

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA

## Summary of Revisions to the Local Bankruptcy Rules Effective January 4, 2016

**LBR 2016-2: chapter 7 trustee disbursements.** The current LBR authorizes payment of most taxes and some other administrative expenses without a hearing. The revisions address *In re Cloobek*, 788 F.3d 1243 (9th Cir. 2015), which requires notice and an opportunity for a hearing for tax payments and, implicitly, all other administrative expenses that are not (a) inherent in the appointment of a chapter 7 trustee or (b) emergencies with "insufficient time for a hearing" (11 U.S.C. § 102(1)).

**LBR 2090-1: limited scope of appearance - chapter 7 cases.** The revisions recognize that a limited scope of attorney representation may be permitted by the applicable ethical rules. (The alternative for indigent debtors might be no representation at all.) To safeguard against inadequate representation, the revisions set forth minimum services and require explicit disclosures regarding the scope of representation.

**LBR 3015-1: chapter 13 trustee distributions upon conversion/dismissal.** The revisions address *Harris v. Vieglaahn*, 125 S.Ct. 1829 (2015). Both *Vieglaahn* and the statute are somewhat unclear, so the proposed rule provides a 14-day holding period and then a waterfall of distributions that will apply if nobody objects, and places the burden on anyone who wants a distribution to say so.

**LBR 9013-1: express or implied consent to Bankruptcy Court's entry of final order or judgment.** Any party's first document filed in a contested matter must raise any objection to the Bankruptcy Court's authority to enter a final order on the motion, with citations and evidence, or else it will be (rebuttably) deemed consent. *See In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent). *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express). Note: In adversary proceedings, the status report form is being revised to include a similar check-the-box disclosure of whether a party consents or not.

### **Technical corrections, e.g.:**

- \* LBR 1000 series: amended to conform to National rules and Court Manual
- \* LBR 4001-2: largely superseded by National rule
- \* LBR 7000 series: amended to conform to National rules
- \* LBR 8000 series: amended to conform to National rules and Local Rules and to avoid repetition/inaccuracies.
- \* LBR 9000 series: amended to provide minor corrections (*e.g.*, serve notice of removal promptly, or else extend time to respond - addresses a gap in FRBP 9013).

LBR 1001-1

## **LBR 1001-1. TITLE, APPLICATION, AND SCOPE OF RULES**

- (a) **Title, and Citation and Effective Date.** These are the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (hereinafter, “Local Bankruptcy Rules” or “rules”). They may be cited as “LBR \_\_\_\_\_,” and are effective on January 4, 2016.
- (b) **Application and Construction.**
- (1) The Local Bankruptcy Rules are adopted pursuant to 28 U.S.C. § 2075, F.R.Civ.P. 83, and FRBP 9029. They are intended to supplement the FRBP and those portions of the F.R.Civ.P. that are incorporated by the FRBP. The Local Bankruptcy Rules are to be construed consistent with, and subordinate to, the FRBP and F.R.Civ.P. and to promote the just, speedy, and economic determination of every case and proceeding. Numbers for Local Bankruptcy Rules track numbers of related FRBP and FRBP Interim Rules, to the extent they exist.
  - (2) The Local Bankruptcy 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 United States Bankruptcy Court for the Central District of California.
  - (3) The Local Bankruptcy Rules apply in the United States District Court for the Central District of California in lieu of the Central District of California Local Rules (Local Civil Rules) when the district court is exercising its original bankruptcy jurisdiction pursuant to 28 U.S.C. § 1334.
- (c) **Application to Persons Appearing without Counsel.** A person who appears and is not represented by counsel must comply with the Local Bankruptcy Rules. Each reference in the Local Bankruptcy Rules to “attorney” or “counsel” applies equally to a party who is not represented by counsel, unless the context otherwise requires.
- (d) **Modification.** The Local Bankruptcy Rules apply uniformly throughout the district, but are not intended to limit the discretion of the court. The court may waive the application of any Local Bankruptcy Rule in any case or proceeding, or make additional orders as it deems appropriate, in the interest of justice.
- (e) **Procedure in Absence of Rule.** A matter not specifically covered by these Local Bankruptcy Rules may be determined, if possible, by parallel or analogy to the F.R.Civ.P., the FRBP, or the Local Civil Rules. If no parallel or analogy exists, then the court may proceed in any lawful manner not inconsistent with these Local Bankruptcy Rules and the FRBP.
- (f) **Sanctions for Noncompliance with Rules.** The failure of counsel or of a party to comply with these Local Bankruptcy Rules, with the F.R.Civ.P. or the FRBP, or with any order of the court may be grounds for the imposition of sanctions.
- ~~(g) **Effective Date.** These Local Bankruptcy Rules are effective on January 5, 2015.~~

LBR 1002-1

## **LBR 1002-1. PETITION AND CASE COMMENCEMENT DOCUMENTS – GENERAL**

### **(a) Debtor's Street Address.**

- (1) Filed with Petition. In a petition filed under 11 U.S.C. §§ 301, 302, 303, or 1504, the debtor's actual street address must be disclosed in addition to any post office box address.
- (2) Change of Address. Using the court-approved form, pursuant to FRBP 4002(a)(5), a debtor must file and serve a change of address each time a debtor's street address or post office box changes.

### **(b) Attorney Information.**

- (1) General. A voluntary petition filed pursuant to 11 U.S.C. §§ 301 and 302 by an attorney on behalf of any party must contain the attorney's state bar identification number, telephone number, fax number, and email address in the attorney name block.
- (2) Signature of Counsel. The name of the attorney signing a petition must be printed clearly below the signature line.

~~(c) Number of Copies. For case commencement documents that are not electronically filed under the provisions of LBR 5005-4, a list of requirements that specify the minimum number of copies (if any) that must be submitted is contained in the Court Manual.~~

### **(dc) Required Case Commencement Documents.**

~~(1) General. A voluntary petition filed without a complete set of schedules, statements and other documents required by the FRBP and these rules must include at least the following:~~

~~(A) Petition (Official Form 1);~~

~~(B) List of Creditors Holding 20 Largest Unsecured Claims (Official Form 4) (chapter 11 cases only);~~

~~(C) Master Mailing List (List of Creditors) in format required by LBR 1007-1(a); and~~

~~(D) Statement of Social Security Number(s) (Official Form 21) (Required if the debtor is an individual).~~

A list of all documents required to ~~file complete the filing of~~ a voluntary bankruptcy case under chapter 7, 11, and 13, is contained in the [Court Manual](#) and [Petition Packages](#).

~~(2) Deadline to File Required Documents. Except as provided by FRBP 1019(1)(A), and unless extended by court order, the balance of the documents required by the FRBP and these rules must be filed within 14 days of the petition date, except the Statement of Intention which must be filed not later than 30 days after the filing of the petition.~~

~~(3) Motion for Extension of Time to File Documents. A motion for extension of time to file the lists, schedules and other documents required by this rule must comply with LBR 1007-1(b).~~

**(ed) Redaction of Personal Identifiers.**

(1) Unless otherwise ordered by the court, a party in interest must redact where inclusion is necessary, the following personal identifiers from all lists, schedules, statements, payment advices, or other documents filed or required to be filed with the court in accordance with FRBP 9037(a):

(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) Date of Birth. If disclosure of an individual's date of birth is required, 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.

(2) 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.

(3) If the debtor wishes to block public access to a filed document containing a personal identifier, a motion is required and may be filed and served pursuant to LBR 9037-1.

**(fe) Effect of Failure to Specify Necessary Information.**

(1) If the petition fails to specify the chapter under which relief is sought, the case will be deemed to have been filed under chapter 7.

(2) If the petition fails to specify whether it is a consumer or business case, it will be presumed to be a consumer case.

- (3) 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.

~~(g)~~ **Joint Petitions.** ~~In~~Individuals filing jointly must present upon request appropriate evidence to support their joint filing status at the 11 U.S.C. § 341(a) meeting, such as a copy of the marriage license.

~~(h)~~**(f)** **Electronic Filing Declaration.** Documents that require a signature of an individual debtor, or authorized person when the debtor is a corporation, partnership or other association, must be signed by that individual or authorized person or accompanied by an electronic filing declaration using the court-approved form.

LBR 1007-1



**LBR 1007-1. LISTS, SCHEDULES, AND STATEMENTS****(a) Master Mailing List.**

- (1) General. A master mailing list must be filed with the voluntary petition in the format specified in the [Court Manual](#). Unless otherwise ordered, the master mailing list must include the name, mailing address, and zip code of each creditor listed on Schedules D, E, and F.
- (2) Partnerships, Corporations, Limited Liability Companies, and Other Eligible Entities. If the debtor is a partnership, corporation, limited liability company, or other eligible entity, the master mailing list must include the name and address of each general partner, senior corporate officer, or managing member. A list of all limited partners, shareholders, or other equity holders must be provided either as part of the master mailing list or as a separate “Equity Holders’ Mailing List.” The Equity Holders’ Mailing List must comply with the format requirements of subsection (a) of this rule.
- (3) Verification of Completeness and Accuracy.
  - (A) The debtor, or such other person as the court may order, is responsible for the accuracy and completeness of the master mailing list, any supplement to the master mailing list, and the Equity Holders’ Mailing List.
  - (B) The master mailing list and any supplement must be accompanied by a declaration by the debtor or debtor’s counsel attesting to the completeness and correctness of the list.
  - (C) If the master mailing list or any supplement 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 further declaration must 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.
  - (D) The clerk will not compare the names and addresses of the creditors listed in the schedules with the names and addresses shown on the master mailing list or any supplement.
- (4) Amendment. When an addition or change is required to the master mailing list, a supplemental master mailing list, in the required format, containing only the newly added or changed creditors must be filed. The supplement must not repeat those creditors on the original master mailing list.

**(b) Extension of Time to File Lists, Schedules, Statements, and Other Documents.**

- (1) A motion for an extension of time to file the lists of creditors and equity security holders, or to file the schedules, statements, and other documents, must ~~comply with FRBP 1007(c).~~

- ~~(2)~~ ~~The motion must:~~ (A) identify the date the petition was filed, and the date of the proposed new deadline; (B) be supported by a declaration under penalty of perjury establishing a sufficient explanation for the requested extension of time; and (C) contain a proof of service upon the case trustee (if any) and all creditors.
- (23) The motion may be ruled upon without a hearing pursuant to LBR 9013-1(p).
- (34) If the court grants the motion, the court may dismiss the case without further notice and hearing if any list, schedule, statement, or plan (in chapter 13 cases) is not filed within the additional time allowed by the court.
- (c) **Amendment of List, Schedule or Statement.** When an amended list, schedule or statement is filed, it must be accompanied by a Summary of Amended Schedules, Lists and/or Statements using the court-approved form.

LBR 2016-2

**LBR 2016-2. COMPENSATION AND TRUSTEE REIMBURSEMENT PROCEDURES IN CHAPTER 7 ASSET CASES**

- (a) **Authorization to Use Estate Funds No Order Required: Payment of Expenses, Up to \$1,000 to Pay Certain Expenses, That are Inherent in the Appointment of a Chapter 7 Trustee.** During the course of a chapter 7 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;
- ~~(1)~~ ~~(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)~~ ~~(1)~~ ~~Insurance;~~
- ~~(21)~~ Locksmith;
- ~~(22)~~ ~~Rent;~~
- ~~(23)~~ Security services; and
- ~~(24)~~ Utilities.

- (b) **Order Required: Payment of Expenses, Up to \$5,000, After Limited Notice and Opportunity to Request a Hearing.** If a trustee determines that it is necessary or appropriate to pay actual and necessary administrative expenses of the estate using estate funds, and such expenses do not exceed \$5,000, the trustee must file a notice of the trustee’s intent to pay such obligations using form F 2016-2.3.NOTICE.TRUSTEE.DISBURSE. After the waiting period set forth below, if there is no opposition or request for a hearing, the trustee must lodge a proposed order authorizing such payment pursuant to LBR 9013-1(o)(3). The trustee is not required to serve the notice on any party or the court, other than the debtor and counsel for the debtor.

Any party that objects to the payment of the administrative expenses as set forth in the trustee’s notice must file a response and request for hearing within 14 days after the

date of filing of the notice, and serve the response on the trustee and the trustee's counsel, if any. Upon receipt of a response and request for hearing, the trustee must follow the procedures set forth in LBR 9013-1(o)(4) to set the matter for hearing.

Pursuant to the procedure set forth above, a trustee may disburse up to \$5,000 from estate funds to pay the following actual and necessary administrative expenses of the estate (the "Administrative Allocation"):

(1) Costs to advertise sale;

(2) Insurance;

~~Rent;~~ (b) **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

(3) (2) \_\_\_\_\_.

(3)(4) Obligations to taxing agencies arising under 11 U.S.C. § 507(a)(2), provided the estate is and is likely to remain administratively solvent; and

(5) ~~(e)~~ Obligations to taxing agencies arising under 11 U.S.C. § 503(b)(1)(B), but not preconversion tax obligations.

(c) **No Order Required: Bond Premiums.** In addition to payments that may be made from the Authorized Allocation and/or the Administrative Allocation, the trustee may pay bond premiums required by 11 U.S.C. § 322(a) during the ordinary course of the trustee's administration of an estate.

(d) **Expenses for 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; and/or the Administrative Allocation.

(~~d~~e) **Emergency Expenses.** The trustee may exceed the Authorized Allocation and/or the Administrative 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; and

(4) Security services to safeguard the debtor's real or personal property.

If the trustee disburses more than the Authorized Allocation and/or the Administrative Allocation to pay emergency expenses and other expenses for which the Authorized Allocation and/or the Administrative Allocation may be used, the trustee must file and serve a

cash disbursements motion, as described in subsection (f) of this rule, within 7 days after such expenses are paid.

(ef) **Procedures for Employment of Paraprofessionals and Payment of Paraprofessional Fees and Expenses.** A trustee must obtain court approval to employ and to pay a paraprofessional.

(1) **Definition.** The term “paraprofessional” includes all persons or entities other than “professionals” who perform services at the trustee’s request and seek payment for services and expenses directly from the bankruptcy estate, including an agent, a field representative, an adjuster, and a tax preparer.

(2) **Employment.** A trustee may seek court approval to employ a paraprofessional by filing an employment application using court-approved form [F 2016-2.1.APP.TRUSTEE.EMPLOY](#). 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, assignee for benefit creditors, *etc.*, if same can be accomplished from office;
- (E) Turnover or inspection of documents, such as bank documents;
- (F) UCC search review;
- (G) Recruit and contract appraisers, brokers, and professionals;
- (H) Mail forwarding notices;
- (I) Routine collection of accounts receivable;
- (J) Letters regarding compliance with LBR 2016-1;
- (K) Conduct 11 U.S.C. § 341(a) examinations;
- (L) Routine objections to exemption;
- (M) Routine motions to dismiss;
- (N) 11 U.S.C. § 707(b) referral to United States trustee;
- (O) Routine documentation of notices of sale, abandonment, compromise, *etc.*;
- (P) Appear at hearings on routine motions;
- (Q) Review and execute certificates of sale, deed, or other transfer documents;
- (R) Prepare and file notifications of asset case;
- (S) Prepare and file cash disbursements motions and necessary attachments;
- (T) Prepare exhibits to operating reports;
- (U) Prepare quarterly bond reports;
- (V) Prepare trustee’s interim reports;
- (W) Routine claims review and objection;
- (X) Prepare and file final reports and accounts and related orders;
- (Y) Prepare motions to abandon or destroy books and records;
- (Z) Prepare and file FRBP 3011 reports;

- (AA) Prepare and file notices and motions to abandon assets and related orders;
- (BB) Attend sales;
- (CC) Monitor litigation;
- (DD) Answer routine creditor correspondence and phone calls;
- (EE) Prepare and file applications 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 details and calculations for payment of dividend;
- (MM) Prepare dividend checks;
- (NN) Organize and research bills;
- (OO) Prepare checks for the trustee's signature;
- (PP) Prepare internal cash summary sheets;
- (QQ) Reconcile bank accounts;
- (RR) Prepare and make deposits; and
- (SS) Additional routine work necessary for administration of the estate.

- (3) Reimbursement of Fees and Expenses. A trustee may pay a paraprofessional only upon specific order of the court.

- (A) 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).

- (B) 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, FRBP 2014 and these 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 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.

| **(fg)** **Cash Disbursements Motion.**

- (1) **Filing and Service.** If the trustee wishes to pay expenses not authorized by this rule from estate funds, the trustee must file a cash disbursements motion 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 disbursements motion must be in substantially the same form as court-approved form [F 2016-2.2.MOTION.TRUSTEE.DISBURSE](#) and may be brought under LBR 9013-1(o). The trustee must serve the motion on the debtor, debtor's counsel (if any), the United States trustee, holders of the 20 largest unsecured claims, and any other party in interest entitled to notice under FRBP 2002. If a timely objection is filed, the trustee must comply with LBR 9013-1(o)(4).
- (2) **Hearing.** The court may set a hearing on a cash disbursements motion regardless of whether an objection is filed. However, if the court does not advise the trustee of a hearing on the motion within 7 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 the trustee 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 disbursements motion has been disapproved in whole or in part, or that the court has set a hearing, the trustee must stop paying the expenses for which authorization was sought in the motion or otherwise comply with the provisions of the order. The trustee may file a motion for reconsideration pursuant to LBR 9013-4.
- (3) **Personal Liability and Disclosure.** Except as provided in this 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 rule must be disclosed in the trustee's final report and in all applications for fees or costs by the trustee and by paraprofessionals employed in the case by the trustee.

| **(gh)** **Nonexclusive Remedy.** Nothing in this rule precludes the trustee from seeking court approval to disburse estate funds by way of a noticed motion filed and served pursuant to LBR 9013-1(d).



LBR 2090-1

## **LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE**

### **(a) Appearance By Attorneys Admitted to Practice Before the District Court.**

(1) ~~—~~ Attorney. - An attorney admitted to practice before the district court may practice before the bankruptcy court. ~~—~~An attorney who is not admitted to the bar of, or permitted to practice before, the district court may not appear before the court on behalf of a person or entity, except as provided by this rule. ~~—~~Attorneys appearing before the court must have read the FRBP, F.R.Civ.P., F.R.Evid., and these rules in their entirety.

### **(2) Scope of Appearance in Chapter 9, 11, 12, and 13 Cases.**

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 or as provided for in LBR 3015-1(v).

(3) ~~—~~ Disclosure of Scope of Appearance in Individual Chapter 7 Cases. ~~—~~~~Nothing in these rules shall be construed as prohibiting a limited scope of appearance in a chapter 7 case, if an attorney agrees to provide less than all services,~~ so long as the applicable Rules of Professional Conduct and ethics rules are followed and the attorney for the debtor ~~must file a statement disclosing,~~ in addition to preparing the petition and schedules, provides the following services:

(A) advises the debtor about the possibility of any additional proceedings related to or arising from the underlying bankruptcy case, including any adversary proceeding, motion or other contested matter initiated by a creditor, trustee or party in interest; and

(B) appears with the debtor at the initial § 341(a) meeting of creditors or arranges for an attorney knowledgeable about all pertinent information in the case to appear with the debtor at such meeting.

(4) Disclosure of Compensation. Where the attorney and the debtor agree to legal services for less than all aspects of the bankruptcy case, the scope of the services agreed to must be listed in, as applicable, LBR form F 2091-1.CH7.ATTY.COMP.DISCLSR, “Attorney’s Disclosure of Compensation in Individual Chapter 7 Cases,” and F 2016-1.4.ATTY.COMP.DISCLSR, “Attorney’s Disclosure of Postpetition Compensation.”

(5) Communications with the Debtor in Limited Scope Chapter 7 Cases. Subject to the prohibition on any act to collect a claim and other stayed acts under 11 U.S.C. § 362(a), any communication, including any proposed reaffirmation agreement, must be sent to both the debtor

**LBR 2090-1**

and the debtor's attorney, even if it appears that the communication is beyond 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~~ limited appearance made by the attorney. ~~The statement required by this rule must be on a court approved form and signed by the debtor~~ in the case.

LBR 3003-1

**LBR 30013-1. NOTICE OF CLAIMS BAR DATE IN CHAPTER 11 CASES**

~~When(a)~~ **Use of Mandatory Form for Notices of Claims Bar Date.** No later than seven days after the court orders a bar date for the filing of ~~claims~~proofs of claim in a chapter 11 case, whether on its own initiative or on a motion filed pursuant to LBR 9013-1(q), the debtor in possession or the chapter 11 trustee must file and serve ~~notice of the claims bar date~~ on all creditors, and all other parties entitled to notice. ~~The following language must be used in the notice:~~ a notice of the claims bar date using mandatory court-approved form F 3003-1.NOTICE.BARDATE.

**NOTICE OF CLAIMS DEADLINE**

~~The Bankruptcy Court has set a deadline of \_\_\_\_\_ 20\_\_ for creditors 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: (a) 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.~~

LBR 3015-1

## LBR 3015-1(q) and (v)

### (q) Dismissal or Conversion of Case.

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- (5) Distributions before notice to the chapter 13 trustee. 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.
- (6) Distributions after notice to chapter 13 trustee. Unless the court orders otherwise, and subject to the provisions below regarding contested distributions, the following procedures implement the requirement that the chapter 13 trustee return to the debtor (i) any postpetition earnings and (ii) any other property that is no longer property of the estate and that is vested in the debtor, after deduction for any unpaid administrative expense and certain other claims, under 11 U.S.C. §§ 348(f), 349(b), 1326(a)(2), and FRBP 1019(5) or (6).
  - (A) 14 day Holding period. The chapter 13 trustee must hold any remaining property until at least 14 days have passed after entry of the order dismissing or converting the case. Within 14 days of dismissal or conversion any person or entity asserting an administrative expense under 11 U.S.C. § 503 (including, without limitation, a claim for professional fees), or a claim under §1326(a)(2) and (3), must file an application, motion or other written request for payment thereof, set it for hearing if required, serve it pursuant to the applicable rules, and, if the document is not filed electronically, deliver it to the chapter 13 trustee so that it is received before the end of such 14-day period. If the claimant fails to do all of these things timely (the "Claim Prerequisites"), then the chapter 13 trustee may treat such request as having been filed after the 14 day deadline and of no force of effect, absent a court order to the contrary. After the deduction of any applicable chapter 13 trustee fees, the chapter 13 trustee must make distributions as follows:
    - (i) Distributions to administrative claimants. First, *pro rata* distributions to the holders of administrative expenses under 11 U.S.C. § 503(b) as to which (1) the Claim Prerequisites have been satisfied timely and (2) as to which the court has entered an order approving payment.
    - (I) Administrative expenses to which subparagraph (6)(A)(i) is applicable include without limitation: (a) any unpaid attorney's fee or expense asserted under a Rights and Responsibilities Agreement signed by the debtor's attorney and the debtor or an FRBP 2016(b) statement, (b) any supplemental fee or expense under 11 U.S.C. § 330, (c) any administrative expenses scheduled under FRBP 1019(5)(B) or (C), and (d) any other administrative expense.



- (II) Unless a different deadline has been established in connection with a scheduled hearing, any application, motion or other request for payment of an administrative expense under 11 U.S.C. § 503(b) must advise parties in interest that any objection to the allowance and payment of such expense must be filed and served no later than 14 days following service of such application or request, or such objection must be deemed waived. Any objection must be served on the applicant, the chapter 13 trustee and the debtor. If the objection is not filed electronically, it must be served so that it is received by these parties within such fourteen-day period. If an objection is timely filed, the applicant must schedule a hearing with the court and serve notice of such hearing on interested parties.
- (ii) Distributions to certain creditors. Second, after any distributions to the holders of administrative expenses as provided above, *pro rata* distributions on the allowed claims of any persons who have filed an application for payment of amounts due and owing pursuant to 11 U.S.C. § 1326(a)(2) and (3) that satisfies the above Claim Prerequisites.
- (iii) Distributions to the debtor.
  - (I) Postpetition earnings. After the foregoing distributions, the chapter 13 trustee must distribute any remaining postpetition earnings to the debtor, or to the chapter 11 trustee if the chapter 13 trustee has been served with an order or notice of appointment of a chapter 11 trustee.
  - (II) Other property. If the chapter 13 trustee holds any property known to the chapter 13 trustee to come from a source other than postpetition earnings, such as proceeds from the sale of property, and that property is not automatically vested in any entity (e.g., under 11 U.S.C. § 349(b)(3)), then the chapter 13 trustee must treat such property as a contested distribution pending an order, on an application by a party in interest, authorizing a proposed distribution to the debtor or other persons pursuant to 11 U.S.C. § 348(f)(1) (for conversion) or 11 U.S.C. § 349(b) (for dismissal) and 11 U.S.C. § 1326(a)(2).
- (B) Contested distributions. Notwithstanding the foregoing, if an application, motion request or objection regarding distribution is pending, or if the chapter 13 trustee files an application for instructions from the court for direction concerning the distribution of funds, then the chapter 13 trustee must reserve sufficient funds to pay the maximum requested amounts, pending resolution by order or by consent of the affected persons.

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LBR 3015-1(v)

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~~(7) Payment of Fees Upon Dismissal. Unless otherwise ordered by the court, the chapter 13 trustee must disburse to the debtor's attorney as soon as practicable after dismissal any portion of the balance on hand which has been tendered to the chapter 13 trustee for payment of the RARA fees, provided:~~

~~(A) A RARA was signed by the debtor's attorney and the debtor, filed, and served on the chapter 13 trustee; and~~

~~(B) The debtor's case is dismissed prior to or at the hearing on confirmation of the plan.~~

## **LBR 3015-1(v)(1)**

### **(v) Attorneys' Fees.**

- (1) Rights and Responsibilities Agreement. The use of court-approved form [F 3015-1.7.RARA](#), Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys (“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 chapter 13 trustee, the fees and included costs (excluding the petition filing fee) 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”) adopted by the court. **The RARA may be used only once in any chapter 13 case.**

LBR 3022-1

**LBR 3022-1. FINAL DECREE AND CLOSING A IN CHAPTER 11 CASE**

- (a) **Motion for Final Decree.** After an estate is fully administered in a chapter 11 reorganization case, a ~~party in interest~~ reorganized debtor or chapter 11 trustee may file a motion for a final decree ~~in the manner provided in~~ using the procedure of LBR 9013-1(d) or (o). Notice of the motion must be served upon all parties upon whom the plan was served.
- (b) **Motion for Order Closing Case on Interim Basis**~~Notice of Motion; Service.~~ Notice of ~~the motion must be served upon all parties upon whom the plan was served.~~ If a chapter 11 estate is substantially consummated, but not fully administered, the reorganized debtor or chapter 11 trustee may file a motion for an order closing case on an interim basis using the procedure of LBR 9013-1(d) or (o).

LBR 4001-2

**LBR 4001-2. CASH COLLATERAL AND DEBTOR IN POSSESSION FINANCING ORDERS**

- (a) ~~**General.** The requirements of LBR 9013-1 through LBR 9013-4 apply to a~~ **Use of Mandatory Form for Cash Collateral and/or Debtor in Possession Financing Motions or Stipulations.** Each motion to obtain credit or to approve the use of cash collateral, debtor in possession financing, and/or cash management under 11 U.S.C. §§ 363 or 364, or related stipulation (collectively, “Financing Motion”), except as provided”) must be accompanied by this rule mandatory court-approved form F 4001-2.STMT.FINANCE.
- (b) **Provisions to be Identified.** ~~To the extent not otherwise required by FRBP 4001(b)(1)(B) and (c)(1)(B), a Financing Motion must identify whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision that:~~
- ~~(1) Grants 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);~~
  - ~~(2) Binds 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;~~
  - ~~(3) Waives or limits the estate’s rights under 11 U.S.C. § 506(e);~~
  - ~~(4) Grants 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;~~
  - ~~(5) Deems 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);~~
  - ~~(6) Provides 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; or~~
  - ~~(7) Primes any secured lien. If an order is sought to prime a lien, the Financing Motion must:~~
    - ~~(A) Identify the location of any such provision in the proposed form of order, cash collateral stipulation, and/or loan agreement; and~~
    - ~~(B) Contain specific justification for the priming of the lien.~~
- (c) **Summary of Essential Terms.** ~~The Financing Motion must include a summary of the essential terms of the proposed credit, use of cash collateral, 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).

- (d) ~~**Use of Form for Cash Collateral and/or Debtor in Possession Financing Stipulations.**~~ Each Financing Motion requesting approval of a stipulation for credit, use of cash collateral, or debtor in possession financing must be accompanied by court approved form F 4001-2.STMT.CASH.COLLAT.STIP, Statement Pursuant to LBR 4001-2, or a statement consistent with court approved form F 4001-2.STMT.CASH.COLLAT.STIP.
- (e) ~~**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 an interim order that includes any of the provisions described in subsection (b)(1)-(7) of this rule.
- (f) ~~**Final Orders.**~~ A final order will be entered only after notice and a hearing pursuant to ~~FRBP 4001(b).~~ **Hearing.** Ordinarily, the final hearing on a Financing Motion will be held at least 14 days after the appointment of the creditors' committee contemplated by 11 U.S.C. § 1102.



LBR 4002-1

## **LBR 4002-1 DUTIES OF DEBTOR AT MEETING OF CREDITORS**

- (a) General. In addition to the requirements of 11 U.S.C. § 521(h) and FRBP 4002(b), debtors must comply with the following duties at the meeting of creditors held pursuant to 11 U.S.C § 341(a) and FRBP 2003.
- (b) Chapter 11 Debtors. A chapter 11 debtor must comply with LBR 2015-2.
- (c) Chapter 13 Debtors. Individuals who file a chapter 13 case must comply with the requirements set forth in LBR 3015-1(c), (e)(3)(C), (k)(1), and (m)(6)(C).
- (d) Joint Debtors. Individuals who file a case jointly pursuant to 11 U.S.C. § 302 must, upon request, present evidence to support their joint filing status, such as a copy of the marriage license.

LBR 7003-1 & 7008-1

### **LBR 7003-1. ADVERSARY PROCEEDING COVER SHEET**

A complaint, filed ~~electronically or~~ non-electronically, must be accompanied by an Official Form B1040, Adversary Proceeding **Cover** Sheet, completed and signed by the attorney or party ~~filing~~**presenting** the complaint. The form must contain the name, address, and telephone number of each party to the adversary proceeding, together with the name, address, and telephone number of each party's attorney, if known.

### **LBR 7004-1. ISSUANCE AND SERVICE OF SUMMONS AND NOTICE OF STATUS CONFERENCE**

#### **(a) Issuance.**

##### **(1) Adversary Proceeding**

- (A) Original Summons. After a complaint is filed pursuant to FRBP ~~7004~~**7003**, the clerk will issue and file a Summons and Notice of Status Conference, whether the complaint is filed electronically or non-electronically.
- (B) Another Summons. Any request that the clerk issue and file another Summons and Notice of Status Conference must be made by filing and serving a request pursuant to LBR 9013-1(p) and using the court-approved form.
  - (i) Original Summons not Timely Served. A plaintiff may request another summons ("alias summons") pursuant to FRBP 7004(e) if a plaintiff is unable to timely serve a summons, and still wishes to serve a complaint on one or more parties.
  - (ii) Additional Party Added or Joined. A party may request another summons if an additional party is to be added or joined by way of any procedure authorizing such addition or joinder, including a third party complaint.

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### **LBR 7008-1. CORE/NON-CORE DESIGNATION**

In all adversary proceedings, the statements required by FRBP 7008~~(a)~~ and 7012(b) must be plainly stated in the first numbered paragraph of the document.

LBR 7015-1

## **LBR 7015-1. AMENDED AND SUPPLEMENTAL PLEADINGS**

- (a) **Form Proposed Amendment.** ~~(1) — An original~~ A copy of the proposed amended pleading must be ~~lodged~~ attached as an exhibit to any notice of motion or stipulation to amend a pleading. ~~as a separate document and copies must be served with any notice of motion or stipulation to amend a pleading.~~
- (2)(b) **Form.** Every amended pleading filed as a matter of right or allowed by order of the court must be complete, including exhibits. The amended pleading must not incorporate by reference any part of the prior superseded pleading.
- ~~(3) — Unless otherwise ordered, a pleading will not be deemed amended absent compliance with this rule and FRBP 7015.~~
- (b) **Service of Allowed Amended Pleading.**
- ~~(1) — Unless otherwise ordered, an amended pleading allowed by order of the court will 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 filed lodged and served in accordance with subsection (a)(1). Otherwise, actual service and filing of the amended pleading is required.~~
- ~~(2) — A party who has not previously appeared must be served with an amended pleading as provided in LBR 2002-2 and 7004-1.~~

LBR 7016-1

**LBR 7016-1. STATUS CONFERENCE, PRETRIAL, AND TRIAL PROCEDURE**

- (a) **Status Conference.** In any adversary proceeding, the clerk will include in a summons, notice of the date and time of the status conference.

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- (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 required to file a joint status report ~~discussing the following:~~ using mandatory court form F 7016-1.STATUS.REPORT (and F 7016-1.STATUS.REPORT.ATTACH, if applicable).

~~(A) State of discovery, including a description of completed discovery and detailed schedule of all further discovery then contemplated;~~

~~(B) Deadline for all discovery to be completed, including the date by which all responses to discovery requests are due;~~

~~(C) A schedule of then contemplated law and motion matters;~~

~~(D) Prospects for settlement;~~

~~(E) A proposed date for the pretrial conference and/or the trial;~~

~~(F) Whether counsel have met and conferred in compliance with LBR 7026-1, and if so, the date of the conference;~~

~~(G) Any other issues affecting the status or management of the case; and~~

~~(H) Whether the parties are interested in alternative dispute resolution.~~

- (3) **Unilateral Status Report.** If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party. ~~The format of the unilateral status report must substantially comply with mandatory court form F 7016-1.STATUS.REPORT.~~

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LBR 7041-1 & 7054-1

**LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDING**

- (a) **Dismissal for Want of Prosecution.** A proceeding that has 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.
- (b) **Dismissal for Failure to Appear.** If a party fails to appear at the noticed hearing of a motion, a status conference, a pretrial conference or trial of the proceeding, the court may make such orders in regard to the failure as are just, including dismissal of the matter for want of prosecution. Unless the court provides otherwise, any dismissal pursuant to this rule is without prejudice.

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**LBR 7054-1. TAXATION OF COSTS AND AWARD OF ATTORNEYS' FEES**

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- (c) **Bill of Costs.** The prevailing party who is awarded costs must file and serve a bill of costs not later than 1430 days after entry of judgment. Each item claimed must be set forth separately in the bill of costs. The prevailing party, or the party's attorney or agent having knowledge of the facts must file a declaration with the bill of costs certifying that:

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- (g) **Motion for Attorneys' Fees.**

- (1) If not previously determined at trial or other hearing, a party seeking an award of attorneys' fees where such fees may be awarded must file and serve a motion not later than 1430 days after the entry of judgment or other final order, unless otherwise ordered by the court.

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LBR 8000-1 Series

**LBR 8000-1. RULES APPLICABLE TO BANKRUPTCY APPEALS**

- ~~(a)~~ **All appeals.** All bankruptcy appeals are subject to FRBP 8001 through 8028, available via link at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov).
- ~~(b)~~ **Appeals to District Court.** A bankruptcy appeal pending before the district court is governed by Chapter IV of the Local ~~Civil Rules~~Rules, available at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov).
- ~~(bc)~~ **Appeals to Bankruptcy Appellate Panel BAP.** A bankruptcy appeal pending before the ~~bankruptcy appellate panel~~BAP is governed by the Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit, available at [www.ca9.uscourts.gov/bap](http://www.ca9.uscourts.gov/bap).
- ~~(ed)~~ **Direct Appeals to Ninth Circuit.** ~~In an Court of Appeals. Any direct appeal arising out of a bankruptcy case filed on or after October 17, 2005, a certification of a judgment, order, or decree of the court to the Ninth Circuit, as permitted by (28 U.S.C. § 158(d)(2), must be made in accordance with))~~ is governed by FRBP 8001(f) and 8003, 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.

**LBR 8001-1. NOTICE OF APPEAL**

~~A notice of appeal must be filed in accordance with FRBP 8001(a) and Rule 2 of Chapter IV, Local Civil Rules.~~

**LBR 8001-3. STATEMENT OF ELECTION**

~~A statement of election to have an appeal heard by the district court instead of the bankruptcy appellate panel must be filed in accordance with FRBP 8001~~8004~~(e) and Rule 2 of Chapter IV, Local Civil Rules.~~

**LBR 8003-1. LEAVE TO APPEAL FROM INTERLOCUTORY ORDERS**

- ~~(a)~~ **Motion for Leave to Appeal.** Leave to appeal under 28 U.S.C. § 158(a) must be sought by filing a motion for leave with the clerk within the time provided by FRBP 8002 for filing a notice of appeal, with proof of service by the applicant in accordance with FRBP 8008(b).
- ~~(b)~~ **Content of Motion.** A motion for leave to appeal must include all elements required by FRBP 8003(a).
- ~~(c)~~ **Answer.** Within 14 days after service of the motion, an adverse party may file with the clerk an answer in opposition.
- ~~(d)~~ **Disposition.**

- (1) ~~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 will 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.~~
- (2) ~~If 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 will be transferred to the district court for decision.~~
- (3) ~~The motion and answer will be considered without oral argument, unless otherwise ordered.~~

~~(e) **Designation and Transmission of Record.**~~

- (1) ~~If leave to appeal is granted, the clerk will notify counsel for appellant within 7 days. The record will be designated and transmitted and the appeal will be docketed in accordance with FRBP 8006 and 8007, the Rules of the Ninth Circuit, available at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov).~~
- (2) ~~The time fixed by FRBP 8006 and 8007 for designating and transmitting the record and docketing the appeal will run from the date of the notice of entry of the order granting leave to appeal.~~

**LBR 8004~~3~~-1. SERVICE OF NOTICE OF APPEAL**

- (a) **Service on Parties to Appeal.** Within 3 days after the filing of a notice of appeal, the clerk will serve upon ~~all parties~~the counsel of record for each party to the appeal and on any party not represented by counsel a copy of the notice of appeal, Notice of Referral of Appeal, Appeal Service List, Transcript Order Form, Notice of Transcript, ~~and any motion for leave to file interlocutory appeal filed by the appellant, and, if applicable, a copy of the below-referenced applicable order.~~Amended Order Continuing the Bankruptcy Appellate Panel of the Ninth Circuit.

- (1) ~~Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit (referencing appeals originating in bankruptcy cases filed on or before October 22, 1994).~~
- (2) ~~Order Continuing Bankruptcy Appellate Panels of the Ninth Circuit (referencing appeals originating in bankruptcy cases filed after October 22, 1994).~~

- (b) **Transmission to Appellate Court.** ~~A copy of the notice of appeal will also be transmitted to the clerk of the bankruptcy appellate panel or clerk of the district court.~~

**LBR 8009-1. BRIEFS IN APPEALS TO DISTRICT COURT**

~~Briefs in an appeal pending before the district court are governed by Rule 4 of Chapter IV,~~

~~Local Civil Rules.~~

~~**LBR 8011-4. EMERGENCY MOTIONS IN APPEALS TO DISTRICT COURT**~~

~~An emergency motion in an appeal pending in the district court must be made in accordance with Rule 5 of Chapter IV, Local Civil Rules.~~

~~**LBR 8014-1. COSTS ON APPEAL TO DISTRICT COURT**~~

~~Costs on appeal to the district court are governed by Rule 6 of Chapter IV, Local Civil Rules.~~

## LBR 8000-1

### **LBR 8000-1. RULES APPLICABLE TO BANKRUPTCY APPEALS**

- (a) **Appeals to District Court.** A bankruptcy appeal pending before the district court is governed by Chapter IV of the Local Civil Rules.
- (b) **Appeals to Bankruptcy Appellate Panel.** A bankruptcy appeal pending before the bankruptcy appellate panel is governed by the Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit.
- (c) **Direct Appeals to Ninth Circuit.** In an appeal arising out of a bankruptcy case filed on or after October 17, 2005, a certification of a judgment, order, or decree of the court to the Ninth Circuit, as permitted by 28 U.S.C. § 158(d)(2), must be made in accordance with FRBP 8001(f) and 8003, 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.

**Comment [AY1]:** Chapter IV of the C.D. Cal. rules re: bankruptcy appeals is referred to as the “Local Rules Governing Bankruptcy Appeals, Cases, and Proceedings,” not the “Local Civil Rules....”

**Comment [AY2]:** “BAP” is a defined term under FRBP 8001(b). By stating in revised LBR 8001-1(a) that all appeals are subject to the FRBP, we should be able to use the BAP abbreviation in the LBR without defining it.

**Comment [AY3]:** Old rule references, updated in revised LBR 8001-1(d).

### **LBR 8001-1. NOTICE OF APPEAL**

A notice of appeal must be filed in accordance with FRBP 8001(a) and Rule 2 of Chapter IV, Local Civil Rules.

**Comment [AY4]:** Duplicative of revised LBR 8000-1(a) and (b) (incorporating FRBP 8002 and proposed revised C.D. Cal. L. Bankr. R. 2).

### **LBR 8001-3. STATEMENT OF ELECTION**

A statement of election to have an appeal heard by the district court instead of the bankruptcy appellate panel must be filed in accordance with FRBP 8001(e) and Rule 2 of Chapter IV, Local Civil Rules.

**Comment [AY5]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8005). Neither the current nor proposed revised C.D. Cal. L. Bankr. R. 2 address the statement of election (though 9th Cir. BAP R. 8005-1 does).

### **LBR 8003-1. LEAVE TO APPEAL FROM INTERLOCUTORY ORDERS**

- (a) **Motion for Leave to Appeal.** Leave to appeal under 28 U.S.C. § 158(a) must be sought by filing a motion for leave with the clerk within the time provided by FRBP 8002 for filing a notice of appeal, with proof of service by the applicant in accordance with FRBP 8008(b).
- (b) **Content of Motion.** A motion for leave to appeal must include all elements required by FRBP 8003(a).
- (c) **Answer.** Within 14 days after service of the motion, an adverse party may file with the clerk an answer in opposition.
- (d) **Disposition.**
- (1) 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 will 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.

**Comment [AY6]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(a)).

**Comment [AY7]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(b)(1)).

**Comment [AY8]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(b)(2)).

**Comment [AY9]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(c)(1)), though FRBP 8004(c)(1) does not expressly address transmittal of any answer to a motion for leave

## LBR 8003-1

- (2) If 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 will be transferred to the district court for decision.
- (3) The motion and answer will be considered without oral argument, unless otherwise ordered.

**Comment [AY10]:** Presuming this refers to “an objection to the disposition of the appeal by the BAP,” in light of paragraph (d)(1) above. It could actually refer to an objection to a motion for leave to amend. Neither is addressed by the FRBP, C.D. Cal. L. Bankr. R., or 9th Cir. BAP R.

**Comment [AY11]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(c)(3)).

### (e) **Designation and Transmission of Record.**

- (1) If leave to appeal is granted, the clerk will notify counsel for appellant within 7 days. The record will be designated and transmitted and the appeal will be docketed in accordance with FRBP 8006 and 8007.
- (2) The time fixed by FRBP 8006 and 8007 for designating and transmitting the record and docketing the appeal will run from the date of the notice of entry of the order granting leave to appeal.

**Comment [AY12]:** This first sentence is moved to create revised LBR 8004-1(a)(2), since it really has more to do with disposition than designation and transmission.

**Comment [AY13]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(c)(1), (2) and 8009(a)). Note this rule also appears to be misleading – FRBP 8004(c)(2) provides that the appeal will be docketed by the district court or BAP clerk “upon receiving the notice [of appeal] and motion [for leave],” not after the motion is granted as current LBR 8003-1(e)(1) would seem to provide. Additionally, FRBP 8009(a)(1) puts the burden on designating the appeal on the parties – its inclusion here seems to provide that the bankruptcy clerk is responsible for designating the record as well as transmitting the record and docketing the appeal.

## LBR 8004-1. **SERVICE OF NOTICE OF APPEAL**

- (a) **Service on Parties to Appeal.** Within 3 days after the filing of a notice of appeal, the clerk will 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 October 22, 1994).
  - (2) Order Continuing Bankruptcy Appellate Panels of the Ninth Circuit (referencing appeals originating in bankruptcy cases filed after October 22, 1994).

**Comment [AY14]:** First, this is inconsistent with FRBP 8004(c)(2), which provides for docketing of an appeal upon receipt of the appeal and motion for leave. Second, it is duplicative of revised LBR 8000-1(a) (incorporating FRBP 8009(a)(1)(B)(ii) re: designation). Finally, there is no time fixed for transmitting the record – see FRBP 8010(b).

**Comment [AY15]:** Service is now addressed under FRBP 8003(c).

**Comment [AY16]:** This is inconsistent with FRBP 8003(c)(1), which provides for service on counsel for each party to the appeal, the UST, and actual parties only if they are pro se.

List of documents revised to include all documents referenced in most recent clerk’s office appellate procedures. FRBP only addresses service of notice of appeal itself.

- (b) **Transmission to Appellate Court.** A copy of the notice of appeal will also be transmitted to the clerk of the bankruptcy appellate panel or clerk of the district court.

**Comment [AY17]:** Informed by Winnie Diep-Shen via 4/21/15 email that this order is no longer used by the clerk’s office.

## LBR 8009-1. **BRIEFS IN APPEALS TO DISTRICT COURT**

Briefs in an appeal pending before the district court are governed by Rule 4 of Chapter IV, Local Civil Rules.

**Comment [AY18]:** Duplicative of revised LBR 8000-1(a) (incorporating FRBP 8004(d)).

## LBR 8011-4. **EMERGENCY MOTIONS IN APPEALS TO DISTRICT COURT**

An emergency motion in an appeal pending in the district court must be made in accordance with Rule 5 of Chapter IV, Local Civil Rules.

**Comment [AY19]:** Duplicative of revised LBR 8000-1(b) (incorporating C.D. Cal. L. Bankr. R. 4).

## LBR 8014-1. **COSTS ON APPEAL TO DISTRICT COURT**

Costs on appeal to the district court are governed by Rule 6 of Chapter IV, Local Civil Rules.

**Comment [AY20]:** Duplicative of revised LBR 8000-1(b) (incorporating C.D. Cal. L. Bankr. R. 5.1).

**Comment [AY21]:** Proposed revised C.D. Cal. L. Bankr. R. 6 recognizes its abrogation by FRBP 8021.



LBR 9013-1 & 9027-1

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

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- (o) **Motions and Matters Determined After Notice of Opportunity to Request Hearing.**

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- (3) **No Response and Request for Hearing.** If the response period expires without the filing and service of any response and request for hearing, the moving party must do all of the following:

- (A) **File Declaration of Service and Non-response.** Promptly file a declaration attesting that: (i) no timely response and request for hearing was served upon the moving party; and (ii) **that the declarant has checked the docket of the bankruptcy case or the adversary proceeding and no response and request for hearing was timely filed.** A copy of the motion, notice, and proof of service of the notice and motion must be attached as exhibits to the declaration. No service is required prior to filing the declaration.

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

- (a) **Notice of Removal.** A notice of removal must be filed with the clerk of the bankruptcy court pursuant to FRBP 9027 **and simultaneously served on all other parties to the removed action, on any trustee appointed in the bankruptcy case, and on the United States trustee. The failure to promptly serve the notice of removal may result in extension of the time to respond under FRBP 9027(e)(3).**

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

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

- (1) Oral Motions. Unless otherwise provided by rule or order of the court, an oral motion is not permitted except during trial.
- (2) Notice of Motion. Every motion must be accompanied by written notice of motion specifying briefly the relief requested in the motion and, if applicable, the date, time, and place of hearing. Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or as otherwise ordered, the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing. If the motion is being heard on shortened notice pursuant to LBR 9075-1, the notice must specify the deadline for responses set by the court in the order approving the shortened notice.
- (3) Motion. There must be served and filed with the motion and as a part thereof:
  - (A) Duly authenticated copies of all photographs and documentary evidence that the moving party intends to submit in support of the motion, in addition to the declarations required or permitted by FRBP 9006(d); and
  - (B) A written statement of all reasons in support thereof, together with a memorandum of the points and authorities upon which the moving party will rely.
- (4) Exception. Unless warranted by special circumstances of the motion, or otherwise ordered by the court, a memorandum of points and authorities is not required for applications to retain or compensate professionals, motions for relief from automatic stay, or motions to sell, use, lease, or abandon estate assets.
- (5) Entering a Final Order. In a motion filed in a contested matter pursuant to FRBP 9014, the moving party must raise in that motion any objection or challenge to the bankruptcy court's authority to enter a final order on the motion. The moving party must cite relevant authority and provide evidence in support of its position. The failure of the moving party to raise its objection or challenge in the motion will be deemed consent to the bankruptcy court's authority to enter a final order on the motion.

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**(f) Opposition and Responses to Motions.**

- (1) Deadline for responses. Except as set forth in LBR 7056-1 (with regard to motions for summary judgment or partial summary adjudication), LBRs 2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), and 9013-1(o) (with regard to

motions and matters that may not require a hearing), and LBR 9075-1 (with regard to motions to be heard on an emergency or shortened notice basis or unless otherwise ordered by the court), each interested party opposing or responding to the motion must file and serve the response (Response) on the moving party and the United States trustee not later than 14 days before the date designated for hearing.

- (2) Contents of Response. A Response must be a complete written statement of all reasons in opposition thereto or in support, declarations and copies of all evidence on which the responding party intends to rely, and any responding memorandum of points and authorities. The Response must advise the adverse party that any reply must be filed with the court and served on the responding party not later than 7 days prior to the hearing on the motion.
- (3) Entering a Final Order. In a Response to a motion filed in a contested matter pursuant to FRBP 9014, the responding party must raise in that Response any objection or challenge to the bankruptcy court's authority to enter a final order on the underlying motion. The responding party must cite relevant authority and provide evidence in support of its position. The failure of the responding party to raise its objection or challenge in a Response will be deemed consent to the bankruptcy court's authority to enter a final order on the underlying motion.

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## LBR 9013-1

### (m) Continuance.

- (1) Motion for Continuance. Unless otherwise ordered, a motion for the continuance of a hearing under this rule must **be filed as a separately captioned motion, and must** be filed with the court and served upon all previously noticed parties by facsimile, email, personal service, or overnight mail at least 3 days before the date set for the hearing.
  - (A) The motion must set forth in detail the reasons for the continuance, state whether any prior continuance has been granted, and be supported by the declaration of a competent witness attesting to the necessity for the continuance.
  - (B) A proposed order for continuance must, in accordance with LBR 9021-1(b), be lodged with the court upon the filing of the motion.
  - (C) Unless the motion for continuance is granted by the court at least 1 day before the hearing, the parties must appear at the hearing.
- (2) Stipulations For Continuances. Parties stipulating to a continuance of a hearing under this rule must notify the courtroom deputy immediately of their agreement for a continuance. The stipulation is subject to approval by the court under subsection (m)(3) of this rule. Unless the continuance is approved by the court at least 1 day before the hearing, the parties must appear at the hearing. A stipulation for continuance must contain facts establishing cause for the requested continuance and be filed in accordance with LBR 9021-1(b)(2) and LBR 9071-1.
- (3) Court Approval. A continuance (whether stipulated to by counsel or not) is not effective unless an order is entered approving the continuance, the clerk informs the parties that the court has authorized a continuance, or the continuance is granted in open court.
- (4) Extension of Time Due to Continuance of Hearing Date. Unless an order for continuance states otherwise, a continuance of the hearing of a motion automatically extends the time for filing and serving opposing **or responsive** documents and reply documents.

### **LBR 9013-1(p)**

- (p) **Motions and Matters Determined with Notice, but without a Hearing.** The following motions may be determined without a hearing after notice provided in the corresponding LBR cited.
- (1) Debtors Application to Extend the Deadline to File Case Commencement Documents [LBR 1007-1(b), LBR 3015-1(b)(2)]
  - (2) Motion to Convert Case from Chapter 11 to one under another Chapter [LBR 1017-1(a)(3)]
  - (3) Motion for Examination under FRBP 2004 [LBR 2004-1(d)]
  - (4) Motion to Withdraw as Counsel [LBR 2091-1(a)]
  - (5) Motion for Release of Unclaimed Funds [LBR 3011-1(b)]
  - (6) Debtor's Application Confirming that Loan Modification Discussion Will Not Violate the Stay [LBR 4001-1(h)]
  - (7) Request for the Clerk to Issue Another Summons [LBR 7004-1(a)(2)]
  - (87) Bill of Costs [LBR 7054-1(e)]
  - (98) Request for the Clerk to Enter Default [LBR 7055-1(a)]
  - (109) Motion for Leave to Appeal from an Interlocutory Order [LBR 8003-1(d)(3)]
  - (1140) Motion for Permission to File Trial Brief or Memoranda of Law Exceeding 35 Pages [LBR 9013-2(b)]
  - (1244) Motion for Protective Order Pursuant to 11 U.S.C. § 107(c) and FRBP 9037 to Restrict Access to Documents Filed Containing Personal Identifiers [LBR 9037-1(a)]
  - (1342) Application for Reinstatement of Privileges [LBR Appendix II, Reinstatement]
  - (1443) Application to Have Opinion Removed from Website [LBR Appendix II, Motion to Have Opinion Removed From Website]
  - (1544) Request for Assignment to Mediation Program [LBR Appendix III, Section 5.1]