items is compiled on page 76. These will be available on the Court's website by April 1, 2008.

Several local bankruptcy bar organizations are planning a seminar on these local rules for the afternoon of April 18, 2008. Details will follow shortly. Please plan to attend.

March 4, 2008

Steven Rhodes
Chief Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

LOCAL RULES

(Note: The comment after each rule is intended only to describe the effect of any current amendments to the rule, not the intent or purpose of the rule itself.)

Effective May 5, 2008

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Rule 1002-1 Bankruptcy Petition and Cover Sheet

(a) Number of Copies. When a Traditional Filing has been authorized under the ECF Procedures, only the original shall be filed, except that the debtor shall file an original and one copy of a chapter 9 petition or a chapter 11 petition.

(b) Cover Sheet. A petition shall be accompanied by a completed form “Bankruptcy Petition Cover Sheet,” available on the court’s website.

Comment

Paragraph (a) is renumbered from current LBR 1007-1(b). The number of copies required for Traditional Filings is also reduced.

New paragraph (b) is consistent with long-standing local practice.

Rule 1007-1 Schedules and Other Initial Papers

(a) Failure to Timely File Initially Required Documents. If the debtor fails to timely file the schedules, statement of financial affairs or other required documents and fails to timely move for an extension of time under Local Rule 9006-1(a) before the deadline for filing those documents, the debtor’s voluntary petition may be dismissed without a hearing unless, within 20 days after the petition is filed, a party files a request for a hearing. If a party files a timely request for a hearing, the court will schedule a hearing with notice to any party who requested it, the debtor, the trustee and the United States trustee.

(b) Pro Se Declarations. In a case in which the debtor is not represented by an attorney, the debtor shall file a completed form “Declaration Under Penalty of Perjury for Debtor(s) Without An Attorney,” available on the court’s website. The deadline to file the declaration form is 15 days after the petition is filed.

(c) Payment Order in a Chapter 13 Case.

(1) Within 15 days after filing a chapter 13 petition or converting a case to chapter 13, the debtor shall submit for entry one or more proposed initial payment orders, as necessary to make plan payments, using the following forms available on the court’s website:

(A) “Third Party Payment Order” or

(B) “Electronic Transfer of Funds Payment Order,” but only if a Third Party Payment Order

cannot be effectuated.

(2) These proposed orders shall be submitted on an *ex parte* basis and shall not be submitted to the trustee for concurrence. Upon entry, the trustee shall serve a copy of the payment order(s) as appropriate.

(3) By the deadline under subparagraph (c)(1), the debtor may instead file a motion under Local Rule 9014-1, or a stipulation with the trustee, for an order excusing the requirement of a payment order, for good cause.

(4) A payment order may be amended only by (1) an order entered upon a motion under Local Rule 9014-1, (2) an order entered upon a stipulation with the trustee, or (3) a provision in an order confirming the plan.

(5) This rule does not affect a debtor's duty to commence or continue plan payments.

(d) Service of the Plan in a Chapter 13 Case. The debtor shall promptly serve a copy of the plan on all creditors and other parties in interest and file a certificate of service. The debtor shall not serve a copy of the plan on the trustee.

(e) Application to Pay the Filing Fee in Installments. The deadline to file an application and a proposed order authorizing payment of the filing fee in installments is 15 days after the petition is filed.

(f) Section 521(a)(1)(B)(iv) Material. The debtor shall not file the material identified in § 521(a)(1)(B)(iv) - "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 any employer of the debtor." Instead, if the debtor is represented by an attorney, the debtor's attorney shall transmit this material to the trustee in PDF format by email at least 5 days prior to the first date set for the meeting of creditors, but not later than 45 days after the date of the filing of the petition. If the debtor is not represented by counsel, the debtor shall mail or deliver this material to the trustee at least 7 days before the first date set for the meeting of creditors, but not later than 45 days after the petition was filed. Immediately upon compliance, the debtor shall file a certification of compliance with this requirement.

(g) Schedule C in a Joint Case. Each debtor in a joint case shall file a separate schedule C.

Comment

Paragraph (a) is renumbered from current LBR 1007-1(d).

Paragraph (b) is renumbered from current LBR 1007-1(f).

Paragraph (c) is renumbered from current LBR 1007-1(g)(1)(B) and (2), and is revised to clarify that a proposed payment order in a chapter 13 case need not be submitted to the trustee for approval; that the trustee (not the debtor) shall serve the order; and that an order amending a payment order may be entered only upon a motion under Local Rule 9014-1 or a stipulation with the trustee. This paragraph also requires a payment by electronic funds transfer if a traditional payment order cannot be effectuated. Also the debtor is required to submit multiple pay orders if a combination of pay orders is necessary for the debtor to make plan payments.

Paragraph (d) is renumbered from current LBR 1007-1(g)(3) and eliminates the requirement to serve the plan on the trustee, due to ECF.

Paragraph (e) is renumbered from current LBR 1007-1(g)(1)(C).

Paragraph (f) is derived from Administrative Order 05-17, dated October 27, 2005.

New paragraph (g) clarifies the requirement that a husband and wife who file a joint case shall file separate claims of exemption.

Rule 1007-2 The List of Creditors and the Matrix

(a) When a Matrix of Creditors and Matrix of Equity Security Holders Are Required;

Contents. The requirements of this paragraph apply when a voluntary bankruptcy petition is filed by a Traditional Filing as authorized under ECF Procedures. The petition shall be accompanied by (1) a matrix listing the names, addresses and zip codes of the United States trustee, and then, in alphabetical order, all creditors; and (2) in a chapter 11 case, a separately labeled matrix listing the names, addresses and zip codes of equity security holders. These matrices shall comply with the “Guidelines for a Traditional Filing Matrix,” available on the court’s website. A debtor with more than 100 creditors shall, instead of filing a printed matrix, provide to the clerk a computer disk prepared using the “Guidelines for a Computer Disk Matrix,” available on the court’s website.

(b) ECF Filed Petition. When a petition is filed by ECF, the matrices described in paragraph (a) shall not be filed.

(c) Requirements for Listing Government Agencies. This paragraph applies to the list of creditors uploaded in ECF when a petition is filed and to the creditor matrix when a petition is filed by a Traditional Filing. When any department or agency of the United States is listed in the matrix,

the list of creditors shall also include the United States Attorney for the Eastern District of Michigan (Attention: Civil Division). The address for the office of the United States Attorney shall correspond to the court location where the petition is assigned and all subsequent service on the United States Attorney shall be at that address. When an agency or department of the United States is listed, the proper address shall be obtained from the United States Attorney's Office and shall be included. The United States trustee's office shall not be included.

Comment

Paragraph (a) eliminates the requirement to file a matrix of creditors when a case is filed by ECF. In that event, the matrix is superfluous because the ECF filing process requires the filer to upload the list of creditors and ECF uses that list for notice purposes.

Paragraph (b) clarifies the requirements for government addresses when a filing is either by a Traditional Filing or by ECF.

Rule 1007-6 Credit Counseling Compliance

(a) Certification Procedures. A debtor who files a certification under § 109(h)(3)(A) shall also file a motion for approval of the certification. The debtor shall file the certification and the motion with the petition, serve it on all parties and file a certificate of service. The deadline to file a response shall be 10 days after service. If no timely response is filed, the certification shall be deemed satisfactory under § 109(h)(3)(A)(iii) without a hearing or further order. The motion shall be accompanied by a notice that the deadline to file a response is 10 days after service and that if no response is filed, the court will deem the certification satisfactory under § 109(h)(3)(A)(iii) without a hearing.

(b) Additional Extension of Time. A motion for an extension of time under § 109(h)(3)(B) shall be served on all parties and may be accompanied by an *ex parte* motion for an expedited hearing. If the court grants an expedited hearing, the debtor shall promptly serve a notice of the hearing on all parties and file a certificate of service.

(c) Motion to Excuse Credit Counseling. A motion seeking relief under § 109(h)(4) shall be filed under Local Rule 9014-1.

Comment

Under Administrative Order 05-7, dated October 12, 2005, this rule was adopted as an interim local rule when BAPCPA 2005 was enacted. It is renumbered from current LBR 1007-3.

Rule 1009-1 Amendment of Initial Papers

(a) Procedure. An amended petition, schedule, statement of financial affairs or matrix shall be accompanied by a completed form “Cover Sheet for Amendments,” available on the court’s website. The amended paper shall be signed by the amending party. If several papers are contemporaneously amended, the amending party may file one signed affirmation relating to all of the amended papers in the same form as required on the original documents. The amended paper shall completely disclose all information required by the form. A “supplemental” paper that merely provides additional information shall not be filed.

(b) Service of Amendment. The debtor shall serve a copy of the amendment and the “Cover Sheet for Amendments” on all entities affected by the amendment and file a certificate of service.

(c) Adding an Omitted Creditor More Than 10 Days Prior to the Meeting of Creditors. A debtor who, more than 10 days prior to the commencement of the meeting of creditors, amends a schedule to add a creditor not previously listed, shall comply with paragraphs (a) and (b).

(d) Adding an Omitted Creditor After 10 Days Prior to the Meeting of Creditors. If an amendment adding a creditor is filed after 10 days prior to the commencement of the meeting of creditors:

(1) The deadlines under F.R.Bankr.P. 4007 and F.R.Bankr.P. 4004 for the filing of complaints under § 523 or § 727, respectively, and the deadline under F.R.Bankr.P. 4003(b) to object to the debtor’s claim of exemptions are extended to allow the added creditor the same number of days in which to file such a complaint or objection as the creditor would have had if the creditor had been properly scheduled when the order for relief was entered;

(2) The creditor added by the amendment shall be entitled to examine the debtor under oath with any reasonable expense to be borne by the debtor; and

(3) The debtor shall serve the amended document, a notice containing a copy of paragraph (d) of this rule and a copy of the notice of commencement on the added creditor and file a certificate

of service.

Comment

Paragraph (a) is amended to clarify that an amended schedule must be a complete disclosure of all required information and not simply a “supplemental” schedule that only adds the new information. Current LBR 1009-1(d)(2), stating the consequences of an amendment, is abrogated as unnecessary. The rule is internally renumbered. Otherwise, this local rule is unchanged in substance.

Rule 1015-1 Joint Administration of Cases of Affiliated Debtors

(a) The Motion. A motion for joint administration of affiliated debtors filed under F.R.Bankr.P. 1015(b) and (c) shall contain detailed information concerning:

- (1) The disclosure required by F.R.Bankr.P. 1007(a)(3);
- (2) Any inter-debtor claims and whether they are disputed or undisputed;
- (3) Any guaranties or co-obligations among the debtors and non-debtor equity holders;
- (4) Whether any of the debtors is a publicly traded entity; and
- (5) Inter-company transfers within one year before the order for relief.

(b) The Proposed Order. The proposed order attached to the motion shall include a paragraph identifying the proposed caption to be used for the jointly administered cases. The caption shall use the name of a publicly traded entity, if any, with the other debtors indicated by the phrase, “et al.” If there is no publicly traded entity, the name of the debtor to be used shall be the name of the debtor with the first filed case. The case number to be used for the jointly administered cases shall be the lowest number of the cases. There shall also be a footnote to the caption stating that the case is jointly administered with the cases of other debtors, identifying the names and case numbers of the cases of the other debtors.

(c) Service of the Motion. A motion requesting joint administration shall be served on the United States trustee, the members and counsel of any official committees (or, if no official committee is yet formed, the list of creditors filed by the debtors under F.R.Bankr.P. 1007(d)), secured creditors, taxing authorities and any other persons as directed by the court.

(d) Service of the Order. The debtors shall serve the joint administration order on all of the creditors in each of the jointly administered cases and file a certificate of service.

(e) Subsequent Filings. Except as provided in paragraph (f), if the motion for joint administration is granted, then thereafter all papers shall be filed only in the lead case and shall include the footnote described in paragraph (b).

(f) Proof of Claim. A proof of claim in jointly administered cases shall be filed in the case of the debtor against whom the claim is asserted rather than in the lead case.

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. New paragraph (e) clarifies the consequences of an order granting joint administration. New paragraph (f) clarifies that a proof of claim shall be filed in the case of the debtor against whom the claim is asserted.

Rule 1017-1 Conversion from Chapter 13 to Chapter 7

When a debtor whose debts are primarily consumer debts converts a chapter 13 case to a chapter 7 case, the debtor shall file Official Form 22A within 15 days after filing the notice of conversion or the entry of an order converting the case. If the case is dismissed because the debtor failed to timely file the statement in the converted case, this dismissal is without prejudice to the debtor's right to move to reinstate the case under Local Rule 9024-1(c) within 10 days after entry of the dismissal order.

Comment

This new rule is derived from Administrative Order 06-08, dated February 14, 2006. The new last sentence preserves the debtor's right to file a motion for reinstatement of the case in appropriate circumstances.

Rule 1017-2 Dismissal for Failure to Furnish Tax Returns Under § 521(e)(2)(B) or (C)

Immediately after filing a motion under § 521(e)(2)(B) or (C), the movant shall contact the judge's courtroom deputy clerk to obtain a hearing date. The clerk will cause a notice of the hearing to be served on all parties in interest. Any party in interest may be heard at the hearing. Written objections are permitted but not required. If the movant seeks a hearing on the motion before the

meeting of creditors, the movant shall file the motion no later than 3 days after the expiration of the deadline in § 521(e)(2)(A)(i).

Comment

Under Administrative Order 05-7, dated October 12, 2005, this local rule was adopted as an interim local rule when BAPCPA 2005 was enacted. It is renumbered from current LBR 1007-1(h).

Rule 1020-1 Procedures for a Small Business Chapter 11 Case

(a) Objection to Designation. An objection to the debtor’s designation as a small business debtor under F.R.Bankr.P. 1020(b) shall be by motion under Local Rule 9014-1 served on all parties in interest.

(b) Request for F.R.Bankr.P. 1020(c) Determination. A request for a determination under F.R.Bankr.P. 1020(c) shall be by motion under Local Rule 9014-1 served on all parties in interest.

Comment

Under Administrative Order 05-7, dated October 12, 2005, this local rule was adopted on an interim basis when BAPCPA 2005 was enacted. The court also adopted the “Interim Bankruptcy Rules” approved by the Judicial Conference Advisory Committee on Bankruptcy Rules, including F.R.Bankr.P. 1020(b) and (c) that are referenced in this local rule. It is expected that this interim rule will be adopted as part of the Federal Rules of Bankruptcy Procedure on December 1, 2008.

Rule 1071-1 Court Divisions and the Transfer of a Case or Proceeding

(a) Court Locations. The work of the court is divided by county among court locations as follows:
Detroit: Jackson, Lenawee, Macomb, Monroe, Oakland, St. Clair, Sanilac, Washtenaw and Wayne Counties;

Flint: Genesee, Lapeer, Livingston and Shiawassee Counties;

Bay City: Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw and Tuscola Counties.

(b) Identifying the Appropriate County. A petition initiating a bankruptcy case shall be filed

identifying the county in which the domicile, residence, principal place of business or principal assets of the person or entity that is the subject of such case has been located for the 180 days immediately preceding such commencement, or for a longer portion of such 180-day period than the domicile, residence, principal place of business, or principal assets of such person were located in any other court location.

(c) Transfer of Case or Proceeding.

(1) Upon notice and hearing, a judge may, in the interest of justice or for the convenience of the parties, transfer a case or proceeding filed in a proper location to any other court location within the district.

(2) If a case is filed in an improper court location, a judge may transfer it to a proper court location on stipulation of the debtor and the United States trustee or upon motion of the United States trustee or any party in interest.

Comment

This rule is renumbered from Local Rule 1071-1(a), (b) and (g). The last clause of paragraph (a), authorizing the filing of a companion case where the first case was filed, is eliminated as unnecessary under ECF. It is otherwise unchanged in substance.

Rule 1073-1 Assignments of Cases

(a) Assignments to Judges.

(1) A petition from a county assigned or transferred to the Detroit location under Local Rule 1071-1 shall be assigned to a judge by a blind draw system adopted by the court except that a companion case shall be assigned to the judge to whom the first companion case was assigned or to the judge who is appointed to fill the vacancy of that judge.

(2) A petition from a county assigned or transferred to the Bay City or Flint locations under Local Rule 1071-1 shall be assigned to the judge responsible for those court locations.

(3) All adversary proceedings arising in a case shall be assigned to the judge to whom the case is assigned. If the case in which the adversary proceeding arose is pending in another district, the adversary proceeding shall be assigned in accordance with the assignment practices of the

court location where the adversary proceeding is filed.

(4) When a judge enters an order for recusal with respect to a case, a particular matter arising therein or an adversary proceeding, reassignment shall be by blind draw to a judge at Detroit.

(5) If any matter requires urgent or immediate attention and the judge to whom the matter has been assigned is not or will not be available, then the clerk will assign the matter to another judge available at Detroit by blind draw.

(b) Companion Cases. Companion cases are cases involving:

(1) Identical individuals or entities;

(2) A corporation and any majority shareholder thereof;

(3) Affiliated corporations;

(4) A partnership and any of its general partners;

(5) An individual and his or her general partner;

(6) An individual and his or her spouse; or

(7) Any substantial identity of financial interest or assets.

(c) Reassignment of a Case or a Proceeding.

(1) Consolidated cases or jointly administered cases under F.R.Bankr.P. 1015 shall normally be reassigned to the judge to whom the case with the lowest filing number is assigned.

(2) To facilitate the administration of the court's docket and for good cause shown, a case or proceeding may be reassigned by the chief judge from one judge to another judge with the consent of the judges involved.

Comment

Paragraphs (a), (b) and (c) are renumbered from current LBR 1071-1(e), (c) and (f) respectively and are unchanged in substance. New paragraph (a) is amended to conform to ECF.

Rule 1074-1 Filing Authorization for a Corporation, a Partnership or an Entity Other Than an Individual

In a case commenced by a voluntary petition, filed by a corporation, partnership or any other entity other than an individual, the debtor shall file a copy of the duly attested resolution or other

appropriate document authorizing the bankruptcy filing . The deadline to file this paper is 15 days after the filing of the petition.

Comment

This local rule is unchanged in substance.

Rule 2002-1 Authorization for a Special Service List

(a) Order for Special Service List. In a Large Bankruptcy Case, counsel for the debtor may submit a proposed order for a Special Service List, as described in paragraph (b). In any other case, such an order may be entered upon the filing of a motion for cause shown, served on all parties designated in paragraph (b) and the 20 largest unsecured creditors. Upon entry of the order, counsel for the movant shall serve the order on all parties on the matrix and file a certificate of service.

(b) The List. For matters requiring notice under F.R.Bankr.P. 2002(a)(2)-(6), the Special Service List shall include, at a minimum:

- (1) The United States trustee;
- (2) The debtor;
- (3) The debtor's general and local bankruptcy counsel;
- (4) General and local counsel for each committee;
- (5) Any secured creditors and their counsel;
- (6) All taxing authorities; and
- (7) Parties added to the Special Service List under paragraph (c).

(c) Additions and Deletions. Parties may seek to be added to or deleted from the Special Service List by filing a written request and serving it on the parties designated in paragraph (b).

(d) Maintaining the List. At least every 15 days during the first 60 days of the case and thereafter at least every 30 days, the debtor's counsel (or counsel for the trustee, if one is appointed) shall maintain and update the Special Service List by: (1) making any requested additions and deletions; (2) filing the updated Special Service List; (3) serving the updated Special Service List on the parties listed thereon who are not ECF participants; and (4) filing a certificate of service.

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004.

Rule 2002-4 Service in a Chapter 7 Case After the Claims Filing Deadline

Under F.R.Bankr.P. 2002(h), after the claims filing deadline in a chapter 7 case, a notice required by F.R.Bankr.P. 2002(a) needs to be served on only the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed and creditors that may still file timely claims. If the trustee determines that additional assets will be available for distribution after distributions under § 726(a)(1)-(5) are made, the trustee shall give notice to that effect to all parties on the matrix, so that additional late filed claims may be filed and distributions made under § 726(a)(3) prior to making distributions under § 726(a)(6).

Comment

This new rule is intended to reduce expenses by eliminating service on creditors who have not filed a timely claim.

Rule 2002-5 Request to be Added to the Electronic Notice List

To receive notice in a case, an ECF Filer shall file an appearance.

Comment

This new rule establishes a means for any interested person to receive notice of filings in a case.

Rule 2002-6 Notice to Equity Security Holders

The debtor shall serve all notices under F.R.Bankr.P. 2002(d) and file a certificate of service.

Comment

This new local rule assigns to the debtor the obligation to serve required notices to equity security holders.

Rule 2003-1 Debtor's Failure to Appear at the Meeting of Creditors

(a) When the Debtor Fails to Appear. If a debtor in a voluntary case fails to appear at a meeting of creditors, the trustee may give notice to creditors of the trustee's intent to file a motion to dismiss the case by an announcement at the meeting of creditors. The announcement shall advise that:

- (1) The trustee intends to file a motion to dismiss the case for the debtor's failure to attend the meeting;
- (2) The deadline for a creditor to file an objection to dismissal is 10 days after the motion is filed; and
- (3) If an objection is not timely filed, the court may enter an order dismissing the case without a hearing.

The trustee shall promptly file a proof of such oral notice with the motion to dismiss.

(b) Response to Motion to Dismiss. The deadline to file a response to the motion is 10 days after the motion is filed. The debtor's response shall include affidavits or declarations of persons with actual knowledge of any facts explaining or justifying the debtor's failure to appear at the meeting of creditors together with any documentary corroborating evidence.

(c) Upon a Failure to Respond. If no party files a timely response, the trustee may file a certification of non-response. The court may thereafter enter an order dismissing the case without a hearing.

(d) Upon a Timely Response. If a timely response is filed, the court will schedule a hearing with notice to the trustee, the debtor and any creditor that filed a timely objection.

(e) A New Date for a Meeting of Creditors. When a debtor fails to appear at a meeting of creditors and subsequently a new date for a meeting of creditors is established, then:

- (1) The new date shall be stated in an order entered upon either a motion or a stipulation between the trustee and the debtor;
- (2) The deadlines under F.R.Bankr.P. 4007 and F.R.Bankr.P. 4004 for filing a complaint under § 523 or § 727, respectively, are extended as if the new date for the meeting of creditors is the first date scheduled; and
- (3) The clerk will provide notice of the new date for the meeting of creditors, the new deadlines under subparagraph (e)(2) and, if established, the new date for the hearing on confirmation of

the chapter 13 plan.

Comment

This amended rule extends the time to respond to a motion to dismiss to 10 days.

New paragraph (e) clarifies the requirement that the new date for the meeting of creditors shall be in an order, automatically extends the deadlines that are otherwise applicable, and clarifies the clerk's responsibility regarding notice of the new dates and deadlines.

Rule 2003-2 Debtor's Documents at the Meeting of Creditors

In a case under chapter 7, 12 or 13, or in an individual case under chapter 11, to the extent they are in the debtor's possession or are readily available, the debtor shall have available at the meeting of creditors, neatly arranged, all of the following for one year prepetition:

- (a) Documents to support all entries on schedule I, other than previously provided payment advices and tax returns;
- (b) Documents to support all entries on schedule J, including canceled checks, paid bills or other proof of expenses;
- (c) Certificates of title (originals if available, otherwise copies) for currently owned titled assets, including vehicles, boats and mobile homes (regardless of when acquired);
- (d) A current statement from each secured creditor stating the amount owed;
- (e) Originals of bank books, check registers, other financial accounts, bonds, stock certificates, and bank, brokerage and credit card statements;
- (f) Copies of leases, mortgages, deeds and land contracts (These documents shall be provided for the time period six years prepetition.);
- (g) Copies of life insurance policies either owned by the debtor or insuring the debtor's life;
- (h) Current property tax statements;
- (i) Asset appraisals;
- (j) Keys to non-exempt buildings and vehicles;
- (k) Divorce judgments and property settlement agreements;
- (l) Casualty insurance policies;
- (m) Documents establishing the scheduled amounts of joint debts, if the debtor claims an entireties

exemption;

- (n) The name, address and telephone number of each holder of a Domestic Support Obligation; and
- (o) Any other specific document requested by the trustee relating to the schedules or statement of financial affairs, if requested in writing at least 7 days before the first meeting of creditors.

Comment

This local rule is revised to expand the list of documents that a debtor must provide to the trustee. It also clarifies the relevant time periods for the documents.

Rule 2003-3 Information for the Appointment of a Committee

When a motion for an order designating a case as a Large Bankruptcy Case is filed or if the court enters such an order *sua sponte*, the debtor shall immediately e-mail, fax or hand deliver to the United States trustee's office the name of the contact person, address, telephone and fax numbers and email address of each entity listed on the debtor's filing under F.R.Bankr.P. 1007(d).

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. It is unchanged.

Rule 2003-4 Duties of a Committee Regarding Creditor Access to Information

Any committee appointed under § 1102 shall serve a notice of the appointment of the committee on all creditors holding claims of the kind represented by that committee and file a certificate of service. The deadline to serve this notice is 45 days of appointment of the committee. This notice shall also provide for a procedure for creditors and their attorneys to be placed on a service list, maintained by the committee, of those who elect to receive information under § 1102(b)(3). This notice shall also provide for a procedure for creditors to provide comments to the committee.

Comment

This new local rule establishes a procedure for creditors to receive information about the case from the creditors committee and to provide comments.

Rule 2004-1 Motion to Examine Under F.R.Bankr.P. 2004

(a) Motion to Examine the Debtor. Any person who seeks to examine the debtor under F.R.Bankr.P. 2004 shall contact the debtor's attorney to arrange a mutually convenient date, time and place before filing a motion. If agreed, a stipulation for an order shall be filed, stating the date, time and place for the examination, and the documents to be produced. If the debtor's attorney does not agree after the requesting party has made all reasonable efforts, a motion for examination of the debtor may be filed under Local Rule 9014-1, stating specifically the efforts that were made, the proposed date, time and place of the examination, and the documents sought.

(b) Motion to Examine Any Other Person. Any other motion under F.R.Bankr.P. 2004 shall be filed under Local Rule 9014-1. The moving party shall serve the motion on the party proposed to be examined.

Comment

This local rule is revised to clarify that the locally required procedure for seeking acquiescence to an examination under F.R.Bankr.P. 2004 applies only to an examination of the debtor. It also clarifies that the procedure to examine any other party is by motion with notice to the party to be examined.

Rule 2014-1 Application for Court Approval of the Employment of a Professional

(a) Disclosing Connections. An application for the approval of the employment of a professional shall include or be accompanied by a statement of the professional that the employment complies with § 327(a). This statement shall also disclose all of the connections of the professional and associates of the professional with the debtor, creditors or any other party in interest, and their respective attorneys and accountants as required by F.R.Bankr.P. 2014. The term "connection" as used herein is defined also to include any family relationship as defined in § 101(45).

(b) United States Trustee Concurrence. If the United States trustee concurs in an application for the approval of the employment of a professional, the concurrence shall be indicated by the signature of the United States trustee on a statement of concurrence to the proposed order appointing the professional, which shall be filed. If a statement of concurrence is filed, the proposed order approving the employment may be submitted for entry. If the United States trustee does not concur

within 5 days, the applicant may contact the judge's courtroom deputy clerk and obtain a hearing date on the application. The order shall be deemed effective as of the date of the filing of the application, unless the court orders otherwise.

(c) Appointing Chapter 7 Trustee As Attorney. Unless the trustee is also a creditor in the case, whenever a chapter 7 panel trustee seeks to be appointed as trustee's attorney, an order appointing that person as attorney shall be deemed to have been entered without the formal entry of an order, effective upon the filing of the verified statement required by the last sentence in F.R.Bankr.P. 2014(a).

(d) Other Appointments. An application for the appointment of an auctioneer, appraiser or real estate sales agent shall also contain a statement of the fee or commission proposed to be paid. With respect to the appointment of an auctioneer or an appraiser, the application shall further contain a statement as to the amount of expenses and the number of hours of labor anticipated.

(e) Using Local Rule 9014-1. Nothing herein precludes a party from utilizing Local Rule 9014-1 to seek an order approving the employment of a professional.

Comment

Paragraphs (a)-(d) are unchanged, except that the procedure for indicating concurrence by the United States trustee is modified for ECF. Paragraph (e) allows a professional the opportunity to obtain approval of employment after notice to all parties in interest.

Rule 2014-2 Prohibited Conduct in Connection with the Appointment of an Attorney, Accountant or Agent for an Official Committee

Neither the debtor, nor an attorney or accountant for, or insider of, the debtor shall attempt directly or indirectly to influence the selection of attorneys, accountants or other agents by any official committee. It is the affirmative duty of any member of the bar of the court to inform the United States trustee in writing of any conduct in violation of this rule.

Comment

This rule is unchanged in substance.

Rule 2015-1 Trustee’s Report of Undisclosed Assets

If a trustee discovers an asset that the debtor failed to disclose and the trustee’s discovery of the asset occurs after the debtor has testified at the meeting of creditors that the schedules are accurate, then the trustee shall, as promptly as practicable after the discovery, file a completed form “Trustee’s Report of Undisclosed Asset,” available on the court’s website.

Comment

This new rule is intended to identify cases in which the debtor has not fully disclosed assets, as required.

Rule 2015-2 Quarterly Income and Expense Statement in a Business Chapter 13 Case

Within 30 days of the close of each calendar quarter, a chapter 13 debtor engaged in business shall file a statement of income and expenses for that quarter.

Comment

This rule is unchanged in substance, except the requirement to serve the chapter 13 trustee is abrogated due to ECF.

Rule 2015-5 Trustee’s Procedures Upon Chapter 13 Plan Completion

(a) Procedure Leading to Entry of the Debtor’s Discharge. As promptly as practicable after the completion of plan payments by the debtor to the trustee, the trustee shall file and serve on the debtor and all holders of allowed claims a notice stating that:

- (1) The debtor’s payments to the trustee under the plan have been completed.
- (2) The order of discharge will include findings that:
 - (A) All allowed claims have been paid in accordance with the plan, and
 - (B) With respect to any secured claim that continues beyond the term of the plan, any prepetition or post-petition defaults have been cured and the claim is in all respects current, with no escrow balance, late charges, costs or attorney fees owing.
- (3) The order of discharge will direct that:
 - (A) Any creditor who held a secured claim that was fully paid shall execute and deliver to

the debtor a release, termination statement, discharge of mortgage or other appropriate certificate suitable for recording; and

(B) Any creditor who holds a secured claim that continues beyond the term of the plan shall take no action inconsistent with the above findings.

(4) Any party may file an objection: to the trustee's notice under subparagraph (a)(1); to assert that the debtor is not current in the payments that the debtor was authorized to make directly to a creditor; to the proposed findings as stated in subparagraph (a)(2); or to the proposed terms of the order of discharge as stated in subparagraph (a)(3).

(5) The deadline to file an objection is 30 days after service of the notice. If no objection is timely filed, the court may enter an order of discharge containing the provisions of subparagraphs (a)(2) and (a)(3) without a hearing. If a timely objection is filed, the court will delay entry of the order of discharge until it resolves the objection and a hearing will be scheduled with notice to the objecting party, the debtor and the trustee.

(6) To avoid defaulting on any continuing secured debt obligation, the debtor must immediately begin making the required payments on that obligation.

(7) The chapter 13 discharge does not discharge the debtor from any obligation on any continuing secured debt payments that are due after the date of the debtor's last payment under the plan.

The trustee shall file a certificate of service of this notice.

(b) Additional Notice in a Case Filed on or after October 17, 2005. In a case filed on or after October 17, 2005, the notice under paragraph (a) shall also state that unless a party timely objects under subparagraph (a)(4), the court may find without a hearing that there is no reasonable cause to believe that:

(1) Section 522(q)(1) may be applicable to the debtor; and

(2) There is pending any proceeding in which the debtor may be found guilty of a felony of the kind specified in § 522(q)(1)(A) or liable for a debt of the kind described in § 522(q)(1)(B).

(c) Application. Subparagraphs (a)(2)(B) and (a)(3)(B) shall not apply to the extent that the court has entered an order providing otherwise.

(d) Trustee's Final Report and Account. Within 120 days after the trustee files the notice required

under paragraph (a), the trustee shall file the final report and account and serve it or a summary thereof on all holders of allowed claims and file a certificate of service.

(1) The final report shall state the allowed amount of each claim and the amount paid thereon.

(2) The report and any summary thereof that is served shall also state that the deadline to file an objection to the trustee's final report and account is 30 days after service of the final report; that if no objection is timely filed, the trustee may be discharged and the case may be closed without a hearing; and that if a timely objection is filed, a hearing will be scheduled with notice to the objecting party, the debtor and the trustee.

Comment

This rule combines the two local rules numbered 2015-5 for cases before and after the enactment of BAPCPA 2005. It is derived in part from the local rules adopted on an interim basis by Administrative Order 05-7, dated October 12, 2005, upon the enactment of BAPCPA 2005.

Paragraph (a) establishes a new procedure that will significantly shorten the time for entry of the debtor's discharge.

Paragraph (b) recognizes the additional requirements for a discharge under BAPCPA 2005.

Paragraph (c) allows the court the flexibility to address circumstances appropriate for an exception to certain requirements of paragraph (a).

Paragraph (d) establishes a new, separate procedure for the final report and account.

Rule 2016-1 Approval of Fees

(a) An Application by an Attorney or Accountant. An application by an attorney or an accountant for compensation and reimbursement under § 330 or § 331 shall contain the disclosures required by F.R.Bankr.P. 2016(a), shall comply with the following subparagraphs (1)-(10), numbered as such, and shall include the exhibits described in subparagraphs (11)-(17).

(1) State separately:

(A) The total amount of compensation sought to be approved;

(B) The amount of expenses sought to be approved; and

(C) The balance of any retainer on deposit with the applicant that remains after the payment of prior fee awards.

This statement shall be incorporated into the notice of the fee application served on all parties in interest.

(2) Identify the time period during which the services for which the award is sought were rendered.

(3) Provide a narrative summary explaining the services performed and how the services benefitted the estate. In addition, in a chapter 13 case, a pre-confirmation or post-confirmation fee application that requests approval of fees and expenses totaling more than \$3,500.00 in that application shall specifically identify the circumstances of the case that make the amount requested reasonable.

(4) Unless unduly burdensome, with respect to each adversary proceeding, state or other federal litigation or administrative proceeding in which the applicant is or was involved, describe:

(A) The nature of the action instituted;

(B) The relief requested;

(C) The dollar amount directly or indirectly involved;

(D) The issues, both factual and legal, in sufficient detail to permit the court to evaluate the problems confronting the attorney; and

(E) The results obtained since the prior fee application, if any.

(5) Describe the current status of the bankruptcy case. In addition:

(A) In a chapter 7 case, provide a summary of the administration of the case, including all money received and disbursed in the case, the total amount of funds in the estate, the date the case is expected to close, and whether it is appropriate to make an interim disbursement to creditors without prejudicing the rights of any creditors.

(B) In a chapter 11 case, state whether all monthly operating reports have been timely filed and whether a plan has been or will be timely filed.

(C) In a chapter 13 case, state the impact on the plan resulting from approval of the fee application.

(6) Describe the nature of any professional services to be provided in the future.

(7) State the amount and nature of accrued unpaid administrative expenses.

(8) Identify each specific instance in which an award is sought for the services of more than one

professional and paraprofessional and the justification for each such specific instance.

(9) State the amount of compensation sought in prior applications in the case by the applicant and the court's disposition of each application.

(10) State whether the party on whose behalf the applicant is employed was given the opportunity to review the application and whether that party has approved the requested amount.

(11) Exhibit 1 shall be the proposed order granting the application.

(12) Exhibit 2 shall be a copy of the order approving the employment of the applicant.

(13) Exhibit 3 shall be a copy of the applicant's statement under F.R.Bankr.P. 2016(b) or if none was filed, a copy of the applicant's retention agreement.

(14) Exhibit 4 shall be a summary statement of the number of hours of service rendered by each professional and paraprofessional, the hourly rate of each and the blended hourly rate of the professionals not including the paraprofessionals.

(15) Exhibit 5 shall be in the format required by either subparagraph (A) or subparagraph (B).

(A) This subparagraph (A) applies if the cumulative amount of the fee application and the applicant's prior interim fee applications is equal to or less than the following:

\$15,000 for an attorney or an accountant for a chapter 7 trustee;

\$20,000 for an attorney or an accountant for a chapter 11 debtor in possession or a chapter 11 trustee; or

\$5,000 for an attorney for a chapter 13 debtor.

These amounts may be amended from time to time by administrative order. Exhibit 5 shall be an itemized time record in chronological order, of each specific service for which an award of compensation is sought. This itemized time record shall:

(i) state the date each service was rendered;

(ii) identify the attorney or paralegal who performed the service;

(iii) describe with particularity the services rendered; and

(iv) state the time spent performing the service in increments of a tenth of an hour.

(B) This subparagraph (B) applies if the cumulative amount of the fee application and the applicant's prior interim applications is greater than the applicable amount in subparagraph (A). Exhibit 5 shall be a disclosure as provided in the Fee Guidelines promulgated by the

United States Trustee Program, 28 C.F.R. Part 58 Appendix, subparagraph (b)(4) entitled “Project Billing Format.” In a chapter 7 case and in a chapter 11 case, the project categories in Exhibit A attached to the United States Trustee Fee Guidelines shall be used. The United States Trustee Fee Guidelines are available on the court’s website. In a chapter 13 case, the project categories in the “List of Chapter 13 Project Categories for Fee Applications,” available on the court’s website, shall be used.

(16) Exhibit 6 shall be a brief biographical statement of the professional experience of each professional for whom an award of compensation is sought. This statement shall include a list of all continuing professional education programs taught or attended by each professional in the two years before the application, specifying for each program the dates, the number of hours attended, the organizer and the subject or title of the program. The applicant is also encouraged to disclose for each professional any published articles and books, and any professional memberships, positions, activities, honors and board certifications.

(17) Exhibit 7 shall be an itemized statement of expenses for which reimbursement is sought. For each expense, this statement shall disclose its date and a description of the nature and purpose of the expense. For example, a request for mileage must include the date, the destination, the number of miles, the mileage rate and the reason for the trip.

(b) An Application Filed by a Chapter 7 Trustee or by Any Other Professional. This paragraph applies to an application for compensation and reimbursement filed by a chapter 7 trustee or by a professional other than one addressed in paragraph (a), including an appraiser, auctioneer, real or personal property sales broker, investment advisor or consultant. In addition to the requirements of F.R.Bankr.P. 2016(a), the application shall state the manner by which the requested compensation was computed and sufficient facts for the court to determine reasonable compensation under § 330. A request for reimbursement of expenses shall be supported by a statement disclosing for each expense its date and a description of the nature and purpose of the expense. Vouchers and invoices shall be made available for review by the United States trustee.

(c) Compensation for a Chapter 13 Debtor’s Attorney Without a Fee Application. Notwithstanding paragraph (a), an order confirming plan in a chapter 13 case may award the debtor’s attorney fees and expenses up to \$3,500.00 in total for pre-confirmation services.

(d) Compensation for a Chapter 13 Debtor’s Attorney Under a Fixed Amount.

Notwithstanding paragraph (a), the debtor’s attorney in a chapter 13 case may file an *ex parte* application that seeks allowance of fees and expenses that does not exceed the amount identified in F.R.Bankr.P. 2002(a)(6) if it has the endorsed approval of the debtor and the chapter 13 trustee. If the application lacks the endorsements, the applicant shall utilize Local Rule 9014-1 but notice needs to be sent only to the trustee and the debtor. The debtor’s endorsement shall state as follows:

“I, the debtor, understand that:

- (1) I do not have to sign this document unless I agree with it;
- (2) I signed this document on the date stated below;
- (3) When I signed this document, all the blanks were filled in;
- (4) I agree that the fees and expenses requested should be allowed.

Date signed:_____ Debtor signature:_____”

Comment

Paragraph (a) combines the fee application requirements for attorneys and accountants currently in paragraphs (a), (b) and (c) of LBR 2016-1.

Fee applications in chapter 13 cases are also covered by new paragraph (a). New subparagraph (a)(3), renumbered from LBR 2016-2(d), requires a chapter 13 debtor’s attorney to disclose the circumstances resulting in a fee in excess of \$3,500.00.

New subparagraph (a)(5)(A) requires disclosure of funds on hand and related matters in chapter 7 cases.

New subparagraph (a)(5)(B) requires disclosure of the status of financial statements and of progress toward a plan in chapter 11 cases.

New subparagraph (a)(6) requires disclosure of future services to be provided.

New subparagraph (a)(7) requires disclosure of unpaid accrued administrative expenses.

New subparagraph (a)(13) requires attachment of the 2016(b) statement or the applicant’s retention agreement.

New subparagraph (a)(15) requires a chronological time statement if the fee application requests fees less than the identified amount, but requires project based billing statements under the United States Trustee Fee Guidelines in an application above the identified amount.

Subparagraph (a)(16) adds a requirement to disclose recent participation in continuing legal education and encourages disclosure of other professional activities.

Paragraph (b) is renumbered from LBR 2016-1(d).

Paragraph (c) is renumbered from LBR 2016-2(b).

Paragraph (d) is renumbered from LBR 2016-2(c).

Rule 2016-3 Interim Payment of Fees

(a) Motion for Interim Fee Payments. In a chapter 11 case, for cause shown, any professional appointed under § 327 or any official committee may move for an order authorizing interim payments of fees and expenses pending a formal fee application. A motion seeking interim payment of fees or expenses pending a formal fee application shall address the following factors and any other relevant factors:

- (1) Whether a large amount of fees will accrue each month;
- (2) Whether a failure to allow interim payments would cause an undue hardship; and
- (3) Whether the professional or committee will be able to disgorge the interim payments if required.

In determining whether to permit an interim fee procedure, the court will consider all the facts and circumstances.

(b) Interim Fee Procedure. When the court enters an order granting a motion for interim fee payments to a professional or committee:

- (1) That professional or committee may file an itemized monthly fee and expense statement in compliance with the provisions of these rules and, when applicable, the United States Trustee Fee Guidelines, setting forth in detail the fees and expenses for which payment is sought for the preceding month, and shall serve a copy of the statement on the debtor and such additional parties as the court may designate and file a certificate of service.
- (2) Each statement shall include, as an exhibit, records that itemize services and expenses in conformity with the Federal Rules of Bankruptcy Procedure, these rules and the United States Trustee Fee Guidelines.
- (3) The deadline to file an objection to the interim fee statement is 15 days from the date of service of the interim statement. If no objection is timely filed, the debtor is authorized to pay in the ordinary course of business: (A) 80% of the professional fees; (B) 100% of the expenses incurred by the professional; and (C) 100% of the expenses incurred by committee members. The 20% professional fee hold back will be paid only in accordance with the Federal Rules of Bankruptcy Procedure, Local Rule 2016-1 and the bankruptcy code sections governing the award of fees.

(4) Any objection to any interim statement shall be filed and served on the affected professional or committee. The objection shall specify in detail the nature and basis of the objection and the amount not disputed. Pending resolution of the objection, the debtor is authorized to pay the professional or committee the amount requested in the particular monthly statement less the greater of: (A) the amount in dispute, or (B) the professional fee hold back provided in subparagraph (3) above. The parties shall endeavor to resolve any objection within 5 days. If a resolution is not achieved, the professional or committee may request a hearing.

(5) The failure of any party to object to an interim fee statement within the objection period does not constitute a waiver of the right to object to any interim or final fee application filed by any professional or committee or preclude any disgorgement of fees or expenses paid.

(c) Interim Fee Applications Required. If the court permits interim fee payments under this rule, the professional shall file interim fee applications every 120 days under § 331 and committee members shall file requests for allowance of administrative expenses every 120 days under § 503(b)(3)(F).

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004.

Rule 2018-1 Intervention

When the court has entered an order allowing a party to intervene in a case, the intervening party shall file an appearance to request that the clerk add its name to the case.

Comment

This local rule is revised to conform to the simpler procedures under ECF.

Rule 3001-2 Adjustment in a Periodic Payment on a Secured Claim in Chapter 13

(a) Creditor's Statement. A creditor with a claim under § 1322(b)(5) or (b)(7) shall file and serve on the debtor a statement of any proposed increase or decrease of periodic payments and file a certificate of service. The deadline to file this statement is 45 days before the effective date of the

adjustment of the payment amount. The statement shall fully disclose the calculations on which the adjustment is based.

(b) Debtor's Objection. The deadline for the debtor to file an objection to the creditor's statement under paragraph (a) is 21 days after the statement is filed. If an objection is filed, the court will schedule a hearing with notice to the debtor, the creditor and the trustee.

(c) Trustee's Analysis. Within 14 days after the later of the deadline in paragraph (b) or the date that the court enters an order resolving any objection under paragraph (b), the trustee shall file a notice stating whether the plan will still be adequately funded with the current plan payment amount and if not, stating the necessary increase in plan payments.

(d) Debtor's Proposed Plan Modification. Within 21 days after the trustee files the notice under paragraph (c), the debtor shall file a plan modification under Local Rule 3015-2(b), if necessary to assure adequate funding of the plan.

Comment

Paragraph (a) is from the current rule. It also adds a deadline for filing the required statement and a requirement to disclose the calculations on which the statement is based.

New paragraph (b) allows the debtor an opportunity to object to the creditor's statement.

New paragraph (c) requires the trustee to analyze the plan to determine whether any funding increase is necessary in light of the payment change.

New paragraph (d) requires the debtor to file a plan modification if necessary for adequate funding.

Deadlines for each required action are also fixed.

Rule 3003-1 Deadline to File a Proof of Claim, a Proof of Interest or a § 503(b)(9) Motion in a Chapter 11 Case

In a chapter 11 case, unless the court orders otherwise, the deadline for filing a required proof of claim or equity interest or a motion for the allowance of a claim under § 503(b)(9) is 90 days after the first date set for the meeting of creditors.

Comment

This local rule is revised to establish the standard deadline of 90 days from the meeting of creditors for the filing of a claim under § 503(b)(9). The rule is otherwise

unchanged.

Rule 3007-1 Objection to a Claim

(a) Procedure. An objection to claim shall be filed with a completed form “Notice of Hearing on Objection to Claim,” available on the court’s website and a certificate of service. The date and time for the hearing stated on the notice of hearing shall be obtained from the schedule of available hearing dates for claims objections on the court’s website. The date of the hearing shall be at least 30 days after the date of service of the hearing notice. The notice of hearing shall state that if the creditor does not file a response by 10 days before the date set for the hearing on the objection, the court may cancel the hearing and enter an order sustaining the objection.

(b) Deadline for Response. The deadline for a creditor whose proof of claim is subject to an objection to file a response to the objection is 10 days before the date set for the hearing on the objection.

(c) No Response. If a response is not timely filed, the objecting party may file a certificate to that effect and submit a proposed order sustaining the objection. If the court decides to proceed with the scheduled hearing, the court will notify the objecting party.

Comment

This local rule is unchanged in substance, except that a procedure is established for the objecting party to choose and give notice of an appropriate hearing date from the list available on the court’s website.

Rule 3013-1 Classification of Claims in a Chapter 11 Plan

Unless unduly burdensome due to the large number involved, the plan shall identify by name the entities who hold a claim or equity interest within each class and the amount of each entity’s claim or equity interest within each class. However, specific identification is not required for convenience classes or for a class of unsecured nonpriority claims when there is only one such class.

Comment

This local rule is unchanged.

Rule 3014-1 Election Under § 1111(b)

When the court has entered an order requiring a combined plan and disclosure statement, the deadline to file an election under § 1111(b) is 7 days before the date of the confirmation hearing.

Comment

This new rule establishes this necessary deadline.

Rule 3015-1 The Chapter 13 Plan

(a) Plan Contents. In addition to the requirements of § 1322(a), a plan shall contain:

- (1) A statement of the value of each item of encumbered property;
- (2) The time within which the debtor proposes to cure any default on any secured claim;
- (3) A direction to the trustee to either assume or reject any executory contracts or unexpired leases; and if the plan proposes an assumption of a contract or lease that is in default, then a statement as to the method and time to cure the default and an explanation of how to satisfy each of the other § 365(b) requirements for assumption of a defaulted contract or lease;
- (4) A method by which the trustee can determine the point at which the plan is completed;
- (5) A statement of the order in which claims are to be paid;
- (6) A statement of the rate of interest to be paid with respect to each secured claim, articulated as a number and not in formula fashion;
- (7) A statement of whether all tax returns due have been filed and if not, which returns were not filed;
- (8) A statement of whether the debtor, if self-employed, incurs trade credit; and
- (9) If the plan provides for the payment of a claim governed by § 1322(b)(5) or (b)(7), a provision that payments by the debtor to the trustee and by the trustee to the creditor on such claim shall be adjusted as provided in Local Rule 3001-2.

(b) Plan Attachments. The debtor shall attach to the plan:

- (1) An analysis of what creditors would receive if the case were a chapter 7 case; and

(2) A completed form “Chapter 13 Worksheet,” available on the court’s website, estimating the anticipated dividend to unsecured creditors if the debtor successfully performs the plan.

Comment

Subparagraph (a)(9) is amended to conform to the new procedure established in Local Rule 3001-2 relating to any post-confirmation change in payments on any secured claim. Otherwise, this local rule is unchanged in substance.

Rule 3015-2 Modification of Plan in a Chapter 13 Case

(a) Pre-Confirmation Modification of Plan.

(1) In a chapter 13 case, a pre-confirmation modification of a proposed plan that does not materially and adversely affect any party in interest may be incorporated in the proposed order confirming the plan.

(2) A pre-confirmation modification to a proposed plan that materially and adversely affects any party in interest:

(A) May be incorporated in the proposed order confirming the plan that is executed by the adversely affected party; or in the alternative,

(B) Shall be incorporated into a completely restated plan that shall be dated and identified as “First Modified Plan,” “Second Modified Plan,” etc., as the case may be. The debtor shall serve a copy of the modified plan on all creditors and parties in interest that are adversely affected by the modification and file a certificate of service. The debtor shall attach to the plan the papers required under Local Rule 3015-1(b).

(3) All amended schedules that are necessary for confirmation of a modified plan shall be filed prior to or contemporaneously with the modified plan.

(b) Post-Confirmation Plan Modification. The proponent of a post-confirmation plan modification shall serve a copy of the plan modification on all parties in interest that are adversely affected by the plan modification and file a certificate of service. If the plan modification is proposed by the debtor, the debtor shall file, prior to or contemporaneously with the modified plan, all amended schedules that are necessary for approval of the plan modification. If the plan modification adversely affects any party in interest, the proponent shall

attach to the plan modification the papers required under Local Rule 3015-1(b). The plan modification shall become effective when the proponent files a certification that no timely objection was filed or when the court enters an order overruling or resolving all objections.

(c) Payment of a § 1305(a) Post-Petition Claim.

(1) The debtor shall serve a notice of the filing of a § 1305(a) post-petition claim on all creditors whose claims are allowed and file a certificate of service. The notice shall state: the name of the post-petition creditor; the amount of the claim; the nature of the debt; the impact that allowance of the claim would have upon disbursements to other creditors; and the following procedural information:

“If no objection to paying the post-petition claim as provided for in the plan is filed within 15 days, the trustee may pay the claim in the manner provided in the plan. If you have any objection to the claim itself or to the effect that payment of the claim will have on your dividend, then you must file a written objection within 15 days or the objection will be deemed waived.”

The debtor shall file a certificate of service of such notice.

(2) If no party files an objection, the chapter 13 trustee may disburse payments to the creditor with the post-petition claim commencing 19 days after the notice is served. If a party timely files an objection, the court will schedule a hearing with notice to the debtor, the creditor and the trustee.

Comment

This local rule is unchanged, except that paragraph (b) adds a requirement that a post-confirmation modification be accompanied by supporting schedules and served on affected parties in interest.

Rule 3015-3 Confirmation of a Chapter 13 Plan

(a) Objection to Confirmation of a Plan.

(1) In a chapter 13 case, an objection to the confirmation of the plan shall be filed by the deadline established in the notice of the commencement of the case.

(2) A party who fails to file an objection to confirmation may be deemed to have consented to

confirmation of the plan and if the party is a secured creditor, the party may be deemed to have accepted the plan for purposes of § 1325(a)(5)(A).

(3) A secured creditor who disputes the value ascribed to collateral that the debtor proposes to retain under the terms of the plan shall file an objection to confirmation of the plan. The debtor shall forthwith make the collateral available to the creditor for examination and appraisal. The resulting hearing under F.R.Bankr.P. 3012 shall be conducted as part of the plan confirmation hearing.

(4) The deadline to file an objection to the confirmation of a modified plan is 25 days after service of the modified plan.

(5) Unless announced on the record at the confirmation hearing, a withdrawal of an objection to confirmation of a plan must be evidenced by a filed withdrawal of the objection or by the signature of the objecting party or its counsel on the proposed order confirming the plan.

(b) Hearing on Confirmation of Plan.

(1) Neither the debtor nor debtor's counsel need appear at the confirmation hearing if:

(A) Either no timely objection to confirmation has been filed or all timely objections have been withdrawn or resolved; and

(B) The chapter 13 trustee has approved the proposed order confirming the plan.

(2) If the court declines to confirm the plan or if a party appears at the confirmation hearing and is permitted for cause to argue an untimely objection, the court will reschedule the hearing with notice to the debtor, debtor's counsel, the trustee and the objecting creditor.

Comment

This local rule is unchanged in substance.

Rule 3016-1 A Prepackaged Chapter 11 Plan

(a) Definition. A prepackaged chapter 11 plan is a plan for which the debtor has solicited acceptances before filing the petition.

(b) Procedure. Immediately upon filing a prepackaged chapter 11 plan, the debtor shall file a motion to set a deadline to object to confirmation of the plan and to schedule a confirmation hearing

not more than 90 days following the petition date. The motion shall be accompanied by a copy of the plan and the disclosure statement or other solicitation document.

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. It is unchanged in substance.

Rule 3017-1 Obtaining Approval of a Disclosure Statement

(a) When Applicable. Paragraphs (b)-(d) of this local rule apply only when the court has not entered an order requiring a combined plan and disclosure statement.

(b) Requirements Upon Filing. The filing of a disclosure statement shall be deemed to include a motion for its approval, to which Local Rule 9014-1 applies.

(c) Service of Notice. When a disclosure statement is filed, the clerk will deliver to the proponent a form of notice that the movant shall promptly serve on all parties entitled to notice under F.R.Bankr.P. 2002(b). In addition, the proponent shall serve a copy of the disclosure statement and the notice on the United States trustee and the chairperson and counsel for each official committee. The proponent shall file a certificate of service.

(d) Approval on No Objection. Upon a certification by the movant that no timely objection to the approval of the disclosure statement was filed, the court may enter an order approving the disclosure statement without a hearing.

Comment

New paragraph (a) establishes that the rule only applies in the unusual case in which the court has not entered an order requiring a combined plan and disclosure statement. This is most likely to occur in a Large Bankruptcy Case. Such an order will include provisions for disclosure statement approval. The balance of the rule is internally renumbered but unchanged in substance.

Rule 3018-1 The Duties of a Plan Proponent After Disclosure Statement Approval

Within 5 days after the entry of the order approving the disclosure statement, the plan proponent

shall cause that order, the plan, the disclosure statement, any statement approved by the court under F.R.Bankr.P. 3017(d) and a ballot to be served. The court may approve the service of these papers in electronic format with such conditions as the court deems appropriate. The plan proponent shall file a certificate of service. Unless the court orders otherwise, ballots shall be returned to the attorney for the plan proponent. At least 2 days before the confirmation hearing, the plan proponent shall file a verified summary of the ballot count under § 1126(c) and (d) with a copy of all original ballots attached. The proponent shall have the originals of the ballots available at the confirmation hearing and the originals shall be retained by the plan proponent under the ECF Procedures.

Comment

The new second sentence allows the court to authorize service of the plan and disclosure statement by electronic means. The fifth sentence establishes a deadline to file the ballot summary two days before the confirmation hearing. The new last sentence eliminates the requirement to file the originals of the completed ballots, in conformance with ECF Procedures.

Rule 3020-1 Proofs at an Uncontested Confirmation Hearing in a Chapter 11 Case

At the hearing on the confirmation of a chapter 11 plan, if no objection to confirmation has been filed or if all filed objections have been resolved, and if no class of claims or equity interests has rejected the plan, upon consent of all parties present, the court may dispense with an evidentiary hearing and based on the lack of objection and the consents, may find that each of the elements necessary for confirmation under § 1129(a) has been established.

Comment

This local rule is unchanged in substance.

Rule 3070-1 Claims to be Paid by the Chapter 13 Trustee

In a chapter 13 case, all claims shall be paid by and through the chapter 13 trustee unless the debtor's plan establishes cause for remitting payments on a claim directly to the creditor. Any timely objection to such a plan provision will be heard at the confirmation hearing.

Comment

This local rule is unchanged.

Rule 4001-1 Motion for Relief from the Stay

(a) Parties to be Served. A party seeking relief from the stay shall file a motion under Local Rule 9014-1. The moving party shall serve the motion on the debtor and on any other parties asserting an interest in the property that is the subject of the motion and file a certificate of service.

(b) Contents of the Motion. If applicable, the motion shall identify the property, state the names and purported interests of all parties that are known or discoverable upon a reasonable investigation to claim an interest in the property, state the amount of the outstanding indebtedness, and state the fair market value of the property. The motion shall have attached a legible and complete copy of any relevant loan agreements, security agreements, documents establishing perfection and prior court orders. A motion for relief from the stay shall be so entitled.

(c) The Preliminary Hearing. Unless the court notifies the parties in or contemporaneously with the notice of the preliminary hearing, the preliminary hearing will not be an evidentiary hearing and the court will determine whether to schedule a final hearing based on the parties' papers and arguments. At the preliminary hearing, the court may decide issues of law or define the factual or legal issues to be determined at the final hearing and may issue appropriate scheduling orders. The parties may request or the court may order that the preliminary hearing be treated as the final hearing.

Comment

Paragraphs (a) and (b) are unchanged in substance.

New paragraph (c) clarifies the scope of the initial hearing on a motion for relief from the stay.

Rule 4001-2 Motion for Use of Cash Collateral or to Obtain Financing

(a) Contents of the Motion. In addition to the requirements of F.R.Bankr.P. 4001(b)(1)(B) and F.R.Bankr.P. 4001(c)(1)(B), a motion for use of cash collateral under § 363(c)(2) or to obtain credit under § 364(c) or (d) shall explicitly state the moving party's position as to the value of each of the

secured interests to be protected. Pertinent appraisals and projections shall be summarized in the motion.

(b) Cover Sheet. The motion shall be filed with a completed form “Cover Sheet for Motion to Use Cash Collateral or to Obtain Financing,” available on the court’s website.

(c) Motion to Approve Agreement. A motion for the entry of an order approving an agreement for the use of cash collateral or to obtain credit on an expedited basis may be granted without a hearing if the motion complies with F.R.Bankr.P. 4001(d)(1)(B) and if:

(1) The proposed order is approved by all creditors who may have an interest in the cash collateral to be used or the credit to be extended, by the chairperson or attorney for each official committee and by the United States trustee;

(2) The proposed order provides for the debtor to use cash collateral or to obtain credit in a maximum specified dollar amount necessary to avoid immediate and irreparable harm only until the earlier of the date of the final hearing or the date that the order would become a final order;

(3) The proposed order provides for a final hearing, the date and time for which shall be filled in by the court when the proposed order is entered;

(4) The proposed order provides that the debtor shall, within 24 hours of its entry, serve a copy of the motion with its attachments and the entered order on all parties who are required to be served under F.R.Bankr.P. 4001(d);

(5) The proposed order provides that:

(A) The deadline to file an objection to the proposed order is 15 days from the entry of the order, except that an official committee may file objections within 15 days after it is served with the entered order;

(B) If an objection is timely filed, the final hearing will be held; and

(C) If no objection is timely filed, the interim or preliminary order may become a final order; and

(6) The motion is accompanied by an affidavit or declaration of the debtor or a principal of the debtor stating the facts upon which the debtor relies in seeking the entry of the proposed order on an expedited basis and the amount of money needed to avoid immediate and irreparable harm.

(d) Interim Order on Expedited Basis. If a debtor files a motion for authority to use cash

collateral or to obtain post-petition financing but the debtor's prepetition secured creditors have not consented to the relief sought in the motion, the court may enter an interim order granting the relief requested on an expedited basis if:

- (1) The debtor has served a copy of the motion, a proposed order and a notice of the hearing on the motion on the non-consenting secured creditors in the manner set forth in Local Rule 9013-1;
- (2) The court has held a hearing on the motion at which the non-consenting secured creditors were given an opportunity to be heard;
- (3) The proposed order complies with each of the requirements of subparagraphs (c)(2) - (c)(6) of this rule; and
- (4) The court makes a specific finding of fact that the protection offered to the non-consenting secured creditors is adequate and such adequate protection is incorporated into the proposed order.

(e) Effect of Interim Order. If the court enters an interim order under paragraph (d) over the objection of a secured creditor or if a secured creditor does not appear at the hearing or object to the motion, such secured creditor retains the right to object to the interim order as provided in subparagraph (c)(5)(A) of this rule.

(f) Reducing or Enlarging for Objections. On timely motion, the court may enlarge or reduce the time within which an objection must be filed, except that the court may not reduce the time within which a non-consenting secured creditor must file an objection under subparagraph (c)(5)(A) of this rule. In its discretion, the court may schedule a hearing on the debtor's motion at any time, with such notice as it deems appropriate, provided such notice and hearing are consistent with paragraph (d) of this rule.

Comment

This local rule is revised to conform to the amendments to F.R.Bankr.P. 4001(b), (c) and (d) effective December 1, 2007, but is otherwise unchanged in substance. It is internally renumbered.

Rule 4001-4 Motion for Payment of Prepetition Claims of Critical Vendors

(a) Brief Required. A motion to authorize payment of prepetition claims of critical vendors shall

be accompanied by a brief on the issue of whether the bankruptcy code authorizes this relief.

(b) Contents of Motion. Such a motion shall include the following information:

- (1) The aggregate amount to be paid to all critical vendors;
- (2) The individual vendor(s) to be paid and the amount to be paid to such vendor(s);
- (3) The reason each vendor is “critical” or “indispensable” to the operations or preservation of the estate;
- (4) The loss of economic advantage to the estate or to the debtor’s going concern value by the nonpayment of the prepetition claim of each of the particular vendors for whom a request is contained in the motion;
- (5) The steps taken or to be taken by which the debtor might deal with each critical vendor, other than by payment of the prepetition claim and whether it is necessary to pay 100% of the prepetition claim of the particular critical vendor to obtain post-petition goods or services;
- (6) The terms of post-petition credit and of providing goods or services to the debtor by each of the critical vendors; and
- (7) An analysis that demonstrates the impact of granting the requested relief on the creditors deemed non-critical.

(c) Not First Day Motion. Consistent with F.R.Bankr.P. 6003(b), a critical vendor motion will not be considered a First Day Motion.

(d) Service of Motion. The motion shall be served on all creditors.

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. It is renumbered from current LBR 4001-5. It is unchanged in substance, except that the disclaimer of former paragraph (e) is eliminated as unnecessary.

Rule 4001-5 Additional Stay Procedures Under BAPCPA 2005

(a) Motion to Extend the Stay. The deadline to file and serve a motion to extend the stay under § 362(c)(3)(B) and to file a certificate of service is 7 days after the petition is filed. When such a motion is filed, the court will schedule a hearing with a notice to all parties in interest. If the movant

has not received a notice of hearing within 7 days after filing the motion, the movant may contact the judge's courtroom deputy clerk to obtain a hearing date within the time limit established by law. Any party in interest may be heard at the hearing. Written objections are permitted but not required.

(b) Motion to Order the Stay to Take Effect. A motion to order the stay to take effect under § 362(c)(4)(B) may be accompanied by an *ex parte* motion for an expedited hearing. Otherwise, the court will schedule a hearing in due course. In either event, the court will cause a notice of the hearing to be served on all parties in interest. If the movant has not filed a motion for an expedited hearing and has not received a notice of hearing within 7 days after filing the motion, the movant may contact the judge's courtroom clerk to obtain a hearing date. Any party in interest may be heard at the hearing. Written objections are permitted but not required.

(c) Objection Under § 362(l)(3)(A). When an objection under § 362(l)(3)(A) is filed, the court will schedule a hearing with notice to all parties in interest. If the objecting party has not received a notice of hearing within 3 days after filing the objection, the objecting party shall contact the judge's courtroom deputy clerk to obtain a hearing date; otherwise, the requirement to hold a hearing within 10 days under § 362(l)(3)(A) is waived.

(d) Objection Under § 362(m)(2)(B). When an objection under § 362(m)(2)(B) is filed, the court will schedule a hearing with notice to all parties in interest. If the debtor has not received a notice of hearing within 3 days after filing the objection, the debtor shall contact the judge's courtroom deputy clerk to obtain a hearing date; otherwise, the debtor's objection is deemed waived and the 15 day period of § 362(m)(1) shall continue to run.

(e) Order Regarding the Existence of the Stay. A party seeking relief under either § 362(c)(4)(A)(ii), § 362(j) or § 521(a)(6) shall file a motion under Local Rule 9014-1. The motion shall be titled, "Motion for an Order Confirming That No Stay Is in Effect," or "Motion for an Order Confirming That the Stay Has Been Terminated." The moving party shall serve the debtor and the trustee and file a certificate of service. The motion may be accompanied by an *ex parte* motion for an expedited hearing.

Comment

The rule is renumbered from LBR 4001-6.

Paragraphs (a), (b), (c) and (e) of this rule were adopted on an interim basis by Administrative Order 05-7, dated October 12, 2005, following the enactment of

BAPCPA 2005. The local rule was then amended by Administrative Order 05-8, dated October 17, 2005.

New paragraph (d) establishes procedures for matters under § 362(m)(2)(B) that were not previously addressed.

The revisions to the rule establish that the court will set a hearing and serve notice on any matters under paragraphs (a)-(d). The revisions further provide for the movant to contact the judge's courtroom deputy clerk if a hearing notice has not been served within the times stated.

Rule 4001-6 Pre-Confirmation Payments in a Chapter 13 Case

(a) Payment by the Trustee.

(1) Conditions of Disbursements. Without a court order, the trustee shall disburse pre-confirmation payments under § 1326(a)(1) to a creditor holding a purchase money security interest in personal property and to a lessor of personal property if:

(A) Funds are available;

(B) The creditor or lessor has, by the 14th day of the month prior to the trustee's next regularly scheduled disbursement, filed a proof of claim with adequate proof of a security interest attached setting forth the amount of the debtor's contractual monthly payment obligation;

(C) Either the plan proposes that the claim will be paid by the trustee or the debtor was not current in the debtor's contractual monthly payment obligation when the petition was filed;

(D) The plan proposes that the debtor will retain possession of the secured or leased property; and

(E) A stay is in effect as to the secured or leased property.

(2) Timing of Disbursement. The trustee's disbursements shall be made monthly until an order of confirmation is entered.

(3) Amount of Disbursement. Unless the court orders otherwise for good cause shown under § 1326(a)(3), the disbursements shall be 30% of the debtor's contractual monthly payment obligation to each secured creditor and 100% of the debtor's contractual monthly payment obligation to each personal property lessor. If the trustee does not have sufficient funds on hand to make all of the required disbursements, the disbursements shall be made pro rata based on the

monthly payments required.

(4) Dismissal or Conversion. Upon dismissal or conversion of the case, the trustee shall make the required pre-confirmation disbursements before disbursing any funds to the debtor.

(5) Trustee's Statutory Fee. For all pre-confirmation disbursements, the trustee shall be awarded and paid a fee equal to the applicable percentage fee established by the United States trustee.

(b) Direct Payment by the Debtor.

(1) Conditions of Payment. Without a court order, the debtor shall make pre-confirmation payments under § 1326(a)(1) to a creditor holding purchase money security interests in personal property and to a lessor of personal property if:

(A) The creditor or lessor has filed a proof of claim with adequate proof of a security interest attached setting forth the amount of the debtor's contractual monthly payment obligation;

(B) The debtor was current in the contractual monthly payment obligation when the petition was filed;

(C) The plan proposes that the claim will be paid directly by the debtor;

(D) The plan proposes that the debtor will retain possession of the secured or leased property; and

(E) A stay is in effect as to the secured or leased property.

(2) Timing and Amount of Payment by the Debtor. The debtor's payments shall be made as required by the debtor's contract.

(c) Amended Proof of Claim. Within 30 days after confirmation, a creditor receiving any pre-confirmation payments shall file an amended proof of claim clearly showing the application of the pre-confirmation payments.

Comment

This local rule is renumbered from LBR 4001-7, adopted on an interim basis by Administrative Order 05-7, dated October 12, 2005, following the enactment of BAPCPA 2005. It is unchanged in substance, except that subparagraph (a)(1)(C) clarifies that if the debtor was not current when the case was filed, pre-confirmation payments must be made by the trustee.

Rule 4002-1 Continued Prepetition Cash Management

A motion in a chapter 11 case to continue using prepetition bank accounts or prepetition cash management systems for good cause shall contain the following information:

- (1) Identification of the accounts by name of bank, description or title of the accounts and purpose of accounts;
- (2) A thorough explanation of the cash management system, including, if applicable, the relationship between parent and subsidiaries and other entities that participate in the cash management system;
- (3) The reason for continuing to use the prepetition accounts or system, including the costs and inconvenience of compliance with the guidelines requiring closure of prepetition accounts;
- (4) The mechanism and steps to be taken to ensure that unauthorized prepetition checks will not clear the bank accounts post-petition;
- (5) The steps that will be taken to have the face of each check and bank statement identify the payer as a debtor in possession; and
- (6) The steps that will be taken to ensure compliance with § 345.

Comment

This local rule is unchanged in substance, except that the disclaimer of former paragraph (b) is eliminated as unnecessary. The rule is internally renumbered.

Rule 4003-1 Entireties Exemption

A married debtor not filing a joint petition who claims property as exempt under tenants by the entirety law shall state whether each debt listed on schedules D, E and F is a joint debt with the non-filing spouse or is the sole debt of the debtor. For purposes of determining whether the debtor's claim of exemption under state entirety law should be allowed, there shall be a rebuttable presumption that any debt listed on schedule D, E or F that is not clearly disclosed as the sole debt of the filing spouse is the joint debt of both spouses.

Comment

This local rule is renumbered from LBR 1007-1(a). The amendment clarifies that the only consequence of failing to disclose the required information is a rebuttable

presumption that the disclosed debt is joint debt. Married debtors who file a joint petition are required by the instructions to schedules D, E and F to disclose similar information. The rule is otherwise unchanged in substance.

Rule 4004-1 Domestic Support Certification in a Chapter 13 Case

In a chapter 13 case filed on or after October 17, 2005, within 30 days after the trustee files a notice of the completion of all payments under the plan under Local Rule 2015-5(a), the debtor shall file a completed form “Certification Regarding Domestic Support Obligations,” available on the court’s website. This certification shall state whether the debtor has been the subject of any domestic support obligation and if so, whether the debtor is current in that obligation as required by § 1328(a) to obtain a discharge. The debtor shall serve the certification on any domestic support obligation creditor and file a certificate of service. If the debtor fails to file this certification, the case may be closed without a discharge, without prejudice to the debtor’s right to file a motion to reopen under Local Rule 5010-1 to file the certification in order to obtain a discharge.

Comment

This local rule is derived from one adopted on an interim basis by Administrative Order 05-7, dated October 12, 2005, following the enactment of BAPCPA 2005. It is amended to provide for a local form and to require that every chapter 13 debtor file it. This is necessary because otherwise there is no feasible way to determine whether a debtor is required to comply with § 1328(a). As in a chapter 7 case concerning the filing of Official Form 23, when the debtor fails to file this certification, the case may be closed without a discharge, subject to reopening under rule 5010-1

Rule 4008-1 Reaffirmation Agreements and the Presumption of Undue Hardship

(a) Reaffirmation with Attorney Certification. If the debtor’s attorney certifies that a reaffirmation agreement does not impose an undue hardship on the debtor, neither a motion nor court action is required. The court will not act on a motion to approve the reaffirmation agreement in these circumstances. This subparagraph applies even if it appears that a presumption of undue hardship may apply.

(b) Reaffirmation without Attorney Certification. If a presumption of undue hardship under

§ 524(m) applies and the debtor's attorney has not certified that the agreement does not impose an undue hardship, the debtor shall file a separate motion for approval of the reaffirmation agreement. The motion shall be accompanied by the papers specified in § 524(k)(1) and F.R.Bankr.P. 4008. The motion shall be titled and filed in the ECF event, "Motion for Approval of Reaffirmation - Presumption of Undue Hardship Applies." The court will schedule a hearing with notice to the debtor and the creditor.

(c) Reaffirmation by a Debtor Not Represented by an Attorney in the Case. If a reaffirmation agreement is filed and the debtor is not represented by an attorney in the bankruptcy case, the debtor must sign a motion for approval of the reaffirmation agreement under § 524(k)(7), attached as Part E. The reaffirmation agreement, including Parts A-E, shall be filed in ECF with the event "Reaffirmation Agreement by Debtor Not Represented by An Attorney." The court will schedule a hearing with notice to the debtor and the creditor. The creditor may file the motion even though the motion is signed by the debtor.

(d) Reaffirmation by a Debtor Represented by an Attorney Who Did Not Negotiate the Agreement. The requirements and procedures of paragraph (c) apply to a reaffirmation agreement by a debtor represented by an attorney who did not negotiate the agreement.

Comment

Subparagraph (b) was adopted on an interim basis by Administrative Order 05-7, dated October 12, 2005, following the enactment of BAPCPA 2005, and is unchanged in substance. The balance of the rule clarifies the circumstances in which 11 U.S.C. § 524 requires court involvement in a reaffirmation agreement and establishes attendant procedures.

Rule 5005-4 Electronic Filing

All papers shall be filed using the ECF Procedures. Traditional Filings may be authorized as provided in those procedures.

Comment

This local rule is renumbered from LBR 5005-2 and is unchanged.

Rule 5010-1 Motion to Reopen to File a Missing Paper

After a case is closed, a debtor seeking to file either Official Form 23 (Debtor's Certification of Completion of Instructional Course Concerning Financial Management) or a Chapter 13 Certification Regarding Domestic Support Obligations shall first file a motion to reopen. The motion to reopen may be filed *ex parte*. The debtor shall file the missing paper within 15 days after entry of the order reopening the case. If the missing paper is not timely filed, the case will be closed again.

Comment

This new local rule establishes the procedures for filing missing papers necessary for a discharge after a bankruptcy case is closed.

Rule 5071-1 Adjournment of a Pretrial Conference, Hearing or Trial

Each judge's adjournment procedures are available on the court's website and shall be followed as posted. If a judge has not posted adjournment procedures, the following procedures apply:

(a) Pretrial Conferences and Oral Arguments on Motions. The court will normally grant one adjournment of a pretrial conference or oral arguments on a motion for up to two weeks upon a written stipulation. The court will consider a second adjournment or an adjournment of more than two weeks only upon a motion supported by an affidavit establishing good cause.

(b) Evidentiary Hearings or Trials. The court will consider an adjournment of an evidentiary hearing or a trial only on a motion supported by an affidavit establishing good cause submitted at least 3 business days before the hearing or trial. The motion shall state whether opposing counsel concurs in the requested adjournment.

(c) Submission of an Order. A proposed order adjourning the conference, the hearing or the trial shall be submitted when the motion or stipulation is filed and shall provide a blank space for the new date and time.

(d) Procedure Upon Adjournment. After entry, the movant shall immediately serve the order on all interested parties whose counsel are not ECF Filers and file a certificate of service. If there is insufficient time for mailing notice of the order of adjournment, the moving party shall personally or telephonically provide any required notice of the adjournment order.

Comment

This local rule is renumbered from LBR 7016-3. The rule is revised to establish that the adjournment procedure established in the local rule is to be used only if the judge has not posted an adjournment procedure on the court's website.

Rule 5072-1 Conduct in Court

Except as otherwise provided in these rules, E.D. Mich. LR 83.31, entitled "Conduct in Federal Court Facilities," applies in the bankruptcy court facilities in this district.

Comment

This local rule is renumbered from LBR 5073-1(a) and is unchanged.

Rule 5073-1 Electronic Devices

Subject to security screening, the following may be carried into the bankruptcy court facilities: laptop or notebook computers, cellular telephones, personal digital assistants, pagers, calculators and portable dictating devices. These devices shall be turned off in all courtrooms and chambers, except that: (1) computers may be used with the volume muted; (2) calculators may be used; and (3) personal digital assistants, cellular telephones and paging devices may be used only in the vibration or silent mode. Telephone communication in a courtroom is prohibited. In the Theodore Levin United States Courthouse in Detroit, the rules of the district court relating to electronic devices shall apply.

Comment

This local rule is renumbered from LBR 5073-1(b). The rule is amended to specify that certain devices may be turned on in the courtroom in the silent or vibration mode and to clarify the bankruptcy proceedings in the Detroit federal courthouse are subject to the district court's local rules on point.

Rule 5077-1 Request for a Court Transcript

A request for the preparation of a court transcript shall be filed on a completed form "Transcript

Order Form,” available on the court’s website.

Comment

This local rule is renumbered from current LBR 5007-1. It is unchanged in substance, except that it clarifies that this rule only applies to court transcripts. Transcripts of meetings of creditors are available from the United States trustee’s office.

Rule 5081-1 Transactions Requiring the Payment of Money

ECF Filers shall pay fees to the clerk by using the internet payment service authorized by the court. Payment of fees to the clerk by others shall be in one of the following forms:

- (a) Cash (exact change only);
- (b) Cashier’s check;
- (c) Money order;
- (d) From attorneys and non-debtor businesses only--business checks; or
- (e) Credit card in accordance with the clerk’s guidelines.

Personal checks will not be accepted. Checks shall be made payable to “Clerk, U.S. Bankruptcy Court.”

Comment

The new first sentence of this local rule establishes the clerk’s authority over the method of fee payments by ECF Filers. The balance of the rule is unchanged.

Rule 6004-1 Use, Sale or Lease of Estate Property Other Than Cash Collateral

(a) Use, Sale or Lease By Notice. Except for the use of cash collateral, use, sale or lease of property of the estate shall be effected in accordance with § 363, F.R.Bankr.P. 2002 and F.R.Bankr.P. 6004. The notice of use, sale or lease shall be served by the trustee or debtor-in-possession as the case may be. The notice shall include a statement that the deadline for filing an objection is 15 days from the date the notice is served. Neither a court proceeding nor an order is necessary to authorize the transactions set forth in the notice unless an objection is timely filed and is not formally withdrawn. The 15 day period in this paragraph begins to run contemporaneously

with the 20 day notice in F.R.Bankr.P. 2002(a)(2).

(b) Sale By Motion. A motion for authority to sell property free and clear of liens and other interests under F.R.Bankr.P. 6004(c), with liens and interests transferred to the proceeds of the sale, shall be filed under Local Rule 9014-1 with service to all parties in interest to all parties who have an interest in the property that is proposed to be sold. The movant shall file a certificate of service.

(c) Approval of Sale Procedures. A motion for approval of procedures for the sale of assets shall be filed with a completed form “Cover Sheet for Motion to Approve Sale Procedures,” available on the court’s website.

Comment

Paragraphs (a) and (b) are unchanged in substance. Paragraph (b) was shortened because the procedures established therein duplicated the motion procedures of Local Rule 9014-1.

New paragraph (c) establishes a process to obtain approval of sale procedures.

Rule 6004-2 Request for Incentive Compensation

If the debtor files a motion for entry of an order allowing incentive compensation for executives, employees or groups of employees, the motion shall detail for each employee:

- (1) The name of employee;
- (2) The present position and responsibilities;
- (3) Whether the employee is an equity holder, creditor, debtor or guarantor of the debtor;
- (4) The employee’s work experience, with emphasis on how this experience qualifies or impacts the employee in the present position;
- (5) The length of service with the debtor;
- (6) The present compensation, including contractual bonuses and benefits, monetary and otherwise (any written employment agreement shall be attached to the motion);
- (7) The requested compensation (including benefits, monetary and otherwise);
- (8) How the requested increase in compensation (or the amount requested) will benefit and impact the debtor;
- (9) The consequences to the debtor of denying the request;

- (10) The timing of the payment of the compensation and any conditions precedent;
- (11) The terms of any job offer that the employee has received;
- (12) If the requested payment is a severance payment to an insider, facts establishing that the requirements of § 503(c)(2) are met; and
- (13) Any other information relevant under § 503(c).

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. It is renumbered from LBR 6004-3 and is unchanged, except that the disclaimer of former paragraph (b) is eliminated as unnecessary.

Rule 6007-1 Disposition of the Books and Records of a Chapter 7 Debtor

Unless otherwise ordered by the court or required by the Executive Office for United States Trustees, a chapter 7 trustee may dispose of the debtor's books and records in the trustee's possession 60 days after the entry of the order closing the estate. Notice of the proposed disposition of the debtor's books and records shall be provided in the trustee's final report.

Comment

This local rule is revised to provide for notice of the proposed disposition of the debtor's books and records in the trustee's final report. It is also revised to recognize the authority of the United States trustee program to supervise trustees.

Rule 6007-2 Federal Tax Refund in a Chapter 7 Case

Unless directed otherwise in writing by the trustee, the Internal Revenue Service may in the ordinary course of business make an income tax refund to a debtor in a chapter 7 case 60 days after the first date set for the meeting of creditors.

Comment

This local rule is renumbered from current LBR 4001-3 and is unchanged in substance.

Rule 7004-1 Service on an Insured Depository Institution

Unless one of the exceptions set forth in F.R.Bankr.P. 7004(h)(1)-(3) is applicable, service on an insured depository institution shall be presumed proper if the summons and complaint in an adversary proceeding or a motion governed by F.R.Bankr.P. 9014 is made by serving a copy of the paper by certified mail addressed to either (a) an officer of the institution in care of the resident agent of the institution, or (b) the chief executive officer of the institution at the institution's principal place of business.

Comment

This local rule is currently paragraph (b) of LBR 7004-1. Paragraph (a), relating to additional service of an adversary complaint, is abrogated as unnecessary in ECF.

Rule 7016-1 The Joint Final Pretrial Order and the Preparation of Exhibits

(a) Duty to Prepare Proposed Joint Final Pretrial Order. If the court orders the parties to prepare a proposed joint final pretrial order, it shall be prepared in accordance with this rule. In a contested matter, the movant shall be considered the plaintiff for purposes of this rule and the court shall designate the other parties responsible to participate. Counsel for plaintiff shall:

- (1) Convene a conference for all parties to confer and collaborate in formulating a concise proposed joint final pretrial order;
- (2) Compile and submit the proposed order; and
- (3) File a stipulation to the entry of the proposed order signed by all parties.

If the plaintiff is without counsel, the defendant's counsel shall perform these obligations. The deadline to file the stipulation and to submit the proposed order is 5 days before the final pretrial conference or, if no final pretrial conference is scheduled, 5 days before the hearing or trial. When entered, the order supersedes the pleadings and governs the course of trial unless modified by further order. The pretrial order shall not be a vehicle for adding claims or defenses.

(b) Contents of Order. The proposed joint final pretrial order shall contain, under the following numbered and captioned headings, the following:

- (1) **Jurisdiction.** The parties shall state the basis for bankruptcy court jurisdiction, whether the matter is core and whether jurisdiction is contested by any party.

(2) Plaintiff's Claims. The statement of the claim or claims of plaintiff shall include legal theories.

(3) Defendant's Claims. The statement of the claim or claims of defendants or third parties shall include legal theories.

(4) Stipulation of Facts and Law. The parties shall state, in separately numbered paragraphs, all uncontested facts and all undisputed points of law.

(5) Issues of Fact to be Litigated.

(6) Issues of Law to be Litigated.

(7) Evidence Problems Likely to Arise at Trial. Each party shall state its objections to exhibits and to the use of deposition testimony.

(8) Witnesses. Each party shall separately list all witnesses whom that party will call and all witnesses whom that party may call. A party may, without further notice, call a witness listed by another party as a "will call" witness. The list shall state whether the witness is an expert and whether testimony will be offered by deposition. Only listed witnesses will be permitted to testify at trial, except for rebuttal witnesses whose testimony could not be reasonably anticipated before trial, or except for good cause shown.

(9) Exhibits. Each party shall number and list each exhibit with appropriate identification according to paragraph (e), below. Only listed exhibits will be considered for admission, except for rebuttal exhibits that could not be reasonably anticipated before trial, or except for good cause shown. The parties are encouraged to agree upon a joint list of exhibits, without duplicates, to be admitted.

(10) Objections to Exhibits. Each party shall state its objections to the other party's listed exhibits. Objections not stated in the proposed order may be deemed waived and exhibits not objected to may be admitted into evidence.

(11) Damages. The parties shall itemize all claimed damages and shall specify damages that can be calculated from objective data. The parties shall stipulate to those damages not in dispute.

(12) Trial.

(A) Jury or non-jury.

(B) Estimated length of trial.

(13) Settlement or Mediation. Counsel or a party without counsel shall state that they have conferred and considered the possibility of settlement, giving the most recent place and date, and state the current status of negotiations and any plans for further discussions. They may request the court to schedule a settlement conference or mediation.

(14) Filing of Trial Briefs, Proposed Findings of Fact and Requests for Jury Instructions. Unless the court otherwise orders, at least 3 days before trial, the parties shall file trial briefs, proposed findings of fact and conclusions of law in a non-jury case or requests for instructions in a jury case.

(15) Additional Requirements. A judge, in an appropriate case, may add requirements to the proposed joint final pretrial order or may suspend application of this rule in whole or in part.

(16) Juror Costs Attributable to Parties. The court may assess juror expenses under E. D. Mich. LR 38.2.

(c) Failure to Cooperate. For failure to comply with the requirements of this rule or with the terms of the joint final pretrial order, the court may dismiss claims, enter a default judgment, refuse to permit witnesses to testify or to admit exhibits, assess costs and expenses including attorney fees or impose other appropriate sanctions.

(d) Pre-marking and Exchange of Documentary Exhibits. If there has been no final pretrial conference and at least one week's notice of the trial or the evidentiary hearing has been provided to counsel, then at least 1 day prior to the trial or evidentiary hearing, counsel shall arrange with the judge's court reporter or electronic court recorder to have all documentary exhibits marked and shall provide copies of all exhibits to opposing counsel. In any event, all proposed exhibits and an exhibit list shall be provided to the court at the start of the trial or hearing and an extra copy of each exhibit shall be available for witnesses' use during testimony. Unless the court orders otherwise, each party shall be responsible for the care and custody of the party's own exhibits.

(e) Exhibit Identification. Exhibits shall be marked using numbers for the plaintiff or movant and letters for the defendant or respondent. If the defendant has more than 26 exhibits, the defendant may use exhibit numbers starting, for example, with 101 or 1001. Each separate document shall be separately marked. Grouping exhibits is strongly discouraged.

Comment

Paragraph (a) is revised to establish the responsibility of the defendant's attorney when the plaintiff is unrepresented; to establish deadlines; and to conform the process for entry of the proposed order to ECF.

New subparagraph (b)(10) requires disclosure of objections to exhibits. The rule is otherwise unchanged.

Rule 7016-2 Mediation

(a) The Mediation Process. Upon its own initiative, the stipulation of the parties or a motion filed under Local Rule 9014-1, the court may order the parties to engage in mediation. If the court orders mediation on its own initiative, a party may within 10 days file a motion under Local Rule 9014-1 objecting to mediation.

(1) If mediation is stipulated or ordered, the parties shall choose one mediator from the court's panel of mediators. If that mediator is not available or has a conflict that the parties do not waive, the parties shall choose another mediator. The parties may request the court's assistance in selecting a mediator if they cannot agree.

(2) When a mediator is chosen, the parties shall submit a proposed mediation order for entry, unless the court has already entered a mediation order. If a mediation order has not been entered by the time of the mediation, the mediator shall submit a proposed mediation order. A form "Mediation Order" is available on the court's website.

(3) Mediation may be ordered at any time during the case. Mediation shall be completed within 14 days after the entry of the mediation order or within such other time as the court has fixed in the mediation order.

(4) Unless otherwise ordered by the court, each of the parties to the mediation process shall pay \$200.00 to the mediator before or at the commencement of the mediation session. The mediator, with the consent of the parties, may retain professionals to assist the mediator. The expenses of such professionals shall be equally paid by all parties to the mediation and shall not exceed \$2,000.00, unless otherwise ordered by the court.

(5) All proceedings and writings incident to the mediation shall be privileged and confidential, and shall not be reported or placed in evidence. No party shall be bound by mediation unless

a settlement is reached. If a settlement is reached, the agreement shall be reduced to writing. If necessary, the parties shall file a motion for approval of the settlement under F.R.Bankr.P. 9019 within 10 days after the agreement is fully executed.

(6) The mediator shall have the duty and authority to establish the mediation process, including the submission of documents, the attendance of parties with authority to settle, the procedure governing the mediation and a schedule for the parties to act upon the mediator's recommendation. The mediator shall have no obligation to make any written recommendation, but may provide the attorneys for the parties or unrepresented parties with a written settlement memorandum. Such memorandum shall be governed by the first sentence of subparagraph (a)(5) and shall not be filed or made available to the court. The mediator shall not be called as a witness.

(7) Within 3 days after the conclusion of the mediation, the mediator shall file a certification (A) demonstrating that there has been compliance with the mediation requirements of this rule, and (B) stating whether a settlement was achieved, without referring to any substantive matters involved in the mediation.

(b) The Mediation Panel.

(1) The court shall appoint mediators to the mediation panel as necessary from time to time. The court may select one or more chairpersons to assist the court with the administration of the mediation panel.

(2) Before serving as a mediator, a professional shall have participated in a court-approved training seminar in alternative dispute resolution and shall provide to the court a certificate of such training. The clerk shall maintain a list of such seminars.

(3) A list of the mediators on the panel is maintained by the clerk and is available on the court's website.

(4) Individuals who wish to serve on the mediation panel shall inform the clerk in writing and shall provide the clerk with information that the applicant or the court deems pertinent.

(5) The court may meet periodically with the panel of mediators or its chairpersons as necessary to discuss improving the mediation process.

Comment

This local rule is unchanged in substance, except the requirement to submit a mediation order is clarified, so that the court can better keep track of mediations. It is unnecessary to separately serve the entered mediation order on the clerk, due to ECF.

Rule 7026-1 Filing Discovery

(a) Discovery to be Filed. The following shall be filed: deposition notices; interrogatories; requests for the production of documents and the responses thereto; and requests for admissions and the responses thereto.

(b) Discovery Not to be Filed. Except to the extent necessary in support or defense of a contested matter or an adversary proceeding, the following shall not be filed: deposition transcripts; answers to interrogatories; and documents produced in response to a request for the production of documents.

Comment

This local rule is revised to establish the obligation to file certain discovery papers, which the court has determined is necessary. The rule distinguishes the response to a request for production of documents under F.R.Civ.P. 34(b), which is to be filed, from the documents produced, which are not to be filed unless filing is necessary for court consideration.

Rule 7026-2 Furnishing an Electronic Formatted Discovery Request

Upon the request of a party responding to interrogatories, a request for documents or a request for admissions, the party serving the discovery request shall, if feasible, furnish the discovery request in Word or WordPerfect format (not PDF format), as designated by the responding party, so that the responding party need not re-type these discovery requests to prepare a response.

Comment

This new local rule is intended to facilitate and expedite a party's response to discovery requests.

Rule 7026-3 Discovery in a Contested Matter

Discovery in a contested matter is permitted only upon a court order for cause shown.

Comment

This new rule is derived from Administrative Order 00-04, adopted on December 4, 2000.

Rule 7041-1 Dismissal of a Complaint Objecting to the Discharge of the Debtor

When the parties to an action under § 727 propose to dismiss the action, they shall file a joint statement of the consideration received or to be received by the plaintiff. The plaintiff shall then serve the joint statement on all creditors and the trustee, with a notice stating that the deadline to file objections is 15 days after service, and file a certificate of service. If no timely objection is filed, the plaintiff shall promptly file a certificate of no response and submit the agreed proposed dismissal order. If a timely response is filed, the court will set the matter for hearing.

Comment

The new third sentence establishes the plaintiff's obligation to file a prompt certificate of no response. The balance of the local rule is unchanged in substance.

Rule 7055-1 Default Judgment

The deadline to file an application for the entry of a default judgment and submit a proposed default judgment is 15 days after the clerk has entered the opposing party's default. The application for the default judgment need not be served on the party in default unless the court orders otherwise or unless service is required by F.R.Civ.P. 55(b).

Comment

This local rule is revised to conform the process of submitting the proposed default judgment with ECF and to clarify that the party in default is not ordinarily entitled to notice of the motion for default judgment.

Rule 7067-1 Deposit and Withdrawal of Funds in an Interest Bearing Account in the Registry of the Court

(a) Deposit Order. A proposed order for the deposit of funds into the registry account of the court shall state:

- (1) The amount to be invested;
- (2) The type of investment;
- (3) The rate of interest;
- (4) The term of the deposit; and
- (5) The name of the banking institution in which the deposit of funds is to be made.

Before filing a motion and submitting a proposed order to deposit funds in an interest bearing account, the moving party shall notify the clerk, who will determine whether the proposed banking institution has pledged sufficient collateral with the United States Treasury to insure the account for any sum in excess of the limit insured or guaranteed or backed by the full faith and credit of the United States. The clerk will also advise the moving party about any other matters pertaining to the orderly and timely deposit of funds in an interest bearing account. Before the proposed order is submitted for entry, a copy of it shall be delivered to the clerk or to the clerk's designee for approval as to form and the movant shall file a statement of concurrence stating that the clerk consents to the form of the proposed order. An order requiring the clerk to make a deposit of funds in an interest bearing account shall not be effective until the order is personally served on the clerk. The clerk will deposit the funds promptly after receiving confirmation that any necessary adequate securities have been pledged by the bank.

(b) Order for Withdrawal of Funds. A proposed order for the withdrawal of funds held in an interest bearing account in the registry account shall state:

- (1) The names, addresses and last four digits of the social security or full employer identification numbers of the recipients of the funds;
- (2) The amount of any fee payable to the United States in accordance with the fee schedule adopted by the Judicial Conference of the United States; and
- (3) The amount of principal and interest to be paid to each recipient.

The proposed order shall be submitted to the clerk or to the clerk's designee for approval as to form before it is submitted to the judge. After entry, the moving party shall serve the order on the clerk.

Comment

This local rule is revised to conform to the court's established order submission procedure, but is otherwise unchanged.

Rule 8001-1 Transmitting a Bankruptcy Matter to the District Court

When filing a notice of appeal, a motion for leave to appeal or a motion to withdraw the reference, the filing party shall attach as an exhibit a completed form "Bankruptcy Matter Civil Case Cover Sheet," available on the court's website.

Comment

This local rule simplifies and clarifies the use of the district cover sheet for all bankruptcy matters before it.

Rule 9001-1 Definitions

(a) Large Bankruptcy Cases. Upon a motion or the court's own initiative, the court may enter an order without a hearing designating a chapter 11 case as a "Large Bankruptcy Case."

(b) First Day Motion. A "First Day Motion" is a motion filed within the first 14 days after an order for relief in a chapter 11 case and designated as such under Local Rule 9013-1. It is a motion that the debtor believes is so important to the initial stages of the case that the best interests of the bankruptcy estate warrant granting a hearing on the motion upon shortened or limited notice.

(c) ECF Terms. The terms defined in the court's ECF Procedures have the same meanings herein.

Comment

Paragraphs (a) and (b) are unchanged in substance.

New paragraph (c) conforms the local rules to these ECF definitions.

Rule 9004-2 The Caption and Filing of Papers

(a) Caption. The caption on a paper shall substantially conform to the applicable official form (if any) and shall also state:

- (1) The chapter number under which the petition is pending;
- (2) The judge to whom the case is assigned;
- (3) A concise statement of the nature of the document and:
 - (A) For a motion, identification of the movant and specific relief sought; and
 - (B) For a response, identification of the respondent and the title of the motion to which the response is directed, including the name of the movant and the specific relief sought.

(b) Traditional Filings. When filed as a Traditional Filing, a paper other than a proof of claim shall use only one side of a page and under the signature line shall state the attorney's name, mailing address and telephone number and the name of the client. The pages, excluding exhibits, shall be numbered.

(c) Use of Forms. The use of a form pleading that contains extraneous factual allegations or legal arguments not applicable to the matter before the court may subject the individual who submits it to sanctions under F.R.Bankr.P. 9011. Factual allegations in pleadings must be made with the proper respect for the applicable rules regarding relevance, specificity and accuracy.

Comment

- Paragraph (a) is unchanged.
Paragraph (b) continues the current requirements for Traditional Filings. The ECF Administrative Procedures continue similar requirements for ECF Filings.
Paragraph (c) is renumbered from Local Rule 9004-2(d).

Rule 9006-1 Reduction or Enlargement of Time

(a) Motion for Extension of Time Under F.R.Bankr.P. 1007(c) or F.R.Bankr.P. 3015(b).

- (1) Before filing a motion for extension of time to file papers under F.R.Bankr.P. 1007(c) or to file a chapter 13 plan under F.R.Bankr.P. 3015(b), the movant shall request the concurrence of the trustee, if any, or if no trustee has been appointed, the United States trustee.
- (2) The motion shall state:
 - (A) The date set for the meeting of creditors;
 - (B) The date on which the movant intends to file the papers;
 - (C) The grounds establishing good cause for the relief sought;

(D) That an objection to the relief requested in the motion must be filed within 3 days of service of the motion; and

(E) The efforts made by the moving party to obtain concurrence.

(3) The deadline to file an objection is 3 days after the motion is filed. Upon the filing of an objection, the court will schedule an expedited hearing with notice to the movant and the objecting party.

(4) The movant may submit a proposed order granting the relief requested after the movant files a certification that no response was timely filed.

(5) If the movant obtains concurrence under subparagraph (1), the movant may file a stipulation for the entry of a proposed order and submit a proposed order for entry by the court.

(b) Any Other Reduction or Enlargement of Time. Unless prohibited by F.R.Bankr.P. 9006 and to the extent otherwise permitted by the bankruptcy code and the Federal Rules of Bankruptcy Procedure, a party may file a motion for an *ex parte* order reducing or enlarging the time for a party to take any action or file any paper. Prior to making the motion, if the motion is made in an adversary proceeding or a contested matter, the movant shall attempt to obtain the acquiescence of opposing counsel, unless unduly burdensome. The movant shall also immediately notify opposing counsel personally or by telephone of the entry of the order and shall serve the order on any opposing counsel who does not receive service by ECF and file a certificate of service. A party aggrieved by such an order may move for a dissolution of the order.

Comment

This rule is unchanged in substance. Paragraph (b) is revised slightly to accommodate ECF Procedures.

Rule 9010-1 Appearance Before the Court and at a Meeting of Creditors

(a) Appearance by Attorney.

(1) Except as otherwise provided by law, appearance before the court on behalf of a person or entity may be made only by an attorney admitted to the bar of, or permitted to practice before, the United States District Court for the Eastern District of Michigan, under E.D. Mich. LR 83.20.

A corporation, partnership or other entity other than an individual may not file a petition or other paper, nor appear as a debtor, plaintiff, defendant or other party in an adversary proceeding, unless it is represented by an attorney duly admitted to, and in good standing with, the bar of the United States District Court for this district. The following do not constitute the practice of law for purposes of these rules:

- (A) The signing or filing of a request for notice;
- (B) The signing or filing of a proof of claim or a ballot;
- (C) The attendance and participation at a meeting of creditors or of an official committee;
- (D) The signing or filing of a pleading or paper resolving an objection to a proof of claim;
- (E) The signing or filing of a stipulation adjourning a hearing or extending a deadline; or
- (F) The filing of an appearance under Local Rule 2002-5.

(2) An attorney appearing before the court is expected to have read and to be familiar with the Federal Rules of Bankruptcy Procedure, these rules, the ECF Procedures, the rules of the district court and the Civility Principles. Unless otherwise instructed by the court, counsel shall:

- (A) At the onset of the hearing, place the attorney's name on the record and state the name of the party that the attorney represents;
- (B) Stand when speaking or when addressed by the judge;
- (C) Speak in the vicinity of a microphone;
- (D) Refrain from confrontation or colloquy with opposing counsel;
- (E) Address all persons by their surnames;
- (F) State all objections concisely and with specificity; and
- (G) Be fully prepared and knowledgeable of the issues and matters to be addressed.

(b) Appearance by Debtor's Attorney or Firm of Record. The debtor's attorney or firm of record shall, except as provided in paragraph (c) below, attend the meeting of creditors and all hearings within the scope of representation and when appearing, shall have sufficient familiarity and knowledge of the case and its prior proceedings as to permit informed discussion and argument.

(c) Attorney Appearing on Behalf of Attorney of Record. An attorney whose appearance in a particular hearing or a meeting of creditors is made at the request of the debtor's attorney of record shall file prior to such appearance a written notice of special appearance and a completed form

“Statement of Attorney for Debtor(s) Under F.R.Bankr.P. 2016(b),” available on the court’s website. At the time of appearance, the attorney shall furnish, on request, a copy of the notice of appearance that evidences the fact of filing. An attorney making a special appearance shall be accountable for adequately representing the interests of the person or entity on whose behalf the appearance is made.

(d) Disclosure of Scope of Representation of Debtor’s Attorney. The attorney for a debtor shall file a completed form “Statement of Attorney for Debtor(s) Under F.R.Bankr.P. 2016(b),” available on the court’s website, in which the scope of the attorney’s appearance and representation shall be accurately stated. The “Statement of Attorney for Debtor(s) Under F.R.Bankr.P. 2016(b)” shall be countersigned by the debtor.

(e) Scope of Appearance of Debtor’s Attorney in a Chapter 9, 11, 12 or 13 Case. The attorney for a debtor under chapter 9, 11, 12 or 13, is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the court, and has a continuing duty to represent the debtor in all proceedings in the bankruptcy court, including relief from automatic stay motions, hearings on claims or adversary proceedings, until the occurrence of the earliest of:

- (1) Dismissal of the case;
- (2) Closing of the case; or
- (3) The entry of an order allowing the attorney to withdraw from further representation of the debtor.

(f) Scope of Appearance of Debtor’s Attorney in a Chapter 7 Case. In a case filed under or converted to chapter 7, the scope of appearance of the debtor’s attorney shall be as disclosed in the F.R.Bankr.P. 2016(b) statement.

(g) Withdrawal of Attorney.

(1) An attorney who has appeared on behalf of a party may not withdraw without permission of the court. A request for permission to withdraw may be made by stipulation between the attorney and the party or upon motion filed under Local Rule 9014-1. Immediately upon the entry of an order permitting the attorney’s withdrawal, the attorney shall serve it on parties involved in pending litigation and file a certificate of service.

(2) Except as required under subparagraph (g)(1), no order is required for a consensual substitution of attorney that is signed by the represented party, the withdrawing attorney and the

substituting attorney. A notice of substitution of attorney shall be filed and served on the trustee and any interested parties involved in pending litigation.

(h) Required Approval for Employment. If an order approving the employment of the withdrawing attorney under § 327 or § 1103 was required, any new attorney must also comply with F.R.Bankr.P. 2014; the employment will not be deemed approved merely by filing a notice of substitution of attorney.

(i) Appearance for Settlement Purposes Only. Local counsel need not appear solely to sign and file a paper resolving a contested matter or an adversary proceeding.

Comment

This local rule is unchanged in substance, except that new paragraph (i) allows an out-of-state attorney to sign a paper resolving a matter without retaining local counsel.

Rule 9010-3 Restriction on the Law Practice of a Former Law Clerk

(a) A Former Law Clerk for a Specific Bankruptcy Judge. A former law clerk for a judge in this district shall not appear before that judge for two years after such service or participate in any capacity in any case that was pending before that judge during the clerkship.

(b) A Former Law Clerk for the Court. A former law clerk for the court, such as a shared law clerk, shall not appear before any judge in the district for six months after such service or participate in any capacity in any case that was pending during the clerkship.

(c) A Former Law Clerk's Firm. The prohibitions of paragraphs (a) and (b) do not extend to an individual or entity that employs a former law clerk, nor to its partners, members or associates.

Comment

This new local rule is derived from General Order 8, dated February 3, 1983.

Rule 9011-3 Sanctions

For failure to comply with any applicable rules, sanctions may be imposed upon: (1) any counsel appearing before the court; (2) any person appearing without counsel; (3) any person acting in a

fiduciary capacity in a case or proceeding; and (4) other professional persons whose employment was approved by the court. Sanctions in the form of an admonition, the assessment of costs or any other sanction deemed appropriate may be imposed upon notice and opportunity for hearing when it is determined that such non-compliance has obstructed the effective conduct of the business of the court. These sanctions are in addition to the sanctions that the court may impose upon counsel under E. D. Mich. LR 11.1, the Federal Rules of Bankruptcy Procedure or the Federal Rules of Civil Procedure.

Comment

This local rule is unchanged.

Rule 9013-1 First Day Motions

(a) Filing Requirements. The title of each First Day Motion and of each proposed order granting a First Day Motion shall contain the words “First Day.” When filing the motion through ECF, the debtor’s counsel shall select the prefix “First Day.” The debtor’s counsel shall promptly notify the judge’s courtroom deputy clerk that First Day Motions have been filed. The term “First Day Motion” shall also be included on all exhibits, budgets, proposed orders, affidavits and all other papers that the debtor files in support of a First Day Motion.

(b) Service of Motion. A First Day Motion and all related papers shall be served on the United States trustee, all secured creditors, the creditors included on the list filed under F.R.Bankr.P. 1007(d) and any adverse party relative to the relief requested in the First Day Motion. This service shall be completed within 24 hours after the First Day Motion is filed even if the hearing on the First Day Motion has not yet been scheduled by the court. First Day Motions shall be served by:

- (1) Transmission to a Registered Filer or User consistent with F.R.Bankr.P. 9036 and ECF Procedure 4(e);
- (2) Hand delivery;
- (3) Delivery by overnight delivery service; or
- (4) Facsimile transmission to the extent that facsimile number(s) are available.

The movant shall promptly file a certificate of service.

(c) Scheduling a Hearing. The movant is not required to file a separate motion for an expedited hearing on a First Day Motion. The movant shall submit a proposed order scheduling the First Day Motions for hearing, leaving blank the hearing date and time. As expeditiously as possible, the court will determine whether each motion qualifies as a First Day Motion and will enter an order scheduling a prompt hearing on those that do. The order may specify the means and deadline for service of the notice of hearing. The movant shall serve the order scheduling the hearing on the parties and by the means identified in paragraph (b) and file a certificate of service.

Comment

Paragraph (a) is derived from current LBR 9013-4.

Paragraph (b) is derived LBR 9013-1.

Paragraph (c) is also derived from LBR 9013-4 and clarifies that a hearing on a First Day Motion will be scheduled in an order and not in a notice of hearing, and shall be served in the same manner as the motion.

All three paragraphs are modified to conform to ECF Procedures.

Rule 9013-4 Fixed Hearing Dates in a Large Bankruptcy Cases

(a) Upon motion of the debtor, the court may enter an order establishing fixed dates and times as the scheduled hearing date and time for consideration of all motions and contested matters in a Large Bankruptcy Case.

(b) If the court establishes fixed dates, the following procedures will apply unless the court orders otherwise:

(1) Any notice of an opportunity to object shall conspicuously contain above the title of the notice the date and time that the hearing will be held in the event that an objection is filed in accordance with applicable rules.

(2) Any motion or contested matter filed and properly served in accordance with applicable rules and as to which the applicable response time will elapse at least 3 business days before a fixed hearing date, may be set for hearing on such a fixed date.

(3) If the requisite time period set forth in Local Rule 9014-1(b)(1) has passed, the movant may file a certificate of no response and then shall submit a proposed order and promptly notify the court that a hearing on the motion is unnecessary.

(4) Debtor's counsel shall file and serve on all affected parties at least 5 days before the hearing a list of all matters scheduled to be considered by the court and file a certificate of service. The list shall set forth all motions and responses and whether the matter is resolved, disputed or adjourned.

(5) If a party intends to present a proposed order at the hearing different from the proposed order attached to the motion, debtor's counsel shall state on the list filed in accordance with subparagraph (b)(4) above that a different proposed order will be presented for entry.

(6) Debtor's counsel together with any affected party or parties may, without leave of the court, unless the court orders otherwise, adjourn any matter to a subsequent fixed hearing date. If a matter is adjourned, debtor's counsel shall immediately update the list filed in accordance with subparagraph (b)(4) above.

(7) Upon request, the court may allow counsel to participate in any hearing by telephone.

(c) The establishment of fixed dates for hearings does not preclude any party in interest from requesting and obtaining a different date for a hearing on a particular matter.

Comment

This local rule comes from the chapter 11 local rules adopted on an interim basis by Administrative Order 04-06, dated November 5, 2004. It is renumbered from current LBR 9013-5 and is unchanged.

Rule 9013-5 Corporate Ownership Statement in a Contested Matter

Unless it has already done so, any corporation that is a party to a contested matter shall file a statement that identifies any corporation that directly or indirectly owns 10% or more of any class of the corporation's equity interests. This statement shall be attached to the corporation's first paper filed in the contested matter. A party shall file a supplemental statement promptly upon any change in circumstances that this rule requires the party to identify or disclose.

Comment

This new rule is modeled after F.R.Bankr.P. 7007.1, requiring this disclosure in adversary proceedings.

Rule 9014-1 Motion Procedure Generally

(a) Motion Required. Unless permitted otherwise by applicable rule, a party seeking relief shall file a motion. This rule also applies to a fee application under Local Rule 2016-1(a) or (b). For purposes of this rule, an objection to a claim of exemption shall be deemed to be a motion.

(b) Attachments. The moving party shall attach the following to the motion:

(1) A copy of the proposed order, labeled as Exhibit 1.

(2) A completed form “Notice of Motion and Opportunity to Object,” available on the court’s website, , labeled as Exhibit 2, stating that: the deadline to file an objection to the motion is within 15 days (20 days for matters covered by F.R.Bankr.P. 2002(a)) after service; objections shall comply with F.R.Civ.P. 8(b), (c) and (e); and if an objection is not timely filed, the court may grant the motion without a hearing.

(3) A brief, when required under paragraph (e), labeled as Exhibit 3.

(4) A certificate of service showing service on those parties entitled to service under ECF Procedure 12(b), labeled as Exhibit 4.

(5) Affidavits, labeled as Exhibit 5.

(6) Documentary exhibits, labeled as Exhibit 6.

(c) No Timely Response. If a response is not timely filed, the movant may file a certification of no response so stating, attaching thereto a copy of the original certificate of service, and may submit the proposed order. The movant may file a certification of no response on or after the 19th day after service (or the 24th day in the case of matters covered by F.R.Bankr.P. 2002(a)), in order to comply with F.R.Bankr.P. 9006(f). The court may enter the submitted proposed order without a hearing. If the court decides not to enter the proposed order, the court will schedule a hearing with notice to the movant and the other parties that are entitled to notice, unless the court determines that a hearing is unnecessary to resolve the motion.

(d) Timely Response. If a response is timely filed, the court will schedule a hearing with notice to the movant and all respondents, unless the court determines that a hearing is unnecessary to resolve the motion.

(e) Briefing Requirements. A brief, not more than 20 pages in length, shall be filed in support of and in opposition to the following:

- (1) A motion in an adversary proceeding;
- (2) A motion for relief from stay or abandonment in a chapter 11 case;
- (3) A motion for the appointment of a trustee or examiner in a chapter 11 case; or
- (4) An objection to a claim of exemptions.

A reply brief of not more than 5 pages in length may be filed and served not less than 3 business days before the hearing on the motion.

(f) Rule Not Applicable. This rule does not apply to:

- (1) An objection to claim under Local Rule 3007-1;
- (2) A motion for reconsideration under Local Rule 9024-1(a);
- (3) A motion to amend an order or judgment under Local Rule 9024-1(b);
- (4) A motion to reinstate a dismissed case under Local Rule 9024-1(c);
- (5) A motion for extension of time to file papers under Local Rule 9006-1(a);
- (6) A motion to withdraw the reference under F.R.Bankr.P. 5011(a);
- (7) A motion for leave to appeal under F.R.Bankr.P. 8001(b) and 8003;
- (8) A motion to dismiss under Local Rule 2003-1;
- (9) A motion to dismiss under Local Rule 1017-2;
- (10) A matter covered by Local Rule 1007-6(a) and (b), relating to credit counseling compliance;
- (11) A motion seeking approval of a reaffirmation agreement under Local Rule 4008-1;
- (12) An application to waive the filing fee;
- (13) An application to pay the filing fee in installments;
- (14) A motion to extend the stay under Local Rule 4001-5(a);
- (15) A motion to order the stay to take effect under Local Rule 4001-5(b);
- (16) A motion to reopen a case to file missing papers under Local Rule 5010-1;
- (17) A motion for a default judgment under Local Rule 7055-1;
- (18) A motion to reduce or enlarge time under Local Rule 9006-1; and
- (19) A motion to file by Traditional Filing under ECF Procedure 3(b).

(g) Statement of Concurrence Sought. In an adversary proceeding, or in a bankruptcy case unless it is unduly burdensome, the motion shall affirmatively state that concurrence of opposing counsel in the relief sought has been requested on a specified date and that the concurrence was denied.

(h) Discovery Motions. With respect to a matter relating to discovery to which F.R.Bankr.P. 7026 through 7037 apply, counsel for each of the parties shall meet and confer in advance of the hearing in a good faith effort to narrow the areas of disagreement. The conference shall be held a sufficient time in advance of the hearing so as to enable the parties to narrow the areas of disagreement to the greatest extent possible. It shall be the responsibility of counsel for the movant to arrange for the conference and, in the absence of an agreement to the contrary, the conference shall be held in the office of the attorney nearest to the court in which the motion is pending.

(i) Withdrawal of a Motion. After a response has been filed, a motion may be withdrawn only upon stipulation of the moving and responding parties or a court order.

Comment

Paragraph (a) is unchanged.

Paragraph (b) is revised to conform with ECF Procedure 6.

Paragraph (c) is revised to condition the opportunity to file a certificate of no response on the failure to file a response, rather than on the failure to serve a response, due to ECF.

Paragraph (d) clarifies that the clerk will serve all notices of hearings on motions.

Paragraph (e) relating to briefs is unchanged.

Paragraph (f) expands the list of motions excluded from the rule.

Paragraph (g) is revised to expand the obligation to seek concurrence in a motion in a bankruptcy case when the obligation is not unduly burdensome, as for example when a party seeks relief against the debtor, a creditor or a small number of other parties.

Paragraph (h) is unchanged.

New paragraph (i) requires a stipulation or an order to withdraw a motion.

Rule 9015-1 Jury Trial Demand and Consent

(a) In a Contested Matter or Adversary Proceeding Initiated in Bankruptcy Court. A party who demands a jury trial in a contested matter or adversary proceeding initiated in the bankruptcy court shall be deemed to have consented to the bankruptcy judge conducting the jury trial unless, concurrently with the filing of the jury demand, the party files a motion to withdraw the reference. Any other party shall have until 10 days after the later of (a) the service of a jury demand, or (b) the deadline to file an answer or other responsive pleading, to file a motion to withdraw the reference; otherwise, that party shall be deemed to have consented to a jury trial conducted by the bankruptcy

judge.

(b) In an Adversary Proceeding Removed from State Court in Which a Jury Trial Demand Was Timely Filed. In an adversary proceeding removed from state court in which a jury trial demand was timely filed, the jury demand need not be re-filed in this court to be effective. A party shall be deemed to have consented to the bankruptcy judge conducting the jury trial unless, within 30 days after the removal, the party files a motion to withdraw the reference.

(c) In an Adversary Proceeding Removed from State Court in Which a Jury Trial Demand Was Not Filed And the Time to File Has Not Yet Expired. In an adversary proceeding removed from state court in which a jury trial demand was not filed and the time to file a jury demand under applicable state law has not expired, the deadline to file a jury demand shall be 30 days after the removal. If a jury trial demand is filed, the parties' consents to the bankruptcy judge conducting the jury trial shall be determined under the provisions of paragraph (a).

Comment

Paragraph (a) slightly revises the deadline by which a motion to withdraw the reference must be filed.

Paragraphs (b) and (c) are added to establish the procedures for demanding a jury trial and deeming consent in an action removed to this court.

The court recognizes that some district judges prefer that the bankruptcy judge retain until trial an adversary proceeding in which a jury trial has been demanded and therefore may deny the initial motion to withdraw the reference. Nevertheless, this procedure is crucial to maintain a uniform procedure in the bankruptcy court.

Nothing in the rule addresses or precludes any appropriate motion to strike a jury demand.

Rule 9019-1 Settlement

Counsel shall notify the court immediately upon the settlement of an adversary proceeding or contested matter. If, by the date set for the trial or hearing, the attorneys have not submitted a proposed order disposing of the matter, then the attorneys shall appear and state the settlement on the record, and shall submit a proposed order within 10 days. Failure to submit a proposed order within 10 days shall be cause for dismissal.

Comment

This local rule is unchanged.

**Rule 9021-1 Entry of an Order or Judgment in a Contested Matter
or Adversary Proceeding**

(a) Procedure for the Entry of an Order or Judgment. An order or judgment may be entered by one of the following methods:

- (1) Upon notice to the parties, the court may prepare and enter an order or a Text Order.
- (2) The court may at the hearing excuse presentment of a proposed order or judgment for approval.
- (3) The court may enter a proposed judgment or order when a stipulation to its form is filed and if, in the court's determination, it comports with the court's decision.
- (4) Unless the court has excused presentment for approval, the prevailing party shall file a proposed order or judgment with a notice that it will be submitted for entry if written objections are not filed within 7 days.

(A) If a written objection is not timely filed and served, the prevailing party shall file a certification that no objections have been filed and shall submit the proposed judgment or order. If the proposed judgment or order comports with the decision, the court may then enter it. If the proposed judgment or order does not comport with the decision, the court may schedule a hearing with notice to the parties.

(B) If an objection is filed, a proposed order shall be attached. The court will schedule a hearing with notice to the parties, unless the court determines that a hearing is unnecessary to resolve the matter.

(C) If all filed objections to a proposed order are withdrawn, then the court may enter the proposed order or judgment under subparagraph (a)(4)(A).

(5) If the prevailing party fails to act within a reasonable time, any other party may prepare the proposed order or judgment and follow the appropriate steps for entry.

(b) Costs. The court may impose costs upon any party or attorney who:

- (1) Unreasonably withholds approval as to form;

(2) Files a frivolous objection under this rule; or

(3) Submits a proposed order that does not reasonably comport with the court's decision.

(c) Order Granting Different Relief. When the court enters an order granting relief different from that requested, the court may require the prevailing party to serve a copy of the order on all parties who are not served through ECF and who might be materially and adversely affected by the difference. In such case, the party serving the order shall include, with the copy of the order, a notice that a request for a rehearing must be filed and served within a time period that will be fixed by the court. Unless the court orders otherwise, until such period is concluded, the order shall be stayed insofar as it affects parties not present at the hearing of the underlying motion.

Comment

This local rule is revised to conform with ECF Administrative Procedures, especially ECF Procedure 7. Current LBR 9021-1(c), relating to service of an order after entry, is abrogated as unnecessary under ECF.

Paragraph (a) is abrogated by ECF Procedure 7(d). It is now redrafted to provide for the entry of an order prepared by the judge or of a text order. Therefore ECF Procedure 7(d) will itself be repealed.

Otherwise, the local rule is unchanged.

Rule 9024-1 Post-Judgment Motions

(a) A Motion for Reconsideration.

(1) Deadline. The deadline to file a motion for reconsideration of an order or judgment on the grounds that it was erroneous in fact or law is 10 days after the entry of the order or judgment.

(2) No Response and No Hearing Allowed. No response to the motion and no oral argument thereon shall be allowed unless the court otherwise orders.

(3) Grounds. Generally, and without restricting the discretion of the court, a motion for reconsideration that merely presents the same issues ruled upon by the court, either expressly or by reasonable implication, will not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

(4) Brief. The movant shall file a brief in support of the motion not exceeding 20 pages in

length.

(5) Application. Subparagraphs (a)(1)-(4) do not apply to a motion to reconsider an order disallowing a claim under F.R.Bankr.P. 3008.

(b) A Motion to Amend an Order or Judgment. If a motion is filed to amend an order or a judgment under F.R.Civ.P. 59(e), no response shall be filed and no oral argument shall be scheduled unless the court so orders.

(c) A Motion to Reinstate a Dismissed Case. If a motion is filed to reinstate a dismissed case under F.R.Civ.P. 60(b)(6) on the grounds that the default that caused the dismissal has been or can be cured, no response shall be filed and no oral argument shall be scheduled unless the court so orders. A motion to reopen a closed case to file missing papers is covered by Local Rule 5010-1.

(d) Other Post-Judgment Motions. The following post-judgment motions shall be filed under Local Rule 9014-1:

(1) A motion for relief from an order due to mistake, inadvertence, excusable neglect, newly discovered evidence, fraud, etc., under F.R.Civ.P. 60(b);

(2) A motion for a new or reopened evidentiary hearing or trial under F.R.Civ.P. 59(a)-(c);

(3) A motion to reopen a closed bankruptcy case under § 350, except as provided in Local Rule 5010-1; and

(4) A motion to reconsider an order disallowing a claim under F.R.Bankr.P. 3008.

Comment

Paragraphs (a) and (b), relating to motions to reconsider and motions to amend an order, respectively, are revised in form from current LBR 9024-1. Subparagraph (a)(5) clarifies that paragraph (a) does not apply to a motion to reconsider an order disallowing a claim.

New paragraphs (c) and (d) clarify the procedures for all other post-judgment motions.

Rule 9029-1 Rules of Procedure

(a) Rules of General Applicability. The rules of procedure in cases and proceedings in this court shall be as prescribed by the laws of the United States, the rules promulgated by the Supreme Court of the United States, any applicable rules of the United States Court of Appeals for the Sixth Circuit,

any applicable Local Rules of the United States District Court for the Eastern District of Michigan, these rules and the court's ECF Procedures.

(b) Title and Authority. These rules are promulgated under F.R.Bankr.P. 9029 and shall be referred to as the Local Rules of the Bankruptcy Court for the Eastern District of Michigan, cited as E.D. Mich. LBR ____-__.

(c) References in These Rules. References in these rules to any statute within the bankruptcy code, 11 U.S.C. § 101 *et seq.* are “§____.” References in these rules to the Local Rules for the United States District Court for the Eastern District of Michigan are “E. D. Mich. LR ____.” References in these rules to the Federal Rules of Bankruptcy Procedure are “F.R.Bankr.P. ____.” References in these rules to the Federal Rules of Civil Procedure are “F.R.Civ.P. ____.” Within these rules, these rules are referred to as “Local Rule ____.” References to this court's Administrative Procedures for Electronic Case Filing are “ECF Procedure ____.”

(d) Procedural Orders in a Specific Case or Proceeding. A judge may issue orders governing matters of procedure not addressed by these rules.

(e) Suspension of the Local Rules. Upon notice and for cause in a particular case or proceeding, a judge may temporarily suspend the applicability of any of these rules.

(f) Prior Rules Superseded. These rules supersede all prior local rules and all prior administrative orders on the matters covered in these rules.

(g) References to Other Rules or Statutes. When these rules refer to the Federal Rules of Bankruptcy Procedure, the rules of the district court or sections of the bankruptcy code, they refer to such as they existed on the effective date of the last amendments to these rules. If the statute or rule referred to is re-codified, the reference in these rules shall be deemed to be amended to track the re-codification. If these rules refer to an interim rule promulgated by the Judicial Conference of the United States and adopted by this court and that interim rule is subsequently adopted as part of the Federal Rules of Bankruptcy Procedure, the reference shall then be deemed to that rule in the Federal Rules of Bankruptcy Procedure.

Comment

Paragraph (a) adds a reference to the court's ECF Procedures.

Paragraphs (b) and (c) are from LBR 9029-1(b) but unchanged in substance.

Paragraph (d) is renumbered from current LBR 9029-1(c).

Paragraphs (e), (f) and (g) are unchanged.

Rule 9029-2 Administrative Orders of General Scope

When authorized by the court, the chief judge may issue administrative orders of general scope. The orders will be transmitted to the clerk, who will arrange for their appropriate publication and will maintain a public file containing copies of all such orders currently in effect.

Comment

This local rule is renumbered from current LBR 9029-1(d).

Rule 9029-3 Civility Principles

The Civility Principles as adopted and amended by the district court are adopted and are available on the court's website.

Comment

This new local rule is derived from Administrative Order 96-08, dated July 25, 1996.

Rule 9029-4 Applicability of Amendments

Amendments to these rules shall be applicable to pending cases and proceedings, except to the extent that in the opinion of the court their application in a particular case or proceeding would not be feasible or would result in an injustice.

Comment

This local rule is unchanged.

Items Available on the Court's Website

Form - Bankruptcy Petition Cover Sheet
Form - Declaration Under Penalty of Perjury for Debtor(s) Without An Attorney
Guidelines for a Traditional Filing Matrix
Guidelines for a Computer Disk Matrix
Form - Cover Sheet for Amendments
Form - Trustee's Report of Undisclosed Asset
Form - Notice of Hearing on Objection to Claim
United States Trustee Fee Guidelines
List of Chapter 13 Project Categories for Fee Applications
Form - Chapter 13 Worksheet
Form - Chapter 13 Debtor's Certification Regarding Domestic Support Obligations
Form - Cover Sheet for Motion to Use Cash Collateral or to Obtain Financing
Form - Transcript Order Form
Form - Cover Sheet for Motion to Approve Sale Procedures
Form - Adversary Proceeding Cover Sheet
Form - Order Regarding Mediation
List of Mediators
Form - District Court Bankruptcy Matter Civil Cover Sheet
Form - Statement of Attorney for Debtor(s) Under F.R.Bankr.P. 2016(b)
Form - Notice of Motion and Opportunity to Object
The Civility Principles
Available Dates for Hearings on Objections to Claims
Individual Judge's Adjournment Procedures

Guidelines Relating to a Large Bankruptcy Case

Guideline 1 Notifying the United States Trustee and the Clerk of First Day Motions

Before filing a chapter 11 case that is accompanied by First Day Motions, counsel for the debtor is encouraged to communicate with the United States trustee's office and the clerk's office. With respect to contact with the clerk's office, counsel should contact the clerk of the court. If the clerk is not available, contact may be made with the chief deputy clerk or the operations manager of the clerk's office. Counsel for the debtor may discuss any relevant issues in the case with the United States trustee and the clerk of the court.

The court strongly encourages the parties to discuss the following with the United States trustee's office:

- (1) The nature of the first day relief to be requested.
- (2) The debt structure of the business, including the public and trade debt.
- (3) Description of the debtor's cash management system and issues under § 345.
- (4) Issues that may be resolved by consent (*e.g.*, extensions of time to file schedules, adequate assurances of utility payments, wage and benefit payments up to statutory limitation(s), joint administration, necessity doctrine payments, professional employment issues, including conflicts and indemnification requests).
- (5) Corporate governance issues.
- (6) Collateral issues including Federal Trade Commission issues, taxing authority issues, Security and Exchange Commission issues, pension and other Department of Labor issues, Environmental Protection Agency and Michigan Department of Environmental Quality issues and insurance issues.
- (7) The status of any attempted out-of-court workout, including perceived impediments to a successful reorganization and whether there was an unofficial prepetition committee.
- (8) The number of creditors and any special needs due to the size of the case.
- (9) The need for a noticing vendor for the notice of the meeting of creditors and any other notice requirement.

The court strongly encourages the parties to discuss the following with the clerk:

- (1) The number of creditors and any special needs due to the size of the case.
- (2) The need for a noticing vendor for the notice of the meeting of creditors and any other notice requirement.
- (3) The need for the availability of the clerk or staff outside of ordinary business hours.

Guideline 2 Expedited Formation of Committee in a Large Bankruptcy Case

In Large Bankruptcy Cases, the United States trustee's office is encouraged to appoint a committee of creditors within 3 business days after receiving the information from the debtor required by Local Rule 2003-3, provided that creditors are willing to serve in accordance with § 1102.

Guidelines Relating to BAPCPA 2005

Guideline 3 Missing Papers

The clerk will not issue a discharge if the debtor has not filed:

- (a) Official Form 23 - Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management, as required by F.R.Bankr.P. 1007(b)(7) and (c), and
- (b) In a Chapter 13 case, Debtor's Certification Regarding Domestic Support Obligations, as required by Local Rule 4004-1.

Guideline 4 Waiver of Filing Fee

An application to waive the filing fee must be filed on the official form. The court will review all such applications in chambers. The court may deny an application without a hearing. If the court schedules a hearing, the court will give notice to the debtor and the trustee.

Guideline 5 Tax Return Compliance

A motion under §§ 521(j), 1307(e) or 1308 shall be filed under Local Rule 9014-1.