



**U.S. United States Bankruptcy Court for the District of Colorado**  
**Local Bankruptcy Rules, effective December 1, ~~2015~~2017**

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#### L.B.R. 1001-1. Scope of Rules

- (a) ~~General Applicability.~~ Purpose. These ~~rules~~ Local Bankruptcy Rules (“Rules”) and forms supplement the Federal Rules of Bankruptcy Procedure (“Fed. R. Bankr. P.”) and the Official Bankruptcy Official-Forms (“Official Forms”)).
- (a)(b) General Applicability. Unless otherwise ordered by the Court, these Rules apply in all cases and govern practice and procedure proceedings in the United States Bankruptcy Court for the District of Colorado.
- (b)(c) Applicability of Rules to Persons Appearing without Counsel. Unrepresented Parties. Individuals who ~~appear before the court who~~ are not represented by an attorney are bound by ~~the L.B.R.~~ these Rules and any reference to “attorney” applies to individuals who are not represented by an “attorney” unless otherwise noted.
- (c)(d) Citation to the Rules. ~~The~~ These Rules are to be cited as the Local Bankruptcy Rules (“L.B.R.”), ~~the .”~~ and these forms as the Local Bankruptcy Forms (“L.B. Forms”), and the appendix as the Local Bankruptcy Rules Appendix (“L.B.R. \_\_\_\_\_ AppE.”).
- (d) ~~Uniform Numbering System.~~ The numbering system in these L.B.R. and L.B. Forms is based on the Uniform Numbering System for Local Bankruptcy Court Rules developed by the Judicial Conference Advisory Committee on Bankruptcy Rules. Any gaps in the numbering system are intentional.
- (e) Reference to Debtor. Any reference to “debtor” in the L.B.R. and L.B. Forms includes both “debtors” in a joint case.
- (f) ~~Prior Rules; Actions Pending on~~ Effective Date. The effective date of these Rules is December 1, 2017. These ~~Local Bankruptcy~~ Rules supersede all previous local ~~Bankruptcy~~ rules and orders adopting or amending local rules. Further, ~~these~~ Rules and ~~General Procedure Orders promulgated by the court prior to the Effective Date of December 1, 2015, except as otherwise ordered. They shall~~ will govern in all bankruptcy cases or adversary proceedings commenced on or after December 1, 2017, and all pending on or filed after the Effective Date, unless the court finds they would not be feasible or would work cases and proceedings insofar as just and practicable.
- (f)(g) Compliance. Failure to comply with these Rules may result in an injustice. adverse ruling or the imposition of appropriate sanctions.

#### Commentary

[Source: COB LBR 101 and C.D. Cal]

#### L.B.R. 10021006-1. Minimum Initial Installment Payments and Filing Requirements on Petition Date Fee Waivers

- ~~(a) Initial Request to Pay Filing Requirements: The Fee in Installments.~~ An individual debtor seeking to pay the petition filing fee in installments must also complete and file an application using Official Form 103A, Application for Individuals to Pay the Filing Fee in Installments.
- ~~(a)(b) Request to Waive Filing Fee.~~ An individual debtor seeking a waiver of the filing fee in a chapter 7 case must file an application using Official Form 103B, Application to Have the Chapter 7 Filing Fee Waived and include the following:
- ~~(1) Voluntary Petition for Individuals~~ copies of all pay advices, other evidence of income in the 60 days prior to filing for bankruptcy, Official Form 101, or ~~Voluntary Petition for Non-Individuals Filing for Bankruptcy, Official Form 204~~ L.B.F. 1007-6.1; and
  - ~~(1) Cover Sheet: In paper~~ completed Schedules I and J, even if all other statements and schedules are not filed ~~cases only, a cover sheet in substantial conformity with L.B. Form 1002-1.1.~~
  - ~~(2) Certificate of Credit Counseling: In~~ at the event time the debtor request is an individual, ~~made.~~
  - ~~(3) the debtor's Certificate of Credit Counseling evidencing that the debtor has complied with the credit counseling.~~ Any order granting a request for fee waiver is conditional and subject to further investigation by the United States Trustee, trustee, or other parties.
- ~~(A) Request to Waive Appeal Fee.~~ The requirements set forth in 11 U.S.C. § 109(h) ~~(of L.B.R. 1006-1), or~~
- ~~(B) a written explanation as to why a temporary exemption or exception should~~ (b) apply under 11 U.S.C. § 109(h)(3) or (4) shall be provided on the Official Form 101, Individual Debtor's Statement of Compliance with Credit Counseling Requirement.
- ~~(b)(c) Filing Fees: Pay the applicable filing fee in full. If the~~ to any individual debtor is an individual, the debtor may file an application to pay the filing fee in installment payments or an application for seeking a waiver of the filing fee. See 28 U.S.C. § 1930, FED. R. BANKR. P. 1006 and applicable Official Forms for further information on filing fees. in an appeal.

**L.B.R. 1007-5. Amending a Statement of Social Security Number:** ~~In the event the debtor is an individual,~~

- ~~(2) Correction.~~ A debtor must correct an incorrect social security number by submitting an amended statement of social security number, using Official Form 121-, Your Statement About Your Social Security Numbers. See L.B.R. 1007-5 for further information on Social Security numbers and privacy.
- ~~(3) Creditor Address Mailing Matrix: A proper Creditor Address Mailing Matrix.~~ See 11 U.S.C. § 521(a)(1), FED. R. BANKR. P. 1007(a)(1), L.B.R. 1007-2 and L.B.R. 1007-2App. for further information on filing a proper Creditor Address Mailing Matrix.
- ~~(4) List of 20 Largest Unsecured Creditors: For a petition under chapter 9 or a voluntary chapter 11, the list containing the name, address and estimated claim of the creditors that hold the 20 largest unsecured claims as required by FED. R. BANKR. P. 1007(d).~~

~~(b) Notice of Non-Filing and Return of Deficient Petition: The Clerk may decline to accept for filing any bankruptcy petition tendered in paper for filing that does not contain the minimum requirements as stated in L.B.R. 1002-1(a).~~

### **Commentary**

~~[Source: L.B.R. 102, Transitional Local Bankruptcy Form 1002-1, Transitional Local Bankruptcy Form 1007-1, and GPO 2002-2]~~

~~See L.B.R. 1017-3 for information on dismissal for failure to file documents and the United States Trustee's Standing Motion to Dismiss.~~

~~Change in numbering to clarify required documents. January, 1, 2014.~~

## **~~L.B.R. 1007-1. Lists, Schedules, Statements & Other Documents~~**

~~FED. R. BANKR. P. 1002 through 1008 govern the documents required to be filed at or near the commencement of a case. L.B.R. 1007-1App. contains a list, in proper sequence, of the documents required to be filed to constitute a complete bankruptcy filing. L.B.R. 1007-1App. also includes references to applicable Official Forms, Director's Procedural Forms and L.B. Forms.~~

### **Commentary**

~~[Source: T.L.B.R. 1007-1]~~

~~L.B.R. 1007-1. Lists, Schedules, Statements & Other Documents~~

~~Fed. R. Bankr. P. 1002 through 1008 govern the documents required to be filed at or near the commencement of a case. L.B.R. 1007-1App. contains a list, in proper sequence, of the documents required to be filed to constitute a complete bankruptcy filing. L.B.R. 1007-1App. also includes references to applicable Official Forms, Director's Procedural Forms and L.B. Forms.~~

### **Commentary**

~~[Source: T.L.B.R. 1007-1]~~

## **~~L.B.R. 1007-2. Creditor Address Mailing Matrix~~**

~~(a) Content: The debtor must file a verified list of creditors, referred to as the Creditor Address Mailing Matrix, pursuant to 11 U.S.C. § 521(a)(1)(A) in the form and manner described in L.B.R. 1007-2App. The debtor must file a Verification of Creditor Address Mailing Matrix in substantial conformity with L.B. Form 1007-2.1. Assignment: In addition to the requirements of FED. R. BANKR. P. 1007(a), if an assignment of the account or debt is known to the person verifying such information, the full names and addresses of both the original creditor and assignee must be listed. If the debt is in the hands of an attorney or other agent for collection, the full names and addresses of both the creditor and attorney or other agent should be listed, if known.~~

~~(b) Amendments: See L.B.R. 1007-2App. and L.B.R. 1009-1 for information on amendments to the schedules and Creditor Address Mailing Matrix.~~

Commentary

~~[Source: L.B.R. 107(c)]~~

## **~~L.B.R. 1007-4. Financial Disclosure by Corporate Debtor~~**

~~(a) The following financial disclosures are required of corporate debtors:~~

- ~~(1) Corporate Ownership Statement pursuant to FED. R. BANKR. P. 1007(a)(1) in substantial conformity with L.B. Form 1007-4.1.~~
- ~~(2) List of Equity Interest Holders pursuant to FED. R. BANKR. P. 1007(a)(3) in substantial conformity with L.B. Form 1007-4.2.~~

Commentary

~~[Source: New. Modified by GPO 2013-1] January, 1, 2014.~~

~~See FED. R. BANKR. P. 7007.1 and L.B.R. 7007.1-1 for additional information on filing a Corporate Ownership Statement in adversary proceedings.~~

## **~~L.B.R. 1007-5. Social Security Number (Privacy)~~**

~~(a) Petition: When filing the petition electronically, the electronic filer must enter the debtor's full Social Security number when opening a case, but must include only the last four digits on the Voluntary Petition for Individuals Filing for Bankruptcy, Official Form 101.~~

~~(b) Statement of Social Security Number:~~

- ~~(1) Official Form 121: All voluntary petitions in individual debtor cases must be accompanied by the filing of
  - ~~(A) Official Form 121, Statement About Your Social Security Numbers, in conventional paper format; or~~
  - ~~(B) For petitions that are filed electronically, Official Form 121, using the proper secured event to prevent public access to the form.~~~~
- ~~(2) Receipt: A receipt of the Statement About Your Social Security Numbers will be entered on the docket, but will not be available for public inspection at the court or over the internet.~~

~~(3) and labeling it "Amended Statement of Social Security Number:~~

~~(c)(a) Correction: An incorrect Social Security number must be corrected by the debtor by submitting an Amended Statement About Your Social Security Numbers. The amended statement must include the originally submitted and the correct social security numbers and must be filed within seven (7) days of the debtor discovering or being informed of the error.~~

~~(d) Service: Filed with the Amended Statement or not later than three (3) court days of filing the Amended Statement About Your of Social Security Numbers as prescribed above, **the Service.** A debtor must file a certificate of service evidencing with the amended statement of social security number showing service of the amended statement About Your Social Security Numbers on the United States Trustee, the trustee, and all creditors.~~

- ~~(1) Failure to File the Statement About Your Social Security Numbers: Failure to file or serve the Statement About Your Social Security Numbers, or any amendment thereto, in accordance with this L.B.R. may result in dismissal of the case.~~
- ~~(e) Proof of Claim Form: Creditors claiming wages owed from the debtor should disclose only the last four digits of their Social Security number on Official Form 410, Proof of Claim.~~
- ~~(f)(b) Redaction of Personal Identifiers: It is the responsibility of any party filing documents with the court, not the Clerk, to redact Social Security numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children. This includes copies of employee payment advices, tax returns, or other financial documents that may be filed or attached as an exhibit to documents filed with the court. In the event a petition or other document is tendered for filing that bears the entire of social security number of the debtor, the Clerk will file said petition or document as tendered without taking any action to redact the first five digits of the Social Security number on the United States Trustee, trustee, all creditors, and credit reporting agencies Experian, TransUnion LLC, and Equifax.~~

#### Commentary

~~[Source: L.B.R. 107(c) and GPO 2003-4]~~

~~See L.B.R. 4002-1 for privacy of tax return information and L.B.R. 9004-2 for information on captions.~~

~~See also FED. R. BANKR. P. 1009 and FED. R. BANKR. P. 9037.~~

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## **L.B.R. 1007-6. Employee Payment Advices**

~~Filing Requirement:—The debtor must file the required payment advices or other evidence of payment pursuant to 11 U.S.C. § 521(a)(1)(B)(iv) or a statement as to why the debtor has not complied. The statement must be concerning payment advices in substantial conformity with L.B. ~~Form F.~~ 1007-6.1.~~

- ~~(a) Failure to File Any Payment Advices:—If no payment advices are filed with the petition and the debtor has not filed a statement in substantial conformity with L.B. Form 1007-6.1, the court may issue a notice of deficiency. The failure to cure the deficiency may result in the dismissal of the case pursuant to 11 U.S.C. § 521(i) and L.B.R. 1017-3.~~
- ~~(b) Motions or Objections Regarding Filed Payment Advices:—All parties in the case have until the latter of forty-five (45) days after the petition is filed, or thirty (30) days after the payment advices are filed, to file a motion to modify a docket entry that states a payment advice was filed or to challenge the court's acceptance of documents in satisfaction of the payment advice filing requirement. The failure to timely file such a motion or challenge will result in the documents being deemed accepted and sufficient in satisfaction of the filing requirement in 11 U.S.C. § 521(a)(1)(B)(iv), unless otherwise ordered by the court.~~

#### Commentary



~~{Source: Paragraphs (a) and (b) are new. Paragraph (c) is from GPO 2006-2}~~

## L.B.R. 1007-7. Chapter 11 Receivers

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

### ~~Commentary~~

~~{Source: New GPO 2013-1} January, 1, 2014.~~

~~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.~~

## L.B.R. 1009-1. Amendments to Voluntary Petitions, Lists & Schedules, and Statements

~~Amendments involve several separate steps set forth below in the following subparagraphs categorized generally as follows: (a) properly filing the amendment with the court; (b) providing the appropriate notice of the amendment to interested parties; and (c) filing a proper Certificate of Service with the court. The failure to complete each step below fully may result in the amendment being meaningless.~~

~~(a) Amendments to Add Creditors or Other Information: An amendment to Schedules D, E, F, G and H pursuant to Fed. R. Bankr. P. 1009 must be:~~

- ~~(1) shown on a schedule separate from the schedule originally filed; or~~
- ~~(2) highlighted, i.e., marked by an asterisk, underscored, etc., if such amendment has been incorporated in a revised edition of the schedule originally filed; and~~
- ~~(3) shown on an amended Creditors Address Mailing Matrix in the form and manner described in L.B.R. 1007-2 and L.B.R. 1007-2App that is separate and apart from any other Creditor Address Mailing Matrix previously filed in the case; and~~
- ~~(4) must be accompanied by payment of any fee prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b).~~

~~(a)~~ Notice of Amendment: oAmendment. Unless the Court orders otherwise, if a debtor amends a petition, list, schedule or statement, the amendment must be designated as such. The amended petition, list, schedule, or statement will supersede the prior filing and may not merely state the new or changed items.

~~(b)~~ Notice of Amendment. The debtor must file a notice of amendment that substantially conforms with L.B.F. 1009-1.1, which specifies the amended or new information.

~~(a)~~(c) Service. In addition to the requirements of 11 U.S.C. § 342(c)(1) and Fed. R. Bankr. P. 1009(a), upon the filing of an amendment adding creditors or parties in

interest, the debtor must mail serve the following to the ~~newly added~~new creditors or parties ~~a copy of the following documents~~:

- (1) the amended schedule<sub>1</sub>;
- (2) the Notice of Amendment to Schedule, L.B. ~~Form~~F. 1009-1.1<sub>1</sub>;
- (3) the Notice of Meeting of Creditors<sub>1</sub>; and
- (4) any notice of possible dividend or notice of a bar date for filing proofs of claim, along with a proof of claim form.

~~(b)~~(d) **Certificate of Service**<sub>1</sub>: The debtor must file a certificate of service showing compliance with this L.B.R. Rule with the amendment ~~or not later than three (3) court days of filing the amendment~~. The ~~Notice of Amendment to Schedule, L.B. Form 1009-1.1~~certificate of service must be attached to the ~~Certificate of Service filed with the court~~Notice of Amendment.

~~(c)~~(e) **Creditor Requests to Modify Creditor Address Mailing Matrix**<sub>1</sub>: If a creditor wishes to modify the address listed in the schedules or on the Creditor Address Mailing Matrix<sub>1</sub>, the creditor may file or modify a proof of claim or file a notice of change of address and mail serve a copy to the debtor and ~~debtor's counsel~~debtor's attorney.

## Commentary

~~[Source: D. Colo. 109 and GPO 2005-1]~~

~~Preamble added for clarity so that all steps required for amendments are met. January, 1, 2014.~~

~~Nothing in this rule excuses the mandate set forth in Fed.R.Bankr.P. 1008, requiring that "[a]ll petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. § 1746."~~

## L.B.R. 1015-1. Joint Administration

~~(a) Motions: On motion of any party in interest, on notice to the United States trustee, any case trustee, Motion and such further notice as the court may direct, separate cases enumerated in FED. R. BANKR. P. 1015(b) may, upon order of the court, be jointly administered.~~

~~(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.~~

(a) **Order**<sub>1</sub>: Parties seeking joint administration must under Fed. R. Bankr. P. 1015(b) must file a motion and submit a proposed order in substantial conformity with L.B. ~~Form~~F. 1015-1.1.

(b) **Notice**<sub>1</sub>: When the Court enters an order granting joint administration ~~is entered~~, the Clerk, or such other person as the Court may direct, must provide notice to all

creditors and parties in interest that the administrative procedures listed ~~below~~herein apply. The Court may, in its discretion, order that the debtor(~~s~~) maintain a comprehensive service list of creditors ~~from~~for all jointly administered estates.

(1) Unless otherwise ordered, jointly administered cases will be reassigned to the judge to whom the ~~lower~~lowest-numbered (first) case was assigned. The ~~lower~~lowest-numbered case will be known as the “lead case.”

(2) Unless otherwise ordered, all motions, pleadings, and other documents filed in the jointly -administered case ~~shall~~must bear a combined caption which includes the full name and number of each specific case as in Official ~~Bankruptcy~~-Form ~~16A,416A~~, Caption and must be filed, docketed and processed in the lead case, except for the following:

(A) a motion which applies to ~~less~~fewer than all jointly administered debtors must clearly indicate in the caption and title to which debtor(~~s~~) the motion applies, but must still be filed in the lead case;

(B) all proofs of claim must be filed in the specific case to which they apply;

(C) monthly financial reports must be filed in the specific case to which they apply; and

(D) amendments to schedules, statements, lists and other required documents in Fed. R. Bankr. P. 1002 and 1007 must be filed in the specific case to which the amendments apply.

(c) ~~This L.B.R.~~Effect on Substantive Issues. Any order directing joint administration does not affect the substantive issues of the jointly -administered estates, either individually or collectively, nor does it affect the requirements of Fed. R. Bankr. P. 2009.

### **Commentary**

~~[Source: L.B.R. 115; GPO 2013-1] January, 1, 2014.~~

~~This L.B.R. is intended to deal with joint administration, as opposed to substantive consolidation.~~

Limitations. 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~~or the respective debtor estates.

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

~~Confusion in cash management, including obtaining credit pursuant~~ a debtor's attorney 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.~~

- (d) ~~Failure by counsel for the debtor(s) to properly~~ allocate fees and costs properly to the applicable debtor. Fee applications filed in jointly administered cases must designate the entity to which ~~the~~ fees and costs are attributable.

~~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.~~

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### ~~L.B.R. 1017-1. Debtor's Request for and Notice of Conversion~~

~~(a) Conversion From Chapter 7 to Chapter 11, 12 or 13:~~

~~(1) No Prior Conversion: To convert a case from chapter 7 to chapter 11, 12 or 13 pursuant to 11 U.S.C. § 706(a), where eligible, the debtor must file a Motion for Voluntary Conversion in accordance with Fed. R. Bankr. P. 1017(f)(2), whereupon the Clerk will, if the case has not been previously converted under 11 U.S.C. §§ 1112, 1208 or 1307, enter a virtual text order effecting the conversion.~~

~~(b) Prior Conversion: In the event that the case has been previously converted, the debtor must comply with 11 U.S.C. § 706(c) and file a motion for conversion with notice to creditors pursuant to L.B.R. 9013-1. Conversion From Chapter 11 to Chapter 7:~~

~~(1) Generally: The debtor, where eligible, must file a Motion for Voluntary Conversion. Upon receipt of the application fee, the Clerk may then enter a virtual order converting the case.~~

~~(2) Limitations: Where the provisions of 11 U.S.C. § 1112(a) apply, the debtor must file a Motion for Voluntary Conversion with notice pursuant to L.B.R. 9013-1.~~

~~(c) Fees: The court will not act upon motion to convert until all required fees pursuant to 28 U.S.C. § 1930 have been paid.~~

~~(d) Reconsideration: Any party in interest may file a motion to reconsider the conversion of the case within the time specified by FED. R. BANKR. P. 9023 and 9024.~~

### ~~Commentary~~

~~[Source: L.B.R. 117 and GPO 2003-6]~~

~~A schedule of the current fees can be found at the bankruptcy court's website at [www.cob.uscourts.gov](http://www.cob.uscourts.gov).~~

~~This L.B.R. is intended to address issues raised by *Marrama v. Citizens Bank of Massachusetts (In re Marrama)*, 127 S.Ct. 1105 (2007).~~

~~Where debtor is seeking conversion for a second time, see *In re Murth*, 378 B.R. 302 (Bankr. D. Colo 2007); but see *In re Johnson*, 376 B.R. 763 (Bankr. D. N.M. 2007).~~

## ~~L.B.R. 1017-2. Dismissal or Suspension—Case or Proceeding (Failure to Provide Tax Returns)~~

- ~~(a) Motion to Dismiss Pursuant to 11 U.S.C. § 521(e)(2): If the debtor fails to provide the trustee or timely requesting creditor with the federal income tax return or transcript under 11 U.S.C. § 521(e)(2)(A), the trustee or requesting creditor may file a combined motion to dismiss and notice in substantial conformity with L.B. Form 1017-2.1.~~
- ~~(b) Service and Notice: The motion and notice must be served on the debtor, debtor's counsel, the case trustee and the United States Trustee. Pursuant to FED. R. BANKR. P. 9006(c), the time to object to the Motion is fourteen (14) days. The notice must include a specific objection deadline.~~
- ~~(c) Objection: The debtor's objection must explain why the failure to provide tax returns was not within the debtor's control as required by 11 U.S.C. § 521(e)(2).~~
- ~~(d) Order and Hearing: If no objection is filed, the court may enter an order granting the Motion upon the filing of a Certificate of Noncontested Matter, L.B. Form 9013-1.3 and the case will be dismissed. If an objection is filed, the court may set the matter for a hearing upon the filing of a Certificate of Contested Matter, L.B. Form 9013-1.4.~~

~~Commentary~~

~~[Source: L.B.R. 117 and T.L.B.R. 1017]~~

~~See FED. R. BANKR. P. 4002 and 9037 and L.B.R. 1007-5 and 4002-1 for privacy of tax return information.~~

## ~~L.B.R. 1017-3. Dismissal or Suspension—Case or Proceeding (Failure to File Documents and the United States Trustee's Standing Motion to Dismiss)~~

### ~~(a) Deficient Filings:~~

- ~~(1) "Deficiency" Defined: A filing to commence a bankruptcy case is deemed to be "deficient" if the lists, schedules, statements and other required documents to commence a case are not filed in compliance with, and in the time specified in, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these L.B.R. and L.B. Forms, including applicable appendices attached hereto.~~
- ~~(2) Cause for Dismissal: In the event a case is deficient, such deficient filing may constitute cause for dismissal.~~
- ~~(3) Standing Motion to Dismiss by United States Trustee: The United States Trustee has filed with the court a document entitled United States Trustee's Standing Motion to Dismiss Deficient Case (the "Standing Motion to Dismiss," L.B.R. 1017-3App.). The Standing Motion to Dismiss applies to a deficient case filed with the Clerk.~~
- ~~(4) Notice: In the event a deficient voluntary case is filed, the Clerk may provide notice of the deficiency and Standing Motion to Dismiss. Notice to the debtor and the debtor's attorney will be served to the addresses shown on the petition.~~
- ~~(5) Objections: Any party desiring to object to the dismissal of the case may do so by filing an objection and request for hearing in accordance with L.B.R. 9013-1 within the time set to file missing documents by applicable Federal Rules of Bankruptcy~~

~~Procedure to file the documents or within any extended time fixed for the curing of deficiency, or such other time as may be fixed by the court.~~

- ~~(6) Dismissal Order: A deficient voluntary case may be dismissed unless the deficiency is timely cured or an objection is filed. Notice to the creditors and other interested parties of the dismissal will be served by the Clerk to the addresses of the creditors and other interested parties, if any, as shown on the Creditor Address Mailing Matrix.~~

#### Commentary

~~[Source: L.B.R. 505, GPO 2002-2 and GPO 2002-4.]~~

~~See L.B.R. 1002-1 and 1007-1 for initial filing requirements.~~

~~See L.B.R. 3015-1(b)(2) requiring timely submission of Chapter 13 plan or the case is deficient and subject to the United States Trustee's Standing Motion to Dismiss.~~

~~See L.B.R. 2081-3 for motions to dismiss chapter 11 cases.~~

~~See L.B. Forms 1017-3.1 and 1017-3.2 for dismissal of chapter 13 cases.~~

~~Note the difference between the Clerk rejecting a filing for failing to meet the minimum documentation requirements of L.B.R. 1002-1(b) versus accepting the filing but issuing a notice of deficiency pursuant to L.B.R. 1017-3.~~

~~Clarification regarding source of deadlines to object to dismissal and adding reference to L.B.R. 3015-1(b)(2) to Commentary. January, 1, 2014.~~

#### ~~L.B.R. 1019-1. Procedure Following Conversion to Chapter 7~~

- ~~(a) Schedule of Unpaid Post-Petition Debts: The party filing the schedule of unpaid debts required by FED. R. BANKR. P. 1019(5), must give written notice by mailing a copy of the schedule to:~~
- ~~(1) the United States Trustee;~~
  - ~~(2) the trustee assigned to the case;~~
  - ~~(3) each entity named therein;~~
  - ~~(4) the United States; and~~
  - ~~(5) any state or any subdivision thereof wherein the debtor transacted business.~~
- ~~(b) Notice: The notice must include a statement advising that creditors scheduled therein may file a proof of claim in accordance with FED. R. BANKR. P. 3001(a) through (d) and 3002.~~
- ~~(c) Certificate of Service: The party filing the schedule of unpaid debts must file a certificate of service showing compliance with this L.B.R. with the schedule or not later than three (3) court days of filing the schedule.~~

#### Commentary

~~[Source: L.B.R. 119]~~

~~(e) Separate Motion Required for Substantive Consolidation. Parties seeking substantive consolidation must do so by separate motion.~~

#### L.B.R. 1073-1. Assignment of Cases

- (a) **Assignment of Cases:** Cases are assigned to judges by random selection to the extent possible. The Chief Judge may direct the Clerk to reassign cases as necessary.
- (b) **Related Cases:** A case related to another pending case may be assigned or reassigned to the judge with the earliest filed case. A case is “related” to another case if one of the debtors in one case is an “affiliate” or an “insider” of a debtor in another case, as those terms are defined in 11 U.S.C. § 101.
- (c) **Sequential Repeat Cases:** If the debtor has filed a bankruptcy case in the previous eight years, the Clerk may reassign the case to the judge to whom the previous bankruptcy case was assigned.

**Commentary**

~~[Source: GPO 1996-1, 3rd Amended]~~

~~Remainder of Page Left Intentionally Blank~~

**L.B.R. 2002-1. Notice to Creditors &and Other Interested Parties**

- ~~(a) Who Must Give Notice:~~ Unless otherwise ordered by the Court, the movant or applicant must ~~give the notices~~provide notice as required by Fed. R. Bankr. P. 2002-
- ~~(b) Content of Notice: Notices must:~~
- ~~(c)(a) be in substantial conformity with and L.B. Form R. 9013-1.1;~~
  - ~~(1) contain a specific statement describing the requested relief or intended action to be taken, in sufficient detail to meaningfully inform the parties receiving the notice;~~
  - ~~(2) contain the specific date of the deadline to object and request a hearing, not just the number of days, which must be a date on which the court is scheduled to be open for business; and~~
  - ~~(3) comply with FED. R. BANKR. P. 2002(c).~~
- ~~(d)(b) Creditor Address Mailing Matrix:~~ For notice to all creditors and parties in interest, the movant must use, at a minimum, all of the addresses contained on the most current version of the Creditor Address Mailing Matrix.
- ~~(e)(c) Designation of Preferred Creditor Addresses:~~ The Court designates any entity approved by the Administrative Office of the United States Courts as a notice provider to support the preferred address requirements under 11 U.S.C. § 342(f) and Fed. R. Bankr. P. 2002(g)(4).

~~Commentary~~

~~[Source: L.B.R. 202 and T.L.B.R. 2002-1]~~

~~See L.B.R. 1007-2App for Instructions Regarding Creditor Address Mailing Matrix.~~

~~In addition to the FED. R. BANKR. P., the mechanism for bringing motions before the court, providing notice and effecting service is set out in L.B.R. 9013-1.~~

~~Parties are advised to be mindful of the distinction between notice (as required for parties covered by FED. R. BANKR. P. 2002) and service (as required for parties against whom relief is sought and as described in L.B.R. 9013-1 and other FED. R. BANKR. P., including Rules 9014 and 7004).~~

~~Parties seeking expedited hearings on motions brought immediately after the filing of a chapter 11 petition should refer to L.B.R. 2081-1.~~

## **L.B.R. 2003-1. Continuance of Meeting of Creditors ~~&and~~ Equity Security Holders**

- (a) ~~Debtor's~~**Debtor's** **Request for Continuance of 11 U.S.C. § 341 Meeting of Creditors Prior to Scheduled Meeting:** A ~~debtor's~~**debtor's** request ~~for a continuance of to continue~~ the meeting of creditors must be in writing and served on the ~~appropriate~~**appointed** trustee ~~no less in debtor's case. The trustee must receive the request no later~~ than seven (7) days prior to the ~~date and time of the~~ scheduled meeting. ~~A request for a continuance~~**it is the trustee, and not filed the Court, who must approve the request. Therefore, the debtor should not file the request** with the Court. If ~~a~~**the** trustee consents to the continuance, ~~then~~ the debtor must immediately file a notice of continued meeting with the Court, serve a copy of the notice on the trustee ~~and~~ all creditors, and parties in interest, and file a certificate of service with the Court evidencing ~~same~~**it**.
- (b) **Continuance of 11 U.S.C. § 341 Meeting of Creditors at the Scheduled Meeting:** In the event ~~an 11 U.S.C. § 341~~**a** meeting of creditors is continued at the scheduled meeting, ~~no later than three (3) court days following the date first set for the meeting of creditors or any subsequent continued meeting date,~~ the chapter 7 trustee or chapter 13 trustee, as applicable, must file ~~an electronic docket entry~~**a notice of such continued meeting with the Court** indicating ~~that the meeting is continued and~~ the date and time of the continued meeting ~~within seven days.~~
- (c) **Continuance****Extension** of ~~§§ 522, 11 U.S.C. §§ 523 and 727~~**Deadlines:** A continuance of the meeting of creditors does not automatically ~~continue~~**extend** the deadline to object to ~~the debtor's claim of exemptions,~~ the discharge of a debtor in a chapter 7 or the dischargeability of a particular debt owed by the debtor in either chapter 7 or chapter 13. **Parties must request** extensions of these deadlines ~~must be requested as required by timely motion and require the entry of an order~~**Fed. R. Bankr. P. 9006.**

Commentary

[Source: ~~L.B.R. 203 and GPO 2006-3~~]



~~The purpose of L.B.R. 2003-1 is to assist in the appropriate administration of chapter 7 and chapter 13 cases. It is imperative for the court's docket sheet to clearly reflect all continued meetings of creditors and the date to which the meeting is continued.~~

## **L.B.R. 2004-1. Examinations**

- (a) **Ex Parte Application:** ~~—~~ An order for examination pursuant to Fed. R. Bankr. P. 2004 may be issued by the Court on the *ex parte* application of a party in interest. The moving party must file an appropriate motion together with a proposed order. Such proposed order may not contain provisions in substitution of a subpoena or subpoena *duces tecum* available pursuant to Fed. R. Civ. P. 45.
- (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**

~~[Source: L.B.R. 204; GPO 2013-1] January, 1, 2014.~~

~~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.~~

## **L.B.R. 2012-1. Notice of Substitution of ~~Trustee and Notice of Successor Trustee's Accounting~~**

### **Chapter 11 Trustee**

~~—~~ Promptly after a trustee or successor trustee is appointed in a chapter 11 case, the trustee must file and serve notice of such appointment on all creditors and parties in interest, and to such other parties as the Court may direct, in each pending action, proceeding, or matter.

- (a) **Accounting:** ~~When a successor trustee files with the court an accounting of a prior administration of the estate pursuant to FED. R. BANKR. P. 2012(b), such accounting must reflect the collection or disbursement of receipts by the prior trustee. The successor trustee must send notice of the filing of the accounting to all creditors and parties in interest in the case, including the prior trustee, unless the court otherwise orders for good cause shown.~~

### **Commentary**

~~[Source: L.B.R. 212]~~

## L.B.R. 2014-1. ~~Appointment~~Employment of Professional Persons

- ~~(a) Ex Parte Application: Subject to the limitations of FED. R. BANKR. P. 6003, applications for appointment of professional persons pursuant to FED. R. BANKR. P. 2014 and 11 U.S.C. § 327 may be granted nunc pro tunc to a date prior to the date of the order authorizing the engagement.~~
- ~~(b)~~ (a) Applications Requiring Notice: ~~The court may require the applicant to mail~~ Notice of ~~the~~an application ~~pursuant to L.B.R. 9013-1, or as otherwise directed by the court, particularly when~~ to employ a professional person under 11 U.S.C. § 327 must be given if any of the following ~~events~~circumstances or conditions are present:
- ~~(1) The professional receives or proposes to receive payment of a retainer in connection with a bankruptcy case and approval of the retainer is sought in the same application seeking appointment of the professional. In such cases, the application and notice must state:~~
- ~~(A) the amount of any retainer received or proposed;~~
- ~~(B) the source of the payment or retainer; and~~
- ~~(C) whether the professional's fees are paid by a principal, insider, or affiliate of the debtor.~~
- ~~(2)~~ (1) The professional files an application for retention ~~which~~that identifies a potential conflict may exist. In such cases, the application and notice must state sufficient facts for ~~third~~ parties in interest to determine whether a conflict of interest exists, including whether the professional represented the debtor ~~pre-petition~~prepetition;
- ~~(3) The professional's retainer or other fees have been, or will be, paid by a third party payor.~~
- (2) The professional's retainer or other fees have been, or will be, paid by a third party payor. In such cases, the application must include a verified statement of the debtor disclosing all transfers by the debtor to the entity providing the retainer and any other circumstances that may create a conflict of interest between the debtor and the payor. The payor must retain independent counsel or provide a written acknowledgement that the debtor's attorney's duty of loyalty is owed solely to the debtor, and not to the payor;
- ~~(4)~~ (3) The professional represents multiple debtors in related or jointly - administered cases~~;~~;
- (4) A trustee seeks to employ his or her own firm;
- (5) The professional proposes to be paid under non-traditional compensation arrangements (e.g., flat fee agreement or contingency fee agreement)~~;~~;
- (6) The professional asserts a lien on the ~~debtor's~~debtor's property~~;~~;
- ~~(c) Verified Statement: A verified statement pursuant to FED. R. BANKR. P. 2014 is required. When~~ The debtor owes the professional payment for services rendered pre-petition, in which case the notice of the application is required, a copy of the verified statement filed pursuant to FED. R. BANKR. P. 2014 ~~must be attached to~~state the notice.

Commentary

[Source: L.B.R. 214]

## **L.B.R. 2015-1. Reports**

~~Any report amount of operations that fees owed and whether the court or the United States Trustee may require the trustee or the debtor in possession to file in a case professional has received any preferential payments under any chapter of the Bankruptcy Code must be filed with the court within the time frames established by FED. R. BANKR. P. 2015 or the United States Trustee. Copies of such reports must be provided to the trustee, United States Trustee, and any committee pursuant to L.B.R. 2081-2(b).~~

Commentary

[Source: ~~L.B.R. 215(a)~~]

~~(1)(7) See 11 U.S.C. §§ 704(a)(8) or 1106(a)(7). § 547(b); or~~

~~See also the United States Trustee's Operating Guidelines and Reporting Requirements for that office's filing requirements at [www.usdoj.gov](http://www.usdoj.gov). This L.B.R. does not relieve the trustee or debtor in possession from the obligation to act in accordance with those guidelines.~~

~~(8) See also L.B.R. 3022-1 The Court orders notice for more information any other reason.~~

~~(b) **Applications When Notice is Not Required.** If notice of an application to employ a professional person is not required, the Court may enter an order approving the employment on an *ex parte* basis. If the professional requests entry of an order approving the application prior to the time specified in Fed. R. Bankr. P. 6003(a), then the application must set forth a sufficient factual basis to establish immediate and irreparable harm will occur if not granted earlier approval.~~

~~(c) **No Retroactive Approval of Applications.** Unless otherwise stated, an Order granting an application to employ a professional will be effective as of the date of filing of the application. Requests for *nunc pro tunc* or retroactive approval to a date prior to the filing of date of the application will not be granted absent a final report and showing of extraordinary circumstances.~~

~~(d) **Retainers.** Professionals who receive or propose to receive a retainer in connection with a bankruptcy case must seek approval of the retainer by separate motion for final decree in chapter 11 cases, and notice. The motion and notice must include:~~

~~(1) the amount of any retainer received or proposed;~~

~~(2) the source of the payment or retainer; and~~

~~(3) whether the professional's fees are paid by a principal, insider, or affiliate of the debtor.~~

## L.B.R. 2016-1. Compensation of Professionals

- (a) Form of Fee Application: Except for those applying for fees pursuant to L.B.R. 2016-3, ~~(a)~~, every ~~fee application filed~~ request for professional compensation to be paid by the estate pursuant to 11 U.S.C. §§ 330 or 331 must include ~~a~~:
- ~~(1) A completed~~ cover sheet in substantial conformity with L.B. ~~Form F~~, 2016-1.1 ~~and contain;~~
- ~~(1)(2)~~ (2) A fee application that contains the following information:
- (A) Introduction: The introductory statement must ~~contain~~ set forth a general statement of the status brief history of the case, pending matters, and ~~include the information required on L.B. Form 2016-1.1~~ future matters anticipated before closure of the case.
- (B) Narrative by Category: The professional fee application must contain a narrative that describes the work performed divided ~~into~~ in categories of major/significant services. Within each category, the narrative must describe:
- (i) the nature of the services;
  - (ii) the ~~result~~ results obtained, if any;
  - (iii) the ~~benefit~~ benefits to the estate;
  - (iv) a general description of ~~what~~ any additional work remains to be done with respect to the matter;
  - (v) a statement of the number of hours spent on the particular matter and by whom; and
  - (vi) the portion of the total fee applicable to the particular category.
- (C) Time Entries: Records.
- (i) ~~(i)~~ The fee application must attach as a separate exhibit a copy of detailed time entries from records kept contemporaneously by the applicant, including the date of the work performed, the individual performing the services, an allocation of time spent on each task (expressed in tenths of an hour), the total fee for each task, and a detailed description of the work performed.
  - (ii) ~~(ii)~~ No Lumping. Daily entries by each professional must contain separate time allocations for each separate task.
  - (iii) ~~(iii)~~ The applicant must establish separate billing categories for daily time entries so that the time entries of all professionals working on a particular matter will be billed separately to that matter.
- (D) Expense Records. The applicant should retain cost/expense invoices or documentation for items over \$50 in the event that the Court or an objecting party questions the expense.

~~(2)(3)~~ ~~(3)~~ — **No Retroactive Fees.** The application must not seek to obtain compensation for services rendered prior to the effective date of the Order approving the employment of the applicant.

~~(A) Generally: The narrative description must refer to a separate exhibit containing copies of detailed time entries from records contemporaneously kept by the applicant which support the fee sought with respect to each particular matter or category, including the date the work was performed, the individual performing the work, the time spent on each task (expressed in tenths of hours), the total fee for each task, and a detailed description of the work performed.~~

~~(B) Jointly -Administered Cases: In jointly -administered cases, the narrative must also provide a description of the overall work done in each~~ applicant must file its fee application only in the lead case, as applicable, and provide the court with an approximate percentage of the time spent on each case.

~~(3)(4)~~ Record of Expenses: Regardless of whether the applicant should retain cost/expense invoices or documentation has performed services for the estate of more than one debtor, all services must be included in a single fee application. If the applicant has performed services for amounts over \$25 for possible review by the court more than one estate, then the fee application must include a proposed allocation of the fees to be billed to each separate estate.

#### Commentary

[Source: L.B.R. 216]

### L.B.R. 2016-2. Interim Compensation Procedures in Chapter 11 Cases

~~(a) b) Motions for Interim Compensation Procedures: A motion seeking approval of interim compensation procedures in a chapter 11 case must include the following:~~

~~(a) a) **Interim Compensation Requests.** Pursuant to 11 U.S.C. §§ 330 and 331 and this Rule, the Court may authorize the debtor to pay professionals' interim fees and expenses subject to final approval. Formal applications for interim compensation must comply with Fed. R. Bankr. P. 2016(a) and L.B.R. 2016-1. If the amount of fees and expenses requested exceeds \$1,000, notice of the application must be given in accordance with Fed. R. Bankr. P. 2002(a)(6), L.B.R. 9013-1, and any order entered by the Court in the case.~~

~~(b) **Authorization for Payment In Advance of Formal Fee Application.** The Court may authorize procedures permitting the debtor to pay professionals interim fees and expenses in advance of a formal fee application ("Interim Advance Payments"). The motion authorizing procedures for Interim Advance Payments must include the following:~~

~~(1) **Necessity and Feasibility of Interim Advance Payments.** A motion seeking authorization for Interim Advance Payments must include the following:~~

- (A) Statement of the cause necessitating Interim ~~compensation~~ Advance Payment procedures;
  - (B) Verification by the debtor that the ~~debtor's~~ debtor's cash flow allows it to pay its professionals and other potential administrative priority claimants on a monthly or other specified interim advance basis;
  - (C) ~~a~~ Projection of monthly fees and expenses by the professional(s) seeking interim ~~compensation; and~~ advance payment procedures;
- (2) Any additional information necessary and appropriate to support the allowance of interim ~~compensation~~.

~~(A) (D) Interim Compensation Procedures: The court may approve interim compensation procedures in appropriate cases and utilize the established guidelines for professionals seeking approval of interim compensation or other advance payment procedures directed by the court. The guidelines are located at L.B.R. 2016-2App.; and~~

#### Commentary

~~(E) [Source: New] Notice of the motion must be given in accordance with Fed. R. Bankr. P. 2002(a)(6), L.B.R. 9013-1, and any order entered by the Court in the case.~~

(2) Authorization of Payment. The estate's representative must be authorized to pay, and the professional may seek or accept, Interim Advance Payments when and only to the extent that (a) funds are available to pay all professionals and other known administrative priority claimants, and (b) the professional has fully complied with the order authorizing the Interim Advance Payment procedures, including notice and objection provisions set forth herein.

(3) Holdback Amount. Provided the professional complies with the provisions set forth herein, the professional may receive 80% of the fees (with the remaining 20% referred to as the "holdback") and 100% of the expenses not subject to an unresolved objection, as provided in L.B.R. 2016-2(b)(8)(D). The professional may seek authorization for payment of the holdback amount as part of a subsequent formal interim fee application. To the extent any fees or expenses are not approved by the Court, they must be offset against the 20% holdback or be disgorged from the professional as appropriate.

(4) Monthly Billing Statements.

(A) Deadline. Within 14 days from the end of the monthly billing cycle for which Interim Advance Payments are sought, the professional must prepare a detailed monthly statement ("Monthly Statement"). If the professional fails to seek Interim Advanced Payments within 14 days, then the professional must await the next monthly billing cycle to obtain payment or await the formal fee application process to obtain payment.

- (B) Notice. Notice must be provided to the Noticed Parties described in L.B.R. 2016-2(b)(7).
- (C) Content. The Monthly Statement must comply with L.B.R. 2016-1(a)(2)(B)).
- (5) Reimbursement of Expenses. Monthly Statements seeking the reimbursement of expenses must include a summary of expenses by category. Whenever a person pays expenses for others, the other person must be identified. It is not necessary to attach supporting documentation for expenses incurred to the Monthly Statement, unless and until the expense is challenged or questioned.
- (6) Redaction of Confidential Information. The description of any service that is confidential in nature may be redacted from the Monthly Statements, but professionals must endeavor to use descriptions that allow adequate review of their services without compromising sensitive commercial information, attorney work product, or other privileges. If a redacted entry is questioned, these entries are to be treated as an Informal Objection, as set forth in L.B.R. 2016-2(b)(8)(A). For allowance of the fees for the redacted entries, the professional must move to submit unredacted Monthly Statements to the Court under seal as part of their subsequent formal fee application.
- (7) Notice of Interim Advance Payment. To receive an Interim Advance Payment, the professional must give timely notice and attach a copy of the applicable Monthly Statement to the following, collectively referred to as the “Noticed Parties”:
- (A) debtor;
  - (B) attorney for the debtor;
  - (C) United States Trustee, and, if applicable, to the chapter 11 trustee;
  - (D) attorney for the Creditors’ Committee (or if there is no committee attorney, to all members of the committee); and
  - (E) any party in interest who has specifically requested copies of the Monthly Statements.
- (8) Objections to Monthly Statements.
- (A) Deadline. Objections to Monthly Statements, referred to as “Informal Objections,” must be submitted no later than 14 days after receiving notice of the Monthly Statement.
  - (B) Notice. Informal Objections must be submitted to the professional and Noticed Parties, and should not be filed with the Court. (The only objections that must be filed with the Court are objections to formal fee applications filed with the Court.)
  - (C) Content. Informal Objections must specify the nature of the objection and the associated specific amount(s) within the Monthly Statement considered objectionable.

(D) Effect. If a professional receives an Informal Objection, then the professional may not seek or accept an Interim Advance Payment of any amount to which an Informal Objection has been lodged (and remains unresolved between the professional and objecting party). Instead, the professional must wait to obtain payment through the formal interim or final fee application process or seek further order of the Court. As provided herein, the professional may then receive 80% of the fees and 100% of the expenses not subject to an unresolved objection.

(E) Non-Waiver. Failure to lodge an Informal Objection does not, by itself, constitute waiver of the right to object to a formal interim or final fee application. All Interim Advance Payments are subject to the interim and final fee applications filed with the Court pursuant to 11 U.S.C. §§ 330 and 331, and therefore subject to disgorgement.

(9) Timely Formal Fee Applications Required. Parties seeking Interim Advance Payments must:

(A) Comply with 11 U.S.C. §§ 330 and 331, L.B.R. 2016-1 and L.B.F. 2016-1.1 for interim and final compensation approval;

(B) File formal interim fee applications not more than every 120-days and at least every 180-days, unless otherwise ordered by the Court;

(C) Seek final approval of all interim compensation fee applications by filing a final fee application; and

(D) When applicable, suspend seeking or accepting an Interim Advance Payment as provided in L.B.R. 2016-2(c).

(c) **Suspension of Interim Advance Payments.** A professional's authorization to seek or accept any Interim Advance Payments will be for 120-day intervals only, beginning with the date the professional first began providing services after an order approving Interim Advance Payment procedures. After each 120 day interval, the professional's authorization to seek or accept Interim Advance Payments will be suspended until the professional has filed a formal application for interim or final compensation for all prior unapproved professional fees pursuant to 11 U.S.C. §§ '330 or 331. Upon the filing of a formal interim fee application, the professional may seek and accept Interim Advance Payments, as provided herein, without further order of the Court.

(d) **Form of Order.** Any motion requesting authority to implement Interim Advance Payment procedures must include a proposed order in substantial conformity with L.B.F. 2016-2.1.

### **L.B.R. 2016-3. Compensation of Chapter 13 Debtor's ~~Counsel~~Attorney**

**(a) ~~Short Form~~Presumptively Reasonable Fee Application:**



- (1) Eligibility: ~~In order.~~ To be eligible to use the ~~Short Form~~ Presumptively Reasonable Fee Application (the ~~"SFFA")~~ "PRFA") procedure, the applicant must request a fee that is at or below the presumptively reasonable fee (the ~~"PRF")~~ amount provided in the General Procedure Order ~~published by the Clerk, titled, "In the Matter of Procedures for Fee Applications in Chapter 13 Cases, Fee,"~~ as amended from time to time. The applicant must provide all reasonably necessary and appropriate services during the pendency of the entire case.
- (2) ~~Presumptively Reasonable Fee:~~ Presumptively Reasonable Fee. To the extent provided for in the chapter 13 plan, the PRF, or lesser amount if requested by the plan, is to be paid by the trustee upon confirmation of the plan, to the extent funds are available after payment of the applicable trustee fee. The chapter 13 trustee may recommend or the Court may determine, in appropriate cases, that a lower fee be allowed. ~~In converted cases, the chapter 13 trustee and the court will take into consideration the compensation already received.~~
- (3) Form of Application: Applications for allowance of fees and reimbursement of expenses pursuant to the ~~SFFA~~ PRFA procedure must be made using ~~L.B. Form 2016-3.1,~~ the checkbox on the chapter 13 plan, L.B.F. 3015-1.1. Applicant need not supplement L.B. ~~Form 2016-3.F. 3015-1.1,~~ except upon formal objection, written request of the ~~chapter 13 trustee~~ debtor, or order by the Court.
- ~~(4) Service, Notice and Objections: Debtor's counsel must serve a copy of the SFFA, L.B. Form 2016-3.1, along with a notice in substantial conformity with L.B. Form 2016-3.3, on the chapter 13 trustee, debtor and those parties requesting notice. Parties will have twenty one (21) days from the mailing of the notice within which to file an objection.~~
- ~~(4) Timing: Fee applications under the SFFA must be filed no sooner than the date of entry of the order confirming~~ Extraordinary Costs. If a case has costs in excess of the amount provided for in the General Procedure Order published by the Clerk, In the Matter of Procedures for Fee Applications in Chapter 13 Cases, as amended from time to time, an attorney may file a Supplemental Fee Application using L.B.F. 2016-3.5 and appropriate supplementary documentation.
- (5) Post-Confirmation Fees. Election of the PRF or any lesser fee does not preclude an attorney from filing a Supplemental Fee Application for post-confirmation work. Electing the PRF does not preclude an attorney from providing for a greater amount in the plan.
- ~~(5) Order. The chapter 13 plan and no later than twenty eight (28) days after the date of entry of confirmation order will serve as the order confirming approving the chapter 13 plan.~~
- ~~(6) Order: The attorney must submit a form of order in substantial conformity with L.B. Form 2016-3.4, listing the specific amount of fees and expenses payment of the PRF, or lesser amount requested, the amount received outside of the plan or previously paid, and the amount payable from plan payments.~~

**(b) Long Form Fee Application:**

- (1) Eligibility: If the applicant requests allowance of a fee in excess of the PRF amount ~~(not including expenses)~~, the attorney may not use the ~~SFFA~~PRFA procedure and must use the Long Form Fee Application (the “LFFA”) procedure in addition to compliance with L.B.R. 2016-1(a)(2)(C)(i) and (ii). The applicant must provide all reasonably necessary and appropriate services during the pendency of the entire case.
  - (2) Form of Applications: Applications for allowance of fees and reimbursement of expenses pursuant to the LFFA procedure must be made using L.B. ~~Form F.~~ 2016-3.21, and must be supplemented by the attachments outlined in L.B. ~~Form F.~~ 2016-3.21.
  - (3) Service, Notice, and Objections: ~~Debtor's counsel.~~ Debtor's attorney must serve a copy of the LFFA, L.B. ~~Form F.~~ 2016-3.21, along with a notice in substantial conformity with L.B. ~~Form F.~~ 2016-3.32, on the chapter 13 trustee, the debtor, and ~~those~~any parties requesting notice. Prior to the deadline to file a proof of claim, the notice, without the LFFA form, must be served on all other creditors, claimants, and parties in interest. If the claims deadline has passed, the notice, without the LFFA form, must be served on claimants. Parties will have ~~twenty-one (21)~~ days from ~~the mailing~~service of the notice within which to file an objection.
  - (4) Timing: Fee applications under the LFFA must be filed no sooner than the date of entry of the order confirming the chapter 13 plan and no later than ~~twenty-eight (28)~~ days after the date of entry of the order confirming the chapter 13 plan.
  - (5) Order: The attorney must submit a form of order in substantial conformity with L.B. ~~Form F.~~ 2016-3.43, listing the specific amount of fees and expenses requested, the amount received outside of the plan or previously paid, and the amount payable from plan payments.
- (c) **Supplemental Form Fee Application:**
- (1) Eligibility: If the applicant provides services post-confirmation and requests allowance of a supplemental fee for post-confirmation services, the applicant must use the Supplemental Form Fee Application (the “SUPFFA”) procedure in addition to compliance with L.B.R. 2016-1(a)(2)(C)(i) and (ii).
  - (2) Form of Applications: Applications for allowance of fees and reimbursement of expenses pursuant to the SUPFFA procedure must be made using L.B. ~~Form F.~~ 2016-3.54, and must be supplemented by the attachments outlined in L.B. ~~Form F.~~ 2016-3.54.
  - (3) Service, Notice, and Objections: ~~Debtor's counsel.~~ Debtor's attorney must serve a copy of the SUPFFA, L.B. ~~Form F.~~ 2016-3.54, along with a notice in substantial conformity with L.B. ~~Form F.~~ 2016-3.32, on the chapter 13 trustee, the debtor and those parties requesting notice. Prior to the deadline to file a proof of claim, the notice, without the SUPFFA form, must be served on all other creditors, claimants, and parties in interest. If the claims deadline has passed, the notice,

- without the SUPFFA form, must be served on claimants. Parties will have ~~twenty-one (21)~~ days from ~~the mailing~~service of the notice ~~within which~~ to file an objection.
- (4) Timing: Fee applications under SUPFFA may not be filed until after entry of an order approving an application under either the ~~SFFA~~PRFA procedure or the LFFA procedure, and no later than the date the chapter 13 trustee files a final report.
- (5) Order: The attorney must submit a form of order in substantial conformity with L.B. ~~Form F.~~ 2016-3.65, listing the specific amount of post-confirmation fees and expenses requested, the amount previously approved by the Court, the amount received outside of the plan or previously paid, and the amount payable from plan payments.
- (d) ~~Hearing:~~Hearing. If the applicant elects the PRFA procedure through a chapter 13 plan, any objection will be considered through the confirmation process. For all other types of fee applications, if no objection is filed, the Court may allow the requested fee in full or in part, upon the filing of a Certificate of ~~Noncontested~~Non-contested Matter in substantial conformity with L.B. ~~Form F.~~ 9013-1.3, or may order further supplementation or set the application for hearing. ~~Any order or notice setting a hearing on an unopposed application may identify the court's concerns or questions regarding inadequacies or deficiencies in the application that may result in reduction or disallowance of the requested fees or expenses.~~ If an objection is filed, the applicant is responsible for filing a Certificate of Contested Matter and Request for Hearing in substantial conformity with L.B. ~~Form F.~~ 9013-1.4. Upon the filing of the Certificate of Contested Matter, the Court may set the matter for hearing.

## Commentary

~~[Source – GPO 2007-2, as amended and, as may be amended from time to time]~~

The ~~SFFA~~PRFA and LFFA procedures establish the time frame and process within which an applicant must apply initially for approval of chapter 13 fees and reimbursement of expenses. However, regardless of whether the applicant utilizes the ~~SFFA~~PRFA or LFFA procedures, the prohibitions against and restrictions on limited representation contained in L.B.R. 9010-1 require that the engagement does not terminate at plan confirmation. Rather, representation must last through the earlier of entry of discharge, or the conversion or dismissal of the case unless ~~counsel~~the attorney is permitted to withdraw in accordance with L.B.R. 9010-4.

The ~~SFFA~~PRFA procedure is for requesting fees and is not intended to limit the scope of chapter 13 engagements. When requesting fees using the ~~SFFA~~PRFA procedure, attorneys are not required to submit their engagement letter or other fee agreement, detailed time slips, or a narrative unless requested by the trustee or otherwise ordered

by the Court. However, attorneys are advised that if their fees are questioned, it may be quite difficult to prevail without the assistance of some or all of those items. Although the ~~SFFA~~PRFA process does not limit the ability of ~~debtor's~~debtor's attorney to seek additional fees post-confirmation, certain routine post-confirmation services are expected to be rendered by applicant as part of the PRF. For example, in most cases, such routine post-confirmation services will include reviewing claims after the expiration of the claims date; advising on the requirement that the debtor complete a financial management course; communicating with the debtor, creditors and other parties ~~-in -~~ interest concerning the case; defending a motion for relief from stay or motion to dismiss; and, completing the debtor's certification for discharge. However, generally, prosecuting or defending against a motion for a plan modification would not be considered a routine post-confirmation service.

The LFFA procedure is intended to be a fee-for-service arrangement where it is anticipated that total attorney fees for the case will exceed the PRF amount. The SUPFFA procedure completes payment for post-confirmation services reasonably necessary and appropriate for the engagement. The Court will entertain supplemental fee applications that comply with the SUPFFA procedure, supported by time records, for post-confirmation services. Like the LFFA, applications under the SUPFFA must be supplemented by the same attachments.

## **L.B.R. 2016-4. Compensation of Petition Preparers**

- (a) **Disclosure of Compensation of Petition Preparer:** Every ~~person or~~ entity bankruptcy petition preparer, as defined under 11 U.S.C. § 110(a)(1), who prepares a petition and/or related papers for filing a case for the debtor, ~~but does not represent the debtor as an attorney of record~~, must file with the petition and concurrently transmit to the United States Trustee and trustee assigned to the case, a disclosure of compensation in substantial conformity with the Disclosure of Compensation of Bankruptcy Petition Preparer, ~~Director's~~Director's Procedural Form ~~280~~2800.

~~Commentary~~

~~{Source: L.B.R. 216}~~

## **~~L.B.R. 2018-1. Intervention~~Presumptively Reasonable Fee. The presumptively reasonable fee chargeable by United States or a State on Constitutional Question**

- (b) ~~Acts of Congress: If, bankruptcy petition preparer~~ in any case ~~or proceeding in which neither the United States nor any agency, officer, or employee thereof (other than the United States Trustee) is a party, a party raises a question concerning the constitutionality of any~~

~~act of Congress affecting the public interest, such party must notify the judge by filing a motion with the court, with a copy to the United States Trustee and the United States Attorney, of the existence of the question, identifying the statute in question, the grounds upon which it is claimed to be unconstitutional, and the title of the case and/or proceeding~~is §125.

- ~~(a) State Statutes: If, in any proceeding in which neither a state nor any agency, officer, or employee thereof is a party, a party raises a question concerning the constitutionality of a statute of such state affecting the public interest, such party must notify the judge by filing a motion with the court, with a copy to the United States Trustee and the state Attorney General, of the existence of the question, identifying the statute in question, the grounds upon which it is claimed to be unconstitutional, and the title of the case and/or proceeding.~~
- ~~(b) Applicability: This rule applies to all matters brought before the court, including those governed by FED. R. BANKR. P. 7001 et seq. and 9014. In an adversary proceeding, the question of constitutionality must be raised by motion and notice given to appropriate parties no later than the deadline for completion of discovery.~~

#### Commentary

(1) [Source: Motion Required for Additional Fees. Only a bankruptcy petition preparer may file a motion seeking fees in an amount greater than the \$125 presumptively reasonable fee. The motion must be filed with an affidavit stating the facts that support the increase in fees. The affidavit must also include a statement that the debtor has reviewed the motion and affidavit. The motion and affidavit must be filed within 14 days after the date of the filing of a petition, and served on the debtor, trustee, and the United States Trustee.]

(2) Sanctions. Any bankruptcy petition preparer who charges a fee in excess of the value of services rendered is subject to sanctions under 11 U.S.C. § 110, including, but not limited to, the disallowance and turnover of any fee found to be in excess of the reasonable fee.

L.B.R. ~~218~~

~~See 28 U.S.C. § 2403(a) and (b).~~

~~This rule applies to both the main bankruptcy case and adversary proceedings.~~

## ~~L.B.R.~~ **2081-1. Chapter 11 – Initial Motions**

(a) **Initial Motions:** During the first ~~twenty-one (21)~~ days following entry of the Order for Relief, the debtor may obtain expedited consideration for entry of orders by filing a Motion Seeking Expedited Entry of Order(s) and Notice of Impending Hearing Thereon (the "Motion") as follows:

- (1) **Motion:** The Motion must contain sufficient factual recitations regarding the nature of the ~~debtor's~~debtor's business and the need for the types of relief sought. The Motion need not be accompanied by briefs or authorities. The movant must

certify that the relief sought by the Motion is needed by the debtor on an expedited basis. If the Motion requests more than one ~~(1)~~ order, the motion must separately identify and discuss each requested relief or intended action.

- (2) Cover sheet: The Motion must be accompanied by a cover sheet in substantial conformity with L.B. ~~Form F.~~ 2081-1.1.
- (3) Affidavits: The Motion must be accompanied by one or more factual affidavits by a representative of the movant or executed by an individual having personal knowledge of the facts therein supporting the requested relief.
- (4) Notice: The Motion must be accompanied by a notice in substantial conformity with L.B. ~~Form F.~~ 2081-1.2 and a copy of a response form in substantial conformity with L.B. ~~Form F.~~ 2081-1.3.
- (5) Proposed Order: The Movant must file a proposed order for each type of requested relief. The proposed order must clearly state the relief requested, but should not contain proposed findings of fact or conclusions of law.

**(b) Service of the Motion:**

- (1) Service on the United States Trustee: A copy of the Motion, cover sheet, affidavits, notice, and proposed orders must be hand ~~delivered~~ or ~~e-mailed~~ emailed to the United States Trustee, either before or within four ~~(4)~~ hours after the Motion is filed.
- (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~~ overnight mail, facsimile or ~~e-mail~~ email initiated on the day the Motion is filed, to:
  - (A) any appointed chapter 11 trustee or examiner;
  - (B) any ~~creditors'~~ creditors' or equity security ~~holders'~~ 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:**

- (1) Scheduling the Hearing: The chambers of the judge assigned to the case will provide ~~movant's counsel~~ movant's attorney with a hearing date to be held that is, if possible, not more than three ~~(3)~~ ~~court~~ days after the date of the filing of the Motion. For purposes of this hearing only, if the ~~judge's~~ judge's calendar cannot be arranged to accommodate a hearing within three ~~court~~ days, the ~~judge's~~ judge's staff will notify the Clerk ~~of the court~~, who may refer the matter to any other available judge.

- (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 F~~, 2081-1.4 to:
- (A) parties who were served with copies of the Motion; and
  - (B) those parties who have requested notice in the case or those who have responded to the Motion on L.B. ~~Form F~~, 2081-1.3. The movant must notify each of the above of the date, time, and place of the hearing by ~~e-mail~~ email or facsimile, as requested in such ~~party's~~ party's response, within the later of: (i) four ~~(4)~~ hours after movant receives ~~responder's~~ responder's request for notice, or (ii) four ~~(4)~~ hours of being notified by the Court of the date and time of the hearing.
- (3) **Proof of Service:** The debtor must file an affidavit of compliance with the service requirements of this L.B.R. Rule prior to the commencement of any hearing pursuant to this L.B.R. Rule.
- (4) **Objections:** Parties may file an objection in writing prior to the hearing and/or may appear at the hearing to state or supplement their objection orally.
- (5) **Procedure at Hearing:** At any hearing set pursuant to this L.B.R. Rule, the parties will proceed in accordance with the ~~Federal Rules of Bankruptcy Procedure~~ Fed. R. Bankr. P. and the Federal Rules of Evidence. The movant must be prepared to present evidence in support of its Motion. Any unopposed request may be granted in the ~~court's~~ Court's discretion on the basis of affidavits, arguments, or representations of the parties or ~~counsel~~ attorneys, as appropriate.
- (d) **Orders:** At the conclusion of any hearing held pursuant to this L.B.R. Rule, the Court will make such findings of fact only as are supported by the record and will:
- (1) enter or deny any or all of the orders requested;
  - (2) enter any or all of the orders requested on an interim basis pending such additional notice as the Fed. R. Bankr. P. or the Court may direct; and/or
  - (3) continue the hearing with respect to any or all of the orders requested. Only interim orders will be entered pursuant to this L.B.R. Rule respecting cash collateral or post-petition financing.
- (e) **Other Expedited Relief:** The availability of expedited consideration of motions under this L.B.R. Rule will not preclude *ex parte* relief or other emergency relief where appropriate upon specific request.

**Commentary**

~~[Source: GPO 2002-6; GPO 2013-1] January 1, 2014.~~

~~See L.B. Forms 2081-1.1 through 2081-1.4.~~

~~January 1, 2014.~~

**L.B.R. 2081-2. Chapter 11 – Certain ~~Notes~~ Notices**

- (a) **Notice to ~~Twenty~~20 Largest Unsecured Creditors:** If notice to the ~~twenty (20)~~ largest unsecured creditors is required, and there are less than 20 unsecured creditors of the estate, the certificate of service must indicate that all unsecured creditors were noticed.
- (b) **Notice on Committees:** If notice to a ~~creditors'~~creditors' or equity security ~~holders'~~holders' committee is required, notice must be made on the ~~committee's counsel~~committee's attorney. If the committee has no ~~counsel~~attorney of record, notice must be made upon all members of the committee.
- (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~~Fed. R. Bankr. P., or these ~~Local~~ Rules.
- (1) Motion: A motion seeking a limited notice list must include the following:
- (A) a statement of the cause necessitating a limited notice list;
  - (B) the types of pleadings the limited notice list will apply to (*i.e.*, limited notice on one pleading or throughout the remainder of the case); and
  - (C) the names of the creditors and parties the debtor seeks to place on the limited notice list.
- (d) **Minimum ~~Requirement~~:Requirements**. Unless otherwise ordered, a limited notice list must include the following:
- (1) the United States Trustee;<sup>7,1</sup>
  - (2) any appointed chapter 11 trustee or examiner;<sup>7,1</sup>
  - (3) any appointed ~~creditors'~~creditors' or equity security ~~holders'~~holders' committee;<sup>7,1</sup>
  - (4) if there is no committee, the 20 largest unsecured creditors;<sup>7,1</sup>
  - (5) all secured creditors (Schedule D);<sup>7,1</sup>
  - (6) all priority creditors (Schedule E);<sup>7,1</sup>
  - (7) those parties who have filed an entry of appearance and request for all notices;<sup>7,1</sup>
  - (8) parties against whom relief is sought by the particular intended action;<sup>7,1</sup>
  - (9) the ~~debtor's~~debtor's attorneys;<sup>7,1</sup> and
  - (10) any additional parties as directed by the Court.

## Commentary

[Source: ~~New; GPO 2013-1.~~ January, 1, 2014.

This Rule does not eliminate the need for notice pursuant to the ~~code and the~~Bankruptcy Code, Fed. R. Bankr. P., or these Rules. Use of the Limited Notice List is not effective until the Court enters an order ~~is entered by the court.~~ See L.B.R. 1015-1 regarding comprehensive service lists and motions in jointly ~~-~~administered cases.

Motions applying to ~~less~~fewer than all of the jointly ~~-~~administered cases ~~are to~~must be filed in the lead case.



## L.B.R. 2081-3. Chapter 11 – Motions to Dismiss or Convert

- (a) **Applicability:** This Rule applies to motions to dismiss or convert a ~~chapter 11~~ case pursuant to 11 U.S.C. § 1112.
- (b) **Selecting a Hearing Date:** Each division of the Court maintains a chapter 11 dismissal motion calendar. ~~Information as to the time and dates of each division's calendar may be obtained from the court's~~ The Court provides hearing date information on its website ~~at www.cob.uscourts.gov or the assigned judge's staff.~~ All dismissal motions must be set for hearing on the calendar of the division to which the case is assigned.
- (1) **Notice Period:** Pursuant to Fed. R. Bankr. P. 9006(c), the Court finds cause exists to shorten the time to object to ~~fourteen (14)~~ days.
- (2) **Hearing Date:** A party filing a dismissal motion in a pending chapter 11 case must select from the calendar of available hearing dates a proposed hearing date, which must be the latest hearing date available on the assigned ~~judge's~~ judge's calendar ~~which that~~ is not more than ~~thirty (30)~~ days from the date the dismissal motion is filed with the Court. In the event the movant sets a hearing date beyond ~~thirty (30)~~ days, the movant is deemed to have waived its right under 11 U.S.C. § 1112(b)(3) to a hearing within ~~thirty (30)~~ days and a decision within ~~fifteen (15)~~ days of the commencement of the hearing.
- (3) **Notice of Hearing:** Subject to the time limitations set forth in ~~subsections~~ L.B.R. 2081-3(1) and (2) above, the movant must comply with the provisions of L.B.R. 9013-1. The notice of hearing must specify the following:
- (A) the hearing date, time and location;
- (B) that an objection and request for hearing must be filed by a date certain that is at least ~~fourteen (14)~~ days after notice of the motion; and
- (C) that, if no objection is timely filed, the requested relief in the motion may enter without a hearing, upon the filing of a Certificate of Non-contested Matter.
- (4) **Notice:** The movant must serve the notice and motion ~~must be served~~ on the debtor, the debtor's ~~counsel~~ attorney, the United States Trustee, ~~any case~~ trustee, and ~~those parties~~ requesting notice. The movant must also serve the notice ~~must also be mailed to~~ on all creditors and parties in interest.
- (c) **Procedures for Preliminary Hearings:** The following procedures apply at preliminary hearings on motions to dismiss:
- (1) No testimony will be taken. ~~Evidence~~ The Court will only ~~be accepted~~ accept evidence by way of an oral offer of proof and exhibits. Such offers must provide sufficient detail to enable the Court to make specific findings based thereon and must include the identity of the witnesses available to testify at an evidentiary

- hearing and an explanation of their expected testimony. Written summaries of ~~witnesses'~~witnesses' testimony are not required but may be submitted.
- (2) Parties must exchange all exhibits they intend to use, or may reasonably anticipate using, 24 hours prior to the preliminary hearing. The exhibits must be tendered to the Court at the hearing, together with a statement identifying the witness or witnesses who would be called to identify and lay the foundation for the introduction of such exhibits.
  - (3) Objections to tendered evidence should be made at the conclusion of each ~~party's~~party's declaration. Any objection must identify the evidence objected to and specify the grounds for the objection.
  - (4) The Court will treat the hearing as a preliminary hearing and, based on the proffers of evidence, if the movant establishes sufficient cause, may set the matter over for a final hearing. In the alternative, the Court may consider the offers of proof and, absent the need for an evidentiary hearing, grant or deny the request for dismissal.
  - (5) Expert Witnesses: Any party anticipating the use of an expert witness for a final hearing will, at the preliminary hearing, comply with Fed. R. ~~BANKR~~Civ. P. ~~7026~~26(a)(2) as incorporated by Fed. R. Bankr. P. 7026.
- (d) **Telephonic Hearings:** Parties, through ~~counsel~~their attorneys, are required to attend the hearing in person except on prior request and approval of a telephonic appearance by the judge to whom the case is assigned. ~~Telephonic appearances~~Parties must ~~be requested~~request telephonic appearance by filing a motion. If the Court permits a telephonic appearance ~~is permitted~~, the parties must exchange witness lists and exhibits and file them with the Court no later than 24 hours prior to the hearing.
- (e) **Waiver of 30 Day Hearing:** In the event that the movant does not select a hearing date pursuant to ~~sub-section~~L.B.R. 2081-3(b), movant must follow the motion practice procedures set forth in L.B.R. 9013-1, and comply with the notice period as directed by Fed. R. Bankr. P. 2002(a)(4). Using the L.B.R. 9013-1 procedures constitutes a waiver by the movant of the hearing and ruling time requirements of 11 U.S.C. § 1112(b)(3).

## Commentary

~~[Source: GPO 2007-1]~~

~~See L.B.R. 1017-1, 2, and 3 for other local rules on conversion and dismissal.~~

~~See also L.B.R. 9070-1 for information on witnesses and exhibits.~~

The L.B. ~~Form F.~~ 9013-1.3, Certificate of Non-contested Matter and Request for Entry of Order should be used when no objection is timely filed as referenced in ~~subparagraph L.B.R. 2081-3(b)(3)(C) above.~~

Selecting a hearing date is intended to make it possible for the parties and the Court to comply with the notice requirements of Fed. R. Bankr. P. 2002(a)(4) and the hearing requirements of 11 U.S.C. § 1112(b)(3). In order to best comply with the Bankruptcy Code, the Court has found cause to shorten the notice period for self-calendared motions pursuant to Fed. R. Bankr. P. 9006(c).

## **L.B.R. 2082-1. Chapter 12 – General**

### **(a) Motion to Confirm and Order Confirming Chapter 12 Plan:**

- (1) Motion to Confirm: The debtor must file with the plan a motion to confirm in substantial conformity with L.B. ~~Form F.~~ 2082-1.1. This debtor must verify the motion ~~must be verified by the debtor~~ and serve it ~~served~~ on the chapter 12 trustee and all creditors, and parties in interest. The motion must contain facts sufficient to enable the Court to make appropriate findings in accordance with the requirements of chapter 12.
- (2) Order of Confirmation: The debtor must file with the plan a proposed order of confirmation ~~must be~~ in substantial conformity with L.B. ~~Form F.~~ 2082-1.2, ~~and must be prepared by the debtor and filed with the plan. Notice of entry thereof shall be mailed promptly by.~~ The Clerk, or ~~some~~ other entity as the Court may direct, must send notice thereof to the debtor, chapter 12 trustee, all creditors, equity security holders, and other parties in interest.

### **(b) Notice and Hearing on Motion to Confirm Chapter 12 Plan:**

- (1) Contested Matter: Hearings on motions to confirm Chapter 12 plans are contested matters subject to Fed. R. Bankr. P. 9014 and the service requirements of Fed. R. Bankr. P. 7004.
- (2) Notice:
  - (A) Form and Service: The debtor must prepare a notice in substantial conformity with L.B. ~~Form F.~~ 2082-1.3, and must serve a copy of the notice, the motion to confirm, and the plan on the chapter 12 trustee and all creditors and parties in interest.
  - (B) Contents: The notice must contain the date for the confirmation hearing and the date for filing objections to the plan. At the time the plan is filed the debtor must obtain from the Court the date for the hearing on confirmation of the plan. Unless the Court fixes a shorter period, notice of the hearing must be given not less than ~~twenty-one (21)~~ days prior to the hearing.

- (C) Certificate of Service: The debtor must file a copy of the notice with the Court within three ~~(3) court~~ days after service thereof, and must file with it a certificate of service showing compliance with this L.B.R. Rule.
- (3) Objections: Objections to confirmation of the plan must be filed with the Court and served on the debtor, the chapter 12 trustee, and on any other entity designated by the Court, at least ~~three (3) court~~ seven days prior to the hearing or within such other time as may be fixed by the Court. Objections must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. The Court will not consider general objections ~~will not be considered~~.
- (4) Hearing:
- (A) If no objection to confirmation is timely filed, the Court, at the hearing on confirmation, may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues. The Court may enter an order confirming the plan, if it otherwise meets the requirements of 11 U.S.C. §§ 1222 and 1225, based on such evidence and/or representations as are sufficient to the Court.
- (B) If objections to confirmation are filed, the Court will use the hearing on confirmation as a preliminary hearing and status conference for the purposes of
- (i) framing the issues to be heard at the final hearing on confirmation;
  - (ii) the entry of orders pertaining to discovery;
  - (iii) the setting of the final hearing on the confirmation of the plan; and
  - (iv) the entry of such other orders pertaining to the ~~debtor's~~ debtor's motion to confirm as are appropriate.
- (C) No evidence will be taken and no witnesses need appear at the first hearing on confirmation.
- (D) In accordance with 11 U.S.C. § 1224, except for cause, the hearing must be concluded not later than ~~forty-five (45)~~ days after the filing of the plan.
- (c) **Amending a Chapter 12 Plan Prior to Confirmation:** In the event the debtor amends the original chapter 12 plan prior to confirmation, the amended plan, and such notice as the Court may order, must be served upon the chapter 12 trustee and all creditors and parties in interest, or as otherwise ordered by the Court. If the plan is amended after the filing of a motion to confirm, a new motion to confirm, verified by the debtor and conforming to the amended plan, must be filed. A motion to confirm an amended plan acts as a notice of withdrawal of, or a motion to withdraw, any previously filed motion to confirm and must be subject to Fed. R. Bankr. P. 7041.
- (d) **Modification of Chapter 12 Plan after Confirmation:** In the event the debtor, the trustee, or the holder of an allowed unsecured claim desires to modify a confirmed

chapter 12 plan, the movant must file the proposed modified plan together with a motion requesting modification which must state with particularity the date the plan was originally confirmed, the reason for the modification and the effect upon distribution to each creditor class should the modification be approved. If the modification is proposed after the expiration of the period for the filing of claims, service may be limited to the trustee, any party expressly affected by the modification and upon those creditors who have filed proofs of ~~claims~~claim.

~~Commentary~~

~~[Source: L.B.R. 320, L.B.R. 319]~~

### **L.B.R. 2083-1. Chapter 13 – General**

- (a) ~~Preconfirmation~~Pre-confirmation **Payments Pursuant to 11 U.S.C. § 1326(a)(1):** Unless otherwise ordered by the Court, all ~~preconfirmation~~pre-confirmation adequate protection payments made by the debtor pursuant to 11 U.S.C. § 1326(a)(1) must be paid to the chapter 13 trustee, not the secured claimant. The ~~preconfirmation~~pre-confirmation plan payments to the trustee must include the amount required under 11 U.S.C. § 1326(a)(1), plus the necessary ~~trustee's~~trustee's fee.
- (b) **Calculation of Adequate Protection:** For the purpose of this Rule, calculation of adequate protection is calculated as ~~one percent (1%)~~1% of the outstanding principal balance due as of the date of the filing of the petition, unless otherwise ordered by the Court.
- (c) **Creditor's**Creditor's **Rights:** Payment of ~~preconfirmation~~pre-confirmation adequate protection is without prejudice to the secured ~~creditor's~~creditor's right to object to confirmation of the debtor's plan or to seek determination as to the value of the claim or the amount needed to provide adequate protection.
- (d) ~~Preconfirmation~~Pre-confirmation **Disbursements:** ~~Preconfirmation.~~ Pre-confirmation disbursements by the chapter 13 trustee under 11 U.S.C. § 1326(a)(1) are hereby authorized without further order, but such disbursements must not be made unless such creditor has filed a proof of claim with the Court. ~~Preconfirmation~~Pre-confirmation disbursements under 11 U.S.C. § 1326(a)(1) must commence within 30 days of filing the proof of claim, unless the trustee has not received sufficient or good funds to make such payment. The trustee is authorized to deduct all 11 U.S.C. § 1326(a)(1) ~~preconfirmation~~pre-confirmation disbursements from an allowed claim and to retain the amount necessary to pay the ~~trustee's~~trustee's statutory fee based upon the ~~preconfirmation~~pre-confirmation payments distributed by the trustee.

~~Commentary~~

~~[Source: T.L.B.R. 2083-1.]~~

~~See L.B.R. 3015-1 and L.B. Form 3015-1 for information on filing a chapter 13 plan.~~

## ~~L.B.R. 3001-1. Claims and Equity Security Interests – General~~

~~See FED. R. BANKR. P. 3001(e)(2) and Director's Procedural Forms 210A and 210B regarding the transfer of a claim other than for security after the proof of claim has been filed.~~

~~Commentary~~

~~[Source: New.]~~

## **L.B.R. 3003-1. Bar Date for Filing ProofProofs of Claim in Chapter 11 Case**

Subject to 11 U.S.C. § 726(a)(1), ~~upon motion for~~a party seeking entry of an order establishing procedures and a bar date for the filing of proofs of claim in chapter 11 cases or ~~for~~ a bar date for filing motions for allowance of chapter 11 administrative expense claims, ~~the court may issue an~~ must file a motion with proposed order and ~~require~~ notice in substantial conformity with L.B. ~~Forms~~F. 3003-1.1 through 3003-1.4, respectively.

~~Commentary~~

~~[Source: New.]~~

## **L.B.R. 3004-1. Filing Proof of Claim by Debtor or Trustee**

A debtor or trustee filing a proof of claim on behalf of a creditor pursuant to 11 U.S.C. § 501(c) and Fed. R. Bankr. P. 3004 must contemporaneously file and serve a notice ~~of the filing upon the creditor on whose behalf the claim is filed. The notice must be~~ in substantial conformity with L.B. ~~Form~~F. 3004-~~1.1~~, ~~and be sent to the creditor, its counsel of record, if any, the debtor and case trustee. The party filing~~referencing the proof of claim ~~must attach a copy of the proof of claim with the notice.~~

~~Commentary~~

~~[Source: L.B.R. 304]~~

## L.B.R. 3005-1. Filing of Proof of Claim by Guarantor, Surety, Indorser, or Other Co-debtor

~~When~~ An entity ~~or its attorney files~~ filing a proof of claim on behalf of a creditor pursuant to 11 U.S.C. § 501(b) and Fed. R. Bankr. P. 3005, ~~the person filing the claim~~ must comply with the procedure set forth in L.B.R. 3004-1. ~~contemporaneously file and serve a notice in substantial conformity with L.B.F. 3004-1.~~ ~~In addition to the parties required to be served in L.B.R. 3004-1,~~ the notice must also be provided to any other obligors referencing the proof of claim.

Commentary

[Source: ~~L.B.R. 305~~]

## L.B.R. 3007-1. Objections to Claims

(a) **Procedure for Objections:** Any party objecting to the allowance of any claim must file an objection stating with particularity the allegations of fact and grounds for the objection. The objection must comply with and be prosecuted in the manner prescribed in Fed. R. Bankr. P. 3007 and L.B.R. 9013-1.

(b) ~~Trustee's~~ **Trustee's Objections to Claims in Chapter 13 Cases:**

(1) As soon as practicable after the expiration of the last day for filing of claims in each case, the chapter 13 trustee must submit a report of claims to the debtor and ~~debtor's~~ debtor's attorney. The chapter 13 trustee must file a certificate of compliance with this L.B.R. Rule.

~~(2) Within fourteen (14) days from the date of~~ It is the chapter 13 trustee's report of claims is submitted, the debtor must file with the chapter 13 trustee a written response to the report, setting forth any grounds for objections to claims. The debtor's failure to make trustee's and file the response constitutes a waiver of all objections thereto, provided, however, that for good cause shown, the court may relieve the debtor from the effects of this L.B.R. to prevent manifest injustice.

~~(3) If the debtor's response to the chapter 13 trustee's report of claims includes objections to the allowance, amount, or classification of any of the claims filed, the chapter 13 trustee or the debtor may file an objection to such claims and give notice thereof as specified in subsection (a), above;~~

~~(4)~~ (2) In addition to the foregoing procedures, it is the chapter 13 trustee's and debtor's attorney's ~~debtor's~~ attorney's duty to examine all proofs of claims claim and, if appropriate, to file objections in the manner specified in ~~subsection (a), above;~~ L.B.R. 3007-1(a).

Commentary

[Source: ~~L.B.R. 307~~]

## L.B.R. 3012-1. Valuation of Collateral and Determination of Secured Status Pursuant to under 11 U.S.C. § 506

### (a) Real Property:

- (1) How Raised: A ~~debtor's~~debtor's request for the valuation of real property and determination of secured status under 11 U.S.C. § 506 must be made by separate motion and referenced within the proposed plan. A separate adversary proceeding is not required.
- (2) Required Information: The motion must include the name of the creditor, a description of the collateral, amount of debt owed to the creditor, and the ~~debtor's~~debtor's contention of value of the collateral. The motion must also include the amounts owed to other senior lienholders. The description of collateral must include a legal description of the affected real property and any identifying information with respect to the affected mortgage lien, including the date of the deed of trust, recording date, county, book and page or reception number of the recording. Additionally, the motion must state that "in the event a creditor desires to participate in any plan distribution, the creditor must have a timely filed, allowed proof of claim, including such claims filed within 30 days of the entry of an order determining secured status" as set forth in Fed. R. Bankr. P. 3002(c)(1) and (3).
- (3) Service: The debtor must serve creditors affected by the ~~debtor's~~debtor's valuation of collateral in the manner specified in Fed. R. Bankr. P. 9014 and 7004.
- (4) Notice: Notice of the motion is governed by L.B.R. 9013-1.
- (5) Objections: Objections to the motion must recite the basis of the objection, including the amount and basis of the alternative value proposed by the objector. In the absence of a written objection, the valuation asserted by the debtor will be accepted by the Court and ~~shall~~will be used in the ~~court's~~Court's determination of the amounts to be distributed under the plan. Objections to the ~~plan~~proposing plan's proposed treatment under 11 U.S.C. § 506 must be filed separately within the applicable deadlines.
- (6) No Objections: If no objections are filed, the movant must file a Certificate of ~~Noncontested~~Non-contested Matter in substantial conformity with L.B. ~~Form~~F. 9013-1.3.
- (7) Hearing: Objections to the valuation of collateral under 11 U.S.C. § 506 will be considered in conjunction with the hearing on plan confirmation. If the objection requires an evidentiary hearing, the Court will use the hearing on confirmation as a status and scheduling conference to set an evidentiary hearing date and related deadlines.



- (8) Order on Motion: The attorney must submit a proposed order in substantial conformity with L.B. Form F. 3012-1.1.
- (9) Order Extinguishing Lien: Upon successful completion of the debtor's debtor's plan, the debtor may request an order that the lien is extinguished. See L.B. Forms F. 3015-1.11 and 3015-1.12 (6, Chapter 13 Debtor's Debtor's Certification to Obtain Discharge), and L.B. Form F. 3022-1.2 (4, Chapter 11 Individual Debtor Debtor's Final Report and Motion for Final Decree).

(b) **Personal Property:**

- (1) How Raised: A debtor's debtor's request for the valuation of personal property and determination of secured status under 11 U.S.C. § 506 may be made in the proposed plan. A separate motion or adversary proceeding is not required.
- (2) Required Information:
- (A) Motor Vehicles: Requests for valuation of a motor vehicle must include a description of the affected vehicle, including the year, make, model, and vehicle identification number (VIN).
- (B) Other Personal Property: Requests for valuation of other personal property must include a description of the affected property and any identifying information with respect to the underlying contract or transaction.
- (3) Service, Objections, Hearing, and Order: Requirements regarding service, objections, hearing, and order are governed by the confirmation requirements of the applicable chapter under which the case is pending.

## Commentary

~~[Source: New]~~

~~See 11 U.S.C. § 506 and FED. R. BANKR. P. 3012.~~

Although the "lien-avoiding effect of the confirmed plan" is established at confirmation, actual lien avoidance is contingent upon the debtor's debtor's completion of the plan. If the case is converted to chapter 7 or dismissed, or plan payments are not otherwise completed, liens avoided under 11 U.S.C. § 506(d) in combination with § 11 U.S.C. §§ 1322(b)(2) or § 1123(b)(5) are reinstated. 11 U.S.C. §§ 348(f)(1)(B) and (C), and 349(b)(1)(C).

## L.B.R. 3015-1. Filing of the Chapter 13 Plan

~~(a) Chapter 13 Confirmation Process—Forms:~~

~~(a) The court has developed Definitions. For purposes of this Rule, the following Local Bankruptcy Forms in connection with this terms are defined as follows:~~

- (1) “Confirmation Hearing” means the date scheduled for an initial hearing on a chapter 13 debtor’s plan of reorganization.
- ~~(1)(2) “Confirmation Status Report” means a completed L.B.F. 3015-1.4, in which the debtor, among other things, summarizes the outstanding plan objections and whether the debtor will amend the plan, seek judicial determination, or both.~~
- ~~(2) L.B. Form 3015-1.1—Chapter 13 Plan: The Chapter 13 Plan form must be used when filing the original plan, as well as with any amendment to the plan.~~
- ~~(3) L.B. Form 3015-1.2—“Meeting Date” means the date originally scheduled for the meeting of creditors pursuant to 11 U.S.C. § 341.~~
- ~~(3)(4) “Notice” means a completed Notice of Filing of Chapter 13 Plan, Deadline for Filing Objections Thereto, and Hearing on Confirmation: This notice may be used when the plan is filed after the petition date. In a case that is converted to chapter 13, this notice may be used when the plan is filed after the conversion date. This notice may also be used if creditors are added to the schedules after the petition date, substantially in the form of L.B.F. 3015-1.2.~~
- ~~(4) L.B. Form 3015-1.3—Notice of Continued Dates for Meeting of Creditors and Hearing on Confirmation of Plan: This notice may be used if the Meeting of Creditors is continued to “Verification” means a date after the Hearing on Confirmation.~~
- ~~(5) L.B. Form 3015-1.4—completed Verification of Confirmable Plan: The Verification is to be filed when (a) there are no pending objections to the plan or amended plan, as applicable, (b) the debtor has complied with the verification requirements and (c) the debtor requests confirmation of the plan, substantially in the form of L.B.F. 3015-1.3.~~
- ~~(b) L.B. Form 3015-1.5—Certificate and Motion to Determine Notice: The Certificate and Motion to Determine Notice addresses objections, amendments, **Filing and Notice of the Chapter 13 Plan.**~~
- ~~(1) The debtor must file a chapter 13 plan and is to be filed by the debtor when objections or amendments to in substantial conformity with L.B.F. 3015-1.1.~~
- ~~(6) The debtor’s failure to file the plan are filed.~~
- ~~(7) L.B. Form 3015-1.6—Notice of Filing Amended Chapter 13 Plan Prior to Hearing on Confirmation and Deadline for Filing Objections Thereto: To be used to provide notice of an amended chapter 13 plan that is filed and served prior to the original hearing on confirmation date.~~
- ~~(8) L.B. Form 3015-1.7—Notice of Filing Amended Chapter 13 Plan and Deadline for Filing Objections Thereto: To be used when directed by the court to utilize notice procedures under FED. R. BANKR. P. 2002 and L.B.R. 2002-1 and 9013-1.~~
- ~~(9) L.B. Form 3015-1.8—Notice of Filing Amended Chapter 13 Plan, Deadline for Filing Objections Thereto, and Hearing on Confirmation: To be used when directed by the court to utilize notice procedures under FED. R. BANKR. P. 2002 and L.B.R. 2002-1 and 9013-1 and the court provides the debtor with a new hearing on confirmation date.~~
- ~~(10) L.B. Form 3015-1.9—Chapter 13 Confirmation Order: The court may use this form order or a virtual order to confirm the plan.~~
- ~~(11) L.B. Form 3015-1.10—Order Modifying Confirmed Chapter 13 Plan: The court may use this form order to modify a confirmed plan.~~

- (12) ~~L.B. Form 3015-1.11 – Chapter 13 Debtor's Certification to Obtain Discharge: To be used after all of the plan payments are completed and the debtor seeks a chapter 13 discharge.~~
- (13) ~~L.B. Form 3015-1.12 – Order on Chapter 13 Debtor's Certification to Obtain Discharge: The court may use this form order in response to L.B. Form 3015-1.11.~~
- (b) ~~Filing of the Chapter 13 Plan:~~
- (1) ~~The chapter 13 plan must be filed in accordance with FED. R. BANKR. P. 3015. The form of the plan must conform to L.B. Form 3015-1.1.~~
- (2) ~~The failure to timely file the plan will~~ within 14 days from the petition date or date of conversion to chapter 13 may result in the dismissal of the case pursuant to L.B.R. 1007-1 and 1017-3 and the United States Trustee's Standing Motion to Dismiss Deficient Case, without further notice, certification or hearing. 11 U.S.C. § 1307(c)(3) and Fed. R. Bankr. P. 3015(b).
- (3) ~~The chapter 13 confirmation process is a contested matter subject to FED. R. BANKR. P. 7004 and 9014. If the debtor is proposing to modify the rights of secured creditors, The debtor must specifically serve such creditors in the manner specified by the FED. R. BANKR. P.~~
- (c) ~~give notice of the Chapter 13 plan and Hearing on Confirmation:~~
- (1) ~~When the plan is filed with the petition, or at the time of conversion to chapter 13, the court may mail a copy of the plan along with the Notice of Meeting of Creditors containing the date and time of the hearing on confirmation and the deadline to file objections to the plan. The court may mail the plan by means of first class mail~~ transmit it to the chapter 13 trustee, the United States Trustee, and to the addresses for all parties as listed on the Creditor Address Mailing Matrix filed in the case at the time of the mailing, subject to the redirection of mail by the Bankruptcy Noticing Center under 11 U.S.C. § 342. The above mailing by the court may not satisfy the service requirements of FED. R. BANKR. P. 9014 and 7004; if not, the debtor is responsible for satisfying any applicable service requirements under those rules. If the debtor files the plan on the petition date, the Court will transmit the plan and the Notice of Meeting of Creditors to these parties. If the court debtor does not mail file the plan, the debtor must provide service as set forth in subparagraph (2) immediately below.
- (2) ~~(3) In addition to the requirements of FED. R. BANKR. P. 3015, when the plan is filed after~~ on the petition date, or after the date of conversion to chapter 13, the debtor must forthwith serve a copy of the plan along with a legally sufficient notice setting forth the date, time and location of the confirmation hearing and the deadline to file objections to the plan on all parties listed in paragraph (c)(1) above. The debtor may mail a copy of the Notice of Meeting of Creditors with the plan to comply with this notice requirement, or use L.B. Form 3015-1.2 then the debtor will be responsible for transmitting to these parties both the plan and a Notice.
- (4) If the chapter 13 plan will directly impact the legal rights of particular creditors, such as modifying or terminating lien or contract rights, then the debtor must also serve those particular creditors in the manner prescribed in Fed. R. Bankr. P. 7004.

(5) No later than three ~~(3) court~~ days following the ~~debtor's mailing~~ debtor's notice or notice and service of the plan or any amended plan, the debtor must file a completed certificate of service ~~setting forth the name of the document(s) mailed and all parties to whom notice was provided. The certificate of service should be filed with the plan or any amended plan, but not~~.

**(c) Filing Objections to the Chapter 13 Plan.**

~~(3)~~ (1) Objections to the plan must be filed no later than three (3) court ~~seven~~ days following mailing of after the plan or any amended plan. Meeting Date.

~~(4) The debtor is responsible for providing legally sufficient service and notice of the plan, the deadline to file objections thereto, and the hearing on confirmation to any additional creditors added at any time during the case.~~

~~(d) Continued Meeting of Creditors:~~

~~(1) Consistent with L.B.R. 2003-1, a debtor's request for a continuance of the 11 U.S.C. § 341(a) meeting of creditors must be in writing and served on the chapter 13 trustee no less than seven (7) days prior to the date and time of the scheduled meeting. A request for a continuance of the meeting of creditors is not filed with the court.~~

~~(2) In the event that the meeting of creditors is continued to a date prior to the original hearing on confirmation date, the hearing on confirmation will remain as scheduled.~~

~~(3) In the event that the meeting of creditors is continued to a date after the original hearing on confirmation date, the debtor must file a motion to continue the hearing on confirmation or appear at the originally scheduled date for the hearing on confirmation and request new deadlines be set by the court.~~

~~(4) Within three (3) court days of the entry of an order granting a motion to continue the hearing on confirmation, the requesting party shall file and serve a Notice of Continued Dates for Meeting of Creditors and Hearing on Confirmation of Plan in substantial compliance with L.B. Form 3015-1.3 on all parties in interest, and file proof of such service with the court.~~

~~(e) Filing Objections to Confirmation of Chapter 13 Plan:~~

~~(1) No later than three (3) court days prior to the date first set for the meeting of creditors, objections to the plan must be filed with the court and served on the chapter 13 trustee, the debtor and debtor's counsel.~~

~~(2) Parties in interest may seek leave to file a late objection. A motion to file a late objection must include the proposed objection as an exhibit.~~

(2) Objections must be served on the chapter 13 trustee, the debtor, and debtor's attorney.

(3) Objections must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. The Court will not consider general objections ~~will not be considered by the court and the failure to plead with specificity may result in the court striking the objection.~~ strike any noncompliant objections.

(4) A creditor's objection as to the claim amount owed as provided in the plan ~~Any attempt to file a late objection~~ must be accompanied by ~~an attached~~ a motion requesting leave to file out-of-time. The Court may strike any noncompliant objection.

without further notice or hearing. Any party filing a motion for leave must include the proposed objection as an exhibit.

~~(4)~~(5) Any creditor filing an objection based on its assertion that the plan has incorrectly listed the amount of its claim or arrearages owed must provide a detailed and clear payment history~~and categorical calculation (e.g., fees, costs, with a breakdown showing the components of its claim, such as principal, and interest) of, fees, and costs. This requirement will not apply if the amount the objecting creditor asserts is owed.~~has filed its proof of claim prior to filing its objection.

~~(5)~~(6) ~~Objections to the debtor's~~Any party filing an objection based on the debtor's expenses or Current Monthly Income calculations must specify each expense item or calculation to which ~~an~~the objection is raised and the basis for the objection.

~~(6)~~(7) ~~Objections to the debtor's~~Any party filing an objection based on the debtor's request for valuation of collateral and determination of secured status under 11 U.S.C. § 506 must comply with L.B.R. 3012-1,including and provide the amount and basis of the alternative value proposed~~by the objector.~~

~~(7)~~(8) ~~Unless otherwise ordered, previously filed objections to confirmation a prior plan are deemed meet~~withdrawn and new objections must be timely filed addressing as to any ~~amended plan if, after court approval, the amended~~subsequent plan is sent on notice with an opportunity to object. However, objections to a ~~debtor's~~debtor's motion for valuation of real property under 11 U.S.C. § 506 and L.B.R. 3012-1 will be deemed continued until the objection is withdrawn, resolved, granted, or denied.

~~(f)~~(d) **If No Plan Objections Are Filed:**

(1) No Amendment to the Plan.

(A) If no objections are filed, no amendments are necessary, and the debtor ~~has complied with the verification requirements,~~is able to verify all of the statements required in a Verification, then the debtor must file a Verification ~~of Confirmable Plan no earlier than seven (7) days following the debtor's first attendance at the meeting of creditors but no later than four (4) court days prior to the original hearing on~~in order to obtain a confirmation order.

(B) The Verification ~~of Confirmable Plan~~ must be ~~in substantial conformity with,~~filed no earlier than ten days after the Meeting Date and ~~contain all of the information in, L.B. Form 3015-1.4.~~no later than seven days prior to the Confirmation Hearing.

(C) A copy of the Verification ~~of Confirmable Plan~~ must be served on the chapter 13 trustee and any parties requesting notice.

(D) Upon ~~the~~ filing of the Verification ~~of Confirmable Plan,~~ the Court may confirm the plan without requiring any parties to appear at the ~~hearing on confirmation.~~Confirmation Hearing.

(2) Amendments to the Plan Prior to ~~Originally Scheduled Hearing on~~the Confirmation Hearing When No Plan Objections Are Filed.

- (A) If no objections are filed, ~~and~~ but an amendment to the plan is necessary, the debtor must file the amended plan, with all changes clearly and conspicuously indicated, along with a ~~Certificate and Motion to Determine Notice~~completed Confirmation Status Report, no earlier than ~~the day following the debtor's first attendance at the meeting of creditors~~ten days after the Meeting Date and no later than ~~four (4) court~~seven days prior to the ~~hearing on confirmation~~Confirmation Hearing.
- ~~(B) The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in, L.B. Form 3015-1.5.~~
- ~~(C)~~(B) The debtor must serve a copy of the amended plan and ~~Certificate and Motion to Determine Notice to~~Confirmation Status Report on the chapter 13 trustee and ~~those~~any parties requesting notice.
- ~~(D)~~(C) After ~~the filing of a Certificate and Motion to Determine Notice~~Confirmation Status Report, the Court will order what further notice, if any, is required ~~and provide instructions regarding the setting of any further hearing either at the hearing on confirmation~~Confirmation Hearing or by separate written order.
- ~~(E) If there are at least twenty-eight (28) days between the date of service and the scheduled hearing on confirmation, the debtor may file and serve an amended plan. Such plan is to be filed and served no earlier than the debtor's first attendance at the meeting of creditors and it will be considered at the originally scheduled hearing on confirmation. If the debtor so elects, the following shall apply:~~
- ~~(i) Debtor shall serve all creditors and parties in interest with the amended plan so filed and a notice which substantially conforms with L.B. Form 3015-1.6 and which sets an objection date that is twenty-one (21) days from the date of service of the amended plan and notice.~~
- ~~(ii) If the debtor complies with subsection (E)(i), the requirement of subsection L.B.R. 3015-1(f)(2) for filing a Certificate and Motion to Determine Notice as to the prior plan is waived.~~
- ~~(iii) If no objections are filed to the amended plan so served, the debtor shall file a Verification of Confirmable Plan no later than four (4) court days prior to the hearing. Upon the filing of the Verification of Confirmable Plan, the court may vacate the hearing on confirmation.~~
- ~~(iv) If objections are filed to an amended plan filed in accordance with this procedure, the debtor shall make reasonable efforts to complete the obligation to meet and confer and file a Certificate and Motion to Determine Notice to advise the court and objecting parties of the debtor's response to the objection(s) no later than four (4) court days prior to the hearing on confirmation. The originally scheduled hearing will proceed as set.~~
- ~~(v) If the debtor complies with the provisions of this subsection in prosecuting an amended plan, the time period for filing objections to the amended plan of Fed.R.Bankr.P. 2002(b), is shortened by this Local Bankruptcy Rule to twenty-one (21) days from mailing.~~

~~(g)~~(e) **If Plan Objections Are Filed:**

~~(A)~~ Obligation to Meet and Confer. In an effort to resolve or narrow the issues in dispute, ~~no later than seven (7) days prior to the hearing on confirmation~~, the debtor and any~~each~~ objecting party must Meet and Confer, as ~~that term is~~ defined in L.B.R. 9001.

~~(2)~~(1) The 1, no later than ten days prior to the Confirmation Hearing. The parties' failure to ~~comply with the obligation to~~ Meet and Confer may result in the Court striking the objection, denying confirmation, and/or taking ~~further action~~ as~~other~~ appropriate actions.

~~(3)~~ No Amendment to the Plan.

~~(A)~~ If there are objections to the plan and the debtor is not filing an amended plan to resolve the objections, the debtor must file a Certificate and Motion to Determine Notice, no earlier than the day following the debtor's first attendance at the meeting of creditors and no later than four (4) court days prior to the hearing on confirmation.

~~(B)~~ The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in L.B. Form 3015-1.5.

~~(C)~~ The debtor must serve a copy of the Certificate and Motion to Determine Notice to the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those requesting notice.

~~(D)~~ After the filing of a Certificate and Motion to Determine Notice, the court may order what notice, if any, is required and provide instructions regarding the setting of any further hearing either at the hearing on confirmation or by separate written order.

~~(4)~~ Amendments to the Plan Prior to Originally Scheduled Hearing on Confirmation When Plan Objections Are Filed.

~~(A)~~ If there are objections to the plan and the debtor is filing an amended plan to resolve some or all of the objections, the debtor must file the amended plan, along with a Certificate and Motion to Determine Notice, no earlier than the day following the debtor's first attendance at the meeting of creditors and compliance with the obligation to meet and confer, but no later than four (4) court days prior to the hearing on confirmation.

~~(B)~~ The Certificate and Motion to Determine Notice must be in substantial conformity with, and contain all of the applicable information in L.B. Form 3015-1.5.

~~(C)~~ The debtor must serve a copy of the amended plan and Certificate and Motion to Determine Notice to the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those requesting notice.

~~(D)~~ After the filing of a Certificate and Motion to Determine Notice, the court may order what notice, if any, is required and provide instructions regarding the setting of any further hearing either at the hearing on confirmation or by separate written order.

~~(E)~~ If there are at least twenty-eight (28) days between the date of service and the scheduled hearing on confirmation, the debtor may file and serve an amended plan. Provided the debtor otherwise complies with the provisions of L.B.R. 3015-1(f)(2)(E) above, such plan is to be filed and served no earlier than the debtor's first attendance at the meeting of creditors and compliance with the obligation to meet and confer, so it will be considered at the originally scheduled hearing on confirmation. The provisions of L.B.R. 3015-1(e)(4) apply to this subsection (E).

~~(5)~~(2) Plan Objections Resolved.

- (A) If ~~there are no pending~~the objections ~~or objections~~to the plan have been formally withdrawn ~~to the plan or amended plan, as applicable, the debtor has complied with the certification requirements, and,~~ the plan is otherwise ready for confirmation, and the debtor is able to verify all of the statements required in a Verification, ~~then~~ the debtor must file ~~the a~~ Verification ~~of Confirmable Plan~~in order to obtain ~~ana~~ a confirmation order ~~confirming the plan.~~
- (B) The debtor must serve the Verification of Confirmable on the chapter 13 trustee, any parties who objected to the most recently noticed plan, and any parties requesting notice.
- (3) Amendments to the Plan must be in substantial conformity with, and contain Prior to Confirmation Hearing to Address Plan Objections.
- (B)(A) ~~If there are objections to the plan and the debtor is filing, or intends to file, an amended plan to resolve some or all of the information in, L.B. Form 3015-1.4.~~objections, the debtor must file a Confirmation Status Report so indicating no later than seven days prior to the Confirmation Hearing. The Debtor must also file the amended plan, with all changes clearly and conspicuously indicated, either seven days prior to the Confirmation Hearing or on the date indicated in the Confirmation Status Report.
- (B) ~~A copy of the~~ The debtor must serve a copy of the amended plan and Confirmation Status Report on the chapter 13 trustee, any parties who objected to the most recently noticed plan, and any parties requesting notice.
- (C) After the filing of a Confirmation Status Report, the Court will order what further notice, if any, is required either at the Confirmation Hearing or by separate written order. It may also vacate the scheduled Confirmation Hearing.
- (D) If the objecting parties represent to the Court at the Confirmation Hearing or by written withdrawal of their objections that they do not object to the amended plan, then the debtor must file a Verification of Confirmable in order to obtain a confirmation order.
- (4) Plan Objections Remain Outstanding and Require Court Resolution.
- (A) If there are remaining objections to the plan and the debtor is not filing an amended plan to resolve them, then the debtor must be served file a Confirmation Status Report no later than seven days prior to the Confirmation Hearing.
- (C)(B) The debtor must serve a copy of the Confirmation Status Report on the chapter 13 trustee, any parties who objected to the most recently noticed plan, and those any parties requesting notice.
- (D)(C) ~~Upon~~ After the filing of the Verification of Confirmable Plan a Confirmation Status Report, the Court may ~~confirm the plan~~ order what further notice, if any, is required either at the hearing on confirmation, Confirmation Hearing or by



separate ~~court order without requiring any parties to appear at the hearing on confirmation.~~ written order.

~~(h)~~ (f) Hearings: The debtor and objecting parties must appear or be represented at ~~any scheduled hearing on confirmation~~ all Confirmation Hearings, unless otherwise ordered by the Court. Reaching an informal stipulation to resolve objections with opposing counsel does not relieve a party or attorney from the duty to appear. Unless otherwise ordered by the Court, objecting parties may appear by telephone. If all of the documents that debtor is required to file are timely filed, then debtor or debtor's attorney may appear by telephone. If one or more of the required documents are not timely filed by the debtor, then the debtor or debtor's attorney must appear in person.

~~(i)~~ Service of Amended Plan after the ~~Scheduled Hearing on Confirmation:~~ Hearing. The Court will direct what procedures apply ~~for to plan~~ amendments to a plan at or after the ~~scheduled hearing on confirmation~~ Confirmation Hearing, including utilizing the procedures set forth in L.B.R. 2002-1 and 9013-1. ~~The court may require the debtor to use L.B. Form 3015-1.8 to provide notice of an amended plan, the deadline for filing objections thereto, and the setting of a new hearing on confirmation. In the alternative, the court may require the debtor to use L.B. Form 3015-1.7 to provide notice of an amended plan and the deadline for filing objections thereto, without the further setting of a new hearing on confirmation.~~

~~(j)~~ Modification of: If directed by the Court, the debtor must file and transmit the amended plan and a Notice to the chapter 13 ~~Plan After Confirmation:~~

~~(g)~~ Proposed Modified Plan: ~~In the event the debtor, the trustee, or the~~ any adversely affected creditors, any parties who objected to the most recently noticed plan, and any parties requesting notice.

~~(h)~~ Modification of a Confirmed Chapter 13 Plan.

(1) Proposed Modified Plan. The debtor, the chapter 13 trustee, or a holder of an allowed unsecured claim ~~desires to modify a confirmed chapter 13 plan, the movant must file the proposed modified plan together with a motion requesting~~ may request modification ~~which~~ of a confirmed chapter 13 plan by motion in accordance with 11 U.S.C. § 1329. The motion must state ~~with particularity~~ the date of confirmation of the existing plan ~~was originally confirmed,~~ the reason for the modification ~~and,~~ and the specific modifications proposed, including the effect upon distribution to each creditor class should the modification be approved. If the debtor is the party seeking modification ~~is proposed after the expiration of the period for the filing of claims, service may be limited to the trustee, any party whose interest is affected by the modification and upon those creditors who have filed proofs of claim.,~~ the debtor must also file a proposed modified plan, with all changes clearly and conspicuously indicated.

(2) Notice: Notice of the proposed modified plan is governed by Fed. R. Bankr. P. 3015(g) and L.B.R. 2002-1 and 9013-1. If modification is proposed after the expiration of the period for the filing of claims, notice may be limited to the

chapter 13 trustee, any party whose interest is affected by the modification, and those creditors who have filed proofs of claim.

Commentary

~~[Source: T.L.B.R. 3015-1 and L.B.R. 315, 319, and 320]~~

~~Parties may check the judge's webpage for options to appear by telephone and the process for doing so.~~

~~The definition of Meet and Confer is contained in L.B.R. 9001-1. The court believes that the obligation to Meet and Confer is an important process for the exchange of information and facilitates the prompt resolution of disputes. The initial burden to timely commence the Meet and Confer is on the debtor, however the chapter 13 trustee or objector may do so as well. Parties are encouraged to initiate the Meet and Confer as close to the time the objection is filed, but in no case later than seven (7) days prior to the hearing on confirmation.~~

~~Debtors or their counsel must follow the current procedures for mailing Chapter 13 plans as contained in General Procedure Orders or the CM/ECF filing guidelines. See GPO 2012-6. If there is no Bankruptcy Noticing Center Certificate of Service for the filed plan, then, the Court did not mail the plan. January, 1, 2014.~~

### ~~L.B.R. 3017-1. Disclosure Statement – Notice and Objections~~

- ~~(a) Notice: The plan proponent must mail the order and notice of hearing on disclosure statement and notice of objection deadlines pursuant to FED. R. BANKR. P. 2002(b) and 3017, or as otherwise directed by the court.~~
- ~~(b) Objections: Objections to the adequacy of a proposed disclosure statement must be served upon those parties in interest specified in the FED. R. BANKR. P. 3017(a) within the time fixed by the court. Objections must specify clearly the grounds upon which they are based, including the citation of supporting legal authority, if any, and reference to the particular portions of the disclosure statement to which the objection is made. General objections will not be considered by the court.~~

Commentary

~~[Source: L.B.R. 317]~~

~~See Official Form 313, Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof.~~

~~(i) Guidelines for the adequacy and contents of disclosure statements may be found on Continued Meeting of Creditors.~~

~~(1) Consistent with L.B.R. 2003-1, a debtor's request for a continuance of the Meeting Date must be in writing and served on the chapter 13 trustee no later than seven days prior to the Meeting Date. A request for a continuance of the Meeting Date is not filed with the Court.~~

~~(2) In the event that the Meeting Date is continued to a date prior to the original Confirmation Hearing, the Confirmation Hearing will remain as scheduled.~~

(3) In the event that the Meeting Date is continued to a date after the original Confirmation Hearing, then the debtor must file a motion to continue the Confirmation Hearing or appear at the originally scheduled Confirmation Hearing to request new deadlines from the Court.

(4) Within three days of the entry of an order granting a motion to continue the Confirmation Hearing, the requesting party must file and serve a Notice of Continued Dates for Meeting of Creditors and Hearing on Confirmation of Plan in substantial conformity with L.B.F. 3015-1.5 on all parties in interest with a certificate of service.

**(i) Obtaining a Chapter 13 Discharge.**

(1) In order to obtain a discharge, the debtor must file L.B.F. 3015-1.6, Chapter 13 Debtor's Certification to Obtain Discharge as soon as practicable after the debtor has completed all of the debtor's obligations under the plan. In a joint case, each debtor must file a separate Certification.

~~(3)~~(2) The debtor must transmit a copy of the Certification to the chapter 13 trustee, the United States Trustee ~~website at www.usdoj.gov/ustl~~, all parties who have requested notice, and secured creditors.

**L.B.R. 3017.1-1.1. Conditional Approval of Disclosure Statement in Small Business Cases**

**(a) Motion for Conditional Approval of Disclosure Statement:** A small business debtor who seeks conditional approval of a disclosure statement, must file the disclosure statement and a motion for conditional approval of the disclosure statement pursuant to 11 U.S.C. § 1125(f)(3)(A) ~~(“Motion for Conditional Approval”).~~ The debtor must attach the proposed plan as an exhibit to the Motion, but not file it as a separate document until the Court has ruled on the Motion.

**(1) Filing Requirement:** In order to assist the small business debtor and the Court in meeting the time requirements of 11 U.S.C. §§ 1121(e)(3) and 1129(e), in the Motion for Conditional Approval, the debtor must set forth the following proposed deadlines and dates:

(A) date by which the debtor will need the ~~court's~~Court's conditional approval in order to meet all other deadlines;

(B) date by which the debtor must file its chapter 11 plan;

(C) date by which the debtor must ~~mail~~serve its plan, disclosure statement, and ballot to all creditors and other parties in interest pursuant to Fed. R. Bankr. P. 2002(b) and 3017;

(D) deadline for all parties to file written objections to the disclosure statement;

(E) deadline for all parties to file written acceptances or rejections of the plan;

(F) deadline for all parties to file written objections to the plan; and

(G) date by which the debtor will need a hearing on final approval of the disclosure statement (if any objection is timely filed) and on confirmation of the plan in order to stay within the deadlines in 11 U.S.C. §§ 1121(e) and 1129(e). The proposed adequacy of disclosure statement and plan objection deadlines and the proposed deadline for acceptance or rejection of the plan may be the same date.

(2) Notice: The debtor must serve the Motion for Conditional Approval on the United States Trustee, ~~any case~~ trustee, and parties requesting notice.

(3) Orders: The Court may, in its discretion, enter an order without a hearing on notice as the Court may direct.

(b) **Order:** If the Court conditionally approves the disclosure statement, the Court will issue an order in substantial conformity with L.B. ~~Form F.~~ 3017.1-1.1.

(1) Notice: The debtor must serve the order, plan, disclosure statement, and ballot on all creditors and other parties in interest pursuant to Fed. R. Bankr. P. 2002(b) and 3017.

(2) Certificate of Service: The debtor must file a certificate of service as to the order, plan, disclosure statement, and ballot within three ~~(3) court~~ days of service.

~~(c) Objections:~~ Objections to the adequacy of the disclosure statement must ~~comply with L.B.R. 3017-1(b).~~

#### Commentary

[Source: ~~New~~]

~~See Official Bankruptcy Form B25A (Plan specify clearly the grounds upon which they are based, including the citation of Reorganization in Small Business Case under Chapter 11) supporting legal authority, if any, and B25B (Disclosure Statement in Small Business Case under Chapter 11). See also Director's Procedural Form 13S and 15S.~~

~~(c) Although a hearing is not required, should the debtor request an expedited hearing on conditional approval reference to the particular portions of the disclosure statement, the court to which the objection is made. General objections will attempt to accommodate the debtor's proposed deadlines and dates to the extent it is able. Notwithstanding not be considered by the debtor's requested or proposed dates, the debtor must comply with the applicable time frames and requirements to obtain an extension pursuant to 11 U.S.C. §§ 1121(e) and 1129(e). Court.~~

## L.B.R. 3017-2. Combined Chapter 11 Plan and **Disclosures** Disclosure Statement in Small Business Cases

(a) **Motion to File a Chapter 11 Plan Without a Separate Disclosure Statement:** A small business debtor who seeks to file a plan without a separate disclosure

statement pursuant to 11 U.S.C. § 1125(f)(1), must first file a motion for determination that the plan itself provides adequate information and that a separate disclosure statement is not necessary (the ~~"Motion"~~).

(1) Filing Requirement: In order to assist the small business debtor and the Court in meeting the requirements of 11 U.S.C. §§ 1121(e) and 1129(e), the Motion must set forth the following proposed deadlines and dates:

(A) date by which the debtor will need the ~~court's~~Court's initial determination regarding adequate information in order to meet all other deadlines;

(B) date by which the debtor must file its chapter 11 plan;

(C) date by which the debtor must ~~mail~~serve its plan and ballot to all creditors and other parties in interest pursuant to Fed. R. Bankr. P. 2002(b) and 3017;

(D) deadline for all parties to file written acceptances or rejections of the plan;

(E) deadline for all parties to file written objections to the plan and final determination under 11 U.S.C. § 1125(f)(1); and

(F) date by which the debtor will need a hearing on confirmation of the plan in order to stay within the deadlines in 11 U.S.C. §§ 1121(e) and 1129(e). The proposed plan and disclosures objection deadline and proposed acceptance or rejection deadline may be the same date.

(2) Notice: The debtor must serve the Motion on the United States Trustee, ~~any case~~ trustee, and parties requesting notice.

(3) Orders: The Court may, in its discretion, enter an order without a hearing on notice as the Court may direct.

(b) Order: If the Court initially determines that the plan itself provides adequate information and that a separate disclosure statement is not necessary, the Court will issue an order in substantial conformity with L.B. ~~Form F~~ 3017-2.1.

(1) Notice: The debtor must serve the order, plan, and ballot on all creditors and other parties in interest pursuant to Fed. R. Bankr. P. 2002(b).

(2) Certificate of Service: The debtor must file a certificate of service as to the order, plan, and ballot within three ~~(3)~~ court days of service.

~~(c) Objections:~~ Objections to the information and disclosures contained in the plan must ~~comply with L.B.R. 3017-1(b)~~.

Commentary

[Source: ~~New~~]

~~(c) The court will attempt to accommodate~~ specify clearly the ~~debtor's proposed deadlines~~ grounds upon which they are based, including the citation of supporting legal authority, if any, and dates to the extent it is able. ~~Notwithstanding reference to the debtor's requested or proposed dates,~~ particular portions of the debtor must comply with disclosure statement to which the ~~applicable timeframes and requirements to obtain~~

~~an extension pursuant to 11 U.S.C. §§ 1121(e) and 1129(e).~~ objection is made. General objections will not be considered by the Court.

## L.B.R. 3022-1. Chapter 11 – Final Report/Decree

- (a) **Chapter 11 Final Report and Motion for Final Decree:** Immediately after the estate is fully administered, the debtor-in-possession must file a final report and motion for final decree in substantial conformity with L.B. ~~Form F.~~ 3022-1.1 (business debtor) or L.B. ~~Form F.~~ 3022-1.2 (individual debtor) and serve it on the U.S. United States Trustee and parties requesting notice.
- (b) **Objection:** If no objection has been filed within 30 days of the filing of the final report and motion for final decree, the Court will presume that the estate has been fully and properly administered and a final decree will enter.
- (c) **Final Decree:** The final report and motion for final decree must be accompanied by a proposed order in substantial conformity with L.B. ~~Form F.~~ 3022-1.3 (business debtor) or L.B. ~~Form F.~~ 3022-1.4 (individual debtor).

~~Commentary~~

~~{Source — L.B.R. 215(b)}~~

~~See the Amended Memorandum of Understanding Between the Executive Office for United States Trustees and the Administrative Office of the United States Courts Regarding Case Closings and Post Confirmation Chapter 11 Monitoring, dated April 1, 1999.~~

~~See also L.B.R. 2015-1 for other reporting requirements.~~

## L.B.R. 4001-1. Relief from Automatic Stay

- (a) **Motions for Relief from Automatic Stay Under 11 U.S.C. § 362(d) Against Debtor:**
- (1) **Selection of Hearing Date:** Each division maintains a separate motion for relief from stay calendar. ~~Information as to the time and dates of each division's calendar may be obtained from the assigned judge's staff or the court's~~ The Court provides hearing date information on its website ~~at www.eob.uscourts.gov.~~ All motions for relief from stay must be set for hearing on the calendar of the division to which the case is assigned. A party desiring to file a motion for relief from stay in a bankruptcy case will select from the calendar of available hearing dates a proposed hearing date, which must be the latest hearing date available on the assigned ~~judge's~~ judge's calendar which is not more than ~~thirty (30)~~ days from the date the motion for relief from stay is filed with the Court.
- (2) **Waiver of Rights under 11 U.S.C. § 362(e):** In the event the movant sets a hearing date beyond ~~thirty (30) days~~ days, or seeks a continuance of the hearing,

the movant is deemed to have waived its right under 11 U.S.C. § 362(e) to automatic relief after ~~thirty (30)~~ days.

(3) Notice of Hearing and Time to Object: Subject to the provisions of this ~~L.B.R., Rule~~, the movant must comply with the provisions of L.B.R. 9013-1. In addition to the parties specified in Fed. R. Bankr. P. 4001, the movant must serve the notice and motion ~~must be served~~ on the debtor and ~~debtor's counsel~~debtor's attorney, the United States Trustee, ~~the case~~ trustee, and any party with an interest, such as a party claiming lien rights in property against which the movant seeks relief. The notice of hearing must provide that any objection and request for hearing must be filed by a specific date that is at least seven ~~(7)~~ days prior to the hearing date and that, if no objection to the requested relief is timely filed, the relief requested in the motion may enter without a hearing. ~~(Movants are not required to serve paper copies of motions under this rule or notices of hearing upon the United States Trustee.)~~

(4) Mandatory Motion Requirements: In addition to complying with L.B.R. 9013-1, the movant must:

(A) plead with specificity facts supporting the requirements of 11 U.S.C. § 362(d);

(B) if, as a basis for relief, a default is alleged as to payment on a business or consumer debt, attach a detailed, understandable payment history regarding the debt and arrearages and a summary;

(C) if, as a basis for relief, a default is alleged as to payment on a promissory note, include a statement whether the movant has possession of the original promissory note;

~~(C)~~(D) file and serve a notice in substantial conformity with L.B. ~~Form F~~. 4001-1.1;

~~(D)~~(E) if the debtor or co-debtor is an individual, file a Servicemembers Civil Relief Act ~~("SCRA")~~ Affidavit pursuant to L.B.R. 4002-~~23~~(c);

~~(E)~~(F) file and serve a proposed order in substantial conformity with L.B. ~~Form F~~. 4001-1.3; and

~~(F)~~(G) pay the ~~prescribed~~required filing fee.

(5) ~~The motion must include the type of information, as applicable, outlined in the Guidelines for Motions for Relief from Stay L.B. Rule 4001-1App. The failure to provide such detail~~Failure to Comply. A movant's failure to comply with this Rule may result in the denial of the motion without prejudice and without further notice or hearing.

(6) No Objections: If no objections are filed and the movant wants an order granting the requested relief, the movant may file a Certificate of Non-contested Matter, L.B. ~~Form F~~. 4001-1.2, no sooner than the day of the scheduled hearing.

(b) **Motions for Relief from Stay under 11 U.S.C. §§ 1201 or 1301 Against Co-debtor:** The procedures for seeking relief from the co-debtor stay are the same as that specified in L.B.R. 4001-1(a) ~~above~~ except:

~~(1)~~ The party movant must select a hearing date that is not more than ~~twenty (20)~~ days from the date of the motion, ~~and~~

~~(2) the notice of hearing must provide that any objection and request for hearing must be filed by a specific date that is at least seven (7) days prior to the hearing date and that, if no objection to the requested relief is timely filed, the relief requested in the motion may enter without a hearing.~~

~~(3)~~ (1)     . In the event that the movant sets a hearing date beyond ~~twenty (20)~~ days, the movant is deemed to have waived its right to relief within ~~twenty~~20 days under 11 U.S.C. § 1201(d) and 1301(d). If the movant files a combined motion under 11 U.S.C. § 362(d) and § 1201 or 1301, the movant will be deemed to have waived their rights under § 1201(d) or § 1301(d) to automatic relief after ~~twenty (20) days;~~ and

(2) The notice of hearing must provide that any objection and request for hearing must be filed by a specific date that is at least seven days prior to the hearing date and that, if no objection to the requested relief is timely filed, the relief requested in the motion may enter without a hearing.

(c) **Procedures for Preliminary Hearings:** The following procedures apply at preliminary hearings on motions for relief from stay:

(1) No testimony will be taken. Evidence will only be accepted by way of an oral offer of proof and exhibits. Such offers must provide sufficient detail to enable the Court to make specific findings based thereon and must include the identity of the witnesses available to testify at an evidentiary hearing and an explanation of their expected testimony. Written summaries of ~~witnesses'~~witnesses' testimony are not required but may be submitted.

(2) Parties must exchange all exhibits they intend to use, or may reasonably anticipate using, no later than 24 hours prior to the preliminary hearing. The exhibits must be tendered to the Court at the hearing, together with a statement identifying the witness or witnesses who would be called to identify and lay the foundation for the introduction of such exhibits.

(3) Objections to tendered evidence should be made at the conclusion of each ~~party's~~party's declaration. Any objection must identify the evidence objected to and specify the grounds for the objection.

(4) The Court will treat the hearing as a preliminary hearing and, based on the proffers of evidence, if there is a reasonable likelihood that the party opposing relief will prevail at a final hearing, may set the matter over for a final hearing. In the alternative, the Court may consider the offers of proof and, absent the need for an evidentiary hearing, grant, or deny the request for relief from stay.

(5) Expert Witnesses: Any party anticipating the use of an expert witness for a final hearing will, at the initial hearing, comply with Fed. R. ~~BANKR~~Civ. P. ~~7026~~26(a)(2). as incorporated by Fed. R. Bankr. P. 7026.

(d) **Telephonic Hearings:** The presiding judge may permit telephonic appearances ~~may be permitted in accordance with the information on chambers'.~~ Each division provides relevant chambers' procedures ~~for the presiding judge located on the~~



court's [Court's website at www.cob.uscourts.gov](http://www.cob.uscourts.gov). Any party appearing telephonically must exchange witness lists and exhibits with the other parties and file them with the Court no later than 24 hours prior to the hearing.

#### Commentary

~~[Source: L.B.R. 401 and GPO 2005-2]~~

~~See FED. R. BANKR. P. 4001 and 9014.~~

~~Parties are advised to use the proper forms applicable to this L.B.R. 4001-1 (relief from stay) and not those applicable to L.B.R. 4001-2 (termination/absence of stay).~~

~~See Servicemembers Civil Relief Act of 2003 ("SCRA"), 50 App. U.S.C. § 501 et seq. and L.B.R. 4002-2 for further information on SCRA.~~

~~Incorporates GPO 2010-2 waiving service in paper of motions and notices of hearing upon the United States Trustee. January, 1, 2014.~~

### **L.B.R. 4001-2. Termination, Absence, or Extension of Automatic Stay**

- ~~(a) Procedures. Motions filed pursuant to this Rule are subject to the procedures in L.B.R. 4001-1(a)(1) Selection of Hearing Date, (a)(3) Notice of Hearing and Time to Object, (c) Procedures for Preliminary Hearing and (d) Telephonic Hearings.~~
- ~~(1) Automatic Stay Comfort Orders. A party seeking an order confirming the absence of the automatic stay (a "comfort order") must file a motion demonstrating its entitlement under the applicable Bankruptcy Code provision and comply with all additional requirements herein.~~
- ~~(2) Ex Parte Relief. The Court may act on a request for a comfort order on an ex parte basis, without awaiting the presumptive 14 day notice period set forth in L.B.R. 9013-1(2)(4).~~
- ~~(b) Forms. Parties must file and serve a notice and proposed order in substantial conformity with L.B.F. 4001-2.1 and 4001-2.2, respectively.~~
- ~~(c) Requests Pursuant to 11 U.S.C. § 362(b)(22) (confirming absence of stay as to eviction proceedings). In addition to pleading facts sufficient to satisfy the applicable statutory requirements, movant must attach a copy of the judgment for possession and the debtor's Initial Statement About an Eviction Judgment Against You (Official Form 101(A), if any.~~
- ~~(d) Requests Pursuant to 11 U.S.C. § 362(c)(3)(A) (confirming termination of stay due to one prior bankruptcy filing). A motion under this statute must include:~~
- ~~(1) Case number of the previous bankruptcy case in which the Debtor was a debtor that was pending in the previous one year period prior to the present case, including the jurisdiction of the Court if the previous filing was outside of Colorado;~~
- ~~(2) Date of dismissal of the prior case;~~
- ~~(3) Reasons for dismissal; and~~
- ~~(4) Copy of the order of dismissal.~~
- ~~(e) Requests Pursuant to 11 U.S.C. § 362(c)(4)(A)(ii) (confirming absence of stay due to serial bankruptcy filings). A motion under this statute must include:~~

- ~~(1) Case numbers of all previous bankruptcy cases in which the Debtor was a debtors that were pending in the one year period prior to the present case (the "Prior Cases"), including the jurisdiction of the Court if any of the previous filings were outside of Colorado;~~
- ~~(2) Dates of dismissal of the Prior Cases;~~
- ~~(3) Reasons for dismissal;~~
- ~~(4) Verification that no party in interest has timely requested the imposition of the automatic stay under 11 U.S.C. § 362(c)(4)(B) or that the Court has denied any such request; and~~
- ~~(5) Copy of the order of dismissal entered in each of the Prior Cases.~~
- ~~(f) Requests Pursuant to 11 U.S.C. § 362(h)(1) (to terminate the stay for failure to comply with duties under 11 U.S.C. § 521(a)(2) with respect to personal property). In addition to pleading facts sufficient to satisfy the applicable statutory requirements, the motion must:~~
  - ~~(1) Provide a detailed description of the personal property securing the debtor's obligation to the movant; and~~
  - ~~(2) Include an attached affidavit of movant or movant's representative as to whether the debtor failed to timely file, or to perform, a statement of intention filed under 11 U.S.C. § 521(a)(2) with respect to the subject property.~~

## **L.B.R. 4001-3-2. Cash Collateral and Post-Petition Financing**

- (a) **Motions:** Except as provided herein and elsewhere in these L.B.R., all Rules, parties seeking cash collateral and/or financing requests under 11 U.S.C. §§ 363 and 364 must ~~be made by~~ file a motion ~~filed~~ pursuant to Fed. R. Bankr. P. 2002, 4001, and 9014, and L.B.R. 2081-1 and 9013-1 as applicable (~~"("Financing Motions")").~~ "("Financing Motions")").
- ~~(1) Provisions to be Highlighted: All Financing Motions must:~~
- ~~(A) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated in the appendix at L.B.R. 4001-3(a)App.;~~
  - ~~(B) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement by page, paragraph and/or line number; and~~
  - ~~(C) provide the justification for the inclusion of each such provision.~~
- (1) **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;<sub>i</sub>
  - (B) ~~the~~ interim borrowing limit;<sub>i</sub>
  - (C) borrowing conditions;<sub>i</sub>
  - (D) interest rate;<sub>i</sub>
  - (E) fees, costs and charges paid or payable by debtor or any other person or entity;<sub>i</sub>
  - (F) maturity;<sub>i</sub>
  - (G) events of default;<sub>i</sub>
  - (H) remedies in the event of default;<sub>i</sub>

- (I) use of funds limitations;
- (J) protections afforded under 11 U.S.C. §§ 363 and 364; and
- (K) a-line -item budget for both the interim and final order periods, unless the Court orders otherwise.

**(2) Provisions That Will Not Be Approved without Demonstration of Necessity or Cause.** All Financing Motions must identify the location of any of the following provisions or findings of fact in the proposed form of order and/or underlying cash collateral stipulation or loan agreement by page, paragraph and/or line number, and provide the justification for the inclusion of each such provision or finding of fact:

- (A) Cross-collateralization that secures pre-petition debt by post-petition assets not otherwise subject to the secured party's pre-petition security interest, except as a means of providing adequate protection for use of cash collateral, to the extent of deterioration of a secured creditor's position. See 11 U.S.C. § 552;
- (B) Binding the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt;
- (C) Binding the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the stipulation (i.e., an order approving a stipulation providing that the secured party's lien is a "first priority" lien);
- (D) Waivers of 11 U.S.C. § 506(c);
- (E) Provisions that operate to divest the debtor-in-possession of any discretion in the formulation of a plan, administration of the estate or limit access to the Court to seek any relief under other applicable provisions of law;
- (F) Releases of liability for the creditor's alleged pre-petition torts or breaches of contract;
- (G) Waivers of avoidance actions arising under the Bankruptcy Code;
- (H) Automatic relief from the automatic stay upon default, conversion to chapter 7, or appointment of a trustee;
- (I) Waivers of the procedural requirements for foreclosure mandated under applicable non-bankruptcy law;
- (J) Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code (see 11 U.S.C. §§ 506(c), 544, 545, 547, 548, and 549);
- (K) Waivers, effective on default or expiration, of the debtor's right to move for a Court order pursuant to 11 U.S.C. § 363(c)(2)(B) authorizing the use of cash collateral in the absence of the secured party's consent; and
- (L) Findings of fact extraneous to the approval process.

- (b) **Interim Relief:** When Financing Motions are filed with the Court on or shortly after the date of the entry of the order for relief pursuant to L.B.R. 2081-1, the Court may grant interim relief pending review by the interested parties of the proposed debtor-in-possession financing arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. ~~In the absence of extraordinary circumstances,~~ The Court may ~~not approve~~ deny the interim ~~financing orders that include any of the provisions, as specified~~ relief requested in ~~L.B.R. 4001-3~~ (the absence of a) App reasonable opportunity to object.
- (c) **Final Orders:** The Court will enter a final order ~~will be entered~~ only after providing parties notice and an opportunity for a hearing pursuant to Fed. R. Bankr. P. 4001 and L.B.R. 9013-1.

#### Commentary

~~[Source: From D. Del.; Appendix 4001-3 App. from N.D. Cal. UST; GPO 2013-1] January, 1, 2014.~~

~~Addition of (2) (E) July 1, 2014.~~

### **L.B.R. 4001-4. Continuance of Automatic Stay or Imposition of Stay**

- (a) Continuance of Automatic Stay.** Motions to continue the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) must:
- (1) Be filed with the petition or promptly thereafter in order to permit compliance with the statutory requirement that the Court complete the hearing and rule on the motion within 30 days after the filing of the later case;
  - (2) State whether the presumption that the later case was filed not in good faith under 11 U.S.C. § 362(c)(3)(C) applies;
  - (3) Explain why the later case is filed in good faith as to the creditors to be stayed, and specify whether the request extends to all creditors or only specified creditors;
  - (4) Provide clear and convincing admissible evidence (through a verification of the debtor or affidavit(s)) as to the pertinent factual allegations and, if applicable, rebutting the presumption that the later case was filed not in good faith;
  - (5) Unless otherwise ordered by the Court, provide at least 14 days' notice of the objection date and hearing date to the applicable trustee, debtor, debtor's attorney, and all affected creditors in accordance with L.B.R. 4001-1(a)(3) and 9013-1;
  - (6) Be self-calendared on the assigned judge's relief from stay hearing docket on a date that allows 14 days' notice but is less than 30 days from the date of the order for relief; and

(7) If seeking to continue the automatic stay with respect to certain property of the estate, be served pursuant to Fed. R. Bankr. P. 7004 and 11 U.S.C. § 342 as to any creditor who holds or asserts an interest in such property of the estate.

(b) **Imposition of Stay.** Motions to impose a stay pursuant to 11 U.S.C. § 362(c)(4)(B) must:

(1) Be filed within 30 days after the filing of the later case;

(2) State whether the presumption that the later case was filed not in good faith under 11 U.S.C. § 362(c)(4)(D) applies;

(3) Explain why the later case is filed in good faith as to the creditors to be stayed, and specify whether the request extends to all creditors or only specified creditors;

(4) Provide clear and convincing admissible evidence (through a verification of the debtor or affidavit(s)) as to the pertinent factual allegations and, if applicable, rebutting the presumption that the later case was filed not in good faith;

(5) Unless otherwise ordered by the Court, provide at least 14 days' notice of the objection date and hearing date to the applicable trustee, debtor, debtor's attorney and all affected creditors in accordance with L.B.R. 4001-1(a)(3) and 9013-1;

(6) Be self-calendared on the assigned judge's relief from stay hearing docket on a date that allows 14 days' notice; and

(7) If seeking to impose a stay with respect to certain property of the estate, be served pursuant to Fed. R. Bankr. P. 7004 and 11 U.S.C. § 342 as to any creditor who holds or asserts an interest in such property of the estate.

(c) **Procedures.** Motions filed pursuant to this Rule are subject to the procedures in L.B.R. 4001-1(a)(1) Selection of Hearing Date, L.B.R. 4001-1(a)(3) Notice of Hearing and Time to Object, L.B.R. 4001-1(c) Procedures for Preliminary Hearing, and L.B.R. 4001-1(d) Telephonic Hearings. Additionally, if no objections are filed, the movant must submit a Certificate of Non-contested Matter in accordance with L.B.R. 9013-1(c)(1). If a Certificate of Non-contested Matter is filed, the Court may, in its discretion, vacate the hearing.

(d) **Forms.** Parties must file and serve a notice in substantial conformity with L.B.F. 4001-4.1 and submit a proposed form of order.

## Commentary

Motions to continue the automatic stay under 11 U.S.C. § 362(c)(3)(B) may be summarily denied if they are not timely filed such that meaningful due process can be afforded and a hearing completed before the end of the 30 day period set forth in 11 U.S.C. § 362(c)(3)(B).

## L.B.R. 4001-5. Confirmation of Termination or Absence of Automatic Stay

- (a) **Automatic Stay Comfort Orders.** A party seeking an order confirming the absence of the automatic stay (a “comfort order”) must file a motion demonstrating its entitlement under the applicable Bankruptcy Code provision and comply with all additional requirements herein.
- (b) **Procedures.** All motions filed pursuant to this Rule must be served on the debtor, debtor’s attorney, the trustee, and the United States Trustee. Parties must file a proposed order in substantial conformity with L.B.F. 4001-5.1.
- (c) **Ex Parte Relief.** The Court may act on a request for a comfort order on an *ex parte* basis, without awaiting the presumptive 14-day notice period set forth in L.B.R. 9013-1(a)(5).
- (d) **Motions Pursuant to 11 U.S.C. § 362(b)(22) (confirming absence of automatic stay as to eviction proceedings).** In addition to pleading facts sufficient to satisfy the applicable statutory requirements, movant must attach a copy of the judgment for possession and the debtor’s Official Form 101A, Initial Statement About an Eviction Judgment Against You, if any.
- (e) **Motions Pursuant to 11 U.S.C. § 362(c)(3)(A) (confirming termination of automatic stay due to one prior bankruptcy filing).** A motion under this statute may not be filed earlier than 30 days after the petition date and must include:
- (1) case number of the previous bankruptcy case in which the debtor was a debtor that was pending in the previous one-year period prior to the present case, including the jurisdiction of the court if the previous filing was outside of Colorado;
  - (2) date of dismissal of the prior case;
  - (3) reasons for dismissal; and
  - (4) copy of the order of dismissal.
- (f) **Motions Pursuant to 11 U.S.C. § 362(c)(4)(A)(ii) (confirming absence of stay due to serial bankruptcy filings).** A motion under this statute must include:
- (1) case numbers of all previous bankruptcy cases in which the debtor was a debtor that were pending in the one-year period prior to the present case (the “Prior

Cases”), including the jurisdiction of the Court if any of the previous filings were outside of Colorado;

(2) dates of dismissal of the Prior Cases;

(3) reasons for dismissal;

(4) verification that no party in interest has timely requested the imposition of the automatic stay under 11 U.S.C. § 362(c)(4)(B) or that the Court has denied any such request; and

(5) copy of the order of dismissal entered in each of the Prior Cases.

**(g) Motions Pursuant to 11 U.S.C. § 362(h)(1) (confirming termination the stay for failure to comply with duties under 11 U.S.C. § 521(a)(2) with respect to personal property).** In addition to pleading facts sufficient to satisfy the applicable statutory requirements, the motion must:

(1) provide a detailed description of the personal property securing the debtor’s obligation to the movant; and

(2) attach an affidavit of movant or movant’s representative as to whether the debtor failed to timely file, or to perform, a statement of intention filed under 11 U.S.C. § 521(a)(2) with respect to the subject property.

**(h) Motions Pursuant to 11 U.S.C. § 362(h)(2) (determining that property is of consequential value or benefit).** The motion must:

(1) explain the basis for movant’s belief that the property is of consequential value or benefit to the estate;

(2) describe what adequate protection is appropriate to protect the creditor’s interest and whether or not the debtor has delivered the collateral to the trustee;

(3) comply with service and notice requirements of Fed. R. Bankr. P. 7004 and 11 U.S.C. § 342 as to any creditor who holds or asserts an interest in such property of the estate; and

(4) unless otherwise ordered by the Court, be filed within 30 days after the first date set for the meeting of creditors.

## **L.B.R. 4001-6. Communication Not in Violation of the Automatic Stay**

### **(a) Forms of Communication; Issuance of Monthly Statements is not a Stay**

**Violation:** The following communication and issuance of monthly statements are declared appropriate and not a violation of the automatic stay:

(1) Permissible Contact with the ~~Debtors:~~Debtor. Secured creditors may contact the ~~debtors~~debtor about the status of insurance coverage on property that is collateral for the ~~creditor's~~creditor's claim, may respond to inquiries and requests for information about the account from ~~debtors~~the debtor, and may send the debtor statements, payment coupons, information on loss mitigation or loan modifications, or other correspondence that the creditor sends to its ~~nondebtor~~non-debtor customers, without violating the automatic stay, provided none of these communications includes an attempt to collect the debt.

Permissible forms of communication are those ~~which~~that are sent to ~~debtors~~the debtor by creditors in the ordinary course of business, to the address that the debtor last provided to the creditor by agreement between the debtor and the creditor. In order for communication to be protected under this ~~L.B.R.~~Rule, the communication must indicate it is provided for information purposes and does not constitute a demand for payment.

(2) Manner of Contacting ~~Debtors:~~Debtor. Permissible communications may be transmitted via ~~electronic mail~~email, facsimile, ~~United States Postal Service~~mail, commercial communications carrier, or such other mode as is mutually acceptable to the parties.

#### **Commentary**

~~[Source: GPO 2008-1]~~

~~This L.B.R. directs that, to the greatest degree possible, the routine flow of information from secured creditors to debtors continue post-petition with respect to secured loans constituting consumer debt (as that term is defined by 11 U.S.C. § 101(8)), in each bankruptcy case where the debtor retains possession of the collateral and continues to make regular installment payments directly to the secured creditor.~~

## **L.B.R. 4002-1. Duties Regarding Tax Information**

### **(a) Motions Regarding Tax Returns.**

(1) Motions to dismiss pursuant to 11 U.S.C. § 521(e)(2) are governed by L.B.R. ~~1017-2 and L.B. Form 1017-2~~9013-1.

(2) Motions to compel compliance with 11 U.S.C. § 521(f) are governed by L.B.R. 9013-1.

~~(b) Redaction of Personal Information in Tax Returns: The redaction.~~ Under L.B.R. 9037-1, it is the responsibility of any party filing documents, including tax



information, to redact personal information ~~from tax returns or transcripts provided to the trustee or requesting creditor, or filed with the court, is governed by FED. R. BANKR. P. 4002 and 9037.~~

~~(c)(b) Failure. The Court will file all documents as tendered without taking any action to redact personal information: The court will not redact any information if the debtor fails to make the redactions required under FED. R. BANKR. P. 4002 and 9037.~~

#### Commentary

~~[Source: T.L.B.R. 1017-1 and T.L.B.R. 4002-1]~~

~~All tax information filed electronically with the court must be submitted under the "tax information" event which is not publicly available.~~

~~Confidentiality of tax returns is governed by FED. R. BANKR. P. 4002(b)(5) and 9037 and the procedures established by the Director of the Administrative Office of the United States Courts. This includes the Director's Interim Guidance Regarding Tax Information Under 11 U.S.C. § 521 (September 20, 2005), and any amendments thereto or final guidance that may be established. The Director's guidance may be located at the U.S. Court's website at [www.uscourts.gov/bankruptcycourts](http://www.uscourts.gov/bankruptcycourts).~~

~~See L.B.R. 1007-5 for information on Social Security numbers and privacy, and L.B.R. 1017-2 for dismissal for failure to provide tax returns under 11 U.S.C. § 521(e)(2).~~

### **L.B.R. 4002-2.3. Servicemembers Civil Relief Act of 2003 ("SCRA")**

- (a) ~~Debtor's~~ **Individual Debtor's Statement of Military Service:** ~~In order to assist the court in its determination of a debtor's status under. Pursuant to~~ the Servicemembers Civil Relief Act of 2003 ~~("("SCRA");"), 50 App. U.S.C. § 501 et seq., a debtor should inform the Court if he/ or she is a servicemember subject to the provisions of SCRA at the time of the filing of the bankruptcy petition by filing Director's Procedural Form 202. If, at any time during the pendency of the bankruptcy proceedings a debtor becomes entitled to the protections of SCRA, he or she should inform the court of the change in military status within fourteen (14) days of the change in status by filing an amended Director's Procedural Form 202~~ **a Statement of Military Service.**
- (b) ~~Debtor's~~ **Individual Debtor's Failure to Comply:** ~~Failure by the debtor. The debtor's failure~~ to inform the Court of his/ or her military status does not constitute a waiver of the ~~debtor's~~ **debtor's** protections under SCRA, and does not alter the responsibility of a party to investigate the ~~debtor's~~ **debtor's** servicemember status before filing any ~~of the papers referred~~ **documents pursuant to in Fed. R. Bankr. P. 4001 and 7055 and L.B.R. 4001-1 and 7055-1.**
- (c) **Affidavit Required for Motion for Default Judgment and Motions for Relief from the Automatic Stay: for Cases Concerning Individual Debtor.** At the time of the filing of a motion for relief from stay under Fed. R. Bankr. P. 4001 or a motion for default judgment in an adversary proceeding pursuant to Fed. R. BANKR. P. 7055 or a

~~motion for relief from stay under FED. R. Bankr. P. 4001, if the party against whom relief is sought is an individual~~7055, the plaintiff/movant must file an affidavit with the Court which states (4*i*) whether or not the defendant/respondent is in the military service, and indicating the necessary facts to support said affidavit; or (2*ii*) if the plaintiff/movant is unable to determine whether or not the defendant/respondent is in the military service, a statement that the plaintiff/movant is unable to so determine. The Court will deny motions for relief from stay and motions for default judgment ~~and motions for relief from stay if the plaintiff/movant does~~that do not ~~supply~~include the required affidavit. If the Court is unable to ascertain the ~~defendant's/respondent's~~defendant's/respondent's military status from the affidavit, it may require the plaintiff/movant to post a bond before entering ~~a default judgment or~~ an order lifting the stay or a default judgment.

#### Commentary

~~{Source: GPO 2005-2}~~

~~Information on how to obtain verification of the military status of an individual is available from the Clerk's office or online at the court's website at [www.cob.uscourts.gov](http://www.cob.uscourts.gov).~~

### L.B.R. 4003-1. Exemptions

- (a) **Objections:** ~~Objections to exemptions must be prosecuted according to the procedures in L.B.~~comply with L.B.R. 9013-1.
- (b) **Notice:** ~~The objection.~~ Objections must be accompanied by ~~a~~ notice in substantial conformity with L.B. ~~Form F.~~ 9013-1.1 ~~with~~and must provide at least ~~fourteen (14)~~ days from the date of ~~mailing~~service for the filing of a response.
- (c) **Hearing:** Upon the filing of a Certificate of Non-contested Matter, the Court may enter an order without a hearing. Upon the filing of a Certificate of Contested Matter, the Court may set a hearing on the matter.

#### Commentary

~~{Source: New.}~~

### L.B.R. 4003-2. Lien Avoidance

- (a) **Motions to ~~Void~~Avoid Judicial Liens Under 11 U.S.C. § 522(f):** A motion to ~~void~~avoid judicial liens under 11 U.S.C. § 522(f) ~~(the "Motion")~~ must include the following:
  - (1) Identification of the lien creditor. The caption, title of pleading, or introductory paragraph must clearly identify the affected lien creditor. It is not sufficient to

- only attach a copy of a transcript of judgment, without also identifying the affected creditor in the body of the pleadings, ~~and~~;
- (2) Specific grounds for relief under 11 U.S.C. § 522(f) (e.g., whether the lien impairs the ~~debtor's~~debtor's exemption, the purported value of the property, the amount of the various liens filed against the property, whether the debtor claimed a homestead exemption on Schedule C), ~~);~~ and
- (3) Evidence that a lien was actually recorded against the homestead (e.g., specific recording information and/or a copy of the transcript of judgment).
- (b) **Notice:** The motion must be accompanied by a notice in substantial conformity with L.B. ~~Form~~F. 9013-1.1 ~~with~~ and must provide at least ~~fourteen (14)~~ days from the date of ~~mailing~~service for the filing of an objection.
- (c) **Certificate of Service:** The motion must be accompanied by a certificate of service showing ~~that both the Motion and notice were served~~service on the affected lien creditor ~~in of both the notice and motion. Service must comply with the manner required by requirements of~~ Fed. R. Bankr. P. 7004 and 9014.
- (d) **Proposed Order:** The motion must be accompanied by a proposed order. The proposed order must contain an adequate description of the property and must not purport to do anything more than declare the lien ~~void~~avoided. The proposed order should not place an affirmative duty on the lien creditor to file documents to remove the lien from the chain of title.

#### Commentary

{Source: ~~New~~}

### L.B.R. 4004-1. Discharge

- (a) **Financial Management Course Certification** ~~in~~ Required for an Individual Debtor in Chapter 7, 13, and 13-cases (and Individual Debtor Chapter-11 cases in which 11 U.S.C. § 1141(d)(3) Applies): The Court cannot grant a discharge to an individual ~~debtors in Chapter 7 and 13-cases without receipt of a statement regarding completion of a course in personal financial management as required by FED.~~debtor absent compliance with Fed. R. Bankr. P. 1007(b)(7). ~~Chapter 7 and 13-cases that have been~~ The Court will close fully administered, ~~other than the granting of a discharge and the filing of the financial management course certification, will be closed by the court without the~~ cases without the entry of a discharge. ~~A new filing fee will be required to reopen the case- if the debtor fails~~ to file the financial management course certification. The debtor must then file a motion to reopen the case and pay the required reopening fee to ~~permit the entry of the~~secure a discharge.
- (b) **Individual Debtor Cases in which 11 U.S.C. § 522(q)(1) Applies:** The Court cannot grant a discharge if there is reasonable cause to believe that 11 U.S.C. §

522(q)(1) may be applicable to the debtor and there is a conviction of a felony as defined in 18 U.S.C. § 3156, or pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or may be liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B). Prior to the entry of the discharge, any party, including the debtor, a creditor, ~~case~~ trustee, and United States Trustee, with knowledge that 11 U.S.C. § 522(q)(1) may apply to the debtor, ~~shall~~must file a statement justifying the assertion that there is reasonable cause to believe 11 U.S.C. § 522 (q)(1) applies.

#### Commentary

[Source: ~~T.L.B.R. 4004-1~~]

~~See L.B. Form 3015-1.10, Chapter 13 Debtor's Certification to Obtain Discharge and L.B. Form 3022-1.2, Chapter 11 Final Report and Motion for Final Decree (for individual chapter 11 debtor).~~

### L.B.R. 4008-1. Reaffirmation of Dischargeable Debts

(a) ~~Motion~~: A motion for approval of a reaffirmation agreement pursuant to 11 U.S.C. § 524(d) may be filed in accordance with 11 U.S.C. § 524(d) and Fed. R. ~~BANKR~~Bank. P. 4008 by either the debtor or a creditor who is a party to the agreement.

~~(b)~~ Form:

~~(1) Cover Sheet: Use. A party seeking approval of L.B. Form 4008-1.1 is mandatory and must be completed in its entirety and filed along with any~~ reaffirmation agreement.

~~(2) must file Official Form 427, Cover Sheet for Reaffirmation Agreement: Use of Director's Forms 2400 series is mandatory. A reaffirmation agreement without a completed Director's and Director's Form 2400A will not be considered by the court.~~

~~(c)~~(b) Attachment to, Reaffirmation Agreement—Creditor Declaration Regarding the Agreement:Documents. The ~~creditor must state whether the original loan documents or sale and security agreement between the parties provide for (1) a default upon borrower filing for bankruptcy relief or becoming insolvent and/or (2) the cross-collateralization of other assets of the debtor. The Creditor may use L.B. Form 4008-1.2 to fulfill this requirement or sign the L.B. Form 4008-1.1~~Court will not consider noncompliant reaffirmation agreements.

~~(d)~~(c) Hearing:

(1) Certification by ~~Debtor's~~Debtor's Attorney: If the ~~debtor's~~debtor's attorney has certified that the reaffirmation agreement will not impose an undue hardship on the debtor and the Court has no other concerns regarding the agreement, no hearing will be conducted and no order will be entered.

(2) No Certification by ~~Debtor's~~Debtor's Attorney: If the ~~debtor's~~debtor's attorney has not certified the reaffirmation agreement for any reason, the Court may set the

matter for hearing and may require the ~~debtor's~~debtor's attorney to participate in the hearing.

#### Commentary

~~[Source: L.B.R. 408 and GPO 2008-2]~~5005-1. Duty to Review

### ~~L.B.R. 5001-2. Clerk – Office Location and Hours~~

~~(a) Office Location: The Clerk for the United States Bankruptcy Court, District of Colorado, is located at 721 19th Street, Denver, CO 80202-2508.~~

~~(b) Internet Address:~~

~~(c) Regular Business Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, court closures due to inclement weather or other court order.~~

~~(d) Public Access to the Docket:~~

~~(1) Internet Access: Any person or organization may obtain access to the "read-only" area of the court's Internet site at [www.cob.uscourts.gov](http://www.cob.uscourts.gov) by obtaining a password and paying any fees established for such access. Those who have access to the court's electronic filing system but who are not Electronic Filers may retrieve docket sheets and documents, but they may not file documents.~~

~~(2) Access at the Court: Access to all public documents filed with the court is available, without obtaining a password, in the Clerk's office during regular business hours. Conventional and certified copies of electronically filed documents may be purchased at the Clerk's office during regular business hours. The fee for copying and certifying must be in accordance with the Schedule of Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b) which can be found on the court's website.~~

#### Commentary

~~[Source: New]~~

~~Check our website at [www.cob.uscourts.gov](http://www.cob.uscourts.gov) for other restrictions on hours or closing.~~

### ~~L.B.R. 5003-1. Records Retention~~

~~The Clerk will maintain paper records according to the following schedule:~~

~~(a) Statement of Social Security number — five (5) years from the filing date;~~

~~(b) Proofs of Claim — three (3) years from the filing date; and~~

~~(c) All others — for such time as the Clerk of Court deems to be necessary and reasonable after entry~~

#### Commentary

~~[Source: Second Amended GPO 2007-3]~~

~~If a party objects to the destruction of records, it may file a motion to extend the time period.~~

When an electronic filer or the Clerk files a document electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form, a document filed electronically is deemed filed as of the date and time stated on the Notice of Electronic Filing (“NEF”) from the Court. Before filing a document with the Court, an electronic filer must verify its legibility. The Court does not retain filed paper documents.

## **L.B.R. 5005-4. Electronic Filing**

### ~~(a) Application of Rule:~~

- ~~(1) This L.B.R. applies to attorneys who file, on average, one or more documents per week and others as ordered or authorized by the court. The attorneys subject to this L.B.R. must register to be electronic filers. Any attorney who is an electronic filer and who signs a document intended for filing as an attorney must file the document electronically, as well as submit electronically any corresponding fees related to the document. Attorneys who file, on average, less than one document per week may, at their discretion, file documents in an electronic format. Only attorneys and their supervised staff may become electronic filers.~~
- ~~(2) As further described in this subparagraph, this L.B.R. applies to creditors and their agents who file, on average, one or more proofs of claim or interests per week and to Approved Providers of Personal Financial Management Courses. These filers, will be considered "limited registrants" for limited electronic filing and are required to file electronically. The limited registrants must complete the Court's registration form, obtain procedural materials when applicable from the Court and be assigned an electronic filing login. The ramifications of limited registrants are the same as they are for attorneys pursuant to L.B.R. 5005-4(d), (i), (k) and (m) and 9011-4.~~
- ~~(3) As further described in this subparagraph, this L.B.R. applies to parties authorized to submit electronic proofs of claim through our web site to the court, who are not otherwise allowed or required to file documents electronically. The ramifications for any party who submits such claim related documents are the same as they are for attorneys pursuant to L.B.R. 5005-4(d) and 9011-4.~~

~~(b) Mandatory Electronic Filing Requirements: In lieu of filing petitions, pleadings and other papers in hard copy format as prescribed in L.B.R. 9004-1 and other rules, electronic filers must file documents in an electronic format and submit electronically any corresponding fees related to the documents. The court may, in any matter at any time, request that a copy of a document be submitted to the judge in paper format.~~

~~(c) Electronic Records: Except for documents that exceed the court's electronic storage capability found on the court's website, all documents filed with the court, either electronically or in paper format, will be converted to and stored as electronic documents. The electronic files, consisting of the images of documents filed in cases or proceedings and documents filed by electronic means, constitute the official record of the court together with any other records kept by the Clerk.~~

- ~~(d) Electronic Signature: The use of an attorney's password to file a document electronically constitutes the original signature of that attorney for purposes of FED. R. BANKR. P. 9011.~~
- ~~(a) Password Non-Transferable: Each attorney, law firm or other person that obtains a~~  
**Mandatory Electronic Filing.** Unless the Court orders otherwise, all documents filed by an attorney or trustee must be electronically filed via CM/ECF. Registration for CM/ECF constitutes consent to receive service and notice electronically via CM/ECF.
- (1) Unless otherwise ordered by the Court, a document will be deemed timely filed if it is electronically filed on or before 11:59 PM, Mountain Time on its due date.
- (2) The Clerk's Office may deem CM/ECF subject to a technical failure on a given day if the site is unable to accept electronic filings. In the event of a technical failure, notice thereof will be posted on the Court's website and documents due that day will be due the next business day.
- (3) The Court may revoke a CM/ECF login and password.
- ~~(e) A CM/ECF login and password for electronic filing is responsible for its security and use. is not transferable. No attorney, law firm, or other person may knowingly permit or cause to permit an electronic filer's a CM/ECF password to be utilized by anyone other than an authorized member, employee, or agent of the electronic filer's law firm.~~
- ~~(1)(4) Waiver of Notice and Service by Mail: The request for and receipt of an electronic filing filer's law firm. Each attorney, law firm, or other person that obtains a CM/ECF password from the court constitutes a request for, and consent to, electronic service pursuant to FED. R. BANKR. P. 9036 of all notices, orders, decrees and judgments issued by the court and, except as otherwise provided in these L.B.R., a waiver of the right to receive all notice and service by mail from the court. is responsible for its security and use.~~
- ~~(f) ECF Procedures: Electronic filers must follow the ECF Procedures as defined in L.B.R. 9001-1(a)(6). Future versions of the procedures as published by the court will be effective the date of the published revision. In case of conflict between these L.B.R. and the ECF Procedures, the ECF Administrative Procedures in L.B.R. 5005-4App. control.~~
- ~~(g) Registration and Filing Requirements: Information regarding the procedures for registration and instructions on how to file cases electronically are found in L.B.R. 5005-4App. Categorization of documents can be found on the court's website at.~~
- ~~(h) Electronic Filer Agreement: Electronic filers must enter into an agreement with the court contained on the Electronic Filer Registration Form found in the ECF Administrative Procedures in L.B.R. 5005-4App.~~
- ~~(i) Docket: The electronic filing of a document in accordance with the ECF Procedures constitutes entry of that document on the docket kept by the Clerk pursuant to FED. R. BANKR. P. 5003. All orders, decrees, judgments and proceedings of the court will, in accordance with the ECF Procedures, be entered on the docket kept pursuant to FED. R. BANKR. P. 5003 and for the purposes of FED. R. BANKR. P. 9021.~~
- ~~(2)(5) Retention of Original Signatures: Electronic filers may file all electronic documents with electronic signatures. Documents that require the signature of the debtor shall must be maintained by the electronic filer with the original~~

signature(s) in paper form for two years following the expiration of all time periods for appeals after entry of a final order terminating the case or proceeding. Documents required to be retained by ~~counsel~~attorneys with actual signatures of the debtor include ~~Form 21, voluntary petition, all petitions,~~ statements, schedules, lists, and amendments thereto.

~~(j) Correction of Errors or Omissions:~~

~~(b) Exemption from Mandatory Electronic filers notified by the Clerk via Filing. Upon filing a public docket entry of motion demonstrating good cause, an error or omission in attorney may request an exemption from mandatory electronic filing must correct. The Clerk or designee may exercise discretion and grant single instance emergency exemptions to attorneys as appropriate.~~

~~(1) Method of Filing for Exempt Attorneys or Unrepresented Parties. Unless otherwise ordered by the Court, attorneys who have received an exemption under subdivision (b) and unrepresented parties may file documents by any of the error or omission by following methods:~~

~~(A) in person with the time stated within Clerk's Office;~~

~~(B) through the notification. Failure to timely correct approved filing tool available on the error or omission, unless the court orders otherwise, will result in the erroneous Court's website;~~

~~(C) by mail; or~~

~~(D) by facsimile.~~

~~(3)(2) A document not being acted upon filed through the Court's website filing tool or by facsimile is considered filed on the date that it is received by the Court; however, a document received on a Saturday, Sunday, legal holiday or day that the Court is closed, will not be entered on the docket until the next business day.~~

~~(1) If electronic filers use the incorrect event for the public docket when filing a document, the Clerk may re-enter the document correctly if it is an objection or a document that is easily identified from the document's caption as an emergency motion or a time sensitive motion. Such steps are taken to safeguard the integrity of the court's docket while timely providing an accurate public record for proper case administration~~

~~(2) Temporary Deactivation or Revocation of Password and Authority to File Electronically: The court reserves the right to temporarily deactivate an electronic filer's password for failure to comply with this rule, the electronic filer Registration Form agreement or the ECF Procedures. In addition, the court reserves the right to revoke an attorney's authority to file electronically after notice and hearing before the judge assigned to the specific case in which the attorney has failed to comply with the ECF Procedures or has engaged in other misuse of the electronic case filing system.~~

## **Commentary**

~~[Source: GPO 2001-8]~~

~~See L.B.R. 9004-1, 9011-1, 9036-1, and L.B.R. 5005-4App. Parties should also check the court's website.~~



~~Documents requiring signatures of more than one party may be filed electronically provided the document contains all necessary signatures whether those signatures are electronic or original.~~

~~Revised to include limited registrants and non-attorneys who may submit certain documents electronically and to clarify the requirement for e-filing attorneys to submit electronically fees associated with the documents filed. Incorporates GPO 2012-3 and 2009-5, and December 1, 2013 amendment to Fed.R.Bankr.P. 1007(b)(7). 1/1/2014.~~

(c) **Format.** Petitions, statements of financial affairs, schedules, complaints, motions, briefs and other pleadings filed electronically or by email must be in text-searchable Portable Document Format (“PDF”).

## **L.B.R. 5010-1. Reopening Cases**

- (a) ~~Motions: Motions to reopen bankruptcy cases must be accompanied by the payment of any prescribed filing fees. Copies of~~ **Service.** The motion must be served on the United States Trustee, the trustee previously assigned to the case, the ~~twenty (20)~~ largest unsecured creditors in a chapter 11 case, and ~~upon~~ any party against whom relief ~~will be~~ **is** sought upon reopening of the case.
- (b) **Filing Fees:** ~~Payment of the filing fee. A motion~~ to reopen a bankruptcy case, ~~when must be accompanied by payment of any required filing fees. When such~~ a motion is filed by a trustee to reopen a case due to the discovery of additional assets in the estate, payment of the required filing fee is payable at the time the motion ~~to reopen~~ is filed; however, the trustee may file a motion to have the payment of the fee ~~delayed~~ deferred until there are sufficient assets in the estate to pay such fee.
- (c) **Filing Complaint to Determine Dischargeability of Debt:** An adversary proceeding to determine the dischargeability of a debt under Fed. R. Bankr. P. 4007(b) or for declaratory relief regarding the effect of a discharge under 11 U.S.C. § 524(a) may be commenced, maintained and concluded whether or not the underlying bankruptcy case has been closed under Fed. R. Bankr. P. 5009 or reopened under Fed. R. Bankr. P. 5010, unless otherwise ordered by the Court.

### **Commentary**

~~[Source: L.B.R. 510]~~

~~Absent a court order, there is no exception to the requirement to pay the appropriate filing fees for a motion to reopen a case in order for the debtor to file the Debtor's Financial Management Certificate so that a discharge may be entered.~~

## **L.B.R. 5011-1. Motions for Withdrawal of the Reference**

(a) ~~Motion:~~ **Service.** The motion must be served on the United States Trustee, any case trustee, the 20 largest unsecured creditors in a chapter 11 case, those requesting notice, and any party against whom relief is sought.

~~(a)~~ (b) **Filing Fees.** A motion for withdrawal of a case or proceeding must be accompanied by payment of the ~~prescribed~~ **required** filing fee and be filed with the Clerk together with such other portions of the record as may be necessary for consideration of the motion.

~~(b) Service: Copies of the motion must be served on the debtor, the United States Trustee, any case trustee, the twenty (20) largest unsecured creditors in a chapter 11 case, those requesting notice and upon any party against whom relief is sought in the proceeding.~~

(c) **Objection:** Within ~~fourteen (14)~~ days after service of a copy of the motion, a party in interest may file with the Clerk, and serve on the movant and the other parties to the proceeding, an objection to the motion and a designation of any additional portions of the record for the ~~district court's~~ **United States District Court's** determination of the motion.

(d) **Reply:** The movant may file a reply within seven ~~(7)~~ days of service of an objection.

(e) **Record:** The Clerk ~~of the Bankruptcy Court~~ will refer the motion and record to the Clerk of the **U.S. United States** District Court for hearing ~~before that court~~ pursuant to Fed. R. Bankr. P. 5011(a).

#### **Commentary**

[Source: ~~L.B.R. 511~~]

### **L.B.R. 5073-1. Photography, Recording Devices, ~~and~~ Broadcasting and Streaming**

The use or operation of any ~~camera~~ **photography**, recording, **broadcasting, or streaming** device, ~~photo-capable cellular phone or other mechanical means for the visual reproduction of the likeness of an individual or object, or for the auditory reproduction of a voice or sound,~~ is prohibited inside all courtrooms, **office space** occupied by ~~the court~~ **Court employees**, and ~~in~~ all rooms used for meetings pursuant to 11 U.S.C. § 341, except as otherwise provided by the Judicial Conference. This Rule also applies to those participating in a hearing or meeting by telephone, video conference, or other means from outside the courtroom or meeting rooms. ~~The use or operation of any such device is further prohibited in all other premises occupied by the court except as proscribed by the U.S. District Court.~~ This ~~L.B.R. is~~ **Rule does** not ~~applicable~~ **apply** to **Court** employees ~~of the court or~~ designees of the United States Trustee, or ~~to~~ any certified court reporter acting pursuant to their official duties. ~~The court in its discretion may waive this L.B.R.~~

#### **Commentary**

[Source: ~~L.B.R. 507(c)~~]

## ~~L.B.R. 5095-1. Investment of Estate Funds~~

~~Deposits to the Registry: No funds may be deposited to or withdrawn from the court registry except as authorized by court order. Such an order must specify in detail the amounts deposited by or to be paid to any party, and must state the names and addresses of any person or company to whom funds are to be paid. Funds may be deposited into an interest-bearing account upon obtaining a specific order so directing. A copy of the order must be personally served on the Clerk by the party who obtained the order.~~

### **Commentary**

~~{Source: L.B.R. 505(c)}~~

~~See also FED. R. BANKR. P. 7067.~~

## **L.B.R. 6004-1. Sale of Estate Property**

(a) ~~Sales Free and Clear of Liens:~~ **Filing Fees.** A motion to sell free and clear of liens under 11 U.S.C. § 363(f) (“Sale Motion”) must ~~identify~~ be accompanied by name payment of the lienholders whose required filing fee. However, a trustee may move to defer payment of the fee until there are sufficient assets in the estate to pay the fee.

(b) **Sales under 11 U.S.C. § 363(b).** Except as otherwise provided in these Rules, the Bankruptcy Code, the Fed. R. Bankr. P., or an order of the Court, all Sale Motions shall attach or include the following:

(1) A description of the property ~~rights are~~ to be sold. If the property is real estate, then the legal description must be included;

(2) A copy of the proposed purchase agreement, or a form of such agreement substantially similar to the one the debtor reasonably believes it will execute in connection with the proposed sale;

(3) A copy of a proposed form of sale order;

(4) A request, if necessary, for the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332; and

(c) **Sale to Insider.** If the proposed sale is to an insider, as defined in 11 U.S.C. § 101(31), the Sale Motion must (i) identify the insider, (ii) describe the insider’s relationship to the debtor, and (iii) set forth any measures taken to ensure the fairness of the sale process and the proposed transaction.

(d) **Provisions to be Highlighted.** The Sale Motion must highlight material terms, including but not limited to (i) whether the proposed form of sale order and/or the underlying purchase agreement contains any provision of the type set forth below, (ii) the location of any such provision in the proposed form of order or purchase agreement, and (iii) the justification for the inclusion of such provision:

(A) **Agreements with Management.** If a proposed buyer has discussed or

- entered into any agreements with management or key employees regarding compensation or future employment, the Sale Motion must disclose (i) the material terms of any such agreements, and (ii) what measures have been taken to ensure the fairness of the sale and the proposed transaction in the light of any such agreements.
- (B) Releases. The Sale Motion must highlight any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied.
- (C) Private Sale/No Competitive Bidding. The Sale Motion must disclose whether an auction is contemplated, and highlight any provision in which the debtor has agreed not to solicit competing offers for the property subject to the Sale Motion or to otherwise limit shopping of the property.
- (D) Closing and Other Deadlines. The Sale Motion must highlight any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.
- (E) Good Faith Deposit. The Sale Motion must highlight whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which such deposit may be forfeited.
- (F) Interim Arrangements with Proposed Buyer. The Sale Motion must highlight any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C. § 363(b)) and the terms of such agreements.
- (G) Use of Proceeds. The Sale Motion must highlight any provision pursuant to which a debtor proposes to release sale proceeds on or after the closing without further Court order, or to provide for a definitive allocation of sale proceeds between or among various sellers or collateral.
- (H) Tax Exemption. The Sale Motion must highlight any provision seeking to have the sale declared exempt from taxes under 11 U.S.C. § 1146(a), the type of tax (e.g., recording tax, stamp tax, use tax, capital gains tax) for which the exemption is sought. It is not sufficient to refer simply to “transfer” taxes and the state or states in which the **affected** property is located.
- (I) Record Retention. If the debtor proposes to sell substantially all of its assets, the Sale Motion must highlight whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.
- (J) Sale of Avoidance Actions. The Sale Motion must highlight any provision pursuant to which the debtor seeks to sell or otherwise limit its rights to pursue avoidance claims under chapter 5 of the Bankruptcy Code.

(K) Requested Findings as to Successor Liability. The Sale Motion should highlight any provision limiting the proposed purchaser's successor liability.

(L) Sale Free and Clear of Unexpired Leases. The Sale Motion must highlight any provision by ~~the~~ which the debtor seeks to sell property free and clear of a possessory leasehold interest, license, or other right.

(M) Credit Bid. The Sale Motion must highlight any provision by which the debtor seeks to allow, disallow or affect in any manner, credit bidding pursuant to 11 U.S.C. § 363(k).

(N) Relief from Fed. R. Bankr. P. 6004(h). The Sale Motion must highlight any provision whereby the debtor seeks relief from the fourteen-day stay imposed by Fed. R. Bankr. P. 6004(h).

**(e) Sales Free and Clear of Liens.** In connection with a motion. ~~The affected lienholders must be served with a complete set of moving papers pursuant to FED. R. BANKR. P. 7004(b). The motion must allege~~ requesting to sell estate property free and clear of liens under 11 U.S.C. § 363(f), the movant must:

(1) State what subsection(s) of 11 U.S.C. § 363(f) apply and the factual basis demonstrating that the motion comes within one or more subsections of 11 U.S.C. § 363(f)(1)-(5). If the motion does not so identify the lienholders, it will be considered as an for each subsection's application to sell property subject to the particular case;

~~(1)~~ (2) Identify the names and amounts owed to each of the holders of a claim secured against the property to be sold. If the movant fails to include this information, the Court may deem the motion to be a request for a sale subject to existing liens;

(3) Bidding State whether the liens will attach to the proceeds of sale or be paid at closing; and

(4) Serve each known lienholder with a copy of the motion, its attachments, and a notice in the manner set forth in Fed. R. Bankr. P. 7004.

~~(b)~~ **(f) Motion to Set Sale Procedures:** ~~A. If the movant intends to open the sale to a competitive bidding or auction process, a separate motion to approve the bidding procedures for bidding for an asset or assets may should be filed separately in advance of filing a sale motion or combined with the sale motion, and in appropriate circumstances, on more limited and. If the movant requests a hearing on shortened notice than the sale motion to approve the sale procedures, the request must include a statement of compelling circumstances. The Sale Procedures Motion should highlight the following provisions in any Sale Procedures Order:~~

~~(c) Form of Order: The proposed form of order granting a motion to sell free and clear of liens must specify each lienholder whose interest is to be affected by the order and whether such liens will attach to the proceeds of the sale.~~

### **Commentary**

[Source: ~~L.B.R. 604 and N.D. Cal.~~]

~~See L.B.R. 2002-1, 2081-1, 9013-1 and FED. R. BANKR. P. 6003 and 9006.~~

- (1) Provisions Governing Qualification of Bidders. Any provision governing an entity becoming a qualified bidder, including but not limited to, an entity's obligation to:
  - (A) Deliver financial information by a stated deadline to the debtor and other key parties (ordinarily excluding other bidders).
  - (B) Demonstrate its financial wherewithal to consummate a sale.
  - (C) Maintain the confidentiality of information obtained from the debtor or other parties or execute a non-disclosure agreement.
  - (D) Make a non-binding expression of interest or execute a binding agreement.
- (2) Provisions Governing Qualified Bids. Any provision governing a bid being a qualified bid, including, but not limited to:
  - (A) Any deadlines for submitting a bid and the ability of a bidder to modify a bid not deemed a qualified bid.
  - (B) Any requirements regarding the form of a bid, including whether a qualified bid must be (i) marked against the form of a "stalking horse" agreement or a template of the debtor's preferred sale terms, showing amendments and other modifications (including price and other terms), (ii) for all of the same assets or may be for less than all of the assets proposed to be acquired by an initial, or "stalking horse", bidder or (iii) remain open for a specified period of time.
  - (C) Any requirement that a bid include a good faith deposit, the amount of that deposit and under what conditions the good faith deposit is not refundable.
  - (D) Any other conditions a debtor requires for a bid to be considered a qualified bid or to permit a qualified bidder to bid at an auction.
- (3) Provisions Providing Bid Protections to "Stalking Horse" or Initial Bidder. Any provisions providing an initial or "stalking horse" bidder a form of bid protection, including, but not limited to the following:
  - (A) No-Shop or No-Solicitation Provisions. Any limitations on a debtor's ability or right to solicit higher or otherwise better bids.
  - (B) Break-Up/Topping Fees and Expense Reimbursement. Any agreement to provide or seek an order authorizing break-up or topping fees and/or expense reimbursement, and the terms and conditions under which any such fees or expense reimbursement would be paid.
  - (C) Bidding Increments. Any requirement regarding the amount of the initial overbid and any successive bidding increments.
  - (D) Treatment of Break-Up and Topping Fees and Expense Reimbursement at Auction. Any requirement that the "stalking horse" bidder receive a "credit" equal to the break-up or topping fee and or expense

reimbursement when bidding at the auction and in such case whether the “stalking horse” is deemed to have waived any such fee and expense upon submitting a higher or otherwise better bid than its initial bid at the auction.

(4) Modification of Bidding and Auction Procedures. Any provision that would authorize a debtor, without further order of the Court, to modify any procedures regarding bidding or conducting an auction.

(5) Closing with Alternative Backup Bidders. Any provision that would authorize the debtor to accept and close on alternative qualified bids received at an auction in the event that the bidder selected as the “successful bidder” at the conclusion of the auction fails to close the transaction within a specified period.

(6) Provisions Governing the Auction. Unless otherwise ordered by the Court, the Sale Procedures Order must:

(A) specify the date, time and place at which the auction will be conducted and the method for providing notice to parties of any changes thereto;

(B) provide that each bidder participating at the auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale; and

(C) state that the auction will be conducted openly and all creditors will be permitted to attend.

## **L.B.R. 7001-1. Adversary Proceedings – General**

(a) ~~Adversary Captions:~~ **Caption.** All ~~pleadings~~ documents filed in an adversary ~~action~~ proceeding must ~~have~~ include a caption in substantial conformity with ~~Director's Procedural Form 16D. The caption must also state~~ Official Form 416D, Caption for Use in Adversary Proceeding other than for a Complaint Filed by a Debtor, and list the entire case number, including the initials of the ~~judge~~ assigned to the complaint. ~~judge~~ (e.g., 17-00000-FML).

(b) ~~Cover Sheet: A~~ **Requirements for Paper Filed Adversary Proceedings.** The following are required for adversary proceedings filed in paper format:

(1) cover sheet in substantial conformity with ~~Director's~~ Director's Procedural Form ~~104 must accompany all adversary proceeding complaints that are not electronically filed~~ 1040.

~~(b) Proper Sequence for Adversary Proceeding Filings (Paper Filers Only): The following forms are separate documents. Please do not staple them together:~~

~~(1) Adversary Proceeding Cover Sheet (Director's Procedural Form 104) – Original Only~~

~~(2) Complaint – Original~~

~~(3) Summons – Original.~~

~~(4) Emergency Motions, if any~~

## Commentary

[Source: ~~LBR 105(c) and 102(f)~~]

~~Electronic filers should follow current ECF Procedures which can be found on the court's website at [www.cob.uscourts.gov](http://www.cob.uscourts.gov) and L.B.R. 5005-4App.~~

(2) complaint;

(3) summons;

(4) motions for alias summons or pluries summons, if any; and

(5) emergency motions, if any.

## **L.B.R. 7007-1. Adversary Proceedings – Responses to Motions**

~~Response Period:~~ Unless otherwise provided for by a statute, rule, or ~~court~~ order, any response to a motion must be filed with the Court and served on interested parties within ~~fourteen (14)~~ days after service of the motion. Replies to responses to motions, if any, may be filed ~~only after obtaining leave~~ within seven days of the ~~court~~. ~~Motions will be set for oral argument only if~~ filing of the ~~court determines oral argument may be of assistance.~~ response.

## Commentary

[Source: ~~New~~]

~~This rule also applies where the court directs the use of FED. R. BANKR. P. 7000 series of adversary proceeding rules in a specific contested matter.~~

## **~~L.B.R. 7007-1.1. Corporate Ownership Statement~~**

~~The Corporate Ownership Statement required under FED. R. BANKR. P. 7007.1 must be in substantial conformity with L.B. Form 1007-4.1.~~

## Commentary

[Source: ~~New.~~]

~~See L.B.R. 1007-4.~~

## **~~L.B.R. 7016-1. Pre-trial Procedure for Adversary Proceedings~~**

~~Each division will provide parties with instructions once the case is at issue.~~

## Commentary



For additional information, see L.B.R. 7026-1 and each division's website.

## L.B.R. 7026-1. Discovery – General

- (a) **Discovery and Trial Schedule:** When an adversary proceeding is at issue, the Court may direct the parties to develop a discovery plan and ~~pre-trial~~pretrial deadlines and file a joint report on the same pursuant to Fed. R. Civ. P. 26(b) or, in its discretion, may set a trial.
- (b) **Depositions:** Unless otherwise agreed by the parties and the deponent or ordered by the Court, reasonable notice for the taking of depositions or conducting examinations under Fed. R. Bankr. P. 7030 (Fed. R. Civ. P. 30(b)(1)) is at least ~~fourteen (14)~~ days.
- (c) **Discovery Material: Materials.**
- (1) The term “Discovery Materials ~~— including~~” includes without limitation deposition transcripts, interrogatories and ~~answers~~responses, requests for production or inspection and responses, requests for ~~admissions and responses to them,~~ admission and ~~all~~responses, and initial and supplemental disclosures ~~— are.~~
- (2) Discovery Materials should not ~~to be~~ filed with the Court, ~~unless they are the subject of a discovery motion or as Court orders otherwise ordered.~~
- ~~(1)~~(3) If interrogatories, requests, answers, responses, or other disclosures are to be used a party anticipates using Discovery Materials, or a portion of them, at trial or hearing or trial, the, then that party must mark and prepare excerpts of relevant portions to be used shall be marked and prepared for offering as offered into evidence(s) at the outset of the hearing or trial insofar as their use can reasonably be anticipated.
- (d) **Motions Discovery Disputes.**
- (1) If there is a discovery dispute, parties must meet and confer in a meaningful way to ~~Compel~~try to resolve any issues prior to requesting a discovery hearing.
- (2) If the parties cannot resolve all disputes without the assistance of the Court, then one or more parties may request a Court hearing by sending an email to the courtroom deputy/judicial assistant of the assigned judge at the chambers’ email address listed on the Court’s website, copied to all parties.
- (3) No written discovery motions will be permitted without Court authorization, except that motions for protective orders: ~~Motions under~~ pursuant to Fed. R. ~~BANKR~~Civ. P. 7026 and 7037 seeking the type of relief provided for in FED. R. CIV. P. 26(c) and 37(a), directed to interrogatories may be filed.
- (4) The Court will schedule a hearing as promptly as possible.
- (5) No later than five days prior to the hearing, each party to the dispute must file a report identifying the discovery issue(s) in dispute without elaboration or ~~requests~~

~~under FED. R. BANKR. P. 7033~~argument. The report may not exceed two pages in length. It may contain citations to critical supporting legal authority but, no written motions, briefs, copies of written discovery, or ~~7034~~,any other attachments may be filed, unless expressly requested by the Court.

(6) Parties and attorneys must appear in person at the hearing, unless otherwise authorized by the Court.

(7) If a discovery dispute arises in the course of a deposition, one or to responses thereto, must set forth the interrogatory, request and response constituting the subjectmore parties may telephone the chambers of the assigned judge at the chambers' telephone number listed on the Court's website, to request an emergency hearing on the ~~matter of the motion. The filing of a motion for protective~~. If available, the Court may hold an immediate hearing on the dispute, by telephone or in person, as the Court specifies.

~~(c)~~(e) Stipulated Protective Orders. A request for an order ~~stays the discovery in question pending further~~of the Court approving a stipulated confidentiality or protective order ~~of~~may be filed with the Court. at any time.

~~(d)~~

Commentary

[Source: L.B.R. 726]

~~This rule is intended to supplement the Federal Rules of Civil Procedure with respect to discovery and discovery disputes, Fed. R. Bankr. P. 7026 through 7037.~~

(f) Application. This Rule applies to contested matters as well as adversary proceedings.

## **L.B.R. 7026-2. Special Provisions regarding Limited and Simplified Discovery**

(a) **Applicability:** Unless modified by order of the Court ~~or by written agreement of the parties~~, the provisions of ~~this L.B.R.~~these Rules apply in ~~all~~adversary proceedings and contested matters under Fed. R. Bankr. P. 7001 and 9014.

(b) **Depositions:** A party may take the deposition of only three ~~(3)~~persons.

(c) **Interrogatories:** A party may serve only one ~~(1)~~set of written interrogatories upon each adverse party. The number of interrogatories to any one party ~~must~~may not exceed ~~thirty (30)~~, each of which ~~shall~~must consist of a single question.

(d) **Other Discovery:** In all other respects, the ~~Federal Rules of Bankruptcy Procedure~~Fed. R. Bankr. P. govern the procedures and manner of taking discovery.

(e) **Additional Discovery:** A request for discovery beyond that which is provided for herein may be made by the parties in their joint Fed. R. Bankr. P. 7026 written report. Unless the parties otherwise agree, any requests after the filing of the written report must be made by motion.

Commentary

[Source: ~~L.B.R. 726.1~~]

## **L.B.R. 7041-1. Motion and Notice Requirements Required for Dismissal of ~~Proceedings to Deny Discharges~~**

### **Motion Required to Dismiss Complaint Denying or Revoking Objecting to Discharge: ~~No adversary proceeding~~**

A party seeking dismissal of a complaint objecting to a ~~debtors~~debtor's discharge under 11 U.S.C. §§ 727, 1141, 1228 or 1328 will be dismissed except on must file a motion filed in the adversary proceeding, in accordance with L.B.R. 9013-1 and notice ~~and an opportunity to object~~in substantial conformity with L.B.F. 7041-1.1, served on the United States Trustee ~~and the case~~, trustee, and other parties as directed by the Court ~~may direct, with opportunity to object~~. The motion must disclose all terms of any agreement made between the plaintiff and the debtor in relation to the litigation and its proposed dismissal. Appropriate orders may be requested using L.B.F. 9013-1.3 or 9013-1.4, as applicable.

~~Procedures. Motions under this section must use L.B. Form 7041.1 and the notice and hearing procedures in L.B.R. 9013-1. Appropriate orders may be requested using L.B. Forms 9013-1.3 or 9013-1.4, as applicable.~~

Commentary

[Source: ~~New.~~]

~~See L.B. Form 7041-1 and Official Form 416D for adversary caption.~~

## **L.B.R. 7055-1. Default – Failure to ProsecuteDefend**

(a) **Clerk's Entry of Default:** ~~To obtain.~~ A party seeking Clerk's entry of default pursuant to Fed. R. Civ. P. 55(a), ~~the party seeking entry of default~~ must file a motion ~~requesting entry of Clerk's default, together~~in accordance with ~~a supporting~~L.B.R. 9013-1 and verify by affidavit ~~verifying~~or otherwise pursuant to 28 U.S.C. § 1746 the following:

- (1) the party against whom default is sought has been properly served with a ~~summons and a~~ complaint and summons, including the date of the issuance of the summons and the date of service of the ~~summons and~~ complaint. ~~A copy of the summons and the proof of service must be attached as exhibits~~ and summons;
  - (2) the party against whom default is sought has failed to plead or otherwise defend within the allowed time;
  - (3) the party against whom default is sought has not requested or has not been granted an extension of time to plead or otherwise defend.; and
  - (4) a motion for Clerk's entry of default may not be combined with a motion for entry of default judgment.
- (b) **Default Judgment: After Entry of Default.** A party seeking ~~the~~ entry of a default judgment pursuant to Fed. R. Civ. P. 55(b) must file a motion ~~for default judgment in accordance with L.B.R. 9013-1~~ containing the following:
- (1) ~~A~~ request for entry of default judgment;
  - (2) ~~An affidavit in support of default judgment~~, executed by an individual having with personal knowledge ~~of the facts therein, which sets forth with specificity,~~ setting forth sufficient factual support for each element of ~~any~~each claim on which judgment is requested. In cases involving individuals, the supporting affidavit must allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action;
  - (3) in cases involving individuals, the SCRA affidavit required by L.B.R. 4002-~~23~~;
  - (4) if appropriate, documentary evidence to support the allegations in the affidavit (attached as exhibits);
  - (5) proposed form of order approving the motion; and
  - (6) ~~A~~ proposed form of judgment.
- (c) **Proof Hearing:** The Court will advise the party seeking entry of default judgment of the time and date of a proof hearing, if required.

~~Commentary~~

~~[Source: New.]~~

~~See also FED. R. BANKR. P. 9023 and 9024 and FED. R. CIV. P. 55.~~

(d) Service. A motion for entry of default and a motion for default judgment must be served on the party against whom relief is sought.

## **L.B.R. 7056-1. Summary Judgment**

- (a) **Motion and Memorandum in Support:** Any motion for summary judgment pursuant to Fed. R. Bankr. P. 7056, must include:
- (1) a statement of the burden of proof;

- (2) the elements of the claim(s) that must be proved to prevail on the claim(s);
  - (3) a short and concise statement, in numbered paragraphs containing only one fact each, of the material facts as to which the moving party contends there is no genuine issue to be tried;
  - (4) a statement or calculation of damages, if any; and
  - (5) any and all citations of law or legal argument in support of judgment as a matter of law, ~~explaining the relevance of each citation.~~
- (b) **Response and Memorandum in Opposition:** ~~Papers opposing a motion for summary judgment.~~ Responses in opposition must include:
- (1) any competing statements concerning the burden of proof, including burden shifting, together with legal authority supporting such statements;
  - (2) any defenses to the elements of the claim(s) that must be proved to defeat such claim(s);
  - (3) a short and concise statement of agreement or opposition, in numbered paragraphs corresponding to those of the moving party, of the material facts as to which it is contended there is a genuine issue to be tried;
  - (4) a short and concise statement, in numbered paragraphs containing only one fact, of any additional facts as to which the opposing party contends are material and disputed;
  - (5) a statement or calculation of damages, if any; and
  - (6) any and all citations of law or legal argument in opposition to judgment as a matter of law, ~~with a parenthetical to explain the relevance of each citation.~~
- (c) **Supporting Evidence:** Each statement by the movant or opponent pursuant to subdivisions (a) or (b) of this Rule, including each statement controverting any statement of material fact by a movant or opponent, ~~shall~~must be followed by citation to admissible evidence either by reference to a specific paragraph number of an affidavit under penalty of perjury or fact contained in the record. Affidavits must be made on personal knowledge and by a person competent to testify to the facts stated, which are admissible in evidence. Where facts referred to in an affidavit are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached with the relevant passages marked or highlighted.
- (d) **Admission of Facts:** Each numbered paragraph in the statement of material facts served by the moving party ~~shall be~~is deemed admitted for purposes of the motion unless specifically controverted by a correspondingly numbered paragraph in the statement served by the opposing party.
- (e) **Responsive Pleadings:** Unless otherwise ordered by the Court, a response to a motion for summary judgment must be filed and served no later than ~~fourteen (14)~~ days from the date of service of the motion. ~~Replies of any kind may only be filed as provided in the pretrial order or upon leave of court.~~

(f) **Compliance with Federal Rules:** The statements required by this ~~L.B.R.~~Rule are in addition to the material otherwise required by these Rules and the applicable ~~Federal Rules of Bankruptcy Procedure~~Fed. R. Bankr. P.

~~(g) Non-Compliance: Non-compliance with this L.B.R. is grounds for denial of the motion at the court's discretion.~~

~~Commentary~~

~~[Source: Standing Order 2004-1-SBB dated July 28, 2004.]~~

(g) Noncompliance. The Court may deny motions that do not comply with this Rule.

### **L.B.R. 7069-1. ~~Payment of~~Execution on Judgment**

(a) **Forms:** ~~Except as. Unless~~ otherwise directed by the ~~judge~~Court, parties must use the applicable ~~forms approved by the State of Colorado for use in Colorado courts~~Judicial Branch forms whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in Fed. R. Bankr. P. 7064 and 7069. ~~The caption must conform to Official Form 416B rather than the form of caption used in the Colorado courts.~~

(b) **Discovery in Aid of Enforcement of Judgments:** ~~Unless otherwise ordered by the Court,~~ a judgment creditor may not use Fed. R. Bankr. P. 2004 to collect information for use in enforcing a judgment.

~~Commentary~~

~~[Source: C.D. Cal.]~~

### **L.B.R. 8001-1. Appeals to District Court or Bankruptcy Appellate Panel**

~~(a) Appeals Filed with Part VIII of the Bankruptcy Court: An original Notice of Appeal and Statement of Election in substantial conformity with the appropriate Official Form must be filed with the Clerk within the time allowed by FED. Fed. R. Bankr. P. 8002.~~

~~(b) U.S. District Court Election: FED. R. BANKR. P. 8005 controls elections to have an appeal heard by the district court instead of the bankruptcy appellate panel.~~

~~(c) Filing Fees: Parties must submit the appropriate filing fee to the bankruptcy court.~~

~~Commentary~~

~~[Source: FED. R. BANKR. P. 8001 through 8028]~~

~~Parties are advised to become familiar with and the local rules of the court before which their appeal is filed. Once the appeal is docketed by the appellate court, additional papers must be~~

~~filed with the appropriate appellate court.~~ appellate courts govern the procedure on appeal from a judgment, order, or decree of this Court.

## **L.B.R. 9001-1. Definitions**

- (a) ~~In these rules~~ Definitions. The following definitions apply in addition to ~~the definitions~~ those provided in ~~section 11 U.S.C. § 101 of title 11 of the United States Code,~~ and Fed. R. Bankr. P. 9001:
- ~~(1) "certificate of service" means a statement specifically identifying who was served, at what address(es), when they were served and the method of service.~~
  - ~~(2) "Clerk" means Clerk of the Bankruptcy Court or such appointed deputies.~~
  - ~~(3)~~ (1) "CM/ECF" means Case Management/Electronic Case Filing.
  - ~~(4)~~ (2) "Creditor Address Mailing Matrix" means a list of all creditors and parties in interest in the case as provided by the debtor as updated, and maintained and stored by the Court and accessible as described in pursuant to L.B.R. 1007-2 and L.B.R. 1007-2App.
  - ~~(5) "days" means "calendar days," unless otherwise specified as "court days." FED. R. BANKR. PRO. 9006(a)'s time computation rules are not superseded by these L.B.R.~~
  - ~~(6) "ECF Procedures" means electronic case filing procedures as provided, and updated, in (a) these L.B.R., (b) the L.B.R. Appendix, including the ECF Administrative Procedures at L.B.R. 5005-4App., and (3) the court's webpage.~~
  - ~~(7) "Electronic Service" or "Electronic Notice" means documents sent via electronic mail with "Notice of Pleadings" in the subject line.~~
  - ~~(8) "e-mail" means electronic mail.~~
  - ~~(9)~~ (3) "meet and confer" "Meet and Confer" means a conference between opposing parties initiated by the movant in an effort to resolve the a dispute. If a conference has not taken place, the movant or respondent, or their counsel attorney, must submit a statement describing the efforts made to accomplish the required meet and confer.
  - ~~(10) "pro se" "NEF" means a person who is not represented~~ Notice of Electronic Filing transmitted by an attorney.
  - ~~(11) "verification" the CM/ECF to persons or "verified pleading" means an unsworn declaration as defined in 28 U.S.C. § 1746, including a statement in substantial conformity~~ entities registered with the following: "I declare (Court for electronic service or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

Commentary

[Source: New]

## **L.B.R. 9004-1. Papers — Requirements notice of Form**

~~(12)(4) Form of Documents Submitted to the Court: All petitions, pleadings, and other filed documents filed or served in hard copy or electronically must be plainly and legibly typewritten on single-sided paper, without being materially defaced by erasures, interlineations, or strikeovers. If the pleading must be handwritten, it must be printed legibly in blue or black ink. The use of abbreviations other than those approved by the current edition of The Blue Book Uniform System of Citation is prohibited.~~

- ~~(a) Form of Paper Submissions: For hard copy documents submitted to the court, the paper used must be standard weight, white, and approximately 8 1/2 by 11 inches in size. Unless otherwise specified in these L.B.R., the upper margin of each sheet must be not less than 1/2 inch, the left-hand margin must be not less than one inch, the print size must be no smaller than 12-point font, and the pages must be fastened with a paperclip, not stapled, at the top-left without backs or covers.~~
- ~~(b) Form of Documents Sent for Notice: In the interest of conserving paper, documents sent for notice may use 10-point font and may be printed using "book style" (two pages of text on one side front and back of one piece of paper) so long as it is legible.~~
- ~~(c) Page Limitations: Page limits are set at the discretion of the court. Documents that are longer than twenty (20) pages must include a table of contents and a table of authorities.~~
- ~~(d) Identifying Information: All petitions, pleadings, and other documents must contain:
  - ~~(1) Attorneys: the business address, telephone number, facsimile transmission (FAX) number and electronic mail (e-mail) address, if any, and attorney registration number of the attorney filing the document; or~~
  - ~~(2) Pro se (Unrepresented) Parties: the home address, the mailing address (if different), telephone number and facsimile transmission (FAX) number, if any.~~
  - ~~(3) Attachments: All documents that are exhibits or attachments to a pleading which is being electronically filed at the same time and by the same party must be electronically filed together under one docket number, e.g. the motion, supporting affidavit or other attachments and proposed order.~~~~
- ~~(e) Copies Generally: The court may, in any matter at any time, request that a copy of a document be submitted to the judge in paper format.~~

#### Commentary

[Source: L.B.R. 904]

See L.B.R. 5005-4, L.B.R. 9011-4, L.B.R. 9036-1 and L.B.R. 5005-4App. for additional information on electronic filing, registration and procedures.

Handwritten submissions are strongly discouraged. In the event that a party has no other options, the pleadings must be written in clear and legible print so that the court can easily review and convert the documents to electronic form as necessary.

### **L.B.R. 9004-2. Caption – Papers, General**

- ~~(a) Captions: In addition to meeting the requirements of FED. R. BANKR. P. 1005 and Official Form 416A, the official caption of all pleadings, documents, notices and orders must state:
  - ~~(1) the full and correct first, middle, and last names of the debtor. If the debtor has no middle name or if he or she has only a middle initial, that fact must be indicated~~~~



- parenthetically in the caption. If the debtor's name has changed, it should be listed with the new name followed by "f.k.a." ("formerly known as") and the old name;
- (2) the chapter of the Bankruptcy Code under which the case is filed;
  - (3) the debtor's federal employer identification number or the last four digits of the debtor's Social Security number or tax identification number (except that notices of the meeting of creditors that are mailed to creditors must include the debtor's full Social Security number); and
  - (4) the case number and judge's initials assigned to the proceeding.
- (b) Captions in Matters Concerning Relief from the Automatic Stay: All motions, pleadings, and responses thereto filed pursuant to L.B.R. 4001-1 must bear a caption in substantial conformity with Official Form 416D, except that the parties must be identified as Movant and Respondent rather than Plaintiff and Defendant. Separate case numbers will not be assigned to such motions.
- (c) Responses: Any objection, reply or other responsive pleading must contain as part of its caption a verbatim recital of the title of the pleading to which the response is directed.

#### Commentary

[Source: L.B.R. 105 and 904]

See L.B.R. 1007-5 for information on Social Security numbers and privacy.

### **L.B.R. 9009-1. Forms**

Forms designated by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these L.B.R. must be in substantial conformity with the applicable Official Form, Director's Procedural Form or Local Bankruptcy Form. Orders issued by the court may vary from the form order depending on the circumstances of each case.

#### Commentary

[Source: L.B.R. 909]

### **L.B.R. 9010-1. Attorneys**

#### **(a) Standards of Professional Conduct:**

(b)(a) . The Local Rules of Practice of the United States District Court for the District of Colorado, Section ~~IV~~V - Attorney Rules ~~shall~~will apply in ~~the United States Bankruptcy~~this Court ~~for the District of Colorado~~, except as provided by order or rule of ~~the Bankruptcy~~this Court.

- (1) Noncompliance Sanctions: A party's failure to comply with the provisions of this rule may result in the imposition of appropriate sanctions by the Bankruptcy Court against such party, or counsel for such party, or both.

~~(e)~~**(b) Admission:**

(1) Attorneys Admitted to the United States District Court for the District of Colorado: An attorney admitted and in good standing to practice in the United States District Court for the District of Colorado is qualified to practice in this ~~Bankruptcy Court, subject to the following:~~ Court.

~~(A) Address of Record: The Address of Record for electronic filing attorneys is defined as the Master Address in L.B.R. App 5005-4; for all other attorneys, the official address of record for an attorney appearing in a bankruptcy case or proceeding is the address appearing below the signature of said attorney on the petition, complaint, motion, pleading, entry of appearance, change of address or other paper most recently filed in the case or proceeding. This address will appear in the respective case or proceeding in the court's automated docket system database notwithstanding other addresses, if any, which may be of record on behalf of the attorney in other cases or proceedings in which the attorney has made an appearance.~~

~~(B) Notice of Change of Address in Each Specific Case or Proceeding: Attorneys must file and serve a separate notice of change of address in each pending case or proceeding in which the attorney has previously entered an appearance.~~

(2) Attorneys Not Admitted to United States District Court for the District of Colorado:

(A) Admission to the United States District Court for the District of Colorado *pro hac vice* is no longer available. ~~An attorney, who is a member in good standing of the bar in any other state or any other court of the United States,~~ An attorney must comply with the Local Rules of Practice of the United States District Court for the District of Colorado ~~regarding,~~ Section V – Attorney Rules (including admission) in order to appear before this Court.

(B) Local Counsel: When an attorney is located outside of Colorado and does not have an office in Colorado, the Court, in its sole discretion, may impose additional requirements for practice before the ~~Bankruptcy~~ Court, including that such out-of-state counsel retain local counsel qualified to practice before this Court.

~~(d)~~**(c) Scope of Representation/Employment; Limited Unbundling:**

~~(1) Representation: Representation of a person by an attorney before this court constitutes an entry of appearance for all purposes, except:~~

(1) An Attorney Representation of a Debtor. Representation of a debtor by an attorney before this Court constitutes an entry of appearance for all purposes in the debtor's bankruptcy case, except as provided in L.B.R. 9010-1(c)(2). While the attorney remains attorney of record for the debtor in the bankruptcy case, the attorney has a duty to advise the debtor on all bankruptcy matters that arise during the course of the bankruptcy case and to represent the interests of the debtor in connection with the bankruptcy case that may affect the debtor, the debtor's property and, in the case of reorganization proceedings, property of the estate. An attorney may not circumvent this Rule by limiting services in his or her

client engagement letter or in the attorney's disclosures filed in accordance with Fed. R. Bankr. P. 2016.

(2) Limited Unbundling.

(A) Adversary Proceedings. A debtor's attorney may expressly exclude adversary proceedings from the scope of the engagement; however, if engaged as ~~counsel for representation~~ the attorney in an adversary proceeding, an attorney may not exclude services within that adversary proceeding.

~~(B) The Bankruptcy Court will permit an attorney for a debtor to file a Notice of Advisement (L.B. Form 9010-1.1) in response to a pending motion or other request for relief, if appropriate under L.B.R. 9010-1(c)(2).~~

~~(C) If an attorney seeks to withdraw from the appearance for cause, the attorney must comply with L.B.R. 9010-4. The Local Rules of Practice of the United States District Court for the District of Colorado, Section IV—Attorney Rules, D.C.Colo.LAttyR 5 will not apply to withdrawal from an appearance before the Bankruptcy Court.~~

~~(B) Notice of Advisement:~~ In the course of representing a debtor, the attorney who has entered an appearance has a duty to advise the debtor on all matters that arise during the course of the case that may affect the debtor, the debtor's property, or in the case of reorganization proceedings, the property of the estate. Ethical Limitations. Nothing in this Rule, ~~however,~~ requires ~~debtor's~~ debtor's attorney to file a paper or advance a position contrary to the ~~attorney's~~ attorney's obligations under Fed. R. Bankr. P. 9011. In those circumstances in which ~~debtor's~~ debtor's attorney has fulfilled his or her obligations to advise the debtor, but has determined not to file a responsive paper or otherwise advance a position, either in agreement with the debtor or contrary to the ~~debtor's~~ debtor's wishes, but in compliance with Rule 9011, then ~~debtor's~~ debtor's attorney ~~shall~~ must file ~~L.B. Form 9010-1.1,~~ a Notice of Advisement ~~(i)~~ in substantial conformity with L.B.F. 9010-1.1, as set forth in L.B.R. 9010-1(c)(6).

(C) Nonpayment of Fees. If the debtor fails to pay debtor's attorney for services rendered or to be rendered, the attorney may move to withdraw his or her appearance for the debtor in accordance with L.B.R. 9010-4, except:

(i) An attorney for the debtor may not withdraw prior to completion of the Basic Services, as defined in L.B.R. 9010-1(c)(5), except upon a showing of good cause.

(ii) While a motion to withdraw is pending, the attorney must continue to perform for the debtor all Necessary Services, as defined in L.B.R. 9010-1(c)(4). These services may not be limited to the Basic Services.

(3) Ghostwriting and BPP Services by Attorney Prohibited. An attorney may not assist any party with the preparation of a bankruptcy petition or any document required under Fed. R. Bankr. P. 1007 for filing in a bankruptcy case, without signing the document, except an attorney may provide pro bono services and advice under a nonprofit organization or Court-approved program to an individual

anticipating the filing of a voluntary petition without signing any document, entering an appearance, or continuing representation of the individual in the bankruptcy case after filing. An attorney may not serve as a bankruptcy petition preparer, as defined under 11 U.S.C. § 110(a)(1).

(4) Necessary Services. Necessary Services refers to all services that are necessary to represent the interests of the debtor in a particular case.

(5) Basic Services. Absent a Court order to the contrary, a debtor's attorney may not move to withdraw as attorney prior to completion of the following services (the "Basic Services"):

(A) meeting with the debtor, advising ~~that~~ the debtor, and analyzing the needs of the case;

(B) preparing a complete filing package as required by Fed. R. Bankr. P. 1007 and any necessary amendments thereto;

(C) attending the debtor's meeting of creditors pursuant to 11 U.S.C. § 341 and any continued meetings of the same;

(D) advising and assisting the debtor with any trustee requests for turnover and any audit requests from the United States Trustee;

(E) advising the debtor regarding any reaffirmation agreements; and

(F) in a chapter 13 proceeding, a debtor's attorney may not exclude from his or her representation the Basic Services or any Necessary Services, whether such services are required before or after the confirmation of debtor's plan of reorganization, except as set forth in L.B.R. 9010-1(c)(2). However, nothing in this Rule prohibits an attorney from charging the debtor additional fees for services not contemplated by the original fee agreement between the debtor and debtor's attorney.

(6) Notice of Advisement. Filing a Notice of Advisement is only permitted when the attorney cannot advance a position due to ethical constraints or because the debtor has advised the attorney that the debtor does not wish to oppose the requested relief. When required by L.B.R. 9010-1(c)(2)(B), debtor's attorney must file a Notice of Advisement in substantial conformity with L.B.F. 9010-1.1 and serve it on the debtor and opposing counsel on or before three days prior to the objection deadline for the pending motion or request for relief. Such notice must advise the Court and interested parties that:

~~(D)(A) after consultation with the client, no further action will be taken by the attorney as to the specific matter; and/or (ii) granting opposing counsel permission to communicate directly with the client concerning the matter. The Notice of Advisement must be filed with the Court and served on the debtor and opposing counsel on or before three (3) business days of the objection deadline for the pending motion or request for relief. The Notice of Advisement does not apply to matters concerning reaffirmation agreements.~~

(B) whether opposing counsel may communicate directly with the debtor concerning the matter.

(7) Sanctions for Violations; Standing. After notice and hearing, the Court, acting sua sponte or on a motion filed by any interested party, may impose monetary or other sanctions against an attorney for violations of L.B.R. 9010-1(c), including an award of reasonable attorney fees. Repeated violations may be grounds for prohibiting the attorney from practicing before the Court.

~~(e)~~**(d) Disciplinary Matters:** The bankruptcy judges of this Court may refer issues relating to professional responsibility or other disciplinary matters to the Disciplinary Panel or Committee on Conduct of the United States District Court for the District of Colorado pursuant to the Local Rules of Practice of the United States District Court for the District of Colorado, ~~Section IV—Attorney Rules~~, or any other grievance committee of any bar or court of which the attorney in question may be a member.

~~(f)~~**(e) Representation of a Corporation, Partnership, Other Unincorporated Organization, or Entity:** No corporation, partnership, other unincorporated organization, or entity may file a petition under Title 11 of the United States Code, or otherwise appear in cases or proceedings before this Court, unless it is represented by an attorney authorized to practice in this Court. Where a corporate debtor is involved, the attorney representing such an entity must sign the petition and pleadings.

~~(g)~~**(f) Entry of Appearance:** Attorneys who enter appearances in a case will be placed on the Creditor Address Mailing Matrix for the case as a party in interest and will receive only copies of notices, orders, and other documents to which parties in interest may be entitled pursuant to Fed. R. Bankr. P. 2002 or these L.B.R. Rules.

~~(h) Effective Date: This rule shall apply to all cases filed on or after July 1, 2014.~~

## Commentary

~~[Source: L.B.R. 910]~~

~~See Section IV—Attorney Rules, D.C.COLO.LAttyR 1 et seq.~~

~~L.B.R. 9010-1(a) and (c) are intended to align the standards of professional conduct and practice in the Bankruptcy Court with those of the United States District Court for the District of Colorado. Except as provided by separate order or rule of the Bankruptcy Court, the Colorado Rules of Professional Conduct are adopted as standards of professional responsibility in the Bankruptcy Court to the extent adopted by the United States District Court for the District of Colorado. Accordingly, limited engagements or representation are prohibited in the Bankruptcy Court. Further, the filing of a Notice of Advisement under this rule does not absolve attorneys of their professional responsibilities.~~

~~L.B.R. 9010-~~

L.B.R. 9010-1(c)(1), Scope of Representation: This subsection prohibits the debtor's attorney from unbundling legal services except as expressly permitted by subsection

(c)(2). The Rule intends to allow debtor's attorney flexibility in setting his or her fee arrangements. For example, an attorney may charge a flat fee for the Basic Services (defined in subsection (c)(5)) and then charge hourly thereafter or an attorney may charge hourly for all services rendered. What this Rule prohibits, however, is charging a set fee for the Basic Services and then refusing to provide additional services as they become necessary in the case unless the debtor agrees to pay in advance for additional services, while still remaining attorney of record. If the debtor fails to pay for additional services, the attorney may move to withdraw, but he or she cannot remain attorney of record and refuse to provide services. Such practices (of remaining attorney of record but refusing to represent the debtor on some matters) have prevented the debtor from being able to speak directly with opposing counsel on a matter on which debtor's attorney is not representing the debtor, such as relief from stay motions on mortgages and car loans. Nor may an attorney agree to perform only pre-confirmation services in a chapter 13 case and then refuse to provide post-confirmation services. As long as the attorney remains attorney of record, the attorney must provide all Necessary Services until he or she has obtained a Court order allowing withdrawal. Nothing in this Rule, however, is intended to require debtor's attorney to perform legal services for the debtor that are unconnected with the bankruptcy case. For example, this Rule does not require the attorney to advise the debtor in connection with a pending divorce proceeding or a real estate transaction, unless the debtor and the attorney have expressly contracted to expand the scope of the attorney's services to provide such additional services. In summary, while debtor's attorney remains attorney of record, he or she must file either a response or a Notice of Advisement in substantial conformity with L.B.F. 9010-1.1 for every motion or application filed that may impact the debtor, debtor's property, or, in a reorganization case, property of the estate. Debtor's attorney must also perform all Necessary Services.

L.B.R. 9010-1(c)(4), Necessary Services: Whether a service is necessary refers to whether the circumstances of the case give rise to the need for the services. For example, if a creditor files a motion for relief from the automatic stay, then the debtor is required to file a response if the debtor wishes to oppose the relief. In this instance, responding to the motion is a Necessary Service. On the other hand, if no such motion is filed, then the service of defending against a stay relief motion is not a Necessary Service in that particular case. In some cases, the debtor's home may be encumbered by judicial liens. If so, then debtor's attorney must advise the debtor and, if grounds exist, file a motion to avoid such liens. Not every case will require lien avoidance motions, but when such services are applicable to the particular case, then they are deemed Necessary Services. Similarly, if the debtor wishes to reaffirm a particular debt, then debtor's attorney must advise the debtor as to whether reaffirmation is in the debtor's best interest or would impose an undue hardship on the debtor and his or her

dependents. Nothing in the definition of Necessary Services, however, should be construed to require an attorney to perform services for the debtor that would cause the attorney to violate his or her ethical obligations. If the attorney has ethical constraints, then the attorney should file a Notice of Advisement in substantial conformity with L.B.F. 9010-1.1 pursuant to subsection (c)(2)(B).

### **L.B.R. 9010-3. Supervised Law Students**

~~(a) Generally:~~

With the approval of the ~~bankruptcy judge to whom a bankruptcy case or adversary proceeding has been assigned, an eligible~~Court, a law student ~~who is engaged in a law school clinical program~~ may, under the supervision of an attorney admitted to practice in this Court, appear in that matter on behalf of any party who has consented in writing.

~~(1) Unless otherwise limited, such appearance authorizes the student to appear in a matter in court or other related proceedings when accompanied by the supervising attorney and to prepare and sign court papers which are also signed by the supervising attorney.~~

~~(b) Student Eligibility: To be eligible, the student must:~~

- ~~(1) be enrolled in a law school accredited by the American Bar Association or, following graduation, be preparing to take a written bar examination or awaiting admission to the Bar following that examination;~~
- ~~(2) be enrolled in, or have successfully completed a law school clinical program;~~
- ~~(3) have completed two full semesters of law school, including a course in evidence;~~
- ~~(4) be certified by the law school dean (or the dean's designee) as qualified to provide the legal representation permitted by this rule. This certification may be withdrawn by the certifier at any time by mailing notice to the court;~~
- ~~(5) be introduced to the court by the supervising attorney;~~
- ~~(6) not receive compensation of any kind from the client. This shall not affect the ability or right of an attorney or law school clinical program to seek attorney fees which may include compensation for student services; and~~
- ~~(7) certify in writing that he/she is familiar with the FED. R. CIV. P., Federal Rules of Evidence, FED. R. BANKR. P. and this court's L.B.R. and website (-).~~

~~(c) Supervising Attorney: The attorney supervising a student must:~~

- ~~(1) be a member in good standing of the bar of this court;~~
- ~~(2) supervise students in a clinical program of an eligible law school;~~
- ~~(3) maintain appropriate professional liability insurance for the supervising attorney and eligible students;~~
- ~~(4) introduce the student to the court;~~
- ~~(5) assume professional responsibility for the student's work;~~
- ~~(6) be present whenever the student appears;~~
- ~~(7) sign all pleadings; and~~
- ~~(8) file a written agreement to supervise a student in accordance with this L.B.R.-.~~

~~(d) Admission Procedure:~~

- ~~(1) The student, dean (or designee), supervising attorney and the client must complete the Law Student Appearance form, L.B. Form 9010-3.1, as found on the court's website which must be filed with the Clerk.~~
- ~~(2) The student's appearance is not authorized until approved by the bankruptcy judge, which approval may be withheld or withdrawn for any reason without notice or hearing.~~

Commentary

[Source: Section IV – Attorney Rules, D.C.COLO.LAttyR 14.]

## **L.B.R. 9010-4. Attorneys – Withdrawal**

- (a) **Withdrawal of Appearance:** An attorney who has entered an appearance in a case or proceeding may seek to withdraw on timely motion showing good cause. Withdrawal is only effective upon Court order after proper service of the motion and notice. Motions filed on the eve of a hearing or deadline may not be deemed timely. ~~A motion to withdraw must state the reasons for withdrawal unless the statement would violate the Rules of Professional Conduct. Good cause for withdrawal may include an assertion that the actual scope of the representation required by the case or proceeding exceeds the anticipated scope originally contemplated by the attorney and his or her client.~~
- (b) ~~Notice Requirements for Withdrawal: Any attorney who has entered an appearance in a case or proceeding requesting to withdraw as counsel for a client must make a reasonable effort to give actual notice to the client and file a motion pursuant to L.B.R. 9013-1 including the following:~~
- (1) Motion Requirements. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the Colorado Rules of Professional Conduct. Good cause for withdrawal may include an assertion that the client has failed to make timely payments for post-petition services, provided that the attorney has completed the Basic Services, defined in L.B.R. 9010-1(c)(5). In addition, the Motion must include attorney's statements or advice to the client and/or the Court that:
- (A) the attorney wishes to withdraw;
  - (B) the Court retains jurisdiction;
  - (C) the ~~client's~~client's last known address and telephone number;
  - (D) the client has the burden of keeping the Court informed of the mailing address where notices, pleadings or other ~~papers~~documents may be served;
  - (E) the client has the obligation either to prepare personally for any hearing or trial in a contested matter or adversary proceeding or to hire another attorney to prepare for any future hearing or trial;
  - (F) the client is responsible for complying with all Court orders and time limitations established by any applicable statute, rule, or ~~L.B.R.~~the Rules.
  - (G) if another attorney is not hired, the client has the obligation to decide whether to respond to any motion that may be filed in the case after the withdrawal of



- ~~counsel~~the attorney, to file a timely response, and to respond to any Court orders requiring the client to respond;
- (H) if the client fails or refuses to meet these burdens, the client may suffer sanctions, including default or dismissal of the pending contested matter, adversary proceeding, or the ~~client's~~client's bankruptcy case in some circumstances;
  - (I) the dates of any pending matters and filing deadlines, including trials and hearings on contested matters or adversary proceedings, and a warning that such matters will not be delayed or affected by the withdrawal of ~~counsel~~the attorney;
  - (J) service of process may be made upon the client at the ~~client's~~client's address in the ~~court's~~Court's database;
  - (K) where the withdrawing ~~attorney's~~attorney's client is a corporation, partnership, or other legal entity, that such entity cannot appear without ~~counsel~~an attorney admitted to practice before this Court, and absent prompt appearance of the substitute ~~counsel~~attorney, pleadings, motions, and other ~~papers~~documents may be stricken, and default judgment or other sanctions may be imposed against the entity including dismissal or conversion of its case if it is a debtor; and
  - (L) the client or other parties in interest have the right to object to the proposed withdrawal of ~~counsel~~the attorney by filing with the Court an objection to the ~~attorney's~~attorney's motion to withdraw within seven ~~(7)~~ days after ~~mailing~~filing of the notice.

~~(c) Service: The motion to withdraw and notice must be filed with the court and served on the client and all counsel of record.~~

#### Commentary

~~[Source: (1) L.B.R. 910, (2) U.S. District Court Rule 83.3.D. (3) C.R.C.P. Rule 121, Section 1-1]~~

~~See L.B.R. 9010-1 and Section IV—Attorney Rules.~~

~~Withdrawal from a case or proceeding may be governed by engagement letter for unforeseen, extraordinary circumstances arising post-petition, but the Bankruptcy Court will not consider withdrawal as a means to circumvent the prohibition against limited representation in L.B.R. 9010-1.~~

(2) L.B.R. 9011-4.—Notice Requirements. Any attorney seeking to withdraw as attorney of record must make a reasonable effort to give actual notice to the client. In addition, the attorney must give notice in accordance with L.B.R. 9013-1 to the client, United States Trustee, trustee, and to all parties who have entered an appearance in the case or proceeding. The notice must include notice of an opportunity to object and provide an objection deadline of no less than seven

days from the date of filing of the motion. Both the motion and notice must be filed with the Court.

(b) **Substitution of Attorney.** Any client who seeks to have a replacement attorney enter an appearance in a case or proceeding in which there is already an attorney of record for the client must make reasonable efforts to obtain a signature of an existing attorney in substantial conformity with L.B.F. 9010-4.1. If the client is unable to obtain the signature of the existing attorney on L.B.F. 9010-4.1, then the replacement attorney must file a notice of substitution in substantial conformity with L.B.F. 9010-4.2. With either form, the form must be filed with the Court and notice given to the client, United States Trustee, trustee, and all parties who have entered an appearance in the case or proceeding. The substitution will become effective upon filing. The Clerk is authorized to terminate the involvement of the former attorney upon the filing of either form of substitution. Nothing in this Rule will relieve the replacement attorney of the obligation to comply with 11 U.S.C. §§ 327, 526, and Fed. R. Bankr. R. 2016, to the extent applicable.

### **Commentary**

L.B.R. 9010-4(b) has been added to address circumstances in which the client is unable to obtain the former attorney's signature for a substitution of attorney in circumstances such as the death or disbarment of the former attorney. Nevertheless, every attorney of record has an obligation to assist the client with substitution of attorney when the client requests substitution. If exigent circumstances require an immediate substitution of attorney, L.B.F. 9010-4.2 may be utilized, but exigent circumstances should not be construed so broadly as to cover new attorney's inattention to the Rule's requirements. Every reasonable effort should be made to obtain former attorney's signature on L.B.F. 9010-4.1.

### **L.B.R. 9011-4. Signatures and E-filing Contact Information**

~~Electronic Signature: Any petition, schedule, statement, declaration, claim, order, opinion, judgment, notice, minutes of proceeding or other document filed and authorized or subscribed under any method (digital, electronic, scanned) will be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though manually signed or subscribed.~~

#### ~~Commentary~~

~~[Source: GPO 2001-8, 4th Amended and N.B. Cal. 9011-1]~~

~~See L.B.R. 5005-4, L.B.R. 9004-1, L.B.R. 9036-1, L.B.R. 5005-4App and additional ECF Procedures on the court's webpage at [www.cob.uscourts.gov](http://www.cob.uscourts.gov).~~

- (a) Signatures. Any electronically filed document must include the electronic signature of the electronic filer.
- (b) Retention of Original Signatures. Electronic filers may file all electronic documents with electronic signatures. Documents that require the signature of the debtor must be maintained by the electronic filer with the original signature(s) in paper form for two years following the expiration of all time periods for appeals after entry of a final order terminating the case or proceeding. Documents required to be retained by attorneys with actual signatures of the debtor include all petitions, statements, schedules, lists, and amendments thereto.
- (c) Contact Information. All attorneys and unrepresented parties must ensure that all filed documents include their name, address, telephone number, email address, and bar number, if applicable, below their signature line, and must promptly notify the Court of any changes to this information by filing a notice of change of contact information.

## **L.B.R. 9013-1. Motions Practice**

- (a) Seeking Relief:
- (1) Motion, Application or Other Request for Relief:
- (A) Documents to be Served: When a statute, rule, or Court order requires service of a motion or other pleading, service must include copies of the motion, including exhibits, notice, and any proposed order.
- (B) Service of Documents: Service of the documents in (a)(1)(A) must be made on those parties against whom relief is sought pursuant to Fed. R. Bankr. P. 7004 and 9014, or as otherwise required by statute, rule, or Court order.
- (C) Proposed Orders: All motions, applications, or other requests for relief must be accompanied by a proposed order on a separate ~~sheet of paper~~ document.
- (2) Notice: When a statute, rule, or Court order requires "notice and a hearing" or other similar phrase, the following applies:
- (A) Form of Notice: The movant must use the form of notice in substantial conformity with L.B. ~~Form F.~~ 9013-1.1. The notice must contain a specific statement describing the requested relief or intended action to be taken, in sufficient detail to meaningfully inform the parties receiving the notice.
- (B) Notice of Deadline to File an Objection and Request for Hearing: The notice must state the specific date of the deadline to object and request a hearing, which must be a date on which the Court is scheduled to be open for business, and not just the number of days within which to object. ~~Unless otherwise ordered by the court, the objection deadline date must not be less than is prescribed in the Code, FED. R. BANKR. P. or these L.B.R. If no deadline is so~~

~~provided, then the notice period must not be less than fourteen (14) days from the mailing of the notice.~~

(C) Notice to All: For notice to all creditors and parties in interest ~~see~~, the movant must use, at a minimum, all of the addresses contained on the most current version of the Creditor Address Mailing Matrix.

(3) Service. In addition to providing notice of a motion, the movant must also serve the motion in ~~L.B.~~ the manner required by Fed. R. ~~1007-2(e)App.~~ Bankr. P. 7004 whenever the interests of a particular creditor or other party in interest is directly affected by the proposed relief.

(4) Certificate of Service: When a statute, rule, or order requires a party to serve a document, the party must file a certificate of service specifically identifying who was served, when they were served, and the method of service. The certificate of service should be filed with the relevant document, but not later than three days after the filing of the document. Movant must use the form of certificate of service in substantial conformity with L.B. ~~Form~~F. 9013-1.2.

(5) When Notice is Not Required. Whenever a movant requests relief that does not require a specific notice and deadline for objections:

(A) Presumptive Response Time. A party who wishes to oppose the requested relief must file a response or objection within 14 days from service of the motion.

(B) Ex Parte Relief. The Court may enter an order on an *ex parte* basis. Whenever the Court grants relief on an *ex parte* basis, any interested party may move for reconsideration within 14 days from the date of the order. The heightened standard of Fed. R. Bankr. P. 9023 will not apply when the motion seeks reconsideration of an *ex parte* ruling. Service of a motion to reconsider must comply with L.B.R. 9023-1.

(b) **Objections and Requests for Hearing:** Objections and requests for hearing must be filed with the Court and a copy thereof must be served upon ~~counsel~~attorney for the movant (or movant, if unrepresented) on or before the objection deadline set forth in the notice. Objections and requests for hearing must clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. The Court will not consider general objections ~~will not be considered~~. Failure of the responding party to timely file a written opposition may be deemed a waiver of any opposition to granting of the motion, the relief requested, or the action to be taken.

(c) **Certificates Requesting Court Action:**

(1) ~~Movant's~~Movant's Certificate of Non-contested Matter: In the event that no objection is filed or a stipulation has been reached, the movant should, not earlier than ~~three (3) court~~two days following the objection deadline set forth in the notice, file ~~movant's~~a Certificate of Non-contested Matter and Request for Entry of Order, L.B. ~~Form~~F. 9013-1.3. The Certificate of Non-contested Matter must be verified

by the movant, or ~~movant's counsel~~movant's attorney, and include all information and docket numbers required by L.B.~~Form F.~~ 9013-1.3.

(2) ~~Movant's~~Movant's Certificate of Contested Matter: In the event that an objection is filed, the movant should, not earlier than ~~three (3) court~~two days following the date to object specified in the notice, file ~~movant's a~~a Certificate of Contested Matter and Request for Hearing, L.B.~~Form F.~~ 9013-1.4. The Certificate of Contested Matter must be verified by movant or ~~movant's counsel~~movant's attorney and include all information and docket numbers required by L.B.~~Form F.~~ 9013-1.4. A copy of the Certificate of Contested Matter must be served on each respondent.

(3) ~~Respondent's~~Respondent's Certificate of Contested Matter: Although the movant bears the burden of timely filing a Certificate of Contested Matter, the respondent may, not earlier than seven ~~(7)~~ days following the date to object specified in the notice, file ~~respondent's a~~a Certificate of Contested Matter and Request for Hearing, L.B.~~Form F.~~ 9013-1.4. The Certificate of Contested Matter must include all information and docket numbers required by L.B.~~Form F.~~ 9013-1.4. A copy of the Certificate of Contested Matter must be served on the movant and any other respondent.

(d) **Hearing:**

(1) Hearing: Upon the filing of the Certificate of Contested Matter, the Court ~~will~~may issue a notice of the date, time, and place of the hearing. The Clerk will serve the notice ~~will be served by the court to~~on the movant, respondent, and ~~respondents at their addresses or their attorneys' addresses of record (either by U.S. mail or electronically) and to such~~ other parties as the Court may ~~designate~~direct.

(2) Evidentiary or Non-Evidentiary Hearing: The notice of hearing will advise the parties whether the hearing will be an evidentiary or non-evidentiary hearing.

(3) Expedited Hearing: A motion for expedited hearing may be filed pursuant to Fed. R. Bankr. P. 9006(c) and L.B.R. 2081-1. Such request must be filed as a separate motion.

(e) **Defective or Deficient Motion:** Failure to comply with the motion, notice and service requirements of the Fed. R. Bankr. P. or these L.B.R. Rules may result in the denial of your motion, application, or other request for relief.

(f) **Non-Prosecuted Motions:** Any contested matter unresolved at the time the bankruptcy case is closed is moot and will be deemed denied for lack of prosecution. ~~Any such denial is without prejudice.~~

(g) Application in Contested Matters. Discovery disputes in contested matters, including disputes regarding Rule 2004 motions, are subject to the requirements of L.B.R. 7026-1(d).

**Commentary**

~~[Source: L.B.R. 202 and new]~~

~~This process is strictly a mechanism for providing an opportunity to be heard without requiring the court to unnecessarily calendar all motions and applications for a hearing. Parties must read this L.B.R. in conjunction with other applicable Code sections and FED. R. BANKR. P. to address the questions of (1) whom to serve; (2) with what; (3) in what manner; and (4) the amount of time afforded to file an objection. Parties are advised to be mindful of the distinction between notice (as may be required by FED. R. BANKR. P. 2002 and other notice provisions) and service (as may be required by FED. R. BANKR. P. 9014 incorporating FED. R. BANKR. P. 7004).~~

~~See also L.B.R. 1007-2 and 2002-1 for more information on the Creditor Address Mailing Matrix.~~

~~Unless otherwise provided by these L.B.R. or order of the court, this rule does not apply:~~

~~(1) to any pleadings, motions, or notices in adversary proceedings under Part VII of the FED. R. BANKR. P.;~~

~~(2) to hearings set under 11 U.S.C. § 1125;~~

~~(3) to hearings on confirmation of a plan pursuant to chapter 9, 11, 12, or 13 when no objections have been filed; and~~

~~(4) as otherwise provided by these L.B.R. or the FED. R. BANKR. P.~~

~~The summary of issues in the Certificate of Contested Matter is intended to identify the nature of the pending dispute(s) and aid the court in setting the hearing time.~~

~~Movant should refer to L.B.R. 7007-1 for motions filed in an adversary proceeding.~~

## **~~L.B.R. 9013-2. Certificate of Service – Motions~~**

~~When a statute, rule or order requires a party to serve a pleading, the party must file a certificate of service specifically identifying who was served, when they were served and the method of service. The certificate of service should be filed with the pleading, but not later than three (3) court days of the filing of the pleading and must be in substantial conformity with L.B. Form 9013-1.2.~~

~~Commentary~~

~~[Source: New]~~

~~See L.B.R. 9001-1 for definition of certificate of service.~~

~~See also L.B.R. 2081-2 for information on service and motions to limit notice in chapter 11 cases.~~

## **~~L.B.R. 9014-1. Contested Matters~~**

~~Unless otherwise provided for in the FED. R. BANKR. P., these L.B.R., or court order, the notice required under FED. R. BANKR. P. 9014 must be served with the motion pursuant to L.B.R. 9013-1 and in substantial conformity with L.B. Form 9013-1.1.~~

## Commentary

[Source: ~~L.B.R. 914 and New L.B.R. 9014-1 added on 5/29/08~~]

2017 Addition of 9013-1(a)(3): There is a difference between giving “notice” of a motion and “serving” a party with a motion. Generally speaking, all creditors should receive a general notice so that they have an opportunity to provide input on the proposed action, but parties whose individual rights may be directly impacted by the motion must be “served” with a copy of the motion and notice. For example, if the trustee wants to sell the debtor’s business “free and clear of any liens” (meaning the purchaser will acquire the property free of any pre-existing liens against the property), then the entire creditor body should be given notice of this proposed action, but in addition those creditors who hold liens of record against the property must be “served” with the motion. Giving notice may be as simple as sending the notice in the mail addressed to the post office box of the creditor. “Serving” a creditor whose lien rights may be impacted by the motion may require sending the notice, the motion, and all of its attachments to the creditor’s registered agent or a named officer of the company. Fed. R. Bankr. P. 7004 governs the manner in which a party must be served. This Rule refers to service of a complaint but it also applies to motions impacting individual party rights. The manner of service required under this Rule differs depending on the identity of the party. Governmental agencies must be served differently than a private company. An “insured depository institution,” which includes many banks, requires a completely different form of service. The purpose behind these technical rules governing service is to ensure that the motion and notice will be placed into the hands of decision makers more quickly than merely mailing it to a post office box.

## L.B.R. 9019-2. Alternative Dispute Resolution

- ~~(a) Assignment of Matters to Mediation:~~ The Court may refer a matter to mediation *sua sponte*, upon written stipulation ~~by the parties to the matter, upon motion by a party to the matter,~~ or upon motion by a party or the United States Trustee. ~~Participation by the parties in mediation is ordinarily voluntary, however, the court in its discretion may order any party or party in interest to participate.~~
- ~~(b)(a) Matters Subject to Mediation:~~ Unless otherwise ordered by the Court, ~~all controversies arising in cases under title 11, U.S.C., adversary proceedings, contested matters and any other disputes in bankruptcy cases are eligible for referral to mediation~~participation in mediation is voluntary.
- ~~(c)(b) Deadlines:~~ Unless otherwise ordered by the Court, the referral of a matter to mediation does not operate to stay, postpone, or extend any deadlines ~~for taking any action required or allowed by law, court order or applicable rule.~~

~~(d) Mediation/Administration: Upon entry of a court order referring a matter to mediation, the parties must abide by all guidelines and requirements of the Faculty of Federal Advocates' Bankruptcy Mediation Program (the "Program"), if applicable. No later than fourteen (14) days after entry of the order referring the matter to mediation, the parties designated in the order must contact the Program Administrator to commence the mediation. Unless a party qualifies for pro bono mediation services under the Program, or unless the court orders otherwise, all mediator's fees and incidental costs of the mediation are to be paid by the parties pro rata (exclusive of the parties' respective attorneys' fees and costs), except as otherwise agreed by the parties or ordered by the court.~~

~~(e) Confidentiality; Nondisclosure:~~

~~(1) Protection of Information: Unless otherwise agreed by the parties or ordered by the court, all parties to the mediation and the mediator are prohibited from disclosing or producing in any manner, outside the context of the mediation, any oral or written information related to the mediation. Federal Rule of Evidence 408 governing compromises and offers to compromise, and any other applicable law relating to the privileged and confidential nature of settlement discussions, apply to the mediation. Notwithstanding the confidentiality of the mediation, information otherwise discoverable or admissible as evidence does not become exempt from discovery or inadmissible merely because it may be disclosed in and related to the mediation.~~

~~(2) Discovery from Mediator: The mediator shall not be compelled by the court, the parties or any person or entity to disclose or produce any written or oral information received or compiled while serving as a mediator in a matter. The mediator shall not testify or be compelled to testify concerning the mediation in any proceeding of any nature. Any party or entity demanding or seeking to compel the mediator to disclose or testify to matters subject to this L.B.R. are liable to the mediator for the mediator's reasonable costs and attorneys' fees in resisting such demands.~~

~~(f)~~**(c) Report of Mediation:** As soon as practicable after the conclusion of the mediation, the mediator must file with the Court a Report of Mediation, advising only:

- (1) the date(s) that the parties conducted the mediation;
- (2) the parties in attendance at the mediation; and
- (3) whether the parties resolved the matter.

~~No other information must be disclosed in the Report of Mediation.~~

~~(g) Termination of Mediation: The mediation will terminate upon the earlier of:~~

- ~~(1) the filing of the mediator's Report of Mediation; or~~
- ~~(2) entry of a court order withdrawing the referral of the matter to mediation.~~

~~(h) Noncompliance; Sanctions: A party's failure to comply with the provisions of this L.B.R. may result in the imposition of appropriate sanctions by the court against such party, or counsel for such party, or both.~~

Commentary

[Source: L.B.R. 919 and Faculty of Federal Advocates]

Litigation in bankruptcy cases frequently imposes economic burdens on parties and may delay the resolution of disputes. Alternative dispute resolution, including mediation, often reduces the



~~costs and associated burdens of litigating disputed issues in bankruptcy cases and facilitates settlements. The purpose of this L.B.R. is to allow parties a means of submitting disputed issues in bankruptcy cases, including contested matters and adversary proceedings, to mediation. Mediation as contemplated by this L.B.R. is not administered by the court, but the parties and mediators remain subject to court supervision and all applicable rules and court orders in the case. Mediation is just one form of alternative dispute resolution and the decision to engage in, or refrain from mediation does not preclude any other form of alternative dispute resolution to which the parties in a case may agree.~~

### ~~**L.B.R. 9023-1. Service of Motion to Alter or Amend Judgment**~~

~~Service of a motion to alter or amend a judgment filed pursuant to FED. R. BANKR. P. 9023 must be on all parties to whom the judgment and final order was mailed pursuant to FED. R. BANKR. P. 9022(a). Responses are due within fourteen (14) days of service of the motion.~~

~~Commentary~~

~~[Source: L.B.R. 923]~~

### ~~**L.B.R. 9024-1. Service of Motion for Relief from Judgment or Order**~~

~~Service of a motion for relief from judgment or order filed pursuant to FED. R. BANKR. P. 9024 must be on all parties to whom the judgment and final order was mailed pursuant to FED. R. BANKR. P. 9022(a). Responses are due within fourteen (14) days of service of the motion.~~

~~Commentary~~

~~[Source: New]~~

### **L.B.R. 9025-1. Bonds**

- (a) **Limitations.** A party, the spouse of a party, or an attorney in a case will not be accepted as a personal surety on any bond filed in that case.
- (b) **Where Power of Attorney.** If the surety on a bond is ~~a surety company~~ **an** approved **surety** by the United States Department of Treasury, a power of attorney showing the authority of the agent signing the bond must be ~~on file~~ **filed** with the ~~Clerk~~ **Court**.

~~Commentary~~

~~[Source: L.B.R. 925]~~

~~See the website for the United States Department of Treasury at [www.ustreas.gov](http://www.ustreas.gov) for a list of approved companies.~~

### ~~**L.B.R. 9027-1. Service of Notice of Removal**~~

- (a) ~~A notice of removal must be filed with the bankruptcy court.~~

~~(b) A notice of removal served pursuant to FED. R. BANKR. P. 9027(b) must be served on all parties to the removed action and a certificate of service with all of the names and addresses of the parties to the removed action must be attached to the notice of removal filed with the court.~~

#### ~~Commentary~~

~~D.C.COLO.LCivR 84.1 provides for the automatic referral of all proceedings arising under Title 11, United States Code or arising in or related to cases under Title 11.~~

### ~~L.B.R. 9029-1. Local Bankruptcy Rules and Procedures~~

~~Modification of Rules and Procedures: Any of these L.B.R., Standing Orders or General Procedure Orders may, for good and compelling cause shown, be subject to such modification as may be necessary to meet a bona fide emergency, to avoid irreparable injury or harm, or as may otherwise be necessary to do substantial justice and promote appropriate case administration.~~

#### ~~Commentary~~

~~[Source: L.B.R. 929]~~

### **L.B.R. 9036-1. Notice by Electronic Transmission**

- ~~(a) Registration Constitutes Waiver of Service/Notice by Traditional Methods From the Court: The request for and receipt of an electronic filing password from the court constitutes a request for electronic service pursuant to FED. R. BANKR. P. 9036 of all notices, orders, decrees and judgments issued by the court, and except as otherwise provided in the ECF Administrative Procedures, a waiver of the right to receive notice and service from the court by mail. Electronic filers will receive electronic notification of notices, orders, decrees and judgments in cases where they enter their appearance. Registration does not constitute waiver of the right to personal service or service by first class mail from other parties in the case. Registration does not constitute consent to electronic service/notice from other parties in the case.~~
- ~~(b) Case Specific Consent to Electronic Service/Notice From Other Parties: An electronic filer may file a specific waiver of the right to personal service or first class mail and consent to electronic service/notice from other parties in each case pursuant to FED. R. BANK. P. 9036. Whenever service is required to be made on a person who has filed a case specific waiver/consent, service and notice must be accomplished by electronic mail to the e-mail address on file with the court. Any notice sent via e-mail from a party other than the court must contain "Notice of Pleadings" in the subject or "re" line. The certificate of service must contain the email addresses and name(s) of the person(s) to whom electronic service was affected.~~

#### **Commentary**

~~[Source: GPO 2001-8, attachment II.C.]~~

~~See L.B.R. 5005-4, L.B.R. 9011-4, L.B.R. 5005-4App and additional ECF Procedures on the court's webpage at [www.cob.uscourts.gov](http://www.cob.uscourts.gov).~~

~~Those parties who are registered electronic filers are not entitled to and will not receive hard copies from the court.~~

~~The electronic case filing system automatically generates a "Notice of Electronic Filing" at the time a document is filed with the system. The notice indicates the time of filing, the name of the party and electronic filer filing the document, the type of document, and the text of the docket entry. It also contains an electronic link (hyperlink) to the filed document, allowing anyone receiving the notice by e-mail to retrieve the document automatically. The system automatically sends this notice to all electronic filers participating in the case.~~

~~See FED. R. CIV. P. 5(b)(2)(E) and Fed.R.Bankr.P. 7005 for electronic service in adversary proceedings.~~

**(a) Electronic Service.**

(1) Attorney registration in CM/ECF constitutes consent to electronic service of all documents.

(2) Unrepresented parties may consent to electronic service of all documents in either a bankruptcy case or an adversary proceeding by filing a completed form in substantial conformity with L.B.F. 9036-1.1 or L.B.F. 9036-1.2, as applicable.

(3) When a document is filed in CM/ECF, it is served electronically. The time to respond or reply will be calculated from the date of electronic service, regardless of whether other means of service are used. The Notice of Electronic Filing ("NEF") generated by CM/ECF reflects the parties served.

**(b) NEF Does Not Constitute Service.** Electronic transmission of a NEF does not constitute service or notice of the following documents that must be served non-electronically:

(1) service of a sealed document;

(2) service of a complaint and summons in an adversary proceeding under Fed. R. Bankr. P. 7004;

(3) service of a subpoena issued under Fed. R. Bankr. P. 9016;

(4) notice of the meeting of creditors required under Fed. R. Bankr. P. 2002(a)(1);  
and

(5) where other means of service are otherwise required under any applicable statute, rule, or Court order.

**(c) Service on non-CM/ECF Users.** A person or entity that is entitled to service of a document, but is not an electronic filer or one who has consented to electronic service, must be served as otherwise provided by the Fed. R. Civ. P., Fed. R. Bankr. P. and these Rules.

(d) **Case Specific Service.** Until an attorney enters an appearance in a specific case, service on the attorney does not constitute service on any party.

### **L.B.R. 9037-1. Redaction for Privacy**

It is the responsibility of any party filing documents, including proofs of claim, with the Court, not the Clerk, to redact social security numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children. This includes copies of employee payment advices, tax returns, or other financial documents that may be filed or attached as an exhibit to documents filed with the Court. In the event a petition or other document is tendered for filing that bears the entire social security number of the debtor or other personal identifiers, the Clerk will file said petition or document as tendered without taking any action to redact the first five digits of the social security number or personal identifiers.

### **L.B.R. 9070-1. Witnesses and Exhibits**

(a) **Witnesses and Exhibits:** Unless otherwise ~~set forth in a notice of hearing or trial or otherwise~~ ordered by the Court or as set forth in the Fed. R. Bankr. P. and these Rules, the following requirements regarding witnesses and exhibits apply in all adversary proceeding trials and evidentiary hearings ~~and adversary proceedings for contested matters~~. Any list of witnesses and exhibits must be in substantial conformity with L.B.F. 9070-1.1.

~~(1) Filing Requirement:~~

(b) ~~List~~ **Default Deadline to File Lists of Witnesses and Exhibits:** Parties intending to introduce evidence at any contested hearing must file a list of witnesses and exhibits no later than ~~three (3) court~~ five days prior to the hearing. ~~Any list of witnesses and exhibits must be in substantial conformity with L.B. Form 9070-1.1.~~

(c) **Marking of Exhibits:** Each exhibit must be individually marked for identification prior to the hearing. Plaintiff/movant/claimant must mark exhibits numerically, and defendant/respondent/objector must mark exhibits alphabetically. Multipage exhibits must be individually paginated/numerated for ease of reference.

~~(c)~~(d) **Exchanging Exhibits.** Copies of ~~the~~ marked exhibits must be exchanged with opposing ~~counsel~~ attorney or party, but not filed with the Court, no later than ~~three (3) court~~ five days prior to the hearing. Parties may exchange marked exhibits in any manner appropriate under the circumstances of the case, including exchanging copies of marked exhibits in paper or by electronic means.

~~(d)~~(e) **Hearing Requirements:**

~~(A) List of Witnesses and Exhibits: Parties must provide three (3) copies of the witness and exhibit lists to the Law Clerk or Courtroom Deputy and one (1) copy to each opposing counsel or party.~~

~~(2)(1) Paper Exhibits and Exhibit Notebooks: If paper exhibits are to be used, parties must provide ~~the~~an original plus two (2) copies of the exhibits intended to be offered at the hearing to the Law Clerk or Courtroom Deputy and one (1) copy to each opposing ~~counsel~~attorney or party before the hearing begins. Parties granted permission to appear by telephone must file such documents. Original exhibits are to be used by the witnesses. ~~Each exhibit must be individually marked for identification prior to the trial or hearing. Multi-page exhibits must be individually paginated/numerated for ease of reference.~~ Exhibits should be placed in a binder and indexed substantially in the form of L.B. ~~Form~~F, 9070-1.1.~~

~~(A) Marking of Exhibits: Exhibits must be marked for identification as follows:~~

~~(i) Plaintiff, Movant or Claimant: numbers (1, 2, 3...)~~

~~(ii) Defendant, Respondent or Objector: letters (A, B, C...Y, Z, AA, BB, ... YY, ZZ, AAA, etc.)~~

~~(iii) In the event there are multiple plaintiffs, movants, defendants, or objectors, designate exhibits by party name as well as by numbers or letters.~~

(2) Electronic Exhibits. All courtrooms are equipped for electronic evidence presentation, and any party may elect to utilize the available presentation systems for presenting evidence. Parties intending to use technology in the courtroom must comply with current courtroom technology procedures. If electronic exhibits are to be used, parties must provide two USB drives with electronic copies of all marked exhibits intended to be offered at the hearing to the Court before the scheduled court proceeding begins. Parties granted permission to appear by telephone must file such documents.

(3) Post-Hearing Requirements: Upon the conclusion of ~~a~~the trial or hearing, ~~counsel for~~ the attorneys or parties must retain custody of their respective original exhibits and deposition transcripts until ~~such time as~~ all need for the exhibits and deposition transcripts has terminated and the time for appeal has expired, or all appellate proceedings have been terminated, plus 60 days. In the event an appeal is filed, ~~counsel~~the attorneys or parties must provide their exhibits to the appellate court pursuant to the appellate ~~court's~~court's direction.

## Commentary

~~[Source: New; GPO 2012-2]~~

See also L.B.R. 2081-3 and 4001-1 providing different procedures for the exchange of witness and exhibit lists in certain circumstances.