

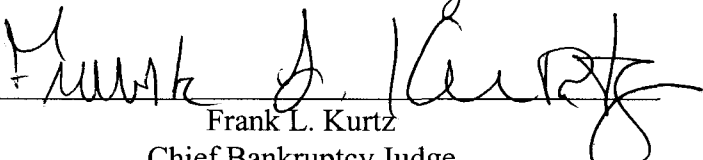
**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:)	
GENERAL ORDER)	AMENDMENTS TO LOCAL
01-07)	RULES 1015-1, 2002-1, 2071-1, 2082-1,
)	2083-1, 3017-1, 3018-1, 3022-1, 4001-1,
)	4001-3, 4008-1, 5001-2 5005-1, 5073-1
)	6004-1, 7055-1, 9004-1, 9013-1, 9014-1
)	9029-1, 9073-1, and adoption of
)	NEW RULE 7003-1
)	

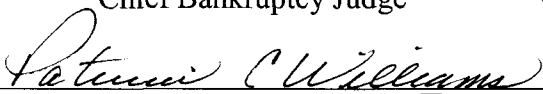
Local Bankruptcy Rules 1015-1(b) - Joint Administration/Consolidation, Rule 2002-1(c)(3) - Notice to Creditors and Other Interested Parties, Rule 2071-1 - Committees, Rule 2082-1(b) - Chapter 12 - General, Rule 2083-1(j)(1)&(t) - Chapter 13 - General, Rule 3017-1(b)&(c) - Disclosure Statement and Plan - General, Rule 3018-1(c) - Chapter 11 Plan Confirmation, Rule 3022-1(a)(1) - Final Decree in Chapter 11 Reorganization Case, Rule 4001-1(b)(2)&(e) - Automatic Stay, Rule 4001-3 - Relief From Co-Debtor Stay, Rule 4008-1 - Reaffirmation, Rule 5001-2(a)&(b) - Clerk's Office, Rule 5005-1 - Filing Requirements, Rule 5073-1 - Photography, Recording Devices and Broadcasting, Rule 6004-1(c) - Sale of Estate Property, 7055-1(c) - Default - Failure to Prosecute, Rule 9004-1(b)&(c) - Documents - Requirements of Form, Rule 9013-1(b),(c)(2),(c)(3)(D) - Motions and Orders, Rule 9014-1 - Contested Matters, Rule 9029-1(b) - Local Rules - General, and Rule 9073-1(a)&(b) - Hearings, have been amended, and New Rule 7003-1 - Commencement of Adversary Proceeding, 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 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 1015-1, 2002-1, 2071-1, 2082-1, 2083-1, 3017-1, 3018-1, 3022-1, 4001-1, 4001-3, 4008-1, 5001-2, 5005-1, 5073-1, 6004-1, 7055-1, 9004-1, 9013-1, 9014-1, 9029-1, 9073-1, and the adoption of new rule 7003-1, shall be effective June 1, 2007 and shall govern all pending matters, except to the extent, in the opinion of the Court that their application in a case pending on June 1, 2007 would not be feasible or would work an injustice, in which event the procedure set forth in the former shall apply.

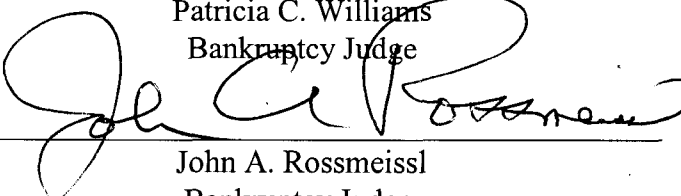
Dated this 23rd day of May 2007



Frank L. Kurtz
Chief Bankruptcy Judge



Patricia C. Williams
Bankruptcy Judge



John A. Rossmeissl
Bankruptcy Judge

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 mail where required unless electronic notice is authorized by FRBP 9036.

(4) Certification of Giving Notice

As soon as practicable, a party giving notice pursuant to this rule shall forthwith 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 notice was sent along with a copy of the notice, unless electronically linked. 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 data base of the court.

(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 provided to all entities on an MML or LML retrieved from the data base 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 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

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.

Note: Many notices are required to be sent to the MML or LML, however, other notices, most particularly those in contested matters, are only required to be sent to the parties involved. This would also include notice of hearings. A proposed change to LBR 9073-1((b)(1) relates. Sub-section (d)(2) only deals with getting added to the MML or LML, this rule would allow a party to get all notices.

(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.

(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

LBR 9013-1	Motions and Orders
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11 USC 102(1)	Construction of Notice and Hearing
11 USC 350	Closing Case

LBR 2002 - 1
JUNE 1, 2007

Rule 2071 - 1

Committees

In a case in which the debtor is a small business debtor, a request that a creditors' committee not be appointed shall be on notice and hearing to the United States trustee and the creditors on the list filed pursuant to FRBP 1007(d) Master Mailing List in accordance with FRBP 2002.

Note: 11 USC 1102 does not require any notice for the court to order that a committee not be appointed in a small business debtor cas., This proposed change would limit the notice required to the list of twenty (20) largest unsecured creditors as required by FRBP 1007(d).

Related Provisions

<u>FRBP 1007(d)</u>	<u>List of 20 Largest Creditors</u>
FRBP 2002	Notice and Hearing
LBR 3016 -1(b)	Chapter 11 Cases
11 USC 1102	Creditors' Committees

LBR 2071 -1
JUNE 1, 2007

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 provide to the trustee, and any creditor who requests, at least 7 days before the meeting of creditors, file at the time the schedules are filed, a copy of income tax returns filed with the IRS for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

Note: It is suggested that this sub-paragraph be amended to require tax information be provided to the trustee rather than being filed since the various privacy laws makes filing such information somewhat more complicated. It should be noted that FRBP 4002 has a similar requirement but only for "individual" debtors, and 11 USC 521, that now requires the debtor to provide certain tax information, does not apply to Chapter 12.

(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

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

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 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.

(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.

(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 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 debt, 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 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 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

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) 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.

(j) Confirmation

- (1) 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. Each debtor in a joint case shall file a separate statement in support.** The statement shall say 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).
- (3) 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 subsections (1) and (2) are satisfied, the debtor, debtor's attorney and trustee need not participate in the hearing unless specifically required by the court.

Note: This proposed change would require that in a joint case, each joint debtor would need to file a separate statement of intent. In joint cases, frequently only one of the debtors has a support or tax problem. By requiring separate statements, no debtor would be required to make an inaccurate statement.

(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.

(I) Payments To and Distributions By Chapter 13 Trustee

(1) Payments to Chapter 13 Trustee

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 the rule, unless otherwise ordered by 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) Pre Confirmation Distributions

The Chapter 13 trustee is authorized to make distributions prior to the confirmation of the plan 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 the 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 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 in the plan.

(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 (7500) 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(e) 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:

- (3)
 - (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.

(t) Domestic Support Obligation Certificate

Upon completion of all payments by the debtor under the plan, each debtor shall file a Domestic Support Obligation Certificate as prescribed by the appropriate local form.

Note: 11 USC 1328 requires that after completion of all payments under the plan, the debtor is required to file a certificate to the effect that all domestic support obligations required by a judicial or administrative order, or by statute, have been paid. Failure to file this certificate will prohibit the issuance of a discharge under 1328. Should the debtor fail to file

such a certificate it would be possible to close the case without the entry of a discharge under FRBP 4006. The Clerk's office could send out a notice of such an intent when the court receives the notice from the trustee that all plan payments have been made. The use of a local form would be helpful for all concerned. Technically, the statute does not require a "negative" report, however, without such a report the process would be most difficult to administer.

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 9011 - 1	Attorney Transactions With Debtors
LBR 3016 - 1	Chapter 11 Cases
LBR 4001 - 2	Cash Collateral
LBR 4003 - 2	Lien Avoidance
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 1328	Discharge
11 USC 1329	Modification After Confirmation
28 USC 959	Duties of Managers of Estate Property

LBR 2083 - 1
JUNE 1, 2007

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, or the court has granted a motion not requiring a separate disclosure statement, approval of the disclosure statement shall be governed by FRBP 3017(a).

(c) Disclosure Statement in Case of Small Business Debtor

- (1) A motion for an order determining that a separate disclosure statement is not necessary or for conditional approval of a disclosure statement shall be on seven (7) days notice and hearing to the United States trustee pursuant to LBR 2002-1
- (2) The proposed disclosure statement and plan shall be filed as an attachment to the motion.
- (3) If either of the above motions is granted, then the the proponent of the plan shall promptly file the approved combined plan or conditionally approved disclosure statement and plan, as appropriate, and comply with LBR3018-1

Note: This will provide an opportunity for the United States trustee to comment on the adequacy of the combined disclosure statement and plan or conditionally approved disclosure statement prior to the court approving it. If the trustee does not file an objection, an ex parte order granting the motion may be submitted in accordance with LBR 9013-1. If and when the motion is granted, the proponent will be required to file the approved combined plan or conditionally approved disclosure statement and plan and then follow the requirements of LBR3018-1.

(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
<u>FRBP 3017.1</u>	<u>Disclosure Statement in Small Business Case</u>
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
JUNE 1, 2007

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 Conditionally Approved ~~at of~~ Disclosure Statement or Combined Plan and Disclosure Statement and Opportunity to Object to Proposed Plan in Small Business Case

The proponent of a plan in the case of a small business debtor where the debtor has elected to be treated as a small business and where the court has conditionally approved the disclosure statement, or approved a combined plan and 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.

Note: These proposed changes are to bring the language into line with changes to the Code.

(d) Modification of Plan Before or After 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.

- (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.

(e) Acceptance or Rejection of Plan

- (1) Ballots accepting or rejecting the plan shall be filed with the Court, unless otherwise ordered by the court.
- (2) The proponent, or other entity as the court may direct, shall certify to the Court the results of balloting, as prescribed by the appropriate local form.

Related Provisions

FRBP 2002	Notices
FRBP 3016	Filing Plan and Disclosure Statement
FRBP 3017	Disclosure Hearing
FRBP 3017.1	Disclosure Statement in Small Business Case
FRBP 3018	Acceptance or Rejection of Plan
FRBP 3019	Modification to Plan
FRBP 3020	Confirmation of Plan
<hr/>	
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 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 may ~~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.

(3) Exception Where Debtor is an Individual

Notwithstanding paragraph (1) and (2) above, cases where the debtor is an individual shall not be closed until a discharge has been granted, denied, or waived to or by the debtor.

Note: It is proposed to change the mandatory “will” to the discretionary “may” is more reflective of the actual policy. There are times when, even though no one has objected to the entry of the final decree, the case in fact is not fully administered, such as open motions concerning case related items, such as fee requests or claims issues, or the granting of a discharge in a case where the debtor is an individual.

Related Provisions

FRBP 3022 Final Decree in Chapter 11 Reorganization Case

11 USC 1141 Effect of Confirmation

LBR 4001-3

Relief From Co-Debtor Stay

(a) Notice

- (1)** 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.
- (2)** Service on the debtor and co-debtor shall be in accordance with FRBP 9014.
- (3)** The notice shall state:
 - (+A)** That as between the debtor and the co-debtor, which party received the consideration for the claim held by the creditor; and
 - (2B)** Whether the plan filed by the debtor proposes to pay or not pay the claim; and
 - (3C)** Whether or not the creditor's interest would be irreparably harmed by the continuation of the stay; and
 - (4D)** 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.

(b) Order

If an order is desired it shall be requested in accordance with LBR 9013-1(c).

Note: 11 USC 1201 and 1301 (d) suggests that the co-debtor stay is terminated without the need for an order unless there is an objection. The local rule only sets out the process for giving the notice, but does not address whether or not an order is required. The suggested change would advise the party filing the request for the termination that if an order was desired, it should be requested as required by LBR 9013-1(c).

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
<u>LBR 9013-1</u>	<u>Motions and Orders</u>

LBR 4001-3
JUNE 1, 2007

Rule 4008 - 1

Reaffirmation

(a) Agreement Not Negotiated by Attorney for Unrepresented Debtor

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. The Court may approve the agreement without an actual hearing or may schedule a hearing.

(b) Agreement Not Negotiated by Attorney for Represented Debtor

A debtor's attorney who has not represented the debtor during the course of negotiating a reaffirmation agreement on behalf of the debtor shall file, as a separate document, a statement to that effect or include such a statement in Part C as required by 11 USC 524(k). If such a statement is made, then section (a) above applies.

Note: This change is proposed to address those situations where a represented debtor enters into a reaffirmation agreement that was not negotiated by the attorney. Part C of the standard form reaffirmation agreement is required if the attorney represented the debtor during the course of negotiating the agreement. In reviewing these agreements, Part C is sometimes not carefully filled out, boxes are not checked, yet the form is signed, one of the boxes is deleted, sometimes the attorneys name is provided but not the signature, at times the document is filed by the attorney, sometimes by the creditor. The proposed change to the rule would require that the attorney for the debtor clearly set out either on Part C itself or by a separate document, that the attorney did not negotiate the agreement on behalf of the debtor. In such a case, then the agreement would be dealt with under 11 USC524(c)(6) as for any other "pro se" debtor. This might also assist creditors and creditors attorneys who are confronted with dealing with a "represented" person as to the bankruptcy, but perhaps not as to a reaffirmation agreement.

Related Provisions

FRBP 4008 Discharge and Reaffirmation Hearing

11 USC 524 Effect of Discharge

LBR 4008 - 1
JUNE 1, 2007

Rule 5001 - 2
Clerk 's Office ~~–Office Location/Hours~~

(a) Accessibility ~~Regular Business Hours~~

The court's website at www.waeb.uscourts.gov is accessible for filing, submission of proposed orders, requesting hearings and general information on all days and at all hours.

- (b)** Business may be conducted in person at the Clerk's Office from 9:00 a.m. to 4:30 p.m. all days except Saturdays, Sundays and legal holidays as described in FRBP 9006(a). Arrangements to conduct ~~matters~~ business in person including emergency filings, outside of these ~~the regular~~ business hours, of the ~~physical Clerk's Office~~ must be made in advance.

Note: These proposed changes would identify in the local rules how the court's web site can be accessed, and distinguish between electronic and conventional access.

Related provisions

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

[GENORD03-05](#) [Order Establishing Standards For Electronic Filing, Signing and Verification of Documents](#)

LBR 5001-2
JUNE 1, 2007

Rule 5005-1

Filing Requirements

(a) ~~Place For Filing~~

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

Note: FRBP 5005 directs with whom documents are required to be filed, therefore this sub-section is redundant and not required.

(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) 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)(b) ~~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.

(d) ~~Electronic Filing~~

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

Note: This sub-section is addressed in (b)(3) above.

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
LBR 9073-1	Hearings
28 USC 152	Appointment of Bankruptcy Judges
GENORD 03-05	Order Establishing Standards For The Electronic Filing, Signing and Verification of Documents

**LBR 5005 - 1
JUNE 1, 2007**

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.~~ The use of computers, cellular phones, and other equipment is governed by order of the United States District Court.

Note: The cited District Court General Order covers the above and other topics concerning security. It is the authority for allowing court users to bring a variety of electronic equipment into the court buildings and provides guidance as to their use.

Related Provisions

USDC EDWA General Order 05-54-1

General Order Re Security and Entry into U.S. Courthouses and Federal Court Facilities in the Eastern District of Washington

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 or unsworn declaration under penalty of perjury showing the necessity for the order.

Note: This is just to clarify that the motion may be supported with either an affidavit or an unsworn declaration under penalty of perjury as permitted by 28 USC 1746.

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
<u>28 USC 1746</u>	<u>Unsworn Declarations under penalty of perjury</u>

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 nor an objection filed 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~~.

Note: This change would essentially make this process a notice and hearing by including the need to object or file a document. The deletion of the final phrase would not limit the dismissal to the date the case is noted for hearing. In practice, no hearing is actually scheduled.

Related Provisions

FRBP 7001	Adversary Proceedings
FRBP 7055	Default

LBR 7055-1
JUNE 1, 2007

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 8 ½" x 11".
- (2) All documents presented for filing shall be single sided. Documents submitted in paper format containing two or more pages shall be stapled at the top left corner, however, separate documents shall not stapled together.
- (3) All documents or papers submitted 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 5005(a)(2) and 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;

- (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 (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) Proposed orders granting a motion or application shall be submitted separately in accordance with LBR 9013-1 .

(b) ~~Cover Sheet and Summons~~

~~Every Adversary Proceeding not electronically filed 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.~~

(c) Prescribed Forms Excepted

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

(c) Electronically Filed Documents

Documents filed electronically shall be in accordance with standards adopted by the court for the electronic filing of documents and administrative procedures established by the Clerk of Court.

Note: It is suggested that sub-section (b) be moved to its own rule, 7003-1 concerning commencement of case. New sub-section (c) would provide the exception for electronically filed documents.

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

GENORD 03-05 Order Establishing Standards for Electronic Filing

LBR 9004-1
JUNE 1, 2007

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 a motion in an adversary proceeding shall be requested from the Clerk.

(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 ~~captioned~~ and ~~the requests separated~~ 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 main cases shall not be combined.

Note: The changes proposed here are to provide a clearer procedure where motions are combined. Although the most common notice period is 20 days, some motions require less or more, i.e. modifications to the automatic stay and abandonment (12 days); voiding 524 type liens (15 days); objections to proofs of claim (30 days) . Also some motions require notice to the MML, such as abandonment, whereas others require less, such as notices to lift the co-debtor stay. Motions and notices in contested matters are required to be served in accordance with FRBP 7004, whereas notices described in FRBP 2002 do not.

(c) Proposed Orders

(1) Request for Entry

A party desiring that a proposed order be entered shall file, on the prescribed form, a request for entry of order granting motion.

(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 be identified by case number and nature of document or 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: Frequently the signature page of electronically submitted orders do not contain some portion of the text nor is the “footer” sufficient to positively connect it to the prior pages. The pages of an electronic document are connected, and so long as the document is viewed electronically no concern exists, however, if the document is printed then should the pages become separated, possibility confusion might be of concern.

(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; and
- (B) satisfy notice and hearing requirements as to any provision in the stipulation; and
- (C) not provide for the dismissal or conversion of a case without the need for a separate order.
- (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.

Note: LBR 2082-1(m) and 2083-1(k) address requirements for the modification of plans, however, should parties enter into a stipulation that does not modify the plan, yet would affect the administration of the plan by the trustee, this suggested change will assist in ensuring that the trustee is kept aware of such changes.

Orders Prepared by the Court

Orders resulting from a hearing before the court will be prepared by the court unless otherwise directed by the court.

(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 ½ 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).

Note: This language is redundant of that found in LBR 9004-1 - Documents- Requirements of Form.

- (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.

Related Provisions

FRBP 9013 Motions: Form and Service
FRBP 9014 Contested Matters
FRBP 9021 Entry of Judgment

LBR 2002-1 Notice to Creditors and Other Interested Parties
LBR 4001-1 Automatic Stay - Relief From
LBR 5010-1 Reopening Cases
LBR 5011-1 Withdrawal of Reference
LBR 6007-1 Abandonment

LBR 9013-1
JUNE 1, 2007

Rule 9014 - 1

Contested Matters

Abrogated

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.

Note: It is suggested that this rule be abrogated since the provisions of the rule are now provided for in FRBP 9014(c).

Related Provisions

~~LBR 7026-1~~ ————— ~~Discovery - General~~

~~FRBP 7026~~ ————— ~~Compelling Discovery~~

~~FRBP 9014~~ ————— ~~Contested Matters~~

~~LBR 9014-1~~

~~JUNE 1, 2007~~

Rule 9073 - 1

Hearings

(a) Requests for Hearing

A request for a hearing is made to the Clerk and ~~may be~~ should be made electronically by accessing the Court's website where possible, but may also 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.

Note: This proposed change is to require the use of electronic requests for hearings where possible. the court's website under "Hearing Requests" provides a form and information concerning the setting of hearings.

(b) Notice of Hearing

~~Hearings are set by the Court, and the requesting party shall be advised of the setting by the Court.~~

(1) As soon as possible after obtaining information concerning the scheduling of a hearing, 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 hearing setting on all parties to the hearing, as well as any party that has specifically requested notice of all hearings.

(2) The notice of hearing shall include the date and time set, and whether the hearing will be by telephone or in court. If the hearing is by telephone, the "meet me" telephone number shall be given in the notice.

- (3) 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: Not all hearings are set by the court, some are now set by the requesting party by accessing the court's web site. The proposed changes here are to clarify the process. Where a party has requested notice of all hearings, the requesting party shall provide that party with notice. This is in conjunction with a proposed change to LBR 2002-1(d)((3) that would require a party who wishes to have such notice, notify the MML of the request.

(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) Except as provided in LBR 4001-2, 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, counter-affidavits 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 2002-1 Notice to Creditors and Other Interested Parties

LBR 4001-2 Cash Collateral

LBR 5005 - 1 Filing Papers & Requirements

28 USC 152 Places of Holding Court

LBR 9073 - 1
JUNE 1, 2007

Rule 7003-1

Commencement of Adversary Proceeding

(a) Adversary Proceeding Cover Sheet

Every Adversary Proceeding not electronically filed shall be accompanied by an Adversary Proceeding Cover Sheet (B104).

(b) Summons

A form summons need only be prepared by Plaintiff for issuance by the Clerk if specifically requested by the Clerk.

Related Provisions

B-104 Director's Procedural Form Adversary Proceeding Cover Sheet

B-250 Director's Procedural Form Summons

FRBP 7004 Process, Service of Summons, Complaint

LBR 7003-1

JUNE 1, 2007