

Rule 1006-1

Waiver of Filing Fee

(a) *Payment of Filing Fee in Installments*

All applications to pay filing fees in installments shall be filed using the prescribed form (B3A). Seventy-five dollars (\$75) of the filing fee shall be due at the time the petition is filed for debtors applying to pay the filing fee in installments. The court will enter an order or set the matter for hearing.

(b) *Waiver of Filing Fee*

Objections to an application to waive the Chapter 7 filing fee shall be filed no later than seven (7) days following the conclusion of the meeting of creditors. The court will enter an order or set the matter for hearing.

Related Provisions

FRBP 1006 Filing Fee

28 USC 1930 Bankruptcy Fees

LBR 1006-1

~~AUGUST 1, 2011~~ **AUGUST 1, 2013**

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

(1) The debtor shall file the following documents *separately using the* as prescribed by ~~the appropriate local forms~~:

- (A1)* Chapter 13 Plan (*LF 2083*)
- (B2)* Plan Payment Declaration (*LF 2083A*)
- (C3)* Plan Funding Analysis (*LF 2083B*)
- (D4)* Liquidation Analysis (*LF 2083C*)

(2) *A Certificate of Debtor's/Debtors' Attorney and Debtor(s) Regarding Payments to and Disbursements by the Chapter 13 Trustee (LF 2083-1F) shall be filed as a separate document.*

(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 subsection (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 § 506(d) of the Code. In the event of dismissal of the case prior to discharge, this voided lien will be reinstated pursuant to § 349(b)(1)(C) of the Code 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 § 522(f) of the Code shall be by a separate motion pursuant to LBR 4003-2.

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(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

- (1) If at the time of the filing a petition for relief, a delinquency exists on any payments for debt secured by real property, 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 fourteen (14) days notice and hearing to the Master Mailing List pursuant to LBR 2002-1.

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(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 seven (7) days following the conclusion of the meeting of creditors or 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 on the prescribed local form, stating that the requirements of § 1325(a)(2),(6),(7), (8) and (9) of the Code have been satisfied 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 § 1325(a)(2),(6),(7),(8) and (9) of the Code 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.~~

~~(12)~~ 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 §1325(a)(1),(4) and (5) of the Code.

~~(23) *The court will prepare the confirmation order.* .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 § 1323 of the Code shall be on 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-one (21) days notice and hearing to any adversely affected party, the Chapter 13 trustee, debtor and debtor's attorney. The modification shall become

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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-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 § 1326(a)(1) of the Code, as well as obligations secured by real property as required by sub-paragraph (f) of the rule, unless otherwise ordered by the court.

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(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 § 1305(a)(1) of the Code for postpetition tax claims may be paid without a modification to the plan, however, proofs of claim filed pursuant to § 1305(a)(2) of the Code 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 § 1326 of the Code. If a motion is filed pursuant to § 348(f)(2) of the Code 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

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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 § 1326(b) of the Code. 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 § 363 of the Code, 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

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(B) After 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-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 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-one (21) days notice for failure to timely make payments required by § 1326(a) of the Code 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) 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 national form (B 283).

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Related Provisions

FRBP 1006	Filing Fees
FRBP 1007	<i>Lists, Schedules, Statements and Other Documents; Time Limits</i>
FRBP 1017	Dismissal or Conversion of Case; <i>Suspension</i>
FRBP 1019	<i>Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case</i>
FRBP 2002	Notices and Hearing to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee
FRBP 2016	Compensation of Attorneys <i>for Services Rendered and Reimbursement of Expenses</i>
FRBP 3007	Objection to Claims
FRBP 3012	Valuation of Security
FRBP 3015	Filing, <i>Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case</i>
FRBP 6004	<i>Use, Sale, or Lease</i> of Estate Property
FRBP 9013	Motions; <i>Form and Service</i>
FRBP 9014	Contested Matters
LBR 2016-1	Application of Administrative Expenses <i>Compensation of Professionals</i>
LBR 3016-1	Chapter 11 Cases <i>Pre-Confirmation Requirements</i>
LBR 4001-2	Cash Collateral
LBR 4003-2	Lien Avoidance
LBR 9011-1	Attorney Transactions With Debtors - <i>Duties</i>
11 USC 348	<i>Effect of</i> 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 ⁵	Filing <i>and allowance of</i> postpetition claims
11 USC 1307	Conversion or Dismissal
11 USC 1323	Modification before confirmation
11 USC 1325(c)	Income Directive
11 USC 1326	Payments
11 USC 1329	Modification <i>of plan</i> after confirmation
28 USC 959	Duties of Managers of Estate Property <i>Trustees and receivers suable; management; State Laws</i>

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~~NOVEMBER 5, 2010~~ **AUGUST 1, 2013**

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); and
 - (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 party 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 ~~objecting party shall~~ *objecting party shall* Court will promptly ~~obtain~~ *obtain* set a hearing ~~date~~ *date* 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.

LBR 3007-1

~~AUGUST 1, 2012~~ *AUGUST 1, 2013*

(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 court may, on seven (7) days notice to the objecting party, enter an order striking the objection.

(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	<i>Scope of Rules of Part VII</i> Adversary Proceedings
FRBP 9014	Contested Matters
LBR 2002-1	Notice to Creditors and Other Interested Parties
LBR 7003-1	<i>Commencement of Adversary Proceeding</i> Cover Sheet
11 USC 506	<i>Determination of Secured Status</i> Secured Claims
28 USC 1930(b)	Bankruptcy Fees

LBR 3007-1

~~AUGUST 1, 2012~~ **AUGUST 1, 2013**

Rule 3016-1

Chapter 11 Pre-Confirmation Requirements

(a) Applicability

This rule applies only to cases under Chapter 11 of the Bankruptcy Code.

(b) Affidavit or Certificate

The debtor shall file with the petition for relief under Chapter 11, or within fifteen (15) days thereafter an affidavit or certificate under penalty of perjury that discloses the following information:

- (1) The name and addresses of the members of any creditors' committee organized before the order for relief under Chapter 11;
- (2) If the debtor is operating a business, the following information for the thirty (30) day period following the order for relief:
 - (A) The amount proposed to be paid pursuant to subdivision (d) below to insiders if the debtor is a corporation, or to the debtor, insiders or members of the partnership if the debtor is an individual or partnership;
 - (B) The proposed payroll for employee labor exclusive of (A) above;
 - (C) The operating expenses, exclusive of (A) and (B) above;
 - (D) The estimated profit or loss, after deduction of expenses under (A), (B), and (C) above; and
 - (E) Any non-cash operating expenses proposed not to be paid for any reason.
- (3) An averment that no compensation shall be paid in violation of subdivision (d) of this rule.

(c) Compensation

- (1) If the trustee or debtor in possession is operating a business, no compensation shall be paid to the debtor, or to insiders from the order of relief until the confirmation of a plan, except in accordance with the provisions of this subdivision.
- (2) The trustee or debtor in possession shall give notice to all parties on the Master Mailing List of the intent to pay compensation. The notice shall state the amount of

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compensation, to whom the compensation is to be paid, the amount of compensation paid over the past twelve (12) months, and the nature of the services to be performed. The notice shall summarize the provisions of subparagraph (3) below and shall further state that any party in interest may object to the compensation and request a hearing at any time prior to confirmation.

- (3) Compensation may commence after notice is given. Any party in interest objecting to the compensation shall do so in writing, and has the duty to request a hearing on the objection. The compensation shall continue until the Court orders otherwise. The Court shall provide an expedited hearing on the objection. If the Court rules that the amount received prior to the hearing is excessive, it may order disgorgement of funds back to the estate.

(d) Funds of the Estate

Upon entry of an order for relief in a case under Chapter 11, the debtor in possession shall open or designate a depository account or accounts in the name of the debtor in possession, and close all old accounts. All funds of the estate shall be transferred to the new account or accounts. All receipts and disbursements of the debtor in possession shall be through the new account or accounts. All disbursements for living expenses of the debtor or for salary or living expenses of the debtor or insider pursuant to subparagraph (c) of this rule shall be in form of a check made payable to the debtor or insider.

(e) Monthly Financial Report

- (1) A debtor in possession or trustee operating a business shall file with the Court a monthly balance sheet and profit and loss statement prepared on an accrual basis, unless such requirement is modified by the court for cause shown. ~~The profit and loss statement, showing cash receipts and disbursements, shall be in sufficient detail to enable parties in interest to adequately assess the current financial condition, profitability, and desirability of continued operation of the business. The monthly financial report shall include a certification that all taxes due have been paid and that all tax deposits have been made, and shall indicate the amount paid or deposited, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited.~~
- (2) The above financial information shall be filed within fifteen (15) days of the close of the month during which relief was ordered and within fifteen (15) days of the close of every month thereafter, until a plan is confirmed or the case is converted or dismissed. A copy of each monthly balance sheet and profit and loss statement shall be sent to the chairman of any creditors' committee by the debtor in possession or trustee.
- (3) If the debtor is a farmer, monthly reports shall be made as required by LBR 2082-1(f).

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Related Provisions

FRBP 2002	Notices <i>to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief Is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee</i>
FRBP 3016	Filing <i>of</i> Plan and Disclosure Statement <i>in a Chapter 9 Municipality or Chapter 11 Reorganization Case</i>
FRBP 3017	<i>Court Consideration of</i> Disclosure Hearing Statement <i>in a Chapter 9 Municipality or Chapter 11 Reorganization Case</i>
FRBP 3018	Acceptance or Rejection of Plan <i>in a Chapter 9 Municipality or a Chapter 11 Reorganization Case</i>
FRBP 3019	Modification to <i>of Accepted</i> Plan <i>in a Chapter 9 Municipality or a Chapter 11 Reorganization Case</i>
FRBP 3020	<i>Deposit; Confirmation of Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case</i>
LBR 3017-1	Disclosure Statement and Plan - General
LBR 3018-1	Chapter 11 Plan Confirmation
<i>LBR 3021-1</i>	<i>Chapter 11 Post-Confirmation Disbursement Report</i>
LBR 3022-1	Final Decree in Chapter 11 Reorganization Cases
11 USC 101(51C)	Small Business <i>Case</i> 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 3016-1

~~**JULY 1, 2004**~~ **AUGUST 1, 2013**

Rule 3021-1

Chapter 11 Post-Confirmation Disbursement Report

Until the case is closed, each reorganized debtor shall file with the court on the prescribed local form (LF 3021-1) a post-confirmation disbursement report for each calendar quarter (or portion thereof). The report shall be filed within fifteen (15) days of the close of the quarter.

Related Provisions

<i>FRBP 3021</i>	<i>Distribution Under Plan</i>
<i>LBR 3017-1</i>	<i>Disclosure Statement and Plan - General</i>
<i>LBR 3018-1</i>	<i>Chapter 11 Plan Confirmation</i>
<i>LBR 3022-1</i>	<i>Final Decree in Chapter 11 Reorganization Case</i>

Rule 3022-1

Final *Account and* Decree in Chapter 11 Reorganization Case

(a) *Final Account*

Upon completion of the plan, unless excepted under paragraph (b)(2), a final account shall be filed on the prescribed local form (LF 3022-1a).

(b) *Final Decree and Closing of Cases*

(1) Final Account Filed

Seven (7) days following the filing of the final account, the final decree may be entered and the case closed unless a motion is filed requesting that the final decree not be so entered.

(2) Final Account Not Filed

If a final account has not been filed within one hundred eighty (180) days following the confirmation of the plan, a final decree may be entered and the case closed unless a party in interest has filed a written objection. The notice of the confirmation of the plan shall include notice that the final decree will be entered and the case closed without a final account unless an objection is filed within one hundred eighty (180) days following confirmation.

(c) *Exception Where Debtor is an Individual*

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

(2) Upon completion of all payments under the plan, the debtor shall file a motion for entry of discharge on the prescribed local form (*LF 3022-1*) and provide twenty-one (21) days notice to the Master Mailing List or file a written request to waive discharge.

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Related Provisions

FRBP 3022 Final Decree in Chapter 11 Reorganization Case

LBR 3016-1 Chapter 11 Pre-Confirmation Requirements

LBR 3017-1 Disclosure Statement and Plan - General

LBR 3018-1 Chapter 11 Plan Confirmation

LBR 3021-1 Chapter 11 Post-Confirmation Disbursement Report

11 USC 1141 Effect of Confirmation

LBR 3022-1

~~MAY 10, 2010~~ ***AUGUST 1, 2013***

Rule 9019-2

Mediation

(a) Requirement in Adversary Proceedings

Unless otherwise ordered, no later than 28 days after an answer or other response to the complaint is filed in an adversary proceeding and whenever ordered by the court in other matters, each party shall file a Certificate of Compliance (ADR Form 2) certifying that he or she considered mediation to resolve the dispute.

(b) Order

- (1) Mediation Initiated by Parties. Parties to a dispute may stipulate to setting the matter for mediation by filing a Stipulation Regarding Selection of Mediator (ADR Form 3) and submitting an Order Appointing Mediator (ADR Form 4).*
- (2) Mediation Initiated by Court. Participation in mediation is voluntary, except when ordered by the court. If the federal government or other party not authorized to pay for mediation is involved, this information shall be given to the court prior to the entry of order. The parties will normally be given the opportunity to confer and designate a mutually acceptable mediator as well as an alternate mediator, and upon agreement, should follow the procedure set forth in subparagraph (1). If the parties cannot agree, the clerk of court will select a mediator.*

(c) Stay

Mediation shall not alter or affect any time limits, deadlines, scheduling matters or orders in any adversary proceeding, contested matter or other proceeding, unless specifically ordered by the court.

(d) Mediation Panel

- (1) Appointment of a mediator is made from a panel of mediators maintained by the court. A list of members appointed to the panel as well as a biographical sketch of each is available on the court's Web site. The selection of a particular mediator, and an alternate, is based on the preference of the parties.*
- (2) Applications for appointment to the Mediation Panel shall be submitted on the prescribed local form (ADR Form 7).*
- (3) Panel mediators shall serve on the panel until they request to be removed or are removed by the court.*

- (4) *Nothing herein shall preclude parties from using a judge or other non-panel mediator with subject matter expertise.*
- (e) *Compensation*
- (1) *Other than matters to be mediated on a pro bono basis, mediators are authorized to charge each party to the mediation, whether or not represented by counsel, \$500 for up to 6 hours of mediation services rendered, exclusive of the initial conference, and with a minimum of 4 hours spent in the mediation conference. For any services rendered in excess of the initial 6 hours, with the consent of the parties, a mediator may charge the parties a rate not to exceed a total of \$300 per hour for services rendered, to be split evenly among the parties, except as provided in subsection (2) below.*
- (2) *The mediator shall have discretion to determine whether a particular party, other than the federal government or other party not authorized to pay for mediation, is entitled to participate in a matter without charge or at a reduced charge because of the party's financial circumstances. Other parties participating in a pro bono matter who have the ability to pay the fee and who are not, in the discretion of the mediator, entitled to participate without charge, shall pay the fee described in subsection (1) above. After rendering 6 hours of mediation services as provided in subsection (1) above, and subject to the consent of the parties, the mediator may continue to provide additional services at the hourly rate described in subsection (1) above only if the party participating without charge agrees to pay an equal share of the additional fees or the mediator agrees to continue the mediation without charge to such pro bono party and the other parties sharing the mediator's additional fees are not charged for the pro bono participant's share. Each mediation in which at least one party participates without charge shall count towards the satisfaction of the mediator's annual requirement to conduct not less than one pro bono matter (see Application for Appointment to Bankruptcy Mediation Panel (ADR Form 7)).*
- (3) *Any party not authorized to pay for mediation should bring this fact to the attention of the mediator prior to the entry of the order of his or her appointment.*
- (f) *Suggestions and Recommendations of Mediator*
- If the mediator makes any oral or written suggestions to a party's attorney as to the advisability of a change in that party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to the party. The mediator shall have no obligation to make any written comments or recommendations, but may, as a matter of discretion, provide the parties with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the clerk of court or made available in whole or in part, directly or indirectly, to the court.*

(g) *Dispute Resolution Procedures*

- (1) *Availability of Mediator. Should events render an appointed mediator unable to act, the mediator shall notify the parties and the alternate mediator of that unavailability. The alternate mediator shall thereafter serve as the mediator.*
- (2) *Initial Telephonic Conference. As soon as practicable after notification of appointment, the mediator shall conduct one or more telephonic conferences with pro se parties and/or counsel for the parties. The mediator may establish procedures and deadlines relating to the mediation, taking into account deadlines in the court's scheduling order.*
- (3) *Mediation Conference. In addition to the attorneys involved, a person with full settlement authority must also be present at the conference or readily available. The purpose of this requirement is to have representatives present or readily available who can reach a resolution during the course of the conference, or if necessary, shortly thereafter. If the estate is a party to the matter at issue, this authority may be subject to notice requirements of the Bankruptcy Code or Rules.*

(h) *Confidentiality*

- (1) *Written and Oral Communications. All written and oral communications made in connection with or during any mediation conference, including the mediation statement referred to in (i)(4), shall be subject to all the protections afforded by Fed. R. Evid. 408 and by Fed. R. Bankr. P. 7068. The mediator may ask the parties to sign a confidentiality agreement. Any confidentiality agreement shall be retained by the mediator and not filed with the court.*
- (2) *Evaluations and Written Agreements. No provision of this rule shall be construed to prevent parties, counsel or mediators from responding in absolute confidentiality to inquiries or surveys by persons authorized by this court to evaluate the mediation. Nor shall anything in this section be construed to prohibit parties from entering into written agreements resolving some or all of the matter or entering or filing procedural or factual stipulations based on suggestions or agreements made in connection with a mediation conference.*

(i) *Service of Mediator*

No mediator may serve in any matter in violation of the standards set forth in 28 U.S.C. § 455. An attorney mediator shall also promptly determine all conflicts or potential conflicts in the same manner as an attorney would under the Washington Rules of Professional Conduct if any party to the dispute were a client. A non-attorney mediator shall promptly determine all conflicts or potential conflicts in the same manner as under the applicable

rules pertaining to the mediator's profession. If the mediator's firm has represented one or more of the parties, the mediator shall promptly disclose that circumstance to all parties in writing. A party who believes that the mediator has a conflict of interest shall promptly bring the matter to the attention of the mediator. If the mediator does not withdraw from the mediation, the matter shall be brought to the attention of the court by the mediator or any of the parties.

(j) Civil Immunity of Mediators

All persons serving as mediators under this rule shall be deemed to be performing quasi-judicial functions and shall be entitled to all of the privileges, immunities and protections that the applicable law accords to persons serving in such capacity.

(k) Procedures Upon Completion of Mediation Conference

Upon the conclusion of the mediation conference, the following procedure shall be followed:

- (1) Agreement Reached. If the parties have reached an agreement regarding the disposition of the matter, the parties shall determine who shall prepare the writing to dispose of the matter, and they may continue the mediation conference to a date convenient to all parties and the mediator if necessary. The court will reasonably accommodate parties who desire to place any resolution of a matter on the record during or following the mediation conference. Where required, the parties shall promptly submit the fully executed stipulation to the court for approval.*
- (2) Mediation Report. Within 14 days of the conclusion of the mediation conference, the mediator shall file with the court a Mediation Report (ADR Form 6). Regardless of the outcome of the mediation conference, the mediator will not provide the court with any details of the substance of the mediation conference.*

Related Provisions

<i>18 USC 4</i>	<i>Misprision of Felony</i>
<i>18 USC 3057</i>	<i>Bankruptcy Investigations</i>
<i>28 USC 651</i>	<i>Authorization of Alternative Dispute Resolution</i>