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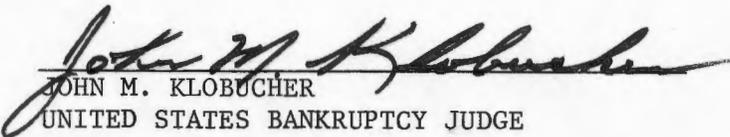
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re)	
)	
LOCAL RULES OF BANKRUPTCY)	ORDER ADOPTING LOCAL RULES OF
PRACTICE AND PROCEDURE)	BANKRUPTCY PRACTICE AND PROCEDURE
)	PURSUANT TO BANKRUPTCY RULE 9029

IT IS HEREBY ORDERED that

The Local Rules of Practice and Procedure hereto attached are adopted pursuant to Bankruptcy Rule 9029. The rules shall take effect on the date of this order. All former rules are hereby superseded by these rules. These rules shall govern all proceedings now pending, except to the extent that their application in a pending proceeding would not be feasible or would work injustice, in which event the former procedure applies.

DATED: NOV 1 1984


 JOHN M. KLOBUCHER
 UNITED STATES BANKRUPTCY JUDGE

FILED

NOV 1 1984

T. S. MCGREGOR, CLERK
U. S. BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

Rule 1

SCOPE AND APPLICABILITY OF LOCAL RULES

(a) Scope

These local rules govern practice and procedure in the United States Bankruptcy Court for the Eastern District of Washington. The court, on its own motion or the motion of any party, may change or dispense with any of these rules in a particular case. These rules shall be cited as "LBR—."

(b) Applicability

Unless otherwise indicated, each of these local rules applies to cases commenced under chapters 7, 9, 11 and 13 of the Bankruptcy Code.

Related Provisions

R 9029 Power to Promulgate

11/84

Rule 2

MEANING OF WORDS AND PHRASES

The definition and construction of words and phrases in the Bankruptcy Code and Rules govern the use of those words and phrases in these rules.

Related Provisions

11 USC 101	Definitions
11 USC 102	Rules of Construction
11 USC 1101	Chapter 11 Definitions
11 USC 741	Definitions of Stockbroker Liquidation
R 1001	Scope of Rules
R 9001	General Definitions
R 9002	Meaning of Words in FRCP

Rule 3

HEARINGS, MEETINGS, AND FILING

(a) Hearings and Meetings

Bankruptcy hearings and meetings are regularly scheduled in Spokane, Richland, Yakima, and Moses Lake. Meetings are also regularly scheduled in Wenatchee and Ephrata.

(b) Filing

(1) All petitions commencing a bankruptcy case, complaints commencing an adversary proceeding and subsequent documents in a bankruptcy case or proceeding shall be filed with the Clerk of the Bankruptcy Court, West 904 Riverside Avenue, Post Office Box 2164, Spokane, Washington 99210. Documents, other than a petition commencing a case, complaint commencing an adversary proceeding, or proof of claim will also be deemed filed when delivered to the clerk or a deputy clerk in open court or during a meeting of creditors.

(2) An application or motion, supporting affidavits, and documentary evidence shall be served and filed no later than seven days prior to the hearing on the application or motion. An opposing party shall serve and file any objection, counter affidavits or other responding documents no later than three days prior to the hearing of the application or motion.

(3) A document intended to be considered by the court in connection with a scheduled hearing or trial shall be served and filed in accordance with paragraph (b)(2) and a copy shall be delivered to the chambers of the bankruptcy judge if the document has not been filed at least seven days prior to the hearing or trial.

Related Provisions

28 USC 152(b)(c)(d) Place of Holding Court

R 5005 Filing of Papers
R 9006 (d)(e)(f) Service of Motion

Rule 4

ACCESS TO COURT RECORDS

All records of the court shall remain in the custody of the clerk, subject to examination by the public without charge. No record belonging to the files of the court shall be examined without a written receipt from the recipient specifying the record and the date. No record shall be taken from the clerk's office without an order of the court allowing such removal. No such order shall issue except for good cause.

Related Provision

11 USC 107

Public Access to Papers

11/84

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Rule 5

ATTORNEYS

(a) Eligibility to Practice

Any attorney who is a member in good standing of the Washington State Bar Association and who is admitted to practice to the bar of the United States District Court for the Eastern District of Washington is eligible to appear and practice before this court.

(b) Practice in a Particular Case or Proceeding

Any member in good standing of the bar of any court of the United States, or of the highest court of any state or territory of the United States, and who neither resides nor maintains an office for the practice of law in the state of Washington, may be permitted upon a showing of particular need to appear and participate in a particular case or proceeding. In such case there shall be joined of record in such appearance an attorney having an office in this state and eligible to practice in this court. The local attorney shall sign all pleadings prior to filing and shall meaningfully participate in the case or proceeding.

(c) Appearances, Withdrawal, and Substitution

(1) The filing of any document in a bankruptcy case or adversary proceeding shall constitute an appearance by the attorney who signs the document.

(2) The authority and duty of an attorney of record shall continue until withdrawal or substitution and shall continue after the closing of the case for all proper purposes.

(3)(A) An attorney who wishes to withdraw shall file and serve notice of intent to withdraw pursuant to Local Rule 70 on the parties set forth in subparagraph (B). The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the notice of intent to withdraw. The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. If notice is given before trial or any scheduled hearing, the notice shall include the date set for trial or hearing. The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney.

(B) Service of the notice of withdrawal shall be as follows:

(i) Attorney for debtor, trustee, or debtor in possession—all creditors on the master mailing list.

(ii) Attorney representing a party to an adversary proceeding or scheduled hearing—client and all other parties to the adversary proceeding or scheduled hearing.

(iii) All other attorneys—on the client.

(C) The withdrawal shall be effective as set forth in the notice, without order of the court, upon the filing of the affidavit of mailing of the notice of intent to withdraw, unless a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the date of withdrawal in the notice of intent to withdraw. An ex parte order may be presented if desired.

(D) If a timely written objection is served, withdrawal may be obtained only by order of the court.

(4) Substitution of attorneys shall be accomplished by the filing of a substitution document which shall include the effective date of substitution. The document shall be signed by both attorneys, or signed by the new attorney and the client with notice to the original attorney. Court approval of substitution of attorneys is required only where a provision of the Bankruptcy Code or Rules requires approval of the employment of an attorney in the first instance. Notice of substitution shall be filed on the parties set forth in subparagraph (3)(B).

(5) If an additional attorney is associated during the pendency of a case or proceeding, or if the original attorney dies, withdraws, or otherwise ceases to act, notice of the appointment of a new attorney shall be filed and served on the parties set forth in subparagraph (3)(B).

(d) Multiple Counsel

If more than one attorney represents a party, only one attorney shall examine or cross-examine a single witness and only one attorney shall argue the merits before the court, unless by permission of the court.

Related Provisions

11 USC 327	Employment of Professional Persons
28 USC 1694	Right to Pro Se Representation

R 2006	Solicitation and Voting of Proxies
R 2014	Employment of Professional Persons
R 2017	Examination of Debtor's Transactions With His Attorney
R 9010	Representation and Appearances
R 9011	Signing and Verification of Papers

Rule 6

ESTABLISHMENT OF BUSINESS HOURS

The business hours of the Office of the Clerk of the United States Bankruptcy Court of the Eastern District of Washington will be from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m. all days except Saturday, Sunday, and legal holidays.

Rule 10

PETITION AND ACCOMPANYING DOCUMENTS

(a) Number of Copies

In addition to the original, each petition, schedules, and statement of affairs shall be accompanied by the following number of copies:

Chapter 7	2 copies
Chapter 7 (Stockbroker).....	3 copies
Chapter 7 (Commodity Broker).....	3 copies
Chapter 9	6 copies
Chapter 11	6 copies
Chapter 11 (Railroad Reorg.)	7 copies
Chapter 13	3 copies

(b) Style of Petition

The name of the debtor in the caption of a petition shall be styled thus if the debtor is an individual: "Robin A. Smith, a single person." if the debtor is not married; or "John B. Smith, whose wife is Mary C. Smith," or "Mary C. Smith, whose husband is John B. Smith," if the debtor is married and the petition is not a joint petition; or "John B. Smith and Mary C. Smith, husband and wife," if a joint petition. If the debtor is a general partnership, the words "a general partnership" shall follow the name. If the debtor is a limited partnership, the words "a limited partnership" shall follow the name. If the debtor is a corporation, the words "a corporation" shall follow the name unless "Inc.," "Incorporated," or "Corporation" is part of the name.

(c) Other Names

Immediately after the debtor's name in the caption of the petition, the petitioner shall list all names, assumed names, trade names or designations by or under which the debtor has been known or conducted any business within the six years preceding the filing of the petition.

(d) Debtor Engaged in Business

Where any debts scheduled were incurred while the debtor was engaged in business, even though he is not so engaged at the time of filing of the petition, the statement of affairs for a debtor engaged in business shall be filed.

(e) Petition Filed by a Corporation

When a voluntary petition is filed by a corporation, there shall be attached to the petition as an exhibit the original or a certified copy of the resolution of the petitioner's board of directors authorizing the filing of the petition. The corporation shall be represented by an attorney and the attorney shall sign the petition.

(f) Petition Filed by a Partnership

When a voluntary petition is filed by a partnership:

- (1) all general partners shall verify the petition; or
- (2) at least one general partner shall verify the petition. If fewer than all general partners verify the petition, there shall be attached to the petition as an exhibit the original or a certified copy of a document evidencing the consent of all general partners to the petition.

(g) Exemptions

When the debtor claims personal property exempt, he shall itemize separately on Schedule B-4 each item, stating the size, brand, identifying numbers, as applicable, value claimed exempt, and location of each item. The foregoing shall not apply to items of similar kind at the same location whose aggregate value is less than \$200. Such items may be aggregated on Schedule B-4.

(h) Character of Assets and Liabilities

All assets and liabilities scheduled by a married debtor shall be considered to be scheduled as community in character unless the debtor otherwise indicates.

(i) No Blank Items

Each item in the schedules and statement of affairs not otherwise filled out, shall be carried out by the entry "none" or "not applicable," as appropriate.

(j) Matrix

A voluntary petition shall be accompanied by a matrix (LF 4) suitable for

photocopying on label paper, containing the typed name and address of the debtor, debtor's attorney and each creditor in alphabetical order. In a case under chapter 11 the matrix shall include the names and addresses of equity security holders, if any, in alphabetical order. In an involuntary case, the matrix shall be filed with the debtor's schedules or as the court may direct.

(k) Accuracy of Matrix

The clerk need not check to insure that the matrix accurately reflects the names and addresses of the debtor, debtor's attorney, and creditors and equity security holders listed on the debtor's schedules. For purposes of notice by the clerk or by any party in interest, an error or omission on the matrix shall be deemed an error or omission on the debtor's schedules.

(l) Cover Sheet

A petition shall be accompanied by a Bankruptcy Cover Sheet (LF 5).

(m) Refusal to File Petition

The clerk need not accept for filing a voluntary petition which is not accompanied by a matrix, cover sheet, filing fee, and corporate or partnership resolution, as applicable. A voluntary chapter 11 petition need not be accepted unless accompanied, in addition to the foregoing, by a list of the 20 largest unsecured creditors. The clerk need not accept for filing a voluntary petition if the petitioner is not eligible to be a debtor under 11 USC 109(f), if the petitioner is an estate or trust, or in a chapter 13 case if the petitioner is not an individual. Acceptance of a petition for filing does not operate as a waiver of any of the provisions of this rule.

Related Provisions

11 USC 109	Who May Be a Debtor
11 USC 301	Voluntary Cases
11 USC 303(b)(3)	Partnership Petitions
11 USC 521(1)	Duty to File Schedules and Statement
R 1002	Voluntary Petition
R 1004	Partnership Petition
R 1005	Caption of Petition
R 1007	Lists, Schedules & Statements
R 1008	Verification of Papers

Rule 11

JOINT PETITIONS

(a) Petition, Schedules, and Statement of Affairs

Husband and wife commencing a joint case shall file a single petition and pay only one filing fee. Debtors filing jointly shall file a single set of schedules and statement of affairs. If an item on the schedules or statement requires a different response from each debtor, the responses shall be labeled (H) or (W). Each asset and liability listed on the schedules or the statement of debtors filing jointly will be considered to be scheduled as community in character, unless otherwise indicated.

(b) Consolidation

The estates of debtor spouses filing a joint petition are consolidated for all purposes, unless at or before the meeting of creditors the trustee or other party in interest objects to such consolidation. The effect of such consolidation in a case under chapter 7 shall be to combine in a single pool the liabilities of whatever character of both debtors, and to authorize distribution of the proceeds of the assets of whatever character similarly combined.

Related Provisions

11 USC 302	Joint Cases
11 USC 726(c)	Distribution of Community Property
R 1015	Consolidation or Joint Administration

Rule 12

INVOLUNTARY PETITIONS

An involuntary petition for relief shall be accepted by the clerk for filing only if accompanied by the filing fee and a Summons to Debtor (BRI 10), completed except for the signature of the clerk. The clerk will complete the summons and return it to the petitioner for service.

Related Provisions

11 USC 303	Involuntary Cases
R 1003	Involuntary Petition
R 1010	Service of Petition and Process
R 1011	Responsive Pleading
R 1012	Examination in Involuntary Cases
R 1013	Hearing on Petition in Involuntary Cases
R 1018	Applicability of Rules in Involuntary Cases

Rule 15

AMENDMENT OF SCHEDULES

(a) Schedule of Debts

When a schedule is amended to include additional creditors or equity security holders, the amendment shall be accompanied by a matrix listing only those additional creditors or equity security holders. If the notice of the meeting of creditors or equity security holders, as applicable, has already been mailed by the clerk, the amending party shall mail, with the notice required by Rule 1009, a notice of the meeting of creditors or equity security holders, as applicable, to the additional creditors or equity security holders.

(b) Schedule of Exemptions

When a claim of exemptions (Schedule B-4) is amended, a copy of such amendment shall be mailed to all parties on the master mailing list by the person filing the amendment.

Related Provisions

11 USC 523(a)(3)

R 1009

R 4003

Effect of Not Listing or Scheduling a Creditor

Amendments

Objection to Exemptions

Rule 16

PROPERTY IN NEED OF ATTENTION OR PROTECTION

(a) Inventory or Equipment

When a stock of goods or business equipment is scheduled, the debtor shall, immediately after the general description thereof, list a present inventory, append a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property, and the amount of fire and theft insurance, if any, and state whether prompt additional attention or protection is necessary.

(b) Need for Immediate Action

If a stock of goods includes perishables or if property or the business premises otherwise need immediate attention or protection, the debtor or his attorney, when relief is ordered under chapter 7 or 13 or a trustee is appointed under chapter 11, shall notify the clerk and the trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

Related Provisions

11 USC 521(4)

Duty to Surrender Property

Rule 20

CLAIMS

(a) Place of Filing

Proofs of claim or interest shall be filed with the Clerk of the Bankruptcy Court, West 904 Riverside Avenue, Post Office Box 2164, Spokane, Washington 99210-2164.

(b) Number of Copies

Only the original proof of claim or interest need be filed, except in a case under chapter 13, where the original and one copy shall be filed.

(c) Conformed Copy of Filed Claim

A claimant who wishes a conformed copy of the filed claim must submit an extra copy of the claim. If the claim is submitted by mail, a conformed copy will be returned only if the claimant enclosed a self-addressed, stamped envelope.

(d) Secured Claims

(1) A claimant filing a secured claim shall state on the proof of claim the value of his security. The claim shall be deemed filed as a secured claim to the extent of that value, or as the court may determine, and an unsecured claim for the remainder.

(2) For purposes of distribution:

(A) In a chapter 7 case, a claim indicating that security is held for the claim but specifying no value for the security shall be presumed to be filed as a fully secured claim;

(B) In a chapter 13 case, a claim indicating that security is held for the claim but specifying no value for the security shall be presumed to be filed as an unsecured claim.

(e) Priority Claims

If priority is sought for a claim, the proof of claim shall state supporting facts and specify the paragraph of 11 U.S.C. 507(a) under which the priority arises.

(f) Wage Claims

Claims filed for wages, salaries or commissions shall state the social security number of the claimant, the nature of the service rendered, the date the services commenced and terminated, the rate of compensation, the amount of vacation pay or sick pay or severance pay claimed and the details thereof, and the priority claimed, if any.

(g) Claim by Debtor or Trustee

A debtor filing a proof of claim under 11 U.S.C. 501 shall forthwith mail notice of such filing to the trustee and creditor. A trustee filing a proof of claim under 11 U.S.C. 501 shall forthwith mail notice of such filing to the debtor and creditor.

(h) Claims Arising from Rejection of Executory Contract

Claims arising from rejection of executory contracts shall be filed within 30 days of the order authorizing rejection.

(i) Claims in Chapter 11

In a chapter 11 case, any creditor or equity security holder whose claim or interest is not scheduled or is scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within 90 days after the first date set for the meeting of creditors. Any other creditor may, but need not, file a proof of claim within that time.

Related Provisions

11 USC 501	Filing Proofs of Claim
11 USC 502	Allowance of Claims
11 USC 506	Determination of Secured Status
11 USC 507	Priorities
11 USC 509	Claims of Co-debtors
R 3001	Proof of Claim
R 3002	Filing Proof of Claim
R 3003	Filing of Claim in Chapter 9 & 11
R 3004	Filing of Claim by Debtor or Trustee

R 3005
R 3006
R 3007
R 3008

Filing of Claim by Co-debtor
Withdrawal of Claims
Objection to Claims
Reconsideration of Claims

Rule 25

**MEETING OF CREDITORS
OR
EQUITY SECURITY HOLDERS**

(a) Failure to Attend

In the event that the debtor does not attend a meeting of creditors or equity security holders, or does not file schedules and a statement of affairs in accordance with the Rules of Bankruptcy Procedure, the clerk may reschedule the meeting by oral notice at the originally scheduled time and place.

(b) Tape Recordings

(1) The tape recording of a meeting of creditors or equity security holders shall be retained by the clerk for two years from the date of the meeting.

(2) Requests for a copy of the tape shall be made to the clerk.

(3) When properly certified, a transcript of the tape shall be admissible evidence to establish the record thereof and shall be deemed prima facie a correct statement of the testimony taken and the proceedings had.

Related Provisions

11 USC 341	Meeting of Creditors
11 USC 773	Record of Proceedings
R 1007	Schedules: Time Limits
R 2003	Meeting of Creditors
R 5007	Recording of Proceedings

Rule 26
EXAMINATION

(a) Application

Application by a party in interest for an order to examine any person shall be filed in writing and shall be accompanied by a proposed order.

(b) Before Whom Ordered

An examination may be ordered before the clerk, or before any other person authorized to administer oaths in a bankruptcy case, but may not be ordered before the bankruptcy judge.

(c) Time and Place

If the examination is to be conducted before the clerk, the time and place of the examination shall be coordinated with the clerk.

Related Provisions

R 2004	Examination
R 9006	Subpoenas
R 9012	Oaths and Affirmations

Rule 27

REAFFIRMATION AND DISCHARGE HEARING

(a) Attendance

An individual debtor who has entered into a reaffirmation agreement and was not represented by an attorney during the course of negotiating the agreement, must attend and testify at the reaffirmation hearing provided for in 11 U.S.C. 524(d). If the reaffirmation agreement is based on a consumer debt not secured by real property, the pro se debtor shall bring with him to the hearing a written copy of the agreement, an application, and a proposed order approving the agreement.

(b) Waiver

If a debtor does not appear at the hearing, he shall be deemed to have waived his right to the reaffirmation and discharge hearing provided in 11 U.S.C. 524(d).

(c) Hearing

A debtor who wishes to appear at a reaffirmation and discharge hearing shall request a hearing date from the clerk.

Related Provisions

11 USC 521(5)	Duty of Debtor to Attend Discharge Hearing
11 USC 524(d)	Discharge Hearing
R 4008	Reaffirmation and Discharge Hearing

Rule 28

SECURED CONSUMER DEBTS

(a) Statement of Intent

An individual debtor shall comply with 11 U.S.C. 521(2) by filing and serving on the secured creditor and trustee, on or before the time first set for the meeting of creditors, a statement of intent in the form of LF 118.

(b) Performance of Intention

When the debtor has performed his intent, the debtor shall file and serve on the secured creditor and trustee a statement in the form of LF 121 indicating that the intention has been performed.

(c) Action By Creditor

A creditor aggrieved by the debtor's failure to timely perform his intention shall notify the trustee in writing within 10 days after the time for the debtor's performance has expired. A creditor who fails to so notify the trustee may not object to the trustee's failure to ensure the debtor's performance.

Related Provisions

11 USC 521(2)	Statement and Performance of Intent
11 USC 524(c)	Reaffirmation
11 USC 704(3)	Trustee's Duty
11 USC 722	Redemption

Rule 30

FUNDS OF THE ESTATE

(a) Trustee

All funds received by a trustee in a case under chapter 7, or under chapter 11 when a trustee has been appointed, shall be deposited or invested separately, unless otherwise ordered. Distributions to creditors and payment of administrative expenses shall be made only by checks consecutively numbered. Checks shall bear the notation "not valid if cashed after 90 days." Distributions of less than five dollars shall not be made to any creditor, but instead shall be treated as unclaimed funds.

(b) Debtor in Possession

Upon entry of an order for relief in a case under chapter 11, the debtor in possession shall open a depository account or accounts in the name of the debtor in possession. The account shall be separate from any account used by the debtor prior to entry of the order for relief. All funds of the estate shall be transferred to the new account or accounts. All receipts and disbursements of the debtor in possession shall be through the new account or accounts. All disbursements for living expenses of the debtor or for salary or living expenses of the debtor's officers, directors or stockholders pursuant to Local Rule 60(d) shall be in the form of a check made payable to the debtor, officer, director or stockholder.

Related Provisions

11 USC 345	Money of Estate
11 USC 347	Unclaimed Property
11 USC 704	Duties of Trustee
11 USC 725	Disposition of Certain Property
11 USC 726	Distribution of Property of Estate
11 USC 1106	Duties of Trustee
R 2015	Duty of Trustee to Make Reports
R 3009	Payment of Dividends
R 3010	Small Dividends
R 3011	Unclaimed Funds
R 5008	Funds of the Estate
R 6003	Disbursement of Money of the Estate

Rule 40

APPLICATIONS FOR ADMINISTRATIVE EXPENSES

(a) General

All applications or motions for allowance of administrative expenses under 11 U.S.C. 503, including requests for compensation and reimbursement under 11 U.S.C. 330 and 331, shall detail the sums requested and services performed or costs incurred. A person requesting compensation or reimbursement must recite in his request that he will not share such compensation or reimbursement in violation of 11 U.S.C. 504.

(b) Trustee

Applications for compensation for services as trustee shall state the maximum amount payable to the trustee as compensation under 11 U.S.C. 326(a).

(c) Attorney for Trustee, Debtor in Possession, or Creditors' Committee

Application for compensation for services as attorney for the trustee, debtor in possession, or creditors' committee shall state:

(1) In concise form the facts regarding such services, showing their nature and extent, the results obtained, the size of the estate, and any other matters which will enable the court to determine the reasonable value of such services; and

(2) That all the services for which compensation is requested were performed for or on behalf of the trustee, debtor in possession, or creditors' committee, and not on behalf of a creditor or any other entity.

(d) Attorney for the Debtor

Requests for compensation for services as attorney for the debtor shall state:

(1) In concise form the facts regarding such services, showing their nature and extent, the results obtained, the size of the estate, and any other matters which will enable the court to determine the reasonable value to the estate of such services; and

(2) That all services for which compensation is requested were in connec-

tion with the bankruptcy case or proceeding, and were not services in any other matter; and

(3) That all services performed were in connection with the performance by the debtor of the duties prescribed for him by the Bankruptcy Code, were otherwise beneficial to the debtor's estate or were rendered pursuant to an order of the court. Services on behalf of the debtor in discharge and dischargeability actions are not compensable from the estate.

(e) Notice

Notice of application or motion for allowance of administrative expenses shall be given by the requesting party to all parties on the master mailing list no later than 10 days after the trustee gives notice of his intention to file a final report and account. The notice of application for allowance of administrative expenses shall include the identity of the applicant, the amounts requested, the nature of the expense or services performed and a statement that the court may allow the expense without a hearing unless objection in writing requesting a hearing is filed by the objecting party within 20 days of the date of the notice.

(f) Filing, Affidavit, Order, Hearing

Applications or motions for allowance of administrative expenses must be filed with the court no later than 10 days after the trustee gives notice of his intention to file a final report and account. If the request is accompanied by an affidavit listing those parties given notice of the request and stating that no objection thereto has been received, and is accompanied by a proposed order allowing the expense, the court may consider the request and sign the order without an actual hearing. If no objection has been received, but the court nonetheless requires an actual hearing, the court will notify the appropriate parties of the time and place of the hearing.

(g) Objection

A party objecting to the allowance of any administrative expense shall file and serve the person requesting such allowance and the trustee a written objection within the time set forth in the notice.

(h) Time of Payment

Unless otherwise ordered, all administrative expenses allowed by the court shall be paid by the trustee with the final distribution.

(i) Applicability

(1) Except as provided in paragraph (2) and (3) of this subdivision, this rule is applicable to cases under chapter 7, 9, 11 and 13 of the Bankruptcy Code.

(2) In a case under chapter 11, the words "after the trustee gives notice of his intention to file a final report and account" in subdivisions (e) and (f) shall be replaced by the words "after confirmation of the plan." Notwithstanding subdivision (h), in a case under chapter 11, administrative expenses shall be paid, unless otherwise ordered or provided in the plan, by the trustee or debtor in possession upon confirmation of the plan.

(3) In a case under chapter 13, notwithstanding subdivision (e) and (f), requests for administrative expenses may be filed and served at any time before completion of the plan, provided that the request is filed and served within a reasonable time after the costs were incurred or the services performed. Notwithstanding subdivisions (d) and (e), requests for compensation of services as debtor's attorney shall be governed by Local Rule 65(k).

Related Provisions

11 USC 326	Limitation on Trustee's Compensation
11 USC 327	Employment of Professional Persons
11 USC 328	Limitation on Compensation
11 USC 329	Debtor's Transactions With Attorneys
11 USC 330	Compensation of Officers
11 USC 331	Interim Compensation
11 USC 503	Allowance of Administrative Expenses
11 USC 504	Sharing of Compensation
R 2014	Employment of Professional Persons
R 2016	Compensation for Services

Rule 41

RELIEF FROM AUTOMATIC STAY

(a) Stay Against Property of the Estate

(1) A party in interest desiring relief from the automatic stay of an act against property of the estate shall give 15 days notice to all parties on the master mailing list in accordance with Local Rule 70. The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.

(2) If no objection is timely filed and served, the automatic stay will be terminated or modified as requested without order of the court 30 days after filing of the notice and upon the filing of an affidavit of mailing the notice and an affidavit stating that no objections were timely filed or served. An order may be presented *ex parte* if desired, after expiration of the 15 day objection period.

(3) If an objection is timely filed and served, the party desiring relief from the stay shall request an interim hearing date from the clerk, who shall set the interim hearing date no more than 30 days from the date of the request. The party desiring relief from the stay shall notify the debtor, debtor's attorney, trustee, and any objecting party of the date of the interim hearing. The stay continues pending the outcome of the hearing.

(4) The interim hearing shall be a preliminary hearing conducted by telephone conference. The parties may present testimony at the interim hearing only on request of a party and approval of the bankruptcy judge. In that event, the interim hearing may be treated by the court as a final hearing.

(5) The date for the final hearing shall be set by the bankruptcy judge at the conclusion of the interim hearing. The date set will be no later than 30 days after the date of the interim hearing.

(b) Stay Against Other Acts

(1) A party in interest desiring relief from the automatic stay of an act other than against property of the estate shall give 15 days notice to the debtor and debtor's attorney in accordance with Local Rule 70.

(2) If no objection is timely filed and served, the party desiring relief from the stay may present *ex parte* a proposed order by submitting the proposed

order to the clerk and by filing an affidavit of mailing the notice and an affidavit that no objections were timely filed or served.

(3) If an objection is timely filed and served, the party desiring relief from the stay shall request a hearing date from the clerk in accordance with Local Rule 70(g). The party desiring relief from the stay shall notify the objecting party of the date of the hearing.

(c) Proof of Interest

In the case where a trustee has been appointed, the party desiring relief from the stay shall provide to the trustee, with the notice that relief has been requested, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

(d) Stipulation

A stipulation of the debtor allowing relief from the stay is effective only as to acts against the debtor or the debtor's property. A stipulation of the trustee or debtor in possession allowing relief from the stay is effective only as to acts against the trustee or property of the estate. The trustee or debtor in possession may stipulate to relief from the stay only after notice has been given to all parties on the master mailing list in accordance with paragraph (a)(1).

Related Provisions

11 USC 362	Automatic Stay
R 4001	Relief from Stay

Rule 42

ABANDONMENT OF PROPERTY OF THE ESTATE

(a) Notice

A party desiring the trustee or debtor in possession to abandon property of the estate or in which the estate may have an interest shall give 15 days notice to all parties on the master mailing list in substantially the form of LF 42-A. If the value of the property to be abandoned is under \$500, notice need be given only to the trustee or debtor in possession, debtor, and debtor's attorney. The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.

(b) Proof of Interest

In the case where a trustee has been appointed, the party desiring abandonment shall provide to the trustee, with the notice that abandonment has been requested, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

(c) Objection

(1) If no objections are timely filed and served, the party desiring abandonment may present ex parte a motion and order in substantially the form of LF 42-C.

(2) If an objection is timely filed and served, the party desiring abandonment shall request a date for a hearing in accordance with Local Rule 70(g) and give notice of the hearing in substantially the form of LF 42-B.

Related Provisions

11 USC 554 Abandonment

R 6007 Abandonment

Rule 43

EXECUTORY CONTRACTS

(a) Assumption or Rejection

Except as provided in section 365(d)(1) or 365(d)(4) of the Bankruptcy Code, a trustee or debtor in possession desiring to assume or reject any executory contract or unexpired lease of the debtor shall give 20 days notice to all parties on the master mailing list in accordance with Local Rule 70. The notice shall include a brief summary of the significant terms of the contract or lease. If assumption is desired and the contract is in default, the notice shall include terms of the cure, compensation for loss, and adequate assurance of future performance.

(b) Assignment

If the trustee or debtor in possession intends, upon assumption, to assign the executory contract or unexpired lease, the terms of the assignment shall be included in the notice described in paragraph (a) above. If the intent to assign is formed after the notice described in paragraph (a) is given, a separate notice detailing the terms of the assignment shall be given in the manner described in paragraph (a).

(c) Order Requiring the Trustee to Act

(1) A party to an executory contract or unexpired lease of the debtor requesting an order requiring the trustee or debtor in possession to assume or reject the contract shall give 20 days notice to all parties on the master mailing list in accordance with Local Rule 70. The notice shall include a brief summary of the significant terms of the contract or lease and shall be accompanied by a summary of the proposed order described in paragraph (2).

(2)(A) An order requiring the trustee or debtor in possession to act shall:

(i) State a date certain by which the trustee must either assume or reject the contract. The date shall be no sooner than 20 days after the notice required by paragraph (c)(1) is given.

(ii) State that the contract shall be deemed rejected if the trustee or debtor in possession does not act before the specified date.

(iii) Include provisions for cure, compensation for loss, and adequate assurance of future performance if the contract is assumed.

(B) The order may include provisions requiring the trustee or debtor in possession to vacate or surrender possession of property of the estate in the event the contract is rejected. However, such provisions shall comport with the requirements of applicable non-bankruptcy law.

(3) A party objecting to assumption or rejection on the terms stated in the proposed order described in paragraph (2), or to any other provision of that order, shall object within the time stated in the notice.

Related Provisions

11 USC 365 Executory Contracts and Unexpired Leases

R 6006 Executory Contracts

Rule 44

USE OF CASH COLLATERAL

(a) Notice

(1) A trustee or debtor in possession desiring to use, sell, or lease cash collateral shall give 20 days notice to parties with an interest in the collateral. If an objection is timely filed, the trustee or debtor in possession shall request a final hearing date in accordance with Local Rule 70(g).

(2) For good cause shown the trustee or debtor in possession may apply ex parte for an order shortening time for notice and setting a date for an interim hearing. The interim hearing will ordinarily be scheduled by the court within five days of the application. The trustee or debtor in possession shall promptly give telephonic notice of the interim hearing to entities with an interest in the collateral.

(b) Interim Hearing

The interim hearing shall be a preliminary hearing conducted by phone conference. The parties may present testimony at the interim hearing only on request of a party and approval of the bankruptcy judge. In that event the interim hearing may be treated by the court as a final hearing.

(c) Final Hearing

A date for the final hearing shall be set by the bankruptcy judge at the conclusion of any interim hearing.

Related Provisions

11 USC 363(a), (c) Cash Collateral

R 4001 Cash Collateral

Rule 45

SALE OF ESTATE PROPERTY

(a) Contested Matter

A sale pursuant to 11 U.S.C. 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and is subject to Local Rule 70. An action to determine the validity, priority, or extent of any interest of an entity other than the estate shall be brought separately as an adversary proceeding.

(b) Sale Free and Clear of Interests

(1) Notice that property is to be sold free and clear shall be included in the notice of sale. The notice shall state the estimated fair market value of the property without deductions for interests of entities other than the estate. The notice shall also list the amount of each lien or encumbrance claimed against the property, and shall state the paragraph of 11 U.S.C. 363(f) under which the sale is authorized. If the proceeds of the sale appear to be insufficient to pay all liens and encumbrances claimed against the property, the notice shall state with specificity the liens and encumbrances which may not be paid from the sale proceeds, and shall also state briefly the necessity for the sale by the trustee.

(2) All interests in property sold free and clear shall attach to the proceeds of the sale, except as otherwise provided in the notice.

(c) Order

The court will not, as a matter of course, enter an order approving or confirming an unopposed sale. A party moving for an unopposed order approving or confirming a sale shall support the motion with an affidavit showing the necessity for the order.

Related Provisions

11 USC 363	Use, Lease, or Sale of Property
R 2002(a)(2), (c)(1)	Notices of Sale
R 6004	Use, Sale, or Lease of Property

Rule 46

OBJECTIONS TO CLAIMS AND EXEMPTIONS

(a) Claims

Notice of an objection to allowance of a claim shall state briefly the grounds of objection. Notice is sufficient if given to the trustee, debtor, debtor's attorney, and claimant. For purposes of Local Rule 70, the party seeking an order disallowing the claim is the "moving party," and the claimant is the "objecting party."

(b) Exemptions

Notice of an objection to a claim of exemptions shall state the specific exemption objected to and briefly state the grounds of objection. Notice is sufficient if given to the debtor, debtor's attorney, and trustee. For purposes of Local Rule 70, the party seeking an order disallowing the exemption is the "moving party" and the debtor is the "objecting party."

Related Provisions

R 3007	Objections to Claims
R 4003(b)	Objections to Claim of Exemptions

Rule 47

AVOIDANCE OF LIENS ON EXEMPT PROPERTY

Notice of a motion to avoid a lien pursuant to 11 U.S.C. 522(f) need be given only to the trustee and the creditor holding the lien.

Related Provisions

11 USC 522(f)	Avoidance of Lien Impairing Exemptions
R 4003(d)	Avoidance of Lien Impairing Exemptions

Rule 50

ADVERSARY PROCEEDINGS

(a) Caption

The caption of a pleading in an adversary proceeding shall conform substantially to Official Form 34.

(b) Cover Sheet and Summons

An adversary complaint shall be accepted for filing by the clerk only if accompanied by a Bankruptcy Cover Sheet (BC 104), a Summons and Notice of Trial (BOF 26), and payment of the filing fee. The summons shall be completed except for the date, time, and place of trial.

(c) Dismissal for Want of Prosecution

In any adversary proceeding in which no action of record has been taken by the parties for the preceding six months, the clerk may note the matter for a hearing on dismissal and shall give at least 15 days notice to the parties of record. If no action is taken by the parties and satisfactory explanation of non-action is not provided, an order of dismissal without prejudice may be entered by the court on the date of the hearing.

Related Provisions

R 7001 et seq.

Adversary Proceedings

Rule 51

BANKRUPTCY COURT JURISDICTION

(a) Core Determination

A motion to determine whether a proceeding is a core or non-core proceeding shall be made as a separate motion at or before the time of a responsive pleading. If the motion is not timely made, the court may make the determination sua sponte at any time.

(b) Consent to Determination

Consent to the determination of a non-core proceeding by the bankruptcy judge shall be indicated by the filing of LF 120. If all parties to the non-core proceeding file a consent form before the time of trial or hearing, the bankruptcy judge will hear and determine the proceeding and enter appropriate orders and judgments, subject to appeal. If consent forms are not timely filed by all parties, the bankruptcy judge will hear the proceeding, and will submit proposed findings of fact and conclusions of law to the district court.

(c) Withdrawal of Reference

A motion to withdraw, in whole or in part, any proceeding to the district court shall be made as a separate motion to the district court. A copy of the motion shall be served on the clerk of the bankruptcy court. The motion does not stay the case or proceeding in the bankruptcy court unless the district court so orders.

Related Provisions

28 USC 157	Bankruptcy Court Jurisdiction
28 USC 1334	District Court Jurisdiction
28 USC 1452	Removal

Rule 60

CHAPTER 11 CASES

(a) Applicability

This rule applies only to cases under chapter 11 of the Bankruptcy Code.

(b) Notices

"Notice," as used in this rule, unless otherwise specified in this rule or in the Bankruptcy Rules, shall mean notice to all parties listed on the master mailing list.

(c) Affidavit or Certificate

Every petition for relief under chapter 11 shall be accompanied by an affidavit or certificate under penalty of perjury by the debtor showing:

(1) The names and addresses of the members of any creditors' committee organized before the order for relief under chapter 11;

(2) If the debtor is operating a business, the following financial information for the 30-day period following the order for relief:

(A) the amount proposed to be paid pursuant to subdivision (d) to officers, stockholders and directors, if the debtor is a corporation, or to the debtor or members of the partnership if the debtor is an individual or a partnership;

(B) the proposed payroll for employee labor, exclusive of (A) above;

(C) the operating expenses, exclusive of (A) and (B) above;

(D) the estimated profit or loss, after deduction of expenses under (A), (B), and (C) above; and

(E) any non-cash operating expenses or operating expenses proposed not to be paid for any reason.

(3) An averment that no compensation shall be paid in violation of subdivision (d) of this rule; and

(4) A list of executory contracts and unexpired leases.

(d) Compensation

(1) If the trustee or debtor in possession is operating a business, no compensation shall be paid to the debtor, if the debtor is an individual, or to a partner, if the debtor is a partnership, or to an officer, stockholder, or director, if the debtor is a corporation, from the order of relief until the confirmation of a plan, except in accordance with the provisions of this subdivision.

(2) The trustee or debtor in possession shall give notice to all parties on the master mailing list of the intent to pay compensation. The notice shall state the amount of compensation, to whom the compensation is to be paid, and the nature of the services to be performed. The notice shall further state that any party in interest may object to the compensation and request a hearing at any time prior to confirmation.

(3) Compensation may commence no sooner than 10 days after notice is given. The trustee or debtor in possession shall suspend payment of compensation upon receipt of an objection and shall resume payment only upon order of the court after a hearing requested in accordance with Local Rule 70(g). The court will ordinarily schedule the hearing within 10 days of the request.

(e) Monthly Financial Report

(1) A debtor in possession or trustee operating a business shall file with the court a monthly balance sheet and profit and loss statement prepared on an accrual basis, unless such requirement is modified by the court for cause shown. The profit and loss statement shall include an itemized listing of revenue and expenses. A cash flow statement, showing cash receipts and disbursements, shall be attached. The balance sheet and profit and loss statement shall be in sufficient detail to enable parties in interest to adequately assess the current financial condition, profitability, and desirability of continued operation of the business.

(2) If the debtor is a farmer, no monthly balance sheet or profit and loss statement need be filed. Instead, an itemized list of cash receipts and disbursements shall be filed each month. With the list shall be included a schedule of all unpaid debts incurred since commencement of the case.

(3) The above financial information shall be filed within 15 days of the close of the month during which relief was ordered and within 15 days of the close of every month thereafter, until a plan is confirmed or the case is converted or dismissed. A copy of each monthly balance sheet and profit and loss statement shall be sent to the chairman of any creditors' committee by the debtor in possession or trustee.

(f) Taxes

The monthly financial report shall include a certification that all taxes due have been paid and that all tax deposits have been made, and shall indicate the amount paid or deposited, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited.

(g) Disclosure Statement

(1) A disclosure statement shall be filed with the plan. Upon filing of the plan and disclosure statement, the clerk shall prepare an order and notice setting times for the disclosure hearing, and serve the order and notice on the proponent of the plan. The proponent of the plan shall give the notice in accordance with the order and with Bankruptcy Rule 3017(a), and shall forthwith file the notice and an affidavit of mailing the notice.

(2) The disclosure statement shall include, at a minimum, detailed information in the following areas:

- (A) description of the business;
- (B) history of the debtor prior to filing;
- (C) current financial information;
- (D) description of the plan;
- (E) how the plan is to be executed;
- (F) liquidation analysis;
- (G) management to be retained and their compensation;
- (H) projections of operation and underlying assumptions;
- (I) litigation pending or contemplated;
- (J) payments made for services in connection with the case or plan;
- (K) transactions with insiders; and
- (L) tax consequences.

(3) Objections to the disclosure statement shall be filed and served on the

proponent of the plan at least five days prior to the hearing on approval of the statement. Objections shall state with specificity the grounds therefor.

(4) The order approving the disclosure statement shall conform substantially to LF 112.

(h) Plan

(1) The plan shall clearly set forth what acts or events constitute substantial consummation of the plan.

(2) A plan providing for liquidation of property of the estate shall set a date certain by which liquidation must occur and shall provide for an alternative if liquidation does not occur by the date so set.

(i) Confirmation

Promptly after approval of the disclosure statement, the clerk shall prepare an order and notice setting times for the confirmation hearing, and shall serve the order and notice on the proponent of the plan. The proponent of the plan shall mail a copy of the notice to all parties on the master mailing list at least 25 days prior to the date of the confirmation hearing, together with:

- (1) the plan or a summary thereof approved by the court;
- (2) the disclosure statement approved by the court;
- (3) a summary, approved by the court, or the full opinion of the court, if any, approving the disclosure statement;
- (4) a ballot conforming substantially to LF 113; and
- (5) the list classifying claims and interest, as described in paragraph (k)(1).

(j) Acceptance or Rejection and Objections to Confirmation

Ballots accepting or rejecting the plan and objections to confirmation shall be filed at least 10 days prior to the confirmation hearing. Objections to confirmation shall state the grounds therefor.

(k) Report of Balloting

(1) Within ten days after receipt of the order setting times for the confirmation hearing, the proponent of the plan shall file a list classifying allowed

claims and interests. The list shall include the name of the holder of each claim or interest, and the allowed amount of each claim or interest. The claims and interests shall be listed alphabetically by class.

(2) The clerk shall certify to the court the results of balloting at least five days prior to the confirmation hearing. The certification shall state, for each class, the number of creditors voting, the amount of claims voted, number and percentage of creditors accepting and rejecting, and the amount and percentage of claims accepting and rejecting.

(l) Certification of Substantial Consummation

No later than 30 days from the confirmation of the plan, and every 90 days thereafter until substantial consummation, the proponent of the plan shall certify to the court that the plan has or has not been substantially consummated and shall report on the action taken and progress made in consummation of the plan.

(m) Modification After Confirmation

The proponent of a modification of a confirmed plan shall comply with subdivisions (g), (h), and (i) of this rule, except that the notice given in subdivision (i) shall specify that any holder of a claim or interest who has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless such holder changes such holder's previous acceptance or rejection in writing prior to the date of the confirmation hearing on the modified plan.

Related Provisions

11 USC 7004(8)	Duty to File Reports
11 USC 1107	Duties of the Debtor in Possession
11 USC 1108	Operation of Business
11 USC 1121	Who May File a Plan
11 USC 1125	Postpetition Disclosure
11 USC 1126	Acceptance of Plan
11 USC 1127	Modification of Plan
11 USC 1128	Confirmation Hearing
11 USC 1129	Confirmation of Plan
R 2002	Notices
R 2015	Duty to Make Reports
R 3016	Filing Plan and Disclosure Statement

- R 3017 Disclosure Hearing
- R 3018 Acceptance or Rejection of Plan
- R 3019 Modification of Plan
- R 3020 Confirmation of Plan

The first step in the process of selecting a plan for the... after the appropriate hearing. The certification that... the number of members voting, the amount of claims... percentage of members accepting and rejecting, and the amount and... of the plan.

(b) Certification of Substantive Compliance
 This step must be taken from the completion of the plan... day thereafter will constitute the proposal of the plan... this matter to the court that the plan has not been... and shall report on the action taken and progress made in... of the plan.

(c) Modification After Confirmation
 The proposal of a modification of a confirmed plan shall... of the court and the court shall give its... that will modify that plan or a part of it, or which will... the plan is deemed to have accepted or rejected, as the case may... the plan is modified, unless such modification holds the plan... or rejected in whole or in part to the date of the modification hearing on... the modified plan.

Back to the Report	11 USC 1001
Date of the Order in Confirmation	11 USC 1002
Confirmation of Plan	11 USC 1003
Who May File a Plan	11 USC 1004
Propositions and Hearings	11 USC 1005
Acceptance of Plan	11 USC 1006
Modification of Plan	11 USC 1007
Confirmation Hearing	11 USC 1008
Confirmation of Plan	11 USC 1009
Rejection	11 USC 1010
Plan to Make Hearing	11 USC 1011
Filing Plan and Disclosure Statement	11 USC 1012

Rule 61

CONVERSION FROM CHAPTER 11

(a) Applicability

This rule applies to a case converted from a case under chapter 11 to a case under chapter 7 or chapter 13.

(b) Final Report and Account

The debtor, or trustee if one served in the original chapter 11 case, shall file and serve on the successor trustee a final report and account within 30 days of the conversion of a chapter 11 case. The final report and account shall include:

(1) A separate schedule accompanied by a matrix, listing unpaid debts incurred by the debtor in possession after the commencement of the chapter 11 case;

(2) A balance sheet as of the date of conversion and a profit and loss statement for the period of the pendency of the case under chapter 11, unless such balance sheet and profit and loss statements for the period of the pendency of the case under chapter 11 have been previously filed in accordance with Local Rule 60;

(3) A statement of the money or property paid or transferred, directly or indirectly, during the pendency of the chapter 11 case, to the debtor, if the debtor is an individual; or to each partner, if the debtor is a partnership; or to each officer, stockholder, or director, if the debtor is a corporation;

(4) A listing of all matters pending in the case and any adversary proceedings or other litigation pending in which the debtor, debtor in possession or trustee is a party;

(5) A schedule of property acquired by the debtor after the commencement of the chapter 11 case.

(c) Bank Account

The debtor, or trustee if one served in the original chapter 11 case, shall furnish to the chapter 7 or chapter 13 trustee all cancelled checks and bank statements pertaining to the bank account maintained in compliance with Local Rule 30.

(d) Accounting to Trustee

The debtor shall further report and account to the trustee appointed in the converted case in response to reasonable requests by the trustee for additional information concerning the administration of the case by the debtor in possession.

Related Provisions

11 USC 348 **Effect of Conversion**

R 1019 **Conversion to Chapter 7**

Rule 65

CHAPTER 13 CASES

(a) Applicability

This rule applies only to cases under chapter 13 of the Bankruptcy Code.

(b) Filing Fee Paid in Installments

Where the court has allowed the filing fee to be paid in installments, the fee must be paid in full prior to the time set for the hearing on confirmation.

(c) Summary of Plan

The debtor shall file a Summary of Plan (LF 5.1) with his plan.

(d) Debtor Engaged in Business

Debtors engaged in business shall comply with Local Rule 60(c), (d), (e), and (f). A copy of the monthly financial reports shall be sent to the trustee. Monthly financial reports shall be filed and sent to the trustee until the plan is completed.

(e) Plan Payments

A plan shall provide for monthly payments to the trustee of at least \$50.

(f) Objection to Confirmation

A party objecting to confirmation must file the objection in writing and notify the debtor and trustee of the objection at least three days prior to the date first set for the meeting of creditors.

(g) Confirmation Hearing

If no objection to confirmation has been filed, the court may confirm a plan immediately after the meeting of creditors without an actual hearing and without additional notice. If an objection has been filed, a hearing may be requested after the date first set for the meeting of creditors in accordance with Local Rule 70(g) by the debtor, trustee, or any objecting party. The party requesting the hearing shall notify the debtor, trustee, and other objecting parties of the date of the hearing.

(h) Payment of Late Filed Claims

The trustee shall pay late filed claims only after the claimant has given 20 days notice and an opportunity to be heard to the debtor and the trustee. If payment of a late filed claim is allowed by the court, the trustee need not pay the claimant until all other claimants have received their full payments provided by the plan.

(i) Modification of Plan

(1) A party requesting modification of the plan, before or after confirmation, shall give 20 days notice and an opportunity to be heard to all creditors affected and the trustee. If the proposed modification does not affect the treatment of a secured creditor, does not reduce the percentage to be paid on unsecured claims, and does not substantially extend the term of repayment, notice of the modification need be given only to the trustee and debtor. If no objection to a proposed modification is timely filed and served, the modified plan becomes the plan without court order.

(2) Notwithstanding paragraph (1), if a modification provides for the payment of claims not listed on the original chapter 13 statement, notice of the modification must be given to the additional creditors.

(3) The trustee may pay postpetition claims only if the plan is modified as above and the postpetition creditor affirmatively agrees in writing to payment under the plan, provided that written agreement is not required of postpetition tax creditors.

(j) Lien Avoidance

Motions to avoid liens pursuant to 11 U.S.C. 522(f) may be made as part of the debtor's plan if the debtor indicates in the plan and on the Summary of Plan (LF 5.1) the creditors whose liens are to be avoided, and provides notice to the trustee and lien holder in accordance with Local Rule 70.

(k) Compensation of Debtor's Attorney

A debtor's attorney requesting compensation for services performed in connection with the chapter 13 case shall do so in the following manner:

(1) When the requested compensation, together with compensation previously paid totals \$600 or less, the attorney need give notice only to the debtor and trustee and need not certify the time spent or services performed.

(2) When the requested compensation, together with compensation previously paid, totals more than \$600, but less than \$1,500, the attorney need give notice only to the debtor and the trustee. However, the attorney shall comply with Local Rule 40(d).

(3) When the requested compensation, together with compensation previously paid, totals more than \$1,500, the attorney shall give notice to all parties on the master mailing list. The attorney shall also comply with Local Rule 40(d).

(1) Dismissal and Conversion

(1) A party in interest moving for an order of dismissal or conversion for failure to make payments under a confirmed plan or under 11 U.S.C. 1326(a) need give notice only to the debtor, debtor's attorney, and trustee. The debtor may request an order of dismissal by ex parte motion and order, and may convert to chapter 7 at any time without an order of the court.

(2) Upon dismissal prior to confirmation, the trustee shall return any remaining funds to the debtor after deducting any unpaid claim under 11 U.S.C. 503(b). Upon dismissal after confirmation, the trustee shall distribute the remaining funds in accordance with the plan.

(3) Upon conversion before or after confirmation, the trustee shall pay any remaining funds to the successor trustee.

Related Provisions

11 USC 1304	Debtor Engaged in Business
11 USC 1305	Postpetition Claims
11 USC 1323	Modification Before Confirmation
11 USC 1326(a)	Plan Payments
11 USC 1329	Modification After Confirmation
R 1006	Filing Fee
R 3015	Filing a Plan
R 3019	Modification

Rule 70

NOTICE AND HEARING

(a) Notice

(1) Unless otherwise provided in the Bankruptcy Code, the Bankruptcy Rules, or these rules, whenever the Code or Rules authorize any act, or authorize the court to enter an order, "after notice and hearing" or a similar phrase, the party giving the notice shall state in the notice:

(A) That the act may be performed or the court may enter an order without an actual hearing unless a party in interest serves and files an objection in writing within a specified time; or

(B) That the court has entered the order or authorized the act to be done without a hearing.

(2) After giving notice, the moving party shall file as soon as practicable the notice and an affidavit of mailing with a list of persons, and their addresses, to whom the notice was sent. If notice to all creditors is required, the court will enter an order based on that notice only if the list of persons to whom the notice was sent is a copy of the certified master mailing list described in paragraph (c)(2).

(b) By Whom Given

Except for notices specified in Bankruptcy Rules 2002(a)(1), (a)(4), and (f)(1-10), all notices shall be given by the party requesting an order or other authority.

(c) To Whom Given

(1) "Notice," as used in this rule shall mean notice by mail to all creditors, equity security holders, indenture trustees, the debtor, the chairman of any committee appointed in the case, and any other parties in interest. Less inclusive notice may be given if not prohibited by the Code or Rules, and if ordered by the court or if appropriate in the particular circumstances. Notice is appropriate if it reaches all those with a potential good faith objection to the proposed order or action.

(2) The addresses of notices shall be in accordance with Bankruptcy Rule 2002(g). A master mailing list of names and addresses, filed pursuant to Local

Rule 10(j), and updated in accordance with Rule 2002(g) may be obtained from the clerk for a cost of 50 cents per page (photocopy) or \$1.00 per page (gummed mailing labels). Notice required to be given to all creditors is presumed to be appropriate if mailed to all entries on a master mailing list certified updated by the clerk within 20 days of the notice.

(d) Time

The moving party shall allow at least 20 days for objection prior to presentation of an order or the taking of an action, unless otherwise ordered or provided in the Bankruptcy Code, Bankruptcy Rules, or these rules.

(e) No Hearing Required

Absent objection, an actual hearing is not required for any "notice and hearing" matter. The moving party may present ex parte a proposed order by submitting the proposed order to the clerk and by filing a motion or application and an affidavit that no objections were made. If the court nonetheless wishes to hold a hearing, the court will inform the moving party of the date of the hearing.

(f) Objection

A party objecting to an act or the entry of an order shall file with the clerk and serve on the moving party, a written objection within the time set forth in the notice. The objection shall state briefly the grounds therefor.

(g) Hearing

(1) If an objection is filed, the moving party shall request a hearing date from the clerk. Requests may be in writing, in person, or by phone. The matter will not be heard unless a hearing date has been requested from the clerk in accordance with this paragraph.

(2) Notice of the hearing and a copy of the motion or application must be filed and served on the objecting party, trustee, debtor, and debtor's attorney no later than seven days prior to the date of the hearing. The matter may not be heard, or may be decided adversely to the non-complying party if the notice and motion are not so filed and served.

(3) In appropriate cases, hearing by phone conference may be requested by a party or held on the court's own motion.

(h) Terms

Whenever a party who has requested a hearing does not appear by attorney at the hearing, the court may award the opposing party attorney fees occasioned by the non-appearance.

(i) Continuance

A hearing may be continued by order of the court:

(1) on the court's own motion;

(2) upon agreement of the parties; or

(3) on the motion of a party after notice to opposing parties served and filed at least three days prior to the scheduled hearing. The motion shall be accompanied by an affidavit stating the reasons of the necessity of the continuance. A counter-affidavit may be filed by the opposing party. Terms may be imposed at the court's discretion.

Related Provisions

11 USC 102(1)	Construction of "notice and hearing"
R 2002	Notice to Creditors and the United States
R 9006	Time
R 9007	Authority to Regulate Notices
R 9014	Contested Matters

Rule 71

MOTION PRACTICE IN ADVERSARY PROCEEDINGS

Motions in adversary proceedings shall be served and filed in accordance with Local Rule 3(b). Hearings on such motions shall be requested in accordance with Local Rule 70(g).

Rule 72

EX PARTE ORDERS

When the Bankruptcy Code or Rules authorize the court to enter an order without notice to parties in interest, the moving party may present the motion and proposed order to the court by submitting the motion and order to the clerk.

Rule 81

PRETRIAL PROCEDURE

(a) Pretrial Conference

A pretrial conference may be set by the court in a contested matter or adversary proceeding. The court will notify the parties of the date set. At the pretrial conference the attorneys for the parties shall meet with the bankruptcy judge and shall be prepared to:

(1) Consider those matters detailed in Rule 16 of the Federal Rules of Civil Procedure;

(2) Display to each other all exhibits (other than those to be used for impeachment) tentatively intended to be offered in evidence at trial. Opposing counsel may make copies of exhibits; and

(3) Exchange a list of witnesses tentatively intended to be called at trial.

(b) Pretrial Order

If the court so orders, the parties shall meet and in good faith attempt to formulate a pretrial order. Should the parties fail to agree on an order, each shall, at or prior to a time set by the court, serve and file a proposed pretrial order covering at least the following points:

(1) Nature of the proceedings;

(2) Admitted and agreed facts;

(3) Issues of fact;

(4) Plaintiff's contentions as to disputed facts;

(5) Defendant's contentions as to disputed facts;

(6) Issues of law;

(7) Plaintiff's exhibits to be received without objection or further authentication;

(8) Defendant's exhibits to be received without objection or further authentication;

- (9) Plaintiff's exhibits objected to by defendant;
- (10) Defendant's exhibits objected to by plaintiff;
- (11) Witnesses to be called by plaintiff;
- (12) Witnesses to be called by defendant;
- (13) Relief sought; and
- (14) Rulings previously made by the court.

(c) Status Conference

At the request of any party or on its own motion, the court may order a status conference to be held before the clerk with respect to any adversary proceeding or contested matter.

The attorneys who will be in charge of each party's case shall attend personally and shall come prepared to discuss in detail and in good faith the issues of fact and law remaining, the evidence to be presented, and the respective positions of the various parties.

Related Provisions

Rule 7016

(Adopting FRCP 16) Pre-Trial Procedure

Rule 82

MOTIONS TO COMPEL DISCOVERY

(a) Form

Motions to compel answers to interrogatories or questions, or to determine the sufficiency of answers to either, and all objections to requests for admissions shall identify and quote in full each interrogatory or question and the answer, if any, or the admission sought to be obtained. Motions for production and motions for protective orders must set forth, without reference to other pleadings or documents, the objects sought to be produced or protected.

(b) Obligation to Confer

A motion to compel discovery shall not be heard unless the parties have conferred and attempted to resolve their differences. The moving party shall call for such conference with five days after the motion has been served, and the conference shall be held within five days thereafter.

(c) Time for Compliance

The party against whom an order to compel has been entered shall comply with the order within 10 days after receiving notice of the order, unless the order specifies a different period.

Related Provisions

R 7037 (adopting FRCP 37) Compelling Discovery

Rule 83

USE OF DEPOSITIONS AT TRIAL

(Reserved)

Rule 84

EXHIBITS

The clerk may destroy upon notice or return all exhibits to the parties offering them after the time for appeal has passed.

Rule 85
JURY TRIALS

(Reserved)

Rule 90

FORM OF DOCUMENTS

(a) General

All documents presented for filing shall be prepared on paper of good quality. Documents shall be prepared on letter-size (8½ x 11 inch) paper. The material on each document shall be typed, printed in ink or clearly legible duplicating process and shall appear on only one side of the sheet of paper. Names shall be typed or legibly printed under signature lines.

(b) Use of Standard Forms

The form of documents shall conform substantially to the Official Forms of Bankruptcy Procedure or local forms when available. A list of forms currently available may be obtained from the clerk.

(c) Identification

Every pleading shall contain a title briefly characterizing the pleading. One word titles such as "motion" or "order" are not sufficient. At the left side of the bottom of each page of all pleadings, an abbreviated title of the pleading shall be repeated, followed by the page number. The first or last page of each pleading shall contain the name, address, and telephone number of the attorney filing the pleading. The attorney signing the pleading shall indicate below his signature the name of the client.

(d) Filing in Multiple Cases

Documents presented for filing in more than one case shall be accompanied by sufficient copies for the additional case files.

Related Provisions

R 7010	Form of Pleadings
R 9004	General Requirements of Form
R 9011	Signing and Verification of Papers
R 9013	Motions: Form and Service

Rule 91

ORDERS, FINDINGS, CONCLUSIONS

(a) Preparation

All orders, findings of fact and conclusions of law, judgments, and decrees, unless otherwise directed by the court, are required to be in writing, and when not entered by the clerk as provided in Rule 58, Federal Rules of Civil Procedure, shall be prepared by the attorney obtaining such order, judgment or decree, or representing the successful party. The original order, findings of fact and conclusions of law, judgment or decree shall be delivered to the clerk after one copy has been served on any party who opposed the order and any party who participated in a hearing from which the order arose. The court may then enter such order, findings and conclusions, judgment or decree and the opposing party, if not satisfied with the same, may move for amendment or alteration thereof or addition thereto in accordance with Rule 52(b) or 59(e), Federal Rules of Civil Procedure.

(b) Presentation

Every order, findings of fact and conclusions of law, and judgment prepared by an attorney shall bear the legend: "Presented by: (Typed name and Signature of Attorney)."

(c) Motion and Order

Every judgment or order in a contested matter or adversary proceeding shall be set forth on a separate document from the motion or other request for the order, and shall set forth with particularity the terms of the order.

(d) Signature of the Court

A document requiring the signature of the court shall provide as follows:

DATED:

BANKRUPTCY JUDGE

Related Provisions

R 9021 Judgment on Separate Document

Rule 92

MEMORANDUM OF AUTHORITIES

(a) In General

A party may, or, when required by the court shall, file in support of or in opposition to a motion or other request for an order of the court, a brief written memorandum of reasons and a list of authorities on which he relies. The text shall be double-spaced; only quoted material may be single-spaced. Such memorandum must be filed and served on the opposing party in accordance with Local Rule 3(b)(2), (3).

(b) Citations

Citations to Washington cases in a memorandum of authorities shall be to the Washington Reports. Citation to cases from other states shall be to the National Reporter System. Citations to federal cases shall be to the United States Reports, Federal Reporter, or Federal Supplement. Citation to bankruptcy cases shall be to West's Bankruptcy Reporter, Collier's Bankruptcy Cases or Bankruptcy Court Decisions.

Rule 95

COSTS

(a) Cost Bill

A party allowed costs may, within 10 days after entry of judgment, file and serve on the attorney for the opposing party a bill of costs (BK 97). The bill shall state the time that the costs thereon will be taxed, which time shall be no less than one day from the date the bill is served on the opposing party. With the bill shall be filed a certification that the opposing party was served.

(b) Objection and Hearing

Before the costs are taxed, a party objecting to any cost contained in the bill shall file his objection in writing, specifying the ground of the objection. The Clerk of Court will hear the objection.

(c) Taxation

After the hearing, or, if no objection is filed, on the date stated in the cost bill, the clerk may enter an order taxing the costs. The taxation of costs made by the clerk shall be final unless modified on appeal as provided in subdivision (d).

(d) Appeal

A party may appeal the decision of the clerk in the taxation of costs by filing a motion to retax with the court within five days of the taxation by the clerk. The party appealing shall give notice and opportunity for a hearing to the opposing party. The motion will be heard upon the same papers and evidence used before the clerk.

Related Provisions

R 7054(b)

Costs

Rule 96

CLAIM OF UNCONSTITUTIONALITY

Upon the commencement of any adversary proceeding or contested matter in which the constitutionality of any federal or state statute is brought into question and in which the United States or the state, respectively, or any agency, officer, or employee thereof is not a party, the party raising the constitutional issue shall file a copy of a notice giving the title of the case, a reference to the questioned statute, and the respects in which the party asserts the statute is unconstitutional. The party shall forthwith serve notice on the United States Attorney or the state attorney general, as appropriate, and shall file a certification that the notice has been so served.

Related Provisions

28 USC 2403 **Claim of Unconstitutionality**

Rule 97

INFANTS AND INCOMPETENT PERSONS

In contested matters and adversary proceedings, infants and incompetent persons shall be represented by a duly appointed general guardian, conservator, next friend, guardian ad litem or other like fiduciary. A certified copy of the order appointing such representative shall be filed prior to any action in the matter being taken on behalf of the infant or incompetent person.

Related Provisions

R 7017

(Adopting FRCP 17(c)) Parties Plaintiff and Defendant

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Rule 98

BROADCASTING AND RECORDING

(a) Prohibition

During a judicial proceeding, no photographs may be taken and no recording device, except those used by authorized court personnel, may be used. The broadcasting of judicial proceedings by radio, television, or other means is prohibited. No photographic, recording, or broadcasting devices, except those used by authorized court personnel, are allowed in the courtroom or its environs at any time without prior approval of the court.

(b) Judicial Proceedings and Courtroom

(1) As used in this rule, "judicial proceeding" includes:

(A) any trial or hearing before the bankruptcy judge other than a ceremonial occasion specifically exempted from this rule by court order, or

(B) any meeting of creditors, examination, or other proceeding before the clerk.

(2) As used in this rule, "courtroom and its environs" includes:

(A) the third floor of the United States Post Office Building in Spokane,

(B) the second floor of the William O. Douglas Memorial Courthouse in Yakima when bankruptcy court is in session, and

(C) the mezzanine of the north wing of the Federal Building in Richland when bankruptcy court is in session.

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