United States Bankruptcy Court for the District of Colorado
Local Bankruptcy Rules, effective December 1, ~~2017~~ 2018

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

(a) **Purpose**. These Local Bankruptcy Rules ("Rules") and forms supplement the Federal Rules of Bankruptcy Procedure ("Fed. R. Bankr. P.") and the Official Bankruptcy Forms ("Official Forms").

(b) **General Applicability**. Unless otherwise ordered by the Court, these Rules apply in all cases and proceedings in the United States Bankruptcy Court for the District of Colorado.

(c) **Applicability of Rules to Unrepresented Parties**. Individuals who are not represented by an attorney are bound by these Rules and any reference to "attorney" applies to individuals who are not represented by an attorney unless otherwise noted.

(d) **Citation to the Rules**. These Rules are to be cited as the Local Bankruptcy Rules ("L.B.R.") and these forms as the Local Bankruptcy Forms ("L.B.F.").

(e) **Reference to Debtor**. Any reference to "debtor" includes both "debtors" in a joint case.

(f) **Effective Date**. The effective date of these Rules is December 1, 2017. These Rules supersede all previous local rules and orders adopting or amending local rules. Further, these Rules will govern in all bankruptcy cases or adversary proceedings commenced on or after December 1, 2017, and all pending cases and proceedings insofar as just and practicable.

(g) **Compliance**. Failure to comply with these Rules may result in an adverse ruling or the imposition of appropriate sanctions.

L.B.R. 1006-1. Installment Payments and Filing Fee Waivers

(a) **Request to Pay Filing Fee in Installments**. An individual debtor seeking to pay the petition filing fee in installments must file an application using Official Form 103A, Application for Individuals to Pay the Filing Fee in Installments.

(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) copies of all pay advices, other evidence of income in the 60 days prior to filing for bankruptcy, or L.B.F. 1007-6.1; and

(2) completed Schedules I and J, even if all other statements and schedules are not filed at the time the request is made.

(3) Any order granting a request for fee waiver is conditional and subject to further investigation by the United States Trustee, trustee, or other parties.

(c) **Request to Waive Appeal Fee**. The requirements of L.B.R. 1006-1(b) apply to any individual debtor seeking a waiver of the filing fee in an appeal.

L.B.R. 1007-1. List of Creditors and Equity Security Holders

The list containing the name and address of each entity and individual included or to be included on Schedules D, E/F, G, and H required by Fed. R. Bankr. P. 1007(a) must be provided in the format as directed by Clerk's Office Procedures maintained on the Court's website.

L.B.R. 1007-5. Amending a Statement of Social Security Number

(a) **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 and labeling it "Amended." The amended statement must include the originally submitted and correct social security numbers and must be filed within seven days of the debtor discovering or being informed of the error.

(b) **Service**. A debtor must file a certificate of service with the amended statement of social security number showing service of the amended statement of social security number on the United States Trustee, trustee, all creditors, and credit reporting agencies Experian, TransUnion LLC, and Equifax.

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

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 concerning payment advices in substantial conformity with L.B.F. 1007-6.1.

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

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

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

(a) **Amendment.** 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.

(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 serve the following to the new creditors or parties:

(1) the amended schedule;

(2) the Notice of Amendment to Schedule, L.B.F. 1009-1.1;

(3) the Notice of Meeting of Creditors; 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.

(d) **Certificate of Service.** The debtor must file a certificate of service showing compliance with this Rule with the amendment. The certificate of service must be attached to the Notice of Amendment.

(e) **Creditor Requests to Modify Creditor Address Mailing Matrix.** If a creditor wishes to modify the address listed in the schedules or on the Creditor Address Mailing Matrix, the creditor may file or modify a proof of claim or file a notice of change of address and serve a copy to the debtor and debtor's attorney.

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

(a) **Motion and Order**. Parties seeking joint administration under Fed. R. Bankr. P. 1015(b) must file a motion and submit a proposed order in substantial conformity with L.B.F. 1015-1.1.

(b) **Notice**. When the Court enters an order granting joint administration, 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 herein apply. The Court may, in its discretion, order that the debtor maintain a comprehensive service list of creditors for all jointly administered estates.

(1) Unless otherwise ordered, jointly administered cases will be reassigned to the judge to whom the lowest-numbered (first) case was assigned. The 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 must bear a combined caption which includes the

full name and number of each specific case as in Official Form 416A, Caption and must be filed, docketed and processed in the lead case, except for the following:

(A) a motion which applies to fewer than all jointly administered debtors must clearly indicate in the caption and title to which debtor 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) **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.

(d) **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, or the respective debtor estates. This includes failure of a debtor's attorney to allocate fees and costs properly to the applicable debtor. Fee applications filed in jointly administered cases must designate the entity to which fees and costs are attributable.

(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) **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.

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 provide notice as required by Fed. R. Bankr. P. 2002 and L.B.R. 9013-1.
(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.
(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).

L.B.R. 2003-1. Continuance of Meeting of Creditors and Equity Security Holders

(a) **Debtor's Request for Continuance of 11 U.S.C. § 341 Meeting of Creditors Prior to Scheduled Meeting**. A debtor's request to continue the meeting of creditors must be in writing and served on the appointed trustee in debtor's case. The trustee must receive the request no later than seven days prior to the scheduled meeting. It is the trustee, and not the Court, who must approve the request. Therefore, the debtor should not file the request with the Court. If 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, all creditors, and parties in interest, and file a certificate of service with the Court evidencing it.
(b) **Continuance of 11 U.S.C. § 341 Meeting of Creditors at the Scheduled Meeting**. In the event a meeting of creditors is continued at the scheduled meeting, the chapter 7 trustee or chapter 13 trustee, as applicable, must file a notice of such continued meeting with the Court indicating the date and time of the continued meeting within seven days.
(c) **Extension of 11 U.S.C. §§ 523 and 727 Deadlines**. A continuance of the meeting of creditors does not automatically extend the deadline to object to 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 as required by Fed. R. Bankr. P. 9006.

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 14 days after service, by the movant, of the examination order on the party to whom it is directed.

L.B.R. 2012-1. Notice of Substitution of 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.

L.B.R. 2014-1. Employment of Professional Persons

(a) **Applications Requiring Notice**. Notice of an application to employ a professional person under 11 U.S.C. § 327 must be given if any of the following circumstances or conditions are present:

(1) The professional files an application for retention that identifies a potential conflict may exist. In such cases, the application and notice must state sufficient facts for parties in interest to determine whether a conflict of interest exists, including whether the professional represented the debtor prepetition;

(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;

(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 property;

(7) The debtor owes the professional payment for services rendered pre-petition, in which case the notice must state the amount of fees owed and whether the professional has received any preferential payments under 11 U.S.C. § 547(b); or

(8) The Court orders notice for 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 date of the application will not be granted absent a 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 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 request for professional compensation to be paid by the estate pursuant to 11 U.S.C. §§ 330 or 331 must include:

(1) A completed cover sheet in substantial conformity with L.B.F. 2016-1.1;

(2) A fee application that contains the following information:

(A) Introduction. The introductory statement must set forth a brief history of the case, pending matters, and 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 in categories of major/significant services. Within each category, the narrative must describe:

(i) the nature of the services;

(ii) the results obtained, if any;

(iii) the benefits to the estate;

(iv) a general description of 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 Records.

(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) No Lumping. Daily entries by each professional must contain separate time allocations for each separate task.

(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.

(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

(4) **Jointly Administered Cases**. In jointly administered cases, the applicant must file its fee application only in the lead case. Regardless of whether the applicant 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 more than one estate, then the fee application must include a proposed allocation of the fees to be billed to each separate estate.

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

(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 Advance Payment procedures;
   (B) Verification by the debtor that the 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) Projection of monthly fees and expenses by the professional(s) seeking interim advance payment procedures;
   (D) Any additional information necessary and appropriate to support the allowance of interim advance payment procedures; and
   (E) 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 Attorney

(a) **Presumptively Reasonable Fee Application**.

(1) Eligibility. To be eligible to use the Presumptively Reasonable Fee Application (the "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 titled, "In the Matter of Chapter 13 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. 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.

(3) Form of Application. Applications for allowance of fees and reimbursement of expenses pursuant to the PRFA procedure must be made using the checkbox on the chapter 13 plan, L.B.F. 3015-1.1. Applicant need not supplement L.B.F. 3015-1.1, except upon formal objection, written request of the debtor, or order by the Court.

(4) 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.

(6) Order. The chapter 13 confirmation order will serve as the order approving the payment of the PRF, or lesser amount requested.

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

(1) Eligibility. If the applicant requests allowance of a fee in excess of the PRF amount, the attorney may not use the 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.F. 2016-3.1, and must be supplemented by the attachments outlined in L.B.F. 2016-3.1.

(3) Service, Notice, and Objections. Debtor's attorney must serve a copy of the LFFA, L.B.F. 2016-3.1, along with a notice in substantial conformity with L.B.F. 2016-3.2, on the chapter 13 trustee, the debtor, and 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 21 days from 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 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.F. 2016-3.3, 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.F. 2016-3.4, and must be supplemented by the attachments outlined in L.B.F. 2016-3.4.

(3) Service, Notice, and Objections. Debtor's attorney must serve a copy of the SUPFFA, L.B.F. 2016-3.4, along with a notice in substantial conformity with L.B.F. 2016-3.2, 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 21 days from service of the notice 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 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.F. 2016-3.5, 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**. 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 Non-contested Matter in substantial conformity with L.B.F. 9013-1.3, or may order further supplementation or set the application for hearing. 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.F. 9013-1.4. Upon the filing of the Certificate of Contested Matter, the Court may set the matter for hearing.

Commentary

The 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 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 the attorney is permitted to withdraw in accordance with L.B.R. 9010-4.

The PRFA procedure is for requesting fees and is not intended to limit the scope of chapter 13 engagements. When requesting fees using the 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 PRFA process does not limit the ability of 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 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, 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 Procedural Form 2800.

(b) **Presumptively Reasonable Fee**. The presumptively reasonable fee chargeable by a bankruptcy petition preparer in any case is $125.

(1) 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. 2081-1. Chapter 11 – Initial Motions

(a) **Initial Motions**. During the first 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 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 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.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.F. 2081-1.2 and a copy of a response form in substantial conformity with L.B.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 emailed to the United States Trustee, either before or within four 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, overnight mail, facsimile or email initiated on the day the Motion is filed, to:

(A) any appointed chapter 11 trustee or examiner;

(B) any creditors' or equity security holders' committee pursuant to L.B.R. 2081-2;

(C) if there is no committee, the 20 largest unsecured creditors;

(D) any indenture trustee;

(E) the IRS and other relevant government entities;

(F) all parties who have requested notice;

(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 attorney with a hearing date to be held that is, if possible, not more than three days after the date of the filing of the Motion. For purposes of this hearing only, if the judge's calendar cannot be arranged to accommodate a hearing within three days, the judge's staff will notify the Clerk, 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.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.F. 2081-1.3. The movant must notify each of the above of the date, time, and place of the hearing by email or facsimile, as requested in such party's response, within the later of: (i) four hours after movant receives responder's request for notice, or (ii) four 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 Rule prior to the commencement of any hearing pursuant to this 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 Rule, the parties will proceed in accordance with the 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 discretion on the basis of affidavits, arguments, or representations of the parties or attorneys, as appropriate.

(d) **Orders**. At the conclusion of any hearing held pursuant to this 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 Rule respecting cash collateral or post-petition financing.

(e) **Other Expedited Relief**. The availability of expedited consideration of motions under this Rule will not preclude *ex parte* relief or other emergency relief where appropriate upon specific request.

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

(a) **Notice to 20 Largest Unsecured Creditors**. If notice to the 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' or equity security holders' committee is required, notice must be made on the committee's attorney. If the committee has no 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, Fed. R. Bankr. P., or these 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 Requirements**. Unless otherwise ordered, a limited notice list must include the following:

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

Commentary

This Rule does not eliminate the need for notice pursuant to 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. *See* L.B.R. 1015-1 regarding comprehensive service lists and motions in jointly administered cases.

Motions applying to fewer than all of the jointly administered cases 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 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. The Court provides hearing date information on its website. 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 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 calendar that is not more than 30 days from the date the dismissal motion is filed with the Court. In the event the movant sets a hearing date beyond 30 days, the movant is deemed to have waived its right under 11 U.S.C. § 1112(b)(3) to a hearing within 30 days and a decision within 15 days of the commencement of the hearing.

(3) Notice of Hearing. Subject to the time limitations set forth in L.B.R. 2081-3(b)(1) and (2), 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 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 on the debtor, the debtor's attorney, the United States Trustee, trustee, and parties requesting notice. The movant must also serve the notice 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. The Court will only 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' 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 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. Civ. P. 26(a)(2) as incorporated by Fed. R. Bankr. P. 7026.

(d) **Telephonic Hearings**. Parties, through 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. Parties must request telephonic appearance by filing a motion. If the Court permits a telephonic appearance, 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 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

The L.B.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 L.B.R. 2081-3(b)(3)(C).

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.F. 2082-1.1. This debtor must verify the motion and serve it on the chapter 12 trustee, 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 in substantial conformity with L.B.F. 2082-1.2. The Clerk, or 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.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 21 days prior to the hearing.

(C) Certificate of Service. The debtor must file a copy of the notice with the Court within three days after service thereof, and must file with it a certificate of service showing compliance with this 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 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.

(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 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 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 claim.

L.B.R. 2083-1. Chapter 13 – General

(a) **Pre-confirmation Payments Pursuant to 11 U.S.C. § 1326(a)(1)**. Unless otherwise ordered by the Court, all 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 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 fee.

(b) **Calculation of Adequate Protection**. For the purpose of this Rule, calculation of adequate protection is calculated as 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 Rights**. Payment of pre-confirmation adequate protection is without prejudice to the secured 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) **Pre-confirmation Disbursements**. 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. 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) pre-confirmation disbursements from an allowed claim and to retain the amount necessary to pay the trustee's statutory fee based upon the pre-confirmation payments distributed by the trustee.

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

Subject to 11 U.S.C. § 726(a)(1), 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 a bar date for filing motions for allowance of chapter 11 administrative expense claims must file a motion with proposed order and notice in substantial conformity with L.B.F. 3003-1.1 through 3003-1.4, respectively.

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 in substantial conformity with L.B.F. 3004-1.1, referencing the proof of claim.

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

An entity filing a proof of claim on behalf of a creditor pursuant to 11 U.S.C. § 501(b) and Fed. R. Bankr. P. 3005 must contemporaneously file and serve a notice in substantial conformity with L.B.F. 3004-1.1 referencing the proof of claim.

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 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 attorney. The chapter 13 trustee must file a certificate of compliance with this Rule.

(2) It is the chapter 13 trustee's and debtor's attorney's duty to examine all proofs of claim and, if appropriate, to file objections in the manner specified in L.B.R. 3007-1(a).

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

(a) **Real Property**.

(1) How Raised. A 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 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 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 will be used in the Court's determination of the amounts to be distributed under the plan. Objections to the 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 Non-contested Matter in substantial conformity with L.B.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.F. 3012-1.1.

(9) Order Extinguishing Lien. Upon successful completion of the debtor's plan, the debtor may request an order that the lien is extinguished. *See* L.B.F. 3015-1.6,

Chapter 13 Debtor's Certification to Obtain Discharge, and L.B.F. 3022-1.2, Chapter 11 Individual Debtor's Final Report and Motion for Final Decree.

(b) **Personal Property**.

(1) How Raised. A 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

Although the "lien-avoiding effect of the confirmed plan" is established at confirmation, actual lien avoidance is contingent upon the 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 the Chapter 13 Plan

(a) **Definitions**. For purposes of this Rule, the following 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.

(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.

(3) "Meeting Date" means the date originally scheduled for the meeting of creditors pursuant to 11 U.S.C. § 341.

(4) "Notice" means a completed Notice of Filing of Chapter 13 Plan, Deadline for Filing Objections Thereto, and Hearing on Confirmation, substantially in the form of L.B.F. 3015-1.2.

(5) "Verification" means a completed Verification of Confirmable Plan substantially in the form of L.B.F. 3015-1.3.

(b) **Filing and Notice of the Chapter 13 Plan**.

(1) The debtor must file a chapter 13 plan in substantial conformity with L.B.F. 3015-1.1.

(2) The debtor's failure to file the plan within 14 days from the petition date or date of conversion to chapter 13 may result in the dismissal of the case pursuant to 11 U.S.C. § 1307(c)(3) and Fed. R. Bankr. P. 3015(b).

(3) The debtor must give notice of the plan and transmit it to the chapter 13 trustee, United States Trustee, and all parties listed on the Creditor Address Mailing Matrix. 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 debtor does not file the plan on the petition date, 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 days following the debtor's notice or notice and service of the plan or any amended plan, the debtor must file a completed certificate of service.

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

(1) Objections to the plan must be filed no later than seven days after the Meeting Date.

(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 and may strike any noncompliant objections.

(4) Any attempt to file a late objection must be accompanied by 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.

(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, with a breakdown showing the components of its claim, such as principal, interest, fees, and costs. This requirement will not apply if the objecting creditor has filed its proof of claim prior to filing its objection.

(6) 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 the objection is raised and the basis for the objection.

(7) 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 and provide the amount and basis of the alternative value proposed.

(8) Unless otherwise ordered, objections to a prior plan are deemed withdrawn and new objections must be timely filed as to any subsequent plan. However, objections to a 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.

(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 is able to verify all of the statements required in a Verification, then the debtor must file a Verification in order to obtain a confirmation order.

(B) The Verification must be filed no earlier than ten days after the Meeting Date and no later than seven days prior to the Confirmation Hearing.

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

(D) Upon filing of the Verification, the Court may confirm the plan without requiring any parties to appear at the Confirmation Hearing.

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

(A) If no objections are filed 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 completed Confirmation Status Report, no earlier than ten days after the Meeting Date and no later than seven days prior to the Confirmation Hearing.

(B) The debtor must serve a copy of the amended plan and Confirmation Status Report on the chapter 13 trustee and any parties requesting notice.

(C) After 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.

(e) **If Plan Objections Are Filed**.

(1) Obligation to Meet and Confer. In an effort to resolve or narrow the issues in dispute, the debtor and each objecting party must Meet and Confer, as defined in L.B.R. 9001-1, no later than ten days prior to the Confirmation Hearing. The parties' failure to Meet and Confer may result in the Court striking the objection, denying confirmation, and/or taking other appropriate actions.

(2) Plan Objections Resolved.

(A) If the objections to the plan have been formally withdrawn, 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 a Verification in order to obtain a confirmation order.

(B) The debtor must serve the Verification 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 Prior to Confirmation Hearing to Address Plan Objections.

(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 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) 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 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 file a Confirmation Status Report no later than seven days prior to the Confirmation Hearing.

(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 any parties requesting notice.

(C) After the filing of a Confirmation Status Report, the Court may order what further notice, if any, is required either at the Confirmation Hearing or by separate written order.

(f) **Hearings**. The debtor and objecting parties must appear or be represented at 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.

(g) **Service of Amended Plan after the Confirmation Hearing**. The Court will direct what procedures apply to plan amendments at or after the Confirmation Hearing, including utilizing the procedures set forth in L.B.R. 2002-1 and 9013-1. If directed by the Court, the debtor must file and transmit the amended plan and a Notice to the chapter 13 trustee, 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 may request modification of a confirmed chapter 13 plan by motion in accordance with 11 U.S.C. § 1329. The motion must state the date of confirmation of the existing plan, the reason for the modification, 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, 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.

(i) **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.

(j) **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.
(2) The debtor must transmit a copy of the Certification to the chapter 13 trustee, the United States Trustee, all parties who have requested notice, and secured creditors.

L.B.R. 3017.1-1 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 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 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, 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.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 days of service.

(c) **Objections**. Objections to the adequacy of the disclosure statement 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.

L.B.R. 3017-2. Combined Chapter 11 Plan and 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 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 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, 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.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 days of service.

(c) **Objections**. Objections to the information and disclosures contained in the plan 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.

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.F. 3022-1.1 (business debtor) or L.B.F. 3022-1.2 (individual debtor) and serve it on the 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.F. 3022-1.3 (business debtor) or L.B.F. 3022-1.4 (individual debtor).

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. The Court provides hearing date information on its website. 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 calendar which is not more than 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 30 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 30 days.

(3) Notice of Hearing and Time to Object. Subject to the provisions of this 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 on the debtor and debtor's attorney, the United States Trustee, 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 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.

(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;

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

(E) if the debtor or co-debtor is an individual, file a Servicemembers Civil Relief Act ("SCRA") Affidavit pursuant to L.B.R. 4002-3(c);

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

(G)pay the required filing fee.

(5) 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.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) except:

(1) The movant must select a hearing date that is not more than 20 days from the date of the motion. In the event that the movant sets a hearing date beyond 20 days, the movant is deemed to have waived its right to relief within 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 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' 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 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. Civ. P. 26(a)(2) as incorporated by Fed. R. Bankr. P. 7026.

(d) **Telephonic Hearings**. The presiding judge may permit telephonic appearances. Each division provides relevant chambers' procedures on the Court's website. 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.

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

(a) **Motions**. Except as provided herein and elsewhere in these Rules, parties seeking cash collateral and/or financing requests under 11 U.S.C. §§ 363 and 364 must file a motion pursuant to Fed. R. Bankr. P. 2002, 4001, and 9014, and L.B.R. 2081-1 and 9013-1 as applicable ("Financing Motions").

(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) maximum borrowing available on a final basis;

(B) interim borrowing limit;

(C) borrowing conditions;

(D) interest rate;

(E) fees, costs and charges paid or payable by debtor or any other person or entity;

(F) maturity;

(G) events of default;

(H) remedies in the event of default;

(I) use of funds limitations;

(J) protections afforded under 11 U.S.C. §§ 363 and 364; and

(K) 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. The Court may deny the interim relief requested in the absence of a reasonable opportunity to object.

(c) **Final Orders**. The Court will enter a final order only after providing parties notice and an opportunity for a hearing pursuant to Fed. R. Bankr. P. 4001 and L.B.R. 9013-1.

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 Debtor. Secured creditors may contact the debtor about the status of insurance coverage on property that is collateral for the creditor's claim, may respond to inquiries and requests for information about the account from 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 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 that are sent to 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 Rule, the communication must indicate it is provided for information purposes and does not constitute a demand for payment.
(2) Manner of Contacting Debtor. Permissible communications may be transmitted via email, facsimile, mail, commercial communications carrier, or such other mode as is mutually acceptable to the parties.

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. 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**. Under L.B.R. 9037-1, it is the responsibility of any party filing documents, including tax information, to redact personal information. The Court will file all documents as tendered without taking any action to redact personal information.

L.B.R. 4002-3. Servicemembers Civil Relief Act of 2003 ("SCRA")

(a) **Individual Debtor's Statement of Military Service**. 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 a Statement of Military Service.

(b) **Individual Debtor's Failure to Comply**. The debtor's failure to inform the Court of his or her military status does not constitute a waiver of the debtor's protections under SCRA, and does not alter the responsibility of a party to investigate the debtor's servicemember status before filing any documents pursuant to 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, the plaintiff/movant must file an affidavit with the Court which states (i) whether or not the defendant/respondent is in the military service, and indicating the necessary facts to support said affidavit; or (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 that do not include the required affidavit. If the Court is unable to ascertain the defendant's/respondent's military status from the affidavit, it may require the plaintiff/movant to post a bond before entering an order lifting the stay or a default judgment.

L.B.R. 4003-1. Exemptions

(a) **Objections**. Objections to exemptions must comply with L.B.R. 9013-1.

(b) **Notice**. Objections must be accompanied by notice in substantial conformity with L.B.F. 9013-1.1 and must provide at least 14 days from the date of 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.

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

(a) **Motions to Avoid Judicial Liens Under 11 U.S.C. § 522(f)**. A motion to avoid judicial liens under 11 U.S.C. § 522(f) 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;
   (2) Specific grounds for relief under 11 U.S.C. § 522(f) (*e.g.*, whether the lien impairs the 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.F. 9013-1.1 and must provide at least 14 days from the date of service for the filing of an objection.

(c) **Certificate of Service**. The motion must be accompanied by a certificate of service showing service on the affected lien creditor of both the notice and motion. Service must comply with the 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 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.

L.B.R. 4004-1. Discharge

(a) **Financial Management Course Certification Required for an Individual Debtor in Chapter 7, 13, and 11 cases in which 11 U.S.C. § 1141(d)(3) Applies**. The Court cannot grant a discharge to an individual debtor absent compliance with Fed. R. Bankr. P. 1007(b)(7). The Court will close fully administered cases without the entry of a discharge 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 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, trustee, and United States Trustee, with knowledge that 11 U.S.C. § 522(q)(1) may apply to the debtor, must file a statement justifying the assertion that there is reasonable cause to believe 11 U.S.C. § 522 (q)(1) applies.

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. Bank. P. 4008 by either the debtor or a creditor who is a party to the agreement.

(b) **Form**. A party seeking approval of a reaffirmation agreement must file Official Form 427, Cover Sheet for Reaffirmation Agreement and Director's Form 2400A, Reaffirmation Documents. The Court will not consider noncompliant reaffirmation agreements.

(c) **Hearing**.

(1) Certification by Debtor's Attorney. If the 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 Attorney. If the 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 attorney to participate in the hearing.

L.B.R. 5005-1. Duty to Review

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) **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.

(4) A CM/ECF login and password is not transferable. No attorney, law firm, or other person may knowingly permit or cause to permit a CM/ECF password to be utilized by anyone other than an authorized member, employee, or agent of the electronic filer's law firm. Each attorney, law firm, or other person that obtains a CM/ECF password is responsible for its security and use.

(5) 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.

(b) **Exemption from Mandatory Electronic Filing**. Upon filing a motion demonstrating good cause, an attorney may request an exemption from mandatory electronic filing. 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 following methods:

(A) in person with the Clerk's Office;

(B) through the approved filing tool available on the Court's website;

(C) by mail; or

(D) by facsimile.

(2) A document 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.

(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) **Service**. The motion must be served on the United States Trustee, the trustee previously assigned to the case, the 20 largest unsecured creditors in a chapter 11 case, and any party against whom relief is sought upon reopening of the case.
(b) **Filing Fees**. A motion to reopen a bankruptcy case 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 is filed; however, the trustee may file a motion to have the payment of the fee 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.

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

(a) **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.
(b) **Filing Fees**. A motion for withdrawal of a case or proceeding must be accompanied by payment of the 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.
(c) **Objection**. Within 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 United States District Court's determination of the motion.
(d) **Reply**. The movant may file a reply within seven days of service of an objection.
(e) **Record**. The Clerk will refer the motion and record to the Clerk of the United States District Court for hearing pursuant to Fed. R. Bankr. P. 5011(a).

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

The use or operation of any photography, recording, broadcasting, or streaming device is prohibited inside all courtrooms, office space occupied by Court employees, and 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. This Rule does not apply to Court employees, designees of the United States Trustee, or any certified court reporter acting pursuant to their official duties.

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

(a) **Filing Fees**. A motion to sell free and clear of liens under 11 U.S.C. § 363(f) ("Sale Motion") must be accompanied by payment of the 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 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 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 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 for each subsection's application to the particular case;

(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) 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.

(f) **Motion to Set Sale Procedures**. If the movant intends to open the sale to a competitive bidding or auction process, a separate motion to approve the bidding procedures should be filed. If the movant requests a hearing on shortened notice 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:

(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) **Caption**. All documents filed in an adversary proceeding must include a caption in substantial conformity with 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 assigned judge (*e.g.*, 17-00000-FML).

(b) **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 Procedural Form 1040.

(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

Unless otherwise provided for by a statute, rule, or order, any response to a motion must be filed with the Court and served on interested parties within 14 days after service of the motion. Replies to responses to motions, if any, may be filed within seven days of the filing of the response.

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 pretrial deadlines and file a joint report on the same pursuant to Fed. R. Civ. P. 26(f) 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 14 days.

(c) **Discovery Materials**.

(1) The term "Discovery Materials" includes without limitation deposition transcripts, interrogatories and responses, requests for production or inspection and responses, requests for admission and responses, and initial and supplemental disclosures.

(2) Discovery Materials should not be filed with the Court, unless the Court orders otherwise.

(3) If a party anticipates using Discovery Materials, or a portion of them, at trial or hearing, then that party must mark and prepare excerpts of relevant portions to be offered into evidence.

(d) **Discovery Disputes**.

(1) If there is a discovery dispute, parties must meet and confer in a meaningful way to 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 pursuant to Fed. R. Civ. P. 26(c) 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 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 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 more 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. If available, the Court may hold an immediate hearing on the dispute, by telephone or in person, as the Court specifies.

(e) **Stipulated Protective Orders**. A request for an order of the Court approving a stipulated confidentiality or protective order may be filed with the Court at any time.

(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, the provisions of these Rules apply in adversary proceedings and contested matters under Fed. R. Bankr. P. 7001 and 9014.
(b) **Depositions**. A party may take the deposition of only three persons.
(c) **Interrogatories**. A party may serve only one set of written interrogatories upon each adverse party. The number of interrogatories to any one party may not exceed 30, each of which must consist of a single question.
(d) **Other Discovery**. In all other respects, the 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.

L.B.R. 7041-1. Motion and Notice Required for Dismissal of Complaint Objecting to Discharge

A party seeking dismissal of a complaint objecting to a debtor's discharge must file a motion in the adversary proceeding in accordance with L.B.R. 9013-1 and notice in substantial conformity with L.B.F. 7041-1.1, served on the United States Trustee, trustee, and other parties as directed by the Court, 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.

L.B.R. 7055-1. Default – Failure to Defend

(a) **Clerk's Entry of Default**. A party seeking Clerk's entry of default pursuant to Fed. R. Civ. P. 55(a) must file a motion in accordance with L.B.R. 9013-1 and verify by affidavit 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 complaint and summons, including the date of the issuance of the summons and the date of service of the complaint 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 entry of a default judgment pursuant to Fed. R. Civ. P. 55(b) must file a motion in accordance with L.B.R. 9013-1 containing the following:
(1) request for entry of default judgment;
(2) affidavit, executed by an individual with personal knowledge, setting forth sufficient factual support for each element of 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. 4002-3;
(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) 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.

(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.

(b) **Response and Memorandum in Opposition**. 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.

(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, 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 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 14 days from the date of service of the motion.

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

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

L.B.R. 7069-1. Execution on Judgment

(a) **Forms**. Unless otherwise directed by the Court, parties must use the applicable State of Colorado 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.

(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.

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

Part VIII of the Fed. R. Bankr. P. and the local rules of the appellate courts govern the procedure on appeal from a judgment, order, or decree of this Court.

L.B.R. 9001-1. Definitions

(a) **Definitions**. The following definitions apply in addition to those provided in 11 U.S.C. § 101 and Fed. R. Bankr. P. 9001:

(1) "CM/ECF" means Case Management/Electronic Case Filing.

(2) "Creditor Address Mailing Matrix" means a list of all creditors and parties in interest in the case as provided by the debtor pursuant to Fed. R. Bankr. P. 1007(a) and maintained by the Court. The Creditor Address Mailing Matrix must be provided in compliance with L.B.R. 1007-1.

(3) "Meet and Confer" means a conference between opposing parties initiated by the movant in an effort to resolve a dispute. If a conference has not taken place, the movant or respondent, or their attorney, must submit a statement describing the efforts made to accomplish the required meet and confer.

(4) "NEF" means a Notice of Electronic Filing transmitted by the CM/ECF to persons or entities registered with the Court for electronic service or notice of filed documents.

L.B.R. 9010-1. Attorneys

(a) **Standards of Professional Conduct**. The Local Rules of Practice of the United States District Court for the District of Colorado, Section V - Attorney Rules will apply in this Court, except as provided by order or rule of this Court.

(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 Court.

(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 must comply with the Local Rules of Practice of the United States District Court for the District of Colorado, 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 Court, including that such out-of-state counsel retain local counsel qualified to practice before this Court.

(c) **Scope of Representation/Employment; Limited Unbundling**.

(1) 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 the attorney in an adversary proceeding, an attorney may not exclude services within that adversary proceeding.

(B) Ethical Limitations. Nothing in this Rule requires debtor's attorney to file a paper or advance a position contrary to the attorney's obligations under Fed. R. Bankr. P. 9011. In those circumstances in which 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 wishes but in compliance with Rule 9011, then debtor's attorney must file a Notice of Advisement 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 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:

(A) after consultation with the client, no further action will be taken by the attorney as to the specific matter; and

(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.

(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, or any other grievance committee of any bar or court of which the attorney in question may be a member.

(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.

(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 Rules.

Commentary

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

With the approval of the Court, a law student 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.

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.

(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 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 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 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 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 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 the attorney;

(J) service of process may be made upon the client at the client's address in the Court's database;

(K) where the withdrawing attorney's client is a corporation, partnership, or other legal entity, that such entity cannot appear without an attorney admitted to practice before this Court, and absent prompt appearance of the substitute attorney, pleadings, motions, and other 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 the attorney by filing with the Court an objection to the attorney's motion to withdraw within seven days after filing of the notice.

(2) 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 Contact Information

(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 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.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.

(C) Notice to All. 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.

(3) Service. In addition to providing notice of a motion, the movant must also serve the motion in the manner required by Fed. R. 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.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 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. 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 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 two days following the objection deadline set forth in the notice, file a Certificate of

Non-contested Matter and Request for Entry of Order, L.B.F. 9013-1.3. The Certificate of Non-contested Matter must be verified by the movant, or movant's attorney, and include all information and docket numbers required by L.B.F. 9013-1.3.

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

(3) 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 days following the date to object specified in the notice, file a Certificate of Contested Matter and Request for Hearing, L.B.F. 9013-1.4. The Certificate of Contested Matter must include all information and docket numbers required by L.B.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 may issue a notice of the date, time, and place of the hearing. The Clerk will serve the notice on the movant, respondent, and other parties as the Court may 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 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.

(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

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, or upon motion by a party or the United States Trustee. Unless otherwise ordered by the Court, participation in mediation is voluntary.

(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.

(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.

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) **Power of Attorney**. If the surety on a bond is 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 filed with the Court.

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

(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 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 for contested matters. Any list of witnesses and exhibits must be in substantial conformity with L.B.F. 9070-1.1.

(b) **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 five days prior to the hearing.

(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.

(d) **Exchanging Exhibits**. Copies of marked exhibits must be exchanged with opposing attorney or party, but not filed with the Court, no later than 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.

(e) **Hearing Requirements**.

(1) Paper Exhibits and Exhibit Notebooks. If paper exhibits are to be used, parties must provide an original plus two copies of the exhibits intended to be offered at the hearing to the Law Clerk or Courtroom Deputy and one copy to each opposing 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. Exhibits should be placed in a binder and indexed substantially in the form of L.B.F. 9070-1.1.

(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 the trial or hearing, the attorneys or parties must retain custody of their respective original exhibits and deposition transcripts until 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, the attorneys or parties must provide their exhibits to the appellate court pursuant to the appellate court's direction.

Commentary

See also L.B.R. 2081-3 and 4001-1 providing different procedures for the exchange of witness and exhibit lists in certain circumstances.