

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

LOCAL RULES OF BANKRUPTCY
PRACTICE & PROCEDURE

)
) ORDER AMENDING LOCAL RULES OF
) BANKRUPTCY PRACTICE & PROCEDURE
)
)

IT IS HEREBY ORDERED that

The attached amendments to the Local Rules of Practice and Procedure[↑] are adopted pursuant to Bankruptcy Rule 9029. The amendments shall take effect on the date of this order. These amendments shall apply in all cases and proceedings now pending, except to the extent that their application in a pending case or proceeding would not be feasible or would work injustice, in which event the unamended version of the rule applies.

DATED: September 11, 1986


JOHN M. KLOBUCHER
UNITED STATES BANKRUPTCY JUDGE

Rule 3

HEARINGS, MEETINGS, AND FILING

(a) Hearings and Meetings

Bankruptcy hearings are regularly held in Spokane, Richland, and Yakima. Hearings are periodically held in Moses Lake or Ephrata.

Meetings of creditors are regularly held in Spokane, Richland, Yakima, 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 99210-2164. 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 the 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 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. The non-resident attorney is required to pay a fee of \$50.00 per case, which fee will be deposited in the account established for the United States District Court, Eastern District of Washington, Non-Appropriated Fund.

(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 in an adversary proceeding shall continue until withdrawal or substitution and after final judgment for all proper purposes. The authority and duty of an attorney of record in a bankruptcy case shall continue until withdrawal, substitution or the closing of the case.

(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 entities 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

General Order 1 USDC EDWA Non-resident Attorney Fee

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 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 the 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, if a claim indicates that security is held for the claim, but does not specify a value for the security, the value shall be presumed to be as stated by the debtor on the Summary of Plan (LF 2670).

(3) The amount of an allowed secured claim may be augmented by any reasonable attorney fees, costs or charges, pursuant to 11 U.S.C. 506(b), if the secured claimant files an original or amended claim stating separately the amount of reasonable fees and costs claimed.

(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

(1) 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.

(2) In a chapter 11 case, if the court orders that all claims—including those scheduled as undisputed, non-contingent and liquidated—be filed within a time certain to be allowed, claims not so filed shall not be allowed only so long as the case remains under chapter 11. If the case is converted to chapter 7, the claim is allowed if filed at any time during the chapter 11 case or if filed timely after conversion.

(3) Claims “deemed filed” in a chapter 11 case pursuant to 11 U.S.C. 1111(a), shall be deemed filed only as long as the case remains under chapter 11. For purposes of distribution by the trustee in a subsequent chapter 7, such claims must be refiled timely after conversion.

Related Provisions

11 USC 501	Filing of Proofs of Claims
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 Claims
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	Filing of Claim by Co-debtor
R 3006	Withdrawal of Claims
R 3007	Objection to Claims
R 3008	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 six months from the date of the meeting unless a party in interest, within that six months, requests such tape be retained for a longer period.

(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 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 1515.

(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 ten 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.

(d) Extension of Time

The debtor may move for additional time to file the statement of intent or to perform that intention. The motion shall be made prior to expiration of the time and shall include a request by the debtor to defer the entry of the discharge for a corresponding period of time. If the additional time requested is 30 days or less, the time is automatically extended without notice or order. If the additional time requested is more than 30 days, the motion may be made only after a ten-day notice to the trustee and the affected secured creditors, and the time shall be extended only upon order of the court.

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 40

APPLICATIONS FOR ADMINISTRATIVE EXPENSES

(a) General

(1) 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.

(2) Requests for compensation of a trustee, attorney, accountant or other professional person shall include an itemized time sheet detailing separately each service performed. For each service the time sheet shall indicate the subject matter of the service, the date the service was performed, and the number of hours expended. The time sheet shall total the hours and indicate the hourly rate. If the time sheet covers the services of more than one individual, the name of the individual performing each service shall be indicated, and the time sheet or accompanying summary shall include the capacity and hourly rate of each individual.

(3) If compensation requested, together with compensation previously awarded in the case to the same individual or firm, exceeds \$10,000 the request shall include a brief narrative explaining the nature and extent of the service, the results obtained, the benefit to the estate, the size of the estate, and any other matters which will enable the court to determine the reasonable value to the estate of the services.

(4) Requests for reimbursement of expenses shall list separately each expense for which reimbursement is sought. The charge per copy, per notice, per mile or similar basis of allocation shall be included.

(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 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) That all services for which compensation is requested were in connection with the bankruptcy case or proceeding, and were not services in any other matter; and

(2) 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 for allowance of administrative expenses shall be given by the requesting party to all entities on the master mailing list no later than 10 days after the trustee gives notice of 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 for allowance of administrative expenses must be filed with the court no later than 10 days after the trustee gives notice of 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 entities 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 will 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) Chapter 11 and 13 cases

(A) 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.

(B) 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.

(C) 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.

(2) Chapter 7 Cases

Sixty days following the meeting of creditors the automatic stay is deemed lifted, subject to 11 USC 524(a)(2) and (3), unless for cause shown the court continues the stay beyond this time. A party may submit an ex parte order lifting stay, if desired. Such order must be supported by an affidavit showing the necessity for the order.

(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 entities on the master mailing list in accordance with paragraph (a)(1).

Related Provisions

11 USC 362 Automatic Stay

R 4001 Relief from Stay

Rule 46

OBJECTIONS TO CLAIMS AND EXEMPTIONS

(a) Claims

(1) 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."

(2) In a chapter 13 case, notice of an objection to allowance of a timely filed claim shall be given no later than 30 days after the trustee mails to the debtor a list of timely filed claims.

(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 51

BANKRUPTCY COURT JURISDICTION

(a) Core Determination

[Reserved]

(b) Consent to Determination

[Reserved]

(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. The motion shall be filed with 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

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 2650.

(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 give the notice in accordance with the order, and shall forthwith file the notice and an affidavit of mailing the notice. With the copy of the notice mailed to each entity on the master mailing list shall be included:

- (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 2670; and
- (5) the list classifying claims and interests, 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 within the time period stated in the notice given pursuant to subdivision (i). 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.

(1) 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 704(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	Post Petition and 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

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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 2710) with the 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 on or before the conclusion of the meeting of creditors. The trustee may file an objection to confirmation within 14 days after the conclusion of 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 the debtor, 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.

(4) Once the plan has been modified as above without objection, the proponent of the modification shall forthwith serve on the trustee a copy of the modification, together with a certificate stating that:

- (A) The modification has been filed with the clerk;
- (B) Notice has been given in accordance with this rule; and
- (C) No objections have been filed or served.

(5) If the plan is modified after objection and court hearing, the proponent of the modification shall serve a copy of the modification and order approving the modification on the trustee.

(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 2710) the creditors whose liens are to be avoided, and notice is provided 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 trustee. However, the attorney shall otherwise comply with all applicable rules, including Local Rules 40(a), 40(d), 40(e), 40(i)(3), and 70, and Bankruptcy Rule 2016.

(3) When the requested compensation, together with compensation previously paid, totals more than \$1,500, the attorney shall give notice to all entities on the master mailing list. The attorney shall also comply with all applicable rules, including Local Rules 40(a), 40(d), 40(e), 40(i)(3), and 70, and Bankruptcy Rule 2016.

(l) 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 USC 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 USC 503(b). Upon dismissal after confirmation, the trustee shall return the remaining funds to the debtor.

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

(4) A debtor requesting voluntary dismissal shall immediately notify the trustee of the request.

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 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 entities, and their addresses, to whom the notice was sent.

(3)(A) If notice to all creditors is required, the court will enter an order based on that notice only if the list of entities to whom the notice was sent is a copy of the certified master mailing list described in paragraph (c)(2).

(B) If notice is given to less than the entire master mailing list, the court will enter an order based on that limited notice only if the affidavit of mailing describes generally the class of persons to whom the notice was given or makes specific reference to a previous order limiting notice.

(4) An affidavit of mailing shall be a document separate from the notice, motion, application or order.

(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 entities 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. If an objection states no grounds, the court may strike the objection on ex parte motion of the moving party. The moving party may make such an ex parte motion to strike only after the objecting party fails within 10 days, to respond to a request by the moving party for a brief statement of the grounds for the objection.

(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 party giving notice shall file with the notice an affidavit of mailing, which shall specify to whom and when the notice was given. 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

(a) Adversary Proceeding

(1) If the moving party so elects, a motion in an adversary proceeding may be made after notice and hearing pursuant to Local Rule 70. Notice need be given only to the other parties to the adversary proceeding.

(2) If the election in paragraph (1) is not made, a hearing date for a motion in an adversary proceeding shall be requested from the clerk. The motion and notice of the hearing date shall be served and filed in accordance with Local Rule 3(b) and 70(g)(2).

(b) Ex Parte Orders

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

(c) Other Orders

All motions or applications for an order of the bankruptcy court, except motions in adversary proceedings or motions which may be considered ex parte shall be made after notice and hearing pursuant to Local Rule 70.

Rule 72
EX PARTE ORDERS

[DELETED]

Rule 75
DEFAULT

(a) Entry

Where a party to an adversary proceeding has appeared but is in default, the clerk, upon five days written notice to the party in default by the moving party may enter a default. Where a party has not appeared but the identity of that party's counsel or the whereabouts of that party is known to the moving party, the five day written notice shall be given by the moving party. Any party so served may respond to the pleading or otherwise defend at any time before the presentment. If the identity of counsel for the non-appearing party, and the whereabouts of the non-appearing party are unknown to the moving party, an affidavit so stating shall be filed with the motion.

(b) Judgment

A party entitled to have the clerk enter judgment pursuant to Rule 55(b)(1), Federal Rules of Civil Procedure, shall file an affidavit showing the principal amount due, which shall not exceed the amount demanded in the complaint, giving credit for any payments and showing the amounts and dates thereof, a computation of interest to the date of judgment, and costs and taxable disbursements claimed. The affidavit shall further state that:

- (1) The party against whom judgment is sought is not an infant or an incompetent person and is not protected by the Soldiers and Sailors Civil Relief Act;
- (2) A default has theretofore been entered by the clerk; and
- (3) The disbursements sought to be taxed have been made in the action, or will necessarily be made or incurred therein.

The clerk shall thereupon enter judgment for principal, interest and costs, pursuant to said rule.

Related Provisions

R 7055 Default (Adopting FRCP 55)

Rule 76
SUMMARY JUDGMENT

(a) Motion

Notwithstanding Local Rule 3(b)(2), the moving party shall file and serve a motion for summary judgment, together with a memorandum of authorities in support of the motion and any supporting affidavits, at least 20 days before the hearing on the motion.

(b) Responsive Memorandum

The opposing party shall file and serve a responsive memorandum and any opposing affidavits at least 10 days before the hearing.

(c) Reply Memorandum

The moving party shall file and serve any reply memorandum at least five days before the hearing.

Related Provisions

R 7056 Summary Judgment (Adopting FRCP 56)

Rule 82
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 or for a protective order shall not be heard unless the parties have conferred and attempted to resolve their differences. The moving party shall call for such conference within five days after the motion has been served, and the conference shall be held within five days thereafter. At least five days before the date of the hearing, the parties shall file a statement setting forth the matters on which they have been unable to agree, together with memoranda in support of or in opposition to the motion.

(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.

(d) Filing

Discovery documents, including depositions, interrogatories, and answers thereto, shall not be filed with the clerk.

Related Provisions

R 7037 Compelling Discovery (Adopting FRCP 37)

Rule 84
EXHIBITS

(a) Introduction at Hearing or Trial

(1) Parties shall identify their exhibits in the lower right hand corner in advance of a hearing or trial. Plaintiff's exhibits shall be identified by numbers (i.e. 1, 2, 3, ...); defendant's exhibits shall be identified by letters (i.e. A, B, C, ...).

(2) A party who intends to offer fewer than five exhibits shall furnish its exhibits to the courtroom clerk at least 15 minutes prior to the scheduled time for the hearing or trial.

(3) A party who intends to offer five or more exhibits shall furnish its exhibits to the courtroom clerk at least one hour prior to the scheduled time for the hearing or trial, or sooner if the clerk shall request. A party shall furnish its exhibits to the clerk in a three ring binder and shall provide an index to the exhibits.

(b) Disposition of Exhibits

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