

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

In re

AMENDMENTS TO LOCAL  
BANKRUPTCY RULES 5011-1,  
7008-1, and 7054-1

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)  
) GENERAL ORDER 13-04  
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Pursuant to the General Order of the United States District Court for the Eastern District of Washington dated March 6, 1996, FRBP 8018 and 9029, FRCP 83, and 28 U.S.C. § 2071, Local Bankruptcy Rules 5011-1, 7008-1, and 7054-1 are amended as set forth in the attachment hereto.

The amendments to the aforementioned local bankruptcy rules shall be effective immediately and shall govern all pending matters, except to the extent, in the opinion of the court, application of the change would not be feasible or would work an injustice, in which event the procedure set forth in the former rules shall apply.

The Clerk of Court shall forthwith provide public notice of the amendments to LBR 5011-1, 7008-1, and 7054-1, and provide opportunity for comment, as required by 28 U.S.C. § 2071(3).

DATED: November 27, 2013

  
Honorable Frank L. Kurtz, Chief Judge

**Rule 5011-1**

**Withdrawal of Reference**

**(a) Motion**

A withdrawal of reference of any case or adversary proceeding, in whole or in part, may be initiated by the bankruptcy court upon its own motion or on timely motion of any party.

**(b) Filing and Service**

Any motion for withdrawal of reference of any case, in whole or in part, shall be filed in the bankruptcy court and served promptly after service of any pleading or document in which the basis for the motion first arises. Any motion for withdrawal of reference in an adversary proceeding, in whole or in part, shall be filed in the bankruptcy court no later than 14 days following the entry of the scheduling order. Response documents shall be filed and served no later than 14 days after service of the motion for withdrawal. Reply documents, if any, shall be filed and served no later than 7 days after service of any response.

**(c) Transmittal of Documents to District Court**

After expiration of the time for filing documents as provided in subsection (b) of this rule, the clerk of the bankruptcy court shall transmit the motion and all related documents that have been filed with the bankruptcy court to the district court. *The transmittal may include comments by the bankruptcy judge, including an analysis of the issue(s) and, if applicable, the impact of the adversary proceeding upon the underlying case. The moving party shall note the matter for hearing in accordance with LR 7.1(h)(3) of the Local Rules of the United States District Court.*

*After the clerk of the bankruptcy court has transmitted the motion and all related documents to the district court, all further documents related to the motion to withdraw the reference shall be filed with the clerk of the district court. Unless otherwise ordered by the bankruptcy court or district court, parties shall continue to file with the clerk of the bankruptcy court all documents relating to other matters in the case or adversary proceeding.*

~~Unless otherwise ordered by the bankruptcy court or district court, parties shall continue to file with the bankruptcy court all documents in the bankruptcy case or adversary proceeding. Any supplemental documents relating to the motion for withdrawal of reference filed after transmittal shall be promptly transmitted by the bankruptcy court to the district court.~~

**NOTE:** Please see LBR 7008-1 regarding the right to judgment by the United States District Court for procedures in adversary proceedings which include a claim outside the statutory definition of “core” bankruptcy issues.

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### **Related Provisions**

FREBP 5011                      Withdrawal and Abstention from Hearing a Proceeding

LBR 7008-1                      ~~Right to Judgment by the United States District Court~~  
*Statement Regarding Consent in Adversary Proceedings*

28 USC 157                      Procedures  
28 USC 1334                      Bankruptcy cases and proceedings  
28 USC 1930                      Bankruptcy fees

**LBR 5011-1**  
**~~AUGUST 1, 2012~~**

**Rule 7008-1**

**~~Right to Judgment by the United States District Court~~**

***Statement Regarding Consent in Adversary Proceedings***

*In any adversary proceeding before the bankruptcy court, the following shall contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court:*

- (1) the complaint, counterclaim, cross-claim, or third-party complaint; and*
- (2) any pleading in response to a pleading set forth in paragraph (1).*

**~~(a) Right Preserved~~**

~~In any adversary proceeding filed in the bankruptcy court, the right to judgment by the district court established by Article III of the Constitution is preserved to the parties.~~

**~~(b) Demand~~**

~~To demand judgment by the district court on any claim in an adversary proceeding;~~

- ~~(1) a plaintiff, or a defendant filing a counterclaim, must state the demand in the allegation of jurisdiction, required by FRBP 7008 in the initial pleading asserting the claim; and~~
- ~~(2) any answering party must state the demand in the initial answer to the pleading asserting the claim.~~

~~Any pleading that includes a demand for judgment by the district court must note the demand in the caption.~~

**~~(c) Waiver~~**

~~A party waives judgment by the district court unless a demand is made as specified in paragraph (b). A demand by a plaintiff or defendant filing a counterclaim may be withdrawn only if the other parties consent.~~

**~~(d) Objection to a Demand~~**

~~Any party may, by motion, object to a demand for judgment by the district court on any claim on the grounds (1) that the claim is not one as to which there is a right to judgment by the district court under Article III of the Constitution, or (2) that the election was not~~



~~made as specified in paragraph (b). The bankruptcy court may also raise an objection independently.~~

~~A motion objecting to a demand for judgment by the district court shall be filed with the clerk of the bankruptcy court no later than 14 days following the demand for judgment made under paragraph (b). Any objection or other response documents shall be filed and served no later than 21 days after service of the motion. Reply documents, if any, shall be filed and served no later than 7 days after service of any response.~~

**(e) — Transmittal of Documents to District Court**

~~After expiration of the time for filing documents as provided in subsection (d) of this rule, the clerk of the bankruptcy court shall transmit the motion and all related documents to the district court. The transmittal may include comments by the bankruptcy judge, including an analysis of the demand for judgment and the impact of the adversary proceeding upon the underlying bankruptcy case. The motion shall be assigned to a district court judge in the normal course. The moving party shall note the matter for hearing in accordance with LR 7.1(h) of the Local Rules of the United States District Court.~~

~~All further documents related to the motion shall be filed with the clerk of the district court. Unless otherwise ordered by the bankruptcy court or district court, parties shall continue to file with the bankruptcy court all documents relating to other matters in the adversary proceeding with the clerk of the bankruptcy court.~~

Related Provisions

FRBP 7008                      General Rules of Pleading

LR 7.1(h)                      Motion Practice

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**Rule 7054-1**

**Costs; *Attorney's Fees* ~~Taxation/Payment~~**

**(a) *Costs***

**(1a) Cost Bill**

A party desiring a bill of costs from the Clerk shall include the costs in the judgment. Within fourteen (14) days after entry of the judgment, the prevailing party shall give fourteen (14) days' notice and hearing of the costs to the opposing party.

**(2b) Objection and Hearing**

A party objecting to any cost shall file an objection in writing, specifying the ground of the objection. The Clerk will hear the objection.

**(3e) Taxation**

After the hearing, or, if no objection is filed, the prevailing party should submit the Bill of Costs on the prescribed form for the Clerk's signature. The taxation of costs made by the Clerk shall be final unless modified on appeal as provided in subparagraph (d).

**(4d) 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 seven (7) 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.

**(b) *Attorney's Fees***

*Rule 54(d)(2)(A)-(C) and (E) F.R. Civ. P. applies in adversary proceedings except for the reference in Rule 54(d)(2)(c) to Rule 78.*

**Related Provisions**

FRBP 7054

Judgments; Costs

**LBR 7054-1**  
**FEBRUARY 1, 2013**