

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

In re:

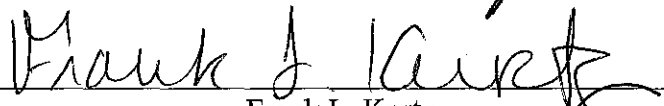
GENERAL ORDER  
03-07

)  
) AMENDMENTS TO LOCAL  
) RULES 1015-1, 2016-1, 4001-1,  
) and adoption of NEW RULE 1017-3  
)  
)

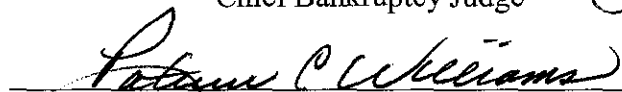
Local Bankruptcy Rules 1015-1(a) - Joint Administration/Consolidation, Rule 2016-1(e) Compensation of Professionals, Rule 4001-1(b)(2)(B) & (3) - Automatic Stay, have been amended, and New Rule 1017-3 - Dividing of Joint Cases, has been adopted, for the United States Bankruptcy Court for the Eastern 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, 2016-1, 4001-1, and the adoption of new rule 1017-3, shall be effective September 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 September 1, 2007 would not be feasible or would work an injustice, in which event the procedure set forth in the former shall apply.

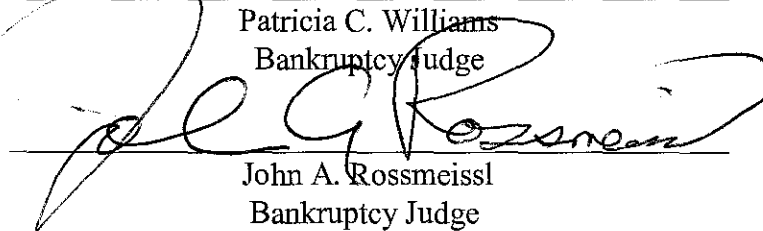
Dated this 16<sup>th</sup> day of August 2007



Frank L. Kurtz  
Chief Bankruptcy Judge



Patricia C. Williams  
Bankruptcy Judge



John A. Rossmey  
Bankruptcy Judge

## **Rule 1015 - 1**

### **Joint Administration/Consolidation**

#### **(a) Joint Cases**

- (1) The estates of debtor spouses filing a joint petition shall be jointly administered unless at or before the Meeting of Creditors the trustee or other party in interest objects.
- ~~(2) A debtor in a joint case desiring that the case be divided shall file a motion, with ten (10) days notice and hearing to a non-joining debtor, attorney for the debtor and the trustee. The motion shall be accompanied by the requisite fee and affidavit or unsworn statement under penalty of perjury supporting the motion and describing the effect on the administration of either of the cases or estates that the granting of the motion would likely have.~~

*Note: Paragraph (2) of this rule would be relocated to new proposed local 1017-4 concerning dividing joint cases.*

#### **(b) Non-Joint Related Cases**

- (1) A motion for an order that two or more cases be jointly administered or consolidated shall be on twenty (20) days notice and hearing to the case trustee, Debtor in Possession, United States trustee and any entity that filed a request to receive notices.
- (2) The motion shall include an affidavit or unsworn statement under penalty of perjury supporting the motion and describing the effect the granting of the motion will have on any of the cases to be jointly administered or consolidated.
- (3) The motion shall include a statement as to which case is to be designated as the lead case. Except for proofs of claim, transfers of claims, objections to proofs of claim and responses, all documents filed in a jointly administered or consolidated case shall be filed in the lead case, however, reference in the caption shall be made to the non-lead case or cases. Proofs of Claim, transfer of claims, objections to proofs of claim and responses are to be filed in the case in which the claim arose.
- (4) The moving party shall provide notice in the manner required by FRBP 2002 of an order of joint administration or consolidation to the Master Mailing List (MML) promptly upon its entry. The notice shall include the requirements set out in subparagraph (b)(3) above.

## **Related Provisions**

FRBP 1015

FRBP 3001

Consolidation or Joint Administration

Proof of Claim

LBR 1017-1

LBR 1017-2

LBR 1017-3

[LBR 1017-4](#)

LBR 2002-1(d)(2)

Conversion or Dismissal of Joint Cases

Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case

Conversion of Chapter 11 Case

[Dividing of Joint Cases](#)

Notice in non-lead Consolidated or Joint Administration Cases

11 USC 302

Joint Cases

**LBR 1015 - 1**

**SEPTEMBER 1, 2007**

## **Rule 2016 - 1**

### **Compensation of Professionals**

#### **(a) Notice**

Where an application exceeds One Thousand Dollars (\$1,000) notice of an Application For Award of Compensation for Services and Reimbursement of Expenses shall be on twenty days notice to the Master Mailing List in accordance with LBR 2002 - 1. The notice shall include the following information:

- (1) the status of the applicant;
- (2) the date the applicant's employment by trustee, debtor in possession or creditors' committee was approved;
- (3) whether the application is a final or interim application, and the sequential number of the application (i.e. 1st, 2nd etc.);
- (4) the amount of the compensation and reimbursement requested, stated separately;
- (5) the amount of compensation or reimbursement previously received or allowed, stated separately; and
- (6) the basis for the compensation and reimbursement.

#### **(b) Application**

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

##### **(A) Narrative**

If the cumulative compensation applied for exceeds ten thousand (10,000) dollars, a narrative summary which describes the background of the case; the financial condition of the estate including comment as to profit and loss, amount of cash on hand or on deposit, amount of accrued unpaid administrative expenses and amount of unencumbered funds in the estate; the status of the case, and if the case is under Chapter 11, information concerning the status of the plan and disclosure statement, payment of quarterly fees to the United States trustee, and submission of monthly operating statements; a description of the tasks or projects for which compensation or reimbursement is sought; and

##### **(B) Itemization of Services Rendered**

- (i) except where the fee is on a fixed or percentage basis, itemization of each

service rendered in meaningful detail, including the identification of the person who rendered the service, the date the service was rendered and the project category of the service (i.e. cash collateral, relief from stay) in billing increments of one tenth of an hour, without combining or "lumping;" and

(ii) if the cumulative application for compensation exceeds ten thousand (10,000) dollars or if required by the Court, the presentation of the itemization shall be by project category, with administrative matters and fee application preparation as separate categories.

**(C) Itemization of Expenses**

An itemization of expenses in meaningful detail to include the date incurred, description of the expense, person incurring the expense with special emphasis on extraordinary or unusual items.

(2) A proposed ex parte order submitted to the Court pursuant to LBR 9013-1 allowing compensation and reimbursement of expenses shall be as prescribed by the appropriate local form and shall be supported by a statement of the reviewing trustee that the application was reviewed and the amounts to which the reviewing trustee raises no objection.

(3) The applicant shall serve a copy of the application and attachments with the notice on the United States trustee, the trustee or debtor in possession, debtor and any creditors' committee appointed pursuant to 11 USC 1102.

**(c) Award and Payment**

Payments for compensation or reimbursement from the estate as an administrative expense pursuant to 11 USC 330 shall be made only after award and order of the Court.

**(d) Exception in Chapter 13 Case**

In a Chapter 13 case, an attorney may choose to be compensated on either an hourly basis or on an agreed flat fee basis. If the attorney chooses to be compensated on an hourly basis, compliance with sub-paragraph (a),(b) and (c) of this rule is required. An attorney who chooses to be compensated on an agreed flat fee basis need only comply with subparagraph (e) of this rule.

**(e) Agreed Flat Fee**

(1) The Agreed Flat Fee shall be supported by a Flat Fee Agreement as prescribed by the appropriate local form, between the debtor and the attorney, may not exceed ~~\$2,000~~ \$2,500 in a consumer case or ~~\$3,000~~ \$3,500 in a business case as defined in 11 USC 1304(a), and shall be compensation for all services and associated expenses excluding filing fees and credit counseling/education program fees in connection

with the case through confirmation of the plan or thirty (30) days following the expiration of the claims bar date, whichever is later, that are ordinary, necessary and reasonably foreseeable and which ~~shall~~ includes the following ~~without limitation~~:

- (A) preparation and filing of the petition, Schedules, and Statement of Affairs, the Chapter 13 Plan and associated local forms, along with modifications, ~~and~~ amendments and supplements, Current Monthly Income and Calculation of Commitment Period and Disposable Income (means test Form B22C (Chapter 13)), filing certification of pre-filing counseling, filing evidence of income from employment as required by statute, and filing certification of pre-discharge education; and preparing and filing prior to confirmation certification that the debtor is current in all post-petition domestic support obligations, and has filed all applicable and required federal, state and local tax returns, and, prior to discharge. certification regarding domestic support obligations as provided for in 11 USC 1328(a);
- (B) representation at the Meeting of Creditors or Examinations held pursuant to FRBP 2004; filing motion and statement in support of confirmation; and appearance at initial confirmation hearings, if required ;
- (C) responding and resolving common and foreseeable issues and objections, including but not limited to objections to confirmation; motions for relief from the automatic stay; assumption or rejection of unexpired leases or executory contracts; valuation of collateral; pre-confirmation adequate protection payments; objection to proofs of claim; tax refunds and bonuses, license reinstatement, and post petition repossessions and garnishments, requests from the office of the United States trustee, and routine motions to dismiss;
- (D) in business cases, assisting the debtor in the preparation and filing of required financial reports;
- (E) filing with the ~~court Chapter 13 trustee~~ copies of the debtors pay stubs for the sixty (60) day period immediately prior to the filing of the petition, and providing to the trustee tax returns or other records if requested by the trustee.
- (F) If requested, filing with the court or making available to the requesting party as provided for in LBR 4002-1 federal income returns or amendments required under applicable law for each tax year while the case is pending pursuant to 11 USC 521(f).

*Note : This change would increase the floor for use of the Flat Fee by \$500 for both business and non-business cases. The flat fee would not include representation in Adversary Proceedings, but be limited to matters in the main case. Changes to the rule would include the various requirements imposed by BAPCPA, including requests from the office of the United States trustee, such as random audits .*

(2) Flat Fee Agreement

The attorney for the debtor shall submit a copy of the Flat Fee agreement entered into with the debtor to the Chapter 13 trustee prior to the meeting of creditors, as well as a completed copy of the Statement of Money or Property Received or Promised in Connection With This Case Other Than by Application or a Plan (LF 2016A). The Flat Fee agreement shall be as prescribed by the appropriate local form.

(3) Approval of Agreed Flat Fee

Approval of the Agreed Flat Fee shall be included in the order confirming plan, and will be sufficient authority for the attorney to transfer any monies of the debtor held in the attorney's trust account to the attorney and for the trustee to pay any remaining amount to the attorney as directed by the plan.

(4) Supplemental Application

(A) The attorney may submit a supplemental application for compensation for services not included in the agreed flat fee as set out in sub-paragraph (e)(2) of this rule, whether or not the services were performed before or after confirmation. In the case of a supplemental application the attorney shall comply with sub-paragraph (a), (b), and (c) of this rule as to such additional services. Any such supplemental application shall include a certification by the attorney that the compensation applied for was not reasonably foreseeable with an explanation as to why it was not foreseeable and is outside that contemplated by the agreed flat fee as set out in sub-paragraph (c)(2) of this rule. ~~An order allowing supplemental compensation shall either be endorsed by the debtor, or on twenty (20) days notice and hearing to the debtor.~~

(B) Supplemental fee applications must be filed with the court prior to completion of the plan.

*Note: This change would require that supplemental fee applications contain a statement that the additional services were not reasonably foreseeable and why. It would also require that any supplemental applications be filed prior to the completion of the plan.*

**(f) Hold Back of Estimated or Applied for Attorney Fees as Projected Costs of Administration**

Following confirmation, the trustee is authorized to hold back estimated attorney fees or attorney fees for which an application has been filed as projected costs of administration in the same manner as if they had been allowed, but may pay them out only as allowed by a separate order of the court.

## **Related Provisions**

FRBP 2014	Employment of Professional Persons
FRBP 2016	Compensation for Services
11 USC 326	Limitation on Trustee's Compensation
11 USC 327	Employment of Professional Persons
11 USC 328	Limitation on Compensation
11 USC 329	Debtor's Transactions with Attorneys
11 USC 330	Compensation of Officers
11 USC 331	Interim Compensation
11 USC 503	Allowance of Administrative Expenses
11 USC 504	Compensation for Services

**LBR 2016 - 1**  
**SEPTEMBER 1, 2007**



## **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.

###### **(C) General Provision**

The date of the request shall be the date that a motion requesting a modification to the automatic stay is filed along with the certificate required by LBR 2002-1(b)(3).

##### **(2) When an Objection is Made**

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

(B) The preliminary hearing will be by telephonic conference and based on affidavits only, but may be supported by written memoranda.

###### **(C) Duty to Confer**

The moving party has a duty to confer with an objecting party for the purpose of attempting to resolve the differences between the parties. This duty to confer shall be satisfied prior to the confirming of the hearing.

(D) Timing of Filing Affidavits and Supporting Memoranda

- (i) Notwithstanding LBR 5005-1(c), the moving party shall file and serve affidavits in support of request for modification of stay together with any memoranda of authority at least six (6) days before the preliminary hearing.
- (ii) The opposing party shall file and serve responsive affidavits and opposing memoranda of authority at least three (3) days before the preliminary hearing.
- (iii) Notwithstanding LBR 5005-1(c), a document intended to be considered by the Court in connection with a scheduled hearing or a request for modification of stay shall be served and filed in accordance with subparagraphs (i) and (ii) above and a copy shall be delivered to the chambers of the Bankruptcy Judge if the document has not been filed at least seven (7) days prior to the hearing.

(E) Waiver

Failure to follow these procedures by the moving party will be deemed to be a waiver of the automatic lifting provisions of 11 USC 362(e) and consent to the continuation of the automatic stay pending the conclusion of the final hearing.

**(b) Confirmation That No Stay is in Effect, Continuation or For Reimposition of Stay**

- (1) A party in interest desiring an order confirming that no stay is in effect pursuant to 11 USC 362(c)(4)(A)(ii), shall file a motion and shall give ten (10) days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.
- (2) (A) A party in interest desiring that the stay continue in effect pursuant to 11 USC 362(c)(3)(B) shall file a motion and give ten (10) days notice and hearing to the Master Mailing List debtor and debtor's attorney in accordance with LBR 2001-1.

The motion shall be filed no later than five days following the filing of the petition for relief.

The date and time of the hearing shall be included in the notice and shall be within thirty 30 days of the filing of the petition for relief.

- (B) ~~Prior to filing the motion and sending the notice, the moving party shall obtain a hearing date and time pursuant to LBR 9073-1(a). If requested the court~~

~~shall provide a hearing date not later than thirty (30) days after the filing of the motion. The notice shall include the date and time of the hearing as well the notice and opportunity to object.~~

- (3) A party in interest desiring the automatic stay to take effect pursuant to 11 USC 362(c)(4)(B) shall file a motion and give ten (10) days notice and hearing to the Master Mailing List in accordance with LBR 2002-1 .

*Note: This change would require that a party wishing to have the automatic stay continued pursuant to 11 USC 362(c)(3)(B) give 10 days notice and hearing to the MML. The change would also eliminate subparagraph ((b)(2)(B) of the rule, but retain the requirement that the date and time of the hearing be included in the notice. Reference to LBR 9073-1 in the "Relation Provisions" section should provide sufficient direction to the moving party to ensure a hearing date and time is able to be obtained in a timely manner.*

**.(c) Proof of Interest**

A party desiring relief from the stay shall provide to the trustee or debtor in possession, with the notice, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

**(d) Stipulation**

A stipulation of the debtor allowing relief from the stay is effective only as to acts against the debtor or the debtor's property. A stipulation of the trustee or debtor in possession allowing relief from the stay is effective only after notice has been given to all entities on the Master Mailing List in accordance with subparagraph (a)(1) above.

**(e) Non-combining of Motions**

A motion for relief from the automatic stay or adequate protection shall not be combined with any other motion except a motion for abandonment or for relief from the co-debtor stay.

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

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

## **Related Provisions**

FRBP 4001	Relief from Stay and Use of Cash Collateral
FRBP 9006(f)	Time
<u><a href="#">LBR 2001-1</a></u>	<u><a href="#">Notice to Creditors &amp; Other Interested Parties</a></u>
<u><a href="#">LBR 9073-1</a></u>	<u><a href="#">Hearings</a></u>
11 USC 362	Automatic Stay
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

**LBR 4001 - 1**  
**SEPTEMBER 1, 2007**