

**LBR 9001-1. DEFINITIONS**

- (a) **Definition of Terms.** As used in these rules, the following words and phrases are defined as follows:
- (1) **“Appellate Court”** means the bankruptcy appellate panel or the district court exercising its appellate jurisdiction pursuant to 28 U.S.C. § 158.
  - (2) **“Application”** means a request for judicial action that must be sought by application rather than motion under the FRBP.
  - (3) **“Attorney” or “Counsel”** includes attorney, proctor, advocate, solicitor, counsel, or counselor.
  - (4) **“Bankruptcy Appellate Panel”** means the United States Bankruptcy Appellate Panel of the Ninth Circuit.
  - (5) **“Bankruptcy Code” or “Code”** means title 11 of the United States Code.
  - (6) **“Brief”** includes briefs, memoranda, points and authorities, and other written argument or compilations of authorities.
  - (7) **“Case”** means a bankruptcy case commenced by the filing of a petition pursuant to 11 U.S.C. §§ 301, 302, 303, or 1504.
  - (8) **“Clerk”** means the clerk of the United States Bankruptcy Court for the Central District of California and deputy clerks. Other clerks may be specified in the text.
  - (9) **“CM/ECF”** means the court’s Case Management/Electronic Case Files System.
  - (10) **“CM/ECF Procedures”** means the Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers Using the Case Management/Electronic Case Files (CM/ECF) System as authorized and approved by General Order 06-03 on November 7, 2006. The instructions for registration and procedures for use of CM/ECF are posted on the court’s website at the CM/ECF home page and contained in the Court Manual available from the clerk and on the court’s website.
  - (11) **“CM/ECF User”** means a person or entity registered to use the court’s Case Management/Electronic Case Files System.
  - (12) **“Court”** means the United States Bankruptcy Court of the Central District of California or the district court when exercising its original bankruptcy jurisdiction pursuant to 11 U.S.C. § 1334, including the judge to whom a case or proceeding is assigned.
  - (13) **“Court Manual”** means the procedural manual maintained and updated periodically by the clerk that includes: General Court Information; Filing Information and Procedures; CM/ECF Procedures; LOU Procedures; Other Court

Technology; and Clerk's Forms. The Court Manual is available from the clerk and on the court's website.

- (14) **"Courtroom Deputy"** means a deputy clerk assigned to the courtroom of a judge of the court.
- (15) **"Court's Website"** means [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov).
- (16) **"Declaration"** means any declaration under penalty of perjury executed in conformance with 28 U.S.C. § 1746 and any properly executed affidavit.
- (17) **"Defendant"** means a party against whom a claim for relief is made by complaint, counterclaim, or cross-claim.
- (18) **"District Court"** means the United States District Court for the Central District of California.
- (19) **"District Court Rules"** means the Local Civil Rules of the United States District Court for the Central District of California; Chapter IV, Local Rules of the District Court Governing Bankruptcy Appeals, Cases and Proceedings; and such other rules and general orders adopted by the district court concerning cases or proceedings filed or pending in the bankruptcy court.
- (20) **"F.R.App.P."** means the Federal Rules of Appellate Procedure.
- (21) **"FRBP"** means the Federal Rules of Bankruptcy Procedure.
- (22) **"F.R.Civ.P."** means the Federal Rules of Civil Procedure.
- (23) **"F.R.Evid."** means the Federal Rules of Evidence.
- (24) **"File"** means the delivery, including electronically via CM/ECF, to and acceptance by the clerk, courtroom deputy, the court, or other person authorized by the court of a paper that will be noted in the docket.
- (25) **"Judge"** means a bankruptcy judge, district court judge, or other judicial officer in a case or proceeding assigned to the court.
- (26) **"Lodge"** means to deliver, including electronically via LOU, to the clerk, courtroom deputy, the court, or other person authorized by the court a paper that is tendered to the court but is not approved for filing, such as a proposed form of order.
- (27) **"LOU"** means the court's Lodged Order Upload program.
- (28) **"LOU Procedures"** means the procedures for LOU posted on the court's website at the CM/ECF home page and contained in the Court Manual available from the clerk and on the court's website.

- (29) **“Motion”** includes all motions, applications, objections to claims that are not adversary proceedings, or other requests made for judicial action except by complaint, counterclaim, or cross-claim.
- (30) **“Movant”** means an entity requesting an order other than by way of complaint, counterclaim, or cross-claim.
- (31) **“NEF”** means the Notice of Electronic Filing, and hyperlink to the document filed, automatically generated when a paper is electronically or non-electronically added to the docket or a docket event is entered. As set forth in the CM/ECF Procedures, an NEF and hyperlink to the document or docket event is transmitted electronically to parties who have a CM/ECF login and password and who are either a party in a case or adversary proceeding or have otherwise participated in the case or adversary proceeding.
- (32) **“Ninth Circuit”** means the United States Court of Appeals for the Ninth Circuit.
- (33) **“Notice of Entry”** means a document completed by the clerk that provides notice to appropriate persons or entities that an order or judgment has been entered.
- (34) **“Paper”** includes all pleadings, motions, affidavits, declarations, briefs, points and authorities, and all other papers and documents presented for filing or lodging, excluding exhibits submitted during a hearing or trial.
- (35) **“Plaintiff”** means a party claiming affirmative relief by complaint, counterclaim, or cross-claim.
- (36) **“Proceeding”** includes motions, adversary proceedings, contested matters, and other matters presented to the court. It does not include a “case” as defined above.
- (37) **“Proof of Service”** means a document certifying that a person or entity who filed or lodged a paper with the court served other appropriate persons or entities with a copy of the paper filed or lodged.
- (38) **“Respondent”** means an entity responding to a request for an order other than by way of complaint, counterclaim, or cross-complaint.
- (39) **“United States attorney”** means the United States Attorney for the Central District of California, and any assistant United States attorney, employee, or designee of the United States attorney.
- (40) **“United States trustee”** means the United States Trustee for Region 16, and any assistant United States trustee, employee, or designee of the United States trustee.
- (41) **“United States Trustee Notices and Guides”** means the United States Trustee Chapter 11 Notices and Guides and the Notice of Requirements for Debtors In Possession in Chapter 11 Cases.

- (b) **Terms Not Otherwise Defined.** A term not defined in this rule will have the meaning provided in the Bankruptcy Code or the FRBP.

**LBR 9004-1. FORM OF PAPERS FILED OR LODGED WITH COURT**

(a) **General.**

- (1) Unless otherwise expressly provided by these rules, a paper filed or lodged with the court and any exhibit thereto must comply with the form and format requirements contained in the Court Manual available from the clerk and on the court's website.
- (2) This rule does not prevent the use of Official Forms or court-approved forms in accordance with LBR 9009-1.

(b) **Signature of Counsel.**

- (1) **General.** The name of the person signing a paper must be printed clearly below the signature line.
- (2) **Facsimile or Electronically Produced Signature.** Unless otherwise provided in a case, the clerk may accept papers for filing that bear a facsimile or electronically produced signature as the equivalent of an original signature, provided the filing party and clerk comply strictly with the court's electronic filing procedures described in LBR 5005-4 for the safeguarding of paper documents with original signatures.

**LBR 9009-1. FORMS**

- (a) **Official Forms.** Official Forms prescribed by the Judicial Conference of the United States may be used in any case or proceeding filed in this court.

(b) **Court-approved Forms.**

- (1) In addition to the Official Forms prescribed by the Judicial Conference of the United States, the court provides additional court-approved forms, copies of which are available from the clerk and on the court's website.
- (2) Unless specifically designated as a mandatory form or unless otherwise specifically ordered, a court-approved form provided in these rules is optional and is provided for the convenience of the parties.

(c) **Court-mandated Forms.**

- (1) A court-mandated form is a court-approved form designated as "mandatory." A court-mandated form must be filed with the exact language provided in the form. If the court-mandated form is an order or judgment, the form order or judgment must be lodged with the exact language provided in the form, except that it may include additional language that has been approved by the court.

- (2) No modification of the original text of a court-mandated form is permitted. Any proposed modification must be added as an attachment so that the suggested modification of the standard language of the court-mandated form is obvious.
- (d) **Certificate of Substantial Compliance.** If a modified version of an Official Form or a court-approved form is used, then such paper must include a certificate that the form contains the same substance as the Official Form or court-approved form, as applicable.

**LBR 9011-2. PERSONS APPEARING WITHOUT COUNSEL**

- (a) **Corporation, Partnership, Unincorporated Association, or Trust.** A corporation, a partnership including a limited liability partnership, a limited liability company, or any other unincorporated association, or a trust may not file a petition or otherwise appear without counsel in any case or proceeding, except that it may file a proof of claim, file or appear in support of an application for professional compensation, or file a reaffirmation agreement, if signed by an authorized representative of the entity.
- (b) **Individuals.** Any individual representing himself or herself without an attorney must appear personally for such purpose.
- (c) **Minors or Incompetents.** A non-attorney guardian for a minor or an incompetent person must be represented by counsel. Local Civil Rule 83-5 of the district court is incorporated herein by reference.
- (d) **Compliance with Rules.** Any person appearing without counsel must comply with the F.R.Civ.P., F.R.Evid., F.R.App.P., FRBP, and these rules. The failure to comply may be grounds for dismissal, conversion, appointment of a trustee or an examiner, judgment by default, or other appropriate sanctions.

**LBR 9011-3. SANCTIONS**

- (a) **Violation of Rules.** The violation of, or failure to conform to, the FRBP or these rules may subject the offending party or counsel to penalties, including monetary sanctions, the imposition of costs and attorneys' fees payable to opposing counsel, and/or dismissal of the case or proceeding.
- (b) **Failure to Appear or Prepare.** Unless otherwise ordered by the court, the failure of counsel for any party to take any of the following steps may be deemed an abandonment or failure to prosecute or defend diligently by the defaulting party:
- (1) Complete the necessary preparation for pretrial;
  - (2) Appear at pretrial or status conference;
  - (3) Be prepared for trial on the date set; or
  - (4) Appear at any hearing where service of notice of the hearing has been given or waived.

- (c) **Penalties for an Unnecessary or Unwarranted Motion or Opposition.** Pursuant to FRBP 9011, the presentation to the court of an unnecessary motion and the unwarranted opposition to a motion, which unduly delays the course of an action or proceeding, or failure to comply fully with these rules, subjects the offender and attorney at the discretion of the court to appropriate discipline, including the imposition of costs and the award of attorneys' fees to opposing counsel, payment of 1 day's jury fees of the panel, if one has been called for the trial, and such other sanctions, including denial of the motion or dismissal of the proceeding, as may appear proper to the court under the circumstances. This section applies to violations of the LBRs which may otherwise not be subject to sanctions under either FRBP 9011 or F.R.Civ.P. 11.

**LBR 9013-1. MOTION PRACTICE AND CONTESTED MATTERS**

(a) **Applicability.**

- (1) Unless otherwise ordered by the court, parties must file, serve, and set for hearing all contested matters, including motions, whether filed in the bankruptcy case or an adversary proceeding, objections, applications, orders to show cause, and other matters for which a hearing is necessary (collectively, "motions"), in accordance with this rule, any other applicable LBR, the FRBP, and the Bankruptcy Code.
- (2) This rule applies to objections to claims, except as provided in LBR 3007-1.
- (3) This rule applies to motions for summary judgment, except as provided in LBR 7056-1.
- (4) This rule does not apply to a motion to reject a collective bargaining agreement which is governed by 11 U.S.C. § 1113.

(b) **Motion Calendar.**

- (1) Each judge of the court maintains a motion calendar and instructions for self-setting hearings that are available from the clerk and posted on the court's website.
- (2) A party must self-set a motion for hearing at a date and time permitted on the judge's motion calendar in accordance with the judge's self-set calendaring instructions.
- (3) If a judge's calendar does not permit the self-setting of a hearing on a particular type of motion or the judge does not schedule a regular law and motion day, a hearing on the motion must be noticed only with the approval of the judge or courtroom deputy.

(c) **Form and Content of Motion and Notice.**

- (1) **Oral Motions.** Unless otherwise provided by rule or order of the court, an oral motion is not permitted except during trial.

- (2) Notice of Motion. Every motion must be accompanied by written notice of motion specifying briefly the relief requested in the motion and, if applicable, the date, time, and place of hearing. Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or as otherwise ordered, the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing. If the motion is being heard on shortened notice pursuant to LBR 9075-1, the notice must specify the deadline for responses set by the court in the order approving the shortened notice.
  - (3) Motion. There must be served and filed with the motion and as a part thereof:
    - (A) Duly authenticated copies of all photographs and documentary evidence that the moving party intends to submit in support of the motion, in addition to the declarations required or permitted by FRBP 9006(d); and
    - (B) A written statement of all reasons in support thereof, together with a memorandum of the points and authorities upon which the moving party will rely.
  - (4) Exception. Unless warranted by special circumstances of the motion, or otherwise ordered by the court, a memorandum of points and authorities is not required for applications to retain or compensate professionals, motions for relief from automatic stay, or motions to sell, use, lease, or abandon estate assets.
- (d) Time Limits for Service and Filing of Motions.**
- (1) Persons or Entities to be Served with the Notice and Motion. Except for a motion under LBRs 2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), 7026-1(c), and 9075-1, and subject to LBR 2002-2(a) and FRBP 9034, a motion and notice thereof must be served upon the adverse party (by serving the adverse party's attorney of record, if any; or if the adverse party is the debtor, by serving the debtor and the debtor's attorney, if any; or the adverse party, if there is no attorney of record).
  - (2) Deadline for Filing and Serving of Notice and/or Notice and Motion. The notice of motion and motion must be filed and served not later than 21 days before the hearing date designated in the notice except as set forth in: (A) LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication; (B) LBRs 2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), and 9013-1(o) with regard to motions and matters that may not require a hearing; (C) LBR 3007-1 with regard to motions for orders disallowing claims; and (D) LBR 9075-1 with regard to motions to be heard on an emergency or shortened notice basis. The court, for good cause, may prescribe a different time.
- (e) Proof of Service**. Every paper filed pursuant to this rule must be accompanied by a proof of service in the form specified in LBR 9013-3.
- (f) Opposition, Joinders, and Responses to Motions**. Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, LBRs

2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), and 9013-1(o) with regard to motions and matters that may not require a hearing, LBR 9075-1 with regard to motions to be heard on an emergency or shortened notice basis or unless otherwise ordered by the court, each interested party opposing, joining, or responding to the motion must file and serve on the moving party and the United States trustee not later than 14 days before the date designated for hearing either:

- (1) A complete written statement of all reasons in opposition thereto or in support or joinder thereof, declarations and copies of all photographs and documentary evidence on which the responding party intends to rely, and any responding memorandum of points and authorities. The opposing papers must advise the adverse party that any reply to the opposition must be filed with the court and served on the opposing party not later than 7 days prior to the hearing on the motion; or
  - (2) A written statement that the motion will not be opposed.
- (g) **Reply Papers.** Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or unless otherwise ordered by the court, the moving party (or the opposing party in instances where a joinder has been filed) may file and serve a reply memorandum not later than 7 days before the date designated for hearing.
- (1) The reply memorandum and declarations or other evidence attached, must respond directly to the opposition papers.
  - (2) Service of reply papers is required only upon the United States trustee subject to FRBP 9034 and LBR 2002-2(a) and on persons or entities (or their attorneys, if any) who filed an opposition to a motion, and must be made by personal service, e-mail, or by overnight mail delivery service. A judge's copy of the reply must be served on the judge in chambers in accordance with LBR 5005-2(d).
  - (3) Unless the court finds good cause, a reply paper not filed or served in accordance with this rule will not be considered.
- (h) **Failure to File Required Papers.** Papers not timely filed and served may be deemed by the court to be consent to the granting or denial of the motion, as the case may be.
- (i) **Evidence on Motions, Responses to Motions, or Reply Papers.** Factual contentions involved in any motion, opposition or other response to a motion, or reply papers, must be presented, heard, and determined upon declarations and other written evidence. The verification of a motion is not sufficient to constitute evidence on a motion, unless otherwise ordered by the court.
- (1) The court may, at its discretion, in addition to or in lieu of declaratory evidence, require or allow oral examination of any declarant or any other witness in accordance with FRBP 9017. When the court intends to take such testimony, it will give the parties 2 days notice of its intention, if possible, or may grant such a continuance as it may deem appropriate.

- (2) An evidentiary objection may be deemed waived unless it is (A) set forth in a separate document; (B) cites the specific Federal Rule of Evidence upon which the objection is based; and (C) is filed with the responsive or reply papers.
- (3) In lieu of oral testimony, a declaration under penalty of perjury will be received into evidence.
- (4) Unless the court orders otherwise, a witness need not be present at the first hearing on a motion.
- (5) If the court decides to hear oral testimony, the matter may be continued to another date for final hearing.

**(j) Appearance at Hearing.**

- (1) Appearance is Mandatory. Counsel for the moving and opposing parties, and the moving and opposing parties who are appearing without counsel, must be present at the hearing on the motion and must have such familiarity with the case as to permit informed discussion and argument of the motion. The failure of counsel or an unrepresented party to appear, unless excused by the court in advance, may be deemed consent to a ruling upon the motion adverse to that counsel's or unrepresented party's position.
- (2) Waiver of Personal Appearance. With the consent of the court, counsel may waive personal appearance at the hearing. Counsel who have agreed to waive personal appearance must advise the courtroom deputy of such agreement by telephone message or letter which reaches the courtroom deputy by no later than noon on the third day preceding the hearing date. The courtroom deputy will advise the parties by no later than noon on the day preceding the hearing date as to whether the court has consented to the waiver of personal appearance.
- (3) Oral Argument. If the court decides in its discretion to dispense with oral argument on any motion, the courtroom deputy will attempt to give counsel and unrepresented parties notice of the court's intention to do so at least 24 hours prior to the hearing date and time. The court may also dispense with oral argument and waive appearance by tentative or final ruling posted on the court's web site the day before the hearing.
- (4) Telephonic Appearance at Hearing. A party who wishes to appear telephonically must consult the court's web site to determine whether a telephonic appearance on a particular matter is permissible and to review the judge's procedures for telephonic appearances. See LBR 9074-1.

**(k) Voluntary Dismissal of Motion.**

A party who seeks to voluntarily dismiss a motion must, not less than 2 days prior to the hearing date: (1) give telephonic notice thereof to opposing counsel and the courtroom

deputy of the judge before whom the matter is pending; and (2) file with the court, and serve on the United States trustee and persons or entities who have filed an opposition or other response to the motion, a notice thereof with the court. An order may be required.

- (l) **Motion Previously Denied.** Whenever any motion for an order or other relief has been made to the court and has been denied in whole or in part, or has been granted conditionally or on terms, and a subsequent motion is made for the same relief in whole or in part upon the same or any allegedly different state of facts, it is the continuing duty of each party and attorney seeking such relief to present to the judge to whom any subsequent motion is made, a declaration of a party or witness or certified statement of an attorney setting forth the material facts and circumstances surrounding each prior motion including:

- (1) The date of the prior motion;
- (2) The identity of the judge to whom the prior motion was made;
- (3) The ruling, decision or order on the prior motion; and
- (4) The new or different facts and circumstances claimed to exist, which either did not exist or were not shown upon the prior motion.

The failure to comply with the foregoing requirement is grounds for the court to set aside any order or ruling made on the subsequent motion, and subjects the offending party or attorney to sanctions.

- (m) **Continuance.**

- (1) **Ex Parte Motion for Continuance.** Unless otherwise ordered, an *ex parte* motion for the continuance of a hearing under this rule must be filed with the court and served upon all previously noticed parties by facsimile, e-mail, personal service, or overnight mail at least 3 days before the date set for the hearing.
  - (A) The motion must set forth in detail the reasons for the continuance, state whether any prior continuance has been granted, and be supported by the declaration of a competent witness attesting to the necessity for the continuance.
  - (B) A proposed order for continuance must, in accordance with LBR 9021-1(b), be lodged with the court upon the filing of the motion.
  - (C) Unless the *ex parte* motion for continuance is granted by the court at least 1 day before the hearing, the parties must appear at the hearing.
- (2) **Stipulations For Continuances.** Parties stipulating to a continuance of a hearing under this rule must notify the courtroom deputy immediately of their agreement for a continuance. The stipulation is subject to approval by the court under subsection (m)(3) of this rule. Unless the continuance is approved by the court at

least 1 day before the hearing, the parties must appear at the hearing. A stipulation for continuance must contain facts establishing cause for the requested continuance and be submitted to the court in accordance with LBR 9021-1(b)(2) and LBR 9071-1.

- (3) Court Approval. A continuance (whether stipulated to by counsel or not) is not effective unless the continuance is granted in open court, the court approves the continuance in writing, or the clerk or court staff informs the parties that the court has authorized a continuance.
- (4) Extension of Time Due to Continuance of Hearing Date. Unless an order for continuance states otherwise, a continuance of the hearing of a motion automatically extends the time for filing and serving opposing papers and reply papers.
- (n) **Discovery**. Unless otherwise ordered by the court, Fed.R.Civ.P. 26(a), (d) and (f), as incorporated into FRBP 7026 and LBR 7026-1, do not apply to contested matters under FRBP 9014 and this rule.
- (o) **Motions and Matters Not Requiring a Hearing**.
  - (1) Matters That May Be Determined Upon Notice of Opportunity to Request Hearing. Except as to matters specifically noted in subsection (o)(2) below, and as otherwise ordered by the court, any matter that may be set for hearing in accordance with LBR 9013-1 may be determined upon notice of opportunity to request a hearing.
    - (A) Notice. When the notice of opportunity for hearing procedure is used, the notice must:
      - (i) Succinctly and sufficiently describe the nature of the relief sought and set forth the essential facts necessary for a party in interest to determine whether to file a response and request a hearing;
      - (ii) State that LBR 9013-1(o)(1) requires that any response and request for hearing must be filed with the court and served on the movant and the United States trustee within 15 days after the date of service of the notice; and
      - (iii) Be filed with the court and served by the moving party on all creditors and other parties in interest who are entitled to notice of the particular matter.
    - (B) Motion. The motion and supporting papers must be filed with the notice, but must be served only on the United States trustee and those parties who are directly affected by the requested relief.

- (2) Matters that May Not be Determined Upon Notice of Opportunity to Request Hearing. Unless otherwise ordered by the court, the following matters may not be determined by the procedure set forth in subsection (o)(1) above:
- (A) Objections to claims;
  - (B) Motions regarding the stay of 11 U.S.C. § 362;
  - (C) Motions for summary judgment and partial summary adjudication;
  - (D) Motions for approval of cash collateral stipulations;
  - (E) Motions for approval of postpetition financing;
  - (F) Motions for continuance;
  - (G) Adequacy of chapter 11 disclosure statements;
  - (H) Confirmation of plans in chapter 9, chapter 11, chapter 12, and chapter 13 cases;
  - (I) Motions for orders establishing procedures for the sale of the estate's assets under LBR 6004-1(b);
  - (J) Motions for recognition of a foreign proceeding as either a main or a nonmain proceeding;
  - (K) Motions for the adoption of a chapter 15 administrative order; and
  - (L) Motions for the adoption of a cross-border protocol.
- (3) No Response and Request for Hearing. If the response period expires without the filing and service of any response and request for hearing, the moving party must do all of the following:
- (A) File Declaration of Service and Non-response. Promptly file a declaration attesting that no timely response and request for hearing was served upon the moving party. A copy of the motion, notice, and proof of service of the notice and motion must be attached as exhibits to the declaration. No service is required prior to filing the declaration.
  - (B) Lodge Proposed Order. Lodge a proposed order in accordance with LBR 9021-1, except that: (i) the proposed order need not be served prior to lodging, except as otherwise required in these rules; and (ii) the Notice of Entered Order and Service List must limit service by the court to only the debtor or debtor in possession (and debtor's attorney, if any), and the United States trustee.

- (C) Deliver Copies to Court. Promptly deliver to the court: (i) a copy of the declaration; and (ii) the appropriate proposed order, copies, and envelopes, as specified in LBR 9021-1 and the LOU Procedures.
- (4) Response and Request for Hearing Filed. If a timely response and request for hearing is filed and served, within 20 days from the date of service of the response and request for hearing the moving party must schedule and give not less than 11 days notice of a hearing to those responding and to the United States trustee. If movant fails to obtain a hearing date, the court may deny the motion without prejudice, without further notice or hearing.

**LBR 9013-2. BRIEFS AND MEMORANDA OF LAW**

**(a) Trial Briefs.**

- (1) Unless otherwise ordered by the court, at least 5 days before trial is scheduled to commence, each counsel may file and serve a trial brief which may contain:
  - (A) A concise statement of the facts of the case;
  - (B) All admissions and stipulations;
  - (C) A short summary of the points of law involved, citing authorities in support thereof; and
  - (D) Any anticipated evidentiary problems.
- (2) In appropriate cases, the court may require submission of trial briefs.

**(b) Form of Briefs.**

- (1) Length. A brief must not exceed 35 pages in length, unless otherwise ordered by the court.
- (2) Appendices. Appendices must not include any matters that properly belong in the body of the brief.
- (3) Table of Contents and Table of Authorities. Any brief exceeding 10 pages in length, excluding exhibits, must be accompanied by an indexed table of contents setting forth the headings and subheadings contained in the body thereof and by an indexed table of the cases, statutes, rules, and other authorities cited.
- (4) Unpublished Opinions. If a party cites an unpublished judicial opinion, order, judgment, or other written disposition, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other paper in which it is cited.

**(c) Citations.**

- (1) Acts of Congress. A citation to an Act of Congress must include a parallel citation to the United States Code by title and section, if codified.
- (2) Regulations. A citation to a federal regulation must include a citation to the Code of Federal Regulations by title and section and the date of promulgation of the regulation.
- (3) Cases.
  - (A) Federal. The initial citation of a United States Supreme Court case must be to the United States Reports. A citation to the Federal Reporter, Federal Supplement, or Federal Rules Decisions must be used where available.
  - (B) State. The initial citation to a state court decision must include both the official report and any regional reporter published by West Publishing Company. California parallel citations may be limited to the official reports and California Reporter.
  - (C) Bankruptcy. A bankruptcy case citation must be to West's Bankruptcy Reporter, where available.
  - (D) Unreported Decisions. Where a citation to the above-named reporters is not available, the party citing the case must provide the court with an unmarked, complete copy of the decision.
  - (E) Citation Form. A case citation must include the name and district or circuit of the issuing court and the year of the decision.
- (4) Internal Page Citation. A case citation must include a further citation to the page where the proposition of law is found.

**LBR 9013-3. PROOF OF SERVICE****(a) Form.**

- (1) Declaration. Proof of service may be made by declaration of the person accomplishing the service. The declaration must include the following information:
  - (A) The day and manner of service;
  - (B) The person and/or entity served;
  - (C) The method of service employed (*e.g.*, electronic, personal, mail, substituted, *etc.*);
  - (D) Identification of the papers served;

- (E) The exact address (including zip code) at which service was made, or the email address or facsimile number if service is by electronic means; and
- (F) The capacity in which the person or entity was served.

(2) Identification of Persons or Entities Served. The following example is illustrative, not exhaustive, of the manner in which persons or entities may be identified in a proof of service required by this rule, if service of a document is required to be made upon such person or entity:

(A) Service on Non-attorneys

DEBTOR:

Jane Jones  
123 Main St.  
Any Town, CA 91234

TWENTY LARGEST UNSECURED CREDITORS:

[The full names and addresses must be listed for each person or entity served in this category. If there are less than 20 unsecured creditors of the estate, the proof of service must indicate that all unsecured creditors were served.]

SPECIAL NOTICE LIST:

[The full names and addresses must be listed for each person or entity served in this category.]

(B) Service on Attorneys

ATTORNEY FOR TRUSTEE:

Harold Smith, Esq.  
Smith & Smith  
234 First St., Suite 100  
Any Town, CA 91234

- (b) **Electronic versus Non-electronic Service.** The proof of service must differentiate between electronic and non-electronic service by: (1) stating that service will be accomplished through an NEF for parties and counsel who are registered CM/ECF Users; and (2) describing the manner by which service was accomplished on any other party or counsel who is not a CM/ECF User or is a CM/ECF User who has not consented to electronic service.
- (c) **Service by Mail.** Proof of service by mail may be made by the declaration of the person mailing or causing the papers to be mailed.
- (d) **Personal Service.** In addition to any other method authorized by law, proof of personal service may also be shown by declaration in the same manner as for mail that the declarant has caused the papers to be served by hand or shown by acknowledgment of service by the person receiving a copy thereof on the original of the copy served. The declarant must be

the attorney for the party, the person in charge of the attorney's office, or the party appearing without counsel.

- (e) **Service by Mail Equivalents.** Proof of service by messenger or overnight courier may be made by the person causing such service.
- (f) **Service by Fax Machine or Email.** Proof of service by fax machine or email may be made by the person causing the paper to be transmitted. Such proof of service must state the telephone number or email address to which the paper was transmitted and the method of confirmation that the transmission was received. A paper exceeding a total of 15 pages must not be served by fax machine, unless expressly authorized by the party receiving the transmission or by court order.
- (g) **Filing.** Except for matters being heard on notice shortened under LBR 9075-1, proof of service must be filed in the clerk's office no later than 5 days after service and the serving party must bring a conformed copy to the hearing. If the proof or acknowledgment of service is attached to the original document, it must be attached as the last page of the document.
- (h) **Failure to File.** The failure to prepare or file the proof of service required by this rule does not affect the validity of the service. The court may at any time allow the proof of service to be amended or supplied unless to do so would be prejudicial to the rights of any party.

**LBR 9013-4. NEW TRIAL OR HEARING ON CONTESTED MATTERS**

- (a) **Grounds.** The grounds for a motion for a new trial, a new hearing in a contested matter, or amendment of judgment pursuant to FRBP 9023 or F.R.Civ.P. 59(a) include, but are not necessarily limited to, the following:
  - (1) Irregularity in the proceedings of the court, adverse party, or jury;
  - (2) Any order of the court or abuse of discretion by which the party was prevented from receiving a fair trial;
  - (3) Misconduct by the jury;
  - (4) Accident or surprise that could not have been guarded against by the exercise of ordinary prudence;
  - (5) Newly discovered evidence material to the interest of the party making the application that could not with reasonable diligence have been discovered and produced at trial;
  - (6) Excessive or inadequate damages appearing to have been determined under the influence of passion or prejudice;
  - (7) Insufficiency of the evidence to justify the verdict or other decision; and
  - (8) Errors of law occurring at the trial.

(b) **Procedure.**

- (1) **Error of Law.** If the ground for the motion is error of law occurring at the trial, the error or errors relied upon must be stated specifically.
- (2) **Insufficiency of Evidence.** If the ground for the motion is the insufficiency of the evidence, the motion must specify with particularity wherein the evidence is claimed to be insufficient.
- (3) **Newly Discovered Evidence.** If the ground for the motion is newly discovered evidence, the motion must be supported by declarations by the party, or the agent of the party having personal knowledge of the facts, showing:
  - (A) When the evidence was first discovered;
  - (B) Why it could not with reasonable diligence have been produced at trial or the original hearing on a motion;
  - (C) What attempts were made to discover and present the evidence at trial or the original hearing on a motion;
  - (D) If the evidence is oral testimony, the nature of the testimony and the willingness of the witness to so testify; and
  - (E) If the evidence is documentary, the documents or duly authenticated copies thereof, or satisfactory evidence of their contents where the documents are not then available.

(c) **Hearing.** The motion will be determined based upon:

- (1) The pleadings and papers on file;
- (2) The recorder's transcript or digital recording; and
- (3) Declarations, if the ground is other than error of law or insufficiency of the evidence and the facts or circumstances relied on do not otherwise appear in the records of the court.

(d) **Declarations – Time for Filing.** Declarations in support of a motion for a new trial must be filed concurrently with the motion unless the court fixes a different time.

(e) **Calendaring of Motion.** The motion for a new trial must be noticed and heard (if required by the court) as provided in LBR 9013-1.

**LBR 9015-1. JURY TRIALS**

- (a) **Number of Jurors.** If a trial of the proceeding or matter is to be before a jury, the jury must consist of not less than 6 members. The court may impanel such number of alternate jurors as it determines desirable.
- (b) **Instructions.**
- (1) Proposed jury instructions must be in writing, and must be filed and served at least 5 days before trial is scheduled to begin. Each requested jury instruction must:
    - (A) Be set forth in full on a separate page;
    - (B) Embrace only one subject or principle of law; and
    - (C) Not repeat a principle of law contained in any other request.
  - (2) The identity of the party requesting the jury instructions must be disclosed on a cover page only and must not be disclosed on the proposed instructions.
  - (3) The authority or source of each proposed instruction must be set forth on a separate page or document and must not be disclosed on the proposed instruction.
- (c) **Objections to Instructions.**
- (1) Objections to proposed instructions must be filed and served on or before the first day of trial unless the court permits oral objections.
  - (2) Written objections must be numbered and must specify distinctly the objectionable matter in the proposed instruction. Each objection must be accompanied by citation of authority.
  - (3) Where applicable, the objecting party must submit an alternative instruction covering the subject or principle of law. The alternative instruction must be set forth on a separate paper. The identity of the requesting party or the authority or source of the proposed instruction must not be disclosed on the alternative instruction.
- (d) **Special Verdicts and Interrogatories.**
- (1) Any request for a special verdict or a general verdict accompanied by answers to interrogatories must be filed and served at least 5 days before trial is scheduled to commence.
  - (2) Special verdicts and interrogatories must conform to the requirements of F.R.Civ.P. 49, and must not bear any identification of the party presenting the form. Identification must be made only on a separate page appended to the front of the special verdict and interrogatory form.

**LBR 9015-2. DEMAND FOR JURY TRIAL****(a) Right to Trial by Jury.**

- (1) A party claiming a right to trial by jury must make a demand as specified in subsection (b) of this rule.
- (2) Nothing contained in this rule shall be deemed to create or imply a right to a jury trial where no such right exists under applicable law.

**(b) Demand.**

- (1) Time and Form of Demand. A party must demand a trial by jury in accordance with Fed. R.Civ.P. 38(b).
  - (2) Statement of Consent. A demand must include a statement that the party does or does not consent to a jury trial conducted by the bankruptcy court. Within 10 days of the service of the demand and statement of consent or non-consent, all other parties must file and serve a statement of consent or non-consent to a jury trial conducted by the bankruptcy court.
  - (3) Specification of Issues. In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If a party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order may serve a demand for trial by jury of any other or all of the issues of fact in the action.
  - (4) Determination by Court. On motion or on its own initiative the court may determine whether there is a right to trial by jury of the issues for which a jury trial is demanded or whether a demand for trial by jury in a proceeding on a contested petition must be granted.
  - (5) Cover Sheet Insufficient. Any notation on Official Form B104, Adversary Proceeding Sheet filed under LBR 7003-1 concerning whether a jury trial is, or is not, demanded does not constitute a demand for jury trial sufficient to comply with F.R.Civ.P. 38(b) or this rule.
- (c) Withdrawal of Demand.** A demand for trial by jury made in accordance with this rule may not be withdrawn without the consent of the parties.
- (d) Waiver.**
- (1) The failure of a party to file and serve a demand in accordance with this rule, and to file it as required by FRBP 5005, constitutes a waiver of trial by jury.
  - (2) Notwithstanding the failure of a party to demand a jury when such a demand might have been made of right, the court on its own initiative may order a trial by jury of any or all issues.

(e) **Trial by the Court.**

- (1) Subject to the provisions of subsection (d)(2) of this rule, an issue not demanded for trial by jury will be tried by the court.
- (2) Where a demand for trial by jury has been made in accordance with this rule, the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, may consent to trial by the court sitting without a jury.

(f) **Advisory Jury and Trial by Consent.** In all actions not triable of right by jury, the court on motion or on its own initiative may try any issue with an advisory jury or, except in actions against the United States when a statute of the United States provides for trial without a jury, the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

(g) **Pretrial Procedure Where Jury Trial Requested.** Where a jury is demanded, all pretrial proceedings, through approval and entry of the pretrial order, will be conducted by the bankruptcy judge.

(h) **Motion for Withdrawal of Reference.**

- (1) Within 5 days of the entry of the pretrial order, any party may file and serve a motion to the district court to withdraw reference pursuant to LBR 5011-1.
- (2) The failure of any party to file and serve a motion to withdraw reference within the 5-day time period constitutes consent by all parties to the jury trial being presided over by the bankruptcy judge.
- (3) Nothing in this rule precludes an earlier motion to withdraw reference on the grounds set forth in 28 U.S.C. § 157(d).

**LBR 9019-1. SETTLEMENTS**

(a) **General.**

- (1) Parties must inform the courtroom deputy immediately by telephone or other expeditious means when a matter set for hearing has been settled out of court and that a stipulation will be filed and a proposed order approving the stipulation will be lodged.
- (2) If a written stipulation executed in compliance with LBR 9071-1 resolving all issues as to all parties is filed at least 2 days before a scheduled hearing and a judge's copy is delivered to chambers, no appearance at the hearing will be necessary, provided that the stipulation is accompanied by a notice and motion to approve compromise of controversy if required under FRBP 9019.

- (b) **Failure to Comply – Sanctions.** The failure to comply with the provisions of this rule may subject counsel to the imposition of sanctions under LBR 9011-3.

**LBR 9020-1. ORDER TO SHOW CAUSE RE CONTEMPT**

- (a) **General.** Unless otherwise ordered by the court, contempt proceedings are initiated by filing a motion that conforms with LBR 9013-1 and a proposed order to show cause re contempt.

- (b) **Motion.** The motion must be served on the responding party which shall have 5 days to object to the issuance of the order to show cause.

(c) **Proposed Order to Show Cause re Contempt.**

- (1) The proposed order must clearly apprise the party to whom it is to be directed that such party must show cause, if any there is, why that party should not be held in contempt for the allegedly contemptuous conduct.
- (2) The allegedly contemptuous conduct must be clearly identified in the proposed order and not just by reference to the content of the motion.
- (3) The proposed order must have blank spaces in which the court may fill in the date, time, and location of the hearing and the dates by which a responsive pleading and reply thereto are due.

(d) **Hearing on Issuance of Order to Show Cause re Contempt.**

- (1) If no responsive pleadings to the motion for the order to show cause are received by the court within the time allowed, the court may conclude that there is no objection to issuance of the order to show cause.
- (2) No hearing on the motion for issuance of the order to show cause will be held unless the court so orders.
- (3) If the motion for order to show cause is granted without a hearing, the court will issue and forward to the moving party the order to show cause setting the date and time of the contempt hearing.

(e) **Service of Order to Show Cause re Contempt.**

- (1) Unless the court orders otherwise in the order to show cause, the moving party must serve the issued order to show cause on the respondent not later than 21 days before the date set for the hearing.
- (2) Personal service of the issued order to show cause is required on any entity not previously subject to the personal jurisdiction of the court.
- (3) All other entities may be served either personally or by mail in accordance with FRBP 7004.

- (f) **Hearing on Merits of Order to Show Cause re Contempt.** At the hearing, the court may treat as true any uncontroverted facts established by declaration and limit testimony to controverted facts only.

**LBR 9021-1. ORDERS AND JUDGMENTS**

- (a) **General.** A proposed order or judgment (collectively, “order”) must be submitted either in paper form or electronically via LOU in accordance with the LOU Procedures and these rules. Unless required as a court-mandated form order pursuant to LBR 9009-1 or otherwise ordered by the court, an order must not contain any attached agreement or other exhibit. If an order approves a motion which is based in whole or part upon an agreement or other exhibit, the order must refer to the docket number and/or title of the document in which the agreement or exhibit is found. Nothing in this rule prevents a prevailing party from serving a copy of an entered order along with a copy of an agreement or other exhibit referred to in the order.

(b) **Preparation, Lodging, and Signing of Orders.**

- (1) **Form of Proposed Order.** A proposed order must be set forth in a separately captioned document complying with LBRs 9004-1 and 9009-1, and must include the Notice of Entered Order and Service List prepared in accordance with subsection (b)(1)(E) of this rule. Except for an order submitted at the hearing, a proposed order must be accompanied by a proof of service reflecting service of the proposed order on the parties required by subsection (b)(1)(E) of this rule and as the court directs.

(A) **Who Must Prepare.** Unless the court otherwise directs, a proposed order must be prepared by the attorney for the prevailing party.

(B) **When Due if a Hearing was Scheduled.** If not presented at the hearing, a proposed order must be served and lodged with the clerk within 7 days of the granting thereof. Except as provided in LBR 7056-1(b)(2) and LBR 7016-1(b)(1) or if the presiding judge has posted a tentative ruling authorizing the submission of a proposed order, a proposed order must not be lodged prior to the hearing or trial of the underlying matter.

(C) **Failure to Lodge Timely Order.** If the prevailing party fails to serve and lodge a proposed order within the allotted time, then any other party present at the hearing may lodge and serve a proposed order. All other parties shall have 7 days within which to file and serve an objection in compliance with subsection (b)(3) of this rule. If no party submits a proposed order, the court may prepare and enter such order as it deems appropriate, including an order to show cause why the motion or proceeding should not be dismissed without prejudice for failure to prosecute.

(D) **Copies and Envelopes.** Subject to subsection (b)(1)(E) of this rule, LBR 9036-1, and the LOU Procedures, the original proposed order must be accompanied by: (i) stamped, addressed envelopes for all persons or entities who will be served by the court non-electronically under subsection

(b)(1)(E)(i) of this rule, to include only the debtor (and debtor's attorney, if any), movant (or movant's attorney, if any), and all parties (or their attorneys, if any) who filed an opposition or other objection to the relief requested; and (ii) the same number of copies of the proposed order to match the number of envelopes required.

(E) Notice of Entered Order and Service List.

(i) Entered Order Served by the Court. If an entered order is to be served by the court, the proposed order must be accompanied by court-mandated Form 9021-1.1, Notice of Entered Order and Service List, regardless of whether the proposed order is lodged non-electronically or electronically pursuant to the LOU Procedures.

(ii) Entered Order Served Other than by the Court. If an entered order is to be served other than by the court, the party responsible for lodging the proposed order must promptly serve a copy of the entered order and file a proof of service of the entered order in the form and manner required by LBR 9013-3.

(2) Order upon Stipulation. Except as provided in LBR 3015-1(r)(3) and LBR 4001-1(b)(2)(B), a proposed order approving a written stipulation must refer to the title of the stipulation and be contained in a separate document prepared and lodged upon the filing of the stipulation with the court. A proposed order lodged electronically must be prepared and uploaded in accordance with the LOU Procedures.

(3) Proposed Order when Opposition to Motion was Filed.

(A) Service of Proposed Order on Contesting Party. The attorney who has the duty to prepare any order required by this rule must serve a copy of the proposed order on counsel, or party if filed without counsel, who filed an opposition or other objection to the relief requested, either before or on the same day that the order is lodged with the court and must file a proof of service with the order. Alternatively, the attorney preparing the order may present it to opposing counsel for approval as to form before the order is lodged, in which case opposing counsel must immediately approve or disapprove the form of order and return it to counsel who prepared it. Where a proposed order is tendered at the hearing, the order may be lodged without prior service on the opposition.

(B) Separate Objection to Proposed Order. Opposing counsel may, within 7 days after service of a copy of a proposed order prepared pursuant to this rule, file and serve an objection to the form of the order, setting forth the grounds therefor. Opposing counsel must attach as exhibits to the objection (i) a copy of the order that is the subject of the objection and (ii) a copy of the proposed alternative form of order. The proposed alternative form of order so labeled, must be lodged with the objection. A judge's copy of the

objection and proposed alternative form of order must be served on the judge in chambers in accordance with LBR 5005-2(d). The failure to file and serve a timely objection will constitute a waiver of any defects in the form of the order.

- (C) Endorsement of Counsel. Unless the court otherwise directs, a proposed order will not be signed by the judge unless (i) opposing counsel has endorsed thereon an approval as to form; (ii) opposing counsel has stipulated thereto on the record at the hearing, or (iii) the time for objection to a form of order properly served has expired under subsection (b)(3)(B) of this rule. If it finds the ends of justice so requires, the court may conduct a hearing on the proper form of the order or decide any objection thereto without a hearing.
  - (4) Proposed Orders on Unopposed Motions. Notwithstanding subsection (b)(3) of this rule, if no opposition was filed or made by a party or counsel at the hearing, no service of the proposed order is required prior to lodging of the proposed order, and the non-opposing party will be deemed to have waived any objection to the form of the order. The court may sign a proposed order on an unopposed motion at the hearing or immediately upon its lodging with the clerk without waiting for the objection period of subsection (b)(3)(B) of this rule to expire.
  - (5) Signing of Orders for Absent Judges. Except as otherwise provided by F.R.Civ.P. 63, application for any order on a case or proceeding must be made to the judge to whom the case is assigned. If the judge to whom the case or proceeding is assigned is not available and there is an emergency necessitating an order, the judge's courtroom deputy must be consulted to determine whether a judge of this court has been designated to handle matters in the absence of the assigned judge. If a designation has been made, the application must be presented to the designated judge. If no designation has been made, then the matter must be presented to the duty judge, if any, or in his or her absence, to any other judge in accordance with normal divisional practices. If no emergency exists, the application will be held by the assigned judge's courtroom deputy until the assigned judge is available. Any judge may sign an order for another judge.
  - (6) Obtaining Certified Copies of Order. Payment for a certified copy of an order must be made to the cashier in the clerk's office. No checks will be accepted in the courtroom or by courtroom deputies. If a certified copy of a stipulated or default order is desired, the order may either be presented in the courtroom together with a clerk's receipt showing prepayment of the certification fee, or the certified copy may be requested from the clerk's office after the order has been signed and entered.
- (c) **Entry of Orders.**
- (1) Timing of Taxation of Costs. Entry of an order must not be delayed pending taxation of costs to be included therein pursuant to LBR 7054-1. A blank space must be left in the form of an order for insertion of costs by the clerk after they have been taxed.

- (2) Calculation of Interest. If interest is accruing or will accrue on any order, the party preparing the proposed form of order must indicate by memorandum attached thereto the applicable interest rate as computed under 28 U.S.C. § 1961(a) or 26 U.S.C. § 6621 and the amount of interest to be added for each day the document remains unsigned.
  - (3) By Stipulation with Entry of Order. The court may withhold entry of an order to permit the parties to submit, either separately or jointly by stipulation, the computation of the amount of money to be awarded in accordance with the court's determination of the issues.
  - (4) Contested Computation. If the parties do not stipulate to a computation as provided in this rule, any party may file and serve a computation claimed to be in accordance with the determination of the issues by the court. Within 5 days of service of the computation, an opposing party may file and serve an objection accompanied by an alternate computation. If no objection is filed within 5 days, the order may be entered in accordance with the original computation submitted.
  - (5) Hearing on Contested Computation. If it finds the ends of justice so require, the court may place the matter on calendar for hearing provided there is at least 5 days notice to the parties. After hearing, the court will determine the correct amount on which the order will be entered. The hearing will be limited to a determination of the correct amount to be entered in the order and shall not constitute an opportunity for rehearing or reconsideration of the determination of other issues previously ruled on by the court.
  - (6) Effect of Stipulation to Amount of Costs. A stipulation by the parties to the amount to be entered pursuant to the determination of the issues by the court will not be deemed to be a waiver of any rights of the parties to appeal or otherwise challenge the determination of such issues by the court.
  - (7) Delegation of Authority to Sign Designated Orders. The court may delegate authority to the clerk to:
    - (A) Sign specified form orders involving ministerial matters; and
    - (B) Facsimile stamp specified orders consistent with oral rulings by the court.
- (d) **Duty of Clerk as to an Order Directing an Action by an Official of the United States**. When an order is entered by the court directing any officer of the United States to perform any act, unless such officer is present in court when the order is made, the clerk must forthwith transmit a copy of the order to the officer ordered to perform the act.
- (e) **Amended or Corrected Orders**.
- (1) If an error or omission in the form of an entered or lodged order is discovered, a party in interest may request amendment or correction of the order by filing and serving a motion under LBR 9013-1(a) or LBR 9013-1(o).

- (2) The motion must set forth specifically the changes requested in the form of the order and reasons such changes are necessary and appropriate. A copy of the proposed amended order must be attached as an exhibit to the motion when filed and served.
- (3) The amended order must state in its caption the date of entry of the original order and, if applicable, the date, time, and place of the original hearing.
- (4) If the motion is filed and served pursuant to LBR 9013-1(o), the proposed amended order itself must be lodged at the same time as the required declaration establishing that no timely objection was served.

**LBR 9027-1. REMOVAL AND REMAND**

- (a) **Notice of Removal.** A notice of removal must be filed with the clerk of the bankruptcy court.
- (b) **Status Conference.**
  - (1) Upon the filing of a notice of removal pursuant to FRBP 9027, the clerk will issue a notice of status conference before the judge to whom the case or proceeding has been assigned.
  - (2) The status conference will be set not later than 45 days after the date that the notice of status conference is mailed, unless otherwise ordered by the court.
  - (3) Within 5 days of receipt, the removing party must serve the notice of status conference on all other parties to the removed action, including any trustee appointed in the case.
- (c) **Remand.** A motion for remand must be filed with the clerk of the bankruptcy court not later than 30 days after the date of filing of the notice of removal.
- (d) **Filing of Pleadings.**
  - (1) Unless otherwise ordered by the court, the party filing the notice of removal must file with the clerk, in chronological order, copies of all process, papers, minute entries, orders, and other documents filed in the litigation prior to removal, together with a copy of the docket of the removed action from the court where the removed litigation was pending.
  - (2) All such documents must be filed not later than:
    - (A) 30 days after the date of filing of the notice of removal; or
    - (B) if a motion to remand is filed prior to expiration of such 30-day period, 10 days after entry of an order denying such motion to remand.

- (e) **Demand for Jury Trial.** Within 10 days after service of the notice of removal, a party must comply with LBR 9015-2 to preserve any right to a trial by jury.

**LBR 9036-1. NOTICE AND SERVICE BY ELECTRONIC TRANSMISSION**

(a) **Service By Electronic Means.**

- (1) Upon the addition of any document or item to a CM/ECF docket, whether electronically or non-electronically, an NEF is automatically generated by CM/ECF and sent electronically to all persons or entities that are CM/ECF Users and have consented to electronic service. Regardless of whether it is the duty of the court or of another person or entity to provide notice or service, service of the NEF constitutes notice and service pursuant to the F.R.Civ.P., FRBP, and these rules for all persons and entities that have consented to electronic service.
- (2) A person or entity that is entitled to service of a document, but is not a CM/ECF User or is a CM/ECF User who has not consented to electronic service, must be served as otherwise provided by the F.R.Civ.P., FRBP, and these rules.

(b) **Exceptions.** Electronic transmission of an NEF does not constitute service or notice of the following documents that must be served non-electronically:

- (1) Service of a summons and complaint under FRBP 7004;
- (2) Service of a subpoena under FRBP 9016;
- (3) Service of a summons and petition under FRBP 1010;
- (4) Service upon the United States trustee of papers listed as exceptions under LBR 2002-2(a)(3); and
- (5) Where conventional service is otherwise required under the F.R.Civ.P., FRBP, LBRs, or by court order.

**LBR 9070-1. EXHIBITS**

(a) **Trial Exhibits.**

- (1) **Identification.** Unless otherwise ordered by the court, all exhibits to be offered into evidence at trial of an adversary proceeding or contested matter must be numbered and marked for identification with tags available from the clerk's office.
- (2) **Numbering.** Whenever feasible, exhibits of plaintiffs or movants must be marked with numbers, and exhibits of defendants or respondents must be marked with letters.
- (3) **Exhibit Register.** The parties presenting exhibits must tag the exhibits and prepare an exhibit register on the form available from the clerk's office prior to trial.

- (4) Lodging Exhibits. Unless otherwise ordered by the court, the tagged exhibits and completed exhibit register must be delivered in the courtroom to the courtroom deputy or court recorder prior to the beginning of trial.
- (5) Copies. Each party must bring sufficient copies of each exhibit for all counsel, the witness, and the judge.

**(b) Retention and Disposition of Trial Exhibits.**

- (1) All models, diagrams, documents, or other exhibits lodged with the clerk that are admitted into evidence or marked at trial will be retained by the clerk until expiration of the time for appeal without any appeal having been taken, entry of a stipulation waiving or abandoning the right to appeal, final disposition of any appeal, or order of the court, whichever occurs first.
- (2) If any exhibit is not withdrawn from the clerk's office within 30 days after the person or persons to whom it belongs are given written notice to claim it, the clerk may destroy the exhibit or otherwise dispose of it as the court may approve.

**LBR 9071-1. STIPULATION**

**(a) General.**

- (1) Oral Stipulation. An oral stipulation will be enforceable by the court if made and approved in open court.
- (2) Written Stipulation. A written stipulation entered into pursuant to these rules must be filed with the court, but will not be effective until a separate order thereon is entered.
- (3) Order on Stipulation. An order on a stipulation must be prepared and lodged in accordance with LBR 9021-1(b)(2).

**(b) Stipulation Requiring Notice under FRBP 4001(d) or 9019.**

- (1) Unless otherwise ordered by the court, the notice requirement of FRBP 4001(d) or FRBP 9019 may be satisfied by either serving the motion on each of the entities specified in the applicable rule when it is filed or by serving on such entities a motion for approval of the proposed settlement stipulation pursuant to LBR 9013-1(o).
- (2) A stipulation requiring notice under either FRBP 4001(d) or FRBP 9019 requires approval by the court.

**LBR 9074-1. TELEPHONIC APPEARANCES AT COURT HEARINGS**

A party who wishes to appear telephonically at a court hearing must consult the court's web site to determine whether a telephonic appearance on a particular matter is permissible and to obtain the judge's procedure for telephonic appearances.

**LBR 9075-1. EMERGENCY MOTIONS AND APPLICATIONS FOR ORDERS  
SHORTENING TIME****(a) Emergency Motion.**

- (1) Scope of Rule. An emergency motion requiring an order on less than 48 hours notice must be obtained in accordance with this rule.
- (2) Obtaining Hearing Date and Time. Unless otherwise ordered by the court, a hearing date and time may be obtained by telephoning the chambers of the judge to whom the case is assigned or such member of the judge's staff as may be designated to schedule hearings on emergency motions. The identity of the designated member of the judge's staff is available from the clerk's office and posted on the court's website. Prior to telephoning chambers, the court's website should be consulted to determine whether the judge has additional procedures or instructions for obtaining a hearing on an emergency motion.
- (3) Contents of Moving Papers. The motion must: (A) state the relief requested, (B) comply with any other applicable provisions of these rules regarding the relief requested, and (C) be accompanied by the declaration of one or more competent witnesses under penalty of perjury that (i) justifies the setting of a hearing on an emergency basis and (ii) supports the granting of the motion itself on the merits. A separate motion for an expedited hearing is not required under this rule.
- (4) Telephonic Notice. Unless otherwise ordered by the court, immediately upon obtaining a hearing date and time, movant must give telephonic notice of the emergency hearing and the substance of the motion to the parties to whom notice of the motion is required to be given under the FRBP and these rules, the United States trustee, and any other party that is likely to be adversely affected by the granting of the motion. Movant must also advise the parties by telephone whether the moving papers will be served by e-mail, fax, or personal service.
- (5) Service of Moving Papers. Unless otherwise ordered by the court, movant must serve the moving papers by e-mail, fax, or personal service on the parties set forth in subsection (a)(4) not later than the time the moving papers are filed with the court.
- (6) Filing of Moving Papers. Unless otherwise ordered by the court, the moving papers must be filed not later than 2 hours before the time set for the hearing and a judge's copy served on the judge in chambers in accordance with LBR 5005-2(d).

- (7) Response to Moving Papers. Any response, written or oral, to the moving papers may be presented at the time of the hearing on the motion.
- (8) Proof of Notice to be Presented at the Hearing. At the time of the hearing, movant must present to the court and file (A) a declaration of the efforts made to give telephonic notice of the hearing and substance of the emergency motion to the parties set forth in subsection (a)(4) and (B) a proof of service of the moving papers.

**(b) Application for Order Shortening Time.**

- (1) Scope of Rule. A party may request that a non-emergency motion be heard on notice shorter than would otherwise be required by these rules. Such a request must be made by written application consistent with court-approved form F 9075-1.1, Application for Order Shortening Time (“application”). The application may be granted for good cause shown in accordance with this rule.
- (2) Contents of Application. Unless otherwise ordered by the court, the application must:
  - (A) Describe the nature of the relief requested in the underlying motion, identify the parties affected by the relief requested in the motion, and state the reasons necessitating a hearing on shortened time; and
  - (B) Be supported by the declaration of one or more competent witnesses under penalty of perjury that justifies the setting of a hearing on shortened time and establishes a *prima facie* basis for the granting of the underlying motion.
- (3) Filing of Application. An application must be filed with the clerk concurrently with the moving papers that are to be heard on shortened notice.
- (4) Service of Application. Unless otherwise ordered by the court, movant must serve the application and the moving papers on each of the parties to whom notice of the underlying motion is required to be given under the FRBP and these rules, the United States trustee, and any other party that is likely to be adversely affected by the granting of the underlying motion. A separate notice of the application is not required.
- (5) Proposed Order Shortening Time. At the time the application and underlying motion are filed, movant must lodge a separate proposed order consistent with court-approved form F 9075-1.2, Order Setting Hearing on Shortened Notice that (A) identifies the parties to whom notice is proposed to be given; (B) states the nature and timing of the proposed shortened notice, which must not be less than 48 hours; (C) states the means of service, *i.e.*, telephone, fax, e-mail, personal service, or as ordered by the court; and (D) contains appropriate blanks for the court to insert the date and time of the hearing and the date for filing and serving the opposition papers.

- (6) Court Ruling on Application. The application will be determined *ex parte* by the court on the basis of the papers submitted with the application, subject to the right of any party to object to the adequacy of notice pursuant to subsection (c) of this rule. The court will promptly notify the movant of its decision on the application and, if granted, the date and time set for the hearing.
  
- (7) Notice of Hearing.
  - (A) If the application is granted, movant must serve the order setting the hearing on shortened notice on each of the parties to whom notice of the underlying motion is required to be served by the FRBP and these rules, the United States trustee, any other party that is likely to be adversely affected by the granting of the underlying motion, and as otherwise ordered by the court. Notice must be given by telephone, fax, e-mail, personal service, or as ordered by the court.
  
  - (B) If the application is denied, movant may, unless otherwise ordered by the court, set the underlying motion for hearing on regular notice and serve notice of the hearing in accordance with LBR 9013-1.
  
- (8) Proof of Service. Proof of service of all required documents must be filed at least 2 days before the hearing, unless otherwise ordered by the court.
  
- (c) **Objection to Timing of Hearing.** At the hearing on the motion, any party may object to the adequacy of the notice provided and seek a continuance for good cause shown.