

FILED
January 16, 2013
U. S. Bankruptcy Court
District of Colorado
Bradford L. Bolton, Clerk

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF ADOPTION OF REVISIONS
TO CERTAIN LOCAL BANKRUPTCY RULES AND FORMS

GENERAL PROCEDURE ORDER NUMBER 2013-1

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure this General Procedure Order is adopted to make revisions to certain Local Bankruptcy Rules (L.B.R.) and Local Bankruptcy Forms (L.B.Forms), and add to the L.B.R., pending their formal adoption. The following are the L.B.R.s. and L.B. Forms that are modified with the attached exhibit setting forth the detail of the revisions:

L.B.R. 1007-4 Financial Disclosure by Corporate Debtor
L.B.R. 1007-7 (NEW) Chapter 11 Receivers
L.B.Form. 1007-7.1 (NEW) Disclosures Regarding Receivers
L.B.R. 1015-1 Joint Administration
L.B.R. 2004-1 Examinations
L.B.R. 2081-1 Chapter 11 Initial Motions
L.B.R. 2081-2 Chapter 11 - Certain Notices
L.B.R. 4001-3 Cash Collateral and Post-Petition Financing

ORDERED that commencing February 1, 2013, the afore referenced revisions to the L.B.R.s and L.B.Forms described in the attached document are adopted for use.

Dated: January 16, 2013

BY THE COURT:

S/ _____
Howard R. Tallman, Chief Judge
Sidney B. Brooks, Judge
A. Bruce Campbell, Judge
Elizabeth E. Brown, Judge
Michael E. Romero, Judge

Rule 1007-4 FINANCIAL DISCLOSURE BY CORPORATE DEBTOR

1007-4(a) changed the reference from business debtors to corporate debtors and subsection (3) was deleted because it duplicates the statute and the .

Rule 1007-7 CHAPTER 11 RECEIVERS is new.

It reads:

**[NEW] LOCAL BANKRUPTCY RULE 1007-7
CHAPTER 11 RECEIVERS**

(a) Filing Requirement: A Chapter 11 debtor shall file, with the petition, a statement regarding whether a receiver is in possession of all or any part of the debtor's property, in substantial conformity with L.B.Form 1007-7.1

Commentary

[Source: New]

Failure to comply with this Rule may be grounds for conversion or dismissal under 11 U.S.C. § 1112(b)(4)(F) or other cause.

Local Bankruptcy Form 1007-7.1 DISCLOSURE REGARDING RECEIVERS is new.

[NEW] Bankruptcy Form 1007-7.1

[Caption as in Bankruptcy Official Form 16A]

DISCLOSURE REGARDING RECEIVERS

In a chapter 11 reorganization case, the following information is required pursuant to L.B.R. 1007-7:

Check applicable box:

No receiver is in possession of debtor's property

A receiver is in possession of all or part of the debtor's property:

Identification (by address or legal description) of property(ies): _____

Name of Creditor: _____

Name, Address and Telephone Number of Receiver:

Attorney for Receiver (if any): _____
Name, Address and Telephone Number of Attorney:

Date of Appointment of Receiver: _____
Court Appointing Receiver and Case No: _____

Dated: _____

By: _____
Signature of Debtor

Dated: _____

By: _____
Counsel to _____
Attorney registration number
Business Address
Telephone number
Facsimile number
E-mail address

Rule 1015-1 JOINT ADMINISTRATION

This Rule is modified to add a new paragraph (b), resulting in the renumbering of other paragraphs. There also is new commentary. The new paragraph and commentary read:

(b) Any motion for joint administration pursuant to FED. R. BANKR. P. 1015(b) involving two or more petitions pending in the same court by or against (i) a partnership and one or more of its general partners, (ii) two or more general partners, or (iii) a debtor and an affiliate must include a short and concise statement setting forth the reasons that granting the motion for joint administration will aid in expediting the administration of the cases and rendering the process less costly.

Commentary

This Rule is intended to deal with joint administration, as opposed to substantive consolidation.

The Court will not approve joint administration if the Court anticipates that joint administration will have an adverse impact on the substantive rights of the claimants, other interested parties, and the respective debtor estates.

By way of example, issues that may impact substantive rights in joint administration include:

- a. Confusion in cash management, including obtaining credit pursuant to 11 U.S.C. § 364 and use of cash collateral under FED. R. BANKR. P. 4001. Counsel for jointly administered debtors must ensure that cash management between and amongst debtors respects corporate distinctions.

- b. Failure by counsel for the debtor(s) to properly allocate fees and costs to the applicable debtor. Fee applications filed in jointly administered cases must designate the entity to which the fees and costs are attributable.
- c. Notification to claimants and other interested parties of claims filing and management amongst affiliated debtors. Counsel for jointly administered debtors must, consistent with L.B.R. 1015-1(d)(2)(B), take appropriate steps to notify creditors and other interested parties of the entity to which their claim may be applicable.

RULE 2004-1 DEPOSITIONS & EXAMINATIONS

The word “Depositions” is removed from the title. In addition subsection (b) and the commentary have slight revisions:

(b) Time: Unless otherwise ordered by the court for good cause shown, the date for the examination or production of documents sought **under FED. R. BANKR. P. 2004(a)** must be not less than fourteen (14) days after service, by the movant, of the examination order on the party to whom it is directed.

Commentary

Large document production requests on a fourteen (14) day notice of **examination** are not favored. It is good practice for the parties to discuss the dates, times and locations of the requested exam prior to submitting a request to the court, and to indicate any agreement or lack of agreement in the motion.

RULE 2081-1 CHAPTER 11 INITIAL MOTIONS:

Revisions were made to include the requirement to send notice to the United States Trustee and to. The changes are as follows:

(2) Service on other parties: A copy of the Motion, cover sheet, affidavits, notice, and proposed orders must be served by hand-delivery, over-night mail, facsimile or e-mail initiated on the day the Motion is filed, to:

- (A) any appointed chapter 11 trustee or examiner,
- (B) any creditors' or equity security holders' committee pursuant to L.B.R. 2081-2,
- (C) if there is no committee, the 20 largest unsecured creditors,
- (D) any indenture trustee,
- (E) the IRS and other relevant government entities,
- (F) all parties who have requested notice, ~~and~~
- (G) any party whose interest in property of the estate will be directly affected by any order requested; ~~and~~
- (H) the United States Trustee.

(c) Hearing:

(2) Service of Notice of Hearing: As soon as the movant is notified of the hearing date, the movant must serve notice of the date and time of the hearing in substantial conformity with [L.B. Form 2081-1.4](#) to:

- (A) ~~the United States Trustee~~ parties who were served with copies of the Motion; ~~and~~
- (B) ~~any creditors' or equity security holders' committee pursuant to L.B.R. 2081-2. If no creditors' committee has been appointed, the twenty (20) largest unsecured creditors;~~
- (C) ~~any party whose interest in property of the estate will be directly affected by any order requested; and~~
- (D) ~~those parties who have requested notice in the case or those who have responded to the Motion on [L.B. Form 2081-1.3](#).~~

The movant must notify each of the above of the date, time and place of the hearing by e-mail or facsimile, as requested in such party's response, within the later of: (i) four (4) hours after movant receives responder's request for notice, or (ii) four (4) hours of being notified by the court of the date and time of the hearing. ~~To the extent that time and circumstances permit, the movant must also give notice of the date, time and place of the hearing to other parties in interest identified in subparagraph (b)(2) above.~~

RULE 2081- 2 CHAPTER 11 - CERTAIN NOTICES

Rule 2081 is modified to explain when the limited notice list can be used and to add debtor's attorneys to the minimum requirement list. The clarifying revisions are:

(c) Limited Notice List: A chapter 11 debtor may file a motion to establish a limited notice list for matters where notice is not otherwise governed by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure or these Local Rules.

(2) Minimum Requirement: Unless otherwise ordered, a limited notice list must include the following:

- (1) the United States Trustee,
- (2) any appointed chapter 11 trustee or examiner,
- (3) any appointed creditors= or equity security holders= committee,
- (4) if there is no committee, the 20 largest unsecured creditors,
- (5) all secured creditors (Schedule D),
- (6) all priority creditors (Schedule E),
- (7) those parties who have filed an entry of appearance and request for all notices,
- (8) parties against whom relief is sought by the particular intended action, **and**
- (9) **the debtor's attorneys, and**
- (10) any additional parties as directed by the court.

RULE 4001-3 CASH COLLATERAL AND POST-PETITION FINANCING

Rule 4001-3 is modified to require that remedies in the event of default be part of the "mandatory inclusions." It is modified as follows:

(2) Mandatory Inclusions: All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing including, but not limited to:

- (A) the maximum borrowing available on a final basis,
- (B) the interim borrowing limit,
- (C) borrowing conditions,
- (D) interest rate,
- (E) maturity,
- (F) events of default,
- (G) **remedies in the event of default,**
- (H) use of funds limitations,
- (~~I~~H) protections afforded under 11 U.S.C. " 363 and 364, and
- (~~J~~F) a line-item budget for both the interim and final order periods, unless the court orders otherwise.