

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

In re:

GENERAL ORDER  
09-05

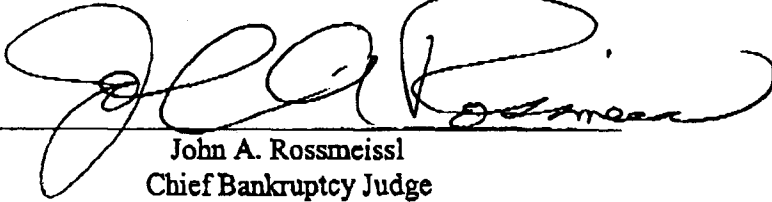
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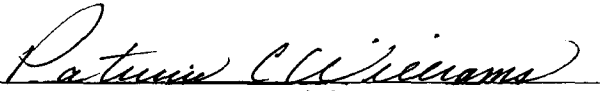
AMENDMENTS TO LOCAL  
RULES 1007-1, 1009-1, 2002-1,  
2003-1, 2016-1, 2071-1, 2083-1,  
3018-1, 4001-1, 9013-1, and  
ADOPTION of NEW RULES  
1007-3, 1014-1, and 2003-1

Local Bankruptcy Rules 1007-1 - Lists, Schedules, & Statements, 1009-1 - Amendments to Lists & Schedules, 2002-1 - Notice to Creditors and Other Interested Parties, 2016-1 - Compensation of Professionals, 2071-1 - Committees, 2083-1 - Chapter 13 - General, 3018-1 - Chapter 11 Plan Confirmation, 4001-1 - Automatic Stay, 9013-1 - Motions and Orders are amended, and New Rules 1007-3 - Notice of Relief Available, 1014-1 - Dismissal of Chapter 7 and 13 Cases, and 2003-1 - Meeting of Creditors or Equity Security Holders are adopted, for the United States Bankruptcy Court for the Eastern District of Washington pursuant to that certain 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 USC 2171.

Changes to rules 1007-1, 1009-1, 2002-1, 2003-1, 2016-1, 2071-1, 2083-1, 3018-1, 4001-1, and 9013-1, and the adoption of new rules 1007-3, 1014-1, and 2003-1, shall be effective October 17, 2005 and shall govern all pending matters, except to the extent, in the opinion of the Court that their application in a case pending on October 17, 2005 would not be feasible or would work an injustice, in which event the procedure set forth in the former shall apply.

Dated this 17<sup>th</sup> day of October 2005

  
\_\_\_\_\_  
John A. Rossmoehl  
Chief Bankruptcy Judge

  
\_\_\_\_\_  
Patricia C. Williams  
Bankruptcy Judge

## 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 creditor's committee appointed or elected. The motion shall be filed with the petition for relief or 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 and other documents not otherwise filled out, shall be carried out by the entry "none" or "not applicable" as appropriate.

*Note: New Interim Rule 1007 (b)(3) relates to the certificate and debt repayment plan required by 11 USC 521(b), and does not include it within the documents that can be filed 15 days following the filing of the petition. Sub-section of LBR 1007-1(a) was originally designed to be used only for those documents that were given the 15 day automatic grace period, no such grace period is offered as to the certificate and debt repayment plan, and thus for the purpose of clarity, the proposed change is offered. As to sub-section (b) of LBR 1007-1, the debtor is now required to file various documents relating to means tests. The official form of these documents are in the IRS style that require considerable detail, and thus direction that they must be complete seems appropriate.*

**LBR 1007-1**  
**SEPTEMBER 1, 1998**

## LBR 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, if not filed electronically, 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 given mailed, the amending party shall provide 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, in the manner required by FRBP 2002 and 9036.

*Note: This change eliminates the need to file a matrix where the amendment was filed electronically. It also recognizes that notice can be given other than by mail where permitted by FRBP 9036.*

**LBR 1009-1**  
**SEPTEMBER 1, 1998**

## LBR 2002-1

### Notice To Creditors & Other Interested Parties

#### (d) Mailing Lists

- (1) The addresses of notices shall be in accordance with FRBP 2002(g). Notice required to be given to all creditors is presumed appropriate if provided mailed to all entities on a Master Mailing List or Limited Mailing List retrieved from the data base of the court prepared by the Clerk within five (5) ~~twenty (20)~~ days of the notice, and as required by FRBP 2002 and 9036.

*Note: 11 USC 342 (e) and (f) permits a creditor to file with the court a notice of address to be used. Where the request is made pursuant to sub-section (e), the law requires that that address be used " 5 days after the court and debtor receive the notice" . The address provided per sub-section (f) allows for 30 days after the filing of the notice by the creditor. The MML & LML are instantly retrievable from PACER, and there is no longer any real need for the 20 day delay. Although sub-section (e) appears to only apply to notices required to given by the debtor or the court, the reduction of the time to five days seems in order.*

**LBR 2002-1**  
**JUNE 15, 2005**

**LBR 2003-1 (NEW)**

**Meeting of Creditors or Equity Security Holders**

**(a) Non- Convening of Meeting of Creditors or Equity Security Holders**

Where the debtor has filed a plan as to which the debtor has solicited acceptances prior to the commencement of the case, a party in interest may request that the court order the United States trustee not to convene a meeting of creditors, or to cancel a meeting if one has been convened.

- (1) If the notice of the meeting of creditors has not been given pursuant to FRBP 2002(a)(1), the debtor may request that the meeting not be set on ten (10) days notice to the United States trustee and to the list of 20 largest creditors required by FRBP 1007 (d). If the request is granted, the notice to creditors of the commencement of the case will so provide.
- (2) If the notice of the meeting of creditors was given, then a party in interest may request that it be cancelled on twenty (20) days notice and hearing to the Master Mailing List

*Note: 11 USC 341 (e) provides that: “Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.”*

*This proposed rule would provide a process for this to be done. If the debtor desires that a meeting of creditors not be held where the plan is essentially “pre-packaged”, a request can be made. If it is made before the notice of the meeting is given, it would be on 10 days notice to the United States trustee and the list of 20 largest, if after the notice was given, it could be cancelled on 20 days notice to the MML.*

*FRBP 2003(a) requires that the UST call a meeting of creditors no fewer than 20 days nor more than 40 days (60 days if held in a place not regularly staffed by the UST, i.e. Yakima). FRBP 2002 requires 20 days notice to the parties in interest. If the debtor were to request that a meeting not be held on 10 days notice, as suggested, this would permit 20 days notice of the meeting if the request were denied, and it could be scheduled within the time constraints of FRBP 2003. This proposed rule would likely apply in only the rarest of circumstances.*

**LBR 2003-1  
OCTOBER 17, 2005**

## LBR 2016-1

### Compensation of Professionals

#### (b) Application

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

#### (B) Itemization of Services Rendered

(i) except where the fee is on a fixed or percentage basis, 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

*Note: 11 USC 328 now permits fees to be paid on a fixed or percentage fee basis, the proposed change would delete the requirement to maintain time sheets where the fee is awarded on a non hourly basis.*

**LBR 2016-1**  
**JUNE 15, 2005**

## **RULE 2071-1**

### **Committees**

In a case in which the debtor ~~has elected to be treated as~~ **is** a small business **debtor**, 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.

*Note: Change to 11 USC 101 (51C) & (D) eliminates the election previously allowed, however, 11 USC 1102(a)(1) & (3) were essentially retained. Thus a language change seems to be in order.*

**LBR 2071-1**  
**MAY 1, 1996**

## Rule 2083 - 1

### Chapter 13 - General

#### (b) Filing The Plan and Other Documents

The debtor shall file the following documents as prescribed by the appropriate local form, ~~along with four (4) copies, unless otherwise required by the Clerk of the Court:~~

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

*Note: No copies of documents are required, therefore this language is no longer required.*

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

A copy of the plan required to be provided to all creditors pursuant to FRBP 3015(d) shall be as directed by the Clerk of Court. Notice of modifications and copies required to be sent to all creditors shall be provided by the party making the modification in accordance with sub-section (k) of this rule.

~~Unless otherwise required by the Clerk of Court:~~

- ~~(1) The Chapter 13 trustee shall mail a copy of the plan to each party in interest as required by FRBP 3015(d).~~
- ~~(2) If the debtor fails to file the plan with the petition or within fifteen (15) days thereafter, then the debtor shall mail to each party in interest a copy of the plan as required by FRBP 3015(d).~~
- ~~(3) The entity mailing the plan shall file as soon as practicable the certificate of mailing required by LBR 2002-1(b)(3).~~

*Note: This rule change reflects more accurately and clearly the procedure in place. The present procedure is that the clerk sends a copy of the initial plan to all creditors with the 341 notice. In those cases where a plan is filed more than fifteen days after the petition is filed, the clerk retains the authority to direct the debtor to send out the copies, however, this direction has rarely if ever been given with the advent of the BNC.*

#### (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.

*Note: In light of 11 USC 1325(a)(9) that requires that all applicable tax returns be filed as a condition to confirmation, the second sentence to this provision may no longer be required. Also see proposed sub-section (j).*

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

- (1) If the plan proposes to modify the rights of a secured creditor secured by real property or, if at the time of the filing a petition for relief, a delinquency exists on any payments for such 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 secured by real property 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 ~~A~~ arrearages are brought current, then the plan may be modified to allow for payments to be made directly to the creditor by the debtor.

**(i) Objections to Confirmation**

In order to be timely, objections to confirmation of a plan shall be filed and served on the Chapter 13 trustee and the debtor and debtor's attorney no later than five (5) ~~twenty-one (21)~~ days following the conclusion of the meeting of creditors or twenty-five (25) days following mailing of the original plan pursuant to subparagraph (c) above, whichever is later.

*Note: The time was reduced from 21 days to 5 days, but did not seem to make it to the final version of the last modification.*

**(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:~~

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- (A) The debtor shall file a motion for an order confirming the plan and a separate unsworn statement under penalty of perjury in support of the motion. The statement shall state that the requirements of 11 USC 1325(a)(2),(6),(7),(8) and

(9) have been satisfied, and both shall be as prescribed by the appropriate local form. The Motion and statement shall be filed no sooner than the expiration of the time to file objections to confirmation and no later than seven (7) days prior to the hearing .

(2) The trustee shall file as soon as practicable an unsworn statement under penalty of perjury stating whether or not the plan is feasible and satisfies the requirements of 11 USC 1325(a)(1), (4) and (5).

(c) If the debtor has filed a request for an order confirming the plan and submitted a proposed order in accordance with LBR 9013-1, and if the requirements of sub-sections (1) & (2) are satisfied, the debtor, debtor's attorney and trustee need not participate in the hearing unless specifically required by the court.

*Note: The proposed change to the rule would require the debtor to file a motion asking that the plan be confirmed and a separate unsworn statement under penalty of perjury. Both the motion and the statement would need to in a prescribed format that would require the debtor to certify under penalty of perjury that certain of the nine mandatory requirements of 11 USC 1325(a) have been satisfied. Changes to 11 USC 1325(a) added three additional requirements, two of which, (8) and (9), require factual statements only able to be verified by the debtor. Seven (7) days before the hearing is suggested based on the fact that LBR 9073-1 (c)(1) provides for 7 days in submitting documents prior to hearings. The application of this rule would suggest that the trustee's statement would be filed no later than three (3) days prior to the hearing.*

**(I) ~~Distributions and Payments~~ To and Distributions by Chapter 13 Trustee**

**(1) Payments to Chapter 13 Trustee**

~~The Chapter 13 trustee shall not pay funds from the estate, except pursuant to a proof of claim or an order of the court.~~ **The debtor shall make all pre and post confirmation payments on obligations for leases of personal property and obligations owed to a creditor that has a security interest in personal property to the Chapter 13 trustee including all obligations provided by 11 USC 1326(a)(1), as well as obligations secured by real property as required by sub-paragraph (f) of this rule, unless otherwise ordered by the court.**

*Note: This proposed change would require all payments of obligations for leases of personal property and secured debt to be made through the office of the trustee, except those for real property, unless where the debt is in arrears and therefore required to be paid through the plan pursuant to LBR 2083-1(f). This change would avoid the accounting concerns when payments would be made pre confirmation by an entity different from that making the payments post confirmation as contemplated by 11 USC 1326(a)(1)(B) & (C).*

(6) Adequate Protection Payments Pre Confirmation Distributions

The Chapter 13 trustee may make adequate protection payments is authorized to make distributions prior to the confirmation of the plan ~~if the debtor files a request on the prescribed local form~~ on obligations for leases of personal property, and on obligations secured by personal or real property. Such pre-confirmation distributions shall be made in the sequence and in the amount set forth in the debtor's plan. If the Trustee has insufficient funds on hand to make the distributions to all classes, the funds will be distributed as provided in the plan to the extent funds are available. Claims within a particular class which cannot be paid the proposed distribution shall be paid a pro rata share of the funds available. On each such ~~payment~~ distribution, 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 forth ~~out~~ in the plan.

*Note: This rule would grant the trustee authority to make certain types of pre-confirmation distributions, where so provided in the Chapter 13 Form Plan.*

**LBR 2083-1**  
**JUNE 15, 2005**

**Rule 3018-1**

**Chapter 11 Plan Confirmation**

**(d) Modification of Plan Before or After Confirmation**

(4) After Confirmation

The proponent of a modification to a confirmed plan pursuant to 11 USC 1127(e) shall give all notices related to the request for modification.

*Note: Interim Rule 3019 provides detail as to notices required pertaining to a post confirmation of a plan in the case of an individual debtor. The proposed changes would recognize 11 USC 1127(e) as well as direct who would be required to provide the notices.*

**LBR 3018-1  
JULY 1, 2004**

## Rule 4001-1

### Automatic Stay –Relief From

(a) **Relief From Automatic Stay Against Property of the Estate**

(1) Notice General Provisions

(A) As to Property of the Estate

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) As to Other Acts

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.

(C) General Provision

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).

(2) When an Objection is Made

(A) ~~If an objection is received, the moving party must confirm the preliminary hearing with 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.~~

If an objection is timely filed and served, the party desiring relief from the stay shall obtain a hearing date and time from the court's website and shall notify the objecting party of the date of the hearing.

(b) **Confirmation That No Stay is in Effect, Continuation or For Re-imposition of Stay Against Other Acts**

(1) A party in interest desiring an order confirming that no stay is in effect pursuant to

11 USC 362(c)(4)(A)(ii), shall file a motion and shall give 10 days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.

~~(2) A party in interest desiring that the stay continue in effect pursuant to 11 USC 362(c)(3)(B) shall file a motion and give ten (10) days notice and hearing to the Master Mailing List. The motion shall be filed and the notice given before the expiration of the thirty (30) day period set out in 11 USC 362(c)(3)(A).~~

~~(3) A party in interest desiring the automatic stay to take effect pursuant to 11 USC 362(c)(4)(B) shall file a motion and give ten (10) days notice and hearing to the Master Mailing List.~~

~~(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 in accordance with LBR 2002-1(e).~~

~~(3) If an objection is timely filed and served, the party desiring relief from the stay shall obtain a hearing date and time from the court's website and shall notify the objecting party of the date of the hearing.~~

**(f) Where No Objection is Made**

If no objection is timely filed and served, the party desiring relief from the stay may present ex parte a proposed order in accordance with LBR 9013-1.

**Related Provisions**

FRBP 4001	Relief from Stay and Use of Cash Collateral
FRBP 9006(f)	Time
<u>11 USC 362</u>	<u>Automatic Stay</u>
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

*Note: Proposed changes would update the rule to reflect current practice concerning how hearings are set where there are modifications to the automatic stay.*

*Subsection (b) provides a process for changes to the Bankruptcy Code section (c)(4)(A)(ii) and (B). Sub-section (4)(A)(ii) provides that "on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect . In this section, notice and hearing in not required. In the companion section, however, a party in interest may ask the court to order the stay to take effect. This issue arises in relation to the "automatic" non-imposition of the stay where the debtor has had 2 or*

*more cases “pending within the previous year but were dismissed, other than a case refiled under section 707(b)”. This rule would not address the “in rem” automatic stay and relief therefrom provided by 11 USC 362(d)(4). The request to re-impose the stay is required to be made 30 days following the filing of the later case.*

**LBR 4001-1**  
**JUNE 15, 2005**

## Rule 9013-1

### Motions and Orders

#### (c) Proposed Orders

##### (2) Submission of Proposed Orders

All proposed orders submitted to the court for signature shall be by separate document, and the last page of which shall contain some portion of the text. Proposed orders are not to be filed, but submitted in the manner and form designated by the Clerk.

*Note: This proposed change would put back into the rule a long standing requirement that was deleted inadvertently during prior changes to the rule. The purpose of the requirement is to eliminate the signature on orders that are not able to be easily tied to the order. Re-inclusion of this item in the local rule would inform attorneys of the requirement.*

**LBR 9013-1**  
**JUNE 15, 2005**