

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:)	
)	AMENDED GENERAL ORDER
AMENDMENTS TO LOCAL)	
BANKRUPTCY RULES)	No. 09-03
1007-1, 1015-1, 1017-2, 1017-3, 1017-4,)	
1072-1, 2002-1, 2003-1, 2014-1, 2016-1,)	
2082-1, 2083-1, 3007-1, 3012-1, 3018-1,)	
4001-1, 4001-2, 4003-2, 5071-1, 6006-1,)	
6007-1, 6008-1, 7016-1, 7055-1, 9018-1,)	
AND THE ADOPTION OF NEW RULE)	
1006-1		

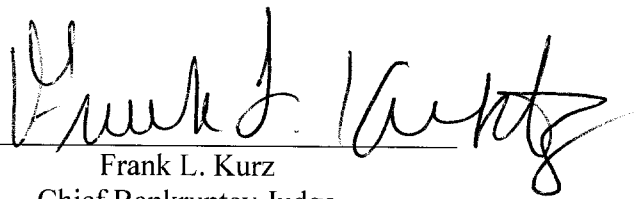
Pursuant to the General Order of the United States District Court for the Eastern District of Washington dated March 6, 1996, FRBP 8018 and 9029, FRCP 83, and 28 U.S.C. §2071, the following local rules are amended and/or adopted as set out in the attachments hereto:

1. LBR 1006-1, Waiver of Filing Fee
2. LBR 1007-1, Lists, Schedules, & Statements and Other Documents
3. LBR 1015-1, Joint Administration/Consolidation
4. LBR 1017-2, Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
5. LBR 1017-3, Conversion or Dismissal of Chapter 11 Cases
6. LBR 1017-4, Dividing of Joint Cases
7. LBR 1072-1, Places of Holding Court
8. LBR 2002-1, Notice to Creditors & Other Interested Parties
9. LBR 2003-1, Meeting of Creditors or Equity Security Holders
10. LBR 2014-1, Employment & Professional Persons
11. LBR 2016-1, Compensation of Professionals
12. LBR 2082-1, Chapter 12 – General
13. LBR 2083-1, Chapter 13 – General
14. LBR 3007-1, Claims – Objections
15. LBR 3012-1, Valuation of Security
16. LBR 3018-1, Chapter 11 Plan Confirmation
17. LBR 4001-1, Automatic Stay

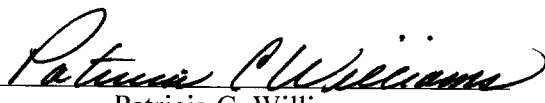
18. LBR 4001-2, Cash Collateral
19. LBR 4001-3, Relief from Co-Debtor Stay
20. LBR 4003-2, Lien Avoidance
21. LBR 5071-1, Continuances
22. LBR 6006-1, Executory Contracts
23. LBR 6007-1, Abandonment
24. LBR 6008-1, Redemption
25. LBR 7016-1, Pretrial Procedures
26. LBR 7055-1, Default – Failure to Prosecute
27. LBR 9018-1, Secret, Confidential, Scandalous, or Defamatory Matter

The amendments to the aforementioned local bankruptcy rules, and the adoption of new rule 1006-1, shall be effective as noted in the attachments hereto, and shall govern all pending matters, except to the extent, in the opinion of the Court, application of the change would not be feasible or would work an injustice, in which event, the procedure set forth in the former shall apply.

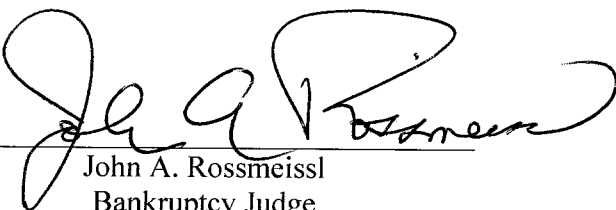
DATED: 11-17-09



Frank L. Kurz
Chief Bankruptcy Judge



Patricia C. Williams
Bankruptcy Judge



John A. Rossmey
Bankruptcy Judge

Rule 1006-1

Waiver of Filing Fee

An applicant seeking waiver of the filing fee, pursuant to Bankruptcy Rule 1006(c) and 28 U.S.C. § 1930, shall give fourteen (14) days notice and hearing to the Chapter 7 Trustee and the United States Trustee pursuant to LBR 2002-1.

Related Provisions

FRBP 1006 Filing Fee

28 USC 1930 Bankruptcy Fees

LBR 1006-1
SEPTEMBER 15, 2009

Rule 1007-1

Lists, Schedules, & Statements and Other Documents

- (a) A debtor desiring an extension of time in which to file the schedules and statements, or chapter 12 or 13 plan or other documents shall give ~~five (5)~~ *fourteen (14)* days notice and hearing to the trustee, the United States trustee, and any examiner or creditors committee appointed or elected. The motion shall be filed with the petition for relief or before the time for filing the schedules and statements or the time for filing a chapter 12 or 13 plan has expired, shall contain a brief statement as to the reason why an extension is required, and a specific date when the required documents will be filed.
- (b) Each item in the schedules and statement of affairs and other documents not otherwise filled out, shall be carried out by the entry "none" or "not applicable" as appropriate.

Related Provisions

FRBP 1002	Voluntary Petition
FRBP 1004	Partnership Petition
FRBP 1005	Caption of Petition
FRBP 1007	Lists, Schedules and Statements
FRBP 1008	Verification of Papers
LBR 5005 - 2	Filing Papers - Numbers of Copies
11 USC 109	Who May Be a Debtor
11 USC 301	Voluntary Cases
11 USC 303(b)(3)	Partnership Petitions
11 USC 521	Debtor's Duties

Rule 1015-1

Joint Administration/Consolidation

(a) Joint Cases

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.

(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)~~ *twenty-one (21)* 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 sub-paragraph (b)(3) above.

(c) *Duplicate Cases*

If identical cases are filed, and the second case is filed in error, the filing party shall move to consolidate the cases. Notice and hearing is not required. A motion shall be filed in the lead case and an order submitted in the manner set forth in LBR 9013-1(c).

Related Provisions

FRBP 1015	Consolidation or Joint Administration
FRBP 3001	Proof of Claim
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-2	Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
LBR 1017-3	Conversion of Chapter 11 Case
LBR 1017-4	Dividing of Joint Cases
LBR 2002-1(d)(2)	Notice in non-Lead Consolidated or Joint Administration Case
11 USC 302	Joint Cases
11 USC 522	Exemptions

LBR 1015-1
DECEMBER 1, 2009

Rule 1017-2

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

(a) Notice

A Chapter 11 debtor may request conversion of the case to a case under Chapter 12 or Chapter 13 only after ~~twenty (20)~~ *twenty-one (21)* days notice and hearing to all parties on the Master Mailing List in accordance with LBR 2002-1.

(b) Information Required

The request to convert shall include information that the debtor is eligible to be a debtor under the chapter to which the case is to be converted and has not been discharged under 11 USC 1141(d).

(b) Conversion to Chapter 12

In the case of conversion to a Chapter 12 case, the request shall also include an affidavit or statement under penalty of perjury as to why the conversion is equitable.

Related Provisions

FRBP 2002	Notices to Creditors
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-3	Conversion or Dismissal of Chapter 11 Cases
LBR 1017-4	Dividing of Joint Cases
LBR 2002-1	Notices to Creditors & Other Interested Parties
11 USC 1112(d)	Conversion or Dismissal

Rule 1017-3

Conversion or Dismissal of Chapter 11 Cases

(a) Notice Requirement

A party in interest desiring that a Chapter 11 case be converted or dismissed pursuant to 11 USC 1112 (b) shall do so by motion and give ~~twenty (20)~~ *twenty-one (21)* days notice and hearing to the Debtor or Debtor in Possession, the attorney for the debtor or the debtor in possession, the trustee if one is appointed, the United States trustee and the Master Mailing List (MML) in accordance with LBR 2002-1.

(b) Obtaining Hearing Date

Prior to filing the motion, the moving party shall obtain a hearing date and time pursuant to LBR 9073-1(a).

(c) Information Required in Motion and Notice

In addition to the information required by LBR 2002-1(a), the notice and motion shall also contain a detailed statement as to the cause that forms the basis of the motion and the time and place of the hearing of the motion.

Related Provisions:

FRBP 101	Dismissal or conversion of Case; Suspension
FRBP 2002(a)	Twenty-day Notices to Parties in Interest
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-2	Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
LBR 1017-4	Dividing of Joint Cases
LBR 2001-1	Notice to Creditors and Other Interested Parties
LBR 9073-1	Hearings
11 USC 1112	Conversion and Dismissal

Rule 1017-4

Dividing of Joint Cases

(a) Motion and Notice

A debtor in a joint case desiring that the case be divided shall file a motion, with ~~ten (10)~~ *fourteen (14)* days notice and hearing to a non-joining debtor, attorney for the debtor and the trustee.

(b) Supporting Documentation

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.

(c) Chapter 12 & 13 Cases

If the case to be divided is a Chapter 12 or 13 case, the motion to divide shall also include a motion that one of the divided cases, specifically identified by individual debtor, be converted upon entry of the order dividing the cases.

Related Provisions:

FRBP 1017(f)	Procedure for Dismissal, Conversion or Suspension
FRBP 1019	Conversion of a Chapter 11, 12 or 13 Case
LBR 1015-1	Joint Administration/Consolidation
LBR 1017-1	Conversion or Dismissal of Joint Cases
LBR 1017-2	Conversion of Chapter 11 Case to Chapter 12 or Chapter 13 Case
LBR 1017-3	Conversion or Dismissal of Chapter 11 Cases
11 USC 302	Joint Cases
11 USC 541	Property of the Estate
11 USC 1208	Conversion or Dismissal
11 USC 1307	Conversion or Dismissal

Rule 1072-1

Places of Holding Court

(a) Courtroom Hearings

Courtroom hearings are regularly held in Spokane *and* Yakima. ~~and Richland.~~

(b) Telephonic Hearings

Telephonic hearings are regularly held for the convenience of the parties or the Court.

(c) Participation at Telephonic Hearings

Any party in interest who desires to be heard at a telephonic hearing and who has not filed a pleading in the matter at issue should notify the appropriate chambers no less than one (1) day prior to the hearing of such desire.

(d) Attendance at Hearings

(1) Members of the public may attend all bankruptcy hearings.

(A) In the case of a courtroom hearing, a party need only be present in the designated courtroom at the appointed time.

(B) In the case of a telephonic hearing, the party need only call in on the designated telephone number at the appointed time.

(C) A party desiring to use court operated telephonic equipment need only present themselves to the appropriate chambers sixty (60) minutes prior to the hearing if they wish to attend by the use of court operated telephonic equipment.

(2) Attendees at all hearings shall conduct themselves in a manner so as not to disturb the hearing or the participants.

Related Provisions

FRBP 5001 Courts and Clerks' Offices

28 USC 152 Places of Holding Court

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 first-class mail, unless the recipient is a registered participant in the CM/ECF system in the case in which the pleading or other paper is being filed. If the recipient is a registered participant, the Notice of Electronic Filing (NEF) is deemed the equivalent of service of the pleading or other paper by first-class mail.

(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~~ *include* a list ~~containing of~~ the names and addresses to whom notice was sent. 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 database of the court.

(c) Time Allowed for Objections

- (1) The moving party shall provide at least ~~twenty (20)~~ *twenty-one (21)* 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 database 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.

(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 therefore.
- (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 an objection has been filed; or
- (3) A motion and an affidavit or statement under penalty of perjury have been filed requesting that the case remain open.

Related Provisions

FRBP 2002	Notice to Creditors and the United States
FRBP 9006	Time
FRBP 9007	Authority to Regulate Notices
FRBP 9014	Contested Matters
FRCP 5(b)(2)(E) & (b)(3)	Serving and Filing Pleadings and Other Papers
LBR 9013-1	Motions and Orders
11 USC 102(1)	Construction of Notice and Hearing
11 USC 350	Closing Case

LBR 2002-1
SEPTEMBER 15, 2009

Rule 2003-1

Meeting of Creditors or Equity Security Holders

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

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

- (1) If the notice of the meeting of creditors has not been given pursuant to FRBP 2002(a)(1), the debtor may request that the meeting not be set on ~~ten (10)~~ *fourteen (14)* days notice to the United States trustee and to the list of 20 largest creditors required by FRBP 1007 (d). If the request is granted, the notice to creditors of the commencement of the case will so provide.
- (2) If the notice of the meeting of creditors was given, then a party in interest may request that it be cancelled on ~~twenty (20)~~ *twenty-one (21)* days notice and hearing to the Master Mailing List.

Related Provisions

11 USC 341(e)

Meetings of Creditors

Rule 2014-1

Employment & Professional Persons

(a) Application

An application for an order approving the employment of a professional by the trustee, debtor in possession, creditors' committee or a debtor exercising powers under 11 USC 1303, *other than an application pursuant to 11 U.S.C. §328 or 329*, shall be in the prescribed local form and may be submitted ex parte without notice unless otherwise directed by the Court, except that

1. In Chapter 11 cases, the applicant if being employed as an attorney or an accountant shall give seven (7) days notice and hearing to the United States trustee pursuant to LBR 2002-1~~;~~ ,
2. In Chapter 13 cases, the applicant, if being employed as an attorney by a debtor exercising powers under 11 USC 1303, shall give seven (7) days notice and hearing to the Chapter 13 trustee pursuant to LBR 2002-1.

(b) ~~Rate of Compensation Fixed~~ *Terms of Employment*

If the applicant desires that the order also establish the actual rate of compensation *and terms of employment*, then *the applicant shall give* notice and hearing to the Master Mailing List pursuant to LBR 2002-1 ~~is required~~ *of the proposed actual rate of compensation and terms of employment*.

Related Provisions

FRBP 2014	Employment of Professional Persons
LBR 9010-1	Attorneys - Notice of Appearance
11 USC 327	Employment of Professional Persons
11 USC 1103	Powers and Duties of Committees

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 (20)~~ *twenty-one (21)* 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 \$2,500 in a consumer case or \$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 includes the following:

- (A) preparation and filing of the petition, Schedules, and Statement of Affairs, the Chapter 13 Plan and associated local forms, along with modifications, 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 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).

(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.

(B) Supplemental fee applications must be filed with the court prior to 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
DECEMBER 1, 2009

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 seven (7) days before the meeting of creditors, a copy of federal income tax returns filed for the three (3) years prior to the year in which the petition is filed together with all schedules thereto.

(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)~~ *fourteen (14)* 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)~~ **seven (7)** 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)~~ *fourteen (14)* 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)~~ *seven (7)* 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)~~ *fourteen (14)* 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)~~ *fourteen (14)* 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)~~ *seven (7)* days

following the conclusion of the meeting of creditors or ~~twenty-five (25)~~ *twenty-eight (28)* 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.

(k) Modification of Plans

- (1) Modification Prior to Confirmation

Modifications made pursuant to 11 USC 1323 shall be on ~~twenty (20)~~ *twenty-one (21)* 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)~~ *twenty-one (21)* 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)~~ *twenty-one (21)* 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.

(l) 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:
 - (A) after filing of a motion for an order authorizing the debtor to make the plan payments directly to the trustee; and
 - (B) after ~~ten (10)~~ *seven (7)* 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)~~ *twenty-one (21)* 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)~~ *seven (7)* 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)~~ *twenty-one (21)* 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)~~(s) 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~~ *national* form *(B 283)*.

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	Post-Petition 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 1329	Modification After Confirmation
28 USC 959	Duties of Managers of Estate Property

LBR 2083-1
DECEMBER 1, 2009

Rule 3007-1

Claims - Objections

(a) Objection

- (1) An objection to the allowance of a claim shall identify the claimant by name and clerk's docket number and shall include the following:
 - (A) Notice that if the claimant fails to timely file a written response that:
 - (i) the court may rule on the pleadings filed without oral argument and without further notice to the claimant; and
 - (ii) that the claimant will be deemed to have consented to such a determination by the court in accordance with LBR 3007(b)(2)(B);
 - (B) The specific date by which a response is considered to be timely filed, which date shall be no less than thirty (30) days from the date the objection is served, plus three (3) additional days as required by FRBP 9006; and
 - (C) an affidavit or unsworn declaration under penalty of perjury that clearly sets forth the basis of the objection sufficient to overcome the prima facie effect of the proof of claim pursuant to FRBP 3001(f).
- (2) The objecting party shall serve a copy of the objection, along with the affidavit or declaration and the notice as required by subparagraph (a)(1) of this rule, on the claimant, debtor, debtor's attorney and the trustee. Service of the Notice of Objection shall be in accordance with FRBP 7004 and 9014.
- (3) If the objection requires the determination of the value of a claim secured by a lien on property in which the estate has an interest, the objecting shall also comply with LBR 3012-1.

(b) Response

- (1) Response Filed
 - (A) If the claimant files a written response to the objection, the claimant shall serve a copy of the response on the objecting party and the trustee.
 - (B) Upon the filing of a response, the Court will promptly set a hearing and provide notice of the date and time set for the hearing to the objecting party, the claimant and the trustee. The hearing shall be conducted unless the objection

is resolved prior to the hearing by a stipulated order or withdrawal of the objection.

(2) No Response Filed

- (A) If no response is filed, the objecting party shall, within thirty (30) days of the expiration of time to timely file a response, present an ex parte order, based on the objection and supported by an affidavit or unsworn declaration under penalty of perjury that the objection was filed and served in accordance with sub-section (a) of this rule and that no response was filed or served.
- (B) Failure by the claimant to file a response shall be deemed as consent to have the court consider and determine the issue on the pleadings without oral argument.

(c) **Striking of Objection**

Should the objecting party fail to timely present an order on the objection in accordance with sub-paragraph (b)(2)(A) of this rule, the trustee or any party in interest may, on ~~five (5)~~ *seven (7)* days notice to the objecting party, request that the objection be stricken.

(d) **Hearing**

Notwithstanding sub-paragraph (b)(2) of this rule, any party in interest may request a hearing in accordance with LBR 9073-1.

Related Provisions

FRBP 3007	Objections to Claims
FRBP 7001	Adversary Proceedings
FRBP 9014	Contested Matters
LBR 2002 - 1	Notice to Creditors and Other Interested Parties
LBR 7003 - 1	Cover Sheet
11 USC 506	Secured Claims
28 USC 1930(b)	Bankruptcy Fees

Rule 3012-1

Valuation of Security

(a) Motion

A motion to determine the value of a claim secured by a lien on property in which the estate has an interest may be by separate motion or may be included in an objection to the allowance of a claim made pursuant to LBR 3007-1.

(b) Service

- (1) Service of the notice shall be made on ~~twenty (20)~~ *twenty-one (21)* days notice and hearing:
 - (A) to the master mailing List pursuant to LBR 2002 - 1; and
 - (B) to the trustee and any holder of a lien to be valued as required by FRBP 9014 and 7004.
- (2) In the case of Chapter 13, notice need only be given as required by sub-section (b)(1)(B) of this rule.

(c) Content of Notice

- (1) The notice of this motion shall contain the following information:
 - (A) a description of the property to be valued;
 - (B) the value placed on the property by the moving party;
 - (C) the names of all holders of liens in the property; and
 - (D) with respect to each holder;
 - (i) the amount placed on each holder's interest by the moving party;
 - (ii) the priority in the property attributed to each holders's interest by the moving party; and
 - (iii) whether the holder's interest is to be treated as fully secured, under-secured or unsecured.

Related Provisions

FRBP 2002	Notice and Hearing
FRBP 3012	Valuation and Security
FRBP 7004	Service
FRBP 9006	Time
FRBP 9014	Contested Matters
LBR 2082 - 1	Chapter 12 - General
LBR 2083 - 1	Chapter 13 - General

LBR 3012-1
DECEMBER 1, 2009

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)~~ *twenty-eight (28)* 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)~~ *twenty-eight (28)* 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 Disclosure Statement or Combined Plan and Disclosure Statement

The proponent of a plan in the case of a small business debtor where the court has conditionally approved the disclosure statement, or approved a combined plan and disclosure statement, shall give ~~twenty-five (25)~~ *twenty-eight (28)* 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) Conditionally Approved Disclosure Statement;
- (2) Proposed Plan
- (3) Ballot for Accepting or Rejecting Plan of Reorganization in the prescribed local form.
- (4) List Classifying Claims in the prescribed local form.

(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)~~ *twenty-one (21)* days notice to trustee, UST, any committee appointed or if none 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
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 3018-1
DECEMBER 1, 2009

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)~~ *fourteen (14)* 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)~~ *fourteen (14)* 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)~~ *seven (7)* days before the preliminary hearing.
- (ii) The opposing party shall file and serve responsive affidavits and opposing memoranda of authority at least ~~three (3)~~ *seven (7)* 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)~~ *fourteen (14)* days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.
- (2) A party in interest desiring that the stay continue in effect pursuant to 11 USC 362(c)(3)(B) shall file a motion and give ~~ten (10)~~ *fourteen (14)* days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.

The motion shall be filed no later than ~~five (5)~~ *seven (7)* 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.

- (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)~~ *fourteen (14)* days notice and hearing to the Master Mailing List in accordance with LBR 2002-1.

(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
LBR 2001-1	Notice to Creditors and Other Interested Parties
LBR 9073-1	Hearings
11 USC 362	Automatic Stay
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

LBR 4001-1
DECEMBER 1, 2009

Rule 4001-2

Cash Collateral

(a) Contested Use of Cash Collateral

(1) Notice

- (A) Unless the consent of each entity having an interest in the cash collateral is obtained, a trustee or debtor in possession desiring to use, sell, or lease cash collateral shall file and serve a motion, along with a form of the order as an attachment as required by FRBP 4001(b), and shall give ~~fifteen (15)~~ **fourteen (14)** days notice to parties with an interest in the collateral, to any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, the creditors included on the list filed pursuant to FRBP 1007(d) and to such other entities as the Court may direct. If an objection is timely filed, the trustee or debtor in possession shall request a final hearing date in accordance with LBR 2002 - 1(f)(3).
- (B) For good cause shown, the trustee or debtor in possession may apply ex parte for an order shortening time for notice and setting a date for an interim hearing. The interim hearing will ordinarily be scheduled by the Court within five (5) days of the application. The trustee or debtor in possession shall promptly give telephonic notice of the interim hearing to entities with an interest in the collateral.

(2) Interim Hearing

The interim hearing shall be a preliminary hearing conducted telephonically on the record submitted, which shall include affidavits or declarations in support of or in resistance to the requested use of cash collateral. Affidavits or declarations shall be served and filed as soon as practicable. The parties may present testimony at the interim hearing only on request of a party and approval of the Court. In the event testimony is permitted and ~~fifteen (15)~~ **fourteen (14)** days notice has been provided in accordance with the provisions of subparagraph (a)(1)(A) of this Rule, then the interim hearing may be treated by the Court as a final hearing.

(3) Final Hearing

The date for the final hearing shall be set by the Court at the conclusion of any interim hearing. An interim order providing for use of cash collateral may, by its terms, become a final order approving use of cash collateral if notice of the interim order is provided as set out in subparagraph (a)(1)(A) of this Rule and no objection is timely filed.

(b) Agreement Concerning Use of Cash Collateral Involving Adequate Protection and/or Security Interest in Post-Petition Assets

- (1) Any agreement concerning use of cash collateral involving adequate protection and/or granting of a security interest in post-petition assets of the debtor must be approved by order of the Court in accordance with FRBP 4001(d).
- (2) The provisions of this Rule pertaining to use of cash collateral set out in subparagraph (a) hereof shall also be applicable as to approval of agreements for use of cash collateral involving adequate protection and/or granting of a security interest in post-petition assets of the debtor.

(c) Agreements Concerning Use of Cash Collateral Not Involving Adequate Protection and/or Security Interest in Post-Petition Assets

Agreements between a trustee or debtor in possession and all parties having an interest in cash collateral that do not involve granting of adequate protection and/or security interests in postpetition assets of the debtor are not subject to approval by the Court, and notice of such agreements are not subject to the notice requirements of subparagraph (a) of this Rule.

(d) Motion to Prohibit Use of Cash Collateral

A party in interest may bring a motion to prohibit use by the trustee or debtor in possession of cash collateral. A motion to prohibit use of cash collateral shall be subject to the requirements of subparagraph (a) of this Rule.

(e) Use of Cash Collateral in Chapter 13 Case

In a case under Chapter 13, the debtor shall prepare all pleadings and documents if the debtor intends to use, sell or lease cash collateral. The debtor shall sign the pleadings, serve them on all required entities, including the Chapter 13 trustee, and file them with the Court. It shall be the debtor's responsibility to timely obtain the Chapter 13 trustee's signature on any necessary documents, to set any necessary hearings and to appear and argue at all hearings.

Related Provisions

FRBP 4001	Relief from Stay and Use of Cash Collateral
FRBP 9006(f)	Time
11 USC 353(a)(c)	Cash Collateral
28 USC 1930 (b)	Bankruptcy Court Fee Schedule

LBR 4001-2
DECEMBER 1, 2009

Rule 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)~~ *twenty-one (21)* 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
 - (B) Whether the plan filed by the debtor proposes to pay or not pay the claim, and
 - (C) Whether or not the creditor's interest would be irreparably harmed by the continuation of the stay; and
 - (D) 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).

Related Provisions

11 USC 1201
11 USC 1301

Co-Debtor Stay
Co-Debtor Stay

FRBP 7004
FRBP 9014

Process, Service of Summons, Complaint
Contested Matters

LBR 2002-1
LBR 4001-1(e)
LBR 9013-1

Notice to Creditors and Other Parties in Interest
Non-Combining of Motions
Motions and Order

LBR 4001-3
DECEMBER 1, 2009

Rule 4003-2

Lien Avoidance

- (a) A party seeking to avoid a lien pursuant to 11 USC 522(f) shall file a motion and give ~~fifteen~~ *fourteen (14)* days notice to the trustee and the creditor holding the lien in accordance with LBR 2002-1.
- (b) The notice and motion shall contain:
- (1) a description and statement of the value of the property encumbered as if there were no liens on the property;
 - (2) a description and the amount of the lien to be avoided;
 - (3) specific identification of the statutory authority for avoiding the fixing of the lien; either a judicial lien or a non-possessory, non-purchase money security interest;
 - (4) a description and the amount of all other liens on the property, individually identified as to each lien holder, and a statement whether any such liens have or are subject to being avoided under this rule, or a statement that there are no other liens; and
 - (5) a statement as to the specific statutory exemption claimed and the amount of the exemption claimed.
- (c) Service of the notice on the lien creditor shall be in accordance with FRBP 7004.

Related Provisions

FRBP 4003	Exemptions
FRBP 9006	Time
FRBP 9014	Contested Matters
LBR 2002-1	Notice to Creditors and Other Interested Parties
11 USC 522(f)	Exemptions

Rule 5071-1

Continuances

The court may continue hearings on its own motion or by motion of a party based on an agreement of the parties, or a motion of a party after notice to opposing parties, served and filed at least ~~three (3)~~ *seven (7)* days prior to the scheduled hearing. The motion shall be accompanied by an affidavit or statement under penalty of perjury stating the reasons for the necessity of the continuance. A counter affidavit or statement may be filed by the opposing party.

Rule 6006-1

Executory Contracts

(a) Assumption or Rejection

Except as provided in 11 USC 365(d)(1) or 11 USC 365(d)(4), a trustee or debtor in possession desiring to assume or reject any executory contract or unexpired lease of the debtor shall give ~~twenty (20)~~ *twenty-one (21)* days notice to all parties on the Master Mailing List on accordance with LBR 2002 - 1. The notice shall include a brief summary of the significant terms of the contract or lease. If assumption is desired and the contract is in default, the notice shall include terms of the cure, compensation for loss, and adequate assurance of future performance.

(b) Assignment

If the trustee or debtor in possession intends, upon assumption, to assign the executory contract or unexpired lease, the terms of the assignment shall be included in the notice described in paragraph (a) above. If the intent to assign is formed after the notice described in paragraph (a) is given, a separate notice detailing the terms of the assignment shall be given in the manner described in paragraph (a).

(c) Order Requiring the Trustee, Debtor in Possession or Debtor to Act

- (1) A party to an executory contract or unexpired lease of the debtor requesting an order requiring the trustee, debtor in possession or debtor to assume or reject the contract or to reject a contract previously assumed shall give ~~twenty (20)~~ *twenty-one (21)* days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. The notice shall include a brief summary of the significant terms of the contract or lease and shall be accompanied by a summary of the proposed order described in subparagraph (2).
- (2)
 - (A) An order requiring the trustee, debtor in possession or debtor to act shall:
 - (i) state a date certain by which the trustee, debtor in possession or debtor must either assume or reject the contract which date shall be no sooner than ~~twenty (20)~~ *twenty-one (21)* days after the notice required by subparagraph (c)(1) is given,
 - (ii) state that the contract shall be deemed rejected if the trustee, debtor in possession or debtor does not act before the specified date, and
 - (iii) include provisions for cure, compensation for loss, and adequate assurance of future performance if the contract is

assumed.

- (B) The order may include provisions requiring the trustee, debtor in possession or debtor to vacate or surrender possession of property of the estate in the event the contract is rejected, however, such provisions shall comport with the requirements of applicable non-bankruptcy law.

(d) Request by Debtor for Chapter 13 Trustee to Act

In a case under Chapter 13, the debtor shall prepare all pleadings and documents for the performance of duties required by the Chapter 13 trustee if the debtor desires to have the trustee assume or reject any executory contract or unexpired lease. The debtor shall approve the pleadings, serve them upon all required entities, and file them with the Court. It shall be the debtor's responsibility to timely obtain the Chapter 13 trustee's signature on the appropriate documents, to set any necessary hearings, and to appear and argue at all hearings.

Related Provisions

FRBP 6006

Executory Contracts

11 USC 365

Executory Contracts and Unexpired Leases

11 USC 1303

Power of Debtor

11 USC 1322(c)(7)

Contents of Plan

LBR 6006-1

DECEMBER 1, 2009

Rule 6007-1

Abandonment

(a) Notice

A party desiring the trustee or debtor in possession to abandon property of the estate in which the estate may have an interest shall file a motion and give ~~twelve (12)~~ *fourteen (14)* days notice to all parties on the Master Mailing List in accordance with LBR 2002 - 1. The notice shall describe the property or interest involved, including a statement as to its fair market value and any encumbrances thereon.

(b) Proof of Interest

A party desiring an order requiring the trustee to abandon property of the estate shall provide to the trustee, along with the notice, copies of documents evidencing the interest of the requesting party, and the perfection of that interest, if appropriate.

Related Provisions

FRBP 6007	Abandonment
FRBP 9006(f)	Time
LBR 2002 - 1	Notice to Creditors & Other Interested Parties
11 USC 554	Abandonment
28 USC 1930(b)	Bankruptcy Court Fee Schedule

Rule 6008-1

Redemption

A debtor seeking to redeem property pursuant to 11 USC 722 shall file a motion and give ~~fifteen (15)~~ *fourteen (14)* days notice to the trustee and the creditor holding the lien. The property seeking to be redeemed shall be specifically and clearly described along with a statement as to its value in the notice and motion. Service on the lien holder shall be pursuant to FRCP 9014. LBR 2002-1 applies in all other respects.

Related Provisions:

FRBP 6008	Redemption of Property from Lien or Sale
FRBP 7004	Process
FRBP 9014	Contested Matters
11 USC 722	Redemption

LBR 6008-1
DECEMBER 1, 2009

Rule 7016-1

Pretrial Procedures

(a) Applicability

This rule applies to the pretrial procedure in all adversary proceedings and those contested matters specifically identified by the judge assigned the case.

(b) Scheduling Conference

A scheduling conference shall be set by the Court. The scheduling conference is conducted for the purpose of addressing matters contemplated by FRCP 16(b).

(1) Written Report

The attorney for the plaintiff shall timely call a meeting as required by FRCP 26(f). In accordance with that rule, but in no event no less than five (5) days prior to the date set for the scheduling conference, the attorneys of record and all unrepresented parties shall *file* ~~deliver to the appropriate chambers~~ a written report as contemplated by FRCP 26(f). Should the parties be unable to agree on a written report, then each party shall prepare and *file* ~~submit~~ a separate written report.

(2) In addition to the items set out in FRCP 16(b), the written report shall also contain information or estimates regarding:

- (A) the length of the trial, and**
- (B) preference as to location of the trial.**

(c) Pretrial Conference

A pretrial conference may be set by the Court for the purpose of addressing items contemplated by FRCP 16(c) or other items of interest.

(1) Proposed Pretrial Order

(A) The attorney for the plaintiff shall insure that the attorneys of record and all unrepresented parties confer prior to the date of the pretrial conference and in good faith attempt to formulate a pretrial order. Should the parties be unable to agree on a pretrial order, then each party shall serve and submit to the Court a separate proposed pretrial order.

(B) All proposed pretrial orders shall be *submitted in the manner set forth in LBR*

~~9013-1(c) delivered to the appropriate chambers~~ no less than five (5) days prior to the date set for the pretrial conference and shall be in the prescribed local format.

Related Provisions

FRBP 7016	Pretrial Procedure
FRBP 7026	Disclosure and Discovery

LBR 7016-1
SEPTEMBER 15, 2009

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)~~ *fourteen (14)* 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, an order of dismissal without prejudice may be entered by the Court.

Related Provisions

FRBP 7001	Adversary Proceedings
FRBP 7055	Default

Rule 9018-1

Secret, Confidential, Scandalous, or Defamatory Matter

(a) Motion to Seal

- (1) A motion to seal may be made on an ex parte basis without notice on any grounds permitted by law, and shall contain the basis for why sealing is required. The order shall be submitted in the manner required by LBR 9013-1(c).
- (2) As soon as practicable the document to be sealed, shall be filed in the manner prescribed by sub-paragraph (b) of this rule. The document shall be filed provisionally under seal, and will remain provisionally under seal until the court rules on the motion.
- (3) If discussion of protected materials or information is necessary to support the motion, such discussion shall be limited to an affidavit or declaration under penalty of perjury, which shall also be provisionally sealed.

(b) Filing of Sealed or Provisionally Sealed Document

Any document filed under seal or provisional seal shall be contained in a sealed envelope to which shall be affixed a captioned pleading that identifies the document, contains language to clearly indicate that the document in the sealed envelope has been filed under seal and is not to be opened without an order of the court and that makes reference to the motion or order by which the document was sealed.

(c) Motion to Unseal

A motion to unseal a document may be made on any grounds permitted by law. Notice of such a motion shall be in accordance with LBR 9013-1, with ~~ten (10)~~ *fourteen (14)* days notice to the party that requested the document be sealed.

(d) Disposition of Documents filed Under Seal upon Dismissal or Closing of Case

Any documents remaining under seal when a case is dismissed or closed shall be disposed of in accordance with the mandatory Records Disposition Schedule set out by the Judicial Conference of the United States, unless otherwise ordered by the court.

(e) Viewing by Court Personnel

Unless otherwise stated in the motion or the order to seal, the seal will not preclude court staff from viewing sealed materials.

Related Provisions:

FRBP 9018	Secret, Confidential, Scandalous, or Defamatory Matter
FRBP 9013	Motions: Form and Service
LBR 2002-1	Notice to Creditors & Other Interested Parties
LBR 9013-1(b)	Motion Practice
11 USC 102	Rules of Construction
11 USC 107	Public Access To Records

LBR 9018-1
DECEMBER 1, 2009