

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

**Proposed Local Bankruptcy Rules Amendments for Public Comment
September 24, 2018 through October 24, 2018**

Comments concerning the proposed Local Bankruptcy Rules amendments must be submitted to bkcomments@cacb.uscourts.gov and include the name, email address, and phone number of the person submitting the comment. Comments must be submitted by October 24, 2018.

Summary of Proposed LBR Amendments <i>(Redline LBRs follow)</i>		
<i>LBR</i>	<i>LBR Title</i>	<i>Type of Amendment</i>
LBR 2091-1	Attorneys – Withdrawal, Substitution, and Change of Address	To clarify the process for withdrawal or substitution of attorney and to require a motion when an individual represented by an attorney desires to represent himself/herself.
LBR 7026-1(b)(1)	Discovery Conference and Disclosures	To remedy existing ambiguities about when Rule-26 disclosures must be made.
LBR 9011-2(b)	Persons Appearing Without Counsel	To clarify the current rule about what it means for an individual to appear personally.
LBR 9013-1(j)	Motion Practice and Contested Matters	Technical revision for consistency -- “unrepresented” changed to “self-represented.”
LBR 9021-1(b)(3)	Orders and Judgments	To address an inconsistency between LBR 9021-1 and judges’ practices related to the holding period for lodged orders.

LBR 2091-1 ATTORNEYS – WITHDRAWAL, SUBSTITUTION, AND CHANGE OF ADDRESS

(a) **Motion for Withdrawal or Substitution.** Except as provided in LBR 2091-1(b), ~~leave of court~~ **a motion filed** pursuant to LBR 9013-1(p) is required for:

- (1) **Withdrawal without Substitution.** An attorney who has appeared on behalf of an entity or individual in any matter concerning the administration of the case, in one or more proceedings, or both, to withdraw as counsel; ~~and~~
- ~~(2) **An entity represented by counsel to appear without counsel or by a different attorney.**~~
- (2) **Substitution of Self-Represented Individual.** An individual who is currently represented by an attorney in any matter concerning the administration of the case, in one or more proceedings, or both, who now desires to represent himself/herself without an attorney. The attorney and individual may include, as an exhibit to the motion, the court-approved form for substitution of attorney.

(b) **Consensual Substitution of Counsel.**

- (1) A consensual substitution of attorneys may be filed and served to substitute counsel without ~~leave of court~~ **filing a motion** where:
 - (A) **Replacing an Attorney with a Different Attorney.** An entity or individual 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~~ **the** former attorney; or
 - (B) **Unrepresented/Self-Represented Party Adding an Attorney.** A previously unrepresented entity or self-represented individual desires to substitute an attorney employed to represent the entity or individual.

LBR 7026-1. DISCOVERY

(b) **Discovery Conference and Disclosures.**

- (1) **Conference of Parties.** Unless all defendants default, the parties must conduct the meeting and exchange the information required by FRBP 7026 within the time limits set forth therein. ~~Unless otherwise ordered, the initial status conference constitutes the “scheduling conference” referred to in FRCP 26(f)(1) (incorporated by FRBP 7026).~~
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LBR 9011-2. PERSONS APPEARING WITHOUT COUNSEL

- (b) **Individuals.** Any individual ~~who is not represented~~~~ing himself or herself without~~ by an attorney ~~authorized to practice in this court~~ must appear at each hearing or status conference, either in person~~ally~~ or, when permitted by the judge, by telephone or video, unless that appearance is excused by the court as permitted by FRBP 1004.1. ~~for such purpose.~~
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LBR 9013-1. MOTION PRACTICE AND CONTESTED MATTERS

(j) Appearance at Hearing.

- (1) **Appearance is Mandatory.** Counsel for the moving and opposing parties, and the moving and opposing parties who are appearing without counsel, must be present at the hearing on the motion and must have such familiarity with the case as to permit informed discussion and argument of the motion. The failure of counsel or ~~an unrepresented~~ **a self-represented** party to appear, unless excused by the court in advance, may be deemed consent to a ruling upon the motion adverse to that counsel's or ~~unrepresented self-represented~~ party's position.

- (3) **Oral Argument.** If the court decides in its discretion to dispense with oral argument on any motion, the clerk will attempt to give counsel and ~~unrepresented self-represented~~ parties notice of the court's intention to do so at least 24 hours prior to the hearing date and time. The court may also dispense with oral argument and waive appearance by tentative or final ruling posted on the court's web site the day before the hearing.
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LBR 9021-1. ORDERS AND JUDGMENTS

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

- (A) **Service of Proposed Order on Contesting Party.** Pursuant to the Notice of Lodgment Procedures set forth in the **Court Manual**, the attorney who has the duty to prepare any order required by this rule must serve a copy of the proposed order on counsel, or party if filed without counsel, who filed an opposition or other objection to the relief requested, either before or on the same day that the order is lodged with the court and must file a proof of service with the order. Alternatively, the attorney preparing the order may present it to opposing counsel for approval as to form before the order is lodged, in which case opposing counsel must immediately **(within 24 hours)** approve or disapprove the form of order and return it to counsel who prepared it. **A signature line of opposing counsel with words "approved as to form" or alternatively "not approved, objection to follow" or similar may be used for this purpose. Signature of opposing counsel indicating that an opposition is forthcoming shall not excuse compliance with the provisions of subsection (3)(B) below.**

- (B) Separate Objection to Proposed Order. If an objection to the form of a lodged order is to be filed, ~~O~~pposing ~~c~~ounsel party shall immediately (within 24 hours) upon receipt of the form of the proposed order contact the judge's clerk in chambers of the judge presiding in the matter via telephone to notify the presiding judge that an opposition will be filed. A voicemail detailing the matter, calendar number and date of the hearing, and the nature of the opposition, left with the judge's clerk may suffice as compliance with this duty. ~~O~~pposing counsel shall ~~may~~, within 7 days after service of a copy of a proposed order prepared pursuant to this rule, file and serve ~~a~~ written objection to the form of the order, setting forth the grounds therefor. ~~O~~pposing counsel must attach as exhibits to the objection (i) a copy of the order that is the subject of the objection and (ii) a copy of the proposed alternative form of order. The proposed alternative form of order so labeled, must be lodged with the objection. A judge's copy of the objection and proposed alternative form of order must be served on the judge in chambers in accordance with LBR 5005-2(d). The failure to ~~immediately sign (within 24 hours) when offered the form of proposed order indicating an objection will be filed, or failure to timely notify chambers that an objection will be forthcoming, or failure to file and serve a timely objection~~ ~~will~~ as required by this rule may, in the court's discretion, constitute a waiver of any defects in the form of the order.