

Rule 1017-4

Dividing of Joint Cases

(a) Motion and Notice

A debtor in a joint case desiring that the case be divided shall file a motion, with fourteen (14) days notice and hearing to a non-joining debtor, attorney for the debtor and the trustee.

(b) Supporting Documentation

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.

~~**(c) Chapter 12 & 13 Cases**~~

~~If the case to be divided is a Chapter 12 or 13 case, the motion to divide shall also include a motion that one of the divided cases, specifically identified by individual debtor, be converted upon entry of the order dividing the cases.~~

Related Provisions

FRBP 1017(f)	Procedure for Dismissal, Conversion or Suspension
FRBP 1019	Conversion of a Chapter 11, 12 or 13 Case
LBR 1015-1	Joint Administration/Consolidation
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-2	Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
LBR 1017-3	Conversion or Dismissal of Chapter 11 Cases
11 USC 302	Joint Cases
11 USC 541	Property of the Estate
11 USC 1208	Conversion of Dismissal
11 USC 1307	Conversion or Dismissal

LBR 1017-4

~~DECEMBER 1, 2009~~ **AUGUST 1, 2017**

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.
- (2) A notice may be included with a motion in which case the pleading shall be captioned as a motion and notice.

(b) Service of Notice

- (1) To Whom Given
 - (A) "Notice," as used in this rule shall mean notice 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) How Given

All notices shall be by first-class mail, unless the recipient is a registered participant in the CM/ECF system in the case in which the pleading or other paper is being filed. If the recipient is a registered participant, the Notice of Electronic Filing (NEF) is deemed the equivalent of service of the pleading or other paper by first-class mail; provided, however, if the pleading or other paper filed is to be considered at a hearing scheduled to occur within 48 hours (excluding weekends and holidays) of the filing, then at or before the time of filing, the filer shall serve the filed papers or pleadings by separate email upon all recipients entitled to service who are registered participants, or shall make such service by facsimile or by hand delivery.

(4) Certification of Giving Notice

As soon as practicable, a party giving notice pursuant to this rule shall forthwith file as a separate document, *or as a text-only entry*, an affidavit of mailing or unsworn declaration under penalty of perjury, which shall include a list of all entities entitled to notice and the physical address to which notice was sent, or a designation that the entity is a registered participant in the CM/ECF system in the case. If the notice was given to a Master Mailing List (MML) or Limited Mailing List (LML), the affidavit or declaration shall also state the date on which it was retrieved from the database of the court.

(c) **Time Allowed for Objections**

- (1) The moving party shall provide at least twenty-one (21) 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 provided to all entities on an MML or LML retrieved from the database of the court within five (5) days of the notice, and as required by FRBP 2002 and 9036.

(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, requests from governmental agencies, written requests by entities who wish to be added, deleted or have their addresses 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

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 written request to receive all notices will be sufficient to add such requesting party to both the Master Mailing List and the Limited Mailing List.

(2) Notice in Non-lead Consolidated or Joint Administration Cases

In order to be presumed appropriate, notice given to the MML or LML of a non-lead case that was consolidated or where joint administration was ordered shall include, in addition to the names contained on the MML or LML of the non-lead case, all entities that filed a request for notice in the lead case after the cases were consolidated or joint administration ordered.

(3) A party in interest who wishes to receive all notices, in addition to notices required to be sent to the MML or LML, shall give notice to the MML or LML as appropriate, and file a certificate of mailing as required by sub-section (b)(4) above.

(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 submission of ex parte orders shall be as prescribed in LBR 9013-1(c)(2) & (3).

(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 therefore.
- (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 seven (7) 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.

Related Provisions

FRBP 2002	Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee
FRBP 9006	Computing and Extending Time
FRBP 9007	General Authority to Regulate Notices
FRBP 9014	Contested Matters

FRCP 5(b)(2)(E) & (b)(3) Serving and Filing Pleadings and Other Papers

LBR 9013-1	Motions and Orders
LBR 9073-1	Hearings
11 USC 102(1)	Rules of Construction
11 USC 350	Closing and Reopening Cases

LBR 2002-1

~~APRIL 10, 2014~~ **AUGUST 1, 2017**

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); and~~

~~(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 as 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.~~

~~(2)-(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 party shall also comply with LBR 3012-1.

(b) Notice of Objection

(1) The Notice of Objection shall substantially conform to the appropriate Official Form (420B).

(2) The Notice shall include the date, time, and place of the hearing on the objection, which may be obtained from the court's website.

(c) Response

(1) ~~Response Filed~~ Any written response shall be filed at least seven days prior to the hearing on the objection to claim.

~~(2) (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 objecting party shall obtain a date for a hearing to occur within forty five (45) days of the response and provide notice of the date and time set for the hearing to the claimant and the trustee.~~

~~(3) (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 obtain a hearing date or present an order in accordance with sub-paragraphs (b)(1)(B) and (b)(2)(A) of this rule, the court may enter an order striking the objection after seven (7) days' notice to the objecting party and any responsive party.~~

~~(d) **Hearing**~~

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

Note: The local rule is being amended to conform with the amendments to FRBP 3007, effective December 1, 2017.

Related Provisions

FRBP 3007	Objections to Claims
FRBP 7001	Scope of Rules of Part VII
FRBP 9014	Contested Matters
LBR 2002-1	Notice to Creditors and Other Interested Parties
LBR 7003-1	Commencement of Adversary Proceeding
11 USC 506	Determination of Secured Status
28 USC 1930(b)	Bankruptcy Fees

LBR 3007-1

~~APRIL 10, 2014~~ **AUGUST 1, 2017**

Rule 5005-3

Electronic Filing

(a) Scope of Electronic Filing

- (1) The electronic filing of a document constitutes filing of the document for all purposes, including those of the Federal Rules of Bankruptcy Procedure and Local Rules.
- (2) Documents filed in paper will be converted into an electronic format.

(b) Official Record of the Court

The official record of the Court includes all documents filed electronically, filed in paper and converted to an electronically filed format, filed in paper and not converted to electronic format and text-only entries. Text-only entries are text contained in the docket entry and for which there is no separate electronically recorded image.

(c) Mandatory Electronic Filing

- (1) All attorneys, including but not limited to examiners, trustees, Office of the United States Trustee, Office of the United States Attorney and any other entity as the clerk deems appropriate are required to file documents electronically.
- (2) Electronic filing privileges shall only be granted to attorneys admitted to practice in the United States District Court for the Eastern District of Washington. Other entities are granted filing privileges for limited purposes.

(d) Exception to File Documents Electronically

- (1) Pro se debtors, non-attorney entities that have filed fewer than 3 documents during the most recent 12-month period and entities that have been granted a waiver from filing electronically are excepted from filing a document electronically.
- (2) Documents filed under seal shall be in accordance with LBR 9018-1.

(e) Waiver of Requirement to File Documents Electronically

- (1) Any entity that is required to file documents electronically may request a waiver of that requirement by submitting a Request for Waiver From Electronic Filing on the prescribed form.
- (2) A separate waiver must be filed for each case or adversary proceeding for which a waiver is desired.

LBR 5005-3

~~AUGUST 1, 2015~~ **AUGUST 1, 2017**

- (3) Any entity that is required to file documents electronically and that has not been granted a waiver or has an unresolved waiver request pending that files a document non-electronically is subject to sanctions as may be imposed by the Court or to having the document stricken unless, after notification, the document is promptly re-filed electronically or a waiver is requested.

(f) Signatures

- (1) All pleadings and other documents requiring signatures *that are* filed electronically shall either contain a scanned image of any signature(s) therein or,
 - (A) indicate the signature by putting “/s/ Jane Doe” on the signature line, or
 - (B) affixing an electronically produced signature to the document.
- (2) Documents Signed under Penalty of Perjury or Under Oath
 - (A) Where a scanned image of a signature conventionally signed under penalty of perjury is not displayed on the document electronically filed, the filing party shall file *contemporaneously* with the Court as a separate document a statement that the signature was witnessed and by whom.
 - (B) The filing party shall retain the document containing the written signature, or a copy made in the ordinary course of business as described in 28 USC § 1732, for a period of not less than five (5) years, the maximum allowable time to complete any appellate process, or the case or adversary proceeding is closed, whichever is later, and shall produce the document upon order of the Court, or a copy made in the regular course of business as described above.
- (3) The electronic filing of a document shall constitute the signature of that party for all purposes for which a signature is required in connection with proceedings before the Court, including FRBP 9011. Where an electronically produced signature is used, the electronically produced signature is the signature for all purposes, including orders of the Court.

Where a document is filed electronically that was initially signed conventionally, the submission of that document constitutes a signature and will have the same force and effect as a written signature for all purposes, including FRBP 9011.

The signature on a document filed in paper when converted to an electronic format by the Court, will likewise constitute a signature and will have the same force and effect as a written signature for all purposes, including FRBP 9011.

(g) Court Retention of Records

Where a document filed in paper is converted to an electronic format by the Court, the document will be retained only so long as required to ensure that the information has been transferred to the Court's database.

(h) Technical Failures

Appropriate relief under FRBP 9006 may be sought from the Court where an electronic filing is made untimely as the result of a technical failure of the Court.

(i) Cases Filed in Error

If a case is filed in error, or in duplicate, the filing party shall notify the clerk's office immediately.

(j) Documents

- (1) Combined motions shall be identified by selecting appropriate docket events.
- (2) A single docket event shall not be used to file more than one document, except when otherwise allowed by local or national rules.

Related Provisions

FRBP 5005 Filing and Transmittal of Papers
FRBP 9006 Computing and Extending Time

LBR 5005-1 Filing Requirements
LBR 9018-1 Secret, Confidential, Scandalous, or Defamatory Matter

28 USC 1732 Record made in regular course of business; photographic copies

Administrative Procedures for Filing and Verifying Documents by Electronic Means

LBR 5005-3

~~AUGUST 1, 2015~~ **AUGUST 1, 2017**

Rule 9013-1

Motions and Orders

(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~~ on a motion in an adversary proceeding shall be requested ~~from~~ on the ~~Court's Web site~~ website. Once a hearing date is obtained, the moving party must provide adequate time for objections to be filed in accordance with LBR 2002-1(c).

(b) Combining of Motions

- (1) Motions may be combined with other motions, except motions to lift the automatic stay unless permitted by LBR 4001-1, motions to withdraw the reference, or motions to reopen cases.
- (2) If motions are combined, each request shall be clearly identified in the caption and in the body of the pleading.
- (3) If different objection periods or service or notice requirements are required for combined motions, the longest objection period and most complete service or notice shall be used for all the combined motions.
- (4) Motions in adversary proceedings and bankruptcy cases shall not be combined.

(c) Proposed Orders

- (1) Request for Entry of Order
 - (A) Upon expiration of the requisite notice period, a party desiring an order granting motion that is based on notice and hearing shall file a Declaration of No Objections (text-only).
 - (B) Subsequent to the submission of the declaration referenced in subparagraph (1)(A), a party may upload an order for the court's execution. A party may not submit an ex parte order for the court's execution prior to the expiration of any applicable notice period.

(2) Form

- (A) The first page of any order must have a 4 inch top margin that is left blank for court use only.
- (B) The designation “///End of Order///” shall be placed after the final line of text on the order. No date or signature line is to be provided for the judge. The attorney(s) presenting the order shall so indicate in the lower left hand corner of the last page of the order by stating “Presented by” with their name and signature line.

(3) Orders Upon Stipulations

A party seeking approval of a stipulation shall:

- (A) File the stipulation, accompanied by a motion to approve the stipulation or relate it to a previously filed motion;
- (B) Satisfy notice and hearing requirements as to any provision in the stipulation;
- (C) Not provide for the dismissal or conversion of a case without the need for a separate order; and
- (D) Obtain the endorsement of the Chapter 12 or 13 trustee as appropriate if any of the provisions of the stipulation affect the trustee’s administration of the plan.

(4) Orders Prepared by the Court

- (A) Orders resulting from a hearing before the Court will be prepared by the Court unless otherwise directed by the Court.
- (B) The Court may enter a text-only order in any instance. A text-only order is an order or judgment that is electronically entered on the case docket without an attached document; and is as official and binding as if the judge had signed a document containing the text. A text-only order shall include the name of the judge authorizing entry of said order and shall be deemed dated as of the date it is entered on the docket.
- (C) If a party or the Clerk is required to serve notice of a text-only order to parties who are not ECF participants, the party or Clerk shall send via first-class mail a copy of the NEF with the filing information, the docket entry, and the document description.

(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 the party relies. 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.

(e) Motions for Reconsideration

Motions for reconsideration shall be filed and served within 14 days after entry of the judgment or order, and shall not be noted for hearing unless oral argument is requested by the court. The opposing party need not respond to a motion for reconsideration unless requested to do so by the court.

Related Provisions

FRBP 9006

FRBP 9013

FRBP 9014

FRBP 9021

Computing and Extending Time, Time for Motion Papers

Motions: Form and Service

Contested Matters

Entry of Judgment

LBR 2002-1

Notice to Creditors and Other Interested Parties

LBR 4001-1

Automatic Stay

LBR 5010-1

Reopening Cases

LBR 5011-1

Withdrawal of Reference

LBR 6007-1

Abandonment

LBR 9013-1

~~AUGUST 1, 2014~~ **AUGUST 1, 2017**

Rule 9019-2

Alternative Dispute Resolution ~~Mediation~~

(a) Requirement in Adversary Proceedings

The parties in adversary proceedings shall consider alternative dispute resolution and be prepared to discuss it at the time of the first scheduling conference.

~~Unless otherwise ordered, no later than 28 days after an answer or other response to the complaint is filed in an adversary proceeding and whenever ordered by the court in other matters, each party shall file a Certificate of Compliance (ADR Form 2) certifying that he or she considered mediation to resolve the dispute.~~

~~(b) Order~~

~~(1) Mediation Initiated by Parties. Parties to a dispute may stipulate to setting the matter for mediation by filing a Stipulation Regarding Selection of Mediator (ADR Form 3) and submitting an Order Appointing Mediator (ADR Form 4).~~

~~(2) Mediation Initiated by Court. Participation in mediation is voluntary, except when ordered by the court. If the federal government or other party not authorized to pay for mediation is involved, this information shall be given to the court prior to the entry of order. The parties will normally be given the opportunity to confer and designate a mutually acceptable mediator as well as an alternate mediator, and upon agreement, should follow the procedure set forth in subparagraph (1). If the parties cannot agree, the clerk of court will select a mediator.~~

(b) Stay

Mediation shall not alter or affect any time limits, deadlines, scheduling matters or orders in any adversary proceeding, contested matter or other proceeding, unless specifically ordered by the court.

(c) Mediation Panel

(1) *The judges of the district shall establish and maintain a register of qualified attorneys who have volunteered to serve, without compensation, as mediators in civil cases. Under appropriate circumstances, it may be necessary for the parties to provide payment at usual and customary rates as determined by the court, for the services of an attorney designated under this rule.* Appointment of a mediator is made from a

panel of mediators maintained by the court. A list of members appointed to the panel as well as a biographical sketch of each is available on the court's website. The selection of a particular mediator, and an alternate, is based on the preference of the parties.

- (2) Applications for appointment to the Mediation Panel shall be submitted on the prescribed local form (ADR Form 7).
- (3) Panel mediators shall serve on the panel until they request to be removed or are removed by the court.
- (4) *No mediator may serve in any matter in violation of the standards set forth in 28 U.S.C. § 455. An attorney mediator shall also promptly determine all conflicts or potential conflicts in the same manner as an attorney would under the Washington Rules of Professional Conduct if any party to the dispute were a client. A non-attorney mediator shall promptly determine all conflicts or potential conflicts in the same manner as under the applicable rules pertaining to the mediator's profession. If the mediator's firm has represented one or more of the parties, the mediator shall promptly disclose that circumstance to all parties in writing. A party who believes that the mediator has a conflict of interest shall promptly bring the matter to the attention of the mediator. If the mediator does not withdraw from the mediation, the matter shall be brought to the attention of the court by the mediator or any of the parties.*
- (5) Nothing herein shall preclude parties from using a judge or other non-panel mediator with subject matter expertise.
- (6) *The presiding judge may refer matters for mediation to a magistrate judge, a district judge, or a bankruptcy judge designated by the presiding judge in his or her sole discretion. Matters referred shall be governed by the directives in the assigned judge's scheduling order or standing order regarding mediation.*

~~(e) Compensation~~

- ~~(1) Other than matters to be mediated on a pro bono basis, mediators are authorized to charge each party to the mediation, whether or not represented by counsel, \$500 for up to 6 hours of mediation services rendered, exclusive of the initial conference, and with a minimum of 4 hours spent in the mediation conference. For any services rendered in excess of the initial 6 hours, with the consent of the parties, a mediator may charge the parties a rate not to exceed a total of \$300 per hour for services rendered, to be split evenly among the parties, except as provided in subsection (2) below.~~
- ~~(2) The mediator shall have discretion to determine whether a particular party, other than the federal government or other party not authorized to pay for mediation, is entitled to participate in a matter without charge or at a reduced charge because of the party's financial circumstances. Other parties participating in a pro bono matter who have the~~

~~ability to pay the fee and who are not, in the discretion of the mediator, entitled to participate without charge, shall pay the fee described in subsection (1) above. After rendering 6 hours of mediation services as provided in subsection (1) above, and subject to the consent of the parties, the mediator may continue to provide additional services at the hourly rate described in subsection (1) above only if the party participating without charge agrees to pay an equal share of the additional fees or the mediator agrees to continue the mediation without charge to such pro bono party and the other parties sharing the mediator's additional fees are not charged for the pro bono participant's share. Each mediation in which at least one party participates without charge shall count towards the satisfaction of the mediator's annual requirement to conduct not less than one pro bono matter (see Application for Appointment to Bankruptcy Mediation Panel (ADR Form 7)).~~

~~(3) Any party not authorized to pay for mediation should bring this fact to the attention of the mediator prior to the entry of the order of his or her appointment.~~

~~(f) **Suggestions and Recommendations of Mediator**~~

~~If the mediator makes any oral or written suggestions to a party's attorney as to the advisability of a change in that party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to the party. The mediator shall have no obligation to make any written comments or recommendations, but may, as a matter of discretion, provide the parties with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the clerk of court or made available in whole or in part, directly or indirectly, to the court.~~

(d) **Dispute Resolution Procedures**

(1) *The parties, or the court, shall prepare for entry an order appointing mediator (ADR _____).*

~~i. Availability of Mediator. Should events render an appointed mediator unable to act, the mediator shall notify the parties and the alternate mediator of that unavailability. The alternate mediator shall thereafter serve as the mediator.~~

(2) *Participation and Preparation by Counsel. The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and any adjourned sessions of that conference. The attorney for each party shall come prepared to discuss the following matters in detail and in good faith:*

- a. All liability issues;*
- b. All damages issues; and*
- c. The position of his/her client relative to settlement.*

~~i. Initial Telephonic Conference. As soon as practicable after notification of appointment, the mediator shall conduct one or more telephonic conferences with pro se parties and/or counsel for the parties. The mediator may establish procedures and deadlines relating to the mediation, taking into account deadlines in the court's scheduling order.~~

(3) ***In Person Attendance. Attendance by a party and its representative with full settlement authority at the mediation is mandatory, unless the mediator permits otherwise.***

~~Mediation Conference. In addition to the attorneys involved, a person with full settlement authority must also be present at the conference or readily available. The purpose of this requirement is to have representatives present or readily available who can reach a resolution during the course of the conference, or if necessary, shortly thereafter. If the estate is a party to the matter at issue, this authority may be subject to notice requirements of the Bankruptcy Code or Rules.~~

(4) ***Failure to Attend. Willful failure to attend the mediation conference, unless excused by the mediator, shall be reported to the presiding judge by the mediator and may result in the imposition of sanctions.***

(5) ***When appropriate, the mediator may offer an evaluation of the case and/or recommend a settlement.***

(e) **Confidentiality**

(1) Written and Oral Communications. All written and oral communications made in connection with or during any mediation conference, ~~including the mediation statement referred to in (i)(4),~~ shall be subject to all the protections afforded by Fed. R. Evid. 408 and by Fed. R. Bankr. P. 7068. The mediator may ask the parties to sign a confidentiality agreement. Any confidentiality agreement shall be retained by the mediator and not filed with the court.

(2) Evaluations and Written Agreements. No provision of this rule shall be construed to prevent parties, counsel or mediators from responding in absolute confidentiality to inquiries or surveys by persons authorized by this court to evaluate the mediation. Nor shall anything in this section be construed to prohibit the parties from entering into written agreements resolving some or all of the matters or entering or filing procedural or factual stipulations based on suggestions or agreements made in connection with a mediation conference.

~~(i) Service of Mediator This section moved to (c)(4)~~

~~No mediator may serve in any matter in violation of the standards set forth in 28 U.S.C. § 455. An attorney mediator shall also promptly determine all conflicts or potential conflicts in the same manner as an attorney would under the Washington Rules of Professional Conduct~~

~~if any party to the dispute were a client. A non attorney mediator shall promptly determine all conflicts or potential conflicts in the same manner as under the applicable rules pertaining to the mediator's profession. If the mediator's firm has represented one or more of the parties, the mediator shall promptly disclose that circumstance to all parties in writing. A party who believes that the mediator has a conflict of interest shall promptly bring the matter to the attention of the mediator. If the mediator does not withdraw from the mediation, the matter shall be brought to the attention of the court by the mediator or any of the parties.~~

(f) Civil Immunity of Mediators

All persons serving as mediators under this rule shall be deemed to be performing quasi-judicial functions and shall be entitled to all of the privileges, immunities and protections that the applicable law accords to persons serving in such capacity.

(g) Parties Retain Option to Pursue Settlement

Nothing in this rule shall prohibit parties from pursuing settlement by any other means not contrary to statute or court rule.

~~Procedures Upon Completion of Mediation Conference~~

~~Upon the conclusion of the mediation conference, the following procedure shall be followed:~~

- ~~(1) Agreement Reached. If the parties have reached an agreement regarding the disposition of the matter, the parties shall determine who shall prepare the writing to dispose of the matter, and they may continue the mediation conference to a date convenient to all parties and the mediator if necessary. The court will reasonably accommodate parties who desire to place any resolution of a matter on the record during or following the mediation conference. Where required, the parties shall promptly submit the fully executed stipulation to the court for approval.~~
- ~~(2) Mediation Report. Within 14 days of the conclusion of the mediation conference, the mediator shall file with the court a Mediation Report (ADR Form 6). Regardless of the outcome of the mediation conference, the mediator will not provide the court with any details of the substance of the mediation conference.~~

Related Provisions

18 USC 4	Misprision of Felony
18 USC 3057	Bankruptcy Investigations
28 USC 651	Authorization of Alternative Dispute Resolution

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