

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

In re:)	
GENERAL ORDER)	AMENDMENTS TO LOCAL
01-06)	RULES 1007-1, 2002-1, 4001-1, 4002-1,
)	4003-2, 4008-1, 6004-1, 6007-1, 6008-1,
)	7016-1, 9018-1, 9073-1, and adoption of
)	NEW RULE 4001-4
)	

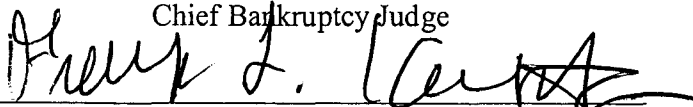
Local Bankruptcy Rules 1007-1 - Lists, Schedules, & Statements, Rule 2002-1 - Notice to Creditors and Other Interested Parties, Rule 4001-1 - Automatic Stay, Rule 4002-1 - Debtor - Duties, Rule 4003-2 - Lien Avoidance, Rule 4008-1 - Reaffirmation, Rule 6004-1 - Sale of Estate Property, Rule 6007-1 - Abandonment, Rule 6008-1 - Redemption, Rule 7016-1 - Pretrial Procedures, Rule 9018-1 - Secret, Confidential, Scandalous, or Defamatory Matter, 073-1 - Hearings, have been amended, and New Rule 4001-4 - Deposit of Rent, has been 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, 2002-1, 4001-1, 4002-1, and 4003-2, 4008-1, 6004-1, 6007-1, 6008-1, 7016-1, 9018-1, 9073-1, and the adoption of new rule 4001-4, shall be effective May 15, 2006 and shall govern all pending matters, except to the extent, in the opinion of the Court that their application in a case pending on May 15, 2006 would not be feasible or would work an injustice, in which event the procedure set forth in the former shall apply.

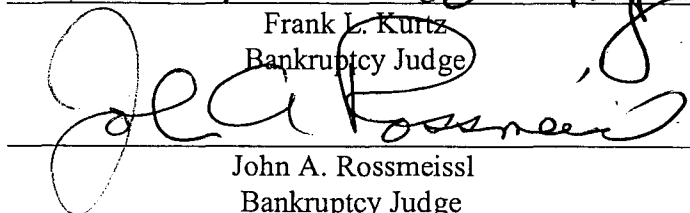
Dated this 8th day of May 2006



Patricia C. Williams
Chief Bankruptcy Judge



Frank L. Kurtz
Bankruptcy Judge



John A. Rossmeissl
Bankruptcy Judge

Rule 1007 - 1

Lists, Schedules, & Statements and Other Documents

- (a) A debtor desiring an extension of time in which to file the schedules and statements, or chapter 12 or 13 plan ~~and related~~ or other 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 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.

Note: This change is suggested to bring this rule in line with FRBP 1007. One of the “other documents” included would be the certificate required by sub paragraph (7) of the rule concerning the financial management requirement.

Rule 2002 - 1

Notice To Creditors & Other Interested Parties

(b) Service of Notice

(3) How Given

All notices shall be by mail where required unless electronic notice is authorized by FRBP 9036.

Note: This addition is suggested to clarify that where mailing of a notice is required by federal rule that notice may not be provided by electronic means unless authorized by FRBP 9036. FRBP 9036 provides that where the entity entitled to the notice has requested in writing electronic notice be sent in a specified type of electronic transmission. Some courts have provided in their implementation of ECF that entities using the ECF system be required to agree to accept as notice the so called "one free look" included as a part of ECF. This court has not made that a requirement of participating in the ECF program.

(4) Certification of Giving ~~Notification of Mailing~~ of Notice

Note: This change in the title of this sub-section is suggested as being more accurate since under some circumstances electronic notice is allowed as set out in FRBP 9036.

(d) Mailing Lists

(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 MLM 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.

Note: Where cases are consolidated or joint administration is ordered, one of the cases is designated as the "lead" case and from that time forwards, pleadings are only filed in the "lead" case. However, mailing lists are maintained separately in the cases. After the cases are either consolidated or joint administration is ordered, all pleading in any of the cases are filed in the "lead" case. A request for notice filed in the "lead" case will not automatically be added to the mailing list on a non-lead case, thus as party giving notice to the MML or LML of a non-lead case must add the names all entities who have requested notice.

Rule 4001 - 1

Automatic Stay

(a) Relief From Automatic Stay

(1) Notice

(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 **file a motion and** 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 **file a motion and** give twelve (12) days notice to the debtor and debtor's attorney in accordance with LBR 2002-1.

Note: It is suggested that this language be added to sub-sections (A) and (B) to clarify that a motion must be filed before a notice may be filed. CM/ECF requires the motion to be filed first so that the notice has something to which it can relate.

Rule 4002 - 1

Debtor - Duties

(c) Tax and Other Information Where Case is Pending

- (1) Where a request is made that the debtor file tax and other information pursuant to 11 USC 521 (f), the information shall be filed electronically if filed by an attorney, or if by the debtor conventionally in accordance with LBR 9018-1, in which case the debtor shall promptly notify the party requesting that the information has been filed.
- (2) Where the party requesting that the information desires to view the information, such request shall be made in accordance with LBR 9018-1.
- (3) If the requesting party and debtor so elect, the debtor may provide the requested information directly to the requesting party.

Note: 11 USC 521 (f) requires the debtor to file “post filing” tax and other information upon the request of the U.S. trustee, or any party in interest in Chapters 7, 11 or 13. The Administrative Office of the United States was charged to develop procedures to protect the confidentiality of such information. The procedures published by the AO draw a distinction between the filing of the information by the debtor, and the accessing it by the requesting party. By requiring that the debtor to file such information under LBR 9018-1, and then requiring a separate motion by the requesting party to view the information, the scheme of the AO can best be followed. Although technically, the By permitting the debtor and the requesting party to elect to give and receive the information directly, the rather clumsy scheme of the AO can be avoided.

Related Provisions

11 USC 521 (4) Debtor's Duties ~~Duty to Surrender Property~~

Rule 4003 - 2

Lien Avoidance

- (a)** A party seeking to avoid a lien pursuant to 11 USC 522(f) shall file a motion and give fifteen (15) days notice to the trustee and the creditor holding the lien in accordance with LBR 2002-1.

Note: This addition is suggested to clarify that ECF requires that a motion be filed before a notice so that the notice can be related to the motion.

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 or national form. The request shall contain information describing the collateral that is the subject of the agreement, including a statement as to its fair market value ~~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.

Note: For cases filed after October 16, 2006, this local rule perhaps should be revisited. 11 USC 524 (k)(7) describes a motion that may be used by the unrepresented debtor when asking the court to approve a reaffirmation agreement. The national reaffirmation agreement form, Form B240, at Part E contains a form motion for approval of the agreement. This form is not a mandatory official form.

The local form we have used for years requires the debtor to not only address the issue of undue burden, but also address the “best interests” of the debtor, when the debtor is required to comment on the value of the collateral in relation to the amount to be reaffirmed.

A modification to the LF 4008 might be in order, or a requirement that either the local form or the national form be used, but that comment concerning the value of the collateral be required.

The reason why the rule required the statement made by the debtor be under penalty of perjury was to permit the agreement to be approved without the need for an actual hearing.

If the practice is that the court will approve a “pro se” agreement without an “actual” hearing, then the “under penalty of perjury” should be retained. Under 11 USC 524(m)(1) a reaffirmation agreement may not be disapproved without a hearing with notice and hearing to the debtor and the creditor. If the court plans to hold a hearing even to approve the agreement, then it would not seem to be a requirement that the representations in the request be under penalty of perjury pursuant to 28 USC 1746. The national form only requires that the statements be “affirmed” as being true and correct.

Rule 6004 - 1

Sale of Estate Property

(c) Order

Where a party contemplates that an order of the court approving the sale of property of the estate will be required, the sale shall be initiated by a motion. 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.

Note: This will alert the party to initiate the action by a motion if an order will be sought to approve the sale. This is a requirement of CM/ECF that all actions begin with a motion so that subsequent related items can be properly related. The motion is not required where no order is contemplated to be required.

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 file a motion and 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.

Note: CM/ECF requires that a motion be filed before the related notice, or combined with the motion, so that the notice can be related to the motion.

Rule 6008 - 1

Redemption

A debtor seeking to redeem property pursuant to 11 USC 722 shall file a motion and 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.

Note: This additional language is suggested to clarify that CM/ECF requires that a motion be filed before the notice so that it can be properly related. LBR 2002-1(a)(2) permits the combining of a motion with a notice, but requires it to be captioned as a motion and a notice.

Rule 7016 - 1

Pretrial Procedures

(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).

Note: the summons now issues automatically as a part of ECF, the scheduling conference is generally separately set a day following the filing of the complaint.

LBR 9018 - 1

Secret, Confidential, Scandalous, or Defamatory Matter

a) Motion to Seal

- (1) A motion to seal may be made on an ex parte basis without notice on any grounds permitted by law; and 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).~~ The order shall be submitted in the manner required by LBR 9013-1(c).

Note: At sub-paragraph (a)(1), reference to LBR 9013-1(c) should be deleted since changes to LBR 9013-1 made in October 2005 deleted that sub-section. The motion may be on an ex parte basis without notice pursuant to 11 USC 107. The proposed order to seal would be submitted electronically.

- (2) As soon as practicable ~~Filed simultaneously with the motion to seal shall be the document to be sealed;~~ shall be filed in the manner prescribed ~~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.~~

Note: At sub-paragraph (a)(2), the change suggested is to recognize that the motion to seal would be done electronically, however, the documents to be sealed would be submitted conventionally. This comports with the court's general order 02-05 that establishes standards for electronic filing which requires that "sealed" documents be filed conventionally.

Rule 9073 - 1

Hearings

(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, unless electronically linked.

Note: This is to eliminate the need for a party who electronically links the notice to file the notice itself, and is in line with the similar rule in LBR 2002-1(b)(3).

Rule 4001-4

Deposit of Rent

(a) Deposit of Rent by Debtor

When a debtor is required to deposit with the clerk of the court any rent that would fall due during the 30 day period after the filing of the petition for relief, pursuant to § 362(l)(1)(B) of the Code, that deposit shall be in the form of a certified check or money order made payable to the lessor.

(b) Transmittal By Clerk

Upon receipt of such deposit, the clerk of the court shall promptly transmit the instrument to the lessor.

Related References

11 USC 362 Automatic Stay

***LBR 4001-4
MAY 15, 2006***