

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Proposed Local Bankruptcy Rules for Public Comment  
June 7, 2017 through July 7, 2017**

Comments concerning the proposed Local Bankruptcy Rules amendments must be submitted to [bkcomments@cacb.uscourts.gov](mailto:bkcomments@cacb.uscourts.gov) and include the name, email address, and phone number of the person submitting the comment. Comments must be submitted by July 7, 2017.

<b>Summary of Proposed LBR Amendments</b> <i>(Redline LBRs follow)</i>		
<b><i>LBR</i></b>	<b><i>LBR Title</i></b>	<b><i>Type of Amendment</i></b>
LBR 1002-1(f)	Electronic Filing Declaration	Deleted. To be superseded by LBR 9011-1 (below).
LBR 1017-2(f)	Dismissal of Case or Suspension of Proceedings/Retention of Jurisdiction	Amended to specify that the Court retains jurisdiction in dismissed cases to enforce issues listed in LBR 1017-2(f).
LBR 3020-1	Chapter 11 Plan Confirmation and Postconfirmation Requirements	Amended to clarify: the requirement for certain language to be included in a chapter 11 plan confirmation order; and the effect of conversion from chapter 11 to chapter 7.
LBR 7055-1(b)	Default/Motion for Default Judgment	Amended to reflect a change in the numbering of 50 U.S.C. Chapter 50
LBR 7064-1	Seizure of Persons and Property	Amended to specify: bankruptcy evictions are handled by the U.S. Marshals Service; and exact language that must be included in an eviction order.
LBR 7067-1	Registry Funds	Amended to reflect changes in the national registry fund fee structure and requirement to use local form orders.
LBR 9011-1	Signatures	New LBR specifies signature requirements for electronically filed documents.

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

- ~~(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 1017-2. DISMISSAL OF CASE OR SUSPENSION OF PROCEEDINGS**

- (f) **Retention of Jurisdiction.** Notwithstanding any dismissal, the court retains jurisdiction on all issues involving sanctions, any bar against being a debtor in bankruptcy, all issues arising under 11 U.S.C. §§ 105, 109(g), 110, 329, 349, and 362, and to any additional extent permissible under applicable law.
- 

## **LBR 3020-1. CHAPTER 11 PLAN CONFIRMATION AND POSTCONFIRMATION REQUIREMENTS**

- (a) **Payment of Special Charges.** The proposed plan confirmation order must 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 must contain the following language:

~~“If the above-referenced case is converted to one under chapter 7, the property of the reorganized debtor that has not been distributed under the plan shall be vested in the chapter 7 estate, except for property that would have been excluded from the estate if this case had always been one under chapter 7.~~

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 status report ~~shall~~**must** 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~~ the reorganized debtor's, postconfirmation trustee's, or other responsible party's 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), 541(a)(6), 1115(a) or 1115(b), shall not automatically re-vest in the chapter 7 estate.~~

- (c) **Effect of Failure to File Postconfirmation Reports.** The failure to file timely the required reports is cause for dismissal or conversion to a case under chapter 7 pursuant to 11 U.S.C. § 1112(b).
- (d) **Effect of Conversion to Chapter 7.** Regardless whether the order confirming the plan complies with paragraph “(b)” above, and unless otherwise provided in the plan, if the case is converted to one under chapter 7, the property of the reorganized debtor that has not been distributed under the plan shall be vested in the chapter 7 estate, except for property that would have been excluded from the estate if this case had always been one under chapter 7.

---

## **LBR 7055-1. DEFAULT**

### **(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.C. ~~code App. §§ 501-594 §§ 3901-4043~~).
- (D) When the individual defendant is the debtor, the party seeking the default may rely upon the debtor's sworn statements contained in a statement of financial affairs, by following the appropriate procedure for requesting judicial notice of that document pursuant to F.R.Evid. 201; and
- (E) That notice of the motion has been served on the defaulting party, if required by F.R.Civ.P. 55(b)(2).

---

#### **LBR 7064-1. SEIZURE OF PERSONS AND PROPERTY**

- (a) **Issuance of Writ.** A writ or other process issued for the seizure of persons or property pursuant to F.R.Civ.P. 64, 69, or 70 must be issued, attested, signed, and sealed as required for writs issued out of this court.
- (b) **Writ or Other Process of Seizure.** A writ or other process for seizure in a civil action must be directed to, executed, and returned by the United States Marshal, 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 an application and order.
- (c) **Process Requiring Entry Upon Premises.**
  - (1) An order of court requiring entry upon private premises without notice must be executed by the United States Marshal, 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 an order obtained upon application filed pursuant to LBR 9013-1(q). The application must be supported by evidence supporting all facts asserted in the application.
  - (2) If a writ or other process is to be executed by a private person, the private person must be accompanied by a United States Marshal or a state or local law enforcement officer present at the premises during the execution of the order.
- (d) **Eviction.** Any eviction to be made pursuant to a writ of, ~~or order for~~, possession issued by the court ~~pursuant to 11 U.S.C. § 365(d)(4)~~ must be effected by ~~a state or local law enforcement officer authorized by state law to execute such writs issued under state law~~ ~~the United States Marshals Service~~, unless otherwise ordered by the court.

- (e) **Form of Writ or Order.** Any writ of, or order for, possession to be effected by the United States Marshals Service must include the following language:

“Upon execution and entry of this Writ or Order, the United States Marshals Service [and any other executing officer authorized by the court] (collectively, the “U.S. Marshal”) is immediately directed to assist [the party enforcing the writ or order] to enforce the underlying order awarding possession.

[The party enforcing the writ or order] and/or [his/her/its] authorized agent(s) will act as substitute custodian of any and all items of personal property seized pursuant to this Writ or Order and the U.S. Marshal shall have no liability arising from any acts, incidents, or occurrences in connection with the seizure of the personal property located at the subject real property arising in the ordinary authorized scope of duties of the U.S. Marshal (which acts do not include acts arising from negligent or intentional tortious conduct), including any third party claims and the U.S. Marshal shall be discharged of his or her duties and responsibilities for safekeeping of the seized goods.

The U.S. Marshal accomplishing such eviction or seizure shall use whatever reasonable force necessary to break open and enter the subject real property regardless of whether the premises or location is locked or unlocked, occupied or unoccupied and to inspect the contents of any room, closet, cabinet, vehicle, container, desk or documents.

Anyone interfering with the execution of this Writ or Order is subject to arrest by law enforcement officials.”

---

## **LBR 7067-1. REGISTRY FUND**

(a) **Deposit of Registry Funds.**

- (1) **General.** Funds must not be sent to the court or the clerk for deposit into the court’s registry without a court order.
- (2) **Form of Order.** A party seeking authorization to deposit funds into the court’s registry must prepare ~~an order that meets the requirements of LBR 9004.1 and states (A) the exact amount to be deposited; (B) that the funds are to be deposited into an interest bearing account; and (C) that the funds will remain on deposit until further order of the court. The order must also contain the following provision:~~ and lodge with the court a proposed order using mandatory court form F 7067-1.1.ORDER.REGISTRY.FUND.

~~“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.”~~

~~(3) **Tender of Funds.** The funds must 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.**

(1) Whenever the court orders that money deposited ~~intowith the~~ court must be deposited by the clerk in an interest bearing account, the party ~~seeking the order making the deposit or transferring funds to the court’s registry~~ must ~~forthwith~~ personally serve a copy of ~~such the~~ entered order upon the clerk or chief deputy clerk along with the deposit.

(2) The failure of the party ~~seeking an order of making the deposit to an interest bearing account to serve the clerk or chief deputy with a copy of the order or transferring funds to comply with section (b)(1) above~~ releases 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 must deposit money pursuant to an order of deposit in any institution that 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)~~**(c) Timing of Deposit.** The clerk must deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party ~~authorized to making the deposit or transferring~~ funds.

~~(e)~~**(d) Fees Charged on Registry Funds.** All funds deposited ~~on or after December 1, 1990~~ and invested as registry funds will be assessed ~~a charge~~ fees in accordance with section III of amended General Order 13-01, available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov). ~~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 directive of the Administrative Office of the United States Courts.~~

~~(f)~~**(e) Disbursements of Registry Funds.**

(1) General. The clerk will disburse funds on deposit in the registry of the court only pursuant to a court order.

(2) Form of Order. The disbursement order must ~~contain a provision relieving the clerk from liability for loss of interest, if any, for early withdrawal of the funds. The order must state the name and taxpayer identification number for each party who is to receive funds and the amount or percentage of the principal each is to receive. The order must also state the percentage of the interest each party is to receive.~~ be prepared and lodged with the court using mandatory court form F 7067-1.1.ORDER.REGISTRY.FUND. Funds will be disbursed only after the time for appeal of any related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

---

## **LBR 9011-1. SIGNATURES**

### **(a) Holographic Signatures.**

Except as provided below, every signature on a filed document must be handwritten in ink (holographic). If the document is filed electronically then the filer must scan the signature page and insert it into the electronic (.pdf) version of the document filed with the court. Nothing in this local rule precludes the filing of a signature page that has been transmitted to the filer by facsimile or .pdf, provided that the filer promptly obtains the document bearing the signer's original holographic signature and complies with LBR 9011-1(d) below. Under no circumstances may a reproduction of the same holographic signature be used on multiple pages or in multiple documents. Each page that bears the signature of a person must actually have been signed by the person whose signature appears on such page.

### **(b) Electronic Signatures.**

A holographic signature is not required only in the following circumstances:

- (1) **Filer.** The signature of an electronic filer of a document (Filer) need not be a holographic signature if the Filer complies with the court's procedures for electronic filing. The electronic filing or lodging of a document by a Filer through the CM/ECF, ePOC, CIAO or other system, constitutes a signature on that document by such Filer and shall subject the Filer to the same consequences as if the Filer had signed such document by hand, including sanctions under FRBP 9011 and liability for perjury. When a password is required to electronically file or lodge a document, the Filer whose password is used to effectuate such filing shall be deemed to be a Filer of the document. If required by the Court Manual, an electronically-filed document shall include in the signature block an "/s/" followed by the name of the Filer; provided, however, that failure to do so will not invalidate the signature deemed made by the Filer.
- (2) **Employee of Filer.** The signature of an employee of a court-authorized Filer, or an employee of the same law firm or other organization as the court-authorized Filer, on a proof of service or certificate of service need not be a holographic signature. The employee may sign a proof of service or certificate of service by typing an "/s/" followed by the employee's name on the signature line where such signature is required. The employee placing such "/s/" signature on the proof of service or certificate of service, and the Filer whose password is used to file such document, will be subject to the same consequences as if the employee had actually signed the document and the Filer had filed the document, including sanctions under FRBP 9011 and penalties for perjury.

### **(c) Powers of Attorney Etc. Distinguished.**

Nothing in this rule should be interpreted to prevent Filers from signing for non-Filers in the same manner that they could sign any paper document, such as "[non-Filer] by

[Filer], per power of attorney," or "[Filer] as authorized agent for [non- Filer]" or the like, if permitted by applicable law.

**(d) Retention of Original Signatures for Five Years.**

Whenever a holographic signature is required, the Filer must maintain the executed original of any filed document for a period of five years after the closing of the case or adversary proceeding in which the document is filed, and must make the executed original available for review upon request of the court or other parties.