

**LOCAL RULES**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON**

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BANKRUPTCY COURT  
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## **Rule 1007 - 1**

### **Lists, Schedules, & Statements**

- (a) A debtor desiring an extension of time in which to file the schedules and statements, or chapter 12 or 13 plan and related documents shall give five (5) days notice and hearing to the trustee, the United States trustee, and any examiner or creditors committee appointed or elected. The motion shall be filed before the time for filing the schedules and statements or the time for filing a chapter 12 or 13 plan has expired, shall contain a brief statement as to the reason why an extension is required, and a specific date when the required documents will be filed.
- (b) 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.

### **Related Provisions**

FRBP 1002	Voluntary Petition
FRBP 1004	Partnership Petition
FRBP 1005	Caption of Petition
FRBP 1007	Lists, Schedules and Statements
FRBP 1008	Verification of Papers
LBR 5005 - 2	Filing Papers - Numbers of Copies
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

**LBR 1007 - 1**  
**September 1, 1998**

## **Rule 1007 - 2**

### **Mailing - List or Matrix**

#### **Matrix**

A voluntary petition shall be accompanied by a matrix, in a format designated by the Clerk, containing the typed name and address of the debtor, debtor's attorney and each creditor. In a case under chapter 11 the matrix shall include the names and addresses of equity security holders. If the United States is a creditor, other than for taxes, the matrix shall contain the name and address of the United States Attorney for the Eastern District of Washington, and any other entity as required by FRBP 2002(j). In an involuntary case, the matrix shall be filed with the debtor's schedules or as the Court may direct.

#### **Related Provisions**

DMM A101	Domestic Mail Manual
FRBP 2002(j)	Notices to the United States

**LBR 1007 - 2**  
**May 1, 1996**

## **Rule 1009 - 1**

### **Amendments To Lists & Schedules**

#### **(a) Amendment to Schedules**

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 for the meeting of creditors or equity security holders, as applicable, has already been mailed, the amending party shall mail, with the notice required by FRBP 1009, a notice of the meeting of creditors or equity security holders, as applicable, to the additional creditors or equity security holders.

#### **(b) Amendment to Exemptions**

When a claim of exemptions is amended, the party filing the amendment shall mail to all parties on the Master Mailing List a copy of such amendment and a notice stating the time limits for making objections to such amendment.

#### **(c) Affidavits or Certificates of Mailing**

Any party filing an amendment to schedules shall file along with such amendment an affidavit of mailing or unsworn declaration under penalty of perjury, as appropriate.

### **Related Provisions**

FRBP 1009

Amendments

FRBP 2002

Notice and Hearing

FRBP 4003

Exemptions

28 USC 1746

Unsworn Declarations Under Penalty of Perjury

**LBR 1009 - 1**

**May 1, 1996**

## **Rule 1015 - 1**

### **Joint Administration/Consolidation**

The estates of debtor spouses filing a joint petition shall be jointly administered unless at or before the Meeting of Creditors the trustee or other party in interest objects.

A debtor in a joint case desiring that the case be divided shall file a motion, with ten (10) days notice and hearing to a non-joining debtor, attorney for the debtor and the trustee. The motion shall be accompanied by the requisite fee and affidavit or unsworn statement under penalty of perjury supporting the motion and describing the effect on the administration of either of the cases or estates that the granting of the motion would likely have.

#### **Related Provisions**

LBR 1017-1                      Conversion or Dismissal of Joint Cases

FRBP 1015                      Consolidation or Joint Administration

11 USC 302                      Joint Cases

**LBR 1015 - 1**  
**March 1, 2001**

## **Rule 1017 - 1**

### **Conversion or Dismissal of Joint Cases**

(a) A joint case may not be individually converted by one debtor to another chapter unless the case is first divided into two separate cases.

(b) One debtor in a joint case may move for a separate dismissal without need to first have the case divided into two separate cases.

(c) A notice by a debtor to convert a case may be joined with a motion to divide the case.

#### **Related Provisions**

LBR 1015-1	Joint Administration/Consolidation
FRBP 1015	Consolidation or Joint Administration
FRBP 1017(f)	Procedure for Dismissal, Conversion or Suspension
FRBP 1019	Conversion of a Chapter 11, 12 or 13 Case
11 USC 302	Joint Cases
11 USC 706	Conversion
11 USC 1112	Conversion or Dismissal
11 USC 1208	Conversion or Dismissal
11 USC 1307	Conversion or Dismissal

**LBR 1017 - 1**  
**March 1, 2001**

## **Rule 1017 - 2**

### **Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case**

**(a) Notice**

A Chapter 11 debtor may request conversion of the case to a case under Chapter 12 or Chapter 13 only after twenty (20) days notice and hearing to all parties on the Master Mailing List in accordance with LBR 2002-1.

**(b) Information Required**

The request to convert shall include information that the debtor is eligible to be a debtor under the chapter to which the case is to be converted and has not been discharged under 11 USC 1141(d).

**(c) Conversion to Chapter 12**

In the case of conversion to a Chapter 12 case, the request shall also include an affidavit or statement under penalty of perjury as to why the conversion is equitable.

#### **Related Provisions**

FRBP 2002	Notices to Creditors
LBR 2002-1	Notices to Creditors & Other Interested Parties
11 USC 1112(d)	Conversion or Dismissal

**LBR 1017-2**  
**October 15, 2002**

## **Rule 1072 - 1**

### **Places of Holding Court**

#### **(a) Courtroom Hearings**

Courtroom hearings are regularly held in Spokane, Yakima and Richland and occasionally in Ephrata for the convenience of the parties.

#### **(b) Telephonic Hearings**

Telephonic hearings are regularly held for the convenience of the parties or the Court.

#### **(c) Participation at Telephonic Hearings**

Any party in interest who desires to be heard at a telephonic hearing and who has not filed a pleading in the matter at issue should notify the appropriate chambers no less than one (1) day prior to the hearing of such desire.

#### **(d) Attendance at Hearings**

- (1) Members of the public may attend all bankruptcy hearings.
  - (A) In the case of a courtroom hearing, a party need only be present in the designated courtroom at the appointed time.
  - (B) In the case of a telephonic hearing the party shall:
    - (i) provide the Court with the telephone number at which they can be reached at the time of the hearing no less than twenty-four (24) hours prior to the hearing if they wish to attend at a place of their choosing;  
or
    - (ii) present themselves to the appropriate chambers sixty (60) minutes prior to the hearing if they wish to attend by the use of court operated telephonic equipment.
- (2) Attendees at all hearings shall conduct themselves in a manner so as not to disturb the hearing or the participants.

**Related Provisions**

FRBP 5001                      Courts and Clerks' Offices

28 USC 152                      Places of Holding Court

**LBR 1072 - 1**  
**May 1, 1996**

## **Rule 2002 - 1**

### **Notice To Creditors & Other Interested Parties**

#### **(a) Notice**

- (1) Unless otherwise provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules, whenever the Code or Rules authorizes any act, or authorizes the Court to enter an order, "after notice and hearing" or a similar phrase, the party giving the notice shall clearly state in the notice:
  - (A) The purpose of the notice;
  - (B) What a party receiving the notice must do in order to object to the action contemplated by the notice and the time within which an objecting party must act; and
  - (C) That the act may be performed or the Court may enter an order without an actual hearing or further notice unless a written objection is timely served and filed.

#### **(b) Service of Notice**

- (1) To Whom Given
  - (A) "Notice," as used in this rule shall mean notice by mail to all creditors, equity security holders, indenture trustees, the debtor, the chairperson of any committee appointed in the case, the United States trustee, and any other parties in interest.
  - (B) Less inclusive notice may be given if not prohibited by the Code or Rules and specifically allowed by the Court or local rules. Notice is appropriate if it reaches all those with a potential good faith objection to the proposed order or action.
- (2) By Whom Given

Any party seeking an order or other authority based on notice and hearing shall be responsible to give such notice as is required.
- (3) Certification of Mailing of Notice

As soon as practicable, a party giving notice pursuant to this rule shall file as

a separate document, an affidavit of mailing or unsworn declaration under penalty of perjury to which shall be attached a list containing the names and addresses to whom the notice was sent along with a copy of the notice, unless electronically linked.

**(c) Time Allowed for Objections**

- (1) The moving party shall provide at least twenty (20) days, plus three (3) additional days if required by FRBP 9006(f), for objections prior to presentation of an order or the taking of an action, unless a different time is prescribed.
- (2) A motion for an order reducing the time for making objections to a proposed action may be made and granted after notice and hearing for cause shown. Notice of such a motion shall clearly state the reasons supporting the necessity for a reduction of time and that objections may be made to the requested reduction. The objections will be considered by the court at the time of hearing on the motion for the principal relief requested. A motion for an order as to the principal relief requested and for the reduction in time may be combined provided both motions are clearly captioned and the requests separated in the body of the combined pleading.

**(d) Mailing Lists**

- (1) The addressees of notices shall be in accordance with FRBP 2002(g). Notice required to be given to all creditors is presumed to be appropriate if mailed to all entities on a Master Mailing List or Limited Mailing List retrieved from the data base of the court within twenty (20) days of the notice.

**(A) Master Mailing List (MML)**

A Master Mailing List is maintained by the Office of the Clerk for each pending case. This list is updated in accordance with FRBP 2002(g). The Master Mailing List is produced and maintained using the matrix provided by the debtor pursuant to LBR 1007- 2 and LBR 1009-1(a), requests from governmental agencies, written requests by entities who wish to be added, deleted or have their address changed, and proofs of claim.

**(B) Limited Mailing List (LML)**

A Limited Mailing List is maintained by the Office of the Clerk and is based on an order of the Court. A party desiring that a Limited Mailing List be established in a case shall do so by notice and hearing. The proposed order establishing a Limited Mailing List shall contain a list of each entity to be listed on the Limited Mailing List, with directions, if appropriate, as to classes or types of entities to be added. The order shall also state the scope

and duration of the order. Once established, the Limited Mailing List will be maintained by the Clerk in the manner provided in subparagraph (A) above.

(C) Changes to Mailing Lists

Additions, deletions or amendments to a mailing list shall be by filed request of the party requesting such change. Withdrawal by an attorney from a case is not sufficient for removal of such attorney's name from the Master Mailing List or the Limited Mailing List; however, a formal notice of appearance in a case by an attorney is sufficient to add such attorney to the Master Mailing List or the Limited Mailing List. A filed request to receive all notices will be sufficient to add such requesting party to both the Master Mailing List and the Limited Mailing List.

**(e) Signing of Orders Where No Objection is Pending**

- (1) If no objection is made as provided in paragraph (f) of this Rule or if withdrawal of an objection is filed or the objecting party has endorsed the related order, an actual hearing is not required for any "notice and hearing" matter.
- (2) The moving party may request entry of an ex parte order by:
  - (A) presenting the proposed order to the Clerk and filing a motion or application for entry of an order and an affidavit or statement under penalty of perjury, that no objections are pending, and if notice was to a MML or LML, that it was retrieved from the data base of the court within twenty days of the giving of the notice, or
  - (B) by filing a request for entry of an ex parte order on the prescribed form, in which case the court will prepare and enter the order.
  - (C) If the Court nonetheless wishes to hold the hearing, the Court will inform the moving party of the date of the hearing.

**(f) Objection**

- (1) A party objecting to an act or the entry of an order contemplated by a notice 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.
- (2) If an objection states no grounds, the Court may strike the objection on ex parte motion of the moving party. The moving party, however, may make such ex parte motion to strike only after the objecting party fails within ten (10) days, to respond to a request by the moving party for a brief statement of the grounds for the objection.

- (3) If an objection is filed, the moving party shall promptly request a hearing date from the Clerk.

**(g) Closing Case Where no Action Taken after Notice or Objection**

Issues raised by notice and hearing will be deemed moot for purposes of case closing thirty (30) days following the time to object to an act or entry of an order or from the filing of an objection unless:

- (1) An order has been presented ex parte if no objection has been filed;
- (2) A hearing has been requested if objection has been filed; or
- (3) A motion and affidavit or statement under penalty of perjury of explanation that the case not be closed.

**Related Provisions**

FRBP 2002	Notice to Creditors and the United States
FRBP 9006	Time
FRBP 9007	Authority to Regulate Notices
FRBP 9014	Contested Matters
FRBP 9036	Notice by Electronic Transmission
LBR 9001-1	Definitions
11 USC 102(1)	Construction of "notice and hearing"
11 USC 350	Closing Case

**LBR 2002 - 1  
June 1, 2004**

## **Rule 2004 - 1**

### **Depositions and Examinations**

#### **(a) Motion**

A motion 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. If the proposed order specifies a time and place for the examination, the moving party shall certify in writing that said party has coordinated the time and place of the examination with the person to be examined or specify why it is impossible to do.

#### **(b) Location and Attendance**

The debtor may be examined or compelled to produce tangible evidence at any time and place designated by order of the Court without the need for a subpoena.

#### **(c) Before Whom Conducted**

An examination may be conducted before any person authorized to administer oaths, except a bankruptcy judge. The time and place of the examination shall be coordinated with the person before whom the examination is to be conducted.

#### **Related Provisions**

FRBP 2004	Examination
FRBP 9012	Oaths and Affirmations
FRBP 9016	Subpoenas

**LBR 2004 - 1**  
**May 1, 1996**

**Rule 2007.1 - 1**

**Trustees & Examiners (Chapter 11)**

Abrogated.

## **Rule 2014 - 1**

### **Employment & Professional Persons**

An application for an order approving the employment of a professional by the trustee, debtor in possession or creditors' committee shall be in the prescribed local form and may be submitted ex parte without notice unless otherwise directed by the Court, except that in Chapter 11 cases, the applicant if being employed as an attorney or an accountant shall give seven (7) days notice and hearing to the United States trustee pursuant to LBR 2002 - 1. If the applicant desires that the order also establish the actual rate of compensation then notice and hearing to the Master Mailing List pursuant to LBR 2002 - 1 is required.

#### **Related Provisions**

FRBP 2014	Employment of Professional Persons
LBR 9010 - 1	Attorneys - Notice of Appearance
11 USC 327	Employment of Professional Persons
11 USC 1103	Powers and Duties of Committees

**LBR 2014 - 1**  
**May 1, 1996**

**Rule 2015 - 1**

**Trustees - General**

Abrogated.

## **Rule 2016 - 1**

### **Compensation of Professionals**

#### **(a) Notice**

Where an application exceeds One Thousand Dollars (\$1,000) notice of an Application For Award of Compensation for Services and Reimbursement of Expenses shall be on twenty days notice to the Master Mailing List in accordance with LBR 2002 - 1. The notice shall include the following information:

- (1) the status of the applicant;
- (2) the date the applicant's employment by trustee, debtor in possession or creditors' committee was approved;
- (3) whether the application is a final or interim application, and the sequential number of the application (i.e. 1st, 2nd etc.);
- (4) the amount of the compensation and reimbursement requested, stated separately;
- (5) the amount of compensation or reimbursement previously received or allowed, stated separately; and
- (6) the basis for the compensation and reimbursement.

#### **(b) Application**

(1) Applications for award of compensation for services or reimbursement of expenses pursuant to 11 USC 330 shall be as prescribed by the appropriate local form and shall include as attachments the following:

##### **(A) Narrative**

If the cumulative compensation applied for exceeds ten thousand (10,000) dollars, a narrative summary which describes the background of the case; the financial condition of the estate including comment as to profit and loss, amount of cash on hand or on deposit, amount of accrued unpaid administrative expenses and amount of unencumbered funds in the estate; the status of the case, and if the case is under Chapter 11, information concerning the status of the plan and disclosure statement, payment of quarterly fees to the United States trustee, and submission of monthly operating statements; a description of the tasks or projects for which compensation or reimbursement is sought; and

(B) Itemization of Services Rendered

(i) itemization of each service rendered in meaningful detail, including the identification of the person who rendered the service, the date the service was rendered and the project category of the service (i.e. cash collateral, relief from stay) in billing increments of one tenth of an hour, without combining or "lumping"; and

(ii) if the cumulative application for compensation exceeds ten thousand (10,000) dollars or if required by the Court, the presentation of the itemization shall be by project category, with administrative matters and fee application preparation as separate categories.

(C) Itemization of Expenses

An itemization of expenses in meaningful detail to include the date incurred, description of the expense, person incurring the expense with special emphasis on extraordinary or unusual items.

(2) A proposed ex parte order presented to the Court pursuant to LBR 2002-1(e) allowing compensation and reimbursement of expenses shall be as prescribed by the appropriate local form and shall contain the endorsement of the reviewing trustee.

(3) The applicant shall serve a copy of the application and attachments with the notice on the United States trustee, the trustee or debtor in possession, debtor and any creditors' committee appointed pursuant to 11 USC 1102.

**(c) Award and Payment**

Payments for compensation or reimbursement from the estate as an administrative expense pursuant to 11 USC 330 shall be made only after award and order of the Court.

**(d) Exception in Chapter 13 Case**

In a Chapter 13 case, an attorney may choose to be compensated on either an hourly basis or on an agreed flat fee basis. If the attorney chooses to be compensated on an hourly basis, compliance with sub-paragraph (a),(b) and (c) of this rule is required. An attorney who chooses to be compensated on an agreed flat fee basis need only comply with subparagraph (e) of this rule.

**(e) Agreed Flat Fee**

- (1) The Agreed Flat Fee shall be supported by a Flat Fee Agreement as prescribed by the appropriate local form, between the debtor and the attorney, may not exceed \$2,000 in a consumer case or \$3,000 in a business case as defined in 11 USC 1304(a), and shall be compensation for all services and associated expenses excluding filing fees in connection with the case through confirmation of the plan or thirty (30) days following the expiration of the claims bar date, whichever is later, that are ordinary, necessary and reasonable foreseeable and which shall include the following without limitation:
  - (A) preparation and filing of the petition, Schedules, and Statement of Affairs, the Chapter 13 Plan and associated local forms, along with modifications and amendments;
  - (B) representation at the Meeting of Creditors;
  - (C) responding and resolving common and foreseeable issues and objections, including but not limited to objections to confirmation; motions for relief from the automatic stay; assumption or rejection of unexpired leases or executory contracts; valuation of collateral; pre-confirmation adequate protection payments; objection to proofs of claim; tax refunds and bonuses, license reinstatement, and post petition repossessions and garnishments.
  - (D) in business cases, assisting the debtor in the preparation and filing of required financial reports;
  - (E) filing with the Chapter 13 trustee copies of the debtors pay stubs for the sixty (60) day period immediately prior to the filing of the petition, and tax returns or other records if requested by the trustee.
- (2) Flat Fee Agreement

The attorney for the debtor shall submit a copy of the Flat Fee agreement entered into with the debtor to the Chapter 13 trustee prior to the meeting of creditors, as well as a completed copy of the Statement of Money or Property Received or Promised in Connection With This Case Other Than by Application or a Plan (LF 2016A). The Flat Fee agreement shall be as prescribed by the appropriate local form.

(3) Approval of Agreed Flat Fee

Approval of the Agreed Flat Fee shall be included in the order confirming plan, and will be sufficient authority for the attorney to transfer any monies of the debtor held in the attorney's trust account to the attorney and for the trustee to pay any remaining amount to the attorney as directed by the plan.

(4) Supplemental Application

The attorney may submit a supplemental application for compensation for services not included in the agreed flat fee as set out in sub-paragraph (e)(2) of this rule, whether or not the services were performed before or after confirmation. In the case of a supplemental application the attorney shall comply with sub-paragraph (a), (b), and (c) of this rule as to such additional services. Any such supplemental application shall include a certification by the attorney that the compensation applied for is outside that contemplated by the agreed flat fee as set out in sub-paragraph (c)(2) of this rule. An order allowing supplemental compensation shall either be endorsed by the debtor, or on twenty (20) days notice and hearing to the debtor.

**(f) Hold Back of Estimated or Applied for Attorney Fees as Projected Costs of Administration**

Following confirmation, the trustee is authorized to hold back estimated attorney fees or attorney fees for which an application has been filed as projected costs of administration in the same manner as if they had been allowed, but may pay them out only as allowed by a separate order of the court.

**Related Provisions**

FRBP 2014	Employment of Professional Persons
FRBP 2016	Compensation for Services
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	Compensation for Services

## **Rule 2071 - 1**

### **Committees**

In a case in which the debtor has elected to be treated as a small business, a request that a creditors' committee not be appointed shall be on notice and hearing to the Master Mailing List in accordance with FRBP 2002.

#### **Related Provisions**

FRBP 2002

Notice and Hearing

LBR 3016 -1(b)

Chapter 11 Cases

11 USC 1102

Creditors' Committees

**LBR 2071 -1**

**May 1, 1996**

## **Rule 2072 - 1**

### **Notice to Other Courts**

A debtor who is a party to an action in any other court shall, as soon as possible following the filing of a petition for relief, give notice to the court, any judge to whom the case is assigned and all other parties. The notice shall identify the court, case caption, docket number and date such petition was filed.

### **Related Provisions**

RCW 6.01.050

Writ of Attachment or Execution Against  
Debtor in Bankruptcy

**LBR 2072 - 1**  
**September 1, 1998**

## **Rule 2082 - 1**

### **Chapter 12 - General**

#### **(a) Applicability**

This rule applies only to cases under Chapter 12 of the Bankruptcy Code.

#### **(b) Tax Returns**

The debtor shall file at the time the schedules are filed, a copy of income tax returns for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

#### **(c) Debtor Eligibility Challenges**

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fifteen (15) days notice and hearing to the Master Mailing List pursuant to LBR 2002 - 1.

#### **(d) Funds of the Estate**

- (1) The debtor shall open a new bank account immediately upon filing a case under Chapter 12. The bank account shall be in the name of the debtor as "CHAPTER 12 DEBTOR". The account shall be separate from any account used by the debtor prior to filing of the Chapter 12 case. All amounts from the debtor's previous bank accounts shall be transferred to the new account. All receipts, including cash, after filing the case shall be deposited into the new account. The debtor shall file with the Clerk, the Chapter 12 trustee, and the United States trustee information as to the identity and location of the debtor's bank and the new account number.
- (2) All bills shall be paid by check written to a named payee. Checks written to the debtor may only be for the payment of incidental family or household expenses.

#### **(e) Compensation of Attorney for Debtor**

- (1) Requests for Compensation to be paid from the estate shall be made pursuant to FRBP 2016(a) and LBR 2016.
- (2) A copy of the Attorney Statement of Compensation, and any amendments thereto, required to be filed by 11 USC 329 and FRBP 2016(b), shall be promptly served on the United States trustee and the Chapter 12 trustee.

**(f) Monthly Operating Statement**

- (1) The debtor shall file and serve upon the Chapter 12 trustee a monthly statement of the estate's cash receipts and disbursements. The first monthly statement shall be filed within fifteen (15) days of the close of the month during which the case was filed. A monthly statement shall be filed within fifteen (15) days of the close of each month thereafter until the plan is completed or the case is converted or dismissed. A copy of the bank statement for the corresponding month shall be attached to the monthly statement.
- (2) The monthly statement shall itemize each receipt according to the type and quantity of product sold. Disbursements relating to farming operations shall be similarly itemized. Disbursements for household and family living expenses shall not be itemized, but shall be shown as a single, lump sum amount. Disbursements made to an attorney shall be separately stated and itemized.
- (3) The monthly statement shall include a certification that all taxes due since the filing of the case have been paid or deposited. The amount paid or deposited during the month, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited shall be indicated in the monthly statement.
- (4) The debtor shall keep a copy of all receipts, bills and invoices for all purchases or payments on behalf of the farming operation.
- (5) The Chapter 12 trustee or any party in interest may present, upon five (5) days notice and hearing, an order to dismiss if the debtor becomes delinquent in filing any monthly statement.

**(g) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance**

- (1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012 - 1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to 11 USC 506(d). In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to 11 USC 349(b)(1)(C) unless otherwise ordered.
- (2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by adversary proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007 - 1.
- (3) Actions to avoid judicial or non-possessory non-purchase money security interests under 11 USC 522(f) shall be by separate motion pursuant to LBR 4003 - 2.

**(h) Motion For Valuation Hearing**

- (1) If the debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to value the property claimed as security for the claim. This motion and notice thereof shall be filed no later than thirty (30) days from the date of filing the petition initiating the Chapter 12 case, or upon the filing of the plan, whichever is sooner. Service on the Master Mailing List shall be initiated at the same time the motion is filed.
- (2) Written objections for this motion shall be filed and served on the debtor within fifteen (15) days from the date of filing the notice. The objection shall state the specific grounds upon which it is based. Hearing on these objections will be held at the valuation hearing. An entity which fails to object to the motion to value may not participate at the valuation hearing.
- (3) The debtor, any objecting party, or the trustee may request that a status conference be conducted in the case at any time after the expiration of the time for objection to the motion to value. The status conference will be conducted by telephone upon five (5) days notice to the debtor, all parties who have filed objections, and the Chapter 12 trustee.
- (4) The valuation hearing shall be scheduled ninety (90) to one hundred five (105) days from the filing of the petition initiating the case. Notice of this hearing shall be included with the notice of the meeting of creditors.
- (5) At least ten (10) days prior to the valuation hearing all parties participating in the hearing shall exchange and deliver to the appropriate chambers a list of witnesses expected to testify at the hearing, a summary of the expected testimony, copies of the appraisals to be introduced at the hearing, and a list identifying the comparable sales information to be relied upon in supporting the valuation. Each appraisal submitted shall identify the date of the appraisal and the name and credentials of the appraiser. Failure to comply with this rule may result in the imposition of sanctions.
- (6) The Court may limit, on its own motion or at the request of a party, introduction of evidence on direct examination by affidavit only, provided, however, that said affiant be present at the time of hearing and available for cross examination.
- (7) The moving party shall immediately notify the Court of the settlement of any valuation disputes prior to the valuation hearing and shall place into the record at that hearing the details of any such settlement.

**(i) The Plan**

**(1) Filing**

- (A) A plan shall be filed within ninety (90) days of the filing of the petition initiating the case. An extension of time to file the plan may be allowed if an application is made prior to the expiration of the ninety (90) days from the filing of the petition. The application shall be supported by an affidavit or unsworn declaration under penalty of perjury which clearly sets forth the basis for the extension and establishes good cause for the request. The application may be made ex parte. A copy of the order of extension shall be served upon the Master Mailing List as soon as practicable by the debtor.
- (B) Simultaneous with the filing of the plan the debtor shall serve upon the Master Mailing List a copy of the plan, notice of the time to file objections, and notice of the hearing on confirmation.

**(2) Objections**

Objection to the confirmation of the plan shall be made within fifteen (15) days of the mailing of the notice of the filing of the plan, shall include the specific basis for the objection of the plan, and shall be filed with the Court and served on the debtor, the debtor's attorney, and the Chapter 12 trustee. A party who has made an objection and who fails to appear at the hearing on confirmation or at any other hearing scheduled on the objection may be deemed to have waived such objection.

**(3) Plans Filed Within Sixty (60) Days - Status Conference**

If a plan is filed within sixty (60) days of the filing of the petition initiating the case, the Court will conduct a status conference as soon as practical after the expiration of the time for objections to the plan. The status conference will be conducted by telephone conference upon five (5) days notice to the debtor, all parties who have filed objections and the Chapter 12 trustee. Among the matters to be discussed at this status conference will be possible revision of the hearing schedule in the case in light of the early filing of the plan.

**(4) Contents of the Plan**

The plan shall meet the requirements of 11 U.S.C. 1222 and shall also contain the following information:

- (A) a schedule showing the dates, amounts, and payees of all payments to be made by the debtor and the payments to be made through the office of the

Chapter 12 trustee;

- (B) a cash flow budget for the current crop year and for all future crop years for the life of the plan. The cash flow budget shall describe the crops intended to be grown, the farm products intended to be produced, and the projected gross income expected to be received for each crop or product. Assumptions upon which the cash flow projections are based with historical or other data justifying such assumptions shall be included. Operating expenses and loan payments shall be detailed in the budget. Living expenses of the debtor and the debtor's family shall be listed as a lump sum and shall not be described in greater detail;
- (C) projected administrative expenses, including attorney fees;
- (D) the probable tax consequences to the debtor resulting from the plan;
- (E) a statement, with detailed information, specifying the need, if any, for the plan payments to be made over a period longer than three (3) years; and
- (F) a liquidation analysis.

**(j) Trustee's Confirmation Summary**

The Chapter 12 trustee shall file a confirmation summary no less than seven (7) days prior to the date set for the confirmation hearing. At the same time a copy shall be served on the debtor, the debtor's attorney, and any party objecting to the plan. The confirmation summary shall make a recommendation as to confirmation and shall comment on each of the following:

- (1) the debtor's eligibility for relief under Chapter 12;
- (2) the liquidation statement, the cash flow budget, and proposed order confirming the plan;
- (3) objections to the confirmation of the plan;
- (4) the status of any valuation disputes;
- (5) the feasibility of the plan;
- (6) the validity of the secured claims; and
- (7) the appropriateness of attorney fees disclosed by the Attorney Statement of Compensation and of the total attorney fees estimated to be paid either as a cost of

administration or directly by the debtor.

**(k) Hearing on Confirmation**

- (1) The confirmation hearing shall be scheduled one hundred twenty (120) to one hundred thirty-five (135) days from the filing of the petition. Notice thereof shall be given with the notice of the meeting of creditors and at the time the plan is filed.
- (2) Objections to confirmation shall be heard at the confirmation hearing. The Court will require production of evidence supporting confirmation of the plan even if no objections are before the Court. This evidence will include, but is not limited to, proof of eligibility for relief under Chapter 12, a liquidation analysis supporting the assertion that the unsecured claims will not receive less than they would receive in a Chapter 7 liquidation, and projections of future operations supporting the contention that the plan is feasible. If no objection is before the Court, the Court may determine, without receiving additional evidence, that the plan has been proposed in good faith and not by any means forbidden by law. If no objection is before the Court and the debtor requests, evidence supporting confirmation of a plan may be submitted by affidavit and the confirmation hearing conducted by telephone conference; provided, however, in such a case that the debtor must participate in such phone conference and be available under oath to answer such questions as the Court may have relating to confirmation.

**(l) Preconfirmation Modification of the Plan**

If, in connection with the confirmation hearing, parties modify the plan as an accommodation or settlement, the Court may conditionally approve the modified plan, adjourn the hearing on confirmation, and order notice of the modification pursuant to 11 U.S.C. 1229(b) reserving the signing of the order of confirmation until the time for objections to modification has passed without objection.

**(m) Postconfirmation Modification of the Plan**

- (1) A party requesting modification of the plan after confirmation shall give thirty (30) days notice and an opportunity to be heard to the debtor, all creditors, the Chapter 12 trustee, and all other parties on the Master Mailing List.
- (2) Once the plan has been modified as above, without objection, the proponent of the modification shall forthwith serve on the Chapter 12 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. 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 Chapter 12 trustee.
- (3) If a modified plan provides for the payment of claims not listed on the original schedules, notice of the modification shall be given to the additional creditors.
  - (4) The Chapter 12 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.

**(n) Dismissal of Case by Debtor**

Absent an order to the contrary, a debtor desiring to dismiss the case shall give notice to the Master Mailing List in accordance with LBR 2002 - 1.

**Related Provisions**

FRBP 1017(D)	Procedure for Conversion or Dismissal
FRBP 2002	Notices
FRBP 2015	Duty to Make Reports
FRBP 2016	Compensation of Attorney
FRBP 3012	Valuation of Security
FRBP 3015	Filing of Plan
FRBP 3019	Modification of Plan
FRBP 3020	Confirmation of Plan
FRBP 9013	Motions; Form and Service
11 USC 329	Debtor's Transactions with Attorneys
11 USC 349	Effect of Dismissal
11 USC 704(8)	Duties of Trustee
11 USC 1106(a)	Duties of Trustee
11 USC 1203	Rights and Powers of Debtor
11 USC 1204	Removal of Debtor as Debtor in Possession
11 USC 1221	Filing of Plan
11 USC 1222	Contents of Plan
11 USC 1223	Modification of Plan Before Confirmation
11 USC 1224	Confirmation Hearing
11 USC 1225	Confirmation of Plan
11 USC 1229	Modification of Plan After Confirmation

**LBR 2082 - 1**  
**May 1, 1996**

## **Rule 2083 - 1**

### **Chapter 13 - General**

#### **(a) Applicability**

This rule shall apply only to cases under Chapter 13 of the Bankruptcy Code.

#### **(b) Filing The Plan and Other Documents and Number of Copies**

The debtor shall file the following documents as prescribed by the appropriate local form:

- 1) Chapter 13 Plan
- 2) Plan Payment Declaration
- 3) Plan Funding Analysis
- 4) Liquidation Analysis

#### **(c) Mailing of Plan and Notice to Parties in Interest**

The Clerk of Court shall mail a copy of the plan to each party in interest as required by FRBP 3015(d), unless the court specifically directs another entity to do so.

#### **(d) Valuation of Security, Determination of Extent of Lien, and Lien Avoidance**

- (1) Valuation of claims secured by a lien on property in which the estate has an interest shall be by a separate motion pursuant to LBR 3012-1. The order valuing the claim voids the lien to the extent of the unsecured portion of the claim pursuant to 11 USC 506(d). In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to 11 USC 349(b)(1)(C) unless otherwise ordered.
- (2) All actions to determine the validity, priority or, other than (1) above, the extent of a lien, shall be made by Adversary Proceeding, however, such relief may also be sought in an objection to allowance of claim pursuant to LBR 3007-1.
- (3) Actions to avoid judicial or non-possessory non-purchase money security interests under 11 USC 522(f) shall be by a separate motion pursuant to LBR 4003-2.

#### **(e) Delinquent Tax Returns**

A statement as to whether or not the debtor is delinquent in the filing of any tax return shall be included in the plan as well as a statement as to when any delinquencies in filing will be cured. Failure by the debtor to file tax returns in accordance with a confirmed plan may constitute a material default in the plan.

**(f) Treatment of Secured Creditors Whose Rights are Modified by the Plan and Arrearages**

- (1) If the plan proposes to modify the rights of a secured creditor or, if at the time of the filing a petition for relief, a delinquency exists on any payments for a secured debt, including the debtor's personal residence, then all payments, both current and delinquent, for such debt shall be paid through the office of the Chapter 13 trustee.
- (2) If during the pendency of the plan a secured debt falls into arrearage, then the plan may be modified pursuant to subsection (l) of this rule to require payments, both current and delinquent, to be paid through the office of the Chapter 13 trustee.
- (3) If during the pendency of the plan Arrearages are brought current, then the plan may be modified to allow for payments to be made directly to the creditor by the debtor.

**(g) Funding of Plan by Sales**

- (1) If the debtor proposes to partially fund the plan through the sale of property of the estate, then the debtor must also file a marketing plan with the plan. The marketing plan shall include:
  - (A) a description of the property to be sold;
  - (B) identification of all lien holders and the amount of each lien;
  - (C) if a broker is to be employed, the name of the broker and when the property was or will be listed;
  - (D) the terms of the broker's agreement;
  - (E) the price sought for the property;
  - (F) the method used in arriving at the value of the property; and
  - (G) the time frame, including mileposts where appropriate, during which the property will be marketed.
- (2) The debtor shall provide quarterly status reports to the Chapter 13 trustee.

**(h) Challenges to Eligibility of Debtor**

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by fifteen (15) days notice and hearing to the Master Mailing List pursuant to LBR 2002 - 1.

**(i) Objections to Confirmation**

If no objections to confirmation of a plan have been filed and served within twenty-five (25) days following service of the plan or within five (5) days following the conclusion of the meeting of creditors, whichever is later, the plan may be confirmed.

**(j) Confirmation**

If no objection to confirmation is pending, a plan may be confirmed promptly upon expiration of the time set to object to confirmation without additional notice so long as the Chapter 13 trustee has verified by affidavit or unsworn statement under penalty of perjury that the plan is feasible and satisfies the requirements of 11 USC 1325.

**(k) Modification of Plans**

**(1) Modification Prior to Confirmation**

Modifications made pursuant to 11 USC 1323 shall be on twenty (20) days notice and hearing in accordance with LBR 2002-1. A plan shall not be confirmed until the time to object to any such modification has expired and all objections resolved.

**(2) Modification After Confirmation**

(A) A modification proposed by any entity other than the debtor shall be on twenty (20) days notice and hearing to any adversely affected party, the Chapter 13 trustee, debtor and debtor's attorney. The modification shall become effective upon the expiration of the time to file objections, if there are no objections, or upon resolution of all objections made.

(B) A modification proposed by the debtor shall be on twenty (20) days notice and hearing to the Chapter 13 trustee and any adversely affected party, and if the modification provides for payment of a postpetition debt, the holder of such debt. The modification shall become conditionally effective upon the filing and service of the notice.

The modification shall become permanent upon the expiration of the time to file objections if no objections are timely made or upon resolution of all objections made.

**(3) Effect of Disallowance of Modifications**

If a proposed modification is disallowed, the plan in effect immediately prior to such modification shall be the plan, and debtor shall be responsible for curing any default occurring during the period of conditional modification.

(4) Modification by Stipulation Between Chapter 13 Trustee and Debtor

The Chapter 13 trustee and the debtor may stipulate to a modification before or after confirmation where no parties are adversely affected. Such modifications shall be effective upon the filing of the stipulation.

(5) Certificate of Modification

The proponent of a modification pursuant to (1) or (2) above shall serve on the Chapter 13 trustee, promptly after the time to file objections has expired, a copy of the modification and a certificate indicating the date the modification was filed, that notice and hearing were properly given and that no objections were received or filed.

(6) The debtor shall file an amended Plan Funding Analysis (LF 2083B) upon the making or proposing of a modification pursuant to subparagraph (k)(1) or (2) of this rule.

**(l) Distributions and Payments By Chapter 13 Trustee**

(1) The Chapter 13 trustee shall not pay funds from the estate, except pursuant to a proof of claim or an order of the court.

(2) Filing Fee Installments

Installment payments of filing fees where allowed shall be paid directly to the Clerk, however, if such fees are received by the Chapter 13 trustee, the Chapter 13 trustee may return them to the payor or deliver them to the Clerk without further order of the Court.

(3) Distributions by Chapter 13 Trustee Based on Modifications

(A) The proponent of a modification shall be responsible to serve notice on the Chapter 13 trustee in writing when a modification becomes effective, either conditionally or permanently, and until so notified the Chapter 13 trustee may make distributions without regard to such modification.

(B) Distributions may be made by the Chapter 13 trustee in accordance with a conditional modification until such modification becomes permanent, is disallowed or otherwise ordered, and the Chapter 13 trustee is served with a copy of such order by the objecting party.

(4) Postpetition Claims

Proofs of claim filed pursuant to 11 USC 1305(a)(1) for postpetition tax claims may be paid without a modification to the plan, however, proofs of claim filed pursuant to 11 USC 1305(a)(2) for consumer debt may only be paid if a modification to the plan so provides.

(5) Disposition of Funds on Conversion or Dismissal

(A) On the conversion or dismissal of a case, the Chapter 13 trustee shall, as soon as practicable, disburse any remaining funds in accordance with 11 USC 1326. If a motion is filed pursuant to 11 USC 348(f)(2) and the trustee is served a copy thereof prior to disbursement, then the Chapter 13 trustee shall not further disburse until resolution of the motion.

(B) If a case is dismissed or converted prior to confirmation, then the Chapter 13 trustee shall be entitled to deduct and retain as reimbursement for set up and maintenance costs an amount as established by the Court.

(6) Adequate Protection Payments

The Chapter 13 trustee may make adequate protection payments prior to the confirmation of the plan with an order of the court. On each such payment, the Chapter 13 trustee will be entitled to an administrative fee equivalent to that authorized by 11 USC 1326(b). Upon confirmation of the plan, payments will be made as set out in the plan. An application by the debtor that adequate protection payments be made prior to confirmation shall be as prescribed by the appropriate local form.

**(m) Postconfirmation Sale of Property by Debtor**

If the debtor proposes to sell property pursuant to 11 USC 363, then, unless the property is fully exempt or is valued in an amount of seven thousand, five hundred (7,500) dollars or less, the debtor shall promptly provide to the Chapter 13 trustee an amended statement of income and expenses as prescribed by the appropriate official form projecting any changes occasioned by the sale and a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee relating to such sale.

**(n) Incurring Credit by Debtor During the Pendency of the Plan**

If the debtor proposes to purchase any property involving a credit transaction that may potentially affect the debtor's ability to satisfy the plan, the debtor, in addition to obtaining the Chapter 13 trustee's approval if practicable, shall transmit to the Chapter 13 trustee an amended statement of

income and expense as prescribed by the appropriate official form projecting any changes caused by the purchase, and if the transaction involves real estate, a good faith estimate of closing costs or other similar document and any other documents requested by the Chapter 13 trustee.

**(o) Debtors Engaged in Business**

Debtors engaged in business shall comply with the applicable provisions of LBR 3016-1(f) and 28 USC 959(b), and serve a copy of the Monthly Financial Report on the trustee.

**(p) Income Directive**

- (1) The Chapter 13 trustee may, at any time, issue a Trustee's Income Directive or present an ex-parte order, based upon a proposed or confirmed plan requiring any entity from whom the debtor receives money to pay all or part of such income to the Chapter 13 trustee.
- (2) In any case in which a debtor desires to make plan payments directly to the trustee in lieu of an income directive, the debtor may do so only upon the entry of an order of the court authorizing such direct payments. Such an order will be entered only:
  - (A) upon the filing of an objection to the income directive by the debtor prior to the entry thereof; and
  - (B) after ten (10) days notice and hearing to the trustee; and
  - (C) upon a showing of cause.

**(q) Motion to Dismiss or Convert Case**

- (1) A party in interest desiring that a case be dismissed or converted shall give twenty (20) days notice and hearing to the Master Mailing List.
- (2) The Chapter 13 trustee may move the Court for an order of dismissal or conversion on five (5) days notice to the debtor and debtor's attorney and any entity that has filed and served the Chapter 13 trustee with a request to receive such notice for failure to timely file schedules or other required documents or attend the meeting of creditors and on twenty (20) days notice for failure to timely make payments required by 11 USC 1326(a) or pursuant to a confirmed plan.
- (3) A debtor shall serve a copy of a request for voluntary dismissal on the trustee.

**r) Minimum Plan Payments**

A plan that proposes payments of less than fifty (50) dollars per month to be paid to the Chapter 13 trustee shall be supported by an affidavit or unsworn declaration under penalty of perjury explaining the necessity of such minimum payments.

**(s) Orders to be Served on Chapter 13 Trustee**

A conformed copy of all orders in a Chapter 13 case shall be served on the Chapter 13 trustee by the party obtaining such order. If the order directs the Chapter 13 trustee to act or refrain from acting, the order shall not be effective as to the Chapter 13 trustee until such service has been accomplished.

**Related Provisions**

FRBP 1006	Filing Fees
FRBP 1007	Schedules
FRBP 1017	Dismissal or Conversion of Case
FRBP 1019	Conversion
FRBP 2002	Notice and Hearing
FRBP 2016	Compensation of Attorneys
FRBP 3007	Objection to Claims
FRBP 3012	Valuation of Security
FRBP 3015	Filing of Plan
FRBP 6004	Sale of Estate Property
FRBP 9013	Motions
FRBP 9014	Contested Matters
LBR 2016 - 1	Application of Administrative Expenses
LBR 3016 - 1	Chapter 11 Cases
LBR 4001 - 2	Cash Collateral
LBR 4003 - 2	Lien Avoidance
LBR 9011 - 1	Attorney Transactions With Debtors
11 USC 348	Conversion
11 USC 349	Effect of Dismissal
11 USC 506	Determination of Secured Status
11 USC 522(f)	Avoidance of Liens
11 USC 1304	Debtor Engaged in Business
11 USC 1304	Postpetition Claims
11 USC 1307	Conversion or Dismissal
11 USC 1323	Modification Before Confirmation
11 USC 1325(c)	Income Directive
11 USC 1326	Payments
11 USC 1329	Modification After Confirmation
28 USC 959	Duties of Managers of Estate Property

**LBR 2083 - 1**  
**June 1, 2004**

## **Rule 3001 - 1**

### **Claims & Equity Security Interests - General**

**(a) Post Petition Claims**

A claimant who files a proof of claim for a claim against the debtor that arose after the date of the order of relief shall serve a copy of the proof of claim on the debtor's attorney or debtor, if unrepresented.

**(b) Tardily Filed Proof of Claim**

A claimant who files a proof of claim after expiration of the time fixed for the filing of proofs of claim shall serve a copy thereof on the debtor's attorney or debtor, if unrepresented.

**(c) 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 ninety (90) days after the first date set for the meeting of creditors.
- (2) Claims "deemed filed" in a Chapter 11 case pursuant to 11 USC 1111(a) shall be deemed filed only so long as the case remains in Chapter 11. If the Chapter 11 case is converted, an actual proof of claim must be filed.

## **Related Provisions**

FRBP 3001	Proof of Claims
FRBP 3002	Filing Proof of Claim
FRBP 3003	Filing of Claim in Chapter 9 & 11
FRBP 3004	Filing of Claim by Debtor or Trustee
FRBP 3005	Filing of Claim by Co-debtor
FRBP 3006	Withdrawal of Claims
FRBP 3007	Objection of Claims
FRBP 3008	Reconsideration of Claims
FRBP 9014	Contested Matters

LBR 3001 - 1 Claims & Equity Security Interests - General  
LBR 3007 - 1 Claims - Objections

11 USC 501	Filing of 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
11 USC 1305	Filing of Postpetition Claims

**LBR 3001-1**  
**March 1, 2000**

## **Rule 3007 - 1**

### **Claims - Objections**

#### **(a) Objection**

- (1) An objection to the allowance of a claim shall identify the claimant by name and clerk's docket number and shall include the following:
  - (A) Notice that if the claimant fails to timely file a written response that:
    - (i) the court may rule on the pleadings filed without oral argument and without further notice to the claimant; and
    - (ii) that the claimant will be deemed to have consented to such a determination by the court in accordance with LBR 3007(b)(2)(B);
  - (B) The specific date by which a response is considered to be timely filed, which date shall be no less than thirty (30) days from the date the objection is served, plus three (3) additional days if required by FRBP 9006; and
  - (C) an affidavit or unsworn declaration under penalty of perjury that clearly sets forth the basis of the objection sufficient to overcome the prima facie effect of the proof of claim pursuant to FRBP 3001(f).
- (2) The objecting party shall serve a copy of the objection, along with the affidavit or declaration and the notice as required by subparagraph (a)(1) of this rule, on the claimant, debtor, debtor's attorney and the trustee. Service of the Notice of Objection shall be in accordance with FRBP 7004 and 9014.
- (3) If the objection requires the determination of the value of a claim secured by a lien on property in which the estate has an interest, the objecting shall also comply with LBR 3012-1.

#### **(b) Response**

- (1) Response Filed
  - (A) If the claimant files a written response to the objection, the claimant shall serve a copy of the response on the objecting party and the trustee.
  - (B) Upon the filing of a response, the Court will promptly set a hearing and provide notice of the date and time set for the hearing to the objecting

party, the claimant and the trustee. The hearing shall be conducted unless the objection is resolved prior to the hearing by a stipulated order or withdrawal of the objection.

(2) **No Response Filed**

- (A) If no response is filed, the objecting party shall, within thirty (30) days of the expiration of time to timely file a response, present an ex parte order, based on the objection and supported by an affidavit or unsworn declaration under penalty of perjury that the objection was filed and served in accordance with sub-section (a) of this rule and that no response was filed or served.
- (B) Failure by the claimant to file a response shall be deemed as consent to have the court consider and determine the issue on the pleadings without oral argument.

(c) **Striking of Objection**

Should the objecting party fail to timely present an order on the objection in accordance with sub-paragraph (b)(2)(A) of this rule, the trustee or any party in interest may, on five (5) days notice to the objecting party, request that the objection be stricken.

(d) **Hearing**

Notwithstanding sub-paragraph (b)(2) of this rule, any party in interest may request a hearing in accordance with LBR 9073-1.

(e) **Adversary Proceeding**

If a demand for relief of the kind specified in FRBP 7001 is joined with an objection to claim, it shall be accompanied with an Adversary Proceeding filing fee, as applicable, an Adversary Proceeding Cover Sheet and, unless the party against whom relief is demanded is the debtor or a party that has filed a proof of claim, a form summons as required by LBR 7003-1.

## **Related Provisions**

FRBP 3007	Objections to Claims
FRBP 7001	Adversary Proceedings
FRBP 9014	Contested Matters

LBR 2002 - 1 Notice to Creditors and Other Interested Parties  
LBR 7003 - 1 Cover Sheet

11 USC 506	Secured Claims
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28 USC 1930(b)	Bankruptcy Fees
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**LBR 3007-1**  
**March 1, 2000**

## **Rule 3012 - 1**

### **Valuation of Security**

#### **(a) Motion**

A motion to determine the value of a claim secured by a lien on property in which the estate has an interest may be by separate motion or may be included in an objection to the allowance of a claim made pursuant to LBR 3007-1.

#### **(b) Service**

- (1) Service of the notice shall be made on twenty (20) days notice and hearing:
  - (A) to the master mailing List pursuant to LBR 2002 - 1; and
  - (B) to the trustee and any holder of a lien to be valued as required by FRBP 9014 and 7004.
- (2) In the case of Chapter 13, notice need only given as required by sub-section (b)(1)(B) of this rule.

#### **(c) Content of Notice**

- (1) The notice of this motion shall contain the following information:
  - (A) a description of the property to be valued;
  - (B) the value placed on the property by the moving party;
  - (C) the names of all holders of liens in the property; and
  - (D) with respect to each holder;
    - (i) the amount placed on each holder's interest by the moving party;
    - (ii) the priority in the property attributed to each holders's interest by the moving party; and
    - (iii) whether the holder's interest is to be treated as fully secured, under-secured or unsecured.

### **Related Provisions**

FRBP 2002	Notice and Hearing
FRBP 3012	Valuation and Security
FRBP 7004	Service
FRBP 9006	Time
FRBP 9014	Contested Matters

LBR 2082 - 1 Chapter 12 - General

LBR 2083 - 1 Chapter 13 - General

**LBR 3012-1**

**March 1, 2000**

## **Rule 3016-1**

### **Chapter 11 -Pre-Confirmation Requirements**

#### **(a) Applicability**

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

#### **(b) Affidavit or Certificate**

The debtor shall file with the petition for relief under Chapter 11, or within fifteen (15) days thereafter an affidavit or certificate under penalty of perjury that discloses the following information:

- (1) The name 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 information for the thirty (30) day period following the order for relief:
  - (A) the amount proposed to be paid pursuant to subdivision (d) below to insiders if the debtor is a corporation, or to the debtor, insiders or members of the partnership if the debtor is an individual or 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 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.

#### **(c) Compensation**

- (1) If the trustee or debtor in possession is operating a business, no compensation shall be paid to the debtor, or to insiders 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, the amount of compensation paid over the past twelve (12) months, and the nature of the services to be performed. The notice shall summarize the provisions of subparagraph (3) below and 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 after notice is given. Any party in interest objecting to the compensation shall do so in writing, and has the duty to request a hearing on the objection. The compensation shall continue until the Court orders otherwise. The Court shall provide an expedited hearing on the objection. If the Court rules that the amount received prior to the hearing is excessive, it may order disgorgement of funds back to the estate.

**(d) Funds of the Estate**

Upon entry of an order for relief in a case under Chapter 11, the debtor in possession shall open or designate a depository account or accounts in the name of the debtor in possession, and close all old accounts. 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 or insider pursuant to subparagraph (c) of this rule shall be in form of a check made payable to the debtor or insider.

**(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, showing cash receipts and disbursements, shall be in sufficient detail to enable parties in interest to adequately assess the current financial condition, profitability, and desirability of continued operating of the business. 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.
- (2) The above financial information shall be filed within fifteen (15) days of the close of the month during which relief was ordered and within fifteen (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.

- (3) If the debtor is a farmer, monthly reports shall be made as required by LBR 2082-1(f).

### **Related Provisions**

FRBP 2002	Notices
FRBP 3016	Filing Plan and Disclosure Statement
FRBP 3017	Disclosure Hearing
FRBP 3018	Acceptance or Rejection of Plan
FRBP 3019	Modification to Plan
FRBP 3020	Confirmation of Plan
LBR 3017-1	Disclosure Statement and Plan - General
LBR 3018-1	Chapter 11 Plan Confirmation
LBR 3022-1	Final Decree in Chapter 11 Reorganization Cases
11 USC 101(51C)	Small Business Defined
11 USC 1121	Who May File a Plan
11 USC 1125	Postpetition Disclosure and Solicitation
11 USC 1126	Acceptance of Plan
11 USC 1127	Modification of Plan
11 USC 1128	Confirmation Hearing
11 USC 1129	Confirmation of Plan

**LBR 3016-1**  
**July 1, 2004**

## **Rule 3017-1**

### **Disclosure Statement and Plan - General**

#### **(a) Minimum Information Required in Disclosure Statement**

The disclosure statement shall include, at a minimum, detailed information regarding the following:

- (1) description of the business of the debtor;
- (2) history of the debtor prior to filing;
- (3) current financial information;
- (4) description of the plan;
- (5) how the plan is to be executed;
- (6) liquidation analysis;
- (7) management to be retained and their compensation;
- (8) detailed financial projections of operations and discussion of underlying assumptions;
- (9) litigation pending or contemplated;
- (10) payments made for services in connection with the case or plan;
- (11) transactions with insiders; and
- (12) tax consequences.

#### **(b) Approval of Disclosure Statement**

Unless the disclosure statement is conditionally approved, approval of the disclosure statement shall be governed by FRBP 3017(a).

#### **(c) Contents of 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.

#### **(d) List Classifying Claims**

A list classifying claims shall be filed with the plan and disclosure statement and shall be in the prescribed format.

## **Related Provisions**

FRBP 2002	Notices
FRBP 3016	Filing Plan and Disclosure Statement
FRBP 3017	Disclosure Hearing
FRBP 3018	Acceptance or Rejection of Plan
FRBP 3019	Modification to Plan
FRBP 3020	Confirmation of Plan
LBR 3017-1	Chapter 11 - Plan and Pre-Confirmation Requirements
LBR 3018-1	Chapter 11 Plan Confirmation
LBR 3022-1	Final Decree in Chapter 11 Reorganization Cases
11 USC 101(51C)	Small Business Defined
11 USC 1121	Who May File a Plan
11 USC 1125	Postpetition Disclosure and Solicitation
11 USC 1126	Acceptance of Plan
11 USC 1127	Modification of Plan
11 USC 1128	Confirmation Hearing
11 USC 1129	Confirmation of Plan

**LBR 3017-1**  
**July 1, 2004**

## **Rule 3018-1**

### **Chapter 11 Plan Confirmation**

#### **(a) Notice of Filing Disclosure Statement and Plan**

The party filing a disclosure statement and proposed plan shall give twenty five (25) days notice in the prescribed form to the Master Mailing List in accordance with LBR 2002-1 of the opportunity to object to the disclosure statement and provide a copy of the disclosure statement and proposed plan to those entities required by FRBP 3017.

#### **(b) Notice of Approval of Disclosure Statement and Opportunity to Object to Proposed Plan**

The proponent of a plan, where the disclosure statement has been approved by the court, shall give twenty five (25) days notice to the Master Mailing List in accordance with LBR 2002-1 of the opportunity to object to the confirmation of the plan along with a copy of the following items:

- (1) Notice of Approval of Disclosure Statement and Matters Relating to Confirmation of Plan in the prescribed local form;
- (2) Approved Disclosure Statement;
- (3) Proposed plan;
- (4) Ballot for Accepting or Rejecting Plan of Reorganization in the prescribed local form;
- (5) List Classifying Claims in the prescribed local form.

#### **(c) Notice of Conditional Approval of Disclosure Statement and Opportunity to Object to Proposed Plan in Small Business Case**

The proponent of a plan where the debtor has elected to be treated as a small business and where the court has conditionally approved the disclosure statement, shall give twenty five (25) days notice to the Master Mailing List in accordance with LBR 2002-1 of the opportunity to object to the disclosure statement or confirmation of the plan along with a copy of the following items:

- (1) Notice of Conditional Approval of Disclosure Statement and Matters relating to Confirmation of Plan in the prescribed local form;
- (2) Conditionally Approved Disclosure Statement;

- (3) Proposed Plan
- (4) Ballot for Accepting or Rejecting Plan of Reorganization in the prescribed local form.
- (5) List Classifying Claims in the prescribed local form.

**(4) Modification of Plan Before Confirmation**

**(1) Before Acceptance and Confirmation**

Sub-section (a) of this rule shall apply where the proponent modifies the disclosure statement or the proposed plan prior to acceptance of the proposed plan, unless otherwise ordered by the court.

**(2) After Acceptance but before Confirmation**

If proponent seeks an order determining that modification to a plan does not have any adverse affect pursuant to FRBP 3019, the proponent shall give twenty (20) days notice to trustee, UST, any committee appointed or if non appointed, then to the list of 20 largest creditors required by FRBP 1007(d), debtor and debtor's attorney.

- (3) If the effect of a modification to the proposed plan so requires, an amended List Classifying Claims shall be filed.

**(e) Acceptance or Rejection of Plan**

- (1) Ballots accepting or rejecting the plan shall be filed within the time set by the Court.
- (2) The Clerk shall certify to the Court the results of balloting, unless otherwise ordered by the court .

## **Related Provisions**

FRBP 2002	Notices
FRBP 3016	Filing Plan and Disclosure Statement
FRBP 3017	Disclosure Hearing
FRBP 3018	Acceptance or Rejection of Plan
FRBP 3019	Modification to Plan
FRBP 3020	Confirmation of Plan
11 USC 101(51C)	Small Business Defined
11 USC 1121	Who May File a Plan
11 USC 1125	Postpetition Disclosure and Solicitation
11 USC 1126	Acceptance of Plan
11 USC 1127	Modification of Plan
11 USC 1128	Confirmation Hearing
11 USC 1129	Confirmation of Plan

**LBR 3018-1**  
**July 1, 2004**

## **LBR 3022-1**

### **Final Decree in Chapter 11 Reorganization Case**

**(a) Final Decree and Closing of Cases**

**(1) Final Account Filed**

Twenty (20) days following the filing of the final account, the final decree will be entered and case shall be closed unless a motion is filed requesting that the final decree not be so entered.

**(2) Final Account Not Filed**

If a final account has not been filed within one hundred eighty (180) days following the confirmation of the plan, a final decree may be entered and the case closed unless a party in interest has filed a written objection. The notice of the confirmation of the plan shall include notice that the final decree will be entered and the case closed without a final account unless an objection is filed within one hundred eighty (180) days following confirmation

### **Related Provisions**

FRBP 3022

Final Decree in Chapter 11 Reorganization Case

**LBR 3022-1  
July 1, 2004**

## **Rule 4001 - 1**

### **Automatic Stay - Relief From**

#### **(a) Stay Against Property of the Estate**

##### **(1) General Provisions**

- (A) A party in interest desiring relief from the automatic stay of an act against property of the estate shall give twelve (12) days notice to all entities on the Master Mailing List in accordance with LBR 2002 - 1. The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.
- (B) The date of the request shall be the date that a motion requesting a modification to the automatic stay is filed along with the certificate required by LBR 2002 - 1(b)(3).
- (C) Upon the filing of such a motion the Court will promptly provide a notice of the date set for the preliminary hearing to the moving party, the debtor, the debtor's attorney, and the trustee.

##### **(2) When an Objection is Made**

- (A) If an objection is received, the moving party must confirm the preliminary hearing by telephone to the appropriate chambers. Such confirmation of the preliminary hearing may be accomplished as soon as an objection is received but in no event later than eight (8) days prior to the date set for the hearing.
- (B) The preliminary hearing will be by telephonic conference and based on affidavits only, but may be supported by written memoranda.
- (C) Duty to Confer

The moving party has a duty to confer with an objecting party for the purpose of attempting to resolve the differences between the parties. This duty to confer shall be satisfied prior to the confirming of the hearing.

##### **(D) Timing of Filing Affidavits and Supporting Memoranda**

- (i) Notwithstanding LBR 5005 -1(c), the moving party shall file and serve affidavits in support of request for modification of stay together with any memoranda of authority at least six (6) days before the

preliminary hearing.

- (ii) The opposing party shall file and serve responsive affidavits and opposing memoranda of authority at least three (3) days before the preliminary hearing.
- (iii) Notwithstanding LBR 5005 - 1(c), a document intended to be considered by the Court in connection with a scheduled hearing or a request for modification of stay shall be served and filed in accordance with subparagraphs (i) and (ii) above and a copy shall be delivered to the chambers of the Bankruptcy Judge if the document has not been filed at least seven (7) days prior to the hearing.

(E) Waiver

Failure to follow these procedures by the moving party will be deemed to be a waiver of the automatic lifting provisions of 11 USC 362(e) and consent to the continuation of the automatic stay pending the conclusion of the final 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 twelve (12) days notice to the debtor and debtor's attorney in accordance with LBR 2002 - 1.
- (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 LBR 2002 - 1. The party desiring relief from the stay shall notify the objecting party of the date of the hearing.

**(c) Proof of Interest**

A party desiring relief from the stay shall provide to the trustee or debtor in possession, with the notice, 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 after notice has been given to all entities on the Master Mailing List in accordance with subparagraph (a)(1) above.

**(e) Non-combining of Motions**

A motion for relief from the automatic stay or adequate protection shall not be combined with any other motion except a motion for abandonment.

**Related Provisions**

FRBP 4001                      Relief from Stay and Use of Cash Collateral  
FRBP 9006(f)                 Time

28 USC 1930 (b)            Bankruptcy Court Fee Schedule

**LBR 4001 - 1**  
**May 1, 1996**

## **Rule 4001 - 2**

### **Cash Collateral**

#### **(a) Contested Use of Cash Collateral**

##### **(1) Notice**

- (A) A trustee or debtor in possession desiring to use, sell, or lease cash collateral shall give fifteen (15) days notice to parties with an interest in the collateral, to any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, the creditors included on the list filed pursuant to FRBP 1007(d) and to such other entities as the Court may direct. If an objection is timely filed, the trustee or debtor in possession shall request a final hearing date in accordance with LBR 2002 - 1(f)(3).
- (B) 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 (5) 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.

##### **(2) Interim Hearing**

The interim hearing shall be a preliminary hearing conducted by telephonically on the record submitted, which shall include affidavits or declarations in support of or in resistance to the requested use of cash collateral. The parties may present testimony at the interim hearing only on request of a party and approval of the Court. In the event testimony is permitted and fifteen (15) days notice has been provided in accordance with the provisions of subparagraph (a)(1)(A) of this Rule, then the interim hearing may be treated by the Court as a final hearing.

##### **(3) Final Hearing**

The date for the final hearing shall be set by the Court at the conclusion of any interim hearing. An interim order providing for use of cash collateral may, by its terms, become a final order approving use of cash collateral if notice of the interim order is provided as set out in subparagraph (a)(1)(A) of this Rule and no objection is timely filed.

#### **(b) Agreement Concerning Use of Cash Collateral Involving Adequate Protection and/or Security Interest in Postpetition Assets**

- (1) Any agreement concerning use of cash collateral involving adequate protection and/or granting of a security interest in postpetition assets of the debtor must be approved by order of the Court in accordance with FRBP 4001(d).
- (2) The provisions of this Rule pertaining to use of cash collateral set out in subparagraph (a) hereof shall also be applicable as to approval of agreements for use of cash collateral involving adequate protection and/or granting of a security interest in postpetition assets of the debtor.

**(c) Agreements Concerning Use of Cash Collateral Not Involving Adequate Protection and/or Security Interest in Postpetition Assets**

Agreements between a trustee or debtor in possession and all parties having an interest in cash collateral that do not involve granting of adequate protection and/or security interests in postpetition assets of the debtor are not subject to approval by the Court, and notice of such agreements are not subject to the notice requirements of subparagraph (a) of this Rule.

**(d) Motion to Prohibit Use of Cash Collateral**

A party in interest may bring a motion to prohibit use by the trustee or debtor in possession of cash collateral in the event an order approving such use has not been entered. A motion to prohibit use of cash collateral shall be subject to the requirements of subparagraph (a) of this Rule.

**(e) Use of Cash Collateral in Chapter 13 Case**

In a case under Chapter 13, the debtor shall prepare all pleadings and documents if the debtor intends to use, sell or lease cash collateral. The debtor shall sign the pleadings, serve them on all required entities, including the Chapter 13 trustee, and file them with the Court. It shall be the debtor's responsibility to timely obtain the Chapter 13 trustee's signature on any necessary documents, to set any necessary hearings and to appear and argue at all hearings.

**Related Provisions**

FRBP 4001	Relief from Stay and Use of Cash Collateral
FRBP 9006(f)	Time
11 USC 353(a)(c)	Cash Collateral
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

## **LBR 4001-3**

### **Relief From Co-Debtor Stay**

- (a)** A party in interest desiring relief from the co-debtor stay shall give twenty (20) days notice to the debtor and co-debtor in accordance with LBR 2002-1. Service on the debtor and co-debtor shall be in accordance with FRBP 9014.
- (b)** The notice shall state:

  - (1) That as between the debtor and the co-debtor, which party received the consideration for the claim held by the creditor; and
  - (2) Whether the plan filed by the debtor proposes to pay or not pay the claim; and
  - (3) Whether or not the creditor's interest would be irreparably harmed by the continuation of the stay; and
  - (4) That the stay may be terminated with respect to the party seeking relief unless the debtor or co-debtor files and serves a written objection.

#### **Related Provisions**

11 USC 1201	Co-Debtor Stay
11 USC 1301	Co-Debtor Stay
FRBP 7004	Process, Service of Summons, Complaint
FRBP 9014	Contested Matters
LBR 2002-1	Notice to Creditors and Other Parties in Interest
LBR 4001-1(e)	Non-Combining of Motions

**LBR 4001-3**  
**June 1, 2003**

## **Rule 4002 - 1**

### **Debtor - Duties**

#### **(a) Inventory or Equipment**

When inventory 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 Attention**

If a property of the estate includes perishable goods or if the business premises otherwise needs immediate attention or protection, the debtor or the attorney for the debtor, when relief is ordered under Chapter 7, 12 or 13 or a trustee is appointed under Chapter 11, shall notify the United States trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

#### **Related Provisions**

11 USC 521(4)  
11 USC 707

Duty to Surrender Property  
Duties of Trustee

**LBR 4002 - 1**  
**May 1, 1996**

## **Rule 4003 - 2**

### **Lien Avoidance**

- (c) A party seeking to avoid a lien pursuant to 11 USC 522(f) shall give fifteen (15) days notice to the trustee and the creditor holding the lien in accordance with LBR 2002-1.
- (d) The notice and motion shall contain:
  - (1) a description and statement of the value of the property encumbered as if there were no liens on the property;
    - (A) a description and the amount of the lien to be avoided;
    - (B) specific identification of the statutory authority for avoiding the fixing of the lien; either a judicial lien or a nonpossessory, nonpurchase-money security interest;
    - (C) a description and the amount of all other liens on the property, individually identified as to each lien holder, and a statement whether any such liens have or are subject to being avoided under this rule, or a statement that there are no other liens;
    - (D) a statement as to the specific statutory exemption claimed and the amount of the exemption claimed.
- (e) Service of the notice on the lien creditor shall be in accordance with FRBP 7004.

### **Related Provisions**

FRBP 4003  
FRBP 9006  
FRBP 9014

Exemptions  
Time  
Contested Matters

LBR 2002-1

Notice to Creditors and Other Interested Parties

11 USC 522(f)

Exemptions

**LBR 4003 - 2**  
**March 1, 2000**

## **Rule 4008 - 1**

### **Reaffirmation**

An individual not represented by an attorney during the course of negotiating a reaffirmation agreement shall file the agreement with the Court along with a request that the agreement be approved, prepared as prescribed by the appropriate local form. The request shall be signed under oath or under penalty of perjury and shall state that the agreement does not impose an undue hardship on the debtor or any dependant of the debtor and is in the best interest of the debtor. The Court may approve the agreement without an actual hearing or may schedule a hearing.

### **Related Provisions**

FRBP 4008                      Discharge and Reaffirmation Hearing

11 USC 524                    Effect of Discharge

**LBR 4008 - 1**  
**May 1, 1996**

**Rule 5001 - 2**  
**Clerk - Office Location/Hours**

**(a) Regular Business Hours**

The regular business hours of the Office of the Clerk will be from 9:00 a.m. to 4:30 p.m., all days except Saturdays, Sundays and legal holidays as described in FRBP 9006(a).

**(b) Emergencies**

Arrangements to conduct matters, including emergency filings, outside the regular business hours of the Clerk's Office must be made in advance.

**Related provisions**

FRBP 5001	Courts and Clerks' Offices
FRBP 5005	Filing of Papers
FRBP 9006	Time

**LBR 5001-2**  
**March 1, 2000**

## **Rule 5003 - 2**

### **Court Papers - Removal of**

#### **(a) Examination**

All files and other records filed with the Bankruptcy Court are subject to examination by any individual without charge. Examinations are to occur during business hours of the Clerk's Office and upon a written receipt of the examiner indicating the record examined and the date of examination. Examination of records is to occur within the confines of the Clerk's Office or Chambers.

#### **(b) Removal**

A case file or other record of the Court may be removed from the Office of the Clerk only on order of the Court, except that the Clerk may permit removal of a case file by an attorney or an employee of an attorney for a period not to exceed twenty-four (24) hours excluding weekends.

#### **Related Provisions**

11 USC 107	Public Access to Records
18 USC 2071(a)	Care of Records
28 USC 156	Clerk as Custodian of Records

**LBR 5003 - 2**  
**May 1, 1996**

## **Rule 5005 - 1**

### **Filing Requirements**

#### **(a) Place For Filing**

All pleadings and other documents shall be filed with the Clerk of the Court.

#### **(b) Methods of Filing**

- (1) in person by delivery to the Office of the Clerk at either West 904 Riverside Avenue, Room 304, Spokane, Washington, or East 402 Yakima Avenue, Suite 200, Yakima, Washington; or
- (2) by mail to P.O. Box 2164, Spokane WA 99210-2164 or E. 402 Yakima Avenue, Suite 200, Yakima, Washington 98901;
- (3) by electronic transmission in accordance with The General Order of the Court Establishing Standards for the Electronic Filing, Signing and Verification of Documents; or
- (4) by facsimile in accordance with the General Order of the Court concerning FAX filing, or
- (5) for documents other than initial petitions for relief or complaints for adversary proceedings, by delivery to a deputy clerk in open court while the Court is in session.

#### **(c) Return of Conformed Copies**

A party filing a paper document desiring a conformed copy shall provide such copy along with the document to be filed. If the party desires that the conformed copy be returned by mail, that party must also provide along with the document to be filed a pre-addressed and stamped envelope.

#### **(d) Time of Filing**

The time of filing of a document is the local time when the document is received by the court either conventionally or electronically.

#### **(e) Electronic Filing**

Documents may be filed, signed or verified by electronic means that are consistent with standards established by order of the court.

**LBR 5005-1**  
**June 1, 2004**

## **Related Provisions**

FRBP 5005	Filing of Papers
FRBP 9006	Service of Motion
FRBP 9011	Signing of Papers; Representations to the Court; Sanctions; Verification and Copies of Papers
FRBP 9036	Notice of Electronic Transmission
28 USC 152	Appointment of Bankruptcy Judges

**LBR 5005 - 1**  
**June 1, 2004**

**Rule 5005 - 2**

**Filing Papers - Numbers of Copies**

Abrogated.

## **Rule 5010-1**

### **Reopening Cases**

- (a)** A motion to reopen a case may be presented ex parte, shall not be joined with a request for any other relief, except for the appointment of a trustee, and shall be accompanied by:

  - (1) a statement explaining why the case needs to be opened; and
  - (2) the appropriate filing fee, or a statement as to why a fee is not required.
- (b)** Before taking any action in a closed case that requires notice and hearing to the Master Mailing List (MML), that is governed by FRBP 9014, or that may require further administration, the party taking the action shall cause the case to be reopened.
- (c)** A request for the appointment of a trustee in a reopened case shall be supported by a statement as to why a trustee should be appointed.
- (d)** A case shall be reopened to further administer matters involving property of the estate.

#### **Related Provisions:**

FRBP 5010	Reopening Cases
FRBP 9014	Contested Matters
11 USC 350	Closing and Reopening Cases
11 USC 541	Property of the Estate
28 USC 1930	Bankruptcy Fees

**LBR 5010-1**  
**July 3, 2000**

## **Rule 5011 - 1**

### **Withdrawal of Reference**

A motion to withdraw the reference of any case or adversary proceeding, in whole or in part, shall be filed in the Bankruptcy Court and shall not be combined with any other motions.

#### **Related Provisions**

FRBP 5011	Withdrawal and Abstention from Hearing or Proceeding
28 USC 157	Bankruptcy Court Jurisdiction
28 USC 1334	District Court Jurisdiction
28 USC 1930(b)	Bankruptcy Court Fee Schedule

**LBR 5011 - 1**  
**May 1, 1996**

## **Rule 5071 - 1**

### **Continuances**

The Court may continue hearings on its own motion or by motion of a party based on an agreement of the parties, or a motion of a party after notice to opposing parties, served and filed at least three (3) days prior to the scheduled hearing. The motion shall be accompanied by an affidavit or statement under penalty of perjury stating the reasons for the necessity of the continuance. A counter affidavit or statement may be filed by the opposing party.

**Rule 5073 - 1**

**Photography, Recording Devices and Broadcasting**

During any proceeding over which a judicial officer of this Court is presiding, the taking of photographs, making of recordings or broadcasting of such proceeding is prohibited, except by authorized court personnel. 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.

## **Rule 6004 - 1**

### **Sale of Estate Property**

#### **(a) Notice and Hearing Required**

A sale pursuant to 11 USC 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and hearing and is subject to LBR 2002 - 1. 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) If the property is to be sold free and clear pursuant to 11 USC 363(f) the notice of sale shall so state. The notice shall also state the estimated fair market value of the property without deductions for interests of entities other than the estate; list the amount of each lien or encumbrance claimed against the property and shall state the paragraph of 11 USC 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. Service of the notice shall be pursuant to FRBP 6004(c).
- (2) All interests in property sold free and clear shall attach to the proceeds of the sale, unless 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**

FRBP 2002(a)(2),(c)(1)	Notices of Sale
FRBP 6004	Use, Sale, or Lease of Property
FRBP 7004	Service
FRBP 9014	Contested Matters
11 USC 363	Use, Sale, or Lease of Property
11 USC 1107	Rights and Duties of Debtor in Possession
11 USC 1206	Sales of Property
11 USC 1303	Rights and Powers of Debtor

**LBR 6004 - 1**  
**May 1, 1996**

## **Rule 6006 - 1**

### **Executory Contracts**

#### **(a) Assumption or Rejection**

Except as provided in 11 USC 365(d)(1) or 11 USC 365(d)(4), a trustee or debtor in possession desiring to assume or reject any executory contract or unexpired lease of the debtor shall give twenty (20) days notice to all parties on the Master Mailing List in accordance with LBR 2002 -1. 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, Debtor in Possession or Debtor to Act**

- (1) A party to an executory contract or unexpired lease of the debtor requesting an order requiring the trustee, debtor in possession or debtor to assume or reject the contract or to reject a contract previously assumed shall give twenty (20) days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. 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 subparagraph (2).
- (2) (A) An order requiring the trustee, debtor in possession or debtor to act shall:
  - (i) state a date certain by which the trustee, debtor in possession or debtor must either assume or reject the contract which date shall be no sooner than twenty (20) days after the notice required by subparagraph (c)(1) is given,
  - (ii) state that the contract shall be deemed rejected if the trustee, debtor in possession or debtor does not act before the specified date, and
  - (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, debtor in possession or debtor 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.

**(d) Request by Debtor for Chapter 13 Trustee to Act**

In a case under Chapter 13, the debtor shall prepare all pleadings and documents for the performance of duties required by the Chapter 13 trustee if the debtor desires to have the trustee assume or reject any executory contract or unexpired lease. The debtor shall approve the pleadings, serve them upon all required entities, and file them with the Court. It shall be the debtor's responsibility to timely obtain the Chapter 13 trustee's signature on the appropriate documents, to set any necessary hearings, and to appear and argue at all hearings.

**Related Provisions**

FRBP 6006	Executory Contracts
11 USC 365	Executory Contracts and Unexpired Leases
11 USC 1303	Power of Debtor
11 USC 1322(c)(7)	Contents of Plan

**LBR 6006 - 1**  
**May 1, 1996**

## **Rule 6007 - 1**

### **Abandonment**

#### **(a) Notice**

A party desiring the trustee or debtor in possession to abandon property of the estate in which the estate may have an interest shall give twelve (12) days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. 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**

A party desiring an order requiring the trustee to abandon property of the estate shall provide to the trustee, along with the notice, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

#### **Related Provisions**

FRBP 6007	Abandonment
FRBP 9006(f)	Time
LBR 2002 - 1	Notice to Creditors & Other Interested Parties
11 USC 554	Abandonment
28 USC 1930(b)	Bankruptcy Court Fee Schedule

**LBR 6007 - 1**  
**May 1, 1996**

## **Rule 6008 - 1**

### **Redemption**

A debtor seeking to redeem property pursuant to 11 USC 722 shall give fifteen (15) days notice to the trustee and the creditor holding the lien. The property seeking to be redeemed shall be specifically and clearly described along with a statement as to its value in the notice and motion. Service on the lien holder shall be pursuant to FRCP 9014. LBR 2002-1 applies in all other respects.

#### **Related Provisions:**

FRBP 6008	Redemption of Property from Lien or Sale
FRBP 7004	Process
FRBP 9014	Contested Matters
11 USC 722	Redemption

**LBR 6008 - 1**  
**September 1, 1998**

## **Rule 7001 - 1**

### **Contested Matters & Adversary Proceedings - 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**

FRBP 7017                      Parties Plaintiff and Defendant

**LBR 7001 - 1**  
**May 1, 1996**

## **Rule 7016 - 1**

### **Pretrial Procedures**

#### **(a) Applicability**

This rule applies to the pretrial procedure in all adversary proceedings and those contested matters specifically identified by the judge assigned the case.

#### **(b) Scheduling Conference**

A scheduling conference shall be set by the Court, generally at the time the summons is issued. The scheduling conference is conducted for the purpose of addressing matters contemplated by FRCP 16(b).

##### **(1) Written Report**

The attorney for the plaintiff shall timely call a meeting as required by FRCP 26(f). In accordance with that rule, but in no event no less than five (5) days prior to the date set for the scheduling conference, the attorneys of record and all unrepresented parties shall deliver to the appropriate chambers a written report as contemplated by FRCP 26(f). Should the parties be unable to agree on a written report, then each party shall prepare and submit a separate written report.

##### **(2) In addition to the items set out in FRCP 16(b), the written report shall also contain information or estimates regarding:**

- (A) the length of the trial, and**
- (B) preference as to location of the trial.**

#### **(c) Pretrial Conference**

A pretrial conference may be set by the Court for the purpose of addressing items contemplated by FRCP 16(c) or other items of interest.

##### **(1) Proposed Pretrial Order**

- (A) The attorney for the plaintiff shall insure that the attorneys of record and all unrepresented parties confer prior to the date of the pretrial conference and in good faith attempt to formulate a pretrial order. Should the parties be unable to agree on a pretrial order, then each party shall serve and submit to the Court a separate proposed pretrial order.**

- (B) All proposed pretrial orders shall be delivered to the appropriate chambers no less than five (5) days prior to the date set for the pretrial conference and shall be in the prescribed local format.

**Related Provisions**

FRBP 7016  
FRBP 7026

Pretrial Procedure  
Disclosure and Discovery

**LBR 7016 - 1**  
**May 1, 1996**

## **Rule 7024 - 2**

### **Unconstitutionality, Claim of**

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

**LBR 7024 - 2**  
**May 1, 1996**

## **Rule 7026 - 1**

### **Discovery - General**

#### **(a) Form of Motions to Compel**

Motions to compel disclosure or answers to interrogatories or questions, or to determine the sufficiency of disclosure or answers 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 disclosure, discovery or for a protective order shall not be heard unless the parties have conferred and attempted to resolve their differences. The moving parties shall call for such a conference within five (5) days after the motion has been served, and the conference shall be held within five (5) days thereafter. At least five (5) 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 ten (10) days after receiving notice of the order, unless the order specifies a different period.

#### **(d) Filing of Discovery Documents**

Disclosure or discovery documents, including depositions, interrogatories, and answers thereto, shall not be filed. Those portions of disclosure or discovery necessary to the disposition of motions, applications or requests shall be appended to the pleadings. The initiating party shall have the responsibility for maintaining discovery material and making it available as may be required during the proceedings.

### **Related Provisions**

FRBP 7026

Compelling Discovery

**LBR 7026 - 1**  
**May 1, 1996**

## **Rule 7041 - 1**

### **Dismissal of Adversary Proceedings**

A complaint objecting to the granting or for the revocation of discharge shall not be voluntarily dismissed at any party's instance without notice and hearing to the trustee, United States Trustee and the Master Mailing List (MML) pursuant to LBR 2002-1.

#### **Related Provisions**

FRBP 7041	Dismissal of Adversary Proceedings
FRBP 4004	Grant or Denial of Discharge
FRBP 4005	Burden of Proof of Objecting to Discharge
FRBP 4006	Notice of No Discharge
FRBP 7001	Scope of Rules of Part VII
LBR 2001-1	Notice to Creditors and Interested Parties
11 USC 727	Discharge

**LBR 7041 - 1**  
**October 15, 2002**

## **Rule 7054 - 1**

### **Costs - Taxation/Payment**

#### **(a) Cost Bill**

A party allowed costs may, within ten (10) days after entry of judgment, file and serve on the attorney for the opposing party a bill of costs. The bill shall state the time that the costs thereon will be taxed, which time shall be no less than one (1) 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 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 subparagraph (d).

#### **(d) Appeal**

A party may appeal the decision of the Clerk in the taxation of costs by filing a motion to re-tax with the Court within five (5) 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**

FRBP 7054(b)                      Costs

**LBR 7054 - 1**  
**May 1, 1996**

## **Rule 7055 - 1**

### **Default - Failure To Prosecute**

#### **(a) Entry**

Where a party to an adversary proceeding has appeared but is in default, the Clerk, may enter a default upon ten (10) days written notice to the party in default by the moving party. Any party so served may respond to the pleading or otherwise defend at any time before the presentment.

#### **(b) Judgment**

A party entitled to have the Clerk enter judgment pursuant to FRCP 55(b)(1) 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 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. The Clerk shall thereupon enter judgment for the principal, interest, and costs pursuant to said rule.

#### **(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 (6) months, the Clerk shall note the case for dismissal and shall give thirty (30) days notice to the counsel of record. If no action is taken in the meantime, and no satisfactory explanation of non-action is submitted, an order of dismissal without prejudice may be entered by the Court on the date the case is noted for hearing.

### **Related Provisions**

FRBP 7001	Adversary Proceedings
FRBP 7055	Default

**LBR 7055 - 1**  
**May 1, 1996**

## **Rule 7056 - 1**

### **Summary Judgment**

#### **(a) Motion**

Any party filing a motion for summary judgment shall set forth separately from the memorandum of law, and in full, the specific facts relied upon in support of the motion. The specific facts shall be set forth in serial fashion and not in narrative form. As to each fact, the statement shall refer to the specific portion of the record where the fact is found (i.e., affidavit, deposition, etc.). The specific portions of the record relied upon shall be attached to the statement of material facts.

#### **(b) Responsive Memorandum**

Any party opposing a motion for summary judgment must file with its responsive memorandum a statement in the form prescribed in (a), setting forth the specific facts which the opposing party asserts establishes a genuine issue of material fact precluding summary judgment. Each fact must explicitly identify any fact(s) asserted by the moving party which the opposing party disputes or clarifies. (E.g.: "Defendant's fact #1: Contrary to plaintiff's fact #1, . . .") Following the fact and record citation, the opposing party may briefly describe any evidentiary reason the moving party's fact is disputed. (E.g.: "Defendant's supplemental objection to plaintiff's fact #1: hearsay.")

#### **(c) Reply Memorandum**

The moving party may file with its reply memorandum, if any, a statement in the form prescribed in (a), setting forth the specific facts which the moving party asserts establishes the absence of genuine material fact disputes. Each fact must explicitly identify any fact(s) asserted by the opposing party which the moving party disputes or clarifies, although the moving party need not repeat facts asserted in its initial statement of facts. (E.g.: fact #1: Contrary to defendants's fact #1, . . .") Following the fact and record citation, the moving party may briefly describe any evidentiary reason the opposing party's fact is disputed. (E.g.: "Plaintiff's supplemental objection to defendants's fact #1: Party admission exception to hearsay.")

#### **(d) Assumptions by Court**

In determining any motion for summary judgment, the Court may assume that the facts as claimed by the moving party are admitted to exist without controversy except as and to the extent that such facts are controverted by the record set forth in paragraph (b) above.

### **Related Provisions**

FRBP 7056                      Summary Judgment

**LBR 7056 - 1**  
**May 1, 1996**

## **Rule 9001 - 1**

### **Definitions**

The following words and phrases used in these rules have the meanings indicated:

- (1) “Debtor.” For purposes of FRBP 9001(5), the debtor shall include the officers and members of the board of directors of a corporation and in the case of a partnership, all general partners.

An order designating some other individual as the debtor for purposes of FRBP 9001(5) may be presented on ten (10) days notice and hearing to the attorney for the debtor.

- (2) “Mailing.” Whenever the term “mailing” or “mail” is used in conjunction with providing service or notice, it included any form of electronic transmission authorized by FRBP 9036.

### **Related Provisions**

FRBP 9001                      General Definitions

**LBR 9001 - 1**  
**June 1, 2004**

## **Rule 9004 - 1**

### **Documents - Requirements of Form**

#### **(a) General Requirements of Form**

- (1) All documents presented for filing shall be prepared letter size (8 ½" x 11"). Without prior approval of the Court, all attachments shall also be no larger than letter size (8 ½" x 11"). Attachments shall not be tabbed.
- (2) All documents presented for filing shall be single-sided. Documents containing two or more pages shall be stapled at the top left corner, however, separate documents shall not be stapled together.
- (3) All documents filed must be of good quality on which line numbers appear at the left margin. The material thereon shall be typed, printed or prepared by a clearly legible duplicating process and shall be double-spaced. Quoted material may be single spaced, however footnotes shall be double-spaced. All typed and printed matter must appear in either a proportionately spaced typeface of 14 points or more, or a monospaced typeface of no more than 10.5 characters per inch may be used in a brief. A proportionately spaced typeface has characters with different widths. A monospaced typeface has characters with the same advanced width. Text shall be in roman (upright letters), non-script type. No pleading, document, or brief may have an average of more than 280 words per page, including footnotes and quotations. The word count does not include addenda containing statutes, rules, regulations etc.
- (4) On the first page of each pleading or similar document the title of the Court shall appear on or below the fifth line. All pleadings shall be signed as required by FRBP 9011. Names shall be typed underneath all signature lines.
- (5) In the space to the right of the center of the first page, opposite the caption of the case, there shall be placed:
  - (A) the case number and in the case of an adversary proceeding, the related case number above the adversary proceeding number;
  - (B) the nature of the document, such as complaint, answer, motion, order, affidavit and so forth;
  - (C) the name and status of the party on whose behalf the document is filed; and
  - (D) the words "Demand for Jury Trial" or its equivalent when a party demands a jury.

- (6) The first page of every pleading or other document (except instructions) shall contain the name, mailing address and telephone number of the attorney or firm submitting the document on the left side above line five.
- (7) At the left side of the bottom of each document of all documents (other than instructions) an abbreviated name of the document should be repeated, followed by the page number.
- (8) All appendices to pleadings shall be paginated progressively, but shall, following the number on the page, show also the appendix number which may be alphabetical, numerical or a combination thereof.
- (9) On a written motion or stipulation, the form of proposed order granting the motion or approving the stipulation shall be submitted separately.
- (10) Any document requiring the signature of the Court shall provide as follows:

Dated:

\_\_\_\_\_  
United States Bankruptcy Judge

and the signature page shall include a portion of the text of the document.

**(b) Cover Sheet and Summons**

Every Adversary Proceeding shall be accompanied by an Adversary Proceeding Cover Sheet (B104). A form summons need only be prepared by counsel for issuance by the Clerk with sufficient copies for service, if specifically requested by the Clerk. These forms may be obtained from the Office of the Clerk.

**(c) Prescribed Forms Excepted**

Except as to sub-paragraph (a)(2) above, this rule shall not apply where a prescribed form is used.

**Related Provisions**

FRBP 7010	Form of Pleadings
FRBP 9004	General Requirements of Form
FRBP 9011	Signing and Verification of Papers
FRBP 9021	Entry of Judgment
LBR 9009 - 1	Forms
LBR 9015 - 1	Jury Trial

**LBR 9004 - 1**  
**June 1, 2004**

## **Rule 9009 - 1**

### **Forms**

Whenever a rule requires that information be submitted as prescribed by the appropriate local form then the prescribed local form shall be used. Forms may be obtained from the Office of the Clerk at no cost or may be reproduced by users.

### **Related Provisions**

FRBP 9005	Harmless error
FRBP 9009	Forms
LBR 2014-1	Employment of Professional Persons
LBR 2083-1	Chapter 13 - General
LBR 3016-1	Chapter 11 - Plan
LBR 4008-1	Reaffirmation
LBR 7016-1	Pretrial Procedures

**LBR 9009-1**  
**May 1, 1996**

**Rule 9010 - 1**  
**Attorneys - Notice of Appearance**

**(a) Eligibility to Practice**

- (1) Any attorney 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. Matters concerning eligibility, procedure for admission, permission to practice in a particular case pro hac vice or discipline shall be controlled by the rules of the District Court.
- (2) Persons who have been granted a limited license to engage in the practice of law pursuant to Rule 9 of the Admission to Practice Rules of the State of Washington may practice before this Court. Any person who practices under this rule shall comply with and be bound by the provisions of Rule 9.
- (3) An attorney need not be admitted in representing a client in the following matters:
  - (A) Requesting special notice pursuant to FRBP 2002 or to be added to a MML pursuant to LBR 2002-1(d);
  - (B) Seeking compensation pursuant to 11 USC 330 when employed pursuant to 11 USC 327 in a matter where admission was not required;
  - (C) Filing a proof of claim;
  - (D) Signing or filing a reaffirmation agreement pursuant to 11 USC 524;
  - (E) Participating in a Meeting of Creditors held pursuant to 11 USC 341; and
  - (F) Representing a child support creditor so long as the appropriate form is filed.

**(b) Appearances, Withdrawal, and Substitution**

- (1) An appearance may be made by filing a formal notice of appearance. Alternatively, the filing of any pleading shall constitute an appearance by the attorney who signs the pleading.
- (2) A party who appeared by an attorney may not thereafter appear or act pro se in the cause, unless an order of substitution shall first have been made to the Court, after notice to the attorney then of record of such party and to other parties.
- (3) When an attorney having appeared in a cause is removed, withdraws, dies or

otherwise ceases to act as such, a party for whom he or she has acted as attorney must, before any further proceedings are had in the action on that party's behalf, appoint another attorney or file a statement of appearance pro se, unless such party is already represented by another attorney.

- (4) 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.
- (5) Withdrawal by Attorney
  - (A) An attorney who wishes to withdraw from a case or adversary proceeding shall file and serve notice of intent to withdraw pursuant to LBR 2002 - 1 on the parties set forth in subparagraph (B) hereof. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least ten (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 an order of the 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 such 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: party represented and all other parties to the adversary proceeding or scheduled hearing.
    - (iii) All other attorneys: on their client.
  - (C) The withdrawal shall be effective as set forth in the notice, without order of the Court, upon the filing of the affidavit or certificate 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 shall be by order of the Court.

- (6) 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 Federal Rules of Bankruptcy Procedure requires approval of the employment of an attorney in the first instance. Notice of substitution shall be served on the parties set forth in subparagraph (c)(5)(B).
- (7) 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 (c)(5)(B).

**(c) 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, except by permission of the Court.

**(d) Familiarity with Local Rules**

Every member of the bar of this Court or attorney practicing before it shall be familiar with and comply with the Local Rules of this Court and shall maintain the respect due courts of justice and judicial officers; shall perform with the honesty, care, and decorum required for the fair and efficient administration of justice and shall discharge the obligations owed to clients and to the judges of the Court.

**Related Provisions:**

FRBP 2006	Solicitation and Voting of Proxies
FRBP 2014	Employment of Professional Persons
FRBP 2017	Examination of Debtor's Transactions with Debtor's Attorney
FRBP 9010	Representation and Appearances
FRBP 9011	Signing and Verification of Papers
EDWA LR 83.2	Bar Admission
EDWA LR 83.3	Attorney Discipline
LBR 9011 - 1	Attorneys - Duties
11 USC 327	Employment of Professional Persons
11 USC 501 - NOTE	Appearance Before Court of Child Support Creditors or Representatives (See P.L. 103-394, Title III, section 304 (g); 108 Stat. 4134)

**LBR 9010-1  
October 1, 2003**

## **Rule 9011 - 1**

### **Attorneys - Duties**

#### **(a) Service of Attorney Statement of Compensation**

A copy of the statement of compensation, as well as any supplements, required to be filed by 11 USC 329 and FRBP 2016 shall be promptly served on the United States trustee and any trustee appointed in the case. In addition to the information required by FRBP 2016(b) and 11 USC 329(a), the statement shall also describe the services rendered or to be rendered, the nature of any arrangement for payment of services, including any related liens or security interests given or taken and the disposition of any funds received.

#### **(b) Administrative Expenses**

Payment of attorney fees for compensation of services rendered or reimbursement of expenses as administrative expenses pursuant to 11 USC 503 shall only be in accordance with 11 USC 330 and FRBP 2016, including postconfirmation payment for preconfirmation services or expenses.

#### **(c) Attorney Defined**

For purposes of this rule, the term "Attorney" shall include the named attorney, and if the named attorney is a law partnership or corporation, any attorney employed as a partner, member or regular associate of such partnership or corporation, and if the named attorney is a member, partner, regular associate of a partnership or corporation, any other member, partner, or regular associate thereof. The disclosure shall be on behalf of the named attorney and all members, partners or regular associates with whom the named attorney is associated.

## **Related Provisions**

FRBP 2002	Notice and Hearing
FRBP 2104	Employment of Professional Persons
FRBP 2016	Compensation for Services Rendered
FRBP 2017	Examination of Debtor's Transactions with Attorney
FRBP 2019	Representation of Creditors' Committees
FRBP 9010	Representations and Appearances

LBR 2016 - 1 Compensation of Professionals  
LBR 2082 - 1 Chapter 12 - General  
LBR 9010 - 1 Attorneys - Notice of Appearance

11 USC 327	Employment of Professional Persons
11 USC 328	Limitation on Compensation of Professional Persons
11 USC 329	Debtor's Transactions With Attorneys
11 USC 330	Compensation of Officers
11 USC 331	Interim Compensation

18 USC 152	Concealment of Assets
18 USC 153	Embezzlement
18 USC 154	Adverse Interest and Conduct of Officers
18 USC 155	Fee Arrangements in Cases Under Title 11

**LBR 9011 - 1**  
**May 1, 1996**

## **Rule 9013 - 1**

### **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 LBR 2002 - 1. Notice need be given only to the parties to the adversary proceeding.
- (2) If the election in paragraph (a)(1) is not made, a hearing date of a motion in an adversary proceeding shall be requested from the Clerk.

#### **(b) Ex Parte Orders**

When the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure authorizes 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 LBR 2002 - 1.

#### **(d) Memorandum of Authorities**

- (1) 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 1 and 1/2 or double-spaced; except that quoted material may be single-spaced. Such memorandum must be filed and served on the opposing party in accordance with LBR 5005 - 1(c).
- (2) Citations to Washington cases in a memorandum of authorities shall be to the Washington Reports. Citations 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. Citations to bankruptcy cases shall be to West's Bankruptcy Reporter, Collier's Bankruptcy Cases or Bankruptcy Court Decisions.

## **Rule 9014 - 1**

### **Contested Matters**

#### **Disclosure in Contested Matters**

In contested matters the provisions of FRCP 26(a)(1), (a)(2), (a)(3), and (f) and the first sentence of (d), and those parts of 30(a), 31(a), 34(b), 36(a), 37(a), (b), (c) and (g) that incorporate the foregoing provisions of FRCP 26, all of which are incorporated by reference into the Federal Rules of Bankruptcy Procedure, shall not apply absent an express order of the court.

#### **Related Provisions**

LBR 7026-1	Discovery - General
FRBP 7026	Compelling Discovery
FRBP 9014	Contested Matters

**LBR 9014-1**  
**October 15, 2002**

**Rule 9015 - 1**

**Jury Trial**

Abrogated.

**LBR 9018 - 1**

**Secret, Confidential, Scandalous, or Defamatory Matter**

**a) Motion to Seal**

- (1) A motion to seal may be made on any grounds permitted by law, shall contain the basis for why sealing is required and shall be accompanied by a copy of the proposed order. Notice of the motion shall be in accordance with LBR 9013-1(b).
- (2) Filed simultaneously with the motion to seal shall be the document to be sealed, presented as required by sub-paragraph (b) of this rule. The document shall be filed provisionally under seal, and will remain provisionally under seal until the court rules on the motion.
- (3) If discussion of protected materials or information is necessary to support the motion, such discussion shall be limited to an affidavit or declaration under penalty of perjury, which shall also be provisionally sealed.

**b) Filing of Sealed or Provisionally Sealed Document**

Any document filed under seal or provisional seal shall be contained in a sealed envelope to which shall be affixed a captioned pleading that identifies the document, contains language to clearly indicate that the document in the sealed envelope has been filed under seal and is not to be opened without an order of the court and that makes reference to the motion or order by which the document was sealed.

**c) Motion to Unseal**

A motion to unseal a document may be made on any grounds permitted by law. Notice of such a motion shall be in accordance with LBR 9013-1, with ten (10) days notice to the party that requested the document be sealed.

**d) Disposition of Documents filed Under Seal upon Dismissal or Closing of Case**

Any documents remaining under seal when a case is dismissed or closed shall be returned sealed to the filing party.

**e) Viewing by Court Personnel**

Unless otherwise stated in the motion or the order to seal, the seal will not preclude court staff from viewing sealed materials.

**Related Provisions:**

FRBP 9018	Secret, Confidential, Scandalous, or Defamatory Matter
FRBP 9013	Motions: Form and Service
LBR 2002-1	Notice to Creditors & Other Interested Parties
LBR 9013-1(b)	Motion Practice
11 USC 102	Rules of Construction
11 USC 107	Public Access To Records

**LBR 9018-1**  
**March 1, 2000**

## **Rule 9029-1**

### **Local Rules - General**

#### **(a) Scope**

These local rules govern practice and procedure in the United States Bankruptcy Court for the Eastern District of Washington, and shall be cited as "LBR-\_\_".

#### **(b) Applicability**

Unless otherwise indicated, each of these local rules applies to all cases commenced under the Bankruptcy Code, contested matters and adversary proceedings.

#### **(c) Meaning of Words and Phrases**

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

### **Related Provisions**

FRBP 1001	Scope of Rules
FRBP 9001	General Definitions
FRBP 9002	Meaning of Words
FRBP 9029	Power to Promulgate
11 USC 101	Definitions
11 USC 102	Rules of Construction
11 USC 741	Definitions of Stockbroker Liquidation
11 USC 1101	Chapter 11 Definitions

**LBR 9029 - 1**  
**May 1, 1996**

## **Rule 9070 - 1**

### **Exhibits**

#### **(a) Identification and Presentation**

As much as practicable, all exhibits intended to be offered into evidence shall be identified by the party offering the exhibit in the manner prescribed by the Clerk prior to the hearing. A party intending to offer five or more exhibits shall furnish such exhibits in a three-ring binder which shall include an index.

#### **(b) Disposition of Exhibits**

- (1) Unless otherwise ordered, upon the conclusion of a hearing or trial, all exhibits marked for identification or introduced into evidence and all depositions and transcripts shall be returned to the party who produced them.
- (2) It is the responsibility of the party who received any documents back in accordance with subparagraph (b)(1) to produce any or all such documents if requested by this Court or any appellate court hearing any appeal taken.

## **Rule 9073 - 1**

### **Hearings**

#### **(a) Requests for Hearing**

A request for a hearing is made to the Clerk and may be by telephone, in writing or in person. The requesting party shall provide to the Clerk the following information:

- (1) Identification of the case or adversary proceeding by name and number;
- (2) The names of all parties, the name, address and telephone number of their attorneys and that of any unrepresented party; and
- (3) A brief statement as to the nature of the hearing, estimated time required, the number of witnesses, if any, and preference as to a telephonic or courtroom hearing; and if the hearing is precipitated by notice and hearing;
  - (i) the date the notice was sent,
  - (ii) a statement as to whether or not objections were made, and
  - (iii) a statement as to whether or not the time for objections has expired.

#### **(b) Notice of Hearing**

Hearings are set by the Court, and the requesting party shall be advised of the setting by the Court. As soon as possible after receiving the setting information, but in no event later than seven (7) days prior to the hearing, the requesting party shall serve notice of the setting on all parties to the hearing. The party giving such notice shall promptly file an affidavit or statement under penalty of perjury of service that specifies when and to whom notice was served along with a copy of the notice.

#### **(c) Confirmation of Hearings**

The party requesting a hearing may be required to confirm with the appropriate chambers that the matter will be heard if so advised by the Court. Failure to confirm when so required may result in the striking of the hearing.

#### **(d) Terms for Failure to Appear at Hearing**

The Court may impose terms against a party who fails to appear at a hearing when so required.

**(e) Filing of Documents to be Considered at Hearings**

- (1) An application or motion, supporting affidavits or statements under penalty of perjury shall be served and filed no later than seven (7) days prior to the hearing on an application or motion. An opposing party shall serve and file any objections, counteraffidavits or statements under penalty of perjury or other responding documents no later than three (3) days prior to the hearing on the application or motion.
- (2) A document intended to be considered by the Court in connection with a scheduled hearing shall be served and filed in accordance with subparagraph (1) above, and a copy shall be delivered to the appropriate chambers if the document has not been filed at least seven (7) days prior to the hearing.

**Related Provisions**

FRBP 9006                      Service of Motion

LBR 5005 - 1                  Filing Papers & Requirements

28 USC 152                    Places of Holding Court

**LBR 9073 - 1**  
**May 1, 1996**