

LOCAL BANKRUPTCY RULE 7001-1

PLEADINGS IN ADVERSARY PROCEEDINGS

(a) JURISDICTION ALLEGATIONS

In all adversary proceedings, the statements required by F.R.B.P. 7008(a) and 7012 shall be plainly stated in the first numbered paragraph of any paper.

(b) AMENDED PLEADINGS

- (1) An original and 1 copy of the proposed amended pleading shall be lodged as a separate document and served with any notice of motion or stipulation to amend a pleading.
- (2) Every amended pleading filed as a matter of right or allowed by order of court shall be complete, including exhibits. The amended pleading shall not incorporate by reference the prior superseded pleading.
- (3) No pleading will be deemed amended until compliance with this Local Bankruptcy Rule and F.R.B.P. 7015 regarding amended pleadings is effected, unless otherwise ordered by the court.
- (4) Unless otherwise ordered, an amended pleading allowed by order of the court shall be deemed served upon the parties who have previously appeared, on the date the motion to amend is granted or the stipulation therefor is approved, provided the proposed amended pleading was lodged and served in accordance with subsection (1) above. Otherwise, actual service and filing is required. Service of amended pleadings on a party who has not previously appeared shall be made as provided in Local Bankruptcy Rules 2002-2 and 7004-1.

LOCAL BANKRUPTCY RULE 7003-1

ADVERSARY PROCEEDING SHEET

All complaints presented to the clerk for filing shall be accompanied by an Adversary Proceeding Sheet (Form B104), completed and signed by the attorney or party presenting the complaint. The form shall contain the names, addresses and telephone numbers of the parties, and also their attorneys if known.

LOCAL BANKRUPTCY RULE 7004-1**ISSUANCE AND SERVICE OF PROCESS AND NOTICE****(a) SERVICE OF SUMMONS**

- (1) Manner of Service. Service shall be made in the manner authorized in F.R.B.P. 7004. If any paper is served by mail, the mailing address shall include the zip code.
- (2) Presentation for Issuance. The summons shall be prepared by the attorney upon forms supplied by the clerk. The summons shall be presented concurrently with the filing of a complaint or of an involuntary petition pursuant to 11 U.S.C. § 303.
- (3) Exception - Statute of Limitations. If the statute of limitations applicable to any claim in a complaint will expire before the summons can be prepared and submitted, the complaint shall be accepted by the clerk for filing without a summons. The summons shall be presented for issuance within 2 days after the complaint is filed under this exception.
- (4) Limitations on Service by Marshal. Except as otherwise provided by order of the court, or when required by the treaties or statutes of the United States, process shall not be presented to the United States Marshal for service. However, civil process on behalf of the United States government or an officer or agency thereof shall be made by the United States Marshal upon request by the government.

(b) PROOF OF SERVICE

- (1) Form. Proof of service may be made by declaration of the person accomplishing the service. That declaration shall 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., personal, mail, substituted, etc.).
 - (D) Identification of the papers served.

- (E) The exact address (including zip code) at which service was made.
- (F) The capacity in which the person or entity was served.

SAMPLE (illustrative, not exhaustive):

DEBTOR:

Jane Jones
123 Main St.
Any Town, CA 91234

ATTORNEY FOR TRUSTEE:

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

TWENTY LARGEST UNSECURED CREDITORS:

[The full names and addresses should 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 should indicate that all unsecured creditors were served.]

SPECIAL NOTICE LIST:

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

- (2) Service by Mail. Proof of service by mail may be by the declaration of the person mailing or causing the papers to be mailed.
- (3) 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 shall be the attorney for the party, the person in charge of the attorney's office, or the party appearing without counsel.
- (4) Service by Mail Equivalents. Proof of service by messenger or overnight courier may be made by the person causing such service.

- (5) Service by Fax Machine. Proof of service by fax machine may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received. No paper exceeding a total of 15 pages shall be served by fax machine, except with the express prior consent of the party receiving the transmission, or by court order.
- (6) Filing. Except for matters being heard on shortened notice and under Local Bankruptcy Rule 9075-1, proof of service shall be filed in the clerk's office no later than 5 days after service and the serving party shall bring a conformed copy to the hearing. If the proof or acknowledgment of service is attached to the original document, it shall be attached as the last page of the document.
- (7) Failure to File. Failure to prepare or file the proof of service required by this Local Bankruptcy 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 result in material prejudice to the substantive rights of any party.

(c) **REQUESTS FOR NOTICE**

In chapter 9 and 11 cases only, the debtor in possession or trustee shall maintain a current mailing list of all entities who have served requests for notice served pursuant to F.R.B.P. 2002(i) and shall promptly furnish a copy of that list upon the request of any creditor or other interested party.

See also Local Bankruptcy Rule 2002-2: NOTICE TO UNITED STATES OR FEDERAL AGENCIES.

LOCAL BANKRUPTCY RULE 7016-1**STATUS CONFERENCE, PRE-TRIAL, AND TRIAL PROCEDURE**

The procedures required by this Rule modify and take the place of the procedures set forth in F.R.Civ.P. 16(b).

(a) STATUS CONFERENCE

In any adversary proceeding, the clerk shall issue summons and notice of the date and time of the status conference.

- (1) Who Shall Appear. Each party appearing at any status conference shall be represented by either the attorney (or the party if without counsel) who is responsible for trying the case or the attorney who is responsible for preparing the case for trial.
- (2) Contents of Joint Status Report. Unless otherwise ordered by the court, at least 14 days before the date set for each status conference, the parties are mutually required to file a Joint Status Report discussing the following:
 - (A) State of discovery, including a description of completed discovery and detailed schedule of all further discovery then contemplated.
 - (B) A discovery cut-off date.
 - (C) A schedule of then contemplated law and motion matters.
 - (D) Prospects for settlement.
 - (E) A proposed date for the pre-trial conference and/or the trial.
 - (F) Whether and when counsel have met and conferred in compliance with Local Bankruptcy Rule 7026-1.
 - (G) Any other issues affecting the status or management of the case.
 - (H) Whether the parties are interested in alternative dispute resolution.

If defendant has not responded to the complaint or fails to cooperate in the preparation of a joint status report, then plaintiff shall file a unilateral status report not less than 10 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report shall contain a declaration setting forth the attempts made by plaintiff to contact or obtain the cooperation of the defendant.

- (3) Scheduling Order. Unless otherwise ordered by the court, within 7 court days after the status conference, the plaintiff shall submit a Scheduling Order setting forth the following:
- (A) Deadline to join other parties and to amend the pleadings;
 - (B) Deadline to complete discovery;
 - (C) Deadline to file joint pre-trial order and any pre-trial motions;
 - (D) Any dates set for further status conferences, a final pre-trial conference, and the trial;
 - (E) Any other appropriate matter; and
 - (F) Proof of service on all opposing counsel, or parties if parties are not represented by counsel.

(b) JOINT PRE-TRIAL ORDER

- (1) When Required. In any adversary proceeding or contested matter, unless otherwise ordered by the court, attorneys for the parties shall prepare and file a written joint pre-trial order approved by counsel for all parties. Unless otherwise specified by the court, the joint pre-trial order shall be filed and served not less than 14 days before the date set for the trial or pre-trial conference, if one is ordered. Preparation and filing of the pre-trial order shall be the responsibility of the parties' counsel, and it shall be equally the responsibility of the parties themselves if the parties are not represented by counsel. All parties shall meet and confer at least 28 days before the date set for trial or pre-trial conference, if one is ordered, for the purpose of preparing the pre-trial order.
- (2) Contents of Pre-Trial Order. Said order shall include the following statements in the following order:
- (A) "The following facts are admitted and require no proof:" (Set forth a concise statement of each.)

- (B) “The following issues of fact, and no others, remain to be litigated.” (Set forth a concise statement of each.)
- (C) “The following issues of law, and no others, remain to be litigated.” (Set forth a concise statement of each.)
- (D) “Attached is a list of exhibits intended to be offered at the trial by each party, other than exhibits to be used for impeachment only. The parties have exchanged copies of all exhibits.” (Attach a list of exhibits in the sequence to be offered, with a description of each, sufficient for identification, and as to each state whether or not there is objection to its admissibility in evidence and the nature thereof.) If deposition testimony is to be offered as part of the evidence, the offering party shall comply with Local Bankruptcy Rule 7027-1(a).
- (E) “The parties have exchanged a list of witnesses to be called at trial.” The parties shall exchange a list of names and addresses of witnesses, including expert witnesses, to be called at trial other than those contemplated to be used for impeachment or rebuttal. The lists of witnesses shall be attached to the proposed joint pre-trial order and shall describe concisely the subject of their proposed testimony. If expert witnesses are to be called at trial, the parties shall exchange short narrative statements of the qualifications of the expert and the testimony expected to be elicited at trial. If reports of experts to be called at trial have been prepared, they shall be exchanged but shall not substitute for the narrative statement required.
- (F) “Other matters that might affect the trial, such as anticipated motions in limine, motions to withdraw reference due to timely jury trial demand pursuant to Local Bankruptcy Rule 9015-2, or other pre-trial motions.”
- (G) “All discovery desired to be conducted has been completed.”
- (H) “The parties are ready for trial.”
- (I) “The estimated length of trial is _____.”
- (J) “The foregoing admissions have been made by the parties, and the parties have specified the foregoing issues of fact and law remaining to be litigated. Therefore, this order shall supersede the pleadings and govern the course of trial of this cause, unless modified to prevent manifest injustice.”

(c) PLAINTIFF'S DUTY

It shall be the duty of plaintiff to prepare and sign a proposed joint pre-trial order and to serve it in such manner so that it will actually be received by the office of counsel for all other parties not later than 4:00 p.m. on the fifth court day prior to the last day for filing said proposed pre-trial order. The order as proposed by plaintiff shall be complete in all respects except for other parties' lists of exhibits and witnesses.

(d) DUTY OF PARTIES OTHER THAN PLAINTIFF

Within 3 court days following other parties' receipt of plaintiff's proposed order, it shall be the duty of each other party to take action as follows:

- (1) Agreement With Form of Proposed Order. If plaintiff's proposed order is satisfactory, attach that party's list of exhibits and witnesses to the order, indicate approval of the proposed order by signature, file it with the clerk in time to be received within the time prescribed in paragraph (b)(1) of this Local Bankruptcy Rule, and serve all other parties with a completed copy of the order so filed; or
- (2) Disagreement With Form of Proposed Order. If plaintiff's proposed order is unsatisfactory:
 - (A) Immediately meet with or telephone plaintiff in a good faith effort to achieve a joint proposed order; and
 - (B) If such effort is unsuccessful, prepare a separate proposed order and file it, together with plaintiff's order and a declaration of that party setting forth the efforts made to comply with subparagraph (A) immediately above. These shall be filed and served in such a manner that they will actually be received by the clerk and the plaintiff all within the time set forth in paragraph (b)(1) of this Local Bankruptcy Rule.

(e) NON-RECEIPT OF PROPOSED JOINT PRE-TRIAL ORDER

- (1) If the plaintiff has complied with paragraph (c) above and does not receive a timely response from the other parties, it shall file and serve its unilateral pre-trial order at least 14 days before the trial or pre-trial conference, if one is ordered. At the same time, plaintiff shall file and serve a declaration asserting the failure of the other parties to respond.
- (2) If parties other than plaintiff have not received plaintiff's proposed pre-trial order within the time limits set forth in paragraph (c) above, it shall be the duty of each such other party to prepare, file and serve at least 14 days prior to the trial or pre-trial conference, if one is ordered, a declaration attesting to plaintiff's failure to prepare and serve a proposed pre-trial order in a timely manner.

(f) SANCTIONS FOR FAILURE TO COMPLY WITH THIS RULE

If a status conference statement or a joint proposed pre-trial order have not been filed within the time set forth in paragraphs (a) or (e) above, the court may do any or all of the following:

- (1) Continue the trial date, if no prejudice is involved to the party who is not at fault.
- (2) Award monetary sanctions including attorneys' fees against the party at fault, payable to the party not at fault. Said sanctions shall be assessed against the party at fault and/or counsel, in the court's discretion.
- (3) Award non-monetary sanctions against the party at fault. These may include the entry of a judgment of dismissal or the entry of an order striking the answer and entering a default.

(g) FAILURE TO APPEAR AT HEARING OR PREPARE FOR TRIAL

Failure of counsel for any party to appear before the court at status conference or pre-trial conference or to complete the necessary preparations therefor or to appear at or to be prepared for trial may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or as to the entire proceeding.

LOCAL BANKRUPTCY RULE 7026-1

EARLY MEETING OF COUNSEL

In all proceedings governed by Part VII of the Federal Rules of Bankruptcy Procedure, the parties shall comply with all applicable provisions of the Federal Rules of Bankruptcy Procedure, including without limitation Federal Rule of Bankruptcy Procedure 7026, and this Local Bankruptcy Rule. The plaintiff shall serve with the summons and complaint a notice that compliance with Federal Rule of Bankruptcy Procedure 7026 and this Local Bankruptcy Rule is required. The plaintiff shall file a proof of service of this notice together with the proof of service of the summons and complaint.

Unless all defendants default, the parties shall conduct the meeting and exchange the information required by Federal Rule of Bankruptcy Procedure 7026 within the time limits set forth therein and shall prepare and file within 7 days after such meeting a Joint Status Report containing the information set forth in Local Bankruptcy Rule 7016-1(a)(2), which report shall serve as the written report of such meeting required by Federal Rule of Bankruptcy Procedure 7026.

LOCAL BANKRUPTCY RULE 7027-1**DEPOSITIONS, INTERROGATORIES, AND
REQUESTS FOR ADMISSIONS****(a) DEPOSITIONS**

- (1) Custody of Original Transcript. The original transcript of a deposition shall, unless otherwise stipulated to on the record at the deposition, after signing and correction or waiver of the same, be sent to the attorney noticing the deposition. Upon request of any party intending to offer deposition evidence at a contested hearing or trial, a copy of the transcript shall be sent to that party for marking in compliance with subparagraph (2) of this Rule.
- (2) Use of Deposition Evidence in Contested Hearing or Trial. Each party intending to offer any evidence by way of deposition testimony pursuant to F.R.Civ.P. Rule 32 and F.R.Evid. Rules 803 or 804 shall:
 - (A) Lodge the original deposition transcript and a copy pursuant to this Rule with the Clerk at least 10 days before the hearing or trial at which it is to be offered.
 - (B) Identify on the copy of the transcript the testimony the party intends to offer by bracketing in the margins the questions and answers that the party intends to offer at trial. The opposing party shall likewise countermark any testimony that it plans to offer. The parties shall agree between themselves on a separate color to be used by each party which shall be consistently used by that party for all depositions marked in the case.
 - (C) Mark objections to the proffered evidence of the other party in the margins of the deposition by briefly stating the ground for the objection.
 - (D) Serve and file notice of the portions of the deposition marked or countermarked by stating the pages and lines so marked, objections made and the grounds indicated therefor. Such notice shall be provided within five days after the party has marked and countermarked or objects to the deposition evidence.

In appropriate cases and when ordered by the Court, the parties shall jointly prepare a deposition summary to be used in lieu of question and answer reading of a deposition at trial.

(b) INTERROGATORIES AND REQUESTS FOR ADMISSIONS

No party shall, without leave of the court and for good cause shown, serve more than 25 interrogatories (including all subparts) on any other party. A motion for leave to serve additional interrogatories may be made pursuant to regularly noticed motion under Local Bankruptcy Rule 9013-1. Interrogatories and requests for admissions shall be numbered sequentially without repeating the numbers used on any prior set of interrogatories or requests for admissions propounded by that party. The party answering or objecting to interrogatories or requests for admissions shall quote each interrogatory or request in full immediately preceding the statement of any answer or objection thereto. The original of the interrogatories, requests for admissions or requests for the production of documents or to inspect tangible things shall be held by the attorney propounding the interrogatories or requests pending use pursuant to this Local Bankruptcy Rule or further order of the court.

(c) DISCOVERY DOCUMENTS - PROOF OF SERVICE - FILING

The following discovery documents and proofs of service thereof shall not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue:

- (1) Transcripts of depositions upon oral examination
- (2) Transcripts of depositions upon written question
- (3) Interrogatories
- (4) Answers or objections to interrogatories
- (5) Requests for the production of documents or to inspect tangible things
- (6) Responses or objections to requests for the production of documents or to inspect tangible things
- (7) Requests for admissions
- (8) Responses or objections to requests for admission
- (9) Notices of Deposition, unless filing is required in order to obtain issuance of a subpoena in another district
- (10) Subpoena or Subpoena Duces Tecum

When required in a proceeding, only that part of the document which is in issue shall be filed. When filed, discovery documents shall be submitted with (and preferably rubber-banded to) a notice of filing that identifies the date, time and place of the hearing or trial in which it is to be offered. Requests for admission and interrogatories shall comply with the form requirement of Local Bankruptcy Rule 1002-1. Original transcripts of depositions, however, may be bound on the left side, and do not have to be hole-punched or backed. Original deposition transcripts will be treated as trial exhibits and will be delivered to the judge for the hearing or trial. Only an original of a deposition transcript is required, although a copy should also be submitted if available. All such discovery documents shall be held by the attorney pending use pursuant to

this Local Bankruptcy Rule for the period specified in Local Bankruptcy Rule 5003-2(b) for the retention of exhibits, unless otherwise ordered by the court.

(d) DISCOVERY DOCUMENTS - DISCLOSURE

Unless an applicable protective order otherwise provides, any entity may obtain copies of any discovery document described in paragraph (c) of this Local Bankruptcy Rule by making a written request therefor to the clerk and paying the reasonable cost of duplication. The clerk shall give notice of the request to all parties in the case or proceeding, and the party holding the original of the requested discovery document shall lodge the original or an authenticated copy with the clerk within 10 days after service of the clerk's notice. Promptly after duplication, the clerk shall return the original to the party who provided it.

LOCAL BANKRUPTCY RULE 7052-1

FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) PREPARATION AND LODGING OF DOCUMENTS

In all cases where written findings of fact and conclusions of law are required under F.R.B.P. 7052 or 7065, or as otherwise required by the court, the attorney for the prevailing party shall within 7 court days of the date of the hearing at which the oral findings and conclusions were rendered, lodge proposed findings of fact and conclusions of law.

(b) PROPOSED FINDINGS

The proposed findings shall:

- (1) Be in separately numbered paragraphs;
- (2) Be in chronological order; and
- (3) Not make reference to allegations contained in pleadings.

(c) CONCLUSIONS OF LAW

Conclusions of law shall follow the findings of fact, and:

- (1) Shall be in separately numbered paragraphs; and
- (2) May include brief citations of appropriate authority.

LOCAL BANKRUPTCY RULE 7054-1**TAXATION OF COSTS AND AWARDING OF ATTORNEYS' FEES****(a) WHO MAY BE AWARDED COSTS**

When costs are allowed by the F.R.B.P. or other applicable law, the court may award costs to the prevailing party. Counsel are advised to review 28 U.S.C. § 1927 regarding counsel's liability for excessive costs.

The prevailing party shall be defined as follows:

- (1) Recovery on Complaint. The plaintiff is the prevailing party when it recovers on the entire complaint.
- (2) Dismissal or Judgment in Favor of Defendant. The defendant is the prevailing party when the proceeding is terminated by court-ordered dismissal or judgment in favor of defendant on the entire complaint.
- (3) Partial Recovery. Upon request of one or more of the parties, the court shall determine the prevailing party when there is a partial recovery or a recovery by more than one party.
- (4) Voluntary Dismissal. Upon request of one or more of the parties, the court shall determine the prevailing party when the case or proceeding is voluntarily dismissed or otherwise voluntarily terminated.
- (5) Offer of Judgment. If a party defending against a claim files under seal a written offer of judgment before trial and the judgment finally obtained by the offeree is not more favorable than the offer, the party offering the judgment is the prevailing party.

No costs shall be allowed unless a party qualifies as, or is determined by the court to be, the prevailing party under this Local Bankruptcy Rule.

(b) BILL OF COSTS

The prevailing party who is awarded costs shall have 30 days after entry of judgment to file and serve a Bill of Costs. Each item claimed shall be set forth separately in the Bill of Costs. The prevailing party, or the party's attorney or agent having knowledge of the facts shall file a declaration with the Bill of Costs. The declaration shall verify that:

- (1) The items claimed as costs are correct;
- (2) The costs have been necessarily incurred in the case;
- (3) The services for which fees have been charged were actually and necessarily performed; and
- (4) The costs have been paid or the obligation for payment has been incurred.

(c) ITEMS TAXABLE AS COSTS

The following items are taxable as costs:

- (1) Filing Fees. The clerk's filing fees.
- (2) Fees for Service of Process. Fees for service of process (whether served by the United States Marshal or in any other manner authorized by F.R.B.P. 7004).
- (3) United States Marshal's Fees. Fees paid to the United States Marshal, including:
 - (A) Fees paid pursuant to 28 U.S.C. § 1921;
 - (B) Charges connected with caring for property attached, replevied, libeled, or held pending stay or execution; and
 - (C) The United States Marshal's commission on collections paid to creditors. That commission shall be 1% of the amount up to \$1,000.00 and ½ of 1% on the amount in excess of \$1,000, but not less than \$2.50 for any collection.
- (4) Clerk's Fees. Fees for certification of documents necessary for preparation for a hearing or trial.
- (5) Transcripts and Tapes. The cost of the original and one copy of all or any part of a trial transcript, daily transcript or a transcript of matters occurring before or after trial, if requested by the court or prepared pursuant to stipulation. Cost of copies of recorder's tapes, if requested by the court or obtained pursuant to stipulation.

- (6) Depositions. Costs incurred in connection with taking depositions, including:
 - (A) The cost of the original and one copy of all depositions taken for any purpose in connection with the case;
 - (B) The reasonable fees of the deposition reporter, the notary, and any other persons required to report or transcribe the deposition;
 - (C) Reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to F.R.Civ.P. 26(b)(4)(C);
 - (D) Reasonable fees paid to an interpreter when necessary to the taking of the deposition; and
 - (E) The cost of copying or reproducing exhibits used at the deposition and made a part of the deposition transcript.

- (7) Witness Fees. Fees paid to witnesses, including:
 - (A) Per diem, mileage, subsistence and attendance fees as provided in 28 U.S.C. § 1821 paid to witnesses subpoenaed or actually attending the proceeding;
 - (B) Witness fees for a party if required to attend by opposing party; and
 - (C) Witness fees for officers and employees of a corporation if they are not parties in their individual capacities.

- (8) Interpreter's and Translator's Fees. Fees paid to interpreters and translators, including:
 - (A) The salaries, fees, expenses and costs of an interpreter as provided by 28 U.S.C. §§ 1827 and 1828; and
 - (B) Fees for translation of documents received in evidence, used as part of the proceeding or when otherwise reasonably necessary to the preparation of the case.

- (9) Docket Fees. Docket fees as provided by 28 U.S.C. § 1923.

- (10) Certification, Exemplification and Reproduction of Documents. Document preparation costs, including:

- (A) The cost of copies of an exhibit attached to a document necessarily filed and served;
 - (B) The cost of copies of documents admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;
 - (C) Fees for an official certification of proof respecting the non-existence of a document or record;
 - (D) Patent Office charges for the patent file wrappers and prior art patents necessary to the prosecution or defense of a proceeding involving a patent;
 - (E) Notary fees incurred in notarizing a document when the cost of the document is taxable; and
 - (F) Fees for necessary certification or exemplification of any document.
- (11) Premiums on Undertakings and Bonds. Premiums paid on undertakings, bonds, security stipulations, or substitutes therefor where required by law, court order, or where necessary to enable a party to secure a right granted in the proceeding.
- (12) Other Costs. Upon order of the court, additional items, including the following, may be taxed as costs:
- (A) Summaries, computations, polls, surveys, statistical comparisons, maps, charts, diagrams, and other visual aids reasonably necessary to assist the jury or the court in understanding the issues at the trial;
 - (B) Photographs, if admitted in evidence or attached to documents necessarily filed and served upon the opposing party; and
 - (C) The cost of models if ordered by the court in advance of or during trial.
- (13) Removed Cases. Costs incurred in state court prior to removal which are recoverable under state statutes shall be recoverable by the prevailing party in this court.
- (14) Costs on Appeal. Costs on appeal which are taxable in the bankruptcy court or district court shall be governed by F.R.App.P. 39(e). Such costs bill shall be filed within 15 days of the filing and spreading of the mandate of the court of appeals in the district court, or of the bankruptcy appellate panel or district court in the bankruptcy court.

See also Local Rules 54-1 through 54-12, inclusive, Local Civil Rules of the District Court.

(d) OBJECTIONS TO BILL OF COSTS

A party dissatisfied with the costs claimed may, within 5 court days after the service of a copy of the Bill of Costs, file and serve an objection to having the same taxed. The grounds for objection shall be specifically stated. The court may set a hearing or resolve the matter without a hearing.

(e) ENTRY OF COSTS; EXECUTION

If no objection to the Bill of Costs is timely filed or as soon as practicable after the order on the objection to the Bill of Costs becomes final, the clerk shall insert the amount into the blank left in the judgment for that purpose, and shall enter a similar notation on the docket sheet.

The clerk shall, upon request, issue a writ(s) of execution to recover either costs or attorneys' fees included in the judgment:

- (1) Upon presentation of a certified copy of the final judgment in the bankruptcy court or in the district court; or
- (2) Upon presentation of a mandate of the district court, bankruptcy appellate panel, or court of appeals to recover costs taxed by the appellate court.

(f) MOTION FOR ATTORNEYS' FEES

If not previously determined at trial or other hearing, any motion for attorneys' fees where such fees may be awarded shall be served and filed within 30 days after the entry of judgment or other final order, unless otherwise ordered by the court. Such motions and their disposition shall be governed by Local Bankruptcy Rule 9013-1.

LOCAL BANKRUPTCY RULE 7055-1**DEFAULT**

- (a) Entry of Default. A request for the clerk to enter default must be supported by a declaration establishing the elements required by F.R.Civ.P. 55(a), as incorporated into F.R.B.P. 7055, and a proof of service on the defaulting parties.
- (b) Motion for Default Judgment.
- (1) Form of Motion. A motion for default judgment must state:
- (A) The identity of the party against whom default was entered, and the date of entry of default.
 - (B) Whether the defaulting party is an infant or incompetent person, and if so, whether that person is represented by a general guardian, committee, conservator or other representative.
 - (C) Whether the individual defendant in default is currently on active duty in the armed forces of the United States, based upon an appropriate declaration in compliance with the Servicemembers Civil Relief Act (Pub. L. 108-189) (50 U.S. Code App. §§ 501-594). When the individual defendant is the debtor, the party seeking the default may rely upon the debtor's sworn statements contained in the statement of affairs, by following the appropriate procedure for requesting judicial notice of that document pursuant to F.R.Evid. 201.
 - (D) That notice of the motion has been served on the defaulting party, if required by F.R.Civ.P. 55(b)(2).
- (2) Evidence of Amount of Damages. Unless otherwise ordered, if the amount claimed in a judgment by default is unliquidated, the movant must submit evidence of the amount of damages by declarations in lieu of live testimony. Notice must be given to the defaulting party of the amount requested. Any opposition to the amount of damages by the party against whom the judgment is sought must be in writing and supported by competent evidence.

(3) Other Relief. Other proceedings necessary or appropriate to the entry of a judgment by default may be taken as provided in F.R.Civ.P. 55(b)(2).

(4) Attorneys' Fees.

(A) When a promissory note, contract or applicable statute provides a basis for the recovery of attorney's fees, a reasonable attorney's fee may be allowed for a default judgment. Subject to paragraph (b)(4)(B), the reasonableness of the attorney's fee will be calculated based upon the amount of the judgment, exclusive of costs, according to the following schedule:

<u>Amount of Judgment</u>	<u>Attorneys' Fees Award</u>
\$0.01 - \$1,000	30% with a minimum of \$250
\$1,000.01 - \$10,000	\$300 plus 10% of the amount over \$1,000
\$10,000.01- \$50,000	\$1,200 plus 6% of the amount over \$10,000
\$50,000.01- \$100,000	\$3,600 plus 4% of the amount over \$50,000
Over \$100,000	\$5,600 plus 2% of the amount over \$100,000

(B) An attorney claiming a fee in excess of the schedule may request in the motion for default judgment to have a reasonable attorney's fee fixed by the court. The court will hear the request and render judgment for such fee as the court may deem reasonable.

LOCAL BANKRUPTCY RULE 7056-1

SUMMARY JUDGMENT

See Local Bankruptcy Rule 9013-1(e): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), SUMMARY JUDGMENT OR PARTIAL SUMMARY ADJUDICATION.

LOCAL BANKRUPTCY RULE 7064-1**SEIZURE OF PERSONS AND PROPERTY****(a) WRITS OR OTHER PROCESS**

All writs or other process issued for the seizure of persons or property pursuant to F.R.Civ.P. 64, 69 and 70 shall be issued, attested, signed and sealed as required for writs issued out of this court. Any writ or other process for seizure in a civil action shall only be directed to, executed and returned by the United States Marshal or by a state or local law enforcement officer authorized by state law or a private person specially appointed by the court for that purpose pursuant to a motion and order. An order of court requiring entry upon private premises without notice shall only be executed by the United States Marshal, a state or local law enforcement officer, or a private person specially appointed by the court for that purpose pursuant to a motion and order. If a writ or other process is to be executed by a private person, the private person shall be accompanied by a United States Marshal or a state or local law enforcement officer, who shall be present upon the premises during the execution of the order.

Any eviction to be made pursuant to a Writ of Possession issued by the court pursuant to 11 U.S.C. § 365(d)(4) shall be made by a state or local law enforcement officer authorized by state law to execute such writs issued under state law unless otherwise ordered by the court.

(b) USE OF UNITED STATES MARSHAL

The court encourages the use of state remedies and officers wherever appropriate to enforce judgments or obtain available remedies. The United States Marshals Service is available to enforce federal judgments as necessary.

*See also Local Bankruptcy Rule 7069-1: **ENFORCEMENT OF JUDGMENT AND PROVISIONAL REMEDIES.***

(c) FORMS

Unless the court has adopted its own form, the applicable form approved by the Judicial Council of California for use in California courts shall likewise be used in the court whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in F.R.B.P. 7064 and 7069. The caption shall be modified to specify "United States Bankruptcy Court for the Central District of California," rather than the California courts. The form shall use 1 side of the page only, pursuant to Local Bankruptcy Rules 1002-1(d)(11) and 9009-1.

LOCAL BANKRUPTCY RULE 7065-1

INJUNCTIONS

Temporary restraining orders and preliminary injunctions may only be sought as provisional remedies in pending adversary proceedings, not in the bankruptcy case itself. An adversary complaint must already be on file or be filed at the same time as the request for a temporary restraining order (“TRO”) or preliminary injunction is made.

When a temporary restraining order is not sought, a preliminary injunction shall be sought by noticed motion and not by order to show cause. When a TRO is sought, a preliminary injunction shall be sought by order to show cause. If the TRO is granted without notice, the hearing on the order to show cause shall be set within 10 days after the entry of the TRO unless otherwise agreed by the parties. If the TRO is denied or granted after reasonable notice, the court may set the hearing on the order to show cause re preliminary injunction without regard to the notice of motion requirements set forth in Local Bankruptcy Rule 9013-1(a)(6)(B).

LOCAL BANKRUPTCY RULE 7067-1**DEPOSIT IN COURT****(a) DEPOSIT OF REGISTRY FUNDS; CONTENT OF ORDER**

No money shall be sent to the court or the clerk for deposit into the court's registry without a court order. The order shall be prepared by the party seeking the order of deposit. The order shall be set forth in a separately captioned document complying with Local Bankruptcy Rule 1002-1. The order shall state the exact amount to be deposited; that the funds are to be deposited into an interest-bearing account; and that the funds will remain on deposit until further order of the court. Additionally, the order shall contain the following provision:

“IT IS ORDERED that the clerk is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office, whenever such income becomes available for deduction in the investment so held and without further order of the court.”

The funds shall be submitted to the clerk by check or money order made payable to “U. S. Bankruptcy Court” in the exact amount specified in the court order.

(b) NOTICE TO CLERK

Whenever the court orders that money deposited into court shall be deposited by the clerk in an interest-bearing account, the party seeking the order shall forthwith personally serve a copy of such order upon the clerk or chief deputy clerk. Failure of the party seeking an order of deposit to an interest-bearing account to serve the clerk or chief deputy with a copy of the order shall release the clerk from liability for loss of interest upon the money subject to the order of deposit.

(c) AUTHORIZED DEPOSITORIES

Unless otherwise ordered by the court, the clerk shall deposit money pursuant to an order of deposit in any institution that the Office of the United States Trustee has authorized for deposit of funds administered by debtors in possession or appointed trustees, subject to the same terms and conditions as for such funds. The clerk may also invest such money in United States Treasury bills.

(d) TIMING OF DEPOSIT

The clerk shall deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party seeking the order.

(e) FEES CHARGED ON REGISTRY FUNDS

All funds deposited on or after December 1, 1990 and invested as registry funds will be assessed a charge of 10% of the income earned. Fees may be deducted periodically without further order and will be subject to any subsequent exceptions or adjustments by the directive of the Administrative Office of the United States Courts.

(f) DISBURSEMENTS OF REGISTRY FUND; CONTENT OF ORDER

The clerk shall disburse funds on deposit in the registry of the court only pursuant to court order. The disbursement order shall contain a provision relieving the clerk from liability for loss of interest, if any, for early withdrawal of the funds. The order shall state the name and taxpayer identification number for each party who is to receive funds and the amount of percentage of the principal each is to receive. The order shall also state the percentage of the interest each party is to receive. Funds shall be disbursed only after the time for appeal of the related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

LOCAL BANKRUPTCY RULE 7069-1**ENFORCEMENT OF JUDGMENT AND PROVISIONAL REMEDIES****(a) FORMS**

Unless the court has adopted its own form, the applicable form approved by the Judicial Council of California for use in California courts shall be used in the court whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in F.R.B.P. 7064 and 7069. The caption shall be modified to specify “United States Bankruptcy Court for the Central District of California,” rather than the California courts. The form shall use 1 side of the page only, pursuant to Local Bankruptcy Rules 1002-1(d)(11) and 9009-1.

(b) DISCOVERY IN AID OF ENFORCEMENT OF JUDGMENTS

With respect to a judgment of the bankruptcy court and as allowed by F.R.B.P. 7069, except to the extent that a federal statute applies, a judgment creditor may obtain discovery from any person to aid in enforcing a judgment in the manner provided by Rules 26-37 of the F.R.Civ.P. or in the manner provided by state law. A judgment creditor may not use F.R.B.P. 2004 to collect information to use to enforce a judgment.

(c) USE OF UNITED STATES MARSHAL

The court encourages the use of state remedies and officers wherever appropriate to enforce judgments or obtain available remedies. The United States Marshals Service is available to enforce federal judgments as necessary.

*See also Local Bankruptcy Rule 7064-1: **SEIZURE OF PERSONS AND PROPERTY.***