

LOCAL BANKRUPTCY RULES

(Unabridged Edition)

EFFECTIVE JANUARY 2008



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

Edward R. Roybal Federal Building
255 East Temple Street
Los Angeles, California 90012
(213) 894-3118

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GLOSSARY

In the Central District Local Bankruptcy Rules (LBR), the terms below are defined as follows:

Appellate Court:	The bankruptcy appellate panel or the district court exercising its appellate jurisdiction pursuant to 28 U.S.C. § 158.
Application:	Papers should be captioned applications only where the F.R.B.P. rules expressly provide that a request for judicial action shall be made by application. (See <i>Motion</i> .)
Attorney or Counsel:	Includes attorney, proctor, advocate, solicitor, counsel, or counselor.
Bankruptcy Code:	Title 11 of the United States Code.
Brief:	Includes briefs, memoranda, points and authorities, and other written argument or compilations of authorities.
Case:	A bankruptcy case commenced by the filing of a petition pursuant to 11 U.S.C. §§ 301, 302, 303, or 304.
Clerk:	The clerk of the bankruptcy court for the Central District of California and deputy clerks. Different clerks will be specified in the text.
Court:	The 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 the case or proceeding is assigned.
Court Days:	Any day, excluding Saturdays, Sundays, and federal legal holidays.
Courtroom Deputy:	A deputy clerk assigned to the courtroom of a judge of the court.
Declaration:	Any declaration under penalty of perjury executed in conformance with 28 U.S.C. § 1746 and any properly executed affidavit.
Defendant:	Any party against whom a claim for relief is made by complaint, counterclaim, or cross-claim.
District Court:	The United States District Court for the Central District of California.
F.R.App.P.:	The <i>Federal Rules of Appellate Procedure</i> .
F.R.B.P.:	The <i>Federal Rules of Bankruptcy Procedure</i> as adopted by the Supreme Court of the United States.
F.R.Civ.P.:	The <i>Federal Rules of Civil Procedure</i> .
F.R.Evid.:	The <i>Federal Rules of Evidence</i> .

File:	The delivery to and acceptance by the clerk, courtroom deputy, the court, or other person authorized by the court of a document which will be noted in the docket.
Judge:	Bankruptcy judge, district court judge, or other judicial officer in a case or proceeding assigned to the court.
Lodge:	To deliver to the clerk, courtroom deputy, the court, or other person authorized by the court a document which is tendered to the court but is not approved for filing, such as a proposed form of order.
Motion:	All motions, applications, or other requests made for judicial action except by complaint, counterclaim, or cross-claim.
Movant:	Any entity requesting an order other than by way of complaint, counterclaim or cross-claim.
Papers:	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.
Plaintiff:	Any party claiming affirmative relief by complaint, counterclaim, or cross-claim.
Proceeding:	Motions, adversary proceedings, contested matters and other matters presented to the court. It does not include the case as defined above.
Respondent:	Any entity responding to a request for an order other than by way of complaint, counterclaim, or cross-complaint.
United States Trustee Notices and Guides:	The <i>United States Trustee Chapter 11 Notices and Guides</i> and the <i>Notice of Requirements for Debtors In Possession in Chapter 11 Cases</i> .

LOCAL BANKRUPTCY RULE 1001-1

SHORT TITLE, APPLICABILITY AND RULES OF CONSTRUCTION

(a) SHORT TITLE

These Rules may be cited as the “Local Bankruptcy Rules” (or “L.B.R.”).

(b) APPLICABILITY

These Rules apply to all bankruptcy cases and proceedings (including all cases removed pursuant to 28 U.S.C. § 1452 or 15 U.S.C. § 78eee) pending in the Bankruptcy Court for the Central District of California and in the United States District Court for the Central District of California when the district court is exercising its original bankruptcy jurisdiction pursuant to 28 U.S.C. § 1334. The Local Bankruptcy Rules shall apply therein in lieu of the Local Rules of the District Court and shall be applied uniformly throughout this district unless otherwise ordered by the court in a particular matter.

(c) APPLICABILITY OF RULES TO PERSONS APPEARING WITHOUT COUNSEL

Persons appearing who are not represented by counsel are bound by these Rules, and any reference in these Rules to “attorney” or “counsel” applies to parties who are not represented by counsel unless the context otherwise requires.

(d) RULES OF CONSTRUCTION

- (1) Gender; Plurals. Wherever applicable, each gender includes the other gender and the singular includes the plural.
- (2) Terms Not Otherwise Defined. Terms used in the Local Bankruptcy Rules that are not defined will have the meanings provided in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (F.R.B.P.) or the Local Bankruptcy Rules glossary.

LOCAL BANKRUPTCY RULE 1002-1

FORM OF PAPERS FILED WITH COURT

(a) SIGNATURE OF COUNSEL

- (1) In General. All attorneys shall comply with F.R.B.P. 9011(a). The name of the person signing a paper shall be clearly typed below the signature line.
- (2) State Bar and Fax Numbers. The voluntary petition filed pursuant to 11 U.S.C. §§ 301 and 302 by an attorney on behalf of any party shall contain the attorney's state bar identification number and fax number in the attorney name block. On all subsequent pleadings and on all other papers filed with the court, the attorney's state bar identification number shall appear, together with the attorney's name, address, telephone number, and fax number in the upper left-hand corner of the first page of such papers.

(b) COMPLIANCE

- (1) Filing Requirements. All papers delivered for filing to the clerk shall be accepted if accompanied by any required fee or signature, except as provided in Local Bankruptcy Rule 1006-1 (Application for Payment of Filing Fees in Installments and/or Waiver of Filing Fee), and Local Bankruptcy Rule 1002-1(g)(2).
- (2) Certificate of Substantial Compliance. If a modified version of an Official Bankruptcy Form or a court-approved form is used, then such paper shall include a certificate that the form contains the same substance as the Official Bankruptcy Form or court-approved form, as applicable.

(c) MANDATORY FORMS

All court forms which are designated "Mandatory" must be filed with the exact language provided in the form. Modification of the text of the form may not be made in the original text but must be added as an attachment so that any modification of the standard language of the form is obvious.

(d) PAPERS PRESENTED TO THE COURT - FORM AND FORMAT

This Local Bankruptcy Rule shall apply unless otherwise expressly provided elsewhere in the Local Bankruptcy Rules or a court-approved form is used.

- (1) Legibility. All papers submitted for filing shall be typewritten, legibly printed if prepared by hand, computer generated, or prepared by a photocopying or other duplicating process that will produce clear and permanent copies equally legible to printing, in black or dark blue ink. With the exception of bankruptcy forms, the typeface shall not be smaller than 12 point. Required typefaces are Arial, Courier, Times, Helvetica, Geneva or Letter Gothic. Font sizes smaller than 12 point, may not be legible after imaging and shall not be used.
- (2) Paper. The original of all papers shall be submitted on white, letter size (8 ½ x 11 inches), opaque, unglazed, paper of medium weight not less than 20-pound weight capable of producing a good quality image when scanned using the court's equipment and software. Coated paper, glossy paper, oversized paper (larger than 8 ½ x 11 inches), lightweight paper (less than 20-pound weight), bond paper, card stock, and onion skin may cause paper jams when scanned and shall not be used. The paper shall be numbered on the left margin with not more than 28 lines per page. The lines on each page shall be numbered consecutively. Line 1 shall begin at least 1 inch below the top edge of the paper. Only 1 side of the paper shall be used, unless otherwise provided.
- (3) Pagination. All papers shall be numbered consecutively at the bottom of each page, including any attached exhibits.
- (4) Original - Copies - Telecopies. The original of a paper filed in paper format shall be labeled as the original and, except for exhibits, shall consist entirely of the original pages, except that a telecopy of all or part of a paper (or copy of such telecopy) may be filed and served instead of the original of the paper, provided that the telecopy meets the legibility requirement set forth in paragraph (d)(1) above. The original of any telecopied filed document, including the original signature of the attorney, party, or declarant, shall be maintained by the filing party until the conclusion of the case, including any applicable appeal period, subject to being produced upon reasonable notice. All copies must be marked "COPY."
- (5) Interlineation. No interlineation shall be allowed on a paper unless they are noted by the clerk or the judge by marginal initials at the time of the filing.
- (6) Assembly of Papers for Filing. Original papers and copies filed in paper format shall be assembled into separate sets and shall comply with the following guidelines:
 - (A) Original multi-page documents shall not be hole punched or bound by staples, prong fasteners or standard metal or plastic paper clips that puncture the paper. Original multi-page documents shall be bound at the top left corner with binder clips or clamps. Copies of multi-page documents may be fastened with staples.
 - (B) As a general rule, the clerk's office will conform and return one copy of a document to the filing party. If more than one copy of the document is needed, fasten the copies together with a binder clip. **DO NOT** attach copies to original documents.

- (C) All papers presented for filing shall be flat and unfolded for scanning.
 - (D) Documents shall not be “blue-backed” or otherwise bound. Transcripts shall be unbound and fastened with binder clips prior to filing.
- (7) Spacing. Except as provided herein, the typing or printing on papers shall be double-spaced, including citations. Footnotes may be single-spaced. Real property descriptions may be single-spaced. Quotations from cited cases or other authorities shall be clearly indented not less than 5 spaces or more than 20 spaces and may be single-spaced if the quotation is 50 or more words.
- (8) Title Page. The first page of all papers presented shall include:
- (A) The name, California State Bar Number (if any), office address (or residence address if no office is maintained), which address shall include the street address in addition to any post office box, the telephone number, fax number, and e-mail address, if any, of the attorney presenting the paper shall be placed commencing with line 1 at the left margin. If none, so state. Immediately beneath, the party on whose behalf the paper is presented shall be identified. All this information shall be single-spaced.
 - (B) The space between lines 1 and 7 to the right of the center of the page shall be left blank for use by the clerk.
 - (C) The title of the court, including the division, shall be centered on or below line 8.
 - (D) The names of the parties shall be placed below the title of the court and to the left of center and single-spaced. If the parties are too numerous, the names may be continued on the second or successive pages in the same space. In all papers after the initial pleadings, only the names of the first-named party on each side need appear.
 - (E) The bankruptcy case number shall be placed to the right of the center of the page immediately opposite the names of the parties on the first page. Case numbers shall be consistent with the following example: 1:05-12345-MT, with the first number being the location of the division in which the case was filed (e.g., San Fernando Valley: 1, Los Angeles: 2, Riverside: 6, Santa Ana: 8, Santa Barbara: 9), the two numbers after the semi colon representing the last two digits of the year in which the case was filed, and the third set of numbers following the first dash representing the 5 digit unique case number followed by the initials of the U.S. Bankruptcy Judge assigned to the case. Immediately below the case number shall appear the chapter number of the case. Immediately below the case number and chapter number shall appear the adversary number (if such has been assigned). On the first page immediately below the adversary or reference number or the caption, there shall be a concise title of the document (e.g., Notice of Motion for Summary Judgment, Complaint To Determine Dischargeability of Debt). When a document contains multiple pleadings (for example, an answer

to a complaint and a counterclaim or cross claim), all pleadings contained in the document must be listed in the caption. Where possible, the proponent’s name should be included in the title of the document (e.g., Creditor ABC’s Motion to Dismiss). Immediately below the title, the time, date and place of the hearing on the matter to which the paper is addressed shall appear or, if appropriate, that no hearing is required or that a hearing will be scheduled by the court. All information required in this paragraph (E) shall always appear on the first page of the paper.

- (9) Mandatory Relief From Stay Forms and Adversary Proceeding Captions. Motions for relief from stay shall be made using those forms designated for mandatory use in the F 4001-1 series of the court-approved forms. These mandatory forms are subject to future revisions upon general order of the court.

See also Local Bankruptcy Rule 9013-1(a)(5): *MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), GENERAL REQUIREMENTS, Motions for Relief From Automatic Stay.*

Complaints and all other papers filed in adversary proceedings shall bear “double captions” in substantially the following format:

In re ABC,	)	Case No. _____
)	
Debtor.	)	Chapter _____
_____)	
)	
YXZ Co.,	)	Adv. No. _____
Plaintiff,)	
)	
	)	COMPLAINT TO DETERMINE
	)	NONDISCHARGEABILITY OF DEBT
vs.)	
)	
ABC,)	
Defendant.	)	(Hearing date to be set by summons)

- (10) Captions for Cases Designated as Small Business Cases (F.R.B.P. 1020). All pleadings and other papers filed in a case that has been designated a small business case under F.R.B.P. 1020 shall bear a legend stating that the case is subject to F.R.B.P. 1020. The legend shall appear to the right of the caption immediately below the case number, in substantially the following format:

	)	Case No. _____
In re ABC,)	
	)	Chapter _____
Debtor.)	
	)	SMALL BUSINESS CASE UNDER
	)	F.R.B.P. 1020
_____)	

- (11) Pre-Printed Forms. The provisions of this Local Bankruptcy Rule shall not prevent the use of printed forms provided by the clerk, the United States trustee, the Administrative Office of the United States Courts, or otherwise approved for use pursuant to Local Bankruptcy Rule 9009-1. The use of approved forms is encouraged whenever possible. All forms must be printed on 1 side of the paper only.
- (12) Separator Sheets. Each declaration, exhibit, or other attachment to a paper shall be separated by a separator sheet printed on white, letter size (8½ x 11 inches), unglazed, opaque, paper of medium weight.

(e) COPIES

The following requirements shall only apply to papers that are filed in paper format:

- (1) Chamber’s/Courtesy Copy. A paper copy of any document filed at the court, either electronically or in paper format, must be marked “Chamber’s Copy” and delivered immediately (in person or by mail) to the Intake area of the divisional office to which the relevant case or proceeding has been assigned in accordance with applicable Local Bankruptcy Rules. If filed electronically, all chamber’s copies must be accompanied by a copy of the Notice of Electronic Filing (NEF), confirming the filing of the original document. In addition, pursuant to some particular Local Bankruptcy Rules, some documents require a courtesy copy to be delivered directly to chambers. This requirement is not affected by electronic filing. Therefore, some documents may require two copies to be delivered to the court. A courtesy copy must be clearly marked as “Courtesy Copy” and if electronically filed, must include a copy of the CM/ECF receipt (NEF).
- (2) Petitions, Lists, Schedules, and Statements. The number of papers required to be filed by F.R.B.P. 1002 and 1007 shall be as follows:

- (A) Chapters 7, 12, and 13: An original and 1 copy shall be filed.
- (B) Chapters 9 and 11: An original and 3 copies shall be filed.
- (3) Conformed Copies. Copies filed with the court shall be conformed to the original, including either photocopies of fully executed signature pages, or unsigned signature pages that bear a fax-stamped signature or a notation that the original was signed. Conformed copies shall be identical to the original in content, pagination, additions, deletions, interlineations, attachments, exhibits, and tabs.
- (4) Request for Court Conformed Copy. A maximum of 3 copies will be conformed by the clerk's office to show filing or lodging. Copies to be conformed by the clerk's office may consist of either the entire paper or only the first page of the filed paper. The clerk's office is not responsible for verifying that any copy presented for conforming is a true and correct copy. If the party presenting a paper requests the clerk to return a conformed copy by United States Mail, an extra copy shall be submitted by the party for that purpose, accompanied by a postage-paid, self-addressed envelope.

(f) EXHIBITS TO PAPERS

- (1) Exhibits Attached to Papers. Unless the physical nature of the exhibit makes it impracticable, an exhibit shall be securely bound to the paper to which it relates with binder clips or clamps.
- (2) Numbering. Exhibits shall be identified at the bottom of each page consecutively to the principal paper. For example, if the pleading contains 5 pages and 3 exhibits of 5 pages each are attached, the pages would be numbered 1 through 20 consecutively. The exhibit identification shall be placed immediately above or below the page number on each page of the exhibit. Exhibits shall be in sequential order on both the original and copy filed with the court separated by separator sheets marked with the exhibit letter or number in accordance with paragraph (d)(12) above. Whenever feasible, exhibits of plaintiffs or movants shall be marked with numbers, and exhibits of defendants or respondents shall be marked with letters.
- (3) Size of Paper. Exhibits shall be on standard letter size (8½ x 11 inches) opaque, unglazed paper. The filing party is responsible for reducing larger size documents to the standard letter size and for copying smaller size documents on standard letter size sheets of paper. Two-sided exhibits shall be photocopied and filed with text printed on one side of each page.

(g) PETITIONS

- (1) Debtor's Address. In all petitions filed pursuant to 11 U.S.C. §§ 301, 302, 303, or 304, the debtor's actual street address shall be used, in addition to any post office box addresses.

- (2) Incomplete Petitions. Although Interim F.R.B.P. 1007 allows a voluntary petition to be filed without complete lists, schedules, statements, and other required documents, the following papers shall be filed with the petition:
- (A) Petition (Official Form 1 or 5)
 - (B) List of Creditors Holding 20 Largest Unsecured Claims (Official Form 4) (chapter 11 cases only)
 - (C) Master Mailing List (List of creditors) complying with Local Bankruptcy Rule 1007-2
 - (D) Statement of Social Security Number(s) (Official Form 21) (Required if the debtor is an individual)

Unless extended by court order, the rest of the required papers shall be filed within 15 days, except the Statement of Intention which shall be filed within 30 days of filing of petition.

The papers required to complete the filing include the following:

- (i) Schedules A through J (Official Form 6)
- (ii) Statement of Financial Affairs (Official Form 7)
- (iii) Copies of all advices (pay stubs) or other evidence of payment received by the debtor from any employer within 60 days before the filing of the petition. (Required if debtor is an individual.) If the debtor(s) was self-employed or unemployed during the 60 days prior to the filing of the petition, the debtor(s) should certify this fact and use the optional form Debtor's Certification of Employment Income Pursuant to 11 U.S.C. § 521(a)(1)(B)(iv) to do so. This form can also be used to attach payment advices (pay stubs).
- (iv) Statement of Current Monthly Income and Means Test Calculation (Official Form 22A) (Required if the debtor is an individual with primarily consumer debts) (chapter 7 cases)
- (v) Statement of Current Monthly Income and Disposable Income Calculation (Official Form 22C) (chapter 13 cases)
- (vi) Statement of Current Monthly Income (Official Form 22B) (Required if the debtor is an individual) (chapter 11 cases)
- (vii) Summary of Schedules (file complete set of schedules - any that do not apply, state "none" or check box indicating "none")

- (viii) Statistical Summary of Certain Liabilities (28 U.S.C. § 159) (Individual Debtors Only)
- (ix) Declaration Concerning Debtor's Schedules
- (x) Verification of Creditor Mailing List. [Local Bankruptcy Rule 1007-2(d)]
- (xi) Disclosure of Attorney Fees
- (xii) Disclosure of Compensation of Bankruptcy Petition Preparer
- (xiii) Statement of Intention (Official Form 8) (chapter 7 cases only)
- (xiv) Exhibit "A" to Petition filing under chapter 11 (if debtor is a corporation) (Official Form B1)
- (xv) Exhibit "C" to Voluntary Petition (if Exhibit "C" "yes" box is checked on page two of the Voluntary Petition)
- (xvi) A copy of a corporate resolution authorizing the filing (if debtor is a corporation)
- (xvii) Statement of Previously Filed or Related Cases with Unsworn Declaration [in format required by Local Bankruptcy Rule 1015-2(b)(2)]
- (xviii) Notice of Available Chapters (except in chapter 9 and 11 cases)
- (xix) Statement Regarding Assistance of Non-Attorney with Respect to the Filing of Bankruptcy Case (for petitions of persons not represented by counsel)
- (xx) Declaration Re Limited Scope of Appearance Pursuant to Local Bankruptcy Rule 2090-1 (if applicable)
- (xxi) Venue Disclosure Form for Corporations Filing Chapter 11 (form VEN-C) (if debtor is a corporation) or Venue Disclosure Form for Partnerships Filing Chapter 11 (form VEN-P) (if debtor is a partnership) (chapter 11 cases only)
- (xxii) List of Equity Security Holders - (chapter 11 reorganization cases)
- (xxiii) Exhibit D - Individual Debtor's Statement of Compliance with Credit Counseling Requirement.
- (xxiv) Copy of certificate of credit counseling as required by §521(b)(1), § 109(h)(1), F.R.B.P. 1007(b)(3) and any debt repayment plan developed through a credit counseling agency, or a motion for determination by the court.

- (xxv) Chapter 13 plan (chapter 13 cases)
- (xxvi) Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer (11 U.S.C. § 110), if applicable (Official Form 19A) (Included on page 3 of the Voluntary Petition, Official Form 1)
- (xxvii) Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer, if applicable (Official Form 19B)
- (xxviii) Corporate ownership statement as specified in F.R.B.P. 1007(a)(1) (required for corporations that are not a governmental unit)

Even if certain of the schedules or statements of Official Forms 6 and 7 do not apply to a debtor's particular situation, they shall still be filed with either the notation "None" marked thereon or the applicable box checked indicating that there is nothing to report for that particular schedule or statement.

If all the information required in this paragraph (g) is not timely filed and no motion for an order extending the time to file the required documents has been timely filed, the case may be dismissed. However, if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all the documents listed in items (i) through (v) above as required under 11 U.S.C. §521(a)(1) within 45 days after the date of the filing of the petition, in accordance with 11 U.S.C. §521(i)(1) and §521(i)(3), and subject to 11 U.S.C. §521(i)(4), the case shall be automatically dismissed effective on the 46th day after the date of the filing, unless otherwise ordered by the court. Motions for extension of time to file lists, schedules and other papers shall comply with Local Bankruptcy Rule 1007-1, and shall be supported by admissible evidence demonstrating cause for the requested extension.

- (3) Redaction of Personal Identifiers. Pursuant to policies adopted by the Judicial Conference of the United States, a debtor must refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all lists, schedules and statements filed with the court, unless ordered by the court to do otherwise:
 - (A) Social Security Numbers. If disclosure of a social security number is required, only the last four digits of that number should be used. [This does not apply to Official Form 21, Statement of Social Security Number(s)].
 - (B) Names of Minor Children. If disclosure of the identity of any minor child is required, only the initials of that child should be used.
 - (C) Dates of Birth. If disclosure of an individual's date of birth is required by any statement or schedule, only the year should be used.
 - (D) Financial Account Numbers. If disclosure of any financial account number is required, only the last four digits of that number should be used.

The responsibility for redacting these personal identifiers rests solely with the debtor and debtor's counsel. The court will not review documents for compliance with this rule.

- (4) Effect of Failure to Specify Chapter Under Which Relief is Being Sought. If the petition fails to specify the chapter under which relief is being sought, the case will be deemed to have been filed under chapter 7. If the petition fails to specify whether it is a consumer or business case, it will be presumed to be a consumer case. If the petition fails to indicate the number of creditors or equity holders, or the amount of assets or debts, it will be presumed that the case falls in the smallest category of each.
- (5) Joint Petitions. Individuals filing jointly shall present appropriate evidence of their married status at the § 341(a) meeting, such as a copy of the marriage license.

(h) CITATIONS

- (1) Acts of Congress. All citations to Acts of Congress shall include a parallel citation to the United States Code by title and section.
- (2) Regulations. All citations to federal regulations shall include a citation to the Code of Federal Regulations by title and section, and the date of promulgation of the regulation.
- (3) Cases. Initial citation of any United States Supreme Court cases shall include citations to the Supreme Court Reporter. The Federal Reporter, Federal Supplement or Federal Rules Decisions citations shall be used where available. Initial state court citations shall include both the official reports and any regional reporter published by West Publishing Company. California parallel citations may be limited to the official reports and California Reporter. Citation to bankruptcy cases shall be to West's Bankruptcy Reporter, where available. Where a citation to the above-named reporters is not available, the party citing the case shall provide the court with an unmarked copy of the case.

(i) POINTS AND AUTHORITIES - BRIEFS

- (1) Length. No brief shall exceed 35 pages in length, unless permitted by order of the court.
- (2) Appendices. Appendices shall not include any matters which 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, shall 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.

(j) STIPULATIONS REGARDING PROGRESS OF CASE OR PROCEEDING

Oral stipulations affecting the progress of a case or proceeding will be enforceable by the court if made and approved in open court. Written stipulations affecting the progress of the case or proceeding shall be filed with the court in the form provided by Local Bankruptcy Rule 9021-1, and will not be effective until an order thereon is entered.

See also Local Bankruptcy Rule 9013-1(a)(10): MOTIONS, GENERAL REQUIREMENTS, Continuation by Stipulation (Automatic Stay); and Local Bankruptcy Rule 9021-1(a)(2): ORDERS AND JUDGMENTS, PREPARATION, LODGING AND SIGNING OF DOCUMENTS, Order Upon Stipulation.

Court's Comment**2007 Revision**

Paragraph (b)(1) Filing Requirements. Reference to Local Bankruptcy Rule 1006-1 was modified to reflect the change in the title of that Rule.

Paragraph (d)(1) Legibility. Modified to set forth typeface and font size requirements to ensure legibility of electronic versions of papers after scanning.

Paragraph (d)(2) Paper. Modified to set forth paper standards to facilitate scanning of papers.

Paragraph (d)(4) Originals - Copies - Telecopies. Amended to clarify the provision's application to papers filed in paper format only.

Paragraph (d)(6) Former paragraph entitled Pre-Punching and Backing of Papers was deleted in its entirety and replaced with a new paragraph entitled "Assembly of Papers for Filing" setting forth requirements for assembling original papers and copies filed in paper format.

Paragraph (d)(8)(E) was amended to specify the new case number format and to require the listing of all pleadings in the caption of the pleading that are included within the document.

Paragraph (d)(12) was renamed and amended to reflect the replacement of the requirement for tabs on declarations, exhibits, or other attachments with separator sheets.

Paragraph (e) COPIES. Amended to require a chamber's copy be provided to the court, whether the document has been filed electronically or in paper format. Also amended to modify the number of paper copies filed with the court and to eliminate the requirement for these copies if papers are filed electronically.

Paragraph (f)(1) Exhibits Attached to Papers. Amended to specify that exhibits should be attached to the paper to which it relates with binder clips rather than staples.

Paragraph (f)(2) Numbering. Amended to reference paragraph (d)(12) regarding the use of separator sheets instead of tabs.

Paragraph (f)(3) Size of Paper. Amended to specify standards for the page size of exhibits and to require two-sided exhibits to be photocopied and filed in one-sided format.

Paragraph (g)(2) Incomplete Petitions. Substantially revised to reflect additional information and documents required to be filed, and the consequences for failing to file timely the required information and documents, resulting from changes in the Bankruptcy Code and the Interim Rules resulting from the *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*.

Paragraph (g)(3) Redaction of Personal Identifiers. New paragraph setting forth requirement to redact personal identifiers in accordance with the Judicial Conference Privacy Policy.

Paragraph (g)(4) Title amended to more accurately reflect the content of the Rule.

Paragraph (i)(4) was added to require parties to file and serve a copy of any unpublished judicial opinions, orders, judgments, or other written dispositions with the brief or other paper in which they are cited.

LOCAL BANKRUPTCY RULE 1002-2

PENALTIES

(a) **VIOLATION OF RULE**

The violation of, or failure to conform to, the Local Bankruptcy Rules or F.R.B.P. shall subject the offending party or counsel to such penalties, including monetary sanctions or the imposition of costs and attorneys' fees payable to opposing counsel, as the court may deem appropriate.

(b) **FAILURE TO APPEAR OR PREPARE**

Unless otherwise ordered by the court, 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 pre-trial;
- (2) Appear at pre-trial 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.

See also Local Bankruptcy Rule 2090-1(g)(3): ATTORNEYS, PERSONS APPEARING WITHOUT COUNSEL, Compliance with Rules; Local Bankruptcy Rule 9011-1: PENALTIES FOR UNNECESSARY OR UNWARRANTED MOTIONS; and Local Bankruptcy Rule 9019-1(c): STIPULATIONS AND SETTLEMENTS, FAILURE TO COMPLY - SANCTIONS.

LOCAL BANKRUPTCY RULE 1002-3

PROCEDURE IN ABSENCE OF RULE

- (a) Matters not specifically covered by these Local Bankruptcy Rules may be determined, if possible, by parallel or analogy to the F.R.Civ.P., the F.R.B.P., or the District Court Rules.
- (b) If no parallel or analogy can be found in the F.R.Civ.P., the F.R.B.P., or the District Court Rules, the procedure shall conform to practice in courts of equity of the United States.
- (c) If no parallel or analogy exists, then the court may proceed in any lawful manner not inconsistent with these Local Bankruptcy Rules and the F.R.B.P.

LOCAL BANKRUPTCY RULE 1002-4

BANKRUPTCY PETITION PREPARERS

(a) MOTION TO DISALLOW AND ORDER TURNOVER TO TRUSTEE OF EXCESSIVE FEE (11 U.S.C. § 110(h))

(1) Motion by Party in Interest.

- (A) The debtor, a creditor, the trustee, or the United States trustee may file a motion that the Court Disallow and Order Turnover of Excessive Fee Paid to Bankruptcy Petition Preparer (11 U.S.C. § 110(h)). The motion shall be filed at the same time notice is given and the motion shall comply with Local Bankruptcy Rule 9013-1(g)(1). The motion shall be accompanied by a declaration under penalty of perjury or a request for judicial notice and copies of any documentary evidence that supports the motion. The moving party shall serve on the bankruptcy petition preparer, the debtor, the trustee and the United States trustee, a Notice of Motion that the Bankruptcy Court Order Turnover of Excessive Fee (11 U.S.C. § 110(h)), a copy of the motion, and all supporting evidence. Service may be made personally or by first class mail.
- (B) If the 15-day response period established by Local Bankruptcy Rule 9013-1(g)(1) expires without the filing of any response, the moving party shall promptly lodge a proposed order. At the same time as the proposed order is lodged (and preferably rubber-banded or clipped to the order), the moving party shall also file a declaration attesting that no response was received by the moving party, to which declaration shall be appended (as exhibits) copies of the motion, notice and proof of service of the notice and motion. These papers shall be accompanied by the necessary copies of the notice of entry for the order, together with the requisite addressed, stamped envelopes. The notices of entry shall provide for the service on the debtor, any trustee, the bankruptcy petition preparer, the United States trustee and counsel for any of the foregoing.

- (C) If a timely response and request for hearing is filed and served, the moving party shall schedule and give not less than 11 days notice of a hearing to those responding and to the United States trustee. Movant shall act within 20 days from the date of service of the response to obtain a hearing date and give notice of it, or the court may deny the motion without prejudice, without further notice or hearing. Briefs generally are not required for this motion. The court may decide in its discretion to dispense with oral argument, in which case the courtroom deputy will attempt to give the parties notice of the court's intention to do so at least 24 hours prior to the hearing date.

(2) Motion by Court.

- (A) The court on its own motion may serve by first class mail a Notice of Intent to Order that Bankruptcy Petition Preparer Turn Over Excessive Fee Paid By or On Behalf of Debtor (11 U.S.C. § 110(h)). The notice of intent will include a notice that the bankruptcy petition preparer has 20 days to file and serve a written opposition.
- (B) The bankruptcy petition preparer has 20 days from the date of mailing of the motion to file with the court and serve on the debtor, the trustee and the United States trustee, a written opposition to the issuance of a turnover order. If no timely opposition is received from the bankruptcy petition preparer, the court will review the facts before it and will determine whether a turnover order should be made and will enter an order on that determination.
- (C) If a timely opposition by the bankruptcy petition preparer is received, the judge will determine whether to hold a hearing. If a hearing is set, the court shall give notice thereof.

- (3) Turnover Order. If a turnover order is entered, the turnover shall be made within 30 days of the service of the turnover order and the bankruptcy petition preparer shall file with the court a Declaration of Compliance by Bankruptcy Petition Preparer as to Turnover Order (11 U.S.C. § 110(h)). The declaration shall be filed within 30 days of the service of the turnover order. Failure to turn over within 30 days of the service of the turnover order and to file the declaration as specified in this paragraph will lead to imposition of a \$500 fine (11 U.S.C. § 110(h)(4)) without further notice to the bankruptcy petition preparer.

(b) DETERMINATION OF WHETHER A FINE SHALL BE IMPOSED

- (1) Motion by Party in Interest.

- (A) The debtor, a creditor, the trustee or the United States trustee may file a Motion that the Court Impose a Fine (11 U.S.C. § 110(b)-(g)). The motion shall be filed at the same time as notice is given. The motion shall be accompanied by a declaration under penalty of perjury or a request for judicial notice and copies of any documentary evidence supporting the motion. The moving party shall serve on the bankruptcy petition preparer, the debtor, the trustee, and the United States trustee, a Notice of Motion that the Bankruptcy Court Impose a Fine (11 U.S.C. § 110(b)-(g)), a copy of the motion, and all supporting evidence. Service may be made personally or by first class mail.
- (B) If the 15-day response period provided by Local Bankruptcy Rule 9013-1(g)(1) expires without the filing of any response, the moving party shall promptly lodge a proposed order. At the same time as the proposed order is lodged (and preferably rubber-banded or clipped to the order), the moving party also shall file a declaration attesting that no response was served upon the moving party, to which declaration shall be appended (as exhibits) copies of the motion, notice and proof of service of the notice and motion. These papers shall be accompanied by the necessary copies of the notice of entry for the order, together with the requisite addressed, stamped envelopes. The notices of entry shall provide for the service on the debtor, any trustee, the bankruptcy petition preparer, the United States trustee and counsel for any of the foregoing.
- (C) If a timely response and request for hearing is filed and served, the moving party shall schedule and give not less than 11 days' notice of a hearing to those responding and to the United States trustee. Movant must act within 20 days from the date of service of the response to obtain a hearing date and give notice of it or the court may deny the motion without prejudice, without further notice or hearing. Briefs generally are not required for this motion. The court may decide in its discretion to dispense with oral argument, in which case the courtroom deputy will attempt to give the parties notice of the court's intention to do so at least 24 hours prior to the hearing date.

(2) Motion by Court.

- (A) The court on its own motion may serve by first class mail a Notice of Intent to Impose a Fine (11 U.S.C. § 110(b)-(g)). The Notice of Intent will include a notice that the bankruptcy petition preparer has 20 days to file and serve a written opposition.
- (B) Bankruptcy petition preparer has 20 days from the date of mailing of the motion to file with the court and serve on the debtor, the trustee and the United States trustee a written opposition to the imposition of a fine. If no timely objection is received from the bankruptcy petition preparer, the court will review the facts before it and will determine whether a fine should be imposed and will enter an order on that determination.

- (C) If an opposition by the bankruptcy petition preparer is timely received, the judge will determine whether to hold a hearing. If a hearing is set, the court shall give notice thereof.

(c) DAMAGE AWARDS TO DEBTORS (11 U.S.C. § 110(h))

- (1) The debtor, the trustee or a creditor may file a Motion that the Bankruptcy Court Certify to the District Court that the Preparer Engaged in Conduct for Which Damages Should be Awarded Under 11 U.S.C. § 110(h) (“Certification Motion”). The parties shall follow the same procedures as set forth in Section (b)(1) above. This motion may also be combined with a Motion to Impose a Fine.
- (2) If the court issues its order on the Certification Motion, the moving party shall obtain a transcript of the hearing (if any) and a copy of the record from the bankruptcy court and will file a Motion for Penalty Order (11 U.S.C. § 110(i)) in the district court attaching to the Motion all documents required by District Court General Order 96-3.
- (3) An order of the bankruptcy court denying the Certification Motion is a final order and subject to review by appeal.

(d) INJUNCTIONS AS TO PREPARERS (11 U.S.C. § 110(j))

A party who seeks an injunction against the preparer as set forth in § 110(j) shall file an adversary proceeding in conformance with the rules governing adversary proceedings. The adversary proceeding shall be filed as a miscellaneous action in the name of the preparer rather than under the case designation of a debtor for which the preparer provided services.

(e) USE OF COURT APPROVED FORMS

To the extent that there are forms approved by the court for use in motions under 11 U.S.C. § 110, these shall be used by all parties unless otherwise ordered by the court.

LOCAL BANKRUPTCY RULE 1002-5

DISCLOSURE OF CORPORATE RELATIONSHIPS

Any nongovernmental corporate debtor in a case or any nongovernmental corporate entity in an adversary proceeding or a contested matter in this court shall file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock. Any such entity shall file the statement with its initial pleading filed in the court and shall supplement the statement within a reasonable time of any change in the information.

LOCAL BANKRUPTCY RULE 1006-1

**APPLICATION FOR PAYMENT OF FILING FEES IN
INSTALLMENTS AND/OR WAIVER OF FILING FEE**

**(a) APPLICATIONS SEEKING PERMISSION TO PAY IN INSTALLMENTS OR
WAIVER OF FILING FEE**

- (1) An individual chapter 7 debtor who is unable to pay the full filing fee for a voluntary petition may apply for a waiver of the filing fee and/or may apply for permission to pay the filing fee in installments. An individual debtor under any chapter of the Bankruptcy Code who is unable to pay the full filing fee for a voluntary petition may apply for permission to pay the filing fee in installments. Any such applications shall be on forms prescribed by the Court and shall be presented for filing with the petition. The applicant also shall present personal identification in the form of a valid California driver's license, California identification card, or other similar form of identification satisfactory to the clerk.
- (2) The applicant may be required to personally appear before a designated judge to present the application(s) and proposed order(s) on the same day as the filing of the petition or at a later date and time that the designated judge may select for a hearing. The applicant shall provide sworn testimony regarding the basis for the application(s) and circumstances of the bankruptcy filing. The applicant's failure to appear and testify at the prescribed time and place may result in denial of the application(s) and dismissal of the bankruptcy case.
- (3) Unless the designated judge orders otherwise, compliance with the notice and service requirements of Local Bankruptcy Rule 9013-1 is not required.

**(b) TERMS AND CONDITIONS OF ORDERS FOR PERMISSION TO PAY IN
INSTALLMENTS**

- (1) An order authorizing payment of filing fees in installments shall fix the number of installments and the amount and due date of each installment. The number of installments shall not exceed 4. The final installment shall be payable not later than 120 days after the filing of the petition, unless extended by the court for cause shown to a date not later than 180 days after the date of the filing of the petition.

- (2) The debtor's failure to pay any installment when due may result in dismissal of the case after notice and hearing.

LOCAL BANKRUPTCY RULE 1007-1

**EXTENSION OF TIME TO FILE SCHEDULES,
STATEMENTS, AND OTHER DOCUMENTS**

Motions to extend time to file lists of creditors and equity security holders, or to file schedules, statements, and other documents, shall comply with F.R.B.P. 1007. The motion shall be accompanied by evidence supporting the extension of time.

Court's Comment

2007 Revision

The requirement to provide copies of documents that are available in online case files was deleted and the title and text was revised to reflect changes to F.R.B.P. 1007.

LOCAL BANKRUPTCY RULE 1007-2**MAILING LIST OR MATRIX****(a) GENERAL REQUIREMENTS**

The debtor shall file concurrently with the petition a Master Mailing List of the names, mailing addresses and zip codes of all creditors listed on Schedules D, E, and F. The Master Mailing List shall be prepared in accordance with instructions and specifications promulgated by the clerk.

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

(b) PARTNERSHIPS AND CORPORATIONS

If the debtor is a partnership or corporation, the Master Mailing List also shall include the names and addresses of all general partners or senior corporate officers. Either as part of the Master Mailing List or as a separate "Equity Holders Mailing List," there also shall be provided a listing of all limited partners, shareholders, or other equity holders. The Equity Holders Mailing List shall comply with the format requirements of paragraph (a) above.

(c) REQUIRED ELECTRONIC FORMAT FOR CASES WITH MORE THAN 100 CREDITORS OR EQUITY HOLDERS

Unless otherwise ordered, for all cases with more than 100 entities that hold either claims or interests, the debtor, or such other person as the court may order, shall provide the clerk with the Master Mailing List, in a court-approved electronic format. The clerk shall provide to the public regularly updated notices of the technical requirements for compliance with this Rule on the court's web site. Failure to submit the required information in a timely manner may subject the case to dismissal. A "hard copy" printed version of the Master Mailing List, also shall be filed according to instructions and requirements promulgated by the clerk. Filing of a hard copy of the Master Mailing List is not required for petitions filed via the court's electronic filing system.

See also Local Bankruptcy Rule 1002-1(g)(2): FORM OF PAPERS FILED WITH COURT, PETITIONS, Incomplete Petitions.

(d) DEBTOR'S OBLIGATION TO ASSURE ACCURACY

It shall be the responsibility of the debtor or such other person as the court may order to ensure that the Master Mailing List, Equity Holders' Mailing List, and the electronic file containing the Master Mailing List and Equity Holder's Mailing List are complete and correct. The Master Mailing List shall be accompanied by a declaration by the debtor or debtor's counsel attesting to the completeness and correctness of the list. If the Master Mailing List is submitted in a court-approved electronic format and the electronic file is prepared by someone other than the debtor or debtor's counsel, a declaration shall also be submitted by the preparer to attest to the accuracy of the electronic file as it relates to the information provided by the debtor or debtor's counsel. The clerk's office shall not be required to compare the names and addresses shown on the Master Mailing List with those on the petition. The clerk's office may use either the hard copies of the mailing lists or information submitted in electronic format for noticing creditors.

(e) WHO SHALL BE LISTED

All parties required to be included in the schedules shall also be listed on the Master Mailing List in order to receive official notice of the bankruptcy.

LOCAL BANKRUPTCY RULE 1015-2

RELATED CASES

(a) DEFINITION OF RELATED CASES

Cases shall be deemed “related cases” for purposes of this Local Bankruptcy Rule if the earlier bankruptcy case was filed or pending at any time before the filing of the new petition, and the debtors in such cases:

- (1) Are the same;
- (2) Are spouses or ex-spouses;
- (3) Are “affiliates,” as defined in 11 U.S.C. § 101(2), except that § 101(2)(B) shall not apply;
- (4) Are general partners in the same partnership;
- (5) Are a partnership and one or more of its general partners;
- (6) Are partnerships that share one or more common general partners; or
- (7) Have, or within 180 days of the commencement of either of the related cases had, an interest in property that was or is included in the property of another estate under 11 U.S.C. § 541(a).

(b) DISCLOSURE OF RELATED CASES

- (1) A petition commencing a case shall be accompanied by Official Form F 1015-2.1, “Statement of Related Cases.”
- (2) Official Form F 1015-2.1 shall be executed by the petitioner under penalty of perjury and shall disclose, to the petitioner’s best knowledge, information and belief:
 - (A) Whether any related case(s) was filed or has been pending at any time.
 - (B) The name of the debtor in related case(s).

- (C) The case number of related case(s).
 - (D) The district and division in which related case(s) is or was pending.
 - (E) The judge(s) to whom related case(s) was assigned.
 - (F) The current status of the related case(s).
 - (G) The manner in which the cases are related.
 - (H) Any real property included in “Schedule A - Real Property” that was filed with any prior proceeding.
- (3) The failure fully and truthfully to provide all information required by Official Form F 1015-2.1 may subject the petitioner and its attorney to appropriate sanctions, including without limitation conversion, the appointment of a trustee or the dismissal of the case with prejudice.
- (4) Unless otherwise ordered by the court, any petition (including emergency) that is not accompanied by Official Form F 1015-2.1 shall be deemed deficient.

See also Local Bankruptcy Rule 1073-1: REASSIGNMENT OF CASES.

LOCAL BANKRUPTCY RULE 1017-1**CONVERSION****(a) CONVERSIONS UPON DEBTOR'S REQUEST**

- (1) A debtor's notice of conversion under 11 U.S.C. §§ 1208(a) or 1307(a), together with a proposed order thereon, must be filed and served on the standing trustee and United States trustee. No hearing is required for conversion.
- (2) A debtor must request conversion under 11 U.S.C. § 1112(a) by motion filed and served as required by F.R.B.P. 9013, but the motion does not require a hearing.
- (3) A debtor must request conversion under 11 U.S.C. § 706(a) to a case under chapter 11, 12 or 13 by motion which, unless otherwise ordered by the court, may be granted only after notice of opportunity to request a hearing to the trustee, attorney for the trustee (if any), United States trustee, and parties in interest, as provided in Local Bankruptcy Rule 9013-1(g).
- (4) If the case is converted, the clerk will give notice of the order converting the case to another chapter to all creditors and interested parties and to the United States trustee.

(b) ADDITIONAL FEES ON CONVERSION OF A CASE

A notice of conversion or motion for conversion, as the case may be, must be accompanied by payment of the filing fee, if any, required for conversion of the case to the chapter for which conversion is sought. If a conversion to chapter 11 is denied, the filing fee paid when the motion was filed will be reimbursed to the payor upon written request to the Fiscal Department of the clerk's office. A conformed copy of the order denying the conversion to chapter 11 must be attached to the request for reimbursement. If a conversion to chapter 7 is denied, there will be no refund of the filing fee paid when the motion was filed.

Court's Comment**2007 Revision**

Paragraph (a) CONVERSIONS UPON DEBTOR'S REQUEST has been changed to delete the mention of "FIRST" in the title. The rule was modified to comply with the ruling in *Marrama v. Citizen's Bank of Mass.*, 127 S. Ct. 1105 (2007).

LOCAL BANKRUPTCY RULE 1017-2

DENIAL OR DISMISSAL FOR WANT OF PROSECUTION

(a) DISMISSAL FOR FAILURE TO FILE SCHEDULES OR STATEMENT OF AFFAIRS

If a chapter 7 petition is filed without the schedules or statement of affairs required by F.R.B.P. 1007, an order to show cause may issue, providing notice to the debtor that the case will be automatically dismissed without further notice or hearing if the required schedules and statement, or a request for extension of time within which to file the required papers, are not filed within 15 days.

(b) DISMISSAL FOR FAILURE TO APPEAR AT SECTION 341(a) MEETING OF CREDITORS

If a chapter 7 debtor fails to appear at the initial section 341(a) meeting of creditors and any continuance thereof, the trustee shall notify the court which shall dismiss the debtor's case with a 180-day prohibition of filing another bankruptcy case. In the event of a joint case in which 1 debtor appears at the section 341(a) meeting of creditors and 1 debtor does not appear, the 180-day prohibition shall apply only to the non-appearing debtor.

(c) DISMISSAL OF PROCEEDINGS - GROUNDS AND EFFECT

Proceedings which have been pending for an unreasonable period of time without any action having been taken therein may be dismissed for want of prosecution upon notice and opportunity to request a hearing.

(d) DENIAL OR DISMISSAL FOR FAILURE TO APPEAR

If a party fails to appear at the noticed hearing of a motion or proceeding, the court may make such orders in regard to the failure as are just, including denial or dismissal of the matter for want of prosecution. Unless the court provides otherwise, any denial or dismissal pursuant to this Local Bankruptcy Rule shall be without prejudice.

(e) REINSTATEMENT - SANCTIONS

If any proceeding dismissed pursuant to this Local Bankruptcy Rule is reinstated, the court may impose such sanctions as it deems just and reasonable.

(f) REFILING OF DISMISSED PROCEEDING

If any proceeding dismissed pursuant to this Local Bankruptcy Rule is refiled as a new matter or proceeding, the party filing the later action shall comply with the requirements of Local Bankruptcy Rule 1015-2.

(g) NOTICE OF DISMISSAL

The clerk shall provide notice of entry of any order dismissing a proceeding under this Rule to all parties to that proceeding.

See also Local Bankruptcy Rule 9013-1(b): MOTIONS, DISMISSAL OR SUSPENSION OF CASE.

LOCAL BANKRUPTCY RULE 1071-1

DIVISIONS - PLACE OF FILING

(a) FILING OF PETITION

Unless otherwise ordered by the court, petitions commencing cases in this district shall be filed as follows:

- (1) If an individual, in the “applicable division” as described below;
- (2) If a corporation or partnership, in the “applicable division” where the debtor’s principal offices, officers, and books and records are located, or where the majority of the debtor’s assets are located based on a book value determination as set forth on the debtor’s most current balance sheet;
- (3) The applicable division shall be determined by the debtor’s street address in the county and/or zip code areas designated by the clerk from time to time, and which may be obtained from the clerk’s office or by consulting the *Desk Reference Manual*.

(b) FILING OF PAPERS OTHER THAN PETITIONS

All papers other than petitions shall be filed only in the divisional office of the clerk to which the relevant case or proceeding has been assigned. However, the clerk may, by special waiver or upon order of the court, accept papers in any office of the clerk irrespective of division.

LOCAL BANKRUPTCY RULE 1073-1

REASSIGNMENT OF CASES

(a) MOTIONS FOR REASSIGNMENT OR CONSOLIDATION

Motions by parties in interest for reassignment or consolidation of related bankruptcy cases or adversary proceedings shall be made to the judge to whom the low-numbered case is assigned. Such motions may be filed using the procedure set forth in Local Bankruptcy Rule 9013-1(g)(1) on notice to the debtor, the trustee, the official creditors' committee (or if no committee has been appointed, to the 20 largest unsecured creditors), the attorneys of any of the foregoing, the United States trustee, any other named parties if the motion seeks transfer of an adversary proceeding, and any parties that have requested special notice. A copy of the motion shall be lodged directly with the chambers of the higher-numbered judge.

(b) ORDER OF REASSIGNMENT

Any order providing for the reassignment of a related case pursuant to Local Bankruptcy Rule 1015-2 shall be titled "Order of Reassignment Pursuant to Local Bankruptcy Rule 1015-2," shall be promptly filed with the clerk and shall be entered by the clerk on the docket. Notice of such order shall be given to all parties who are entitled to notice of the order for relief pursuant to F.R.B.P. 2002(d)(1) and (f)(1).

See also Local Bankruptcy Rule 1015-2: RELATED CASES.

LOCAL BANKRUPTCY RULE 2002-2

NOTICE TO UNITED STATES OR FEDERAL AGENCIES

(a) UNITED STATES TRUSTEE

- (1) Copies of Papers. Unless otherwise directed, copies of all papers filed in all cases and proceedings under chapters 7, 9, and 11 shall be served upon the United States trustee. In chapter 13 cases, only notices of conversion or motions to convert the case to another chapter shall be served on the United States trustee. Proofs of claim or copies thereof shall not be served on the United States trustee.
- (2) Matters Requiring Pre-Filing Review by United States Trustee. The following matters shall be submitted to the United States trustee for review and comment prior to filing with the court:
 - (A) Motions to extend time to file the papers required by F.R.B.P. 1007 in chapter 11 cases.
 - (B) Stipulations for appointment of a chapter 11 trustee or examiner or any other person or entity to be given possession, control or operation of any of the debtor's property outside of the ordinary course of business.

To obtain the statement of position of the United States trustee, the moving party or applicant shall serve the motion or application, proposed order, and proof of service, together with a self-addressed stamped envelope, on the United States trustee. The United States trustee shall review the motion and proposed order and, no later than 15 days from the date of service, if personally served, and 20 days from the date of service, if served by mail, serve upon the moving party or applicant a statement of position, if any, with respect to the motion. Upon the receipt of the statement of position, the moving party or applicant may proceed to file the papers with the court. In the event the statement of position is not timely served by the United States trustee, the moving party or applicant may proceed to file the papers with the court accompanied by a declaration regarding the attempt to obtain the statement of position of the United States trustee.

- (3) Notice of Emergency Motions and Hearings Held on Shortened Notice. Telephonic notice of emergency motions or hearings held on shortened notice shall be given to the United States trustee if the United States trustee would otherwise be entitled to notice of the type of motion or hearing.
- (4) Place of Service. The Office of the United States Trustee shall be included in the Master Mailing List. Papers shall be served on the Office of the United States Trustee at addresses made available on the Central District's web site <www.cacb.uscourts.gov> and in the clerk's office at all Central District divisions.

(b) UNITED STATES ATTORNEY

The United States Attorney for this district has waived notice under F.R.B.P. 2002(j). If the United States Attorney requires notice in a case or proceeding, she or he shall file with the court and serve the debtor, the United States trustee, any trustee, and the representatives of any committee appointed in a case with a request for special notice.

(c) INTERNAL REVENUE SERVICE

- (1) Except with respect to contested matters or adversary proceedings (where service shall comply with the requirements of F.R.B.P. 7004 and Local Bankruptcy Rule 2002-2(c)(2)), or as otherwise ordered by the court, all notices to the United States Internal Revenue Service shall be sent to addresses made available on the Central District's web site <www.cacb.uscourts.gov> and in the clerk's office at all Central District divisions.
- (2) In all contested matters and adversary proceedings involving the Internal Revenue Service, the United States, the Attorney General in Washington, D.C., and the United States Attorney in Los Angeles shall be served at addresses made available on the Central District's web site <www.cacb.uscourts.gov> and in the clerk's office at all Central District divisions.

See also Local Bankruptcy Rule 7004-1: ISSUANCE AND SERVICE OF PROCESS AND NOTICE, and Local Bankruptcy Rule 9013-1(a)(2): MOTIONS, GENERAL REQUIREMENTS, Motion Days.

LOCAL BANKRUPTCY RULE 2004-1

MOTIONS FOR EXAMINATIONS UNDER F.R.B.P. 2004

Motions for examination under F.R.B.P. 2004 shall be served on the debtor, the trustee (if any), the United States trustee, and the examinee. The motion shall also state the place of residence and the place of employment of the party whose examination is requested, if known. The motion shall state why the examination cannot proceed under F.R.B.P. 7030 or 9014. Unless otherwise ordered by the court, no hearing is required. Not less than 21 days notice of the examination shall be provided, calculated from the date of service or the date of filing of the motion unless otherwise ordered by the court.

Motions for protective orders shall be filed and served not less than 11 days before the date of the examination, and set for hearing not less than 2 court days before the scheduled examination, unless an order shortening time is granted by the court. The parties may stipulate, or the court may order, that the examination be postponed so that the motion for protective order can be heard on regular notice under Local Bankruptcy Rule 9013-1(a). The court may require compliance with Local Bankruptcy Rule 9075-1(a).

After the court approves a Rule 2004 examination of a third party, that party shall be properly served with a subpoena as required by F.R.B.P. 9016 and F.R.Civ.P. 45. The party whose examination is requested may file a motion for protective order if grounds exist under F.R.B.P. 7026 and F.R.Civ.P. 26(c). Such a motion may be heard on shortened notice under Local Bankruptcy Rule 9075-1(b) if necessary.

For any dispute that may arise under Local Bankruptcy Rule 2004-1, the parties shall comply with Local Bankruptcy Rule 9013-1(c).

See also Local Bankruptcy Rule 9013-1(c): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), DISCOVERY.

LOCAL BANKRUPTCY RULE 2010-1

BONDS OR UNDERTAKINGS

(a) **BONDS, UNDERTAKINGS, STIPULATIONS OF SECURITY-APPROVAL, SURETIES, QUALIFICATION**

- (1) Approval. The clerk is authorized to approve on behalf of the court all bonds, undertakings and stipulations of security given in the form and amount prescribed by statute, order of court or stipulation of counsel, which comply with the requirements of this Local Bankruptcy Rule and contain a certificate by an attorney, as set forth below, except where the approval of a judge is specifically required by law. With respect to all bonds of trustees required pursuant to § 322 of the Code, the United States trustee shall set the amount of the bonds and approve the sufficiency of the surety, and such bonds are not covered by the terms of this Local Bankruptcy Rule.
- (2) Third-Party Sureties. No bond or undertaking requiring third-party sureties shall be approved unless it bears the names and addresses of sufficient third-party sureties and is accompanied by a declaration stating that:
 - (A) The surety is a resident of the State of California.
 - (B) The surety owns real property within the State of California.
 - (C) The surety is worth the amount specified in the bond or undertaking, over and above just debts and liabilities.
 - (D) The property is not exempt from execution. If specifically approved by the court, real property in any other state of the United States may be part of the surety's undertaking.
- (3) Terms and Conditions for Corporate Sureties. Before any corporate surety bond or undertaking is accepted by the clerk, the corporate surety shall have on file with the district court clerk or the clerk a duly authenticated copy of a power of attorney appointing the agent executing the bond or undertaking. The appointment shall be in a form to permit recording in the State of California.

(d) CONSENT TO SUMMARY ADJUDICATION OF OBLIGATION

A bond or undertaking presented for filing shall contain the consent and agreement for the surety that in case of default or contumacy on the part of the principal or surety, the court may upon 10 days notice proceed summarily and render a judgment in accordance with the obligation undertaken and issue a writ of execution upon that judgment.

An indemnitee or party in interest seeking a judgment on a bond or undertaking shall proceed by Motion for Summary Adjudication of Obligation and Execution. Service of the motion on personal sureties shall be made pursuant to F.R.Civ.P. 5(b). Service shall be made on a corporate surety as provided in 6 U.S.C. § 7.

LOCAL BANKRUPTCY RULE 2014-1**EMPLOYMENT OF DEBTOR AND PROFESSIONAL PERSONS****(a) EMPLOYMENT OF DEBTOR'S PRINCIPALS OR INSIDERS IN CHAPTER 11 CASES**

No compensation or other remuneration shall be paid from the assets of the estate to a debtor's owners, partners, officers, directors, shareholders, and relatives of insiders as defined by 11 U.S.C. § 101(31), from the time of the filing of the petition until the confirmation of a plan unless the debtor serves a "Notice of Insider Compensation." The debtor must serve the notice on the United States trustee, the creditors' committee or the 20 largest creditors if no committee has been appointed, and any secured creditors that claim an interest in cash collateral and provide proof of service to the United States trustee. If no objection is received within 15 days, such compensation may be paid from the estate. If an objection is received within the 15-day notice period, the debtor shall set the matter for hearing and serve a Notice of Hearing, indicating the date and time of the hearing, upon the objecting party and the United States trustee on not less than 20 days notice. The original Notice of Hearing, along with true and correct copies of the Notice of Insider Compensation and the objection, shall be filed with the court. If the proposal is to increase the amount of compensation or other remuneration, no such increase will be effective until 30 days after service of the notice. The notice provision and objection procedure as set forth above also applies to increasing insider compensation requests.

(b) EMPLOYMENT OF PROFESSIONAL PERSONS

(1) Applications for Employment. An application seeking approval of employment of a professional person pursuant to 11 U.S.C. §§ 327, 1103(a), or 1114 must comply with the requirements of F.R.B.P. 2014 and be filed with the court. Such application must be accompanied by a declaration of the person to be employed establishing disinterestedness or disclosing the nature of any interest held by such person. The United States trustee must be served with a copy of the application and supporting declaration not later than the day it is filed with the court. No hearing shall be required unless requested by the United States trustee, a party in interest, or otherwise ordered by the court.

A timely application for employment is a prerequisite to compensation from the estate; therefore, an application for the employment of counsel for a debtor in possession should be filed as promptly as possible after the commencement of the case and an application for employment of any other professional person should be filed as promptly as possible after such person has been engaged. Substitution of attorneys must also comply with Local Bankruptcy Rule 2090-1(f). If a chapter 7 trustee seeks to retain himself or herself, or his or her own firm as a professional, the application must specify the reasons therefor in compliance with 11 U.S.C. § 327(d).

- (2) Notice of Application.
- (A) Notice of an application by the debtor (if such application is required), debtor in possession, or trustee, to retain a professional person must be filed and served on the United States trustee, the official committee of unsecured creditors, its counsel, the debtor (if a trustee has been appointed), and all parties who have requested special notice. If no creditor's committee has been formed, notice shall be given to the 20 largest unsecured creditors.
 - (B) Notice of an application by a committee to retain a professional person must be filed and served on the United States trustee, debtor or debtor in possession and the trustee (if appointed), and their counsel.
 - (C) The notice must be filed and served not later than the day the application is filed with the court.
- (3) Content of Notice. The notice shall:
- (A) State the identity of the professional and the purpose and scope for which it is being employed.
 - (B) Describe the arrangements for compensation, including but not limited to, the hourly rate of each professional to render services, source of the fees, the source and amount of any retainer, the date on which it was paid, and any provision regarding replenishment thereof.
 - (C) Provide a name, address and telephone number of the person who will provide a copy of the application upon request.
 - (D) Advise the recipient that any response and request for hearing, in the form required by Local Bankruptcy Rule 9013-1(a)(7), must be filed and served on the applicant (and counsel, if any) and the United States trustee not later than 15 days from the date of service of the notice.
- (4) No Response and Request for Hearing. If the response period expires without the filing of any response and request for hearing, the applicant must promptly lodge a proposed order. **At the same time as the proposed order is lodged (and preferably rubber-banded or clipped to the order)**, the applicant must also file a declaration attesting that no response and request for hearing was served upon the applicant, to which declaration shall be appended (as exhibits) copies of the application, notice and proof of service of the notice. The proposed order and declaration need only be served on the United States trustee. No other service before filing and lodging is required. These papers shall be accompanied by the necessary copies of the notice of entry for the order, together with the requisite addressed, stamped envelopes. The notices of entry shall provide for service on the debtor, any

trustee, any committee appointed in the case, the United States trustee, counsel for any of the foregoing, and any parties that had requested special notice.

- (5) Response and Request for Hearing Filed. If a timely response and request for hearing is filed and served, the applicant, within 20 days from the date of service of a response and request for hearing, must schedule and give not less than 11 days notice of a hearing to those responding and to the United States trustee. If the applicant fails to obtain a hearing date, the court may deny the application without prejudice, without further notice or hearing.

LOCAL BANKRUPTCY RULE 2015-2

**REQUIREMENTS OF CHAPTER 11 DEBTOR IN POSSESSION
OR CHAPTER 11 TRUSTEE**

(a) REPORTS BEFORE CONFIRMATION OF PLAN

The debtor, the debtor in possession, or chapter 11 trustee shall provide the United States trustee with reports covering financial, management, operational and such other information as the United States trustee requests in writing as necessary to properly supervise the administration of a chapter 11 case pursuant to the United States Trustee Notices and Guides. Timely compliance with the reasonable requirements of the United States trustee is mandatory. The United States trustee may, at any time during the pendency of a case, add or delete requirements where such modifications are necessary or appropriate.

(b) DUTY TO COMPLY WITH UNITED STATES TRUSTEE NOTICES AND GUIDES

A debtor in possession or chapter 11 trustee shall comply with the reasonable requirements of the United States trustee with respect to form, maintenance of records, and reporting requirements as set forth in the United States Trustee Notices and Guides.

(c) DUTIES UPON CONVERSION TO CHAPTER 7

Upon entry of an order converting a case to one under chapter 7, the debtor in possession or chapter 11 trustee, if any, shall, in addition to complying with those duties set forth in F.R.B.P. 1019:

- (1) Secure, preserve and refrain from disposing of property of the estate.
- (2) Contact the chapter 7 trustee and arrange to deliver property of the estate and all books and records to the trustee or the trustee's designated agent.
- (3) Within 5 days after entry of said order, file and serve upon the United States trustee and the chapter 7 trustee, a verified schedule of all property of the estate as of the conversion date.

LOCAL BANKRUPTCY RULE 2016-1

COMPENSATION OF PROFESSIONAL PERSONS

(a) INTERIM FEES FOR PROFESSIONAL PERSONS

(1) Form of Fee Applications. All applications for interim fees filed by attorneys, accountants, other professionals, and trustees or examiners shall contain the following:

(A) A brief narrative history of the present posture of the case. In chapter 11 cases, the information furnished shall describe the general operations of the debtor and whether the business of the debtor, if any, is being operated at a profit or loss, cash flow, whether a plan has been filed, and if not, what are the prospects for reorganization and when it is anticipated that a plan will be filed. In chapter 7 cases, the application shall contain a report of the administration of the case including the disposition of property of the estate, what property remains to be disposed of, why the estate is not in a position to be closed, and whether it is feasible to pay an interim dividend to creditors. In both chapter 7 and chapter 11 cases, the application should show the amount of money on hand in the estate and the estimated amount of other accrued expenses of administration. At the hearing on applications for interim fees, the applicant should supplement the application by declaration or by testimony to inform the court of the current financial status of the debtor's estate.

Fee applications submitted by auctioneers, real estate brokers or appraisers do not have to comply with this subparagraph, except that auctioneers, unless otherwise ordered by the court, must file the report required by F.R.B.P. 6004(f) prior to receiving final compensation. For all other applications, when more than 1 application is noticed for the same hearing, they may incorporate by reference the narrative history furnished in one of the other contemporaneous applications.

(B) The date of entry of the order of the court approving the employment of the individual or firm for whom payment of fees or expenses is sought and the date of the last fee application for the professional.

(C) A listing of the amount of fees and expenses previously requested, those approved by the court, and how much has been received.

- (D) A brief narrative statement of the services rendered and the time expended during the period covered by the fee application.
- (E) A detailed listing of all time spent by the professional on matters for which compensation is sought, including the following:
 - (i) Date service was rendered.
 - (ii) Description of service. It is not sufficient to merely state “Research,” “Telephone Call,” “Court Appearance,” etc. Reference shall be made to the particular persons, motions, discrete tasks performed and other matters related to such service. Summaries that list a number of services under only 1 time period will generally not be satisfactory.
 - (iii) Amount of time spent. Summaries are not adequate. Time spent is to be accounted for in tenths of an hour and is generally to be broken down in detail by the specific task performed. Lumping services together generally is not satisfactory.
 - (iv) Designation of the particular person who rendered the service. If more than 1 person’s services are included in the application, specify which person performed each item of service.
- (F) An application that seeks reimbursement of expenses shall include a summary listing of all expenses by category (i.e., long distance telephone, copy costs, messenger and computer research). As to unusual or costly expense items, as to each such item, the application shall state:
 - (i) Date the expense was incurred.
 - (ii) Description of the expense.
 - (iii) Amount of the expense.
 - (iv) Explanation of the expense.
- (G) The application shall contain a listing of the hourly rates charged by each person whose services forms a basis for the fees requested in the application.
The application shall contain a summary indicating for each attorney by name:
 - (i) The hourly rate and the periods each rate was in effect.
 - (ii) Total hours in this application for which compensation is sought.
 - (iii) Total fee due in this application.
- (H) A description of the professional education and experience of each of the individuals rendering services, including identification of the professional school attended, year of graduation, year admitted to practice, publications or other achievements, and explanation of any specialized background or expertise in bankruptcy-related matters.

- (I) If the hourly rate has changed during the period covered by the application, the application shall specify which rate applies to which hours.
 - (J) A separately filed declaration from the client indicating that the client has reviewed the fee application and has no objection to it. If the client refuses to provide such a declaration, the professional shall file a declaration describing the steps that were taken to obtain such declaration from the client, and the client's response thereto.
- (2) Notice of Interim Fee Applications and Hearing. In all cases where the employment of more than one set of professionals has been authorized (e.g., attorneys and accountants for debtor in possession or creditors' committee counsel), the first professionals seeking approval of interim fees shall serve a notice of the intended hearing on other professionals which shall set the hearing date at least 45 days in advance and shall include the following language in the notice of application:

“Other professional persons retained pursuant to court approval may also seek approval of interim fees at this hearing, provided that they file and serve their applications in a timely manner. Unless otherwise ordered by the court, hearings on interim fee applications will not be scheduled less than 120 days apart.”

Not less than 24 days notice shall be given by the applicant or by the debtor in possession or trustee to all parties entitled to notice under F.R.B.P. 2002. The notice shall specify the identity of the professionals requesting fees, the period covered by the interim application, the specific amounts requested for fees and reimbursement of expenses, the date, time and place of the hearing, and the deadline for opposition papers. In addition to the notice, copies of the complete application, together with all supporting papers, shall be served on the debtor, the debtor in possession, the trustee (if any), the official creditors committee (if any), counsel for any of the foregoing, and the United States trustee. Copies of the complete application shall also be promptly furnished upon specific request to any other party in interest.

(b) FINAL FEE APPLICATIONS

- (1) Who Must File. All professional persons must file final fee applications.
- (2) Contents. Motions for final fee awards shall contain all information required of interim fee applications under Local Bankruptcy Rule 2016-1(a).
- (3) When Filed; Notice Required in Chapter 11 Cases. In chapter 11 cases, unless otherwise ordered by the court, final fee applications shall be filed and set for hearing as promptly as possible after confirmation of a plan and noticed pursuant to Local Bankruptcy Rule 2016-1(a)(2).

- (4) When Filed; Notice Required in Chapter 7 Cases.
- (A) The chapter 7 trustee shall give at least 30 days written notice of his or her intent to file a final report and account to the attorney for the debtor; the trustee's attorney and accountant, if any; and any other entity entitled to claim payment payable as an administrative expense of the estate.
 - (B) Any professional person seeking such compensation shall file and serve on the trustee an Application for Payment of Fees within 21 days of the date of the mailing of the trustee's notice. Failure timely to file such an application may be deemed a waiver of any compensation.
 - (C) Final fee applications shall be set for hearing with the chapter 7 trustee's final report. Notice of the final fee application shall be given by the chapter 7 trustee as part of the notice of the hearing on the trustee's final report. No separate notice by the applicant is required.

Any opposition or other responsive paper shall be served and filed at least 14 days prior to the hearing.

LOCAL BANKRUPTCY RULE 2016-2

COMPENSATION AND TRUSTEE REIMBURSEMENT

PROCEDURES IN CHAPTER 7 ASSET CASES

(a) APPLICABILITY

Except as provided herein, this Local Bankruptcy Rule applies in all chapter 7 asset cases in all divisions of the court and supersedes any previous general order. Nothing in this Local Bankruptcy Rule precludes the trustee from seeking court approval to disburse estate funds by way of a noticed motion filed and served pursuant to Local Bankruptcy Rule 9013-1.

(b) AUTHORIZATION TO USE ESTATE FUNDS UP TO \$1,000 TO PAY CERTAIN EXPENSES

During the course of a case, a trustee may disburse up to \$1,000 from estate funds to pay the following actual and necessary expenses of the estate without further authorization from the court (the “Authorized Allocation”):

- (1) Actual cost of noticing, postage, copying
- (2) Costs to advertise sale
- (3) Computer charges
- (4) Long distance telephone
- (5) Postage
- (6) Moving or storage of estate assets
- (7) Teletransmission
- (8) Travel charges for trustee (includes lodging, meals, mileage and parking)
- (9) Bank charges for research or copies
- (10) Court reporting fees
- (11) Delivery of documents
- (12) Expedited mail
- (13) Filing and process serving
- (14) Notary fees
- (15) Recording fees
- (16) Deposition/transcript fees
- (17) Witness fees
- (18) Locate and move assets
- (19) Prepare litigation support documents
- (20) Insurance

- (21) Locksmith
- (22) Rent
- (23) Security services
- (24) Utilities
- (25) Taxes payable pursuant to 11 U.S.C. § 503(b)(1)(B), but not preconversion taxes

(c) BOND PREMIUMS AND TAXES

In addition to payments that may be made from the Authorized Allocation, the trustee may pay during the ordinary course of the trustee's administration of an estate:

- (1) Bond premiums required by 11 U.S.C. § 322(a), and
- (2) Obligations to taxing agencies arising under 11 U.S.C. § 507(a)(2), provided the estate is and is likely to remain administratively solvent.

(d) EXPENSES FOR THE PREPARATION OF TAX RETURNS

The trustee may, by a single application, seek authorization to employ and pay a tax preparer a flat fee (not to exceed \$750 unless the court orders otherwise) for preparation of tax returns for the estate. If the court grants such application, the trustee may pay the flat fee so ordered without further application or order. This amount is in addition to payments that may be made from the Authorized Allocation.

(e) EMERGENCY EXPENSES

The trustee may exceed the Authorized Allocation to pay emergency expenses, without prior court approval, to protect assets of the estate that might otherwise be lost or destroyed. Emergency expenses are limited to:

- (1) Charges for storage of the debtor's records to prevent the destruction of those records and related necessary cartage costs
- (2) Insurance premiums to prevent liability to the estate
- (3) Locksmith charges to secure the debtor's real property or business
- (4) Security services to safeguard the debtor's real or personal property

If the trustee disburses more than the Authorized Allocation to pay emergency expenses and other expenses for which the Authorized Allocation may be used, the trustee must file and serve a cash disbursement motion, as described in paragraph (g) below, within 5 court days after such expenses are paid.

(f) PROCEDURES FOR EMPLOYMENT OF PARAPROFESSIONALS AND PAYMENT OF THEIR FEES AND EXPENSES

A trustee must obtain court approval to employ and to pay a paraprofessional. The term “paraprofessional” includes all persons or entities other than “professionals” who perform services at the trustee’s request and who will seek payment for services and expenses directly from the bankruptcy estate including, without limitation, an agent, a field representative, an adjuster and a tax preparer.

(1) Employment. A trustee may seek court approval to employ a paraprofessional by filing an employment application using Local Bankruptcy Rules Form F 2016-2.1. The court’s approval of the employment of any paraprofessional is not a judicial determination as to whether services of the paraprofessional constitute “trustee services.” The following is a nonexclusive list of services that the court deems “trustee services” subject to the limitation on compensation contained in 11 U.S.C. § 326(a):

- (A) Review schedules
- (B) Acceptance and qualification as a trustee
- (C) Routine investigation regarding location and status of assets
- (D) Initial contact with lessors, secured creditors, ABC, etc., if same can be accomplished from office
- (E) Turnover or inspection of documents, such as bank documents
- (F) UCC search review
- (G) Recruiting and contracting with appraisers, brokers, professionals
- (H) Mail forwarding notices
- (I) Routine collection of accounts receivable
- (J) Letters regarding compliance with Local Bankruptcy Rule 2015-1
- (K) Conduct 11 U.S.C. § 341(a) examination
- (L) Routine objection to exemption
- (M) Routine motions to dismiss
- (N) 11 U.S.C. § 707(b) referral to United States trustee
- (O) Routine documentation of notice of sale, abandonment, compromise, etc.
- (P) Appear at hearings of routine motions
- (Q) Review and execute certificate of sale, deed, or other transfer documents
- (R) Preparation and filing of notification of asset case
- (S) Prepare and file cash disbursement motions and necessary attachments
- (T) Prepare exhibits to operating reports
- (U) Prepare quarterly bond reports
- (V) Prepare 180-day status reports
- (W) Routine claims review and objection
- (X) Prepare and file final report and account and related orders
- (Y) Prepare motion to abandon or destroy books and records
- (Z) Prepare and file F.R.B.P. 3011 report
- (AA) Prepare and file notice and motion to abandon assets and related orders
- (BB) Attend sales
- (CC) Monitor litigation
- (DD) Answer routine creditor correspondence and phone calls

- (EE) Prepare and file application to employ paraprofessionals
- (FF) Review and comment on professional fee applications
- (GG) Participate in audits
- (HH) Answer United States trustee questions
- (II) Close and open bank accounts
- (JJ) Verify proposed disbursements
- (KK) Post receipts and disbursements
- (LL) Prepare detail and calculation for payment of dividend
- (MM) Prepare dividend checks
- (NN) Organize and research bills
- (OO) Prepare and sign checks for the trustee's signature
- (PP) Prepare internal cash summary sheets
- (QQ) Reconcile bank accounts
- (RR) Prepare and make deposits
- (SS) Additional routine work necessary for administration of the estate

- (2) Reimbursement of Fees and Expenses. A trustee may pay a paraprofessional only upon specific order of the court. If the paraprofessional or trustee contends that the paraprofessional's services are not "trustee services," the trustee or paraprofessional must present evidence to support that contention. Absent adequate proof, the court may find that the services of the paraprofessional are "trustee services" subject to the limitation on compensation under 11 U.S.C. § 326(a). If a trustee refuses or neglects to file a fee application for the paraprofessional, the paraprofessional may file a separate fee application pursuant to 11 U.S.C. § 330. In addition to fulfilling the requirements of 11 U.S.C. § 330, F.R.B.P. 2014, and the Local Bankruptcy Rules, the paraprofessional's fee application must include: (i) a declaration explaining why a separate fee application is necessary; and (ii) evidence establishing which services are "trustee services" and which are not. The paraprofessional must serve any separate fee application by first class mail on the trustee, debtor, debtor's counsel, if any, the United States trustee, and all professionals and other paraprofessionals employed in the case and must give notice of the application to all creditors.

(g) CASH DISBURSEMENT MOTION

- (1) Filing and Service. If the trustee wishes to pay expenses not authorized by this Local Bankruptcy Rule from estate funds, the trustee must file a cash disbursement motion pursuant to Local Bankruptcy Rule 9013-1(g) to obtain court approval of payments for emergency expenses and all other expenses the trustee deems necessary for effective administration of the case. The cash disbursement motion must be in substantially the same form as Local Bankruptcy Rules Form F 2016-2.2. The trustee must serve the cash disbursement motion by first class mail on the debtor, debtor's counsel, if any, the United States trustee, holders of the 20 largest unsecured claims, and all those who have served the trustee with requests for special notice. Any objections to the cash disbursement motion must be filed and served on the trustee and trustee's counsel, if any, within 10 days from the date the cash disbursement motion is served. The trustee must file the cash disbursement motion with the court within 15 days after service of the motion. If the trustee receives no

opposition, he or she must include a declaration to that effect. If the trustee receives opposition, he or she must set the matter for hearing and give written notice of the date, time and place of the hearing by first class mail to the objecting party, debtor, debtor's counsel, if any, and the United States trustee. The trustee may seek an expedited hearing pursuant to Local Bankruptcy Rule 9075-1.

- (2) Hearing. The court may set a hearing on a cash disbursement motion regardless of whether an objection is made. However, if the court does not advise the trustee of a hearing on the motion within 7 court days after the motion is filed, the trustee may disburse funds from the estate to pay the expenses referred to in the motion to the extent he or she deems it necessary, pending an order of the court. If, thereafter, the trustee receives notice that the court has issued an order in which the cash disbursement motion has been disapproved in whole or in part, or that the court has set a hearing, the trustee must stop paying the expenses dealt with in the motion or otherwise comply with the provisions of the order. The trustee may file a motion for reconsideration pursuant to Local Bankruptcy Rule 9013-1(d).
- (3) Personal Liability and Disclosure. Except as provided in this Local Bankruptcy Rule, a trustee who makes a disbursement without prior court approval may be personally liable to the estate for the amount of the disbursement. All disbursements made by the trustee pursuant to this Local Bankruptcy Rule must be disclosed in the trustee's final report and in all applications for fees/costs by the trustee and by paraprofessionals employed in the case by the trustee.

Court's Comment

2007 Revision

Paragraph (b) Authorization to Use Estate Funds Up to \$1,000 to Pay Certain Expenses. The amount a trustee may disburse from estate funds was increased from \$750 to \$1,000.

Paragraph (c) Bond Premiums and Taxes. A trustee may now pay obligations to taxing agencies arising under § 502(a)(2) during the ordinary course of the trustee's administration of an estate.

Paragraph (h) Chapter 7 Operating Cases. This paragraph was moved and renumbered Local Bankruptcy Rule 2070-1.

LOCAL BANKRUPTCY RULE 2070-1

CHAPTER 7 OPERATING CASES

- (a) For a period not exceeding 30 days from the date of the trustee's appointment, a trustee may operate the business of a chapter 7 debtor and pay any actual and necessary expenses from the Authorized Allocation permitted under Local Bankruptcy Rule 2016-1(b) without a court order.
- (b) To operate the business beyond such 30-day period, the trustee must, prior to expiration of the 30-day period, file and serve a motion under for authorization to operate the debtor's business under 11 U.S.C. § 721. The motion must state the approximate length of time the trustee intends to operate the business, and be supported by evidence that justifies operation of the business and satisfies the requirements of 11 U.S.C. § 721.
- (c) The trustee may seek approval to operate the debtor's business for a period not exceeding 1 year.
- (d) The court may hold a hearing on the trustee's motion after the expiration of the 30-day period, but the trustee may not disburse estate funds other than the Authorized Allocation after the 30-day period except upon specific order of the court.
- (e) An order authorizing the trustee to operate the debtor's business does not excuse the trustee from obtaining appropriate authorization for cash disbursements under Local Bankruptcy Rule 2016-1(g), except to the extent that the operating order expressly approves specific expenditures from the estate.

Court's Comment

2007 Revision

This new Local Bankruptcy Rule was formerly Local Bankruptcy Rule 2016-2(h) Chapter 7 Operating Cases.

LOCAL BANKRUPTCY RULE 2072-1

NOTICE TO OTHER COURTS

(a) NOTICE OF BANKRUPTCY PETITION

Notice of the filing of a bankruptcy petition in this district shall be given by the debtor or debtor's counsel to any federal or state court in which the debtor is party to pending litigation or other proceeding. Notice shall be given, at the earliest possible date, to the judge to whom the matter is assigned, the clerk of the court where the matter is pending, all counsel of record in the matter, and all parties to the action not represented by counsel.

(b) EFFECT OF NOT GIVING NOTICE

Failure to give the notice required by subdivision (a) of this rule may constitute cause for annulment of the stay imposed by 11 U.S.C. §§ 362, 922, 1201, or 1301, or may result in the imposition of sanctions or other relief.

LOCAL BANKRUPTCY RULE 2081-1

CHAPTER 11 PROCEDURES

(a) APPLICABILITY

Except as provided herein, this Local Bankruptcy Rule relates to chapter 11 cases in all divisions of the bankruptcy court, including as to prospective matters, cases pending as of the effective date.

(b) MOTIONS REQUIRING EMERGENCY OR EXPEDITED RELIEF

(1) Scope. The motions governed by this Local Bankruptcy Rule include all motions requiring an order on less than 2 court days notice. If a motion requires such emergency or expedited relief:

(A) Obtaining Hearing Date and Time. A hearing date and time may be obtained by telephoning the staff member of the court whom the judge has designated to schedule emergency or expedited hearings. The judge has discretion at the hearing to hear the matter or continue it to a different date and time. The identity of the designated member of the judge's staff shall be available from the clerk's office and posted on the court's Internet website.

(B) Contents of Motion. Each such motion shall begin with a summary not more than 2 pages in length explaining what relief is requested and the reasons why granting such relief is appropriate. In addition to the applicable requirements of Local Bankruptcy Rule 9013-1(a)(4), the motion shall be accompanied by declarations of competent witnesses under penalty of perjury that (i) justify the setting of a hearing on an emergency basis; and (ii) support the granting of the motion itself on the merits. No separate motion for an expedited hearing under this rule is required.

(C) Filing the Motion. The motion shall be filed as soon as possible, but no later than 4 hours prior to the hearing, unless otherwise ordered by the court. In the event that the motion is filed the day of the hearing, the declaration must set forth the reasons why the motion could not have been filed earlier. Upon filing, a filed copy of the motion shall be delivered directly to chambers.

- (D) Scope of Notice Required. The moving party shall serve notice of the motion and hearing by personal delivery, messenger, telephone, fax, or e-mail to the the parties to whom notice of the motion is required to be given by the Federal Rules of Bankruptcy Procedure or by the Local Bankruptcy Rules, as well as to any other party that is likely to be adversely affected by the granting of the motion and the Office of the United States Trustee. The notice of hearing shall indicate that any response, written or oral, including any opposition or objection to the motion may be presented before or at the time of the hearing on the motion.
- (E) Service of the Motion. The motion shall be served in accordance with subsection (D) above concurrently with the filing of the moving papers with the court.
- (F) Proof of Notice to be Presented at the Hearing. At the hearing, the moving party shall present to the court a declaration of the efforts made to comply with the notice and service requirements of this Local Bankruptcy Rule. This declaration shall describe the efforts made to notify opposing parties and their counsel of the time and place of the hearing and the substance of the motion.
- (2) Specific Types of Motions. The foregoing procedures govern the following types of motions:
- (A) Motions to limit notice.
- (B) Motions to extend time to file schedules and statements of financial affairs.
- (C) Utility motions pursuant to 11 U.S.C. § 366.
- (D) Motions to establish procedures for handling multiple reclamation claims.
- (E) Requests for regularly scheduled hearing dates. Upon request of a debtor, the court may establish a fixed date and time for hearing all motions and other matters in a chapter 11 case. Once ordered, the dates and time, and exceptions, if any, will be made available through the clerk's office and will be posted in advance on the court's Internet website.
- (F) Motions to pay prepetition payroll and to honor prepetition employment procedures. Such motions must be supported with evidence that establishes:
- (i) The employees are still employed;
 - (ii) The necessity for payment;
 - (iii) The benefit of the procedures;

- (iv) The prospect of reorganization;
 - (v) Whether the employees are insiders;
 - (vi) Whether the employees' claims are within the limits established by 11 U.S.C. § 507; and that
 - (vii) The payment will not render the estate administratively insolvent.
- (G) Motions to honor and comply with customer obligations and deposits. Such motions must be supported by evidence that relief is essential to business operations and customer confidence or that the estate may suffer postpetition damages that would prejudice creditors, the reorganization, or the value of property of the estate.
- (H) Motions to pay prepetition taxes. Such motions must be supported by evidence that establishes:
- (i) The necessity for payment;
 - (ii) The prospect of reorganization;
 - (iii) The means to pay;
 - (iv) That the taxes to be paid are entitled to priority pursuant to 11 U.S.C. § 507; and that
 - (v) The payment will not render the estate administratively insolvent.
- (I) Motions for emergency use of cash collateral, debtor in possession financing and/or cash management. See section (c) below.
- (J) Motions for orders establishing procedures for sale of estate's assets. See section (d) below.
- (K) Appointment of a patient care ombudsman under § 333.
- (L) Other motions where special circumstances exist. Such motions must demonstrate with evidence that exigent circumstances exist justifying an immediate hearing.

(c) **MOTIONS FOR EMERGENCY USE OF CASH COLLATERAL, DEBTOR IN POSSESSION FINANCING AND/OR CASH MANAGEMENT**

- (1) Motions. Motions requesting approval of cash collateral, debtor in possession financing and/or cash management under 11 U.S.C. §§ 363 and/or 364 must identify whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below, including:
- (A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);
 - (B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection, or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor;
 - (C) Provisions that seek to waive the estate's rights under 11 U.S.C. § 506(c);
 - (D) Provisions that grant to the prepetition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548, or 549.
 - (E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in 11 U.S.C. § 552(b);
 - (F) Provisions that provide disparate treatment for the professionals retained by a creditors' committee from that provided for the professionals retained by the debtor with respect to a professional fee carve out; and
 - (G) Provisions that prime any secured lien. Such motions must:
 - (i) Identify the location of any such provision in the proposed form of order, cash collateral stipulation, and/or loan agreement; and
 - (ii) Contain specific justification for priming.
- (2) Summary of Essential Terms. The motion must include a summary of the essential terms of the proposed use of cash collateral and/or debtor in possession financing (e.g., the interim borrowing limit, the maximum borrowing available on a final basis, borrowing conditions, interest rate, maturity dates, events of default, use of funds limitations, and protections afforded under 11 U.S.C. §§ 363 and 364).

- (3) Use of Form for Cash Collateral and/or Debtor in Possession Financing Stipulations. Each motion requesting approval of a stipulation for use of cash collateral and/or debtor in possession financing must be accompanied by court-approved form F 4001-2, Statement Pursuant to Local Bankruptcy Rule 4001-2, or a statement consistent with court-approved form F 4001-2.
- (4) Interim Relief. The court may grant interim relief to prevent immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court will not approve interim orders that include any of the provisions described in subsection (1)(A) above.
- (5) Final Orders. A final order will be entered only after notice and a hearing pursuant to Federal Rule of Bankruptcy Procedure 4001(b). Ordinarily, the final hearing will be held at least 10 days after the appointment of the creditors' committee contemplated by 11 U.S.C. § 1102.

(d) MOTIONS FOR ORDERS ESTABLISHING PROCEDURES FOR THE SALE OF THE ESTATE'S ASSETS

- (1) Timing of Hearing. A hearing on a Motion to Establish Procedures for the Sale of the Estate's Assets ("Sale Procedure Motion") may be scheduled on 5 days notice to applicable parties, unless the court orders otherwise.
- (2) Procedures. The procedures for obtaining a hearing on such motion on shortened time shall be governed by section (b) above.
- (3) Contents of Notice. The notice must describe the proposed bidding procedures and include a copy of the proposed purchase agreement. If the purchase agreement is not available, the moving party shall describe the terms of the sale proposed and when a copy of the actual agreement will be filed with the court and from whom it may be obtained. The notice must describe the marketing efforts undertaken, the anticipated marketing plan, or explain why no marketing is required. The notice must provide that opposition shall be due on or before 1 court day prior to the hearing.
- (4) Opposition. Any opposition and accompanying memorandum of points and authorities and declarations shall be filed and served at least 1 court day prior to the hearing. Service of the opposition pleadings shall be by e-mail, fax, or personal delivery. A filed copy of the opposition shall be delivered directly to chambers the same day it is filed.
- (5) Service of the Notice and Motion. The notice of hearing and moving papers shall be served pursuant to the provisions of sections (b)(1)(D) and (E) above to the parties to whom notice and the motion are required to be given and to any other party requesting a copy of the pleadings.

- (6) Scheduling Hearing on the Sale. A date and time for a hearing on the motion to approve the sale itself may be obtained at or prior to the hearing on the Sale Procedure Motion. Such hearing shall be scheduled, if practicable, no more than 30 days following the hearing on the Sale Procedure Motion.
- (7) Break-Up Fees. If a break-up fee or other form of overbid protection is requested in the Sale Procedure Motion, the request must be supported by evidence establishing:
 - (A) That such a fee is likely to enhance the ultimate sale price; and
 - (B) The reasonableness of the fee.

(e) MOTIONS TO EMPLOY PROFESSIONALS

Each motion shall specify and highlight whether the employment is proposed pursuant to 11 U.S.C. § 327 or 11 U.S.C. § 328. Professionals may be employed on a retainer, an hourly rate basis, on a fixed or percentage fee basis, on a contingency or success fee basis, or on a combination thereof. If the court approves the terms of the professional's employment, including without limitation, the professional's hourly rate, fixed or percentage fee, and/or contingency or success fee, the court shall not reconsider such terms of employment at a subsequent time. The preceding sentence shall in no way limit the court in exercising its discretion pursuant to 11 U.S.C. § 330(a)(2)

(f) MOTIONS TO APPROVE COMPENSATION PROCEDURES, INCLUDING MONTHLY DRAW-DOWNS AND CONTINGENCY OR SUCCESS FEE AGREEMENTS

Professionals may request approval for and modifications of draw-down procedures and an order allowing payment of interim compensation more frequently than once every 120 days.

(g) MOTIONS FOR JOINT ADMINISTRATION OF CASES PENDING IN THE SAME COURT

If 2 or more petitions are pending before the same judge by or against a partnership and any of its general partners, 2 or more general partners, or a debtor and an affiliate, the court may, order the joint administration of the estates, without notice or a hearing. An order of joint administration may be entered upon the filing of a motion for joint administration, together with a declaration establishing that the joint administration of the respective debtors' estates is warranted, will ease the administrative burden for the court and the parties, and protect creditors of the different estates against potential conflicts of interest. Joint administration pursuant to this Local Bankruptcy Rule shall not effect a substantive consolidation of the respective debtors' estates.

(h) PREPACKAGED PLANS

A hearing on confirmation of a plan upon which voting was conducted before commencement of the case pursuant to 11 U.S.C. § 1126(b) shall be scheduled, if practicable, no more than 30 days after the order for relief.

(i) SEVERANCE COMPENSATION AND/OR EMPLOYEE INCENTIVE MOTIONS

- (1) Notice. Motions for approval of severance compensation packages and/or employee incentive programs shall be heard on regular notice, absent exigent circumstances.
- (2) Standard. The Motion must state whether the employee is an insider. If so, the Motion must demonstrate pursuant to 11 U.S.C. § 503(c):
 - (A) if the insider has a bona fide job offer from another business at the same or greater rate of compensation;
 - (B) that the incentive is essential to the retention of the employee;
 - (C) that the services to be rendered are essential to the survival of the business and either (i) the amount to be transferred or the obligation to be incurred is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the year the transfer is made; or (ii) if no similar transfer or obligation was incurred to such nonmanagement employee during the year, the amount is not greater than an amount equal to 25% of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the prior year; and,
 - (D) a severance payment must be (i) a payment that is part of a program generally applicable to all full-time employees; and (ii) the amount is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment was made.

(j) ELECTRONIC TRANSMISSION

Whenever a party is required or allowed by the Local Bankruptcy Rules to serve a notice, a pleading, or a copy of an order and the other party has requested service by electronic transmission, the sender may serve the notice, pleading, or order by electronic transmission. Service will be deemed completed upon receipt by the sender of an electronic confirmation of the electronic transmission. Such confirmation should be submitted along with the proof of service of such notice, pleading or order.

Court's Comment

2007 Revision

Former General Order 02-02. In general, all references to the term *General Order* have been changed to *Local Bankruptcy Rule*. Other related formatting and technical changes have been made.

Paragraph (a). Amended to reflect enactment as Local Bankruptcy Rule.

Paragraph (b)(1). Changed the structure of the sentence to improve readability in subsection (A). Changed *1 page* to *2 pages* in subsection (B). Moved the declaration requirement language from subsection (C) to (B). Changed *2 hours* to *4 hours* in subsection (C). Deleted *and Means For* and list of specific parties to be served in subsection (D). Combined former subsections (E) and (F) into new subsection (D), which requires notice to be given to parties pursuant to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules generally, to parties likely to be adversely affected by the granting of the motion, and to the Office of the United States Trustee. New subsection (E) requires that the motion be served in accordance with subsection (D) concurrent with the filing of the moving papers with the court.

Paragraph (b)(2). Changed the structure of sentence in subsection (E) to improve readability. Changed *financing* to *debtor in possession financing* in subsection (I). Added subsection (K), which refers to motions for appointment of a patient care ombudsman. Former subsection (K) renumbered as new subsection (L).

Paragraph (c). Changed *financing* to *debtor in possession financing* throughout section. Changed the structure of sentence in subsection (G) to improve readability.

Paragraph (d). Changed scope of section to apply to all motions for the sale of the estate's assets. Changed *available* to *filed with the court* in subsection (3). Added *Notice and* to subsection (5). Also added cross-reference in subsection (5) to notice provisions in sections (b)(1)(D) and (E), and deleted language stating the *motion shall be delivered as soon as possible to any*. In subsection (7), changed *Sales* to *Sale* and *motion* to *request*.

Paragraph (e). Added *fixed or percentage fee basis* language and term *retainer* to align language of rule with 11 U.S.C. § 328(a). Also added *if practicable* and changed *needs to* to *should*.

Paragraph (f). Changed *compensation* to *interim compensation*.

Paragraph (g). Changed the structure of sentence to improve readability. Deleted *upon motion*.

Paragraph (i). Deleted former subsection (2) and replaced it with language of 11 U.S.C. § 503©).

Paragraph (j). Added *or allowed* to first sentence. Changed *another* to *the other*. Deleted *to be* in second sentence. Added sentence requiring that such confirmation be submitted along with the proof of service of such notice, pleading or order.

LOCAL BANKRUPTCY RULE 2090-1

ATTORNEYS

(a) APPEARANCE BEFORE THE COURT

- (1) By Attorney. Except as set forth in this Rule, appearance before the court on behalf of a person or entity may be made only by an attorney admitted to the bar of, or permitted to practice before, the district court. Attorneys appearing before the court are required to have read the F.R.B.P. and the Local Bankruptcy Rules in their entirety.
- (2) Scope of Appearance. An attorney may appear before the court in a case:
 - (A) Only for such matters as concern the administration of the case;
 - (B) Only for 1 or more proceedings in the case; or
 - (C) For the case and all proceedings in the case.

In chapter 9, 11, 12, and 13 cases, the attorney for the debtor is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the court.
- (3) Disclosure of Scope of Appearance in Chapter 7 Cases. In a chapter 7 case, the attorney for the debtor shall file a statement disclosing the scope of the attorney's appearance on the date of the entry of the Order for Relief, or, if the attorney has not been employed by such date, then no later than the date of the first appearance made by the attorney.
- (4) Form of Statement. The statement required by Local Bankruptcy Rule 2090-1(a)(3) shall be on a form approved by the court and shall be signed by the debtor.

(b) PRO HAC VICE APPEARANCE

- (1) Permission for Pro Hac Vice Appearance. Any person who is not otherwise eligible for admission to practice before the court, but who is a member in good standing of, and eligible to practice before, the bar of any United States court, or of the highest court of any state, territory, or insular possession of the United States, who is of good moral character, and who has been retained to appear before the court, may, upon written application and at the discretion of the court, be permitted to appear and participate pro hac vice in a particular case or in a particular proceeding in a case.

- (2) Disqualification from Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States or Act of Congress, an applicant is not eligible for permission to practice pro hac vice if the applicant:
 - (A) Resides in California; or
 - (B) Is regularly employed in California; or
 - (C) Is regularly engaged in business, professional, or other similar activities in California.

- (3) Designation of Local Counsel. A person applying to appear pro hac vice is required to designate an attorney who is a member of the bar of the court and who maintains an office within this district as local counsel with whom the court and opposing counsel may readily communicate regarding the conduct of the case and upon whom papers may be served, unless otherwise ordered by the court.

- (4) Designation of Co-Counsel. A judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is a member of the bar of the court and who maintains an office within this district as co-counsel with authority to act as attorney of record for all purposes.

- (5) Obtaining Permission for Pro Hac Vice Appearance. Each applicant for permission to appear pro hac vice shall present to the clerk a written application on or conforming to court-approved form F 2090-1.2 (Application of Non-Resident Attorney to Appear in a Specific Case) and containing the following:
 - (A) The applicant's name, residence and office address.
 - (B) The courts to which the applicant has been admitted to practice and the respective dates of admission.
 - (C) A statement by the applicant of the good standing to practice before the courts to which the movant has been admitted.
 - (D) Whether the applicant has been disciplined by any court or administrative body, and if disciplinary proceedings are pending, the details of such proceeding, and whether the applicant resigned while disciplinary proceedings were pending.
 - (E) Whether in the 3 years preceding the application, the applicant has filed for permission to practice pro hac vice before any court within the state of California, together with the court, title and number of each such proceeding and the disposition of each such application.

- (F) A certificate that the applicant has read the Local Bankruptcy Rules, the F.R.B.P., the F.R.Civ.P., and the F.R.Evid., in their entirety.
- (G) The designation required by Local Bankruptcy Rule 2090-1(b)(3) or 2090-1(b)(4) including the office address, telephone number and written consent of the designee.

No notice or hearing is required on such applications.

(c) ATTORNEYS FOR THE UNITED STATES

Any person who is not eligible for admission under Local Bankruptcy Rule 2090-1(b), or Local Rules 83-2.2.1 or 83-2.3 of the district court, who is employed within the state and who is a member in good standing of and eligible to practice before the bar of any United States court, or of the highest court of any state, territory or insular possession of the United States, and who is of good moral character, may be granted leave of court to practice in the court in any matter for which such person is employed or retained by the United States or its agencies.

**(d) PROFESSIONAL CORPORATIONS AND UNINCORPORATED LAW FIRMS;
IN-HOUSE ATTORNEYS**

- (1) Appearance. Other than pro se appearances on behalf of the attorney or his or her professional corporation or law firm, no appearance may be made on behalf of another party by and no pleadings or other documents may be signed in the name of any professional law corporation or unincorporated law firm (both hereinafter referred to as “law firm”) except by an attorney admitted to the bar of or permitted to practice before the court.
- (2) Form of Appearance.
 - (A) A law firm shall appear in the following form of designation or its equivalent:

John Smith (state bar number)
Smith and Jones
Address
Telephone Number
Fax Number (if any)
Attorneys for Plaintiff

- (B) An in-house attorney shall appear in the following form of designation or its equivalent:

John Smith (state bar number)
 Name of corporation or business entity
 Address
 Telephone Number
 Fax Number (if any)
 Attorneys for _____

(e) **AVAILABLE PROCEDURES TO ENFORCE STANDARDS OF PROFESSIONAL CONDUCT**

Any attorney who appears for any purpose submits to the discipline of the court with respect to conduct of the case or proceeding and shall be subject to the standards of professional conduct as set forth in Local Rule 83-3.1.2 of the District Court Local Rules. A process of attorney discipline in the bankruptcy court is set forth in General Order 96-05 as Appendix II. An alternative process of attorney discipline is available as set forth in District Court Local Rule 83-3.

(f) **WITHDRAWAL AND SUBSTITUTION OF ATTORNEYS**

- (1) In General. Except as otherwise provided in Local Bankruptcy Rules 2090-1(f)(2) and 3015-1 governing chapter 13 cases, whenever an attorney has appeared on behalf of an entity in any matter concerning the administration of the case, in one or more proceedings, or both: (A) the attorney may not withdraw; and (B) the entity may not thereafter appear without counsel or by a different attorney prior to approval by the court of a motion considered after notice and a hearing.
- (2) Consensual Substitutions of Counsel. If the entity on whose behalf an attorney has appeared in any matter concerning the administration of the case, in one or more proceedings, or both, desires to substitute a different attorney in place of its former attorney, or a previously unrepresented entity desires to employ an attorney, no order shall be required, except under subsection (5) of this Rule. Notice of Substitution of Attorney shall be filed and served on those persons entitled to notice as specified in Local Bankruptcy Rule 2090-1(f)(3). Substitution of counsel shall not result in a continuance of any matter, except upon a noticed motion for continuance pursuant to Local Bankruptcy Rule 9013-1(f).
- (3) Extent of Notice.

- (A) Case. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity in any matter concerning the administration of the case, notice of the proposed substitution or the motion for leave to withdraw shall be given to the debtor, the United States trustee, any trustee, any committee which may have been appointed pursuant to the Bankruptcy Code, and any entity who has requested special notice.
 - (B) Proceedings. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity only in one or more proceedings, notice of the proposed substitution or the motion for leave to withdraw shall be given to the debtor, parties who have been named or who have appeared in such proceeding(s), and the United States trustee.
 - (C) Cases and Proceedings. If the attorney to be substituted out or the attorney seeking to withdraw has appeared on behalf of an entity both in the case and one or more proceedings, notice of the proposed substitution or the motion for leave to withdraw shall be given to all entities entitled to notice under both (f)(3)(A) and (B) of this Local Bankruptcy Rule.
- (4) Required Disclosures.
- (A) Consequences of Withdrawal. An attorney moving for leave to withdraw from representation of a corporation, partnership or other unincorporated association, concurrently or prior to filing any such motion, shall give notice to the corporation or unincorporated association of the consequences of its inability to appear without counsel including the possibility that a default judgment may be entered against it in pending proceedings; or, if the client is a debtor, its chapter 11 case may be converted to chapter 7, a chapter 11 trustee may be appointed, or its case may be dismissed.
 - (B) Delays. Unless good cause is shown and the ends of justice require, no substitution or withdrawal will be allowed that will cause unreasonable delay in prosecution of the case or proceeding to completion.
- (5) Required Approval for Employment. If approval is requested for employment pursuant to 11 U.S.C. § 327 or § 1103, a new attorney shall also comply with F.R.B.P. 2014 and the United States Trustee Notices and Guides, and may not be appointed merely by a Notice of Substitution of Attorney and Order thereon.

(g) PERSONS APPEARING WITHOUT COUNSEL

- (1) Corporation, Partnership, or Unincorporated Association. A corporation, partnership or unincorporated association 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 officer or agent of the corporation, or an authorized member or agent of the unincorporated association.
- (2) Individuals. Any person representing himself or herself without an attorney shall appear personally for such purpose. The representation may not be delegated to any other person, including a spouse, parent or other relative, nor to any other party. A non-attorney guardian for a minor or an incompetent person shall be represented by counsel.
- (3) Compliance with Rules. Any person appearing without counsel shall comply with the Local Bankruptcy Rules, the F.R.Civ.P., F.R.Evid., F.R.App.P., and F.R.B.P. Failure to comply may be grounds for dismissal, conversion, appointment of a trustee or an examiner, judgment by default, or other appropriate sanctions.

(h) LAW STUDENT CERTIFICATION FOR PRACTICE IN BANKRUPTCY COURTS

Law students may be certified for practice in the bankruptcy court if they meet the requirements of the Student Practice Rule of the district court except that:

- (1) They do not have to have completed courses in criminal law and criminal procedure.
- (2) They only have to have completed one-third (rather than one-half) of the legal studies required for graduation.
- (3) They shall have taken or be taking concurrently appropriate courses in bankruptcy law. An eligible law student shall also have knowledge of and be familiar with the F.R.Civ.P., F.R.B.P., F.R.Evid., the Rules of Professional Conduct of the State Bar of California, and the Local Bankruptcy Rules.

(i) MINORS OR INCOMPETENTS

District Court Local Rule 83-5 is incorporated by reference.

LOCAL BANKRUPTCY RULE 3001-1

NOTICES OF CLAIMS BAR DATES IN CHAPTER 11 CASES

In all chapter 11 cases where the court orders a bar date for the filing of claims, the debtor in possession or the chapter 11 trustee shall serve notice of the claims bar date on all creditors and on other parties entitled to notice. The following language shall be used in the notice:

NOTICE OF CLAIMS DEADLINE

The Bankruptcy Court has set a deadline of _____, 20____ for creditors of and holders of ownership interests in the above-referenced debtor to file proofs of claim against or proofs of interest in the debtor's estate.

The exceptions to this deadline for filing proofs of claim or interest are: (1) claims arising from rejection of executory contracts or unexpired leases, (2) claims of governmental units, and (3) claims arising as the result of transfer avoidance pursuant to chapter 5 of the Bankruptcy Code.

For claims arising from rejection of executory contracts or unexpired leases pursuant to 11 U.S.C. § 365, the last day to file a proof of claim is (a) 30 days after the date of entry of the order authorizing the rejection, or (b) **[repeat the bar date set for all other claims here]**, whichever is later.

For claims of "governmental units," as that term is defined in 11 U.S.C. § 101(27), proofs of claim are timely filed if filed: (a) before 180 days after the date of the Order for Relief in this case, or (b) by **[repeat the bar date set for all other claims here]**, whichever is later. 11 U.S.C. § 502(b)(9).

For claims arising from the avoidance of a transfer under chapter 5 of the Bankruptcy Code, the last day to file a proof of claim is 30 days after the entry of judgment avoiding the transfer, or (b) **[repeat the bar date set for all other claims here]**, whichever is later.

If you are listed on the Schedules of Assets and Liabilities of [debtor] and your claim or interest is not scheduled as disputed, contingent, unliquidated or unknown, your claim or interest is deemed filed in the amount set forth in the schedules, and the filing of a proof of claim or interest is unnecessary if you agree that the amount scheduled is correct and that the category in which your claim or interest is scheduled (secured, unsecured, preferred stock, common stock, etc.) is correct. 11 U.S.C. § 1111(a).

If your claim or interest is not listed on the schedules or is scheduled as disputed, contingent, unliquidated or unknown, or you disagree with the amount or description scheduled for your claim or interest, you must file a proof of claim or interest.

Failure of a creditor or interest holder to file timely a proof of claim or interest on or before the deadline may result in disallowance of the claim or interest or subordination under the terms of a plan of reorganization without further notice or hearing. 11 U.S.C. § 502(b)(9). Creditors and interest holders may wish to consult an attorney to protect their rights.

LOCAL BANKRUPTCY RULE 3007-1

OBJECTIONS TO CLAIMS

(a) OBJECTIONS

- (1) Objections to claims are “contested matters” under F.R.B.P. 9014. Except to the extent otherwise provided in this Local Bankruptcy Rule, an objection to claim must comply with the requirements of Local Bankruptcy Rule 9013-1.
- (2) If a claim objection is joined with a demand for relief of a kind specified in F.R.B.P. 7001, it becomes an adversary proceeding subject to Local Bankruptcy Rule 7004-1, *et. seq.*
- (3) A claim objection must include the number, if any, assigned to the disputed claim on the court’s claims register.
- (4) A separate objection must be filed to each proof of claim unless
 - (A) the objection pertains to multiple claims filed by the same creditor;
 - (B) the objection is an omnibus claim objection; or
 - (C) the court orders otherwise.
- (5) An omnibus claim objection asserts the same type of objection to claims filed by different creditors, e.g., claims improperly filed as priority claims, duplicate claims, claims filed after the bar date. An omnibus claim objection must
 - (A) Identify the name of each claimant and the claim number in the caption of the objection; and
 - (B) Include as exhibits the documents supporting each claim objection organized and indexed by claim number.
- (6) If more than 20 objections in a case are noticed for hearing on a single calendar, the objector must comply with the supplemental procedures available in the clerk’s office and on the court’s website <www.cacb.uscourts.gov>.

(b) NOTICE AND HEARING

- (1) A claim objection must be set for hearing on notice of not less than 30 days.
- (2) The claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by F.R.B.P. 7004 and other applicable rules.
- (3) A Notice of Objection to Claim must be served with the claim objection. The notice must advise the claimant of the date, time and place of hearing, and state:
 - (A) A response must be filed and served not later than 14 calendar days prior to the date of hearing set forth in the notice; and
 - (B) If a response is not timely filed and served, the court may grant the relief requested in the objection without further notice or hearing.
- (4) The court will conduct a hearing on a claim objection to which there is a timely response.
- (5) If the claimant timely files and serves a response, the court, in its discretion, may treat the initial hearing as a status conference if it determines that the claim objection involves disputed fact issues or will require substantial time for presentation of evidence or argument.
- (6) If the claimant does not timely file and serve a response, the court may sustain the objection and grant the relief requested without a hearing.
 - (A) The objector may then lodge a proposed order, together with a declaration attesting that no response was served upon the objector. The declaration must identify the docket number and filing date of the objection to claim, notice, and proof of service of the notice and objection to claim, and be served on the claimant.
 - (B) The objector must also lodge a notice of entry of order which provides for service on the claimant, and any other party in interest served with the objection to claim. The notice of entry must be accompanied by sufficient copies of the order and stamped, addressed envelopes for all parties entitled to notice of entry of the order.

(c) EVIDENCE REQUIRED

- (1) An objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with F.R.B.P. 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified.

- (2) A copy of the complete proof of claim, including attachments or exhibits, must be attached to the objection to claim, together with the objector's declaration stating that the copy of the claim attached is a true and complete copy of the proof of claim on file with the court, or, if applicable, of the informal claim to which objection is made.
- (3) If the complete proof of claim is not readily available from the court file, the objector may formally request a copy from the holder of the claim by serving the creditor with a Notice of Request for Copy of Claim.
 - (A) The request must advise the holder of the claim that failure to supply a complete copy of the proof of claim, including all attached documentation, within 30 days of the notice may constitute grounds for objection to the claim based on inadequate documentation.
 - (B) If an objection is filed on this basis, it must be accompanied by a declaration providing evidence that the proof of claim was not readily available from the court file or otherwise.
- (4) If the basis for the objection is that the proof of claim was filed after the bar date, the objection must include a copy of each of the following:
 - (A) The bar date order, if any;
 - (B) The notice of bar date; and
 - (C) Proof of service of the notice of bar date.
- (5) If the basis for the objection is that there are duplicate proofs of claim, the objection must include a complete copy of each proof of claim.

Court's Comment

2007 Revision

This rule was amended to facilitate objections to claims based upon 30-days notice of the objection and hearing thereon. An unopposed objection that is properly served and overcomes the evidentiary effect of the proof of claim may be sustained without a hearing. The rule was also amended to clarify the procedures for omnibus objections to claims.

LOCAL BANKRUPTCY RULE 3011-1

**PROCEDURE FOR OBTAINING ORDERS
RELEASING UNCLAIMED FUNDS**

(a) FORM OF MOTION REQUIRED

A request for an order releasing unclaimed funds pursuant to 28 U.S.C. § 2042 shall be made by written motion in compliance with Local Bankruptcy Rule 9013-1, either using the court-approved form “Motion for Order Releasing Unclaimed Funds,” or containing all of the information and supported by all of the evidence required by the court-approved form. Failure to comply with this requirement may result in the motion being denied without hearing under Local Bankruptcy Rule 9013-1(a).

(b) NOTICE REQUIRED

A motion for an order releasing unclaimed funds shall be served on at least the following parties:

- (1) United States Attorney for the Central District of California;
- (2) United States trustee for the Central District of California;
- (3) Any trustee (and the trustee’s counsel, if any) appointed in the case;
- (4) The debtor, debtor in possession, reorganized debtor, or other fiduciary appointed to supervise the distribution of funds and assets of the estate (and their counsel, if any);
and
- (5) If movant is not the original creditor or an employee thereof, on the original creditor, addressed to the attention of the managing officer or person of that creditor, if applicable, and upon the creditor’s counsel, if any.

Failure to serve such a motion on the required parties shall result in its denial.

LOCAL BANKRUPTCY RULE 3015-1**PROCEDURES REGARDING CHAPTER 13 CASES****(a) APPLICABILITY**

Except as provided herein, this Rule relates to chapter 13 cases in all divisions of the bankruptcy court and supersedes any previous orders in conflict with the provisions hereof. The definitions set forth in the Local Bankruptcy Rules effective July 1, 1998, and any amendments thereafter, apply to all terms used in this Rule. To the extent that this Rule conflicts with any other provisions of the Local Bankruptcy Rules, the provisions of this Rule prevail. In all other respects, the Local Bankruptcy Rules apply in all chapter 13 cases.

(b) FILING AND SERVICE OF PETITIONS, PLANS, PROOFS OF CLAIM, AND OTHER FORMS

- (1) Filing of Petition. An original and one copy of the petition, schedules and all other documents required to initiate the case must be filed with the court. If the petition is electronically filed, the debtor must provide court copies as required by the electronic filing rules on the court's website.

If the chapter 13 schedules, plan and all other required documents are not filed with the petition, the clerk will issue an order notifying the debtor that, if the missing documents are not filed within 15 days from the date of the filing of the petition, the court may dismiss the case, unless the court grants a motion to extend time filed within the 15 days.

- (2) Time Extension. A motion for extension of time must be accompanied by a declaration showing specific cause for an extension of time, the amount of additional time requested, the date the petition was filed, and a proof of service evidencing that the motion and declaration were served on the chapter 13 trustee. The court may consider the motion without a hearing. If any schedule, the statement or the plan is not filed within the initial 15 days or within such additional time as the court may allow in response to a timely motion for extension of time, the court may dismiss the case.

- (3) Notice and Service. The debtor or debtor's attorney must serve a notice of the plan confirmation hearing, along with a copy of the chapter 13 plan, on all creditors and the chapter 13 trustee at least 28 days before the date first set for the § 341(a) meeting of creditors. A proof of service must be filed with the court and served on the chapter 13 trustee at least 10 days prior to the date first set for the meeting of creditors. Chapter 13 papers should not be served on the United States trustee, except as provided in section (q) herein or when the United States trustee serves as chapter 13 trustee.
- (4) Forms. The chapter 13 petition, schedules and statement of financial affairs and proofs of claim must be prepared as prescribed by the appropriate official form, as required by F.R.B.P. 1007(b)(1). All other chapter 13 papers filed by the debtor or debtor's attorney must be submitted on applicable Central District court-mandated forms, if any, or be prepared in the same format.

If the debtor does not use a court-mandated form, the debtor or debtor's attorney must include a statement under penalty of perjury that the document contains all of the language of the approved form, or that specifies each respect in which it differs (apart from filling in blanks). The court-approved forms can be obtained from the clerk's office or downloaded from the court's website located at <www.cacb.uscourts.gov>.

- (5) Proof of Claim. Each proof of claim must be in conformity with F.R.B.P 3002 and must be served on the debtor's attorney, or on the debtor if the debtor is not represented by counsel, and on the chapter 13 trustee. Each proof of claim must include a proof of service.
- (6) Domestic Support Obligations. In all cases in which there is a domestic support obligation, regardless of the entity holding such claim, the debtor must provide to the chapter 13 trustee within 15 days of the filing of the petition the name, current address and current telephone number of the holder of the claim along with any applicable case number and account number. Throughout the duration of the case, the debtor must inform the chapter 13 trustee of any new or changed information regarding this requirement. Should a domestic support obligation arise after the filing of the petition, the debtor must provide the required information to the chapter 13 trustee as soon as practicable but no later than 15 days after the duty to pay the domestic support obligation arises.

(c) MEETING OF CREDITORS - § 341(a)

- (1) Notice and Service. Notice of the § 341(a) meeting of creditors and initial confirmation hearing date along with a proof of claim form will be served on all creditors by the court at least 28 days before the date first set for the § 341(a) meeting of creditors.
- (2) Attendance Requirement. The debtor and debtor's attorney must attend the § 341(a) meeting of creditors. If the case is a joint case, both debtors must appear.

- (3) Evidence of Income. The debtor must provide evidence of current income (pay stubs, tax return or other equivalent documentation) to the chapter 13 trustee at least 8 days before the § 341(a) meeting of creditors. If income from third party contributors will be used to fund the plan, the debtor must also provide evidence (declarations and pay stubs or other appropriate evidence) of the commitment and ability of the third party to make payments.
- (4) Required Reports in a Business Case. If the debtor is operating a business or is otherwise self-employed, the debtor must submit to the chapter 13 trustee, at least 8 days before the § 341(a) meeting of creditors, the following reports required to investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business, and the feasibility of such business:
- (A) Projection of average monthly income and expenses for the next 12 months;
 - (B) Evidence of appropriate business insurance;
 - (C) Inventory of goods as well as a list of business furniture and equipment as of the date of the filing of the petition;
 - (D) Monthly income and expense statements for at least the 6 months preceding the date of the filing of the petition, or for such shorter time if the business has been in operation for less than the requisite 6 months, signed by the debtor under penalty of perjury, including a statement regarding incurred and unpaid expenses;
 - (E) Tax returns for at least 5 years or since the start of the business, whichever period is shorter; and
 - (F) The chapter 13 trustee may request additional evidence, including but not limited to bank statements, canceled checks, contracts, or any other evidence to support the ability to fund the proposed plan.
- (5) Other Required Documents. The debtor must submit to the chapter 13 trustee, at least 8 days before the § 341 (a) meeting of creditors, the Declaration re Payment of Domestic Support Obligation (Preconfirmation), the Declaration re Tax Returns (Preconfirmation), and any other required documents.
- (6) Failure to Comply. If the debtor fails to comply with any of the requirements of this subsection (c), such failure may result in
- (A) disgorgement of attorneys fees if the failure is attributed to the debtor's attorney;

- (B) continuance of the § 341(a) meeting or confirmation hearing; and/or
- (C) dismissal of the case with or without a 180-day bar to refiling pursuant to 11 U.S.C. § 109(g), if the court finds willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case.

(d) CONFIRMATION HEARING

The debtor's attorney or the debtor, if not represented by counsel, must appear at the confirmation hearing unless specifically excused by court order or by the trustee prior to the confirmation hearing in conformance with procedures of the judge to whom the case is assigned.

- (1) Varied Calendaring and Appearance Procedures. The judges of this district do not have a uniform policy governing calendaring and appearance at a confirmation hearing. Some judges allow confirmation to take place as early as the date of the § 341(a) meeting and without court appearance by any party if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations but excuse appearances by the debtor and his or her attorney if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations and appearance by the debtor and his or her attorney, regardless of whether there are unresolved objections to confirmation.

Because of this variance in procedure, parties in interest are advised to contact the chapter 13 trustee assigned to the case.

- (2) Preparation of Order Confirming Plan. Unless otherwise ordered by the court, the chapter 13 trustee will prepare and file the Order Confirming Plan ("Order"). The Order will state the amount of the debtor's attorney's fees and costs allowed by the court. If a Rights and Responsibilities Agreement has been signed by the attorney and debtor, filed and served on the responsible chapter 13 trustee, the order will provide for the amount set forth in that agreement, unless the court orders otherwise.

(e) PERSONAL PROPERTY, INCLUDING VEHICLES

- (1) Post Petition Payments. The plan may provide that postpetition contractual payments on leases of personal property and claims secured by personal property, including but not limited to vehicles, will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the plan provides for postpetition contractual payments to be made through the chapter 13 trustee, the debtor must pay the lease and adequate protection payments required by 11 U.S.C. §§ 1326(a)(1)(B) and 1326 (a)(1)(C) through the chapter 13 trustee.

- (2) Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender or abandonment of property, the trustee is relieved from making any payments on the creditor's related secured claim, without prejudice to the creditor's right to file an amended unsecured claim for a deficiency when appropriate.

(f) DOMESTIC SUPPORT OBLIGATIONS

The plan may provide for current payments of domestic support obligations directly to the creditor. Arrearages must be paid through the chapter 13 trustee unless specific cause is shown and supported by declaration.

(g) OBJECTIONS TO PLANS

Objections, if any, to the confirmation of the plan must be in writing, supported by appropriate declarations or other admissible evidence, filed with the court and served on debtor's attorney, the debtor and the chapter 13 trustee not less than 8 days before the § 341(a) meeting of creditors. As required by Local Bankruptcy Rule 1002-1(d)(8)(E), any written objection must state in the caption the date, time, and place of the § 341(a) meeting of creditors, and the date, time, and place of the confirmation hearing. However, the chapter 13 trustee may accept an oral objection to confirmation of the plan if said objection is made at the § 341(a) meeting of creditors. Failure to file either a written objection on a timely basis or to appear at the § 341(a) meeting to present the basis for the objection may be deemed a waiver of the objection.

Any creditor who objects to confirmation of the plan should attend both the § 341(a) meeting of creditors and the confirmation hearing if the objection is not resolved. If the objecting creditor does not appear at the confirmation hearing, the court may overrule the objection.

(h) AMENDMENTS TO PLANS PRIOR TO CONFIRMATION

- (1) Filing and Service. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court, an amended plan must be received by the chapter 13 trustee and filed with the court at least 8 days before the confirmation hearing. If the amended plan will adversely affect any creditors (for example, if it treats any creditor's claim less favorably than the previously filed plan), the amended plan must also be served on all such creditors at least 25 days before the confirmation hearing. Failure to comply with these requirements may result in continuance of the confirmation hearing or dismissal of the case.

The caption of all amended plans must identify the pleading as an amended plan ("First Amended Plan," "Second Amended Plan," etc.) and must state the date, time, and place of the confirmation hearing at which the debtor will seek confirmation.

- (2) Amended Plan Payments. If the debtor has filed an amended plan prior to confirmation, the plan payments that come due after the date the amended plan is filed must be made in the amount stated in the amended plan, which may be higher or lower than the amount stated in the original plan. Where successive amended plans are filed, any plan payment that comes due must be made in the amount stated in the most recently filed amended plan.

(i) AMENDMENTS TO PLANS AT THE CONFIRMATION HEARING

Amendments to a plan which do not adversely affect creditors may be made at the confirmation hearing by interlineation in the confirmation order (prior review by the chapter 13 trustee is preferred).

(j) OBJECTIONS TO CLAIMS

Any objections to claims must be filed with the court and served on the chapter 13 trustee and affected creditors. Such objections must identify the claim by both the claim number on the court's docket and the claim number on the chapter 13 trustee's docket. Objections to claims must give notice of the date, time, and courtroom of hearing on the face of the objection and must comply with Local Bankruptcy Rule 3007-1. Pending resolution, the chapter 13 trustee will make payments on only the uncontroverted portion of claims subject to an objection, until such time as the court orders otherwise.

(k) PLAN PAYMENTS TO CHAPTER 13 TRUSTEE

(1) Plan Payment Procedure.

- (A) Plan payments are due on the same day of each month beginning not later than 30 days after the petition is filed. If the case was converted from chapter 7, the first plan payment is due 30 days from the date of conversion. However, if the plan payment due date falls on the 29th, 30th, or 31st of the month, then the plan payment is due on the 1st of the following month. Unless otherwise instructed by the assigned chapter 13 trustee, all plan payments that accrue before the § 341(a) meeting of creditors must be tendered, in the form described in subsection (3) below, to the chapter 13 trustee or the trustee's representative at the § 341(a) meeting of creditors.
- (B) All plan payments that accrue after the § 341(a) meeting of creditors but prior to confirmation must be tendered on a timely basis to the chapter 13 trustee, per the instructions given by the chapter 13 trustee at the § 341(a) meeting;
- (C) All plan payments that accrue after confirmation of the plan must be sent to the address provided by the chapter 13 trustee.

- (2) Adequate Protection Payments. The debtor cannot reduce the amount of the plan payments to the chapter 13 trustee under 11 U.S.C. § 1326(a)(1)(B) or (C) without an order of the court.
- (A) Pending confirmation of the plan, the chapter 13 trustee will promptly transmit payments received from the debtor as proposed in the debtor's chapter 13 plan to a creditor holding an allowed claim secured by personal property where such security interest is attributable to the purchase of such property.
- (B) The chapter 13 trustee may assess an administrative fee for effecting the payments required in paragraph (A) above and may collect such fee at the time of making the payment. The allowed expense fee must be no more than the percentage fee established by the Attorney General pursuant to 28 U.S.C. § 586 (e)(1)(B) in effect at the time of the disbursement.
- (C) Should the case be dismissed or converted prior to or at the hearing for confirmation of the plan, any portion of the balance on hand which has been tendered to the chapter 13 trustee for adequate protection must be disbursed to the creditor to whom those adequate protection payments are owed as soon as practicable.
- (3) Form of Payment. Unless and until a payroll deduction order is effective, all plan payments must be tendered by the debtor in the form of cashier's check, certified funds, or money order made payable to the "Chapter 13 Trustee" and provided to the chapter 13 trustee as instructed. The court may require plan payments through a payroll deduction order. If a payroll deduction order is not issued upon confirmation of a plan or already authorized in the confirmation order, whenever a plan payment is more than 20 days late, the chapter 13 trustee may bring a noticed motion requesting the court to issue such an order. The issued order must be served upon the debtor's employer, the debtor and the debtor's counsel.
- (4) Dismissal or Conversion for Non-Payment. If the debtor fails to make plan payments, the case may be dismissed or converted to a case under chapter 7. If the case is dismissed for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case, the court may impose a 180-day bar to refile in accordance with 11 U.S.C. § 109(g).

(I) CHAPTER 13 TRUSTEE'S FEES

The minimum trustee's fee for a chapter 13 in which a plan is not confirmed is \$100. The minimum trustee's fee in a case where the plan is confirmed is \$200.

m) PAYMENTS ON MORTGAGES OR TRUST DEEDS

- (1) Scope of Rule. The term “Real Property” as used in this section includes both (i) commercial and residential real property and undeveloped land owned by the debtor and (ii) mobile and manufactured homes owned by the debtor and installed on a permanent foundation or used as a dwelling, but does not include any property that the debtor’s filed plan specifically states will be surrendered.
- (2) Postpetition Payment Procedure. Except for plans in which the debtor elects to make postpetition mortgage payments through the plan, until a plan is confirmed, a debtor must pay in a timely manner directly to his or her secured creditors all payments that fall due postpetition on debt secured by Real Property, as defined above, and must provide evidence of such payments on Official Form F 3015-1.4 in the manner set forth below.
- (3) Payment Through Plan. If the debtor elects to pay postpetition mortgage payments through the plan, then the amount of this payment must be included in each monthly plan payment tendered both pre and post confirmation to the chapter 13 trustee.
- (4) Determination of Due Date. With the exception of the payment due for the month in which the petition is filed (the “Filing Month Payment”), the due date of a payment for the purpose of this section is the last day that the payment may be made without a late charge or penalty. The due date of the Filing Month Payment will be the date on which such payment first becomes due under the terms of the applicable promissory note. If that date falls on or before the petition date, the Filing Month Payment will be considered prepetition and need not be paid in order to comply with this section.
- (5) Form of Payment. The payments required by paragraph (2) above must be in the form of money order, cashier’s check, wire transfer (including direct payments over the internet or by automatic withdrawals from the debtor’s checking account), or other certified funds and must indicate on each item the debtor’s name, the bankruptcy case number, and the appropriate loan number or credit account number.
- (6) Evidence of Payment. On or before each of the following dates, the debtor must file with the court and serve on the chapter 13 trustee and all secured creditors to whom the debtor is required to make payments under this section a declaration executed under penalty of perjury, on Official Form F 3015-1.4, evidencing that the debtor has made all of the payments required by paragraph (2) above: (i) the date scheduled for each meeting of creditors under Bankruptcy Code § 341(a); and (ii) the date of each hearing to consider confirmation of a chapter 13 plan in the case. Copies of all money orders, cashier’s checks or other instruments used to make the payments must be attached to the form.

- (7) Submission of Declarations. The debtor must bring a copy of an executed Official Form F 3015-1.4, together with a proof of service reflecting service of the form in accordance with this section, to the initial § 341(a) meeting of creditors. This Official Form F 3015-1.4 must reflect all payments made between the date of the petition and the date of the initial § 341(a) meeting of creditors. Thereafter, the debtor must bring an updated Official Form F 3015-1.4 to each continued § 341(a) meeting of creditors and each confirmation hearing, together with a proof of service reflecting service of the form in accordance with this section. Each updated Official Form F 3015-1.4 must reflect, cumulatively, all payments made between the date of the petition and the date of the form. If the debtor owns more than one piece of Real Property, the debtor must prepare and submit a separate Official Form F 3015-1.4 for each piece of Real Property.
- (8) Failure to Make Postpetition Payments. Failure to make all of the payments required by paragraph (2) of this section in a timely manner will generally result in dismissal of the case. In determining whether a debtor has complied with this section at a confirmation hearing, the court will disregard payments as to which a late penalty has not yet accrued or which are due on the date of the confirmation hearing. Failure to submit Official Form F 3015-1.4 at each § 341(a) meeting of creditors and each confirmation hearing, with all required attachments, may result in dismissal of the case, and the court may impose a 180-day bar against refiling pursuant to 11 U.S.C. § 109(g).

(n) MODIFICATION OF CONFIRMED PLANS OR SUSPENSION OF PLAN PAYMENTS

After a plan has been confirmed, its terms can be modified only by court order. A motion to modify the plan or to suspend plan payments must be in accordance with sections (w) and (x) below and must be on court-mandated forms.

(o) TAX RETURNS

For each year a case is pending after the confirmation of a plan, the debtor must provide: (1) copies of his or her federal and state tax returns, (2) any request for extension of the deadline for filing a return; and (3) forms W-2 and 1099 to the chapter 13 trustee within 10 days after the return is filed with the appropriate tax agencies.

(p) SALE OR REFINANCING OF PROPERTY

Any sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion for such approval may be made in accordance with section (w) herein. All such motions must be submitted to the chapter 13 trustee for the trustee's comments before filing with the court.

(q) MOTIONS FOR DISMISSAL OR CONVERSION

- (1) Case Dismissal. If the case has not been converted from another chapter, the debtor may seek dismissal of the case by filing a request to dismiss. If the case has been converted from another chapter, dismissal must be sought by motion. For all such requests or motions, notice must be given to all creditors and the chapter 13 trustee. In addition, the request or motion must disclose by a statement under penalty of perjury whether the debtor or the debtor's spouse has had any other bankruptcy cases pending within the previous 8 years, whether the present case has been converted from another chapter of the Bankruptcy Code, and whether any motion for relief from, annulment of, or conditioning of the automatic stay has been filed against the debtor in the present case. The motion must comply with Local Bankruptcy Rule 9013-1(b).
- (2) Debtor Conversion of Chapter 13 to Chapter 7. Pursuant to F.R.B.P. 1017, the conversion of a chapter 13 case to a case under chapter 7 will be effective upon:
 - (A) The filing by the debtor with the clerk of the bankruptcy court of both a notice of conversion pursuant to 11 U.S.C. § 1307(a) and a proof of service evidencing that the notice of conversion was served upon the chapter 13 trustee, the United States trustee, and all creditors; and
 - (B) Payment of any fee required by 28 U.S.C. § 1930(b).

Any distributions of estate funds made by the chapter 13 trustee in the ordinary course of business for the benefit of the debtor's estate prior to receipt of notice of dismissal or conversion will not be surcharged to the chapter 13 trustee.
- (3) Debtor Conversion of Chapter 13 to Chapter 11. A motion by the debtor to convert a chapter 13 case to a case under chapter 11 must be noticed for hearing.
- (4) Interested Party Conversion of Chapter 13 to Chapter 7, 11, or 12. A motion by any other party in interest to convert a chapter 13 case to a case under chapter 7, 11, or 12 must be noticed for hearing by the moving party. This notice must be given to the debtor, debtor's attorney, all creditors, the chapter 13 trustee, and the United States trustee.
- (5) Service of Order. When an order is required, the moving party must transmit an original and one copy of the proposed order of dismissal or conversion to the court for entry and service on the chapter 13 trustee. Additional copies of the order plus notice of entry for all contesting parties must accompany the proposed order if notice of entry is required by F.R.B.P. 9022.

(r) MOTIONS FOR RELIEF FROM STAY

- (1) Required Format and Information. Motions for relief from the automatic stay must conform with the Local Bankruptcy Rules forms and must comply with Local Bankruptcy Rule 9013-1.

- (2) Default Motions.
- (A) Preconfirmation Default. A motion for relief from stay based solely upon a preconfirmation payment default is premature until a late charge has accrued under the contract on the postpetition obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after the postpetition payment is due. A motion for relief from stay based on other grounds may be brought at any time.
- (B) Postconfirmation Default. A motion for relief from stay based solely on postconfirmation payment default is premature until a late charge has accrued under the contract on the obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after payment is due.
- (3) Stipulations. A stipulation for relief from stay or to modify the stay does not require the consent or signature of the chapter 13 trustee.
- (4) Payments After Relief From Stay. If an order for relief from stay is granted, unless otherwise specified in the order, the chapter 13 trustee is relieved from making any further payments to the secured creditor that obtained such relief. The secured portion of that creditor's claim is deemed withdrawn upon entry of the order for relief, without prejudice to filing an amended unsecured claim for a deficiency when appropriate. The secured creditor that obtains relief from stay must return to the chapter 13 trustee any payments the creditor receives from the chapter 13 trustee after entry of the order unless the stipulation or order provides otherwise.
- (5) Shortened Notice Hearing. A hearing on a motion for relief from stay on shortened notice, pursuant to Local Bankruptcy Rule 9075-1(b), may be sought for cause.
- (6) No Surcharge of Chapter 13 Trustee. The chapter 13 trustee will not be surcharged for any distribution of funds in the ordinary course of business prior to receiving written notice that the automatic stay is not in effect or a claim should not be paid.

(s) POSTCONFIRMATION ADEQUATE PROTECTION ORDERS

After confirmation of a plan, if the debtor and a secured creditor propose to modify the payments by the chapter 13 trustee to the secured creditor by way of an adequate protection/relief from stay agreement, the debtor or creditor must file and serve a motion for an order approving the modification of the plan by said agreement pursuant to sections (w) and (x).

Notwithstanding court approval of an adequate protection/relief from stay agreement, the trustee will continue to make payments and otherwise perform his or her duties in accordance with the plan as confirmed unless: (1) the debtor receives a separate court order approving a modification to the plan, or (2) the adequate protection/relief from stay agreement specifically modifies the treatment of the claim under the confirmed plan.

(t) DISCHARGE PROCEDURES

When the chapter 13 trustee has completed payments under the plan and all other plan provisions have been consummated, the Clerk of the Court will give to the debtor and the debtor's attorney, if any, a Notice of Requirement to File a Debtor's Certification of Compliance Under 11 U.S.C. § 1328 and Application for Entry of Discharge. Before any discharge may be entered, the debtor must comply with the requirements of the Certification of Compliance and file the Certification with the court. In addition, debtor must also file a Certification that an instructional course concerning personal financial management, as required by 11 U.S.C. § 1328(g)(1), has been completed or that completion of such course is not required under 11 U.S.C. § 1328(g)(2). If these certifications have not been filed within 60 days of notice, then the case may be closed without an entry of discharge.

(u) ATTORNEY REPRESENTATION

(1) Scope of Employment. Local Bankruptcy Rule 2090-1 is modified in chapter 13 cases as follows: Any attorney who is retained to represent a debtor in a chapter 13 case is responsible for representing the debtor on all matters arising in the case, other than adversary proceedings, subject to the provisions of a "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys", into which the debtor and the attorney have entered and which complies with the Local Bankruptcy Rules.

(2) Debtor Unavailable or Unopposed to Hearing. If an attorney for a debtor is unable to contact the debtor in connection with a proceeding (e.g., a motion for relief from stay), the attorney may file and serve a statement informing the court of this fact.

If a debtor does not oppose a proceeding, the attorney may file a statement so informing the court and need not appear at the hearing.

(3) Change of Address. An attorney representing a chapter 13 debtor must provide written notice to the chapter 13 trustee and to the court of any change to the attorney's address during the pendency of the case.

(v) ATTORNEY'S FEES

- (1) Rights and Responsibilities Agreement. The court has adopted Official Form F 3015-1.7 entitled "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys" (RARA). The use of the RARA in any case is optional. However, if the debtor's attorney elects to proceed under the RARA, the RARA form is mandatory. If the RARA form is signed by the attorney and the debtor, filed, and served on the responsible chapter 13 trustee in any case, the fees outlined therein may be approved without further detailed fee application or hearing, subject to the terms of both the RARA and the Guidelines for Allowance of Attorneys' Fees in Chapter 13 Cases (Guidelines) attached to the Local Bankruptcy Rules.
- (2) Duties of Debtors and their Attorneys if the RARA is Signed, Filed, and Served. The RARA sets forth the duties and obligations that must be performed by the debtors and their counsel, both before and after the case is filed and before and after confirmation of a plan, if the parties elect to use the RARA. The RARA also specifies the fees that the attorney will charge and the procedures for seeking and objecting to payment of fees. An attorney who elects to use the RARA may not charge more than the maximum fees outlined in paragraph (1) above for performing services described in bold face type in the RARA. If the attorney performs tasks on behalf of the debtor not set forth in bold face, the attorney may apply to the court for additional fees and costs, but such applications will be reviewed by both the chapter 13 trustee and the court. Counsel may apply for additional fees if and when justified by the facts of the case.

Unless sought by noticed motion pursuant to Local Bankruptcy Rule 9013-1, applications for additional fees and costs must be submitted to the chapter 13 trustee for comment before being filed with the court, and must be supported by evidence of the nature, necessity, and reasonableness of the additional services rendered and expenses incurred. When additional fees are sought, the court may, in its discretion, require additional supporting information or require a hearing, even though no opposition is filed. In such application, the attorney must disclose to the court any fees paid or costs reimbursed by the debtor and the source of those payments. If the parties elect to utilize the RARA, the lists of duties and obligations set forth in the RARA may not be modified by the parties. Other portions of the RARA may be modified in the following respects only: (1) the attorneys' fees provided for in the RARA may be reduced; (2) the agreement may be supplemented to include any additional agreements that may exist between the parties concerning the fees and expenses that the attorney will charge for performing services required by the RARA that are not in bold face type.

- (3) Debtor's Signature. The debtor's signature on the RARA certifies that the debtor has read, understands and agrees to the best of his or her ability to carry out the terms of the RARA, and has received a signed copy of the RARA.

- (4) Attorney's Signature. The attorney's signature on the RARA certifies that before the case was filed the attorney personally met with, counseled, and explained to the debtor all matters set forth in the RARA and verified the number and status of any prior bankruptcy case(s) filed by the debtor or any related entity, as set forth in Local Bankruptcy Rule 1015-2. The RARA does not constitute the written fee agreement contemplated by the California Business and Professions Code.
- (5) An Attorney May Elect to be Paid Other than Pursuant to the RARA and the Guidelines. At any time, whether or not a RARA is on file in any case, the debtor's attorney may elect to seek an allowance of fees and costs other than pursuant to the RARA and the Guidelines. In that event, the attorney shall file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, Rules 2016 and 2002 of the F.R.B.P. and Local Bankruptcy Rules 2016-1 and 3015-1, as well as the "Guide to Applications for Professional Compensation" issued by the United States Trustee for the Central District of California.
- (6) Court Review of any Attorney's Fee. On its own motion or the motion of any party in interest, the court may order a hearing to review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and Rule 2017 of the F.R.B.P.
- (7) Payment of Fees Upon Dismissal.
- (A) If a RARA is signed by the debtor's attorney and the debtor, filed, and served on the responsible chapter 13 trustee in the debtor's case, and
- (B) if the debtor's case is dismissed prior to or at the hearing on confirmation of the plan, any portion of the balance on hand which has been tendered to the chapter 13 trustee for payment of the RARA Fees must be disbursed by the chapter 13 trustee to the debtor's attorney as soon as practicable, unless otherwise ordered by the court.

(w) MOTIONS AND APPLICATIONS WITHOUT HEARING

The following motions and applications may be made on notice without a hearing pursuant to Local Bankruptcy Rule 9013-1(g):

- (1) Applications for additional attorney's fees (subject to sections (u) and (v) herein);
- (2) Motion for suspension of plan payments (subject to section (x));
- (3) Motions by the debtor or the trustee to modify a confirmed plan;

- (4) Motions for approval of sale or refinancing of debtor's residence, if the entire equity therein is exempt from the claims of creditors; provided, however, notice is not required if the sale or refinance will pay off the plan and the plan allows 100% to the unsecured claims; and
- (5) Chapter 13 trustee's motion to dismiss or modify the plan. Notwithstanding Local Bankruptcy Rule 9013-1(g), a party who responds to a trustee's motion to dismiss or a trustee's motion to modify the plan must obtain a hearing date from the court and give notice thereof with the response.

(x) SERVICE OF MOTIONS AND APPLICATIONS

All motions and applications must be served on the chapter 13 trustee, debtor, debtor's attorney and all creditors, with the following exceptions:

- (1) Motions for relief from the automatic stay (See notice requirements in Local Bankruptcy Rule 9013-1(a)(5));
- (2) An application by debtor's counsel for additional fees and costs not exceeding \$1,000 over and above the limits set forth in the RARA and Guidelines need be served only on the chapter 13 trustee and the debtor. All applications for additional fees and costs must be submitted to the chapter 13 trustee for comment before filing with the court;
- (3) All motions for modification, suspension or extension of plan payments must be submitted to the chapter 13 trustee for comment prior to filing but need not be served on creditors if (i) the proposed modification does not have an adverse effect on the rights of creditors, or (ii) the proposed suspension or extension, combined with any prior approved suspensions or extensions, does not exceed 90 days of suspended payments or 90 days of extensions to the plan's term. All other motions for modification, suspension or extension must be served on all creditors pursuant to Local Bankruptcy Rule 9013-1(g), in addition to being submitted to the chapter 13 trustee for comment;
- (4) An objection to a claim need only be served on the chapter 13 trustee, the claimant and the claimant's attorney. If the claimant is the United States or an officer or agency of the United States, the objection must be served as provided in F.R.B.P. 7004(b)(4) and (5) and Local Bankruptcy Rule 2002-2; and

- (5) A trustee's motion to dismiss need be served only on the debtor, debtor's attorney, and any prior chapter 7 trustee and that trustee's attorney, if any.
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Court's Comment

2007 Revision

The revised local rule has substantial substantive changes, caused by both the Bankruptcy Abuse Prevention and Consumer Protection Act and by suggestions from the public.

LOCAL BANKRUPTCY RULE 3017-1

**CHAPTER 11 DISCLOSURE STATEMENT FOR CASES OTHER THAN
SMALL BUSINESS CASES**

(a) NOTICE REQUIRED FOR DISCLOSURE STATEMENT HEARINGS

Hearings on approval of disclosure statements shall be set on not less than 36 days notice, unless the court, for good cause shown, prescribes a shorter period. Objections to disclosure statements shall be filed and served on proponents not less than 11 days before the hearing.

(b) FORM OF DISCLOSURE STATEMENT

Unless otherwise ordered, a disclosure statement may, but need not conform with court-approved Form F 3017-1, "Chapter 11 Disclosure Statement Form."

LOCAL BANKRUPTCY RULE 3017-2

**COURT CONSIDERATION OF DISCLOSURE STATEMENT
IN A SMALL BUSINESS CASE**

(a) APPROVAL OF DISCLOSURE STATEMENT

- (1) Fixing Dates. If any disclosure statement is conditionally approved pursuant to 11 U.S.C. § 1125(f), F.R.B.P. 3017(a), (b), (c), and (e) shall not apply, and the plan proponent shall submit an order consistent with F.R.B.P. 2002(b) and stating:
 - (A) A date by which the holders of claims and interests may accept or reject the plan.
 - (B) A date for filing objections to the disclosure statement.
 - (C) A date for final approval of the disclosure statement and confirmation of the plan consistent with Local Bankruptcy Rule 3017-1.
- (2) Objections and Hearing on Final Approval. The debtor shall file and serve a notice of the dates set forth above, together with a copy of the disclosure statement and plan, on all creditors and the United States trustee. Final approval of the disclosure statement shall only be required when an objection has been filed and served. Any objection filed pursuant to subsection (a)(2) of this Local Bankruptcy Rule shall be filed and served on the debtor, debtor's counsel, any committee appointed under the Bankruptcy Code and any other entity as ordered by the court.

LOCAL BANKRUPTCY RULE 3018-1

FORM OF CHAPTER 11 PLAN

Unless otherwise ordered, a plan of reorganization submitted to the court may, but need not conform with court-approved Form F 3018-1, “Form of Chapter 11 Plan.”

LOCAL BANKRUPTCY RULE 3020-1**CHAPTER 11 CONFIRMATION****(a) PAYMENT OF SPECIAL CHARGES**

The proposed plan confirmation order shall be accompanied by proof of payment of any and all special charges due to the clerk's office. The amount of the charges to be paid may be obtained from the courtroom deputy of the judge hearing the case.

(b) POSTCONFIRMATION REQUIREMENTS

Unless otherwise provided in the plan, every order confirming a chapter 11 plan shall contain the following language:

“Within 120 days of the entry of this order, _____ shall file a status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The initial report shall be served on the United States trustee, the 20 largest unsecured creditors, and those parties who have requested special notice. Further reports shall be filed every ___ days thereafter and served on the same entities, unless otherwise ordered by the court. [Optional depending on practices of particular judge: A postconfirmation status conference will be held on _____, 20__ at __.m. in Courtroom ____.]

The Report shall include at least the following information:

- (1) A schedule listing for each debt and each class of claims: the total amount required to be paid under the plan; the amount required to be paid as of the date of the report; the amount actually paid as of the date of the report; and the deficiency, if any, in required payments;
- (2) A schedule of any and all postconfirmation tax liabilities that have accrued or come due and a detailed explanation of payments thereon;
- (3) Debtor's projections as to its continuing ability to comply with the terms of the plan;

- (4) An estimate of the date for plan consummation and application for final decree; and
- (5) Any other pertinent information needed to explain the progress toward completion of the confirmed plan.

Reporting entities whose equity securities are registered under Section 12(b) of the Securities Exchange Act of 1934 may provide information from their latest 10Q or 10K filing with the S.E.C., if it is responsive to the requirements of this subsection.

[Unless otherwise provided in the plan] If the above-referenced case is converted to one under chapter 7, the property of the reorganized debtor shall be revested in the chapter 7 estate, except that, in individual cases, the postpetition income from personal services and proceeds thereof, and postconfirmation gifts or inheritances pursuant to 11 U.S.C. § 541(a)(5)(A) or (a)(6) shall not automatically revest in the chapter 7 estate.”

(c) EFFECT OF FAILURE TO FILE POSTCONFIRMATION REPORTS

Failure to file timely the required reports shall constitute grounds for noticing the case for conversion to a case under chapter 7 or dismissal under 11 U.S.C. § 1112(b).

See also Local Bankruptcy Rule 1017-2: DENIAL OR DISMISSAL FOR WANT OF PROSECUTION.

(d) FINAL DECREE IN CHAPTER 11 CASE

After an estate is fully administered in a chapter 11 reorganization case, a party in interest may file a motion for a final decree without the need for a hearing in accordance with the requirements set forth in Local Bankruptcy Rule 9013-1, except that notice of such a motion shall be served upon all parties upon whom the plan was served.

LOCAL BANKRUPTCY RULE 4001-1

NOTICE OF MOTIONS FOR RELIEF FROM STAY

See Local Bankruptcy Rule 9013-1(a)(5): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS): § (a)(5) GENERAL REQUIREMENTS, Motions for Relief From Automatic Stay, and § (g)(1)(I) MOTIONS AND MATTERS NOT REQUIRING A HEARING, Matters That May Be Determined Upon Notice and Opportunity to Request Hearing, Motions to Approve Stipulations or Agreements Requiring Notice Pursuant to F.R.B.P. 4001(d) and so forth.

LOCAL BANKRUPTCY RULE 4001-2

CASH COLLATERAL STIPULATIONS

Every motion requesting the approval of a stipulation providing for the use of cash collateral (11 U.S.C. § 363(c)), or postpetition financing (11 U.S.C. § 364(c)), or both, shall be accompanied by court-approved form F 4001-2, “Statement Pursuant to Local Bankruptcy Rule 4001-2,” or a statement consistent with court-approved form F 4001-2.

LOCAL BANKRUPTCY RULE 4003-1

LIEN AVOIDANCE

See Local Bankruptcy Rule 9013-1(i): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), FORM OF DEBTOR'S MOTIONS TO AVOID LIEN OR TRANSFER OF EXEMPT PROPERTY.

LOCAL BANKRUPTCY RULE 4008-1

HEARINGS ON REAFFIRMATION AGREEMENTS

Reaffirmation agreements and motions for approval of the same under 11 U.S.C. § 524 must be filed by the debtor or creditor within 60 days following the conclusion of the first meeting of creditors under 11 U.S.C. § 341(a), unless otherwise ordered by the court. Court approval is required under § 524(d) with respect to any reaffirmation agreement involving a debtor who was not represented by an attorney during the course of negotiating the reaffirmation agreement. If the debtor was not represented by an attorney, the clerk will set a hearing for approval of the reaffirmation agreement on the court's calendar and will give notice to the debtor and creditor of the date, time, and place of such hearing. The court will not approve a reaffirmation agreement unless a hearing is held at which the debtor appears in order to be questioned by the court. Unless otherwise ordered by a particular judge, court approval is not required in cases where the debtor was represented by an attorney during the negotiation of the reaffirmation agreement. The use of court-approved reaffirmation forms is mandatory.

LOCAL BANKRUPTCY RULE 5003-2**RECORDS AND FILES; DISPOSITION OF EXHIBITS****(a) RECORDS AND FILES**

- (1) When Order Required. No records or objects belonging to the files of the court may be taken from the office or custody of the clerk except upon written order of the court.
- (2) Form of Receipt. Any person removing records pursuant to this Local Bankruptcy Rule shall give the clerk a descriptive receipt containing the following:
 - (A) The name, address and telephone number of the person removing the records or objects.
 - (B) An itemized description of the records or objects removed.
 - (C) The date of removal.
 - (D) The place in which records or objects will be used or kept.
 - (E) The estimated date of return to the clerk of the records or objects.
- (3) Exception for Court Staff. The provisions of this Rule shall not apply to a judge, members of a judge's staff, United States Magistrate Judge, court recorder, clerk, clerk's staff, or courtroom deputy requiring records or objects in the exercise of their official duty. Any court officer removing records or objects shall provide the clerk with a receipt indicating the information required above.

(b) DISPOSITION OF EXHIBITS

All models, diagrams, documents or other exhibits lodged with the clerk that are admitted into evidence or marked at trial shall 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. The clerk shall thereafter return such exhibit (except contraband) to the person or persons to whom it belongs. 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.

(c) **REMOVAL OF CONTRABAND**

Contraband of any kind coming into the possession of the clerk shall be turned over to an appropriate governmental agency which shall destroy or otherwise dispose of the contraband as provided by law. The agency shall give the clerk the receipt required by this Local Bankruptcy Rule.

(d) **CONFIDENTIAL COURT RECORDS**

- (1) Filing Under Seal. No paper shall be filed under seal without prior approval by the court. If a filing under seal is requested, a written motion and a proposed order shall be presented to the judge along with the paper submitted for filing under seal. The original and judge's copy of the paper shall be sealed in separate envelopes with a copy of the title page attached to the front of each envelope. Copies to be conformed need not be placed in sealed envelopes. If the court denies the motion, the paper submitted to be filed under seal shall be returned to the movant unless otherwise ordered. The preceding shall be subject to 11 U.S.C. § 107.
- (2) Disclosure of Sealed Papers. No sealed or confidential record of the court maintained by the clerk shall be disclosed except upon written order of the court. A motion for disclosure of sealed or confidential court records shall be made to the court in writing and filed by the party seeking disclosure. The motion shall set forth with particularity the need for specific information in such records. The procedures of Local Bankruptcy Rule 9013-1 shall govern the hearing of any such motion.

Court's Comment

2007 Revision

Paragraph (d)(1) Filing Under Seal. Second to last sentence added to clarify that the paper submitted to be filed under seal shall be returned to the movant if the motion to file the paper under seal is denied by the court, unless otherwise ordered.

LOCAL BANKRUPTCY RULE 5010-1

REOPENING CASES

A motion to reopen a closed bankruptcy case shall be filed with the clerk together with the appropriate filing fee, except that a trustee in a case may request that the fee may be charged to the estate. The motion shall be accompanied by appropriate declarations showing cause therefor. The motion shall be assigned to the judge to whom the case was last assigned, if still in office; otherwise, such request shall be assigned at random by the clerk to a judge to hear and rule upon the request. Notice shall be given to any former trustee in the case and the United States trustee.

LOCAL BANKRUPTCY RULE 5011-1

WITHDRAWAL OF REFERENCE

See Local Bankruptcy Rule 9013-1(h): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), WITHDRAWAL OF REFERENCE.

LOCAL BANKRUPTCY RULE 5073-1

PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

(a) PROHIBITION OF BROADCASTING, TELEVISION, PHOTOGRAPHY

Unless otherwise ordered by the court, between 7:00 a.m. and 7:00 p.m., Monday through Friday, and at all other times when the court is in session, the use of any forms, means or manner of radio or television broadcasting and the taking or making of photographs, motion pictures, video or sound recordings is prohibited in:

- (1) Any and all courtrooms occupied by any judge.
- (2) Any and all chambers assigned to any judge.
- (3) Any and all areas used by the clerk and court staff.
- (4) Any garage or parking facility reserved for the judges or their staff.
- (5) All hallways and public areas adjacent to the above-specified locations.

(b) EXCEPTIONS

This Local Bankruptcy Rule does not prohibit:

- (1) Recordings made by official court recorders in the performance of their official duties. No other use may be made of an official recording of a court proceeding without an express, written order of the court.
- (2) The taking of photographs, when specifically authorized in writing, at ceremonial or non-judicial functions in the chambers of a judge of this court.
- (3) The videotaping or other electronic recording of depositions for trial purposes, nor the preparation and perpetuation of testimony taken by or under the direction of a judge of this court, or a visiting judge. No part of such videotape or other electronic recording shall be used without an express, written order of the court.

- (4) The possession of video or sound recording, photographic, radio or television broadcasting equipment. Any equipment taken into or through the areas enumerated in this Local Bankruptcy Rule is subject to such security regulations as may be adopted from time to time by the court.

(c) ENFORCEMENT OF RULE

The United States Marshal, the General Services Administration police, and the security force contracted for service by the court shall enforce the provisions of this Local Bankruptcy Rule. A violation of this Local Bankruptcy Rule shall constitute contempt of court.

LOCAL BANKRUPTCY RULE 5075-1

MOTIONS FOR ADMINISTRATIVE ORDERS
PURSUANT TO 28 U.S.C. § 156(c)

This Rule applies to motions by which a party in interest seeks an order from the bankruptcy court approving employment of persons or entities to perform certain duties of the clerk's office, the debtor, or the debtor in possession such as (1) processing proofs of claim and maintaining the claims register; (2) serving notices; (3) scanning documents; or (4) providing photocopies of documents filed in the case ("administrative orders").

All motions for administrative orders shall include a completed declaration on Local Bankruptcy Rules form F 5075-1.1 ["Declaration to be Filed with Motion Establishing Administrative Procedures Re 28 U.S.C. § 156(c)"] and the form "Mega Case Procedures Checklist." A courtesy copy of the motion, including the declaration and "Mega Case Procedures Checklist," shall also be provided to the clerk's office at the time the motion is filed. Movant's counsel must consult with the clerk's office in completing the checklist to the satisfaction of the clerk's office. Unless the judge to whom the case is assigned orders otherwise, any such motion which is not accompanied by the completed checklist may be denied by the court and any hearing thereon previously scheduled may be vacated.

LOCAL BANKRUPTCY RULE 6004-1

NOTICES OF INTENT NOT REQUIRING COURT ORDER
PURSUANT TO 11 U.S.C. §§ 363(b)(1) AND 554
(OPTIONAL PROCEDURE)

(a) SCOPE OF RULE

This Local Bankruptcy Rule applies only to notices that the trustee intends to (1) sell, use or lease property of the estate under 11 U.S.C. § 363(b)(1), except for sales of all or substantially all of the debtor's assets; or (2) abandon property of the estate under 11 U.S.C. § 554.

(b) NOTICE REQUIRED

The trustee shall give not less than 15 days written notice by mail to such creditors and interested parties who are entitled to notice of the intention to (a) sell, use or lease property of the estate under 11 U.S.C. § 363(b)(1), except for sales of all or substantially all of the debtor's assets; or (b) abandon property of the estate under 11 U.S.C. § 554, unless the court for cause shown shortens the time or otherwise modifies or limits notice pursuant to a motion under Local Bankruptcy Rule 9075-1. The content of the notice must comply with F.R.B.P. 2002(c). The notice shall state that any objection or request for hearing must be filed and served not more than 15 days after service of the notice, unless the notice specifies a longer period or unless otherwise ordered by the court. If no objection and request for hearing is timely filed and served, the trustee may take the proposed action on the date specified in the notice of intent. However, no order shall be issued under this subsection.

(c) PROCEDURE UPON OBJECTION OR REQUEST FOR HEARING

If a timely objection and request for hearing is filed and served, the trustee shall, within 20 days from the date of service of such objection, contact the court and obtain and give notice of a hearing date to those entities objecting and to the United States trustee. The proceedings in such matters shall be governed by Local Bankruptcy Rule 9013-1(g)(3).

LOCAL BANKRUPTCY RULE 6004-2

NOTICES OF SALE OF ESTATE PROPERTY

Whenever the debtor in possession or the trustee is required to give notice of a sale or of a motion to sell property of the estate pursuant to F.R.B.P. 6004 and 2002(c), an additional copy of such notice and a document entitled "Notice of Sale of Estate Property," in the form of F 6004-2, must be submitted to the clerk at the time of filing for purposes of publication.

LOCAL BANKRUPTCY RULE 6007-1

ABANDONMENT

See Local Bankruptcy Rule 6004-1: NOTICES OF INTENT NOT REQUIRING COURT ORDER PURSUANT TO 11 U.S.C. §§ 363(b)(1) AND 554.

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.

Court's Comment

2007 Revision

This rule was expanded to include procedures for both an entry of default and motion for default judgment. Paragraph (b) Motion for Default Judgment was formerly Local Bankruptcy Rule 9021-1(d).

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.***

LOCAL BANKRUPTCY RULE 8000-1

RULES APPLICABLE TO BANKRUPTCY APPEALS

(a) APPEALS TO DISTRICT COURT

All bankruptcy appeals before the district court shall be governed by Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

(b) APPEALS TO BANKRUPTCY APPELLATE PANEL

For the purposes of these Local Bankruptcy Rules, bankruptcy appellate panel shall mean the United States Bankruptcy Appellate Panel of the Ninth Circuit. The Rules of the Bankruptcy Appellate Panel apply to all bankruptcy appeals pending before the bankruptcy appellate panel.

(c) DIRECT APPEALS TO NINTH CIRCUIT

In appeals arising out of bankruptcy cases filed on or after October 17, 2005, a certification of a judgment, order, or decree of the court to the Ninth Circuit Court of Appeals, as permitted by 28 U.S.C. § 158(d)(2), shall be made in accordance with Rules 8001(f) and 8003 of the Federal Rules of Bankruptcy Procedure, as well as any applicable interim rules approved by the Committee on Rules of Practice and Procedure of the United States Judicial Conference and the Judicial Conference of the United States.

Court's Comment

2007 Comment

Paragraph (c) DIRECT APPEALS TO NINTH CIRCUIT, added to clarify procedures for direct appeals to the Ninth Circuit Court of Appeals.

LOCAL BANKRUPTCY RULE 8001-1

FILING OF NOTICE OF APPEAL

Filing of notices of appeal shall be governed by Rule 2.2 of Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

LOCAL BANKRUPTCY RULE 8002-1

LEAVE TO APPEAL; INTERLOCUTORY ORDERS

(a) APPLICABILITY

This Local Bankruptcy Rule shall be applicable only to appeals referred to the bankruptcy appellate panel. Appeals referred to the district court shall be governed by Local Rule 3 of Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

(b) MOTION FOR LEAVE TO APPEAL

Leave to appeal under 28 U.S.C. § 158(a) shall be sought by filing a motion for leave with the clerk within the time provided by F.R.B.P. 8002 for filing a notice of appeal, with proof of service by the applicant in accordance with F.R.B.P. 8008(b).

(c) CONTENT OF MOTION; ANSWER

The motion shall include all elements required by F.R.B.P. 8003(a). Within 10 days after service of the motion, an adverse party may file an answer in opposition with the clerk.

(d) DISPOSITION

Unless a party to the appeal has filed with the clerk of the bankruptcy appellate panel a written objection to the disposition of the appeal by the bankruptcy appellate panel, the clerk shall transmit the motion for leave to appeal and any answer thereto to the clerk of the bankruptcy appellate panel as soon as all parties have filed answers or the time for filing an answer has expired. If such an objection is duly filed after the motion has been referred to the bankruptcy appellate panel but before it has been determined, then the motion shall be transferred to the district court for decision. The motion and answer shall be submitted without oral argument unless otherwise ordered.

(e) LEAVE TO APPEAL GRANTED OR DENIED; FILING OF RECORD

If leave to appeal is granted, the clerk shall notify counsel for appellant within 5 court days. The record shall be designated and transmitted and the appeal docketed in accordance with F.R.B.P. 8006 and 8007. The time fixed by those Rules for designating and transmitting the record and docketing the appeal shall run from the date of the notice by the clerk of entry of the order granting leave to appeal.

(f) APPEAL IMPROPERLY TAKEN REGARDED AS A MOTION FOR LEAVE TO APPEAL

If a timely notice of appeal is filed where the proper mode of proceeding is by a motion for leave to appeal under this Rule, the notice of appeal will be deemed a timely motion for leave to appeal. The appellate court may enter an order either granting or denying leave to appeal or directing that a motion for leave to appeal be filed. The motion shall be filed within 10 days of the entry of the appellate court's order, unless specified otherwise in the order.

LOCAL BANKRUPTCY RULE 8003-1

FORM AND TIME OF CONSENT

Form and time of consent shall be governed by Rules 2.1.1 and 2.1.2 of Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

LOCAL BANKRUPTCY RULE 8004-1

NOTICE OF REFERENCE TO APPELLATE COURT

- (a)** Within 3 days after the filing of a Notice of Appeal, the clerk shall serve upon all parties to the appeal a copy of the Notice of Appeal, Notice of Referral of Appeal, Transcript Order Form, Notice of Transcript, and a copy of the below-referenced applicable order:

 - (1) Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit (referencing appeals originating in bankruptcy cases filed on or before 10/22/94).
 - (2) Order Continuing Bankruptcy Appellate Panels of the Ninth Circuit (referencing appeals originating in bankruptcy cases filed after 10/22/94).
- (b)** A copy of the notice of appeal shall also be transmitted to the clerk of the bankruptcy appellate panel or clerk of the district court.

LOCAL BANKRUPTCY RULE 8005-1

BRIEFS IN APPEALS BEFORE DISTRICT COURT

Briefs in appeals before the district court shall be governed by Rule 5 of Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

LOCAL BANKRUPTCY RULE 8006-1

COSTS ON APPEAL TO DISTRICT COURT

Costs on appeal to the district court shall be governed by Rule 54-6 of Chapter I, Local Civil Rules, of the district court.

LOCAL BANKRUPTCY RULE 8007-1

EMERGENCY MOTIONS IN APPEALS TO DISTRICT COURT

Emergency motions in appeals to the district court shall be governed by Rule 6.3 of Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

LOCAL BANKRUPTCY RULE 9009-1

LOCAL PRACTICE AND CLERK'S FORMS

The court may approve pre-printed practice forms for use in this court. Approved forms are available in the clerk's office. Forms should be reproduced on 1 side of the paper only. Two-sided forms will not be accepted, except for single-page forms filed by the chapter 7, 12 or 13 trustees or the United States trustee, and court-approved forms for summons, notice of motion for relief from stay, and subpoena.

Proposed new forms or modifications to existing forms may be submitted by any interested party to the chief bankruptcy judge.

LOCAL BANKRUPTCY RULE 9011-1

**PENALTIES FOR
UNNECESSARY OR UNWARRANTED MOTIONS**

Pursuant to F.R.B.P. 9011, the presentation to the court of unnecessary motions, and the unwarranted opposition to motions, which unduly delay 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 Local Bankruptcy Rules which may otherwise not be subject to sanctions under either F.R.B.P. 9011 or F.R.Civ.P. 11.

LOCAL BANKRUPTCY RULE 9013-1**MOTIONS (EXCEPT REJECTION OF COLLECTIVE
BARGAINING AGREEMENTS)****(a) GENERAL REQUIREMENTS**

- (1) Applicability. The provisions of this rule shall apply to motions, orders to show cause, and all other proceedings except a trial on the merits (all such being included within the term “motion” as used herein) unless otherwise ordered by the court as provided by statute, the F.R.Civ.P., the F.R.B.P. or the Local Bankruptcy Rules. This rule does not apply to Motions for Rejection of Collective Bargaining Agreements, which are governed by 11 U.S.C. § 1113.
- (2) Motion Days. Unless the judge schedules a regular law and motion day, hearings on any motions may be noticed only with approval of the judge or courtroom deputy or with the judge’s self-calendaring system, if any.

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

- (3) Computation of Time. All times shall be computed in conformity with F.R.B.P. 9006.
- (4) Filing; Date and Time for Hearing; Points and Authorities.
 - (A) Unless otherwise provided by rule or order of the court, no oral motions will be recognized except during trial.
 - (B) Every motion shall be accompanied by written notice of motion, specifying, if applicable, the date, time, and place of hearing.
 - (C) There shall be served and filed with the motion and as a part thereof:
 - (i) Duly authenticated copies of all photographs and documentary evidence which the moving party intends to submit in support of the motion, in addition to the declarations required or permitted by F.R.B.P. 9006(d); and

- (ii) A brief, but complete, written statement of all reasons in support thereof, together with a memorandum of the points and authorities upon which the moving party will rely. Unless warranted by special circumstances of the motion, or otherwise ordered by the court, points and authorities are not usually required for applications to retain or compensate professionals or relief from automatic stay motions.
- (5) Motions for Relief From Automatic Stay. Motions for relief from the automatic stay shall be made only by using those forms designated for mandatory use in the F 4001-1 series of the court-approved forms. Failure to use the mandatory forms may result in the denial of the motion or the imposition of monetary or other sanctions in the judge's discretion. The moving party shall serve notice of the motion and all supporting papers on the proper responding parties as set forth below.
- (A) Residential Unlawful Detainer Motions. For motions for relief from stay to proceed with unlawful detainer actions involving residential properties with month-to-month tenancies, tenancies at will or tenancies terminated by unlawful detainer judgment ("unlawful detainer cases"), only the debtor needs to be named and only the debtor and debtor's attorney need to be served.
 - (B) Other Relief from Stay Motions. The debtor and debtor's attorney, if any, shall be served with all motions. In all cases in which a trustee has been appointed (except in residential unlawful detainer cases under subsection (a)(5)(A) above), the trustee or interim trustee shall be served as a responding party. Notice shall be given to other parties as required by F.R.B.P. 4001.

See also Local Bankruptcy Rule 1002-1(d)(9): FORM OF PAPERS FILED WITH COURT, PAPERS PRESENTED TO THE COURT - FORM AND FORMAT, Mandatory Relief From Stay Forms and Adversary Proceeding Captions.

- (6) Time Limits for Service and Filing of Motions.
- (A) Except for motions under Local Bankruptcy Rules 9013-1(c), 2016-1(a)(2), and 9075-1, any motion and notice thereof shall be served upon the adverse party (by serving that 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 interested parties, if there is no attorney of record).
 - (B) Except as set forth in Local Bankruptcy Rule 9013-1(e) with regard to motions for summary judgment or partial summary adjudication, Local Bankruptcy Rule 9013-1(g) with regard to motions and matters that may not require a hearing, and Local Bankruptcy Rule 3007-1 with regard to objections to claims, the notice of the motion and all moving papers must be filed and served not later than 24 days before the hearing date designated in the notice. The court, for good cause, may prescribe a different time.

- (C) Except as set forth in Local Bankruptcy Rule 9013-1(e) with regard to motions for summary judgment or partial summary adjudication, or as otherwise ordered, the moving papers shall advise the opposing party that Local Bankruptcy Rule 9013-1(a)(7) requires a formal response at least 14 days before the hearing. If the motion is being heard on shortened notice pursuant to Local Bankruptcy Rule 9075-1, the notice shall specify the deadline for responses set by the court in approving the shortened notice.
- (7) Opposition/Joinders/Responses to Motions. Except as set forth in Local Bankruptcy Rule 9013-1(e) with regard to motions for summary judgment or partial summary adjudication, or unless otherwise ordered by the court, each interested party opposing, joining, or responding to the motion shall file and serve not later than 14 days before the date designated for hearing either:
- (A) A brief but complete written statement of all reasons in opposition thereto or in support or joinder thereof, and answering memorandum of points and authorities, declarations and copies of all photographs and documentary evidence on which the responding party intends to rely. The opposing papers shall advise the adverse party that any reply to the opposition shall be filed with the court and served on the opposing party not later than 7 calendar days (not excluding Saturdays, Sundays, and legal holidays) prior to the hearing on the motion; or
- (B) A written statement that the motion will not be opposed.
- (8) Reply Papers. Except as set forth in Local Bankruptcy Rule 9013-1(e) with regard to motions for summary judgment or partial summary adjudication, 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 calendar days (not excluding Saturdays, Sundays and legal holidays) before the date designated for hearing.
- The reply memorandum and declarations or other evidence attached, shall directly respond to the opposition papers. Service of reply papers on opposing parties shall be made by personal service or by overnight mail delivery service. A courtesy copy shall be delivered directly to the judge's chambers. Unless the court finds good cause, reply papers not filed or served as provided above will not be considered.
- (9) Extension of Time Due to Continuance of Hearing Date. Unless an order for continuance shall specify otherwise, a continuance of the hearing of a motion automatically extends the time for filing and serving opposing papers and reply papers.

- (10) Continuation By Stipulation (Automatic Stay). A stipulation by the moving party to continue a hearing under 11 U.S.C. § 362(d) to a later date shall be deemed a waiver of the applicable portions of § 362(e) until the conclusion of the hearing on such later date. Unless otherwise ordered, an order by the court to continue a hearing under § 362 to a later date shall be deemed to include an order continuing the stay in effect until the conclusion of the hearing on such later date.

See also Local Bankruptcy Rule 1002-1(k): FORM OF PAPERS FILED WITH COURT, STIPULATIONS REGARDING PROGRESS OF CASE OR PROCEEDING.

- (11) 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.
- (12) Proof of Service. Every paper filed pursuant to this Local Bankruptcy Rule shall be accompanied by a proof of service in the form specified in Local Bankruptcy Rule 7004-1(b).
- (13) Evidence on Motions. Factual contentions involved in any motion or opposition to a motion shall be presented, heard, and determined upon declarations and other written evidence. Verifications of motions are not sufficient to constitute evidence on a motion, unless otherwise ordered by the court.
- (A) 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 F.R.B.P. 9017. When the court intends to take such testimony, it will give the parties 2 court days notice of its intention, if possible, or may grant such a continuance as it may deem appropriate.
- (B) Evidentiary objections shall (i) be set forth in a separate document, (ii) cite the specific Federal Rule of Evidence upon which the objection is based, and (iii) be filed with the responsive or reply Papers or may be deemed waived.
- (C) In lieu of oral testimony, declarations under penalty of perjury will be received into evidence.
- (D) Unless the court orders otherwise, witnesses need not be present at the first hearing on the motion.
- (E) If the court decides to hear oral testimony, the matter will be continued to another date for final hearing.

- (14) Appearance at Hearing. Counsel for the moving party and for the opposing party shall be present on the hearing date and shall have such familiarity with the case as to permit informed discussion and argument of the motion. Failure of any counsel to appear, unless excused by the court in advance, may be deemed consent to a ruling upon the motion adverse to that counsel's position.

Counsel may with the consent of the court waive personal appearance at the hearing. Counsel who have agreed to waive personal appearance shall 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 court day preceding the hearing date. The courtroom deputy shall advise the parties by no later than noon on the court day preceding the hearing date as to whether the court has consented to the waiver of personal appearance.

If the court decides in its discretion to dispense with oral argument on any motion, the courtroom deputy will attempt to give counsel notice of the court's intention to do so at least 24 hours prior to the hearing date and time.

- (15) Telephonic Appearance at Hearing. Parties who wish to appear telephonically 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.
- (16) Notice of Withdrawal of Motion or Lack of Opposition. Any party who seeks either to withdraw a motion or to state its lack of opposition to a motion shall, not less than 2 court days in advance of any day fixed for the hearing, so notify by telephone: (A) opposing counsel, and (B) the courtroom deputy of the judge before whom the matter is pending and shall also file a notice thereof with the court. An order is not required. Motions for continuances are governed by Local Bankruptcy Rule 9013-1(f).

(b) DISMISSAL OR SUSPENSION OF CASE

A motion by the debtor to dismiss or suspend a case under 11 U.S.C. §§ 301 or 302 or a motion by creditors or the debtor to dismiss or suspend an involuntary case filed under 11 U.S.C. § 303 shall be supported by a declaration setting forth the reasons for the request for dismissal or suspension. The motion shall fully disclose any arrangement or agreement between the debtor and creditors or any other person in connection with the motion for dismissal or suspension.

The court may condition the dismissal upon payment of fees and expenses, including quarterly fees due the Office of the United States trustee, as warranted.

See also Local Bankruptcy Rule 1017-2: DENIAL OR DISMISSAL FOR WANT OF PROSECUTION.

(c) DISCOVERY

For any dispute which may arise under F.R.B.P. 7026-7037 or F.R.B.P. 2004, counsel shall comply with all portions of this subsection of the Local Bankruptcy Rules unless excused from doing so by order of the court for good cause shown.

- (1) Meeting of Counsel. Prior to the filing of any motion relating to discovery, counsel for the parties shall meet in person or by telephone in a good faith effort to resolve the discovery dispute. It shall be the responsibility of counsel for the moving party to arrange for the conference. Unless altered by agreement of the parties or by order of the court upon good cause shown, counsel for the opposing party shall meet with counsel for the moving party within 10 days of service upon counsel of a letter requesting such meeting and specifying the terms of the discovery order to be sought.
- (2) Moving Papers. If counsel are unable to settle their differences, the party seeking discovery shall file and serve a notice of motion together with a written stipulation. This written stipulation shall be formulated by the parties and shall specify, separately and with particularity, each issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue. The stipulation shall be set forth in 1 document which shall contain all such issues in dispute and the contentions and points and authorities of each party. The stipulation shall not refer the court to other documents to describe the dispute. For example, if the sufficiency of an answer to an interrogatory is in issue, the stipulation shall contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider any discovery motion.
- (3) Cooperation of Counsel - Sanctions. The failure of any counsel to cooperate in such procedures and to attend the meeting of counsel or to provide the moving party the information necessary to prepare the stipulation required by this Local Bankruptcy Rule within 7 days of the meeting of counsel shall result in the imposition of sanctions, including but not limited to the sanctions provided in Local Bankruptcy Rule 1002-2 and F.R.B.P. 7037.

(d) ORDERS PREVIOUSLY DENIED OR REFUSED

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 shall be 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 instance including, inter alia:

- (1) When and to what judge the motion was made;
- (2) What ruling or decision or order was made thereon; and
- (3) What new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon such prior motion.

For failure to comply with the foregoing requirements of this rule, any ruling or decision or order made on such subsequent instance may be set aside sua sponte or on ex parte motion, and the offending party or attorney may be subject to sanctions.

(e) SUMMARY JUDGMENT OR PARTIAL SUMMARY ADJUDICATION

A notice of motion and motion for summary judgment or partial summary adjudication pursuant to F.R.B.P. 7056 shall be served and filed no later than 35 calendar days prior to the date of the hearing on the motion. There shall be served and lodged with each motion for summary judgment or partial summary adjudication a proposed statement of uncontroverted facts and conclusions of law, and a separate proposed summary judgment. Such proposed statement shall state the material facts as to which the moving party contends there is no genuine issue and shall reference each fact to the evidence that supports it.

Any party who opposes the motion shall, not later than 21 calendar days before the hearing on the motion, serve and file a separate concise “statement of genuine issues” with responding papers setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated, and referencing each fact to the evidence which establishes the genuine issue to be litigated.

Any reply by the moving party shall be served and filed no later than 10 calendar days before the hearing on the motion.

In determining any motion for summary judgment or partial summary adjudication, the court may assume that the material facts as claimed and adequately supported by the moving party are admitted to exist without controversy except to the extent that such facts are (A) included in the “statement of genuine issues” and (B) controverted by declaration or other evidence filed in opposition to the motion.

(f) CONTINUANCES

- (1) Motion for Continuance. Unless otherwise ordered, any motion for the continuance of any hearing shall be filed with the court and personally served upon all previously noticed parties at least 2 court days before the day set for the hearing. An order shortening time for hearing on the motion for continuance is not required if set for the same time as the original hearing. The motion shall set forth in detail the reasons therefor and shall state whether any continuance has been previously granted.

- (2) Stipulations For Continuances. As soon as parties agree that a stipulation for the continuance of a hearing, pretrial conference, trial or other matter is to be submitted for approval of the court, they shall immediately notify the courtroom deputy of their agreement, which shall be subject to approval by the court as required in subparagraph (3) below. Unless the continuance is approved by the court at least 1 court day before the hearing, the parties shall appear.
- (3) Court Approval. No continuance (whether stipulated to by counsel or not) shall be effective unless the court announces it in open court or approves it in writing or the court informs the parties that the judge has authorized a continuance.

(g) 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 paragraph (g)(2) below, and as otherwise ordered by the court, any matter which may be set for hearing in accordance with Local Bankruptcy Rule 9013-1 may be determined upon notice of opportunity to request a hearing. When the notice of opportunity for hearing procedure is used, the notice must:
- (A) 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;
- (B) State that Local Bankruptcy Rule 9013-1(g)(1) requires that any response and request for hearing must be filed and served within 15 days after the date of service of the notice; and
- (C) 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.

The motion and supporting papers must be filed with the notice, but served only on 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 paragraph (g)(1) above:
- (A) Objections to claims.
- (B) Motions for relief from the automatic stay.
- (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 Local Bankruptcy Rule 2081-1(d).
- (3) No Response and Request for Hearing. If the response period expires without the filing of any response and request for hearing, the moving party must promptly lodge a proposed order, unless none is required under the Bankruptcy Code and the requirements of Local Bankruptcy Rule 6004-1 are satisfied. **At the same time as the proposed order is lodged (and preferably rubber-banded or clipped to the order)**, the moving party must also file a declaration attesting that no response and request for hearing was served upon the moving party, to which declaration shall be appended (as exhibits) copies of the motion, notice and proof of service of the notice and motion. The proposed order and declaration need only to be served on the United States trustee. No other service before filing and lodging is required. These papers must be accompanied by the necessary copies of the notice of entry for the order, together with the requisite addressed, stamped envelopes. The notices of entry must provide for service on the debtor, any trustee, any committee appointed in the case, the United States trustee, any party whose interest in real or personal property is directly affected by the motion, counsel for any of the foregoing, and any parties that had requested special notice.
- (4) Response and Request for Hearing Filed. If a timely response and request for hearing is filed and served, 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. Within 20 days from the date of service of a response and request for hearing, the movant must obtain and give notice of a hearing date. If movant fails to obtain a hearing date, the court may deny the motion without prejudice, without further notice or hearing.

(h) WITHDRAWAL OF REFERENCE

Motions for withdrawal of reference of a case or proceeding shall comply with Local Rule 6.1, Chapter IV, Local Rules Governing Bankruptcy Appeals, Cases and Proceedings, of the district court.

See also Local Bankruptcy Rule 9015-2(g): DEMAND FOR JURY TRIAL, MOTION FOR WITHDRAWAL OF REFERENCE.

(i) **FORM OF DEBTOR'S MOTIONS TO AVOID LIEN OR TRANSFER OF EXEMPT PROPERTY**

A proceeding by a debtor to avoid a lien or other transfer of property pursuant to 11 U.S.C. § 522(f) may be brought by motion pursuant to Local Bankruptcy Rules 9013-1(a), 9013-1(g) or 9075-1, as appropriate. The title of the motion shall identify the creditor whose lien is to be avoided (e.g., Motion to Avoid Lien of XYZ Co. under 11 U.S.C. § 522(f)). Double captions shall not be used, nor will separate reference numbers be assigned. The motion shall be accompanied by a declaration or other competent evidence showing the loan, the balance remaining on the loan, the identification and fair market value of the property upon which the lien has attached, the value claimed exempt, the specific statutory authority for the claimed exemption, and the nature and amount of any other liens against the property. If the motion seeks to avoid a lien on real property, both the motion and the order shall set forth the legal description of the real property at issue. All other proceedings to avoid a lien except those under 11 U.S.C. § 522(f) shall be brought by adversary proceeding. A motion to sell free and clear of liens does not constitute a "proceeding to avoid a lien" within the meaning of this rule and may be brought by motion.

Court's Comment

2007 Revision

Paragraph (a)(6)(B) was revised to correct a conflict with the service and notice of hearing provisions for objections to claims under Local Bankruptcy Rule 3007-1.

Paragraph (g)(1) was revised to expand the types of matters that may be determined upon notice of opportunity to request a hearing. The notice served under paragraph (g)(1) must specify that any response and request for hearing be filed and served within 15 days after the date of service of the notice. A detailed notice and opportunity to request a hearing may be served on all parties in interest without serving a copy of the motion and supporting papers. However, the notice, motion, and supporting papers must be served on all parties in interest who are directly affected by the requested relief.

Paragraph (g)(2) was added to identify the matters that may not be determined by notice and opportunity for hearing.

Paragraphs (g)(2) and (g)(3) were renumbered (g)(3) and (g)(4), respectively.

LOCAL BANKRUPTCY RULE 9013-2

TRIAL BRIEFS AND EXHIBITS

(a) TRIAL BRIEFS

Unless otherwise ordered by the court, at least 5 court days before trial is scheduled to commence, each counsel may file and serve a trial brief which may contain:

- (1) A concise statement of the facts of the case;
- (2) All admissions and stipulations;
- (3) A short summary of the points of law involved, citing authorities in support thereof; and
- (4) Any anticipated evidentiary problems.

In appropriate cases, the court may require submission of trial briefs.

(b) TRIAL EXHIBITS

Unless otherwise ordered by the court, all trial exhibits shall be numbered as set forth in Local Bankruptcy Rule 1002-1 and marked for identification with tags available from the clerk's office.

It shall be the responsibility of all parties presenting exhibits to tag the exhibits and prepare an "exhibit register" on the form available from the clerk's office prior to the hearing.

The tagged exhibits and completed "exhibit register" are to be turned over in the courtroom to the courtroom deputy or court recorder prior to the beginning of the hearing.

Each party shall bring sufficient copies of each exhibit for all counsel, the witness and the judge.

LOCAL BANKRUPTCY RULE 9015-1

JURY TRIALS

(a) NUMBER OF JURORS

If a trial of the proceeding or matter is to be before a jury, the jury shall consist of 6 members. The court may impanel such number of alternate jurors as it determines desirable.

(b) INSTRUCTIONS

Proposed jury instructions shall be in writing and shall be filed and served at least 5 court days before trial is scheduled to begin. Each requested jury instruction shall comply with the following:

- (1) Be set forth in full on a separate page.
- (2) Embrace only one subject or principle of law.
- (3) Not repeat a principle of law contained in any other request.

The identity of the party requesting the jury instructions shall be set forth on a cover page only and shall not be disclosed on the proposed instructions. The authority or source of each proposed instruction shall be set forth on a separate page or document and shall not be disclosed on the proposed instruction.

(c) JURY TRIAL INSTRUCTIONS - OBJECTIONS

Objections to proposed instructions shall be filed and served on or before the first day of trial unless the court permits oral objections. Written objections shall be numbered and shall specify distinctly the objectionable matter in the proposed instruction. Each objection shall be accompanied by citation of authority. Where applicable, the objecting party shall submit an alternative instruction on a separate piece of paper. The alternative instruction shall cover the subject or principle of law and shall not disclose the identity of the requesting party or the authority or source of the proposed instruction.

(d) SPECIAL VERDICTS AND INTERROGATORIES

Any request for a special verdict or a general verdict accompanied by answers to interrogatories shall be filed and served at least 5 court days before trial is scheduled to commence. Special verdicts and interrogatories shall conform to the requirements of F.R.Civ.P. 49. Special verdicts and interrogatories shall not bear any identification of the party presenting the form. Identification shall be made only on a separate page appended to the front of the special verdict and interrogatory form.

LOCAL BANKRUPTCY RULE 9015-2**DEMAND FOR JURY TRIAL****(a) TRIAL BY JURY**

A party claiming a right to trial by jury shall make a demand as specified in paragraph (b) below. 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.

(b) DEMAND**(1) Time; Form; Consent.**

(A) Any party may demand a trial by jury as provided in Fed. R.Civ.P. 38(b).

(B) Such demand shall 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 shall file and serve a statement of consent or non-consent to a jury trial conducted by the bankruptcy court.

(2) **Specification of Issues.** In a demand a party may specify the issues which that party wishes so tried; otherwise that party shall be deemed to have demanded trial by jury of all the issues so triable. If a party has demanded trial by jury of 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.

(3) **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 shall be granted.

(4) **Cover Sheet Insufficient.** Marking the Adversary Proceeding Sheet (B.104) shall not be deemed a sufficient demand to comply with F.R.Civ.P. 38(b), or with this Local Bankruptcy Rule.

(c) WAIVER

The failure of a party to file and serve a demand as required by this Rule and to file it as required by F.R.B.P. 5005 constitutes a waiver of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

(d) TRIAL BY THE COURT

Issues not demanded for trial by jury shall be tried by the court. 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) 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.

(f) PRE-TRIAL PROCEDURE WHERE JURY TRIAL REQUESTED

Where a jury is demanded, all pre-trial proceedings, through approval and entry of the pre-trial order, shall be conducted by the bankruptcy judge.

(g) MOTION FOR WITHDRAWAL OF REFERENCE

Within 5 days of the entry of the pre-trial order, any party may file and serve a motion to the district court to withdraw reference pursuant to Local Bankruptcy Rule 9013-1(h). Failure of any party to file and serve a motion to withdraw reference within the 5-day time period shall be deemed to constitute consent by all parties to the jury trial being presided over by the bankruptcy judge. Nothing in this Local Bankruptcy Rule shall preclude an earlier motion to withdraw reference on the grounds set forth in 28 U.S.C. § 157(d).

(h) RIGHT TO JURY TRIAL

Nothing contained in this Local Bankruptcy Rule shall be deemed to create or imply a right to a jury trial where no such right exists under applicable laws.

Court's Comment**2007 Revision**

Paragraph (a) TRIAL BY JURY. Deleted *timely* from *timely demand* in the first sentence.

Paragraph (b)(1)(A). Direct reference to Fed. R. Civ. P. 38(b) added. All other text removed.

LOCAL BANKRUPTCY RULE 9019-1

STIPULATIONS AND SETTLEMENTS

(a) GENERAL

Parties shall 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 and order will be filed. If a fully executed, written stipulation resolving all issues as to all parties is filed at least 2 court days before a scheduled hearing and a courtesy 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 F.R.B.P. 9019.

(b) STIPULATIONS REQUIRING NOTICE UNDER F.R.B.P. 4001(d)

F.R.B.P. 4001(d) applies in all chapter 9 and 11 cases and in chapter 7 cases in which a committee has been appointed. Unless otherwise ordered by the court, the notice requirement of F.R.B.P. 4001(d) or 9019 may be satisfied by either serving the motion on all of the entities specified in those Rules when it is filed, or by serving on all such entities a motion for approval of the proposed settlement stipulation pursuant to Local Bankruptcy Rule 9013-1(g)(1)(I). All such stipulations require approval by the court.

See also Local Bankruptcy Rule 4001-1: NOTICE OF MOTIONS FOR RELIEF FROM STAY.

(c) FAILURE TO COMPLY - SANCTIONS

Failure to comply with the provisions of this Local Bankruptcy Rule may subject counsel to the following sanctions pursuant to F.R.B.P. 9011:

- (1) Payment of costs and attorneys' fees of an opposing party;
- (2) Payment of 1 day's jury fees of the panel, if one has been called for the trial; and
- (3) Such other sanctions, including denial of the motion or dismissal of the proceeding, as may appear proper to the court under the circumstances.

LOCAL BANKRUPTCY RULE 9020-1

ORDERS TO SHOW CAUSE RE CONTEMPT

Unless otherwise ordered by the court, contempt proceedings are initiated by filing a motion that conforms with Local Bankruptcy Rule 9013-1(a) and a proposed order to show cause re contempt. The motion shall be served on the responding party which shall have 5 court days to object to the issuance of the order to show cause. The proposed order shall clearly apprise the party to whom it is to be directed that such party shall show cause, if any there is, why that party should not be held in contempt for the allegedly contemptuous conduct. The allegedly contemptuous conduct shall also be clearly identified in the proposed order (not just by reference to the content of the motion). 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.

If the court receives no responsive pleadings to the motion for the order to show cause within the time allowed, it may conclude that there are no objections to the issuance of the order to show cause. No hearing on the motion for issuance of the order to show cause will be held unless the court so orders. 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. Unless the court orders otherwise in the order to show cause, the moving party shall serve the issued order to show cause on the respondent not later than 21 days before the date set for the hearing. Entities not previously subject to the personal jurisdiction of the court shall be personally served. All other persons may be personally served or may be served by mail in accordance with F.R.B.P. 7004. Any uncontroverted facts established by declaration may be treated as true. The court may limit testimony to controverted facts only.

LOCAL BANKRUPTCY RULE 9021-1

ORDERS AND JUDGMENTS

(a) PREPARATION, LODGING, AND SIGNING OF ORDERS AND JUDGMENTS

- (1) Orders and Judgments. An order or judgment (collectively, “order”) must be set forth in a separately captioned document complying with Local Bankruptcy Rule 1002-1, which shall include the notice of entry and the proof of service (if required). Except for an order submitted at the hearing, a proposed order must be accompanied by a proof of service reflecting notice to the proper parties.
 - (A) Who Must Prepare. Unless the court otherwise directs, an order must be prepared by the attorney for the prevailing party.
 - (B) When Due. If not presented at the hearing, an order must be served and lodged with the clerk within 7 court days of the granting thereof. Except as provided in Local Bankruptcy Rules 9013-1(e) and 7016-1(b)(1), an order must not be lodged prior to the hearing or trial of the underlying matter.
 - (C) Failure to Submit 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 court days within which to file and serve an objection in compliance with subparagraph (a)(4) of this rule. If no one 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 subparagraph (a)(1)(F) of this rule, the original order must be accompanied by copies and stamped, addressed envelopes for all parties entitled to notice of the entry of the order pursuant to F.R.B.P. 9022, or as the court directs. The party submitting the order must submit a copy and a stamped, self-addressed envelope for the return of a conformed copy.

- (E) Notice of Entry of Order. Subject to subparagraph (a)(1)(F) of this rule, a proposed order requiring notice of entry must be accompanied by a separate notice of entry in the approved form for this district, to which must be attached a mailing list of all parties, including the United States trustee, who are required by F.R.B.P. 9022 to be served with the order. The form of notice must include the title of the order, and leave appropriate blanks for the clerk's office to insert the date of entry of the order and the date that the notice of entry and copy of the order were mailed by the clerk's office.
- (F) Bankruptcy Noticing Center (BNC). The requirements of subparagraphs (a)(1)(D) and (E) of this rule do not apply to an order for which the notice of entry is processed and served through the BNC.
- (2) Order Upon Stipulation. An order approving a written stipulation must be set forth in a separately captioned document and lodged with the clerk upon the filing of the stipulation with the court.
- (3) Service of Order. The attorney who has the duty to prepare any order required by this rule must serve a copy on opposing counsel 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 an order is tendered at the hearing, the order may be filed without prior service on the opposition.
- (4) Separate Objection. Opposing counsel may, within 7 court days after service of a copy of an order prepared pursuant to this rule, file and serve an objection to the form of the order, setting forth the grounds thereof. Opposing counsel must attach as exhibits to the objection (A) a copy of the order that is the subject of the objection and (B) a copy of the proposed alternative form of order. The proposed alternative form of order so labeled, must be lodged with the objection. A courtesy copy of the objection and proposed alternative form of order must be delivered to chambers upon filing. The failure to file a timely objection will constitute a waiver of any defects in the form of the order.
- (5) Endorsement of Counsel. Except as provided in subparagraph (a)(6) with respect to unopposed orders, unless the court otherwise directs, an order will not be signed by the judge unless (A) opposing counsel has endorsed thereon an approval as to form; (B) opposing counsel has stipulated thereto on the record at the hearing, or (C) the time for objection to a form of order properly served under subparagraph (a)(3) has expired. 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.

- (6) Unopposed Orders. Notwithstanding the preceding paragraphs, if no opposition was made by a party or counsel at the hearing, the non-opposing party will be deemed to have waived any objection to the form of the order. The court may sign an unopposed order at the hearing or immediately upon its lodging with the clerk without waiting for the objection period to expire.
- (7) 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.
- (8) Obtaining Certified Copies of Order. Payment for certified copies of orders 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.
- (9) Relief From Stay Orders to Proceed in Another Forum. If the court grants an order to lift the automatic stay and to proceed in another forum, the prevailing party must file a copy of the order in that forum.

(b) 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 Local Bankruptcy Rule 7054-1. A blank space must be left in the form of the 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 order 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 court 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 court days, the order will 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 court 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 the issues previously made 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 attack the determination of such issues by the court.
- (7) Delegation of Authority to Sign or Fax Stamp Designated Form Orders. The court may delegate authority to the clerk to:
- (A) Sign specified form orders involving ministerial matters; and
 - (B) Fax stamp specified form orders consistent with oral rulings by the court.
- (c) **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.

(d) **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 Local Bankruptcy Rule 9013-1(a) or 9013-1(g)(1)(J).

- (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, time and place of the original hearing and the date of entry of the original order.
- (4) If the motion is filed and served pursuant to Local Bankruptcy Rule 9013-1(g)(1)(J), the proposed amended order itself must be lodged at the same time as the required declaration establishing that no timely objection was served.

Court's Comment

2007 Revision

Paragraph (a)(2) was modified to require that a separate order be lodged for the approval of any stipulation filed with the court.

Paragraph (a)(4) was modified to require that an objection to the form of a proposed order be accompanied by a copy of the order that is the subject of the objection and a proposed alternative form of order.

Paragraph (d) Default Judgments was moved and renumbered Local Bankruptcy Rule 7055-1(b).

LOCAL BANKRUPTCY RULE 9023-1**NEW TRIALS OR NEW HEARINGS IN 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 F.R.B.P. 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, jury or adverse party.
- (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 which 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 which 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.
- (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 shall be specifically stated.

- (2) Insufficiency of Evidence. If the ground for the motion is the insufficiency of the evidence, the motion shall 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 shall 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;
 - (C) What attempts were made to discover and present the evidence at trial;
 - (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.
- (4) Hearing. The motion shall be considered upon:
 - (A) The pleadings and papers on file;
 - (B) The recorder's transcript or tape; and
 - (C) 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 file.
- (5) Declarations - Time for Filing. Declarations in support of a motion for a new trial shall be filed concurrently with the motion unless the court fixes a different time.
- (6) Calendaring of Motion. The motion for a new trial shall be noticed and heard (if required by the court) as provided in Local Bankruptcy Rule 9013-1.

See also Local Bankruptcy Rule 9013-1(d): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), ORDERS PREVIOUSLY DENIED OR REFUSED.

LOCAL BANKRUPTCY RULE 9027-1

REMOVAL STATUS CONFERENCE

Upon the filing of a notice of removal pursuant to F.R.B.P. 9027, the clerk shall issue a notice of status conference before the judge to whom the case or proceeding has been assigned. The status conference shall be set not less than 45 days after the date that the notice of status conference is mailed, unless otherwise ordered by the court. Within 5 days of receipt, the removing party shall serve the notice of status conference on all other parties to the removed action, including any trustee appointed in the case.

Court's Comment

2007 Revision

Paragraphs (a) and (b) were deleted as redundant with F.R.B.P. 9027(a)(1) and 9027(e)(3) respectively.

Paragraph (c) became the entire Rule.

LOCAL BANKRUPTCY RULE 9071-1

STIPULATIONS

See Local Bankruptcy Rule 1002-1(j): FORM OF PAPERS FILED WITH COURT, STIPULATIONS REGARDING PROGRESS OF CASE OR PROCEEDING.

LOCAL BANKRUPTCY RULE 9074-1

TELEPHONE CONFERENCES

See Local Bankruptcy Rule 9013-1(a)(15): MOTIONS (EXCEPT REJECTION OF COLLECTIVE BARGAINING AGREEMENTS), GENERAL REQUIREMENTS, Telephonic Appearance at Hearing.

LOCAL BANKRUPTCY RULE 9075-1

**EMERGENCY MOTIONS AND MOTIONS FOR
ORDERS SHORTENING TIME**

(a) EMERGENCY MOTIONS

Emergency motions are those rare matters requiring an order on less than 48 hours notice.

- (1) Obtaining Hearing Date. Unless otherwise ordered by the court, a hearing date 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 by the judge to schedule emergency motions.
- (2) Filing the Moving Papers. Unless otherwise ordered by the court, the moving papers shall be filed at least 2 hours before the time set for hearing and a copy delivered directly to chambers. The motion shall be accompanied by declarations of competent witnesses under penalty of perjury that (i) justify the setting of a hearing on an emergency basis; and (ii) support the granting of the motion itself on the merits.
- (3) Scope of Notice Required. Unless otherwise ordered by the court, immediately upon obtaining a hearing date and time, movant shall give telephonic notice of the emergency hearing to the parties to whom notice of the motion is required to be given by the F.R.B.P. or by these Local Bankruptcy Rules, as well as to any other party that is likely to be adversely affected by the granting of the motion.
- (4) Service of the Moving Papers. Unless otherwise ordered by the court, movant shall serve the moving papers on the parties set forth in paragraph (a)(3) above no later than the time they are filed with the court. Such service shall be by fax or personal service.
- (5) Proof of Notice To Be Presented at the Hearing. Movant shall present to the court at the time of the hearing (i) a declaration of the efforts to give telephonic notice to the parties set forth in paragraph (a)(3) above of the time and place of the hearing and the substance of the motion, and (ii) a proof of service of the moving papers.

(b) MOTIONS TO BE HEARD ON SHORTENED NOTICE

For good cause shown, a party may request a non-emergency motion be heard on notice shorter than would otherwise be required by these Local Bankruptcy Rules. Such a request shall be made by written motion for order shortening time for hearing.

- (1) Obtaining Shortened Hearing Date. Unless otherwise ordered by the court, motions requesting an order shortening time shall be filed at the regular intake window of the clerk's office. They shall be accompanied by a memorandum stating the nature of the request and the name of counsel for the opposing party, if known, the reasons for seeking an order shortening time, and points and authorities in support thereof. All motions shall be accompanied by declarations of a competent witness under penalty of perjury that (i) justify the setting of a hearing on shortened notice and (ii) support the granting of the motion itself on the merits. Notice of the motion for order shortening time is not required. The motion for order shortening time will be determined ex parte by the court on the basis of the papers submitted with the motion, subject to the right of any party to object to the adequacy of notice pursuant to subparagraph (c) below.

Unless otherwise ordered by the court, all motions for orders shortening time shall also be accompanied by the substantive motion that is to be heard on shortened notice, together with all declarations and other required papers in support thereof.

- (2) Form of Proposed Order Shortening Time. The proposed order shortening time shall be presented as a separate document. It shall specify the parties to whom notice is proposed to be given, the nature and timing of the proposed shortened notice, which shall not be less than 48 hours, and leave appropriate blanks for the court to insert the date and time of hearing, and the date for serving and filing opposition papers. Upon receipt of the motion for the order, the court shall promptly notify movant of the date and time set for hearing.
- (3) Scope of Notice Required. Unless otherwise ordered by the court, concurrently with filing the motion for order shortening time and the underlying substantive motion, the moving party shall serve both the motion for order shortening time and the underlying substantive motion on the parties to whom notice of the substantive motion is required to be given by the F.R.B.P. or by these Local Bankruptcy Rules, as well as to any other party that is likely to be adversely affected by the granting of the substantive motion. Notice of the hearing shall be given to those required to be given notice by the F.R.B.P. or by these Local Bankruptcy Rules, or as ordered by the court. Such notice shall be by telephone, fax, personal service or such service as otherwise ordered by the court.

- (4) Proof of Notice and Proof of Service. Proof of notice of the hearing and proof of service of the papers shall be filed 2 court days before the hearing, unless otherwise ordered by the court. It shall be the duty of the party that has obtained an order shortening time to:
- (A) **Telephonic Notice.** Make a good faith effort to advise all other parties and their counsel if known, by telephone and confirming letter or by such other means as are reasonably calculated to give equally prompt notice of the date, time and substance of the motion being heard on shortened notice.
 - (B) **Expected Attendance.** Advise the court in writing of efforts to contact other parties and their counsel and whether any other counsel, after such efforts to advise parties and their counsel, has requested to be present at the time the motion is presented to the court.
 - (C) **Delivery of Papers.** Deliver copies of all moving papers to all parties as soon as is practicable. Unless otherwise ordered by the court, the papers required to be served shall also include the order shortening time for hearing, and a written notice of motion either on the applicable form designated for mandatory use in the F 4001-1 series of the court approved forms (for relief from stay motions under Local Bankruptcy Rule 9013-1(a)(5)), or that satisfies the requirements of Local Bankruptcy Rule 9013-1(a)(4) (for motions under that Rule). The copies that are served do not need to have been conformed by the court, but shall otherwise be identical in substance to the papers filed with the court.
 - (D) **Declaration of Notice.** Present a declaration of the efforts to communicate with opposing parties and their counsel or present to the court a declaration setting forth facts sufficient to show why the motion should be heard despite failure to contact opposing parties.

(c) **OBJECTION TO TIMING OF HEARING**

At the hearing on the substantive motion, any party may object to the adequacy of the notice provided and seek a continuance for good cause shown.

APPENDIX I**LOCAL BANKRUPTCY RULES FORMS LIST**

FORM NUMBER	FORM TITLE
F 1010-1	<i>Summons and Notice of Status Conference in an Involuntary Bankruptcy Case (Mandatory)</i>
F 1010-2	<i>Summons and Notice of Status Conference in Section 304 Case Ancillary to a Foreign Proceeding (Mandatory)</i>
F 1015-2.1	<i>Statement of Related Cases (Mandatory)</i>
F 1017-1.1	<i>Debtor's Motion to Convert Case under 11 U.S.C. § 706(a), or 1112(a) (Mandatory)</i>
F 1017-1.2	<i>Order on Debtor's Motion to Convert Case under 11 U.S.C. § 706(a), or 1112(a) (Mandatory)</i>
F 1017-1.3	<i>Notice of Debtor's Motion to Convert Case under 11 U.S.C. § 706(a) (Mandatory)</i>
F 1017-1.4	<i>Debtor's Notice of Conversion Under 11 U.S.C. § § 1208(a) or 1307(a) (Mandatory)</i>
F 1017-1.5	<i>Order on Debtor's Notice of Conversion Under 11 U.S.C. § § 1208(a) or 1307(a) (Mandatory)</i>
F 2014-1	<i>Statement of Disinterestedness of Professional Person Under F.R.B.P. 2014 (File with Application for Employment) (Optional)</i>
F 2016-1.1	<i>Notice of Hearing on Application for Payment of Interim or Final Fees and/or Expenses under 11 U.S.C. § 331 or 330 (Optional)</i>
F 2016-1.2	<i>Application for Payment Of: Interim Fees and/or Expenses (11 U.S.C. § 331) and Final Fees and/or Expenses (11 U.S.C. § 330) (Optional)</i>
F 2016-1.3	<i>Order on Application for Payment Of: Interim Fees and/or Expenses (11 U.S.C. § 331) or Final Fees and/or Expenses (11 U.S.C. § 330) (Optional)</i>
F 2016-2.1	<i>Trustee's Notice of Motion and Motion Under Local Bankruptcy Rule 2016-2 For: Authorization to Employ Paraprofessionals and/or Authorization to Pay Flat Fees Up To \$_____ To Tax Preparer (Mandatory)</i>

FORM NUMBER	FORM TITLE
F 2016-2.2	<i>Notice of Motion and Motion No. _____ Under Local Bankruptcy Rule 2016-2 for Approval of Cash Disbursements by the Trustee; Opportunity to Request Hearing; Declaration of Trustee; and Order Thereon (Mandatory)</i>
F 2090-1.1	<i>Declaration Re: Limited Scope of Appearance Pursuant to Local Bankruptcy Rule 2090-1 (Optional)</i>
F 2090-1.2	<i>Application of Non-Resident Attorney to Appear in a Specific Case [Local Bankruptcy Rule 2090-1(b)] (Optional)</i>
F 2090-1.3	<i>Order on Application of Non-Resident Attorney to Appear in a Specific Case [Local Bankruptcy Rule 2090-1(b)] (Optional)</i>
F 2090-1.4	<i>Substitution of Attorney (Optional)</i>
F 3001.1	<i>Request for Issuance of Notice of Transfer of Claim under F.R.B.P. 3001(e) (Optional)</i>
F 3001.2	<i>Notice of Transfer of Claim Pursuant to F.R.B.P. 3001(e) (Optional)</i>
F 3007-1.1	<i>Order on Objection to Claims (Optional)</i>
F 3007-1.2	<i>Notice of Trustee's/Debtor in Possession's Request for a Copy of Proof of Claim (Optional)</i>
F 3007-1.3	<i>Notice of Objection to Claim (Mandatory)</i>
F 3011-1	<i>Motion for Order Releasing Unclaimed Funds (Optional)</i>
F 3015-1.1	<i>Chapter 13 Plan (Mandatory)</i>
F 3015-1.2	<i>Notice of Section 341(a) Meeting and Hearing on Confirmation of Chapter 13 Plan with Copy of Chapter 13 Plan (Mandatory)</i>
F 3015-1.3	<i>Debtor's Request to Convert Chapter 13 Case To One under Chapter 7 Pursuant to 11 U.S.C. § 1307(a) (Optional)</i>
F 3015.1-4	<i>Declaration Setting Forth Postpetition, Preconfirmation Deed of Trust Payments [Local Bankruptcy Rules 3015-1(m)] (Mandatory)</i>
F 3015-1.5	<i>Notice of Motion Under Local Bankruptcy Rules 3015-1(n) and 9013-1(g) to Modify Plan or Suspend Plan Payments (Mandatory)</i>
F 3015-1.6	<i>Motion Under Local Bankruptcy Rules 3015-1(n) and 9013-1(g) to Modify Plan or Suspend Plan Payments; Trustee's Comments; Order Thereon (Mandatory)</i>
F 3015-1.7	<i>Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys (Mandatory)</i>
F 3017-1	<i>Chapter 11 Disclosure Statement</i>

FORM NUMBER	FORM TITLE
F 3017-2	<i>Plan Ballot Summary (Optional)</i>
F 3018-1	<i>Chapter 11 Plan</i>
F 4001-1.DEC	<i>Declaration of _____ RE: Default Under Adequate Protection Order; Request for Entry of Order Granting Relief From Stay (Mandatory)</i>
F 4001-1M.CUST	<i>Notice of Motion and Motion for (A) Relief From the Automatic Stay under 11 U.S.C. § 362 (Real Property); and (B) Relief from Turnover under 11 U.S.C. § 543 by Prepetition Receiver or Other Custodian (with supporting declarations) (Mandatory)</i>
F 4001-1M.ER	<i>Extraordinary Relief Attachment (Optional to the Judge)</i>
F 4001-1M.NA	<i>Notice of Motion and Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (with supporting declarations) (Action in Non-Bankruptcy Forum) (Mandatory)</i>
F 4001-1M.PP	<i>Notice of Motion and Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (with supporting declarations) (Personal Property) (Mandatory)</i>
F 4001-1M.RP	<i>Notice of Motion and Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (with supporting declarations) (Real Property) (Mandatory)</i>
F 4001-1M.TS	<i>Notice of Motion and Motion in Individual case for Order Confirming Termination of Stay under 11 U.S.C. § 362(j) or that no Stay is in Effect under 11 U.S.C. § 362(c)(4)(A)(ii) (Mandatory)</i>
F 4001-1M.UD	<i>Notice of Motion and Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (with supporting declarations) (Unlawful Detainer) (Mandatory)</i>
F 4001-1M.13	<i>Declaration of Agent for Standing Trustee (Chapter 12 and 13 cases only; Attach to Stay Motion) (Mandatory)</i>
F 4001-1M.RES	<i>Response to Motion for Order to Terminate, Annul, Modify, or Condition the Automatic Stay under 11 U.S.C. § 362 and Declaration(s) in Support (Optional)</i>
F 4001-10.CUST	<i>Order Granting Motion for (1) Relief From the Automatic Stay under 11 U.S.C. § 362, and (2) Relief from Turnover under 11 U.S.C. § 543 by Prepetition Receiver or Other Custodian (Mandatory)</i>
F 4001-10.ER	<i>Extraordinary Relief Attachment (Optional to the Judge)</i>
F 4001-10.NA	<i>Order Granting Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (Action in Non-Bankruptcy Forum) (Mandatory)</i>
F 4001-10.PP	<i>Order Granting Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (Personal Property) (Mandatory)</i>
F 4001-10.RP	<i>Order Granting Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (Real Property) (Mandatory)</i>

FORM NUMBER	FORM TITLE
F 4001-10.UD	<i>Order Granting Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (Unlawful Detainer) (Mandatory)</i>
F 4001-10.DENY	<i>Order Denying Motion for Relief From the Automatic Stay under 11 U.S.C. § 362 (Mandatory)</i>
F 4001-2	<i>Statement Pursuant to Local Bankruptcy Rule 4001-2 (Cash Collateral Stipulations) (Optional)</i>
F 4008-1.1	<i>Reaffirmation Agreement (Mandatory)</i>
F 4008-1.2	<i>Notice of Hearing Re: Reaffirmation Agreement (Mandatory)</i>
F 4008-1.3	<i>Order Disapproving Reaffirmation Agreement with Notice of Entry (Mandatory)</i>
F 4008-1.4	<i>Order Approving Reaffirmation Agreement with Notice of Entry (Mandatory)</i>
F 5010-1.1M	<i>Debtor's Motion to Reopen Case and For Extension of Time to File Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management (Mandatory)</i>
F 5010-1.1O	<i>Order on Debtor's Motion to Reopen Case and For Extension of Time to File Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management (Mandatory)</i>
F 5075-1.1	<i>Declaration to be Filed with Motion Establishing Administrative Procedures RE 28 U.S.C. § 156(c) (Mandatory)</i>
F 6004-2	<i>Notice of Sale of Estate Property</i>
F 7004-1	<i>Summons and Notice of Status Conference (Mandatory)</i>
F 7016-1.1	<i>Joint Status Report - Local Bankruptcy Rule 7016-1(a)(2) (Optional)</i>
F 7016-1.1a	<i>Joint Status Report - Additional Party Attachment</i>
F 7016-1.2	<i>Status Conference and Scheduling Order Pursuant to Local Bankruptcy Rule 7016-1(a)(3) (Optional)</i>
F 7027-1	<i>Request for Disclosure of Discovery Documents under Local Bankruptcy Rule 7027-1(d) (Optional)</i>
F 9013-1.1	<i>Notice of Motion (Hearing Required) (Optional)</i>
F 9013-1.2	<i>Notice of Motion under Local Bankruptcy Rule 9013-1(g)(1) for: (Optional)</i>
F 9013-1.3	<i>Notice of Opposition and Request for a Hearing (Optional)</i>
F 9013-1.4	<i>Notice of Non-Opposition (Optional)</i>

FORM NUMBER	FORM TITLE
F 9013-1.5	<i>Notice of Motion and Motion to Avoid Lien under 11 U.S.C. § 522(f) (Real Property) (Optional)</i>
F 9013-1.6	<i>Order on Motion to Avoid Lien under 11 U.S.C. § 522(f) (Real Property) (Optional)</i>
F 9013-1.7	<i>Notice of Motion and Motion to Avoid Lien under 11 U.S.C. § 522(f) (Personal Property) (Optional)</i>
F 9013-1.8	<i>Order on Motion to Avoid Lien under 11 U.S.C. § 522(f) (Personal Property) (Optional)</i>
F 9013-1.9	<i>Declaration Re: Entry of Order Without Hearing Pursuant to Local Bankruptcy Rule 9013-1(g) (Optional)</i>
F 9021-1.1	<i>Notice of Entry of Judgment or Order and Certificate of Mailing (Optional)</i>
F 9021-1.2	<i>Request for Entry of Default under Local Bankruptcy Rule 9021-1 (Optional)</i>
F 9021-1.3	<i>Motion for Default Judgment under Local Bankruptcy Rule 9021-1 (Optional)</i>
F 9021-1.4	<i>Default Judgment (Without Prior Judgment) (Optional)</i>
F 9021-1.5	<i>Default Judgment (Based on Prior Judgment) (Optional)</i>
F 9075-1	<i>Order Shortening Time [Local Bankruptcy Rule 9075-1(b)](Optional)</i>

APPENDIX II

ATTORNEY DISCIPLINE PROCEDURES IN BANKRUPTCY COURT (General Order No. 96-05)

(a) **APPLICABILITY**

This general order establishes a process for court wide discipline of attorneys in the bankruptcy court.

These procedures shall apply when any judge of this court wishes to challenge the right of an attorney to practice before this court or recommends the imposition of attorney discipline intended to apply in all bankruptcy cases in this court.

Nothing in this general order is intended to limit or restrict the authority of any judge to impose sanctions on any attorney in any case or cases assigned to that judge.

- (1) Initiation of Disciplinary Proceedings. If a bankruptcy judge wishes to initiate disciplinary proceedings under this general order, the judge shall prepare and file with the Clerk of Court a written Statement of Cause setting forth the judge's basis for recommending discipline and a description of the discipline the referring judge believes is appropriate.

The clerk shall open a case file, assign a miscellaneous case number, initiate a docket for the file, select three bankruptcy judges of this district at random (excluding the judge who filed the Statement of Cause) to serve on the Hearing Panel (the "Panel") which will determine whether the attorney shall be disciplined and, if so, the type and extent of discipline. The most senior judge assigned to the Panel shall be the Presiding Judge. The clerk shall prepare a Designation of Hearing Panel and Presiding Judge which shall include a signature line for each of the designated judges. The signature of each judge shall certify his or her acceptance of assignment to the Panel. Should any judge decline to serve, the clerk shall select another judge to serve on the Panel, give written notice thereof to the other judges on the Panel and issue a Supplemental Designation of Hearing Panel, which shall contain a signature line for the newly appointed judge to accept the assignment.

Once the clerk has obtained the acceptance of three judges to serve on the Panel, the clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve on the attorney named in the Statement of Cause ("the attorney") and on the local Office of the United States Trustee, along with a copy of the Statement of Cause and a copy of this general order. The attorney may file a motion for recusal as to any of the judges assigned to the Panel within ten days of the service of the Notice of the Assignment of

Hearing Panel and serve the motion on the Office of the United States Trustee. That motion may be heard by any judge other than the referring judge, any judge assigned to the Panel, or any judge who has declined to serve on the Panel. The assignment of the recusal motion to a judge shall be made at random by the clerk, who shall give notice of the recusal hearing to the attorney and to the Office of the United States Trustee at least 10 calendar days before the hearing date.

Once the period for bringing a recusal motion has terminated, or after disposition of any recusal motion, the Presiding Judge shall advise the clerk of the date, time, and place for the Disciplinary Hearing, whereupon the clerk shall prepare a Notice of Disciplinary Hearing and mail the notice to the attorney and to the Office of the United States Trustee at least 21 calendar days before the hearing date.

- (2) Hearing Procedures. The attorney may appear at the Disciplinary Hearing with legal counsel and may present evidence:
- (A) Refuting the statements contained in the Statement of Cause,
 - (B) Mitigating the discipline (i.e., that notwithstanding the validity of the statements in the Statement of Cause the attorney should not be disciplined), and
 - (C) Bearing on the type and extent of disciplinary action appropriate under the circumstances.

The Federal Rules of Evidence shall apply to the presentation of evidence at the Disciplinary Hearing, and an official record of the proceedings shall be maintained as though the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules of Bankruptcy Procedure. The United States Trustee for the district may appear at the hearing in person or by counsel and may participate in the presentation of evidence as though she or he were a party to the proceeding. If the United States Trustee wishes to appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the purposes for the appearance, and serve that notice on the attorney at least 11 days before the hearing. The Panel may disregard written statements or declarations of innocence or in mitigation of the attorney's conduct unless they are filed with the court with copies delivered promptly thereafter to the chambers of each member of the Panel at least five court days prior to the hearing. Written statements presented to the Panel for consideration as evidence may be disregarded by the Panel if the declarant is unavailable at the hearing for cross-examination and for examination by the Panel.

- (3) Ruling. At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to a private session to consider the matter. The ruling of the Panel will be made by majority vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision and its reasons. Any member of the Panel may issue a concurring or dissenting opinion which will be made a part of the Memorandum of Decision.

If the Panel imposes discipline on an attorney, the Presiding Judge shall issue a Discipline Order based on the Panel's Memorandum of Decision. That order may provide for any appropriate discipline, including but not limited to revocation or suspension of the right to practice before all the judges of this court. The Discipline Order will become final 10 days after entry or, if a motion for rehearing is filed, 10 days after entry of an order denying the attorney's motion for rehearing. The same rule as to finality will apply to a new or revised Discipline Order, if one is issued by the Panel after rehearing.

The Discipline Order shall be sent by the clerk to the Clerk of the District Court. Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the State Bar of California or published in designated periodicals, or both.

If an attorney's practice privileges have been revoked, modified, or suspended by final order of a Panel, the attorney may not appear before any of the judges of this court representing any other persons or entities except in compliance with the terms of the Discipline Order.

- (4) Reinstatement. An attorney whose privileges have been revoked, modified, or suspended under this general order may apply to the Chief Judge of this court for reinstatement of privileges on the following schedule:
- (A) If privileges were revoked without condition for an unlimited period of time, the attorney may apply for reinstatement after five years from the date the Discipline Order becomes final;
 - (B) If privileges were revoked or suspended with specified conditions precedent to reinstatement, the attorney may apply for reinstatement upon fulfillment of the conditions set forth in the Discipline Order; and
 - (C) If privileges were suspended for a specified period of time, the attorney may apply for reinstatement at the conclusion of the period of suspension or five years after the Discipline Order becomes final, whichever first occurs.

An Application for Reinstatement of Privileges must include a copy of the Discipline Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the applicant is in good standing before the United States District Court for the Central District of California and is a member in good standing of the State Bar of California. If the attorney's privileges were revoked, or if the suspension was for a time in excess of five years and was without any conditions precedent to reinstatement, it

shall be within the sole discretion of the Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the attorney is entitled to reinstatement of practice privileges, he or she may issue a Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby shall be deemed eligible to practice before all the judges of this court except to the extent any judge of this court has issued an order, other than under this rule, denying that attorney the right to appear before that judge or to appear in a particular case.

Upon entry, the clerk shall transmit a copy to all judges of this court and to the attorney, the clerk of the District Court, and to the United States Trustee. In addition, if the Discipline Order was sent to the State Bar or published, the Clerk shall transmit the Reinstatement Order to the State Bar and publish it in the same publication, if possible. If the Chief Judge does not grant the Application for Reinstatement of Privileges, he or she shall issue an order denying the application together with a separate written statement of the reasons for his or her decision. That order will become final 10 days after entry.

If an attorney's Application for Reinstatement of Privileges is denied, he or she may reapply for reinstatement after one year from the date of entry of the order denying the previous application or within such other time or upon fulfillment of such conditions as may be set forth in the order denying reinstatement.

- (5) Maintenance of Discipline Files. The clerk will place in the court's file for each disciplinary proceeding all documents referred to above and others received or issued by this court relating thereto, and notations thereof shall be entered on the docket for that proceeding. Those files shall be maintained in accordance with applicable law and rules for maintenance of miscellaneous files of this court and shall be available for review and copying by members of the public unless, by order of the Chief Judge or the Presiding Judge of the Panel to which the matter was assigned, access to the file is restricted or prohibited.

The clerk shall close a disciplinary file 30 days after entry of a dispositive order (for example, an Order Re Revocation of Privileges or a Reinstatement Order) in that proceeding unless within that time the clerk receives a Notice of Appeal of any order rendered in the proceeding or other information justifying maintenance of the file in an open status. The clerk shall reopen a disciplinary file upon the request of the attorney, for the convenience of the court, or upon order of any judge of this court, whereupon the clerk shall advise the Chief Judge accordingly. So long as any disciplinary files remain open, the clerk shall provide the Chief Judge a quarterly status report of all such open files to which will be attached copies of their dockets. The Chief Judge may order any such files closed when he or she deems it appropriate, consistent with the provisions hereof and the status of any such matter.

- (6) Appeals. All orders issued pursuant to this rule shall be appealable to the extent permitted by applicable law and rules of court.

APPENDIX III

ADOPTION OF MEDIATION PROGRAM FOR BANKRUPTCY CASES AND ADVERSARY PROCEEDINGS **(Second Amended General Order No. 95-01)**

1.0 PURPOSE AND SCOPE

The United States Bankruptcy Court for the Central District of California (the “Court”) recognizes that formal litigation of disputes in bankruptcy cases and adversary proceedings frequently imposes significant economic burdens on parties and often delays resolution of those disputes. The procedures established herein are intended primarily to provide litigants with the means to resolve their disputes more quickly, at less cost, and often without the stress and pressure of litigation.

The Court also notes that the volume of cases, contested matters and adversary proceedings filed in this district has placed substantial burdens upon counsel, litigants and the Court, all of which contribute to the delay in the resolution of disputed matters. A Court-authorized mediation program, in which litigants and counsel meet with a mediator, offers an opportunity for parties to settle legal disputes promptly, less expensively, and to their mutual satisfaction. The judges of the Court hereby adopt the Mediation Program for Bankruptcy Cases and Adversary Proceedings (the “Mediation Program”) for these purposes.

It is the Court’s intention that the Mediation Program shall operate in such a way as to allow the participants to take advantage of and utilize a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation and settlement facilitation. The specific method or methods employed will be those that are appropriate and applicable as determined by the mediators and the parties, and will vary from matter to matter.

Nothing contained herein is intended to preclude other forms of dispute resolution with the consent of the parties.

2.0 CASES ELIGIBLE FOR ASSIGNMENT TO THE MEDIATION PROGRAM

Unless otherwise ordered by the judge handling the particular matter (the “Judge”), all controversies arising in an adversary proceeding, contested matter, or other dispute in a bankruptcy case are eligible for referral to the Mediation Program.

3.0 PANEL OF MEDIATORS

3.1 Selection

- a. The Court shall establish and maintain a panel (“Panel”) of qualified professionals who have volunteered and been chosen to serve as a mediator (“Mediator”) for the possible resolution of matters referred to the Mediation Program. The Panel shall be comprised of both attorneys and non-attorneys.
- b. Applicants shall submit an Application (in the form attached) (the “Application”) to the judge appointed as the administrator of the Mediation Program (the “Mediation Program Administrator”), setting forth their qualifications as described in Paragraph 3.3 below.
- c. The judges of the Court will select the Panel from the applications submitted to the Mediation Program Administrator. The judges will consider each applicant’s training and experience in mediation or other alternative dispute resolution, if any, as well as the applicant’s professional experience and location. Appointments may be limited to keep the Panel at an appropriate size and to ensure that the Panel is comprised of individuals who have broad based experience, superior skills, and qualifications from a variety of legal specialties and other professions.

- 3.2 **Term.** Mediators shall serve as members of the Panel for a term of three years unless the Mediator is advised otherwise by the Court or submits a written request to withdraw from the Panel to the Mediation Program Administrator. Reappointment will occur at the judges’ discretion, and an application for reappointment is not required.

3.3 Qualifications

- a. **Attorney Applicants.** An attorney applicant shall certify to the Court in the application that the applicant:
 1. Is, and has been, a member in good standing of the bar of any state or of the District of Columbia for at least five (5) years;
 2. Is a member in good standing of the federal courts for the Central District of California;
 3. Has served as a principal attorney of record in at least three (3) bankruptcy cases (without regard to the party represented) from case commencement to conclusion or, if the case is still pending, to the date of the Application, or has served as the principal attorney of record for a party in interest in at least three (3) adversary proceedings or contested matters from commencement to conclusion or, if the case is still pending, to the date of the Application; and
 4. Is willing to undertake to evaluate or mediate at least one matter each quarter of each year, subject only to unavailability due to conflicts, personal or professional commitments, or other matters which would make such service inappropriate.

b. Non-Attorney Applicants. A non-attorney applicant shall certify to the Court in the Application that the applicant has been a member in good standing of the applicant's particular profession for at least five (5) years, and shall submit a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be appointed to the Panel. Non-attorney applicants shall make the same certification required of attorney applicants contained in Paragraph 3.3.a.4.

3.4 Geographic Areas of Service. Applicants shall indicate on the Application all counties within the Central District in which they are willing to serve. Applicants must be willing to travel to all such counties to conduct Mediation Conferences.

4.0 ADMINISTRATION OF THE MEDIATION PROGRAM

The Chief Judge will appoint a judge of the Court to serve as the Mediation Program Administrator. The Mediation Program Administrator will be aided by assigned staff members of the Court, who will maintain and collect applications, maintain the roster of the Panel, track and compile results of the Mediation Program, and handle such other administrative duties as are necessary.

5.0 ASSIGNMENT OF MATTERS TO THE MEDIATION PROGRAM

5.1 Assignment by Request of Parties. A contested matter in a case, adversary proceeding, or other dispute (hereinafter collectively referred to as "Matter" or "Matters") may be assigned to the Mediation Program if requested in writing by the parties in the form attached as Official Forms 701 and 702.

5.2 Assignment by Judge. Matters may also be assigned by order of the Judge at a status conference or other hearing. While participation by the parties in the Mediation Program is generally intended to be voluntary, the Judge, acting *sua sponte* or on the request of a party, may designate specific Matters for inclusion in the Mediation Program. The Judge may do so over the objections of the parties. If a Matter is assigned to the Mediation Program by the Judge at a status conference or other hearing, the parties will be presented with an order assigning the Matter to the Mediation Program, and with a current roster of the Panel. The parties shall normally be given the opportunity to confer and to select a mutually acceptable Mediator and an Alternate Mediator from the Panel. If the parties cannot agree, or if the Judge deems selection by the Judge to be appropriate and necessary, the Judge shall select a Mediator and an Alternate Mediator from the Panel.

5.3 Assignment of Non-Panel Mediators. The Judge may, in his or her sole discretion, appoint individuals who are not members of the Panel as the Mediator and Alternate Mediator at the request of the parties and for good cause shown.

- 5.4 Use of Official Court Order Assigning Matter to Mediation Program.** The order appointing the Mediator and Alternate Mediator and assigning a Matter to the Mediation Program shall be in the form attached as Official Form 702 (“Mediation Order”). The original Mediation Order shall be docketed and retained in the case or adversary proceeding file and copies shall be mailed, by the party so designated by the Judge, to the Mediator, the Alternate Mediator, the Mediation Program Administrator, and to all other parties to the dispute.
- 5.5 Existing Case Deadlines Not Affected by Assignment to Mediation.** Assignment to the Mediation Program shall not alter or affect any time limits, deadlines, scheduling matters or orders in the case, any adversary proceeding, contested matter or other proceeding, unless specifically ordered by the Judge.
- 5.6 Disclosure of Conflicts of Interest.** No Mediator may serve in any Matter in violation of the standards regarding judicial disqualification set forth in 28 U.S.C. § 455.
- a. Disclosure by Attorney Mediators.** An attorney Mediator shall promptly determine all conflicts or potential conflicts in the manner prescribed by the California Rules of Professional Conduct and disclose same to all parties in writing. If the attorney Mediator’s firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.
 - b. Disclosure by Non-Attorney Mediators.** A non-attorney Mediator shall promptly determine all conflicts or potential conflicts in the same manner as a non-attorney would under the applicable rules pertaining to the non-attorney Mediator’s profession and disclose same to all parties in writing. If the Mediator’s firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.
 - c. Report of Conflict Issue by Parties.** A party who believes that the assigned Mediator and/or the Alternate Mediator has a conflict of interest shall promptly bring the issue to the attention of the Mediator and/or the Alternate Mediator, as applicable, and shall disclose same to all parties in writing.
 - d. Resolution of Conflict Issue by Judge.** If the Mediator and/or the Alternate Mediator does not withdraw from the assignment, the issue shall be brought to the attention of the Judge in writing by the Mediator, the Alternate Mediator, or any of the parties in the form attached as Official Form 704. The notice shall be filed with the Court, and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, the Mediator, the Alternate Mediator, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the conflict of interest issue.

6.0 CONFIDENTIALITY

- 6.1 In General.** No written or oral communication made, or any document presented, by any party, attorney, Mediator, Alternate Mediator or other participant in connection with or during any Mediation Conference, including the written Mediation Conference statements referred to in Paragraph 7.8 below, may be disclosed to anyone not involved in the Mediation, nor may any such communication be used in any pending or future proceeding in this Court or any other court. All such communications and documents shall be subject to all of the protections afforded by FED. R. BANKR. P. 7068. Such communication(s) may be disclosed, however, if all participants in the Mediation, including the Mediator, agree in writing to such disclosure. In addition, nothing contained herein shall be construed to prohibit parties from entering into written agreements resolving some or all of the Matter(s), or entering into or filing procedural or factual stipulations based on suggestions or agreements made in connection with a Mediation Program conference (“Mediation Conference”).
- 6.2 Non-Confidentiality of Otherwise Discoverable Evidence.** Notwithstanding the foregoing, nothing herein shall require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of a Mediation Conference.
- 6.3 Written Confidentiality Agreement Required.** The parties and the Mediator shall enter into a written confidentiality agreement in the form attached as Official Form 708.
- 6.4 Effect of Recorded Settlement Agreement on Confidentiality.** An oral agreement reached in the course of a Mediation Conference is not made inadmissible or protected from disclosure if all of the following conditions are satisfied:
- a. The oral agreement is recorded by a court reporter, tape recorder, or other reliable means of sound recording;
 - b. The terms of the oral agreement are recited on the record in the presence of the parties and the Mediator, and the parties express on the record that they agree to the terms recited;
 - c. The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect; and
 - d. The recording is reduced to writing and the writing is signed by the parties and their counsel, if any, within 72 hours after it is recorded.
- 6.5 Effect of Written Settlement Agreement on Confidentiality.** A written settlement agreement prepared in the course of a Mediation Conference is not made inadmissible or protected from disclosure if the agreement is signed by the settling parties and their counsel, if any, and either of the following conditions are satisfied:
- a. The agreement provides that it is admissible or subject to disclosure, or words to that effect; or
 - b. The agreement provides that it is enforceable or binding or words to that effect.
- 6.6 Court Evaluation of Mediation Program Not Precluded by Confidentiality Provisions.** Nothing contained herein shall be construed to prevent Mediators, parties, and their counsel, if any, from responding in absolute confidentiality to inquiries or surveys by persons authorized by the Court to evaluate the Mediation Program.

6.7 Confidentiality of Suggestions and Recommendations of Mediator. The Mediator shall have no obligation to make any written suggestions or recommendations but may, as a matter of discretion, provide counsel for the parties (or the parties, where proceeding in *pro per*), with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available, in whole or in part, directly or indirectly, to the Judge.

7.0 MEDIATION PROCEDURES

7.1 Selection of Mediator. Counsel for the parties (or the parties, where proceeding in *pro per*), are encouraged to contact the proposed Mediator and Alternate Mediator as soon as practicable (preferably before submitting the Mediation Order to the judge for approval, if possible) to determine the availability of the Mediator and Alternate Mediator to serve in the Matter.

7.2 Availability of Mediator. If the Mediator is **not** available to serve in the Matter, the Mediator shall notify the parties, the Alternate Mediator, and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than seven (7) calendar days from the date of receipt of notification of appointment. **Upon notification of the Mediator's unavailability to serve, the Alternate Mediator shall automatically serve as the Mediator without the necessity for further court order.**

7.3 Availability of Alternate Mediator. If the Alternate Mediator is **not** available to serve in the Matter, the Alternate Mediator shall notify the parties and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than seven (7) calendar days from the receipt of notification by the Mediator, pursuant to Paragraph 7.1 above, of the Mediator's unavailability to serve.

7.4 Selection of Successor Mediator.

a. By Parties. Within seven (7) calendar days of receipt of the Alternate Mediator's notification of unavailability, the parties shall choose a mutually acceptable Successor Mediator and Successor Alternate Mediator by mail in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word "Successor" **must** be inserted in the caption of the Mediation Order in front of the words "Mediator" and "Alternate Mediator"). The parties shall file such form with the Court and provide a courtesy copy to the Judge and the Mediation Program Administrator.

b. By Judge. If the parties are unable to agree on a choice of Successor Mediator and Successor Alternate Mediator, they shall notify the Judge and the Mediation Program Administrator of their inability to do so by mail in the form attached as Official Form 704. In that event, the Judge shall appoint the Successor Mediator and Successor Alternate Mediator.

- c. **Use of Official Court Order Assigning Successor Mediator.** When the Successor Mediator and Successor Alternate Mediator have been chosen by the parties and/or appointed by the Judge, the Judge shall execute an order appointing the Successor Mediator and Successor Alternate Mediator in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word “Successor” **must** be inserted in the caption of the Mediation Order in front of the words “Mediator” and “Alternate Mediator”).
- 7.5 Initial Telephonic Conference.** Promptly, but no later than fifteen (15) calendar days of receipt of notification of appointment, the Mediator shall conduct a telephonic conference with counsel for the parties (or the parties, where appearing in *pro per*) to discuss (1) fixing a convenient date and place for the Mediation Conference, (2) the procedures that will be followed during the Mediation Conference, (3) who shall attend the Mediation Conference on behalf of each party, (4) what material or exhibits should be provided to the Mediator before the Mediation Conference, and (5) any issues or matters that it would be especially helpful to have the parties address in their written Mediation Conference Statements.
- 7.6 Mediation Conference Scheduling.** Also within fifteen (15) calendar days of receipt of notification of appointment, the Mediator shall give notice to the parties of the date, time and place for the Mediation Conference. The Mediation Conference shall commence no later than thirty (30) calendar days following the receipt of notification by the Mediator, and shall be held in a suitable neutral setting such as the office of the Mediator, or at a location convenient and agreeable to the parties and the Mediator.
- a. **Continuance of Mediation Conference.** The date for the Mediation Conference may be continued for a period not to exceed thirty (30) calendar days upon written stipulation between the Mediator and the parties. The stipulation need not be filed with the Court but the parties must mail a copy of it to the Judge and the Mediation Program Administrator.
- b. **Additional Continuance.** At the written request of the parties and for good cause shown, the Judge may, in his or her sole discretion, approve an additional continuance of the Mediation Conference beyond the period specified in Paragraph 7.6.a.
- 7.7 Mandatory Service of Mediation Order Prior to Mediation Conference.** Prior to the Mediation Conference, the parties’ counsel shall serve a copy of the Mediation Order on the Mediator, Alternate Mediator, Mediation Program Administrator, and all parties to the dispute.
- 7.8 Mediation Conference Statements.** Each party shall submit a written Mediation Conference statement (“Mediation Statement”) directly to the Mediator and to the parties to the Mediation Conference no less than five (5) court days prior to the date of the initial Mediation Conference, unless modified by the Mediator.

- a. **Format.** Mediation Statements shall not exceed ten (10) pages, excluding exhibits and attachments. Mediation Statements shall comply with all of the requirements of Local Bankruptcy Rule 1002-1(d)(1), (2), (3) and (7), unless such compliance is excused by the Mediator.
- b. **Confidentiality.** Mediation Statements shall be subject to all of the protections afforded by the confidentiality provisions contained herein and by FED. R. BANKR. P. 7068.
- c. **Statements Not Filed with Court.** The Mediation Statements shall **not** be filed with the Court, and the Judge shall not have access to them. In addition, the phrase “**CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT**” shall be typed on the first page of the Mediation Statements.
- d. **Mandatory Contents.** Mediation Statements must:
 - 1. Identify the person(s), in addition to counsel, who will attend the Mediation Conference as representative(s) of the party, who have authority to make decisions;
 - 2. Describe briefly the substance of the dispute;
 - 3. Address any legal or factual issue(s) that might appreciably reduce the scope of the dispute or contribute significantly to settlement;
 - 4. Identify the discovery that could contribute most to preparing the parties for meaningful discussions;
 - 5. Set forth the history of past settlement discussions, including disclosure of any prior and any presently outstanding offers and demands;
 - 6. Make an estimate of the cost and time to be expended for further discovery, pretrial motions, expert witnesses and trial;
 - 7. Indicate presently scheduled dates for further status conferences, pretrial conferences, trial, or otherwise; and
 - 8. Attach copies of the document(s) from which the dispute has arisen (*e.g.*, contracts), or the document(s) whose availability would materially advance the purposes of the Mediation Conference.
- e. **Recommended Additional Contents.** Parties may identify in the Mediation Statements the person(s) connected to a party opponent (including a representative of a party opponent’s insurance carrier) whose presence at the Mediation Conference would substantially improve the prospects for making the session productive. The fact that a person has been so identified shall not, by itself, result in an order compelling that person to attend the Mediation Conference.
- f. **Additional Mediation Statements for Mediator Only.** Each party may submit directly to the Mediator, for his or her eyes only, a separate confidential Mediation Statement describing any additional interests, considerations, or matters that the party would like the Mediator to understand before the Mediation Conference begins. Such Mediation Statements shall not exceed ten (10) pages, excluding exhibits and attachments, and shall comply with all of the requirements of Local Bankruptcy Rule 1002-1(d)(1), (2), (3), and (7) unless such compliance is excused by the Mediator.

7.9 Mandatory Attendance at Mediation Conference.

- a. **By Counsel.** Counsel for each party who is primarily responsible for the Matter (or the party, where proceeding in *pro per*) shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Counsel for each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.
- b. **By Parties.** All individual parties, and representatives with authority to negotiate and to settle the Matter on behalf of parties other than individuals, shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.
- c. **By Governmental Agencies.** A unit or an agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements.
- d. **Telephonic Appearance.** Any party or lawyer who is excused by the Mediator from appearing in person at the Mediation Conference may be required by the Mediator to participate by telephone. This decision is within the Mediator's sole discretion.

7.10 Consequences of Failure to Attend Mediation Conference and Other Violations of Mediation Program Procedures. Willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures shall be reported to the Judge by the Mediator by written notice in the form attached as Official Form 705, and may result in the imposition of sanctions by the Judge. The Mediator's notice shall be filed with the Court and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the issue of such willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures.

7.11 Conduct at the Mediation Conference. The Mediation Conference shall proceed informally. Rules of evidence shall not apply. There shall be no formal examination or cross-examination of witnesses. The Mediator may conduct continued Mediation Conferences after the initial session where necessary. As appropriate, the Mediator may:

- a. Permit each party (through counsel or otherwise) to make an oral presentation of its position;
- b. Help the parties identify areas of agreement and, where feasible, enter into stipulations;
- c. Assess the relative strengths and weaknesses of the parties' contentions and evidence, and explain as carefully as possible the reasoning of the Mediator that supports these assessments;

- d. Assist the parties, through separate consultation or otherwise, in settling the dispute;
- e. Estimate, where feasible, the likelihood of liability and the dollar range of damages;
- f. Help the parties devise a plan for sharing the important information and/or conducting the key discovery that will assist them as expeditiously as possible to participate in meaningful settlement discussions or to posture the case for disposition by other means; and
- g. Determine whether some form of follow up to the Mediation Conference would contribute to the case development process or to settlement.

7.12 Suggestions and Recommendations of Mediator. If the Mediator makes any oral or written suggestions as to the advisability of a change in any party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to the client. The Mediator shall have no obligation to make any written comments or recommendations, but may, as a matter of discretion, provide the parties with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available in whole or in part directly or indirectly, to the Judge.

8.0 PROCEDURE UPON COMPLETION OF MEDIATION CONFERENCE

- 8.1** Upon the conclusion of the Mediation Conference, the following procedures shall be followed:
- a. **If Matter Settled.** If the parties have reached an agreement regarding the disposition of the Matter, the parties, with the advice of the Mediator, shall determine who shall prepare the writing to dispose of the Matter. If necessary, the parties may, with the Mediator's consent, continue the Mediation Conference to a date convenient for all parties and the Mediator. Where required, they shall promptly submit a fully executed settlement stipulation to the Judge for approval, and shall mail a copy to the Mediation Program Administrator. The Judge will accommodate parties who desire to place any resolution of a Matter on the record during or following the Mediation Conference.
 - b. **Mediator's Certificate of Completion of Conference.** Within ten (10) calendar days of the Mediation Conference, the Mediator shall file with the Court and serve on the parties and the Mediation Program Administrator a certificate in the form attached as Official Form 706, which shows whether there has been compliance with the Mediation Conference requirements and whether or not a settlement has been reached. Regardless of the outcome of the Mediation Conference, the Mediator will **not** provide the Judge with any details of the substance of the Mediation Conference.

- c. **Confidential Evaluation.** In order to assist the Mediation Program Administrator in compiling useful data to evaluate the Mediation Program and aid the Court in assessing the efforts of the members of the Panel, the Mediator shall provide a Mediation Conference Report to the Mediation Program Administrator in the form attached as Official Form 709. The Mediation Conference Report shall **not** be filed with the Court and the Judge shall not have access to it. In addition, the phrase “**CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT**” shall be typed on the first page of the Mediation Conference Report.

9.0 PRO BONO AND COMPENSATED SERVICE OF MEDIATORS

- 9.1 **Mandatory Pro Bono Service.** The Mediator shall serve on a *pro bono* basis and shall not require compensation or reimbursement of expenses for the first full day of at least one Mediation Conference per quarter per year. If, at the conclusion of the first full day of the Mediation Conference, it is determined by the parties that additional time will be both necessary and productive in order to complete the Mediation Conference, then:
 - a. If the Mediator consents to continue to serve on a *pro bono* basis, the parties may agree to continue the Mediation Conference; or
 - b. If the Mediator does not consent to continue to serve on a *pro bono* basis, the Mediator’s compensation shall be on such terms as are satisfactory to the Mediator and the parties, and shall be subject to the prior approval of the Judge if the estate is to be charged with such expense.

- 9.2 **Compensated Service Upon Completion of Mandatory Pro Bono Service.** After a Mediator has concluded at least one *pro bono* mediation for the particular quarter, nothing herein shall prohibit the Mediator and the parties from agreeing that the Mediator may be compensated for services rendered by the Mediator. The amount of such compensation and the terms governing the amount and payment shall be as agreed upon among the parties. If applicable, any party or parties to the mediation may apply to the Judge for authorization to compensate the Mediator from property of the estate. Nothing in this provision, however, shall require any party to compensate a Mediator other than as may be mutually agreed upon among the parties and the Mediator.

10.0 IMPLEMENTATION

- 10.1 The Mediation Program became effective on July 1, 1995.
- 10.2 Judge Barry Russell is appointed the Mediation Program Administrator.

APPENDIX IV

**GUIDELINES FOR ALLOWANCE OF ATTORNEYS' FEES
IN CHAPTER 13 CASES**

THESE GUIDELINES GOVERN THE ALLOWANCE OF ATTORNEYS' FEES IN CHAPTER 13 CASES IN THIS DISTRICT.

AN ATTORNEY MAY RECEIVE AN ORDER APPROVING FEES UP TO THE AMOUNTS SET FORTH HEREIN WITHOUT FILING A DETAILED APPLICATION IF:

The attorney has filed with the court and served the chapter 13 trustee with the statement required pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure and a fully executed copy of the "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys," copies of which are available in the clerk's office and in the chapter 13 trustees' offices; and

No objection to the requested fees has been raised.

THE MAXIMUM FEE WHICH CAN BE APPROVED THROUGH THE PROCEDURE DESCRIBED HEREIN IS:

\$4,500 in a case in which the debtor is engaged in a business; or

\$4,000 in all other cases;

IF AN ATTORNEY SEEKS ADDITIONAL FEES OR ELECTS TO BE PAID OTHER THAN PURSUANT TO THESE GUIDELINES:

The attorney shall file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, Rules 2016 and 2002 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 2016-1 and 3015-1, as well as the "Guide To Applications For Professional Compensation" issued by the United States Trustee for the Central District of California.

In any event, on its own motion or the motion of any party in interest, the court may order a hearing to review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and Rule 2017 of the Federal Rules of Bankruptcy Procedure.

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1002-2	PENALTIES	LBR 2090-1(g)(3); 9011-1; 9019-1(c).
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1002-4	BANKRUPTCY PETITION PREPARERS	11 U.S.C. §§ 110(b)-(j), (h)(4). District Court General Order (D.C.G.O.) 96-3. LBR 9013-1(g).
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1017-2	DENIAL OR DISMISSAL FOR WANT OF PROSECUTION	F.R.B.P. 1007. LBR 9013-1(b); 1015-2.
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1073-1	REASSIGNMENT OF CASES	F.R.B.P. 2002(d)(1), (f)(1). LBR 1015-2; 9013-1(g)(1).
2002-2	NOTICE TO UNITED STATES OR FEDERAL AGENCIES	F.R.Civ.P. 26(c), 45. F.R.B.P. 1007; 2002(j); 7004. LBR 2002-2(c)(2); 2014-1(b)(1); 7004-1; 9013-1(a)(2).

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2010-1	BONDS OR UNDERTAKINGS	11 U.S.C. § 322; 6 U.S.C. § 7. F.R.Civ.P. 5(b). LBR 2010-1.
2014-1	EMPLOYMENT OF DEBTOR AND PROFESSIONAL PERSONS	11 U.S.C. §§ 101(31), 327, 327(d). F.R.B.P. 2014. LBR 2001-1(f); 9013-1(a)(7).
2015-2	REQUIREMENTS OF CHAPTER 11 DEBTOR IN POSSESSION OR CHAPTER 11 TRUSTEE	F.R.B.P. 1019.
2016-1	COMPENSATION OF PROFESSIONAL PERSONS	F.R.B.P. 2002; 6004(f).
2016-2	COMPENSATION AND TRUSTEE REIMBURSEMENT PROCEDURES IN CHAPTER 7 ASSET CASES	11 U.S.C. §§ 322(a); 326(a); 330; 341(a); 503(b)(1)(B); 707(b); 721. F.R.B.P. 2014; 3011. LBR 9013-1(d), (g); F 2016-2.1; F 2016-2.2; 2015-1; 9075-1.
2070-1	CHAPTER 7 OPERATING CASES	None
2072-1	NOTICE TO OTHER COURTS	None
2090-1	ATTORNEYS	11 U.S.C. §§ 327, 1103. F.R.B.P. 2014. District Court Local Rule (D.C.L.R.) 2.2.1; 2.2.3.; Chapter I, Rule 83-3.1.2; 83.5. LBR F 2090-1.2; 3015-1; 9013-1(f); Appendix II (General Order 96-05).
3001-1	NOTICES OF CLAIMS BAR DATES IN CHAPTER 11 CASES	11 U.S.C. §§ 101(27); 365; 502(b)(9); 1111(a).
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3011-1	PROCEDURE FOR OBTAINING ORDERS RELEASING UNCLAIMED FUNDS	28 U.S.C. § 2042. LBR 9013-1(a).

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4001-2	CASH COLLATERAL STIPULATIONS	11 U.S.C. §§ 363(c), 364(c). LBR F 4001-2.
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7027-1	DEPOSITIONS, INTERROGATORIES, AND REQUESTS FOR ADMISSIONS	F.R.Civ.P. 32. F.R.Evid. 803, 804. LBR 9013-1; 1002-1; 5003-2(b).
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8004-1	NOTICE OF REFERENCE TO APPELLATE COURT	None
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