

**AMENDED**

**Local Rules of Court  
Applicable to Bankruptcy Cases and Proceedings  
In the United States District Court for the  
Middle District of Louisiana  
and  
\*Provisional Rules Relating to Chapter 12 Cases**

*Draft to be effective February 5, 2001*

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## PART I

### 1002-1 Petition - General

(a) Form. A petition commencing a voluntary case shall conform substantially to the Official Bankruptcy Form - Voluntary Petition.

(b) Corporate Petition. A voluntary petition by a corporation shall be signed or verified by an officer or agent of the corporation and must include a copy of the resolution of the Board of Directors, minutes of the corporate meeting, or other evidence of the officer's or agent's authority to file the petition on behalf of such corporation.

(c) Mailing Matrix. A mailing matrix, conforming to the form and containing the substance required within Rule 1007-2, shall be filed along with the petition.

(d) Signatures; Verifications. The requirement that petitions, verifications, resolutions, declarations, be signed shall be fulfilled by indication of electronic signature. The use of the forms of electronic signature as set forth, described, and required by these Rules, being necessary to accomplish the implementation of Electronic Case Filing and Electronic Case Management, shall constitute the original signature upon the filed paper, for all purposes under the Bankruptcy Code, relevant federal and state statutes, and applicable Federal Rules, to the extent authorized by law. Specifically, the verification or declaration upon a petition is governed by Rule 1008-1 of these Rules.

*[SOURCE: FORMER L.B.R. 201; NEW]*

### 1004-1 Petition - Partnership

Pursuant to Bankruptcy Rule 1004, a voluntary partnership petition must include an affidavit attesting that the partnership petition has been specifically authorized by all general partners, which shall be governed by Rule 1008-1 of these Rules.

*[SOURCE: FORMER L.B.R. 201; NEW]*

### 1006-1 Fees

(a) Filing Fees, Generally; Mode of Payment.

(1) Cash. Payments of all fees by/from debtors before the Court shall be made by cash, cashier's check or money order, payable to "Clerk, U. S. Bankruptcy Court."

(2) Check or Credit Card. Payment by check is permitted only if drawn on the account of an attorney or the law firm of which the attorney is a member, partner, associate, or

employee, or a non-debtor party, and if the check is not one from a party/person listed on the Reference List described in subsection (a)(3) of this Rule. Payment by credit card is permitted by attorneys or the law firm of which the attorney is a member, partner, associate, or employee, and non-debtor parties or persons, subject to approval of the credit card for payment on a transaction-by-transaction basis, and if the credit card is not submitted by a party/person listed on the Reference List described in subsection (a)(3) of this Rule.

(3) Reference List; Dishonored Checks; Non-Approved Credit Cards. The Clerk shall maintain a list of all persons, firms, or entities whose checks have been dishonored and a list of all persons, firms, or entities who have submitted credit cards that were not approved for payment of the fees for the transaction for which the card was submitted. The Clerk may refuse checks and/or credit cards from any person, firm, or entity listed on this Reference List.

(b) Filing From Remote Location. The payment of fees due the Clerk of Court upon the filing of a petition, schedule, motion, adversary proceeding, amendment, or other paper from a remote location, electronically, shall be made either by check, which shall be received by the Clerk within forty-eight (48) hours after the filing, or, pursuant to agreement between the filing person and the Clerk of Court, by use of an approved credit card mechanism, or by cash payment, received by the Clerk within forty-eight (48) hours after the filing, made at the physical location of the Clerk of Court. Only persons authorized to pay by check or credit card may file papers for which fees are due from remote locations.

(c) Filing From Office of the Clerk of Court. The payment of fees due the Clerk of Court upon the filing of a petition, schedule, motion, adversary proceeding, amendment, or other paper from the location of the Clerk of Court by check, credit card or, if the filing party is not authorized to pay by check or credit card, by cash, shall be payable immediately upon the filing of the paper.

*[SOURCE: NEW]*

## **1006-2      Installment Payments**

(a) Application. Permission to pay a filing fee in installments may be granted by the Court upon submission of an application conforming to Official Bankruptcy *Form 3 – Application and Order to Pay Filing Fee in Installments*, which shall be filed along with the petition and shall be governed by Rule 1006, FRBP. The signing and filing on behalf of debtor(s) by an attorney of the application shall constitute a certification by the attorney that the attorney has not received any compensation relating to the case, and will not receive any compensation unless and until the Filing Fee is paid in full.

(b) Order Upon Application. Notwithstanding the caption of the Official Form of application ("Application and Order . . ."), it is not required that the Order portion be filed. The Court will prepare and enter an Order upon the application.

*[SOURCE: FORMER L.B.R. 203; NEW]*

## **1007-1 Lists, Schedules, & Statements**

Lists, Schedules and Statements Under Rule 1007, FRBP; Extensions of Deadlines. Rule 1007, FRBP, shall govern the requirements of form and substance, deadlines for filing lists of creditors and parties in interest, schedules, and statements in all bankruptcy cases.

### (a) Extension of Deadline; Motion Required.

(1) Content of Motion - General. Upon written motion for good cause shown filed before the original deadline for filing and on notice to the U.S. Trustee, the Court may grant one extension of up to 15 days of the deadline for filing the schedules and statements governed by Rule 1007, FRBP, without notice and opportunity for hearing. The motion for extension shall recite:

- the petition date;
- the original deadline for filing statements, schedules, etc.
- the date of the § 341(a) creditors' meeting;
- the cause underlying the request for extension; and
- the specific date upon which the requested extension shall expire.

(2) Content of Motion - Chapter 13 Cases. The motion for extension, filed in a Chapter 13 case, shall comply with subsection (1) of this section and, additionally, shall be served upon the Chapter 13 trustee and shall contain a verification signed by the debtor that the extension is necessary, or shall contain an explanation as to why the debtor's signature could not be procured. The verification by the debtor shall be governed by Rule 1008-1 of these Rules.

(3) Proposed Order. The movant must submit a proposed order along with the motion for extension, which shall also contain the specific date upon which the schedules and statements shall be due if the extension is granted. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

*[SOURCE: FORMER L.B.R. 201; NEW]*

## **1007-2 Mailing - List or Matrix**

The mailing matrix that shall be filed with the petition shall comply with the following requirements:

(a) Names and Addresses. The mailing matrix shall include the names and addresses of all secured and unsecured creditors and other parties in interest. It shall not include the names and addresses of the debtor(s), counsel for debtor(s), and the trustee.

(b) United States Trustee. The mailing matrix shall include the name and address of the United States Trustee in all cases. The address of the United States Trustee's office for the Middle District of Louisiana is as follows:

Office of the U. S. Trustee  
Region V  
Texaco Center, Suite 2110  
400 Poydras Street  
New Orleans, LA 70130

(c) United States as Creditor. When the United States is a creditor, the schedules and mailing matrix must include:

(1) Headquarters of Agency. Name of the relevant agency and address of the agency headquarters;

(2) Local Agency Address; U. S. Attorney. Name of the relevant agency c/o address of the U.S. Attorney for the Middle District of Louisiana, 777 Florida Street, Suite 208, Baton Rouge, LA 70801; and

(3) Field Office. Name of the relevant agency and address of the local field office, or if none, the Louisiana or District field office (if different from the address of the headquarters).

(d) United States as Creditor by or through Internal Revenue Service. When the United States is a creditor by or through the Internal Revenue Service, or if, as of the date of the filing of the petition, tax returns of the debtor due to be filed before the petition date have not been filed, the mailing matrix shall contain the following addresses:

Internal Revenue Service  
600 S. Maestri Place, Stop 31  
New Orleans, LA 70130

District Counsel  
Internal Revenue Service  
P. O. Box 30509  
New Orleans, LA 70190

Office of the U.S. Attorney  
Middle District of Louisiana  
777 Florida Street, Suite 208  
Baton Rouge, LA 70801



(e) State of Louisiana as Creditor Through Department of Revenue and Taxation. When the State of Louisiana is a creditor through the Department of Revenue and Taxation, or if, as of the date of the filing of the petition, tax returns of the debtor due to be filed before the petition date have not been filed, the mailing matrix shall contain the following address:

Louisiana Department of Revenue  
Bankruptcy Section  
P. O. Box 66658  
Baton Rouge, LA 70896

(f) United States Agency and State of Louisiana Agency Addresses Required; All Chapter 11 and Chapter 13 Cases. Regardless of whether the United States or the State of Louisiana is a creditor, each mailing matrix filed in a Chapter 11 or Chapter 13 case shall contain the parties and addresses set forth in sections (d) and (e) of this Rule.

(g) Required Elements and Specifications: The mailing matrix must conform to the following elements and specifications:

- The name and address of each creditor must be four lines or less.
- Each line may contain no more than 40 characters, including blanks.
- Names and addresses should be left justified (flush against the left margin, no leading blanks).
- Account numbers or "attention" lines should be placed on the second line of the name/address.
- City, State, and Zip code must be on the last line.
- Nine digit Zip codes must be typed with a hyphen separating the two groups of digits.
- All states must be two-letter abbreviations.
- Each creditor must be separated by at least one blank line.
- The matrix shall not include page numbers, headers, footers, etc.
- The matrix shall be prepared in a "text" format.
- Capitalize only proper names, not the entire name/address grouping.
- Avoid unnecessary punctuation. Use periods, commas, apostrophes, etc. only when needed for clarity.

(h) Time of Filing. An original mailing matrix shall be filed contemporaneously with every voluntary petition. The mailing matrix shall be filed within fifteen (15) business days after the entry of an order of relief in an involuntary case.

(i) Responsibility for Filing: The mailing matrix shall be filed by the debtor unless otherwise ordered by the Court.

(j) Method of Uploading (Filing). Because of the current technological differences between the method of filing matrices and the method of filing other papers, the uploading (filing) of the original matrix shall be accomplished by following the instructions set forth below:

- After accessing the ECF database, click on "**Bankruptcy**."
- Click on "**Creditor Maintenance**."
- Click on "**Upload a creditor matrix file**."
- Enter the case number and click on "**next**."
- The computer will then ask for the name of the file. The matrix must be in ".txt" format. To put your matrix in .txt format, follow these general directions:
  - Click on the **FILE** button in Wordperfect or Microsoft Word toolbar to display the drop down menu.
  - Click the **SAVE AS** in the drop down list.
    - In Wordperfect, open the file containing the matrix. Click the drop down menu arrow in the **FILE TYPE** box. select the file type of either **ALL FILES** or **ASCII DOS TEXT**.
    - In Microsoft Word, click on the drop down box arrow in the **SAVE AS TYPE** box. Select the file type of **TEXT FILES (\*.txt)**.
  - Enter the file name in the **FILE NAME** box. The .txt extension will be appended.
  - Click the **SAVE** button.
- Once the file has been attached, click on "**next**."
- On the next screen, the total creditors entered will appear. If that number is correct, click on "**submit**." If the number is incorrect, click on the browser's "**back**" button and find the error.
- The next screen will display the creditor receipt. This confirms the number of creditors added to the case.

(k) Amended Mailing Matrix. An amendment by the debtor or trustee adding or deleting creditors to or from the schedules **shall be accompanied** by an Amended Mailing Matrix reflecting the additions or deletions. **Only those creditors affected are to appear on the Amended Matrix**. The matrix must be titled AMENDED MAILING MATRIX and must be dated and clearly specify if the amendment is for the purpose of adding, correcting, or deleting creditors.

(l) Change of Address. A change of address of a creditor by the debtor or trustee shall be accomplished by the filing of an Amended Mailing Matrix **ONLY**, with no amendment to the schedules required.

(m) Mailing Matrix Verification. Every original or amended Mailing Matrix shall be accompanied by a Mailing Matrix Verification/Declaration (**Local Rules Form #2**), executed by the debtor, any joint debtor, and counsel for the debtor(s). A copy of the matrix which is the subject of

verification shall be attached so as to form a part of the verification. (This can be effected by copying the matrix.txt file and "pasting" it into the Certificate so as to make it a part thereof.) The verifications shall be governed by the provisions of Rule 1008-1 of these Rules.

*[SOURCE: FORMER L.B.R. 201(e), JUNE 18, 1993, NOTICE RE: AMENDED SCHEDULES; NEW]*

### **1007-3 Statement of Intention**

Statement; Notice; Certification. The debtor's Statement of Intention required by 11 U.S.C. § 521(2)(A), which shall conform substantially to the Official Bankruptcy Form - Chapter 7 Individual Debtor's Statement of Intention, shall be filed within the time provided by § 521(2)(A). All creditors or parties in interest whose claims or interests are affected by the Statement of Intention shall be noticed of the filing of the Statement of Intention within two (2) days after the statement is filed. The notice shall advise each party of the specific intention of the debtor regarding each claim or interest (transmittal of a true copy of the Statement of Intention as an attachment to the notice shall be sufficient) and shall be filed into the record of the case, along with a certificate of service, within five (5) days after the date of the notice. Within forty-five (45) days after the notice required herein, the debtor, through counsel (if represented), shall file a Certificate representing that the debtor has performed his intention with respect to each item of property, claim or interest covered by the Statement of Intention.

(a) Content of Certificate. The certificate shall contain:

(1) Surrender. With respect to performance of the intention to surrender, a statement that the debtor does not presently intend to retain estate property through the Bankruptcy Code mechanisms of redemption, reaffirmation, or avoidance, and, absent an Amendment to the Statement of Intention, will not oppose stay relief, abandonment, or other means of administration of the property of the estate by the trustee;

(2) Redemption. With respect to performance of the intention to redeem, a statement that the debtor has filed a motion to redeem the property and has noticed the motion for hearing in accordance with Rules 9013-1 through 9014-3 of these Rules;

(3) Reaffirmation. With respect to performance of the intention to reaffirm a debt, a statement that the reaffirmation agreement (along with the certification of counsel, if applicable) has been executed by all parties thereto and has been filed in the record of the bankruptcy case and that a hearing on the reaffirmation agreement, if required by Rule 4008-1 of these Rules, has been fixed and noticed in accordance with Rule 4008-2 of these Rules.;

(4) Lien Avoidance. with respect to performance of the intention to avoid a lien, a statement that the debtor has filed a motion to avoid lien pursuant to 11 U.S.C. § 522(f), and has noticed the motion for hearing in accordance with Rules 9013-1 through 9014-3 of these Rules.

(b) Extension. Upon written motion filed before the original deadline for filing and on notice to the U.S. Trustee, the Court may grant one extension of up to 15 days of the deadline for filing the Certificate of Performance of Intention without notice and opportunity for hearing. The motion for extension shall contain:

- the petition date;
- the date of the § 341(a) creditors' meeting;
- the date of the notice;
- the date the notice was filed into the record;
- the original deadline for filing the certificate;
- the cause underlying the request for extension; and
- the specific date upon which the requested extension shall expire.

(c) Proposed Order. If ex parte relief is requested, the movant must submit a proposed order along with the motion for extension, which shall also contain the specific date upon which the Certificate of Performance of Intention shall be due if the extension is granted. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(d) Amendment. Amendments to the Statement of Intention shall comply with Rule 1009-1 of these Rules.

*[SOURCE: FORMER L.B.R. 201, 309; NEW]*

## **1008-1 Verification of Petitions and Accompanying Papers**

(a) Method of Signature on Filed Verifications or Unsworn Declarations. Because of the implementation of electronic case filings as described throughout these Rules (see, particularly, Rule 5005-1 of these Rules), the following provisions govern the method of signature to be used upon verifications and unsworn declarations to be filed of record on the docket of the court.

(1) Debtors. The signatures of debtors upon all verifications or unsworn declarations accompanying petitions, statements, schedules, and amendments thereto shall be made upon the papers filed electronically of record on the docket of the court by means of a signature designation: "s/(name of signatory)."

(2) Creditors. The signatures of creditors upon the verification or unsworn declaration upon a proof of claim shall be made upon the claims filed electronically of record on the docket or claims register of the court by means of a signature designation: "s/(name of signatory)" or, if the claim is a scanned form, a digital copy of the original signature.

(3) Other Parties; Other Persons; Attorneys. The signatures of all other parties, persons, entities, and of all attorneys upon verifications, unsworn declarations, and affidavits shall

be made upon the papers to be filed electronically of record on the docket of the court by means of a signature designation: "s/(attorney's name)."

(b) Submission to Court of Original Form of Declaration to be Retained by Court. Within five (5) days after the filing of any petition, statement, schedule, verification of mailing matrix, amendment, and/or any verification, and/or unsworn declaration, or other affidavit or paper required by these Rules to be made subject to this subsection that bears the electronic signature of a debtor, creditor, person, party, or entity, other than one whose electronic signature is the name of a party to whom has been issued a court-issued password, the attorney for the signing person or, if there be no attorney, the signing person, shall mail to the court an original signed Declaration, conforming to **Local Rules Form #1**, designating the paper(s) covered by the Declaration. Original Declarations shall be maintained by the court in a manner deemed appropriate by the Clerk. If the electronic signature upon a verification, declaration, affidavit, or other paper that would otherwise be subject to this Rule is one of a person to whom an electronic password has been issued by the court, it will not be necessary to transmit a Declaration, as the signature, pursuant to these Rules, will be the original signature of that person for all purposes under law, pursuant to the terms of issuance of the password.

*[SOURCE: NEW]*

#### **1009-1 Amendments to Lists & Schedules**

This Rule supplements the provisions of Rule 1009, FRBP, and applies to amendments to schedules, voluntary petitions, lists, mailing matrices, statements of affairs, statements of executory contracts, and all other statements and schedules.

(a) Form and Filing. Amendments do not require a motion and order. An amendment may be made by filing the amendment. Amendments must contain a caption including the case number and title and shall clearly set forth in **bold print that the document is an amendment, and whether the amendment is for the purpose of adding or deleting creditors.** All amendments must be prepared on such official forms as are required of original documents and must contain all information contained in the original document that is not the subject of the amendment plus the content of the amendment.

(b) Execution and Acknowledgment. An amendment must be executed and acknowledged by the debtor and attorney of record in the same manner that the item being amended was originally executed and must be dated. The verifications or declarations shall be governed by Rule 1008-1 of these Rules.

(c) Notice. The debtor shall give notice of the amendment to any entity affected thereby and to the trustee, and shall file a certificate of service contemporaneously with the filing of the amendment.

(d) Additional Creditors; Notice of First Meeting of Creditors. Upon the filing of any amendments adding creditors whose names and addresses were not listed in time for the mailing of the notice of the first meeting of creditors, the debtor shall immediately serve upon such additional creditors a copy of the notice of the § 341(a) first meeting of creditors, together with a statement advising that such mailing is made as a result of an amendment to the list of creditors. A certificate of service conforming in form and substance to the requirements of Rule 9013-3 of these Rules must be filed with the Clerk of Court.

(e) Change of Address.

(1) By a Party. Should the debtor, any party, or any attorney in the case or in any proceeding pending in the court have a change of address during the pendency of such case or proceeding, that person shall immediately file a Notice of Change of Address in the record of that case or proceeding. The Notice of Change of Address shall be served, within two (2) days of filing, upon the following parties (if applicable): the trustee, debtor, attorney for debtor, chairperson of any committee appointed in the case and its counsel if employed pursuant to an order of the Court, the office of the United States Trustee, all counsel of record, and all parties not represented by counsel, in any pending adversary proceeding involving the party filing the Notice of Change of Address.

(2) Change of Address of Creditor by Debtor or Trustee. A change of address of a creditor by the debtor or trustee shall be effected by the filing of an Amended Mailing Matrix, pursuant to Rule 1007-2(1) of these Rules.

[SOURCE: FORMER L.B.R. 205]

### **1010-1      Petition - Involuntary**

(a) Form. A petition commencing an involuntary case shall conform substantially to *Official Bankruptcy Form 5. Involuntary Petition.* The declaration upon the petition shall be governed by Rule 1008-1 of these Rules.

(b) Designation of Principal. All involuntary petitions relating to corporate and partnership debtors shall include a designation of the individual who is the principal operating officer or managing general partner, as the case may be, of the alleged debtor. If the identity of the principal operating officer or managing general partner is not known, a written statement shall be filed to that effect. An involuntary petition relating to a partnership debtor shall include the identity of all general and limited partners, if known. If this information is not known, a written statement shall be filed to that effect.

(c) Summons. A summons shall be issued by the Clerk, and transmitted to the petitioner(s) for service, in the same manner as provided in Rule 7004-1 of these Rules, except that the summons shall reflect the delay for answer, objection or other response established by Rule 1011, FRBP, and there shall be no Order Setting Scheduling and Preliminary Pre Trial Conference.

(d) Applicability of Provisions of Rule 1007-3. Rule 1007-3 of these Rules shall apply to cases of individual debtors commenced by involuntary petition. In the event of the entry of an order for relief, Rules 1007-1 and 1007-2 shall also apply.

*[SOURCE: FORMER L.B.R. 202]*

#### **1012-1 Disposition of Involuntary Petition**

(a) Answer Filed. Upon the filing of an answer, the court will enter an order fixing a trial date upon the petition, which shall be noticed to all parties.

(b) No Answer Filed. If no answer or other response is filed within the time required by the summons, the court will immediately enter an Order of Relief, as requested in the petition.

*[SOURCE: NEW]*

#### **1015-1 Joint Administration/Consolidation**

If the Court orders joint administration or substantive consolidation of two or more cases, all pleadings in any of the cases shall state the names and numbers of all the cases unless otherwise ordered by the Court.

*[SOURCE: FORMER L.B.R. 207]*

#### **1015-2 Joint Administration/Consolidation - Docketing**

(a) Docketing. Upon the entry of an Order of Joint Administration of two or more related cases, the Clerk of Court shall:

(1) Lead Case Designation. Designate any one of such cases to be the lead case for purposes of docketing and filing;

(2) Entry of Order; All Cases. Enter the Order of Joint Administration simultaneously on the docket of all cases covered by the Order;

(3) Notice. Notice all parties in interest as they appear on the consolidated matrix of the Order of Consolidation by service of the Order;

(4) Maintenance of Lead Case. Maintain thereafter only the lead case docket as the active docket in which filings can be made in the consolidated cases.

(b) Consolidated Mailing Matrix. The party obtaining the Order for Joint Administration shall, within five (5) days of the entry of such Order, file a consolidated mailing matrix comprising

a total mailing list of all interested parties in all the jointly administered cases, without duplication. The mailing matrix shall comply with and be filed according to Rule 1007-2 of these Rules.

(c) Exceptions. Notwithstanding the above, the Clerk of Court may request that the Court require parties in interest to seek, obtain, or execute separate documents for each case where necessary for purposes of clarity, statistical reporting, case closing, or other similar cause.

*[SOURCE: FORMER L.B.R. 208]*

#### **1017-1 Dismissal of Case**

**Please refer to standing order 2003-2.**

(a) Chapter 13 Cases.

(1) Motion Required. Dismissal requested by the debtor pursuant to 11 U.S.C. § 1307(b) may be procured only by written motion, or, with Court approval, orally in open court.

(2) Motion; Required Content. The motion shall recite whether the case has previously been converted under 11 U.S.C. §§ 706, 1112 or 1208 and shall be signed by the debtor(s) and counsel for the debtor(s).

(3) Granting Ex Parte: The motion may be granted ex parte, provided dismissal is authorized by the Bankruptcy Code and

(A) The debtor is represented by counsel;

(B) The motion contains a recitation by counsel that counsel has advised the debtor(s) of the consequences of dismissal and the potential for abstention by the Court pursuant to 11 U.S.C. § 305 in the event of subsequent filings;

(C) An order is submitted along with the motion. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(4) Hearing. The Court may order a hearing on notice under appropriate circumstances, in accordance with 11 U.S.C. § 1307(c).

(b) Chapter 7 Cases.

(1) Motion Required. Dismissal shall be requested by motion, which shall be governed by Rules 9013-1 through 9014-3 of these Rules.



- (2) Motion; Required Content. The motion shall contain a representation by counsel that counsel has advised the debtor(s) of the consequences of dismissal and the potential for abstention by the Court pursuant to 11 U.S.C. § 305 in the event of subsequent filings, and shall set forth the grounds for the requested dismissal.

**1017-2 Dismissal of Case; Effect**

(a) Effect of Dismissal of Case Upon Pending Proceedings. Whenever a case under the Bankruptcy Code is dismissed, any adversary proceeding arising under, arising in, or related to the case then pending, unless otherwise Ordered by the Court either within the ordered dismissal or by separate order, will be dismissed, without prejudice, except those cases that have been removed to bankruptcy court may be remanded to the courts from which they were removed.

*[SOURCE: FORMER L.B.R. 901, 909, 616, 314; NEW]*

**1017-3 Conversion of Cases; Chapter 13 and (if applicable) Chapter 12 to Chapter 7 by Debtor**

Pursuant to Rule 1017, FRBP, conversion of a Chapter 13, or chapter 12 case to a case under chapter 7 by the debtor shall be effected by the filing of a notice of conversion, without the necessity of entry of an order. Upon the filing of a notice of conversion, the court will enter an order upon conversion, to be noticed to all creditors and parties in interest. **Please refer to standing order 2003-2.**

*[ SOURCE: NEW]*

**1071-1 Divisions - Bankruptcy Court**

There shall be one division of this United States Bankruptcy Court for the Middle District of Louisiana.

Location of Office of Clerk of Court:

707 Florida Street, Room 119  
Baton Rouge, LA 70801  
Telephone: (225) 389-0211  
Fax: (225) 389-0410

Location of Chambers:

707 Florida Street, Room 236  
Baton Rouge, LA 70801  
Telephone: (225) 389-0371  
Fax: (225) 389-0258

Court Website Address:

**www.lamb.uscourts.gov**  
*[SOURCE: NEW]*

**1072-1      Places of Holding Court**

The place of holding court for the United States Bankruptcy Court for the Middle District of Louisiana shall, unless a different place is ordered, be:

United States Bankruptcy Court  
707 Florida Street, Room 222  
Baton Rouge, LA 70801

*[SOURCE: NEW]*

**PART II**

**2003-1      Meeting of Creditors & Equity Security Holders**

(a)    Assignment. Upon the filing of a case and the entry of the order of relief, the United States Trustee shall assign a § 341(a) meeting date, and the office of the Clerk of Court shall give notice of the meeting in accordance with Rule 2002(a), FRBP.

(b)    Appearance Required. The debtor and the debtor's attorney shall appear for examination at the scheduled meeting of creditors. If a husband and wife file a joint petition, both must attend the meeting.

(c)    Substitution of Counsel for Debtor. Unless a replacement/substitute/surrogate lawyer is authorized by court order signed prior to the § 341(a) meeting of creditors, debtors in this court shall be represented by the attorney of record in the bankruptcy case during the entirety of the § 341(a) meeting of creditors.

(1)    Necessity of Motion. An Order to allow substitute counsel may be obtained, ex parte, upon the filing of a motion seeking court approval of the appearance by substitute counsel at the meeting of creditors.

(2)    Content of Motion. The motion shall contain the following:

(A)    a recitation of the reasons a substitute counsel is necessary;

(B)    that the debtor(s) have been apprised of the option to seek a rescheduled meeting of creditors but have chosen to be represented by substitute counsel;

(C) a description of any fee sharing agreement that has not been previously disclosed within a Rule 2016(b) FRBP disclosure if the fee sharing agreement is one that is required to be disclosed under 11 U.S.C. § 504 and/or Rules 2014 or 2016, FRBP, and a request for approval of the fee sharing agreement;

(D) if there is no fee sharing agreement that is required to be disclosed by § 504 of the Code and/or Rule 2014 or 2016, FRBP, an affirmative representation that there is no such fee sharing agreement.

(3) Proposed Order. The movant shall submit a proposed order by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

(d) Requests to Reschedule Prior to Meeting. Requests to reschedule an assigned § 341(a) meeting prior to the assigned meeting must be made upon the U.S. Trustee and shall be passed upon by the Office of the U. S. Trustee, which shall file its decision in the record of the bankruptcy case.

(1) Form of Request. the form of request shall comply with the appropriate form of request as required by the U.S. Trustee.

(2) Court-Required Content. Regardless of additional form and content requirements of the Office of the U. S. Trustee, the request shall state whether the debtor agrees to a re-fixing of the deadlines for the filing of objections to the claims of exemption and complaints pursuant to 11 U.S.C. §§ 523(c) and 727, and for the filing by the United States Trustee of a motion to dismiss under § 707(b), to dates determinable under Rules 4003, 4004, and 4007, FRBP, from the date of any rescheduled § 341(a) meeting.

(3) Notice of U. S. Trustee Decision. The U. S. Trustee shall file either a notice of consent to reschedule or a notice of denial of request to reschedule upon making its determination.

(4) Order Re-fixing Meeting. The court shall prepare and enter the order re-fixing the meeting of creditors upon the filing of the notice of consent to reschedule by the U. S. Trustee.

(e) Review of U.S. Trustee Decision Denying Request. Review of a U.S. Trustee denial of a request to reschedule must be sought by motion to the Court, which must be filed within two (2) days after receipt of the denial by the U.S. Trustee or five (5) days prior to the scheduled creditors' meeting, whichever comes later.

(1) Contents of Motion. The motion shall state the grounds for the original request to the U.S. Trustee, whether the debtor consents to the extension of the deadlines referred to in subsection (c) of this Rule, and the reasons why the Court should reverse the U.S. Trustee denial. The motion shall include as exhibits the initial request, any supporting documentation, and

evidence of the action taken by the U.S. Trustee. The motion shall be accompanied by a certificate of service indicating service upon the U.S. Trustee and the Chapter 7 trustee.

(2) Submission of Proposed Order. The movant shall submit a proposed order by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

(3) Necessity of Appearance at Meeting When Excused. Filing of such a notice before the scheduled meeting is not sufficient to excuse attendance; attendance is excused only if the Court advises movant prior to the meeting time that the meeting is to be rescheduled.

(f) Failure to Attend.

(1) Debtor's Attorney. If the debtor's attorney fails to attend the § 341(a) meeting, the Court shall issue a Rule to Show Cause requiring the attorney to appear before the Court to show cause why fees paid by or on behalf of the debtor should not be reduced or disallowed by the Court or ordered returned to the estate. At the hearing the Court may impose such other sanctions as it deems proper.

(2) Debtor. Failure by the debtor to attend the § 341(a) meeting shall be grounds for the immediate dismissal of the bankruptcy case (in voluntary cases) and/or the issuance of an Order to Show Cause to the debtor and/or counsel for the debtor, requiring the debtor and/or counsel to show cause before the court why sanctions should not be imposed for failure to attend the § 341(a) meeting.

(3) Notice to the Trustee and U.S. Trustee. The U.S. Trustee shall receive notice of all Orders to Show Cause issued pursuant to this Rule, and in all cases, the Chapter 7, 11 (if applicable), 12 (if applicable), or 13 trustee shall also receive notice.

(g) Failure to Attend; Requests To Re Fix after Failure to Attend.

(1) If debtor or counsel fails to attend the meeting as scheduled, the meeting can be re fixed only upon motion filed with the Court, and served upon the trustee and the U.S. Trustee, which shall recite and contain

(A) the reasons for the failure to attend the meeting;

(B) that the debtor consents to the re fixing of all deadlines referred to in subsection (d) (2) of this Rule; and

(C) if applicable, the debtor's verification of the reasons for failing to attend the meeting, which shall be governed by Rule 1008-1 of these Rules.

(2) Proposed Order. A proposed Order shall be submitted along with the motion by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules, though the court may substitute its own form of Order.

*[SOURCE: FORMER L.B.R. 301; NEW]*

## **2003-2 Trustee Requirements**

To facilitate expeditious administration of the estates, the trustee may, at the § 341 meeting of creditors, direct and require the debtor and/or debtor's counsel to turn over books, records, statements, tax returns, or other documents or information, and to effectuate the filing of amendments to statements, schedules, matrices, petitions, and other papers of record on the docket of the bankruptcy case.

(a) Trustee Memorandum of § 341(a) Meeting of Creditors. To invoke the action of the Court to require compliance with such directions and requirements, the trustee shall file a memorandum of the § 341(a) meeting of creditors which contains a list of the directives and requirements provided at the meeting, along with a representation that after the expiration of at least 10 days after the meeting, the debtor and/or counsel have not complied.

(b) Evidence of Non-Compliance; Court Order to Show Cause. Upon receipt of a filed memorandum of § 341(a) meeting that indicates non-compliance with trustee directives and/or requirements, the Court will issue an Order to Show Cause to the debtor(s) and counsel, requiring them to show cause why sanctions should not be issued, which will be set by the Court for hearing.

(c) Compliance Before Hearing. If the debtor(s) and/or counsel comply with the directives and requirements of the trustee before the hearing, **and** the trustee filed a notice or certificate of compliance, the Court may, in its discretion, cancel the hearing upon the Order to Show Cause, either on its own motion or upon motion by the debtor.

*[SOURCE: NEW]*

## **2004-1 Depositions & Examinations**

(a) Request for 2004 Examination. This Rule shall govern the procedures relating to the examination under Rule 2004, FRBP, while Rules 7016-1 through 7037-1 of these Rules shall govern pretrial discovery in adversary proceedings.

(1) Pre-filing Contact. Unless a party seeking to take an examination has good cause to believe that the party to be examined will absent himself or herself from the jurisdiction of the Court if notified, counsel for the party seeking the examination, prior to filing a motion pursuant to Rule 2004, FRBP, shall confer with counsel for the proposed examinee or the proposed examinee

if not represented by counsel, to arrange for a mutually agreeable date, place and time for the examination.

(2) Content of Motion. All motions for examination shall include either:

(A) a statement that a conference was held as required by section (a)(2) of this Rule and that all parties **have agreed** to the date, time and place of examination and to the production of the documents, if any, that mover requests be produced;

(B) a statement explaining why it was not possible for the required conference to be held;

(C) a statement that movant has good reason to believe that the proposed examinee will either leave the jurisdiction of the Court or otherwise evade service if notified of the request to examine; or

(D) a statement that a conference was held as required by section (a)(2) of this Rule, that no agreement could be reached, and that the motion is presented to the Court for determination.

(3) Certificate of Service. Except as may be otherwise ordered by the Court, all motions pursuant to Rule 2004, FRBP, shall certify service upon the respondent, the debtor, all counsel of record, all counsel for all committees, the trustee, and the United States Trustee.

(4) Proposed Order. A proposed order shall be submitted, which orders that the examination to take place at the agreed upon time at the agreed upon place, or at a requested time and place if there be no agreement. The proposed order shall, if applicable, also order the documents to be produced and the date, time and place of production. The proposed order shall be submitted pursuant to Rule 9013-4(b)(2) of these Rules.

(b) Objections to Request for Rule 2004 Examination. Any objection to an order for a 2004 examination shall be in the form of a Motion for a Protective Order.

(1) Content of Motion. The motion shall state with specificity the nature *and* scope of the objection, requesting that the Court fix an immediate hearing upon the Motion for Protective Order, certifying that all parties have received notice of the filing of the Motion, and providing the Court with proposed dates for hearing on the Motion that have been agreed to by all parties affected (or that agreement could not be obtained).

(2) Proposed Order. A proposed order regarding the requested hearing shall accompany the motion, which must be filed at least three (3) days prior to the scheduled date of the examination, unless a later filing is allowed by the Court. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

(3) Stay of Examination. Unless otherwise ordered by the Court, the timely filing of a Motion for a Protective Order shall stay the order for a Rule 2004 examination until the Court acts on the objection/motion.

*[SOURCE: FORMER L.B.R. 304]*

## **2014-1            Employment of Professionals - On Behalf of the Estate**

Court approval of the employment of professionals on behalf of the estate is required.

(a) General Services for Debtor in Possession or Trustee. Employment by Chapter 11 debtor-in-possession or a trustee to perform general services on behalf of the debtor-in-possession or trustee and the estate shall be obtained as follows:

(1) Application of Debtor-in-Possession or Trustee. The debtor-in-possession or trustee shall submit an application requesting approval of the employment which shall include:

- (A) the petition date;
- (B) an assertion, if applicable, that the debtor is a debtor-in-possession coupled with an assertion as to whether a motion for appointment of a trustee is pending;
- (C) a statement as to the necessity of retaining the professional;
- (D) a statement as to the qualifications of the professional;
- (E) a statement that to the debtor's or trustee's knowledge the professional has no connection with the debtor, any creditor, or other party in interest and is therefore a disinterested person pursuant to 11 U.S.C. § 327, and that the professional holds or represents no interest adverse to the estate;
- (F) a statement of the proposed fee and expense reimbursement agreement between counsel and the debtor in possession, and whether approval of fees will be requested under 11 U.S.C. § 330 or 11 U.S.C. § 328; and
- (G) a certificate of service of the application, the affidavit (see (2) below) and the proposed order (see (3) below) upon the U.S. Trustee.

(2) Affidavit of Professional. The professional shall submit an affidavit as an attachment to the debtor's application, which shall be governed by Rule 1008-1 of these Rules, setting forth:

- (A) a statement that the professional has read the debtor's or trustee's application and that the professional knows of her own personal knowledge that the assertions therein are true and correct;
- (B) either a specific assertion by the professional that he has no connection with the debtor, creditors, insiders, or other parties in interest and is therefore a disinterested person pursuant to 11 U.S.C. § 327, or a detailed disclosure of any connection that the professional has with any such person, entity or party;

(C) a statement that the professional holds no interest adverse to the estate;  
and

(D) in addition to the attorney disclosure form required by these Local Rules, a general statement regarding the type of fee arrangement that has been requested by the professional, a recitation as to the amount of any retainer provided and whether the retainer has been or will be drawn against for pre-petition services rendered, and an acknowledgment that such arrangement is agreeable to the debtor or trustee.

(3) Proposed Order. A proposed Order conforming to **Local Rules Form #3** shall be submitted along with the application and affidavit, shall be signed by both the debtor and the professional or the trustee and the professional. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(4) Service. The application, affidavit and proposed order shall be served upon the U. S. Trustee, all secured creditors, the twenty largest unsecured creditors, the United States Attorney, and, if applicable, any committees appointed by the U. S. Trustee, and counsel therefor.

(b) Employment for Specific Purpose by Debtor in Possession or Trustee. Employment of a professional for a specific purpose by a debtor in possession or trustee pursuant to § 327 or § 328 shall require the same application and affidavit as required under section (a) of this Rule, except that the application by the moving party must specify the reasons why retention of the professional for a special purpose is necessary and that such retention will benefit the estate.

(1) Proposed Order. A proposed order specifically describing the specific matters for which the professional shall be employed shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(2) Service. The application, affidavit, and proposed order shall be served upon the U. S. Trustee, all secured creditors, the twenty largest unsecured creditors, the United States Attorney, and, if applicable, any committees appointed by the U. S. Trustee, and counsel therefor.

(c) Employment for Specific Purpose; 11 U.S.C. § 327(e). Employment of an attorney pursuant to 11 U.S.C. § 327(e) shall require the same application and affidavit as required under subsection (a) of this Rule, with the following modifications:

(1) Disinterestedness. If the professional is a disinterested person as defined in 11 U.S.C. § 101(14), the pleadings shall so assert.

(2) Adverse Interest. If the professional is not a disinterested person, the pleading shall so state, must detail any interest adverse to the estate held or represented by the professional and must assert that the professional neither represents nor holds an interest adverse to the debtor or the estate with respect to the matter in which the professional is to be engaged.



(3) Specific Grounds. The application by the moving party must specify the reasons why retention of the professional for a special purpose is necessary and that such retention will benefit the estate.

(4) Proposed Order. A proposed order setting forth, specifically, the matter(s) upon which the professional is retained and the basis upon which compensation will be requested shall be submitted by the movant and the professionals by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(d) Employment of Auctioneer or Liquidator. In order to obtain Court approval of the retention of an auctioneer or liquidator, the trustee must file the same application and affidavit as required under section (a) of this Rule, with the following modifications:

(1) Prior Attempts at Sale. State whether the trustee has attempted to sell property of the estate to the debtor.

(2) Other Offers. Describe any offer made by the debtor.

(3) Expected Benefits. Recite the benefits to the estate expected as a result of retention of the auctioneer or liquidator.

(4) Proposed Order. A proposed order setting forth the property to be sold and the compensation for which pre-approval is sought shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

(5) Service. The application, affidavit, and proposed order shall be served upon the U. S. Trustee, all secured creditors, the twenty largest unsecured creditors, the United States Attorney, and, if applicable, any committees appointed by the U. S. Trustee, and counsel therefor.

(e) No Hearing Required. The employment of a professional under this Rule may be approved and an order entered without hearing, without prejudice to the right of creditors or parties in interest to subsequently move for a hearing concerning whether the employment should continue or should be terminated, or for other relief as may be just.

*[SOURCE: FORMER L.B.R. 312; NEW]*

**2014-2      Employment of Professionals - Trustee as Attorney or Accountant on Behalf of the Estate**

Court Approval. Court approval of the employment of the trustee as attorney or accountant for the trustee, pursuant to 11 U.S.C. § 327(d) shall be obtained.

(a) Application. The application seeking approval of employment shall include:

(1) Case Information. The application shall recite the petition date, that the trustee has been duly appointed by the U.S. Trustee, and is serving as permanent (or, if applicable, as interim) trustee;

(2) Specific Grounds. A statement of the specific grounds establishing the necessity of retaining the trustee as attorney or accountant;

(3) No Disqualifying Relationship. A statement that to the trustee's knowledge the trustee has no connection with the debtor, any creditor, or other party in interest and that the professional holds or represents no interest adverse to the estate that would disqualify the trustee from appointment as attorney or accountant under 11 U.S.C. § 327(d);

(4) Fee Proposal. A general statement regarding the type of fee arrangement that the trustee proposes, and a representation as to whether the trustee is requesting pre-approval of the fee proposed under § 328, or will be submitting the application for consideration under § 330.

(5) Affidavit. A sworn affidavit asserting that the trustee has read the application and knows of his own personal knowledge that the contents of the application are true and correct, which shall be governed by Rule 1008-1 of these Rules;

(6) Specific Legal or Accounting Services to be Rendered. Allegations specifically detailing the legal or accounting services to be performed (as opposed to trustee duties) which shall include an express representation that employment is only requested to the extent specific legal or accounting services as opposed to statutorily and jurisprudentially prescribed trustee's services and duties are necessary in the specific case (a generalized recitation of the types of legal services that are possible within a Chapter 7 case shall not suffice); and

(7) Service. A certificate of service stating that the application and the proposed order authorizing the appointment of the trustee as attorney or accountant for the trustee have been served upon the U.S. Trustee.

(8) Proposed Order. A proposed order conforming in form and substance to **Local Rules Form #4** shall be submitted by the trustee along with the application, unless the trustee as attorney proposes a contingency fee agreement in which case the agreement must be specifically described. The Proposed Order must be a document separate from the application. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

*[SOURCE: FORMER L.B.R. 313]*

**2015-1 Trustees - General**

(a) Assignment of Interim Trustees; Chapter 7 Cases. The assignment of cases to interim trustees from the panel of trustees in this district shall be made in accordance with guidelines established by the United States Trustee. No Clerk, Deputy Clerk, other employee in the office of the Clerk, the U.S. Trustee or any employee in the office of the U.S. Trustee shall reveal to any non-employee the order of assignment of cases or the name of the interim trustee to whom a case is assigned prior to filing of the petition and actual assignment to an interim trustee. No person shall directly cause or influence or attempt to cause or influence any Clerk, Deputy Clerk, other court employee, the U.S. Trustee or any employee in the office of the U.S. Trustee to assign a panel trustee to any case otherwise than as provided by the U.S. Trustee's guidelines.

*[SOURCE: FORMER L.B.R. 302]*

## **2016-1 Compensation of Professionals - Generally**

(a) Form of Fee Application; General Applications. Except as otherwise provided in Rule 3015-1(a)(4) of these Rules, all applications for fees, compensation or expenses filed by attorneys, accountants, other professionals, and trustees or examiners shall state in the title whether it is a first, second, etc. or final application and shall contain or recite the following or be accompanied by or make reference to an application that contains or recites the following:

(1) Narrative. A brief narrative history of the case and the present posture of the case;

(2) Estate. The size of the estate in terms of assets and the amount of indebtedness of the estate, together with the estimated amount of other accrued expenses of administration;

(3) Date of Employment. The date of entry of the Order of the Court approving the employment of the individual or firm for whom payment of fees or expenses is sought and the date of the last application;

(4) Retainer. The amount of any retainer received by the applicant;

(5) Prior Fee Requests. A listing of the amount of fees and expenses previously requested, those approved by the Court, and how much has been received;

(6) Application of Retainer. The amount of retainer that has been applied toward payment of previously approved fees and expenses and the amount of funds out of the original retainer remaining in trust;

(7) Description of Services Rendered. A brief narrative statement of the services rendered and the time expended during the period covered by the fee application;

(8) Benefits From Representation. A specific description of the benefits conferred on the bankruptcy estate by the services rendered;

(9) Time Record. A detailed listing of all time spent by the applicant on matters for which compensation is sought, including the following:

(A) Date service was rendered;

(B) Description of service. It is not sufficient merely to state "Research," "Telephone Call," "Court Appearance," "Conference with Client," "Conference with Attorneys," etc. Reference must be made to the particular persons, motions, specific tasks performed and other matters related to such service;

(C) Amount of time spent. Time spent is to be accounted for in tenths of an hour and is generally to be broken down in detail by the specific task performed. Time entries must be itemized with services performed; and

(D) Designation of the particular person who rendered the service. If more than one person's services are included in the application, specify which person performed each item of service.

(10) Expense Record. An application that seeks reimbursement of expenses shall include an attached summary, a listing of all expenses by category (i.e., long distance telephone, copy costs, messenger service, and computer research), and shall also contain a total. As to each unusual or costly expense item, the application must state:

(A) date the expense was incurred;

(B) description of the expense;

(C) amount of the expense; and

(D) explanation of the expense.

(11) Education and Experience. A description of the professional education and experience of each of the individuals rendering services, which may include identification of the professional school attended, year of graduation, year admitted to practice, publications or other achievements, and explanation of any specialized background or expertise in bankruptcy-related matters. Once a detailed description as required herein is submitted in connection with a particular application, the professional need not reiterate the description in subsequent applications in the same case.

(12) Hourly Rates. The application shall contain a listing of the hourly rates charged by each person whose services form a basis for the fees requested in the application. The application must contain a summary indicating for each attorney by name:

(A) the hourly rate and the periods each rate was in effect;

(B) total hours in this application for which compensation is sought; and

(C) total fee due in this application.

(13) Recapitulation. The application shall contain a recapitulation of the time for which the application seeks compensation, and the total compensation amount requested by the application.

(b) Chapter 11 Cases; Additional Requirements. In addition to the requirements set forth above, applications within Chapter 11 cases shall describe and set forth the following:

(1) Operations. The general operations of the debtor;

(2) Profit or Loss. Whether the business of the debtor, if any, is being operated at a profit or loss; and

(3) Plan. Whether a plan has been filed and, if not, what are the prospects for reorganization and when it is anticipated that a plan and disclosure statement will be filed.

(4) Monthly Reports. Whether all monthly reports required by Rule 2081-1(a)(6) of these Rules have been filed as required by that Rule, and if not, the status of monthly report filings as of the filing of the application and the reason(s) for non-compliance.

(c) Chapter 13 Cases. The debtor's attorney in a Chapter 13 case shall comply with Rule 3015-1(a)(4) of these Rules in requesting approval of fees and expenses.

(d) Notice and Hearing. Approval of professional fees and expenses payable from the bankruptcy estate is required in all cases, and, if in excess of \$1,000.00, may be granted only after notice and hearing in accordance with Rules 9013-1 through 9014-3 of these Rules.

[SOURCE: FORMER L.B.R. 312]

## **2016-2 Compensation of Professionals - Disclosure**

(a) Form of Disclosure. In all cases arising under Title 11, the attorney *for the debtor* shall file a statement disclosing the compensation received, or promised, or to be charged in the future, for services rendered or to be rendered on behalf of the debtor(s). The statement shall conform with **Local Rules Form #5**. Within the disclosure the attorney shall specifically disclose the types of services covered by the compensation paid, shall specifically describe the services for which additional compensation has been promised or for which additional compensation will be charged, and shall disclose the compensation to be charged for such additional services.

(b) Scope of Representation. In all cases arising under Title 11, the attorney for the debtor is presumed to appear for the debtor in the case and all proceedings related to the case unless, within the Disclosure of Compensation, the attorney specifically limits the services to be provided for the disclosed fees. For such limitations to be effective, the attorney must attach to the disclosure, or there must be contained within the disclosure, a written agreement signed by the attorney and the

debtor(s) specifically listing and identifying the types of actions, proceedings and matters not included within the scope of the attorney's representation. The agreement shall also contain a representation by the attorney and an acknowledgment by the debtor (i) that the attorney has fully explained and described to the debtor the type and nature of the actions, proceedings and matters not covered by the scope of representation and the potential effect upon the debtor of any excluded action if brought; (ii) that the debtor fully understands the explanation and description and does not wish to retain the attorney in connection with any such potential actions, proceedings or matters; and (iii) that the debtor fully understands the services for which additional compensation will be charged, the amount of the charges should additional services be agreed upon, and the necessity of settlement of any such charges before the additional services will be performed.

(c) Chapter 13 Cases; Special Provisions.

(1) Procedures Statement; The Home Loan, Cure and Maintain, Plan Payments and Default in Plan Payments. In addition to the disclosure requirements of subsections (a) and (b) of this Rule, the debtor's attorney disclosure form in Chapter 13 cases shall contain a procedures statement, which shall contain, without limitation, advice concerning the following matters:

(A) the necessity of maintaining post-petition payments on account of/in accordance with loans secured solely by the principal residence and/or loans that will be treated pursuant to § 1322(b)(5), and of the necessity of maintaining proof of all payments made;

(B) the procedural steps to be taken by the debtor(s) regarding communication with counsel in the event that payments on these types of obligations become in default, post-petition;

(C) the procedural steps to be taken by the debtor(s) regarding communication with and the providing of evidence to counsel in the event the debtor(s) become respondent(s) to motions seeking relief from or modification of the automatic stay on the basis of insurance lapse, payment default, or other (if any) post-petition default of an obligation to be maintained post-petition;

(D) the necessity and schedule of making plan payments required by any submitted plan prior to confirmation;

(E) the procedural steps to be taken by debtors(s) regarding communication with and the providing of evidence to counsel in the event the debtor(s) become delinquent in plan payments and/or become respondents to a motion by the trustee seeking dismissal or conversion on account of default of plan obligations.

(2) Procedures Statement; No Communication with Lawyer for Creditor. The procedures statement shall contain the affirmative advice that, without court approval to do so, the debtor(s) shall not communicate directly with the office of counsel for a creditor seeking stay relief regarding the motion or proceedings in connection therewith.

(3) Procedures Statement; Review of Statement Before Signing. The written procedures statement shall be dated and shall be signed by counsel, below an indication that the

content of the statement has been related orally to the client and that the client has been provided a copy and advised to read it thoroughly, and shall be signed by the debtor, below an indication that counsel has discussed the content of the statement and that the debtor has been advised to keep track of the copy provided and to read it thoroughly.

(4) Procedures Statement; Component of Attorney Disclosure. The original procedures statement, signed and dated, shall be contained within, or attached as an attachment to, the Attorney Disclosure required by Rule 2016(b), FRBP.

*[SOURCE: FORMER L.B.R. 310; NEW]*

### **2016-3 Compensation of Attorneys - Particular Matters**

(a) Particular Matters Involving Applications Under § 327. Fee applications seeking approval of fees for representation of the estate in particular matters other than matters involving fee agreements under § 328 of the Bankruptcy Code shall comply with Rule 2016-1 of these Rules except subsection (a)(2) of that Rule.

(b) Particular Matters Involving Applications Under § 328. If the fee application seeks approval of fees involving matters subject to a fee agreement previously approved, or seeks approval of compensation in addition to and different from that previously approved, or seeks contingency compensation that was not previously approved, the application shall comply with the provisions of Rule 2016-1(a)(3)-(8), (9) (where applicable, for example, in non-contingency fee agreements), (10), (11) (where applicable), and (12) of these Rules.

*[SOURCE: NEW]*

### **2081-1 Chapter 11 - General**

(a) Duties of Debtor in Chapter 11; General. Pursuant to 11 U.S.C. § 1101(1), the debtor shall continue in possession of its estate and, pursuant to 11 U.S.C. §§ 1107(a) and 1108, shall continue the operation of its business and management of its property until further order of this Court. In connection with the operation of said business, the debtor-in-possession:

(1) Bank Accounts. Shall close all bank accounts maintained prior to the filing of the petition. All funds on deposit to the credit of the debtor in said accounts shall be transferred to new accounts to be opened by the debtor-in-possession unless such balances constitute cash collateral. Deposits are to be made only in accounts within a depository for bankruptcy accounts approved by the United States Trustee.

(2) Withholding Taxes; Employees. Shall segregate and hold separate and apart from all other funds any and all monies withheld from employees or collected from others for taxes, including social security taxes, under the laws of the United States or any state or subdivision

thereof, and to deposit, as required by law, all monies withheld from employees for social security and federal income tax withholdings.

(3) Withholdings; Others. Shall deposit or pay promptly to any state or political subdivision thereof any and all monies required to be withheld or collected from others subsequent to the petition date, on such basis as may be required by the laws or ordinances of such state or political subdivision.

(4) Closure of Books; New Books of Account. Shall close and preserve its pre-petition books and accounts and open and maintain new books of account showing all income, expenditures, receipts and disbursements of the debtor while debtor-in-possession. Within sixty (60) days after the petition date, the debtors shall file in the record of the case a balance sheet as of the day prior to the petition date and an income and expense statement showing cumulative income and expenses during the debtor's preceding fiscal year through the petition date.

(5) Insurance. Unless the Court orders otherwise, shall keep the property of the debtor's estate insured at a level equal to the value of such property and shall pay such premiums as may be or become due thereon. The debtor shall immediately notify all secured creditors, the unsecured creditors' committee (or 20 largest unsecured creditors), the office of the United States Trustee and the Court if the debtor is unable to continue such insurance. Failure to provide insurance under this subsection may be grounds for dismissal of the case, for relief from the § 362 stay regarding the uninsured property, or for other appropriate sanctions.

(6) Monthly Reports. Shall file, on or before the 15th day of each month, a copy of a verified statement of financial information covering the prior month's operations of the debtor and, unless otherwise ordered by the Court, shall serve a copy upon the U. S. Trustee and counsel for the creditors' committee or, if not represented by counsel, upon each member of the creditors' committee.

(A) Required Content. The monthly report shall contain the following information:

- (i) a current balance sheet and a cumulative balance sheet for the time of the Chapter 11 case;
- (ii) an income and expense statement for the current month and the accumulation during the Chapter 11 case (together with a designation as to whether the statement is prepared on a cash or accrual basis);
- (iii) a statement of changes in financial position (statement of cash flows) in the event the income and expense statement is prepared on an accrual basis;



- (iv) a separate statement section, containing the names of insiders, affiliates, or related entities to whom payments of any kind have been made during the month covered by the statement, a specific description of the nature of the payments and a cumulative total (with description) of all payments made during the pendency of the case;
- (v) a specific listing of cash receipts and disbursements for the month;
- (vi) a summary of new indebtedness incurred and total outstanding debt incurred after the commencement of the case;
- (vii) a detailed statement of projected cash flow on a monthly basis for the following six months;
- (viii) an aging schedule of accounts receivable;
- (ix) a schedule of all insurance policies in place, including a description of coverage and limits; and
- (x) a narrative report of the debtor's efforts during the prior month to rehabilitate the business and to confect a plan.

(B) Failure to File. Failure to file monthly reports in conformity with this Rule shall be grounds for dismissal or conversion of the bankruptcy case or other appropriate sanctions.

(7) Prevention Against Incurring Administrative Expense. Shall take all steps reasonably possible to prevent the incurring of administrative or priority expenses, the payment of which will not be possible from funds which can be generated during the pendency of the case. The debtor shall take reasonable steps to prevent depletion of assets and advise this Court promptly if the continued operation of the business of the debtor may not be in the best interests of the creditors or the debtor.

(8) Compensation for Insiders and Officers. Shall pay compensation or other remuneration from assets of the estate to any insider or affiliate or to any former insider or affiliate, or to any present or former officer, director, or stockholder of the debtor only upon specific authorization from the Court.

(A) Content of Motion. Any motion for authority to pay compensation to insiders (as that term is defined in 11 U.S.C. § 101(31)) shall recite and disclose:

- (i) The debtor's reasons for belief that retention of the insider is necessary to the estate;
- (ii) The services that the insider shall perform on behalf of the estate;

- (iii) Any and all compensation, benefits, and payments that the insider has received during the six months prior to the bankruptcy petition;
- (iv) The insider's salary as of the date of the bankruptcy petition; and
- (v) The salary (including any benefits) that the debtor proposes to pay and the amount the insider has agreed to accept.

(B) Affidavit of Insider. The debtor shall attach to the motion for authority to pay compensation to the insider an affidavit of the insider, governed by Rule 1008-1 of these Rules, verifying the content of the motion and disclosing any income earned or expected for services that the insider renders to any person or entity other than the debtor.

(C) Proposed Order. The debtor shall submit a proposed order with the motion. The proposed order shall be submitted pursuant to Rule 9013-4(b)(1) of these Rules.

(D) Ex parte Consideration. The Court may grant ex parte authorization of the payment as requested if written notice of the motion and proposed order has been sent to the U. S. Trustee, the twenty largest unsecured creditors or to the members of the unsecured creditors' committee and its counsel, to all secured creditors, and to anyone else the Court directs.

(E) Reservation of Future Objection. Any order approving compensation to an insider shall be subject to subsequent objection to continuation of the compensation by any party in interest through a motion to discontinue or modify such compensation. Any such motion shall be noticed for hearing in accordance with these Rules.

*[SOURCE: FORMER L.B.R. 701; NEW]*

## **2081-2 Chapter 11 - Status Conference**

(a) Debtor's Counsel Responsible for Fixing. In all cases counsel of record for the debtor shall have the responsibility to notice all creditors and parties in interest, including the U. S. Trustee, of a status conference concerning the Chapter 11 case, which shall be fixed upon no less than fifteen (15) days' notice to such parties and the Court. The status conference date and time shall be fixed for 11:00 a.m. on the first motion day (Friday) after the expiration of the period within which the debtor has the exclusive right to file a plan. Counsel for the debtor shall be prepared to discuss whether a confirmable plan is in prospect, the present posture of the case, operations of the debtor during the pendency of the case, and the necessity for fixing hearing dates and preliminary matters in connection with upcoming hearings (in the event a plan and disclosure statement have been filed or other hearings are set). The status conference shall be held in open court.

(b) Failure to Fix. Failure to fix and notice the status conference as required by this Rule shall be grounds for sanctions, including dismissal or conversion of the case or other appropriate sanctions.

*[SOURCE: FORMER L.B.R. 702]*

**2082-1 (Provisional) Chapter 12 - General**

(a) Duties of Debtor in Chapter 12 - General. The debtor in Chapter 12 shall comply with the following requirements. It shall be the duty of the attorney for the Chapter 12 debtor to explain these requirements to the debtor and to assist the debtor to assure that these requirements are met.

(1) Cooperation With Chapter 12 Trustee. The debtor shall cooperate with the Chapter 12 trustee, including, but not limited to, furnishing information required by the Chapter 12 trustee in supervising the administration of the case, including regular reports of operations of the debtor's farming enterprise. The debtor shall promptly serve on the Chapter 12 trustee notice of all motions, reports, and other pleadings filed by the debtor.

(2) Insurance Statement. At the § 341(a) meeting the debtor must provide the Chapter 12 trustee with a verified statement or written evidence from the debtor's insurance carrier or broker that the debtor has fire and extended coverage on his buildings and equipment and also motor vehicle insurance on all vehicles operated on public highways. If no such insurance is currently in effect, the debtor must explain why it is not. The debtor shall immediately notify the Chapter 12 trustee, the office of the United States Trustee and all secured creditors of any lapse, cancellation, or proposed cancellation of any insurance coverage.

(3) Books and Records. The books and records of the debtor are to be closed as of the date of filing the bankruptcy petition, and a new set of books and records must be kept thereafter for the debtor-in-possession under Chapter 12.

(4) Bank Accounts. All bank accounts must be in the name of the debtor as "Chapter 12 Debtor-in-Possession" effective on the date the Chapter 12 petition is filed. The debtor must provide the Chapter 12 trustee copies of the new signature cards showing the designation of the accounts as "debtor-in-possession." The debtor shall provide the Chapter 12 trustee with copies of the monthly statement for each bank account.

(5) Copies of Transactions. The debtor must maintain a file in which to keep copies of all bills, invoices, and sales slips for purchases or payments the debtor makes after the petition is filed.

(6) Income Tax Returns. The debtor must provide the Chapter 12 trustee a copy of the debtor's last year's federal and state income tax returns, Form 1040, and all Schedules filed with the return, including Schedule F, at least five (5) days prior to the first meeting of creditors.

(7) Federal, State and Local Tax Schedules and Forms. It shall be the responsibility and duty of the Chapter 12 debtor-in-possession to file applicable returns and schedules pursuant to 11 U.S.C. §§ 1203 and 1231. The debtor-in-possession shall cooperate and

assist the trustee in preparation and filing of all returns required by § 1231 and the Internal Revenue Code.

(8) Restrictions. The debtor may not:

(A) retain or employ attorneys, accountants, appraisers, auctioneers, or other professional persons without Court approval. This restriction includes employing the attorney who filed the petition to provide services after the filing;

(B) compensate any attorney, accountant, appraiser, auctioneer, or other professional except as allowed by the Court;

(C) use cash collateral (or case equivalents) without the consent of the secured creditor or Court authorization. Cash collateral includes proceeds, products, offspring, rents, or profits of property subject to a security interest when reduced to cash;

(D) obtain credit or incur unsecured debt other than in the ordinary course of business without Court authorization;

(E) incur secured debt without Court authorization; or

(F) pay any creditor for goods or services provided before the filing of the petition except as provided in a confirmed plan.

(9) Filing a Chapter 12 Plan. A Chapter 12 plan must be filed within 90 days of the date the petition was filed unless the Court extends the time.

(10) Liquidation Analysis. Under 11 U.S.C. § 1225(a)(4), the debtor must be able to prove at the hearing on confirmation of the plan that the amount that will be distributed under the plan for each allowed unsecured claim is not less than the amount that would be paid on the claim if the debtor were liquidated under Chapter 7. The debtor shall prepare an accurate analysis of the liquidation value of all the property of the debtor's estate which the debtor shall present to the Chapter 12 trustee at the § 341(a) meeting.

(11) Failure to Comply. Failure of the debtor to comply with the instructions contained in these Rules will result in a hearing to determine whether the case should be dismissed and may result in other sanctions.

(b) Monthly Pre-Confirmation Operating Reports.

(1) Requirement for Reports. Chapter 12 debtor(s) shall file Monthly Cash Receipts and Disbursements Reports. These reports shall be filed for each calendar month and are due on or before the 15th day of the month and shall cover the prior month's operations.

(2) Form of Reports. The form of the Monthly Cash Receipts and Disbursements Reports shall conform substantially to the Monthly Cash Receipts and Disbursements Report attached as **Local Rules Form #6.**

(3) Filing and Service of Reports. The Reports shall be filed, and a copy of the Report shall be served on the Chapter 12 trustee.

(c) Summary of Operations.

At least five (5) days prior to the § 341(a) meeting, the debtor shall file a "Summary of Operations - Family Farmer." The summary shall substantially conform with attached **Local Rules Form #7**. Contemporaneously with filing the form, the debtor shall serve a copy of the form on the Chapter 12 trustee and on any creditor who makes written request for a copy.

*[SOURCE: FORMER L.B.R. 801-803]*

**2083-1 Chapter 13 - General**

(a) Duties of Debtor and Debtor's Counsel.

(1) Budget Documentation. The debtor(s) and debtor(s)' attorney shall, without the necessity of any request by the trustee, be prepared to provide the Chapter 13 trustee with documentation supporting the income and expense amounts listed in the Chapter 13 budget, arranged in an orderly fashion so as to permit expeditious review, by the date of the § 341(a) meeting of creditors. The supporting documentation may consist of copies of payroll checks, receipts, utility bills, insurance premium notices, canceled checks, gasoline receipts, and any other relevant documents. If the trustee requests that a certain budgeted item be substantiated, the information requested shall be provided no later than three (3) days' before the initial hearing date fixed for confirmation of the debtor's plan, or a formal written objection to the trustee's request must be filed within ten (10) days after the § 341(a) meeting. If such an objection is filed, it shall be noticed for hearing on the same date and at the same time as confirmation of the Chapter 13 plan.

(2) Insurance. The debtor shall keep estate property insured at a level equal to the value of such property and shall pay such premiums as may be or become due thereon. At or prior to the first scheduled § 341(a) Meeting of Creditors the debtor shall serve proof of currently maintained insurance upon all secured creditors and the Chapter 13 Trustee. Certification of this service shall be filed within three days of its service along with a copy of the proofs of insurance coverage that were served. The debtor shall immediately notify all affected secured creditors, the Standing Chapter 13 Trustee and the Court if the debtor is unable to continue such insurance. Failure to provide insurance under this subsection, as well as failure to comply with the notice provisions of this subsection, may be grounds for dismissal of the case, for relief from the § 362 stay regarding the uninsured property, or for other appropriate sanctions.

(3) Filing the Plan. An original plan shall be filed. The Clerk's office shall notice the Chapter 13 trustee of the filing of the plan.

## **2090-1 Attorneys - Admission to Practice, Generally**

(a) Admission to Practice Before District Court. Except as set forth below, appearance before the Court on behalf of a person or entity may be made by an attorney admitted to the bar of, or admitted to practice before, the district court.

(b) Particular Requirements.

Attorneys appearing before the Court must have read and become familiar with the provisions of the Judicial Code (28 U.S.C. § 1334, §§ 151-158, and §§ 1408-1412 and § 1452) which pertain to jurisdiction over and venue of bankruptcy cases, proceedings, and matters; the Bankruptcy Code (Title 11 U.S.C.); Bankruptcy Rules and Official Forms (Title 11 U.S.C.); the Federal Rules of Evidence; these Local Rules of the United States Bankruptcy Court for the Middle District of Louisiana; the Rules of Professional Conduct of the Louisiana State Bar Association; and Chapter 9 of Title 18 of the United States Code. Attorneys practicing before this Court must obtain an Electronic Filing Password pursuant to Rule 2090-2 of these Rules.

## **2090-2 Obtaining Electronic Filing Password; Maintaining Original Documents; Reiteration of Obligation Regarding Verifications and Declarations**

Because of the implementation of the electronic case filing/case management system, all papers to be filed of record on the docket of the Court shall be filed electronically. To practice before the Court through the filing of papers, it shall be necessary to utilize an attorney password. The attorney password is to be distinguished from the limited use password, which shall be obtained to enable *pro hac vice* appearance and/or to enable the filing of certain limited types of papers from remote location by attorneys and non-attorneys (see, for example, Rules 3002-1, 3011-1, and 9010-1). This Rule shall govern the means of obtaining and the rights and obligations pertaining to the use of the attorney password, as opposed to the limited use password.

(a) Filing of Papers; Password Registration. Electronic filing of papers of any kind of record on the Court's docket, if the filing is to be done from a remote location, shall require the attorney to use a password to be issued by the Clerk. To obtain the password, an attorney must submit a properly filled-out application conforming to **Local Rules Form #8** to the Clerk. A password will not be issued until after the application is submitted and approved and after the attorney, individually, has completed at least two hours of court training on the use of the Electronic Case Filing/Case Management System.

(b) Maintaining Original Documents Containing Original Signatures. Attorneys practicing before this Court shall be obligated to maintain a signed original of every petition, statement, schedule, amendment, verification, declaration, pleading, or paper of any kind that is electronically filed of record on the docket of this Court, for which a Declaration must be transmitted to the court pursuant to the provisions and requirements of Rule 1008-1 of these Rules or that contains an original signature of a client, client representative, or the attorney. The original papers

required to be maintained under this Rule shall be maintained for a period of one year after the case or proceeding is closed.

(c) Reiteration of Obligations Regarding Verifications and Declarations. Attorney practice before this Court shall constitute an acknowledgment and acceptance of the obligation to transmit to the Clerk the Declarations referred to and/or governed by Rule 1008-1 of these Rules.

### **2090-3 Pro Hac Vice Appearance.**

(a) Permission to Appear Pro Hac Vice. Any person who is not otherwise eligible for admission to practice before this Court, but who is a member in good standing of and eligible to practice before the bar of any United States Court or of the highest court of any State, Territory, or Insular Possession of the United States, who is of good moral character and who has been retained to appear before the Court, may, upon written motion and in the discretion of the Court, be permitted to appear and participate *pro hac vice* in a particular case or in a particular proceeding in a case. Permission to appear *pro hac vice* in the bankruptcy court does not include permission to appear before a district court judge. Separate permission must be obtained from the district court.

(1) Obtaining Pro Hac Vice Password Number for Electronic Filing. Prior to the filing of the motion seeking authority to appear *pro hac vice*, the attorney must obtain a pro hac vice Electronic Filing Password.

(2) Method of Obtaining Pro Hac Vice Password Number. An application conforming to **Local Rules Form #9** must be filled out and transmitted to the Clerk, who, if the application is properly submitted, shall issue a password that will allow the filing of papers of record on the docket of the court in the particular case or proceeding for which *pro hac vice* appearance is approved. Though the *Pro Hac Vice* Password will be a limited use password (limited for use in connection with the particular matter in which *pro hac vice* appearance is approved), the password will afford full attorney use within the particular case(s) or proceeding(s).

(b) Not Eligible for Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States, Act of Congress, or Order of the Court, an applicant is not eligible for permission to practice *pro hac vice* if the applicant:

- (1) resides in Louisiana; or
- (2) is regularly employed in Louisiana; or
- (3) is regularly engaged in business, professional, or other similar activities in Louisiana.

(c) Discretionary Designation of Local Counsel. The person moving to appear *pro hac vice* may, but is not required, to designate an attorney residing or maintaining an office in the district to be responsible to the Court at all stages of the proceedings, including all court appearances. If

local counsel is designated, all documents requiring the signature of counsel for a party must be signed by local counsel.

(d) Contents of Motion to Appear. Each movant for permission to appear *pro hac vice* shall file of record a written motion containing the following:

- (1) the movant's name, residence and office address;
- (2) the courts to which the movant has been admitted to practice and the respective dates of admission;
- (3) a statement by the movant of the good standing to practice before the courts to which the movant has been admitted;
- (4) whether the movant has been disciplined by any court or administrative body, and if disciplinary proceedings are pending, the details of such proceeding and whether the movant resigned while disciplinary proceedings were pending;
- (5) whether, in the three years preceding the application, the movant has filed for permission to practice *pro hac vice* before any court within the State of Louisiana, together with the court, title and number of each such proceeding and the disposition of each such application;
- (6) if applicable, the designation allowed by Rule 2090-3(c) of these Rules, including the office address, telephone number, and written consent of the designee;
- (7) the conditions of the application for *pro hac vice* password have been fulfilled;
- (8) a description of any training on the Electronic Case Filing System used by any court; and
- (8) all requirements of these Rules affecting attorneys, use of the Electronic Filing System, etc., are acknowledged and accepted by movant.

(e) Proposed Order. A proposed order granting the motion shall be submitted and shall contain language setting forth the approval of *pro hac vice* status and a designation of the matters in which *pro hac vice* counsel shall be engaged. The proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

[SOURCE: FORMER L.B.R. 102-104; NEW]



## 2091-1 Attorneys - Withdrawal/Substitution

The original counsel of record for a debtor in a bankruptcy case or proceeding shall remain counsel of record and be held to represent that debtor unless the Court permits him to withdraw from the case or proceeding. Counsel may obtain permission to withdraw only as follows:

(a) No Limitation of Scope of Representation Under Rule 2016-2. If the matters on which the attorney has been hired have not been limited, as authorized by and in the manner set forth in Rule 2016-2 of these Rules, withdrawal must be authorized by the Court as follows:

(1) Motion to Withdraw and Substitute Counsel. The Court may consider an ex parte joint motion to withdraw and to substitute counsel, executed by counsel seeking to withdraw, counsel seeking to be enrolled and the client. If the motion is not signed by all parties listed in this subsection, the Court may not consider a joint motion to withdraw and to substitute counsel except after hearing and upon written motion and notice conforming to the requirements of Rules 9013-1 through 9014-3 of these Rules.

(2) Motion to Withdraw With No Substitution of Counsel. The motion requesting authority to withdraw where counsel has not arranged for a substitute counsel shall contain the following:

(A) the address of the client and the client's telephone number if the client can be reached by telephone;

(B) a statement as to the reasons for the withdrawal request;

(C) a statement that the client has been contacted regarding the withdrawal request and has been notified of all deadlines and pending court appearances and the consequences of proceeding without an attorney, and a statement of the efforts undertaken to procure substitute counsel and the reasons substitute counsel has not been procured.

(b) Formal Withdrawal as Named Counsel of Record Where Representation is Properly Limited. When representation has been properly limited pursuant to Rule 2016-2 of these Rules, but the attorney wishes to be formally withdrawn as counsel of record, the motion need not contain the signature of the debtor, but must contain a statement that counsel was not retained to represent the debtor in the case as postured (e.g., after conversion of a chapter 13 case to a case under chapter 7), along with specific evidence of the scope of representation attached to the motion, and also a recitation that the debtor has been contacted prior to the filing of the motion.

(c) Notice of Motion. Where an attorney seeks to withdraw, the motion, and, if applicable, the notice shall be served on the debtor, the United States Trustee, any trustee, and any committees which may have been appointed pursuant to the Bankruptcy Code. Where an attorney seeks to withdraw from a proceeding, the motion, and, if applicable, the notice of hearing shall be served upon the client and all counsel of record.

(d) Proposed Order. Where ex parte relief can be expected, a proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules. If hearing is necessary, the motion, notice of hearing, and submission of proposed order shall be governed by Rules 9013-1 through 9014-3 of these Rules, particularly Rule 9013-4(b)(3).

*[SOURCE: FORMER L.B.R. 105]*

### **2092-1. Claims of Judicial Misconduct or Disability**

To improve the administration of justice in the federal courts, Congress passed the Judicial Conduct and Disability Act of 1980, codified at 28 U.S.C. § 372(c). The law authorizes complaints against United States circuit, district, bankruptcy, and magistrate judges who have “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” or who are “unable to discharge all the duties of office by reason of mental or physical disability.” The conduct to which the law is addressed does not include making wrong judicial decisions, for the law provides that a complaint may be dismissed if it is “directly related to the merits of a decision or procedural ruling.”

The Judicial Council of the Fifth Circuit has adopted Rules Governing Complaints of Judicial Misconduct or Disability. These rules apply to judges of the U.S. Court of Appeals for the Fifth Circuit and to the district, bankruptcy, and magistrate judges of federal courts within the Fifth Circuit. The circuit includes the states of Texas, Louisiana, and Mississippi.

These rules may be obtained from, and written complaints filed at, the following office:

Clerk, U.S. Court of Appeals for the Fifth Circuit  
600 Camp Street, Room 102  
New Orleans, Louisiana 70130

*[SOURCE: APPENDIX – NOTICE REGARDING COMPLAINTS OF JUDICIAL MISCONDUCT OR DISABILITY, DISTRICT COURT UNIFORM LOCAL RULES]*

## **PART III**

### **3001-1 Claims, Electronic Filing.**

(a) General Rule. As a general rule, proofs of claim shall be filed by the claimant electronically, either from the location of the Clerk's office, or from a remote location through the use of a limited use password.

(b) Discretion to Delay Implementation of General Rule. The Clerk shall have discretion to implement the general rule of subsection (a) of this Rule over a period of time not to exceed 180 days after the effective date of these Rules, due to the widespread number and location of claimants who file proofs of claim with this Court. On a claim-by-claim basis, during the period of discretion set forth in this Rule, the Clerk shall have the discretion to determine that the combination of costs (in labor and actual out-of-pocket cost) to both creditor and Clerk and the undue hardship that would be imposed upon the claimant, justify the clerk performing the electronic imaging and filing of a particular proof of claim without attempting to have the creditor effectuate an electronic filing.

(c) Limitation on Discretion. Pending the expiration of the period of discretion of the Clerk set forth in subsection (b) of this Rule, the discretion of the Clerk shall not extend to deeming a proof of claim not filed on the basis of the unwillingness or inability of the claimant to effectuate its own electronic filing. The effect of this limitation on discretion shall not apply once the authority to use discretion, afforded under subsection (b) of this Rule, has expired.

*[SOURCE: NEW]*

### **3002-1 Filing Proof of Claim or Interest; Method of Filing Electronically.**

Proofs of claim may be filed electronically at the location of the court or from a remote location.

(a) Filing Claim at Court Location. A proof of claim may be filed at the location of the court, by means of an electronic filing station located at the Clerk's office. Scanning technology will be available as well as the technology to process digital information (e.g. from a disk) to the proper Portable Document Format necessary to effect the filing of the claim.

(b) Filing From a Remote Location; Limited Use Password. Proofs of claim may be filed electronically from a remote location, upon the person obtaining a limited use password from the Clerk. Limited use passwords may be obtained by transmitting a completed application therefor, which shall conform to **Local Rules Form #9**. Training in the filing of claims through use of a limited use password is available from the Clerk's office at the Court Training Center.

(c) The claim; Attachments, Writings, Security Instruments. All attachments, writings, security instruments, evidence of indebtedness, etc. shall be attached, electronically, to the Official Proof of Claim Form, as a part of the Portable Document Format (PDF) document that will be the claim.

(d) Signatures.

(1) Claims Filed From Remote Location. Signatures shall be electronic. If filed electronically from a remote location, the claim shall be electronically signed "s/name of password user." The electronic signature of a password user upon a proof of claim shall constitute the original

signature upon the claim and unsworn declaration for all purposes authorized under law, in conformity with the application upon which the password is issued, and the requirements of these Rules.

(2) Claims Filed at Court Location. If filed electronically from the location of the court without a password, the proof of claim shall be electronically signed "s/name of claimant or representative of claimant." If the signing person is not one to whom a limited use password has been issued by the court, it shall be necessary for the signing person to transmit to the court an Original Declaration governed by Rule 1008-1 of these Rules. If the claim is filed from the Office of the Clerk through use of a limited use password, no Declaration need be provided.

*[SOURCE; NEW]*

### **3011-1 Unclaimed Funds; Method of Withdrawing.**

Applications to withdraw unclaimed funds, pursuant to 11 U.S.C. § 347(a), may be filed electronically at the location of the court or from a remote location.

(a) Filing Application at Court Location. An application to withdraw unclaimed funds may be filed at the location of the court, by means of an electronic filing station located at the Clerk's office. Scanning technology will be available as well as the technology to process digital information (e.g. from a disk) to the proper Portable Document Format necessary to effect the filing of the claim.

(b) Filing From a Remote Location; Limited Use Password. Applications to withdraw unclaimed funds may be filed electronically from a remote location, upon the person obtaining a limited use password from the Clerk. Limited use passwords may be obtained by transmitting a completed application therefor, which shall conform to **Local Rules Form #9**. Training in the filing of applications through use of a limited use password is available from the Clerk's office at the Court Training Center.

(c) Proposed Order. A proposed order shall be submitted along with the application, by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules.

*[SOURCE: NEW]*

### **3012 -1 Valuation of Collateral, Chapter 11 and 13 Cases.**

(a) Valuation of Collateral; Agreement. Prior to the § 341(a) meeting of creditors, the debtor's attorney and the debtor shall make due and diligent effort to reach agreement with creditors whose claims are secured by liens upon property of the estate regarding the value of the secured claim.

(b) Valuation of Collateral; Plan. Where the debtor's plan proposes to value a secured claim at an amount less than the total claim, the debtor's plan shall provide that in the event the creditor contests the valuation of the secured claim as fixed in the plan, the creditor may file and serve an objection to the valuation within the time fixed to file an objection to the confirmation of the plan, stating the creditor's best estimate of the value of the collateral and the creditor's basis, if any, for that estimate. If no objection is filed, the Court will proceed to determine the valuation, pursuant to Rule 3012, by default, as a part of the confirmation proceedings. Upon receipt of such an objection, the debtor, through counsel if the debtor is represented by counsel, shall immediately make the collateral available to the creditor for examination and appraisal. The plan shall further state, that in the event of objection which is unresolved as of hearing on confirmation, the Court will take evidence pursuant to Rule 3012 and, if applicable, Rule 3001(f), FRBP, at a hearing held under these Rules as a component of the confirmation proceeding.

(c) Avoidance of Liens. Where the plan of the debtor does not provide for a secured claim because the debtor intends to avoid the security interest on the basis of invalidity, ranking, perfection or extent of the lien, or to cancel the lien without any payment (except for liens avoided pursuant to § 522(f) by means of separate motion), the debtor must proceed regarding lien avoidance by complaint (see Rule 7001, FRBP). If the debtor files his complaint at least twenty (20) days prior to the hearing on confirmation of the debtor's plan, the office of the Clerk of Court, upon the request of the debtor, shall issue a summons (i) directing the defendant to file and serve an answer or other response by the day before the confirmation hearing; and (ii) notifying the defendant that trial of the complaint is fixed on the date and at the time of the confirmation hearing. For the debtor to retain this trial date, service of the complaint and summons must be made at least seventeen (17) days prior to the trial date. The Court may determine the issue of lien avoidance at the hearing on confirmation or may schedule further proceedings consistent with the interests of justice.

*[SOURCE: FORMER L.B.R. 907]*

### **3015-1 Chapter 13 - Plan**

(a) Requirements. A plan shall contain, in addition to the requirements of 11 U.S.C. § 1322(a):

- (1) Payments. The amount of payments to be made to the trustee, by month;
- (2) Term of Plan Payment Period. If the plan proposes payments to creditors over a period that exceeds three years, a statement setting forth the cause for such longer period of time;
- (3) Trustee Portion. The portion of the plan payment designated as trustee compensation and reimbursement;
- (4) Curing of Default. If the plan provides for the curing of any default or arrearage, a designation of the default as pre-petition or post-petition;

(5) Value of Each Item. A statement of the value of each item of encumbered property (collateral) securing a claim proposed to be provided for or dealt with by the plan;

(6) Payment of Claims. The manner in which claims or classes of claims shall be paid, including the monthly payment amounts, whether the payments will be made directly by the debtor or by the trustee, the allowed claim to be paid or whether the payment will be to a class of allowed claims;

(7) Rate of Interest. A statement of the rate of interest to be paid upon each secured claim;

(8) Avoidance of Liens. If the debtor intends to avoid a lien, entirely, pursuant to 11 U.S.C. § 506(d) and Rule 3012, FRBP, or pursuant to other applicable bankruptcy or non bankruptcy law, a clear statement indicating that the debtor proposes to avoid the lien of a particular creditor and the alleged ground of the proposed avoidance;

(9) Liquidation Value. An analysis of what unsecured creditors would receive if the case were liquidated under Chapter 7 (liquidation value);

(10) Computing Present Value. A statement of the annual interest or discount rate used to compute the present value of the deferred payments to unsecured claims for purposes of 11 U.S.C. § 1325(b)(1)(A), or wherever else applicable;

(11) Present Value. A statement of the present value of the deferred payments to unsecured creditors;

(12) Basis For Differing Treatment. The basis for different payments or treatment of creditors within the same class;

(13) Surrender of Collateral. Regarding claims provided for by the surrender of collateral (11 U.S.C. § 1325(a)(5)(C)), a statement that confirmation of the plan shall constitute an order granting relief from the § 362 automatic stay to allow enforcement of security interest(s) upon the property surrendered;

(14) Assumption or Rejection of Executory Contracts. If applicable, provisions concerning the assumption or rejection of executory contracts;

(15) Disclosure and Request for Approval of of Attorney's Compensation. A statement disclosing the amount of compensation paid or promised to be paid to counsel for the debtor for services rendered in connection with the case, together with a request that hearing on approval of such compensation and the reimbursement of necessary expenses shall be held at the time of the confirmation hearing;

(16) Attorney's Certification. A certification by counsel for the debtor that counsel has explained the terms and conditions of the debtor's obligations under the plan.

(b) Suggested Form. Counsel for the debtor should consult **Local Rules Form #10** for the Court's suggested form of Chapter 13 plan.

*[SOURCE: FORMER L.B.R. 905; NEW]*

### **3015-2 Chapter 13 - Modification of Plans**

(a) Modification of Plan Prior to Confirmation. A modified plan filed prior to the confirmation hearing shall be labeled as a modified or amended plan, shall specify each and every creditor or party that the modification affects, and shall state the effect of the modification on these creditors or parties. All modified plans prior to confirmation shall be filed by the Friday before the scheduled confirmation hearing. A copy of the plan must be provided to and received by the Chapter 13 trustee on or before that filing deadline, and the plan shall, by the filing date, be noticed for hearing on the scheduled confirmation hearing date, to any party whose rights are so affected by the modification as to require notice. At the confirmation hearing, the Court will determine whether additional notice is necessary.

(b) Modification of Plan After Confirmation. A proposed modification of a plan after confirmation, under 11 U.S.C. § 1329, will only be considered at hearing to be attended by the debtor and counsel after twenty days' notice to all creditors whose rights are affected by the modification, in accordance with Rules 9006(c)(2) and 3015(g), FRBP. The modified plan shall be labeled as a modified plan, shall briefly state the essential circumstances which have prompted the filing of a modified plan, and the substance of any differences between the previously confirmed plan and the proposed modification. Amended *Schedules I and J* shall be filed with all proposed modifications. The deadline for filing an objection to confirmation of a plan set forth in Rule 3015-3.1 of these Rules applies to objections to the confirmation of a modified plan after confirmation. Any proposed modification under 11 U.S.C. § 1329(a) by the trustee or other party in interest may only be proposed by motion that complies with the requirements of this subsection, except that amended *Schedules I and J* shall not be required to be filed with motions filed by parties other than the debtor.

*[SOURCE: FORMER L.B.R. 908; NEW]*

### **3015-3 Chapter 13 - Confirmation**

(a) Original Plan; Modification Prior to Confirmation.

The initial hearing of a Chapter 13 plan confirmation shall be fixed for 9:30 a.m. on the first and third Wednesdays of each month and/or on any other Wednesday as deemed necessary by the Court. The debtor and the debtor's attorney shall attend the hearing on confirmation of the Chapter 13 plan or any adjourned hearing thereon unless the Court orders otherwise.

(b) Modification of Plans After Confirmation

Hearings on modifications of Chapter 13 plans after confirmation shall be fixed for 2:00 p.m. on the first and third Wednesdays of each month or on any other Wednesday as deemed necessary by the Court.

[SOURCE: FORMER L.B.R. 904]

**3015-3.1 Chapter 13 - Objections to Confirmation of Plan**

(a) Objections by Creditors or Other Parties in Interest. Objections to the confirmation of the plan must be served upon the trustee, counsel for the debtor, and the debtor at least seven days before the scheduled confirmation hearing and shall be filed by 12:00 o'clock noon, the Monday before the hearing. The objector shall also file a proof of service indicating the parties served and the date and method of service. The Court may refuse to hear an objection that is not filed and served in a timely manner. **Please refer to standing order 2003-1.**

(b) Objections by Chapter 13 Trustee. The Chapter 13 trustee may submit written objections to confirmation at any time up to the hearing thereon and also may present oral objections to confirmation at the hearing. If such written objections are not served prior to the hearing, or if the trustee deems it appropriate to submit the objection orally at the hearing, the trustee shall, *if possible*, communicate the substance of the objection to the office of counsel for the debtor or to the debtor if not represented by counsel, by the Tuesday before the confirmation hearing.

[SOURCE: FORMER L.B.R. 906; NEW]

**3015-4 (Provisional) Chapter 12 - Plan**

(a) Order Fixing Confirmation Hearing. The Order fixing the confirmation hearing will be issued by the Court, who will mail a copy to the attorney for the debtor(s) and to the debtor(s). Within five (5) days after entry of the Order, the attorney for the debtor(s), or, if not represented, the debtor(s), shall mail a copy of the Chapter 12 plan and a copy of the Order to all creditors and other parties in interest.

[SOURCE: FORMER L.B.R. 804]

**3015-5 (Provisional) Chapter 12 - Amendments to Plans**

(a) Before Confirmation. If the debtor amends the plan pre-confirmation, a copy of the amended plan shall be filed with the Court and shall contemporaneously be mailed to all creditors and parties in interest.



(b) Amendment After Confirmation. A request for modification of a plan after confirmation shall be by motion, noticed for hearing as required by these Rules. A copy of the plan, as modified, shall be included with the notice of the motion which shall be sent to the debtor, debtor's counsel, all creditors, and all parties in interest.

*[SOURCE: FORMER L.B.R. 805]*

### **3016-1 Chapter 11 - Plan**

Unless otherwise ordered by the Court, a plan of reorganization must be filed with the disclosure statement.

*[SOURCE: FORMER L.B.R. 704]*

### **3016-2 Chapter 11 - Disclosure Statement**

(a) Filing. The disclosure statement and plan of reorganization shall be filed of record on the docket of the bankruptcy case. The debtor shall also serve a copy of the disclosure statement and proposed plan of reorganization upon counsel for the unsecured creditors' committee (or upon each member of the creditors' committee if not represented by counsel) within two (2) days after filing.

(b) Content. Unless otherwise ordered by the Court, a disclosure statement shall include:

(1) Narrative. A full statement of the events leading up to the filing of the petition;

(2) Assets. A description of assets and a valuation of same (which shall contain a representation as to the basis for the debtor's valuation);

(3) Financial Information (Actual). Financial statements (both income and expense (or profit and loss) statement and balance sheet) in reasonable detail, covering either the period of time that the Chapter 11 case has been pending or one year prior to the month preceding the month during which the disclosure statement is filed, whichever is longer;

(4) Financial Projections. Financial forecasts (both income and expense, and cash flow) in sufficient detail and with sufficient background data (such as assumptions on which the forecasts are based) to enable the reader to judge the likelihood of a successful reorganization;

(5) Summary of Plan. Description of the classes established in the plan and a summary of the plan;

(6) Liquidation Analysis. Analysis of the estimated return to creditors if the case were converted to a case under Chapter 7, including the amount of claims scheduled and any assumptions upon which the estimated return is grounded;

(7) Disclosure of Management. Full disclosure concerning future management of the debtor and compensation to be paid management;

(8) Future Litigation; Actions Against Others. Any anticipated future litigation, including preference and fraudulent conveyance avoidance litigation; a statement of whether the debtor knows of any potential or possible preferences, fraudulent conveyances or other actions that will not be pursued; and a statement of the efforts undertaken by the debtor and its counsel in investigating the existence of any such actions;

(9) Tax Attributes. Significant tax attributes of the debtor and the probable tax consequences upon the debtor-in-possession, creditors and parties in interest of these tax attributes and the tax consequences that might arise as a consequence of confirmation of the proposed plan;

(10) Special Classifications. The basis for special classifications or treatments, if any, of claims or interests by the plan;

(11) Administrative Expenses. Estimated amount of administrative expenses of the bankruptcy case, including those already paid on an interim basis, and all unpaid and projected expenses; and

(12) Miscellaneous. Additional items as may be necessary to afford classes of creditors and individual creditors adequate information concerning the plan.

(c) Disclaimers Not Acceptable. Disclaimers of accuracy or responsibility for items in a disclosure statement shall be considered equivalent to failure to provide information on the issue disclaimed.

(d) References to Schedules Not Acceptable. References to schedules filed in a case or to information found in the case record which is not contained within the disclosure statement or the attachments thereto shall not be considered to be the disclosure of information. Information sufficient to satisfy the requirements of § 1125 of the Bankruptcy Code and this Rule must be found within the disclosure statement itself.

(e) Sanctions. Failure to procure approval of a disclosure statement may be grounds for dismissal or conversion of the case.

(f) Notice of Hearing. Upon the filing of a disclosure statement the Court shall fix the hearing by order, which shall be noticed by counsel for the debtor upon all creditors and parties in interest in conformity with the order.

[SOURCE: FORMER L.B.R. 703]

**3017-1 Disclosure Statement - Approval**

If a disclosure statement is determined to contain "adequate information," the Court shall issue an Order Approving Disclosure Statement which shall fix a hearing on confirmation of the plan and, unless otherwise ordered by the Court, shall fix deadlines for filing proofs of claims, objections to claims, complaints under 11 U.S.C. §§ 544-550, objections to the plan, ballots accepting or rejecting the plan, tabulation of ballots, and other deadlines as the Court deems appropriate.

[SOURCE: FORMER L.B.R. 703]

**PART IV**

**4001-1 Automatic Stay - Relief From**

These Rules applicable to all motions (9013-1 through 9014-3) also apply to § 362 motions. In addition, the following procedures apply only to § 362 motions and apply to all § 362 motions regardless of the chapter under which the case is pending, except as otherwise provided

(a) Contents of the Motion for Relief Under § 362(d).

(1) Facts. The motion shall contain a short and plain statement of the alleged facts that are grounds for relief; mere statement of the statutory grounds for relief is insufficient.

(2) Cause. If "cause" other than lack of adequate protection is alleged, the motion must explain the "cause."

(3) Valuation. If valuation of or equity in property is or may be an issue, the motion must state the valuation asserted by movant. If the movant relies on the valuation proposed within the debtor's schedules, the motion shall recite the scheduled value. The following information regarding valuation shall be attached to the filed motion unless the movant relies upon the valuation contained within the debtor's schedules or the Court, by order, authorizes the movant to supply the information to the Court and to the opposing party after the motion is filed:

(A) If movant intends to offer valuation testimony at the hearing, the name(s) and address(es) of the witness(es), a statement as to the qualifications of any expert witness who may testify and a copy of any appraisal or a summary thereof, or any other form of report of a proposed expert witness.

(4) Relief to Enforce Security Interest. If the motion seeks relief from the stay to proceed to foreclose or to enforce a security device (security interest) affecting property of the estate or of the debtor, copies of the following must be attached to the motion:

(A) Debt Instruments. All notes or other obligations secured by mortgages, liens, assignments, pledges, or encumbrances upon the property; and

(B) Security Documents. Copies of all security instruments, which shall contain such information so as to allow parties and the Court to determine the date upon and manner in which the security interest was perfected under applicable law.

(b) Service of Pleadings in § 362 Matters. The following persons must receive service of the motion, with attachments, and the notice of hearing:

(1) Chapter 7 Cases. The debtor, debtor's attorney, the trustee, and, if applicable, any other party holding a security interest upon the property against which the movant wishes to enforce a security interest;

(2) Chapter 11 Cases. The debtor, debtor's attorney, the trustee (if any), the 20 largest unsecured creditors (or the unsecured creditors' committee if such a committee has been designated), the office of the United States Trustee, and, if applicable, any other party holding a security interest upon the property against which the movant wishes to enforce a security interest;

(3) Chapter 12 Cases. The motion papers must be served upon the debtor, debtor's attorney, the trustee, the 20 largest unsecured creditors and, if applicable, any other party holding a security interest upon the property against which the movant wishes to enforce a security interest.

(4) Chapter 13 Cases. The motion papers must be served upon the debtor, debtor's attorney, co-debtor (if applicable), the trustee and, if applicable, any other party holding a security interest upon the property against which the movant wishes to enforce a security interest.

(c) Answer Required. An answer conforming to Rules 7008 and 7012, FRBP (as opposed to an objection), is required in the event a party wishes to oppose a § 362 motion.

(1) Timeliness. Answers filed in response to stay motions within all cases, except those filed under Chapter 13, must be filed by 12:00 o'clock noon, the Monday before the scheduled hearing and served upon counsel for the mover by that date. The answer in a Chapter 13 case must be filed by 12:00 o'clock noon, the Friday before the scheduled hearing and served upon counsel for the mover by that date. **Please refer to standing order 2003-1.**

(2) Content of Answer. The answer, in addition to responses to each allegation contained within the § 362 motion, must contain the following:

(A) Valuation. If valuation of or equity in property is or may be an issue raised by the motion or to be raised by the respondent, the answer must state the valuation asserted by respondent. The following information regarding valuation shall be attached to the answer or may be supplied to the Court and to the opposing party (through counsel) at a later date with specific Court authorization or written consent from opposing counsel:

- (i) If respondent intends to offer valuation testimony at the hearing, the names(s) and address(es) of the witness(es), a statement of the qualifications of any expert witness who may testify and a copy of any appraisal or a summary thereof, or any other form of report of a proposed expert witness.

(B) Sufficiency of Answer. In accordance with Rule 7008, FRBP, if the party intends to dispute the existence, validity, effect or other aspect of the notes or security devices (instruments) required by these Rules to be attached to the motion for relief from the stay, the answers and defenses must be stated with sufficient specificity so as to raise an issue of material fact.

(C) Adequate Protection. If the party has offered adequate protection or an offer of adequate protection is proposed within the answer, the proposal must be stated with specificity. If periodic payments are proposed, the specific amounts and intervals (if applicable) must be stated or a formula must be set forth to determine the amount of the payments. If substitute liens are proposed, a description of the proposed collateral must be set forth, and valuation allegations (such as those described above) must be supplied. Any other form of adequate protection must be equally specific. Additionally, if adequate protection was not offered prior to the filing of the motion, but is being proposed within the answer, the respondent must set forth the reasons that adequate protection was not previously offered.

(d) Procedure for Motions Timely Controverted. If the motion is timely and properly controverted:

- (1) Initial Hearing; Final Hearing. The initial hearing will in most cases be a final hearing. The parties, unless they agree otherwise prior to the hearing, should be prepared to proceed to final hearing of the issues raised by the motion and answer. The Court may set the case for final hearing at a later date when the circumstances involved require a later hearing in the interests of justice.

- (2) Preliminary Hearing. The initial hearing may be a preliminary hearing to determine the amount of time needed for the final hearing, to determine if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the final hearing, to set date for final hearing, or to enter such other orders as may be appropriate.

(e) Ex Parte Relief From Stay.

(1) Consent Motion, Stay Relief. In addition to the procedure afforded under Rule 4001, FRBP, for procuring ex parte relief from the automatic stay, if all persons entitled to notice under Rule 4001-1(b) of these Rules execute a written consent to the entry of the proposed order, an order granting ex parte relief may be entered upon a motion therefor in a case under any chapter.

(2) Consent Motion; Adequate Protection, Cash Collateral, Obtaining Credit. In addition to the procedure afforded under Rule 4001, FRBP, for procuring approval of an agreed order modifying an automatic stay, an agreement concerning adequate protection, or an agreement regarding use of cash collateral, an order granting ex parte relief may be entered upon a motion therefor in a case under any chapter if all persons entitled to notice under Rule 4001-1(b) of these Rules execute a written consent to the entry of the proposed order.

(3) Proposed Order. A proposed order shall be submitted by means of and in conformity with the method of submitting orders set forth in Rule 9013-4(b)(1) of these Rules.

(f) Refusal of Evidence. The Court may refuse to admit evidence in connection with a § 362 motion if any of the requirements of this rule are not fulfilled and may dismiss the motion for failure to comply with this rule.

*[SOURCE: FORMER L.B.R. 501 - 508; NEW]*

**4002-1 Duties of Debtor**

The debtor(s) shall immediately notify counsel of any change of address during the pendency of the case and counsel shall immediately file of record on the docket of the case a statement/ notice of change of address. If not represented by counsel the debtor(s) shall be responsible for filing the statement/notice of change of address.

*[SOURCE: NEW]*

**4004-1 Discharge Hearing**

(a) Grant of Discharge.

(1) Chapter 7 Cases. In individuals' cases filed under or converted to Chapter 7 after the effective date of these Local Rules, the Court will enter the discharge of the debtor immediately upon the expiration of the deadline for filing complaints under 11 U.S.C. § 727 (including any extensions thereof), unless a timely motion to defer entry of discharge is filed pursuant to Rule 4004, FRBP.

(2) Chapter 11 Cases. In Chapter 11 cases the Court will enter the discharge of the debtor by means of the Order confirming the Chapter 11 plan, unless a party has timely filed a complaint that has resulted in judgment denying discharge or that is unresolved as of confirmation, or unless a timely motion to defer entry of discharge is filed pursuant to Rule 4004, FRBP.

(3) Chapter 12 (if applicable) and Chapter 13 Cases; Discharge After Completion of Plan Payments. After completion by the debtor of all payments under the plan, the trustee shall file a final report and account which shall list disbursements to creditors and shall state that the case is completed and the debtor is entitled to a discharge. Upon the filing of the final account in compliance with subsection (a)(1) of this Rule, the Court shall immediately enter the discharge.

(4) Hardship Discharge; Chapter 12 (if applicable) and Chapter 13 Cases; Necessity of Motion. Any debtor requesting a hardship discharge under § 1228(b) or § 1328(b) of the Code shall file a motion setting forth the following:

- the circumstances which led to the debtor's failure to complete the plan payments and the reason why the debtor should not be held accountable;
- the liquidation value of the estate as of the effective date of the plan;
- the present value of property actually distributed under the plan on account of each allowed unsecured claim; and
- the reason why modification of the plan is not practicable.

(A) The debtor shall attach all supporting documents to the motion and shall serve the motion papers along with a notice of hearing providing at least 20 days' notice upon the trustee, U.S. Trustee, creditors, and all other parties in interest.

(B) Court Order Fixing § 523(c) Deadline. After hearing upon the motion by a debtor for a hardship discharge, if the Court determines that a discharge should be entered, the Court shall enter an order fixing a time for filing § 523(c) complaints and shall provide the debtor, counsel for the debtor, trustee, U.S. Trustee, all creditors and other parties in interest with at least 30 days' notice of the deadline for filing such complaints.

(C) Applicability of Other Local Rules. If the Court determines that a hardship discharge in a Chapter 13 case should be granted, the provisions and requirements of Rule 4004-1, Rule 4008-1 and Rule 4008-2 of these Local Rules shall apply to Chapter 13 hardship discharges, except that the deadline for filing § 523(c) complaints, established by the Court after hearing on the motion for hardship discharge, shall operate and have the same effect as does the deadline for filing § 727 complaints in connection with Rules 4004-1(a)(1) and (b), 4008-1(a), and 4008-2 of these Rules.

(b) Attorney Declaration. In all Chapter 7 cases in which debtor is represented by counsel, debtor's counsel shall be responsible for filing an Attorney Declaration conforming with **Local Rules Form #11** by the initial date set by the Clerk's office for the § 341(a) first meeting of creditors. Failure to file the Attorney Declaration timely shall not affect the debtor's right to discharge, but shall be grounds for sanctions against the attorney.

(c) Discharge Hearing.

(1) Attendance Required When Debtor Not Represented By Counsel. The hearing in cases where the debtor is not represented by counsel in a Chapter 7 case or a Chapter 12 (if applicable) or 13 case involving the grant of a hardship discharge shall be fixed by the office of the Clerk of Court. The debtor will be advised of the date and time of the hearing by the Chapter 7 trustee at the § 341(a) meeting of creditors in cases under Chapter 7. In cases under Chapter 11 involving individual(s) not represented by counsel, the debtor shall be advised by the representative of the U.S. Trustee at the § 341(a) meeting as to the necessity of a discharge and reaffirmation hearing at confirmation of the plan of reorganization.

(2) Debtor Represented by Counsel; Attendance Voluntary. Any debtor who is granted a discharge, who has not executed a reaffirmation agreement, and who is represented by counsel, shall be entitled, but not required, to attend a discharge hearing upon the filing of a Motion For and Notice of Discharge Hearing conforming in form and substance to **Local Rules Form #12-A**, by the close of business on the last day for filing complaints under § 727 (including any extensions thereof). If the debtor wishes to attend a discharge hearing, counsel for the debtor shall fix the hearing in accordance with Rule 4008-2 of these Rules and send the trustee a copy of the motion and notice.

*[SOURCE: FORMER L.B.R. 305 - 307]*

#### **4008-1 Reaffirmation**

(a) Hearing Required. A Reaffirmation Agreement hearing is required in the following circumstances:

(1) Debtor Not Represented by Counsel of Record in Bankruptcy Case. An individual debtor, who is not of record represented by counsel in connection with a Chapter 7 case or a Chapter 12(if applicable) or 13 case involving the grant of a hardship discharge, shall be required to attend a reaffirmation hearing as described in 11 U.S.C. § 524(d), which will be held concurrently with the discharge hearing required by Rule 4004-1(c)(1) of these Rules.

(2) Debtor Not Represented by Counsel of Record in Negotiation of Reaffirmation Agreements. If a debtor has entered into a reaffirmation agreement, and was not represented by an attorney during the course of negotiating the agreement, or if the reaffirmation agreement entered into by the debtor does not contain or is not accompanied by a declaration or



affidavit of an attorney complying with 11 U.S.C. § 524(c)(3)(C), the debtor shall be required to attend a Reaffirmation Agreement hearing. At this hearing, the Court will rule upon (will approve or disapprove) the agreement in conformity with 11 U.S.C. § 524 (c)(6) and (d).

(b) Hearing Upon Request. An individual represented by counsel who is not required to attend a Reaffirmation Agreement hearing may nevertheless attend and shall have his or her attendance noted in the record of the case upon compliance with Rule 4008-2 of these Rules.

(c) Filing of Agreement. If a creditor or creditor representative who is not an attorney to whom an attorney password has been issued wishes to file an executed reaffirmation agreement from a remote location, the person must obtain a limited use password from the Clerk. Limited use passwords may be obtained by transmitting a completed application therefor, which shall conform to **Local Rules Form #9**. Filing of agreements **without** the use of passwords shall be done from the location of the court.

*[SOURCE: FORMER L.B.R. 307; NEW]*

#### **4008-2      Reaffirmation - Fixing Hearings**

(a) Debtor Not Represented by Counsel of Record in Bankruptcy Case. The hearing in cases where the debtor is not represented by counsel in connection with a Chapter 7 case or a Chapter 12 or 13 case involving the grant of a hardship discharge shall be fixed by the office of the Clerk of Court. The debtor will be advised of the date and time of the hearing by the Chapter 7 trustee at the § 341(a) meeting of creditors in cases under Chapter 7. In cases under Chapter 11 involving individual(s) not represented by counsel, the debtor shall be advised by the representative of the U.S. Trustee at the § 341(a) meeting as to the necessity of a discharge and reaffirmation hearing at confirmation of the plan of reorganization.

(b) Debtor Not Represented by Counsel of Record in Negotiating Agreement; Debtor Unable to Obtain § 524(c)(3) Attorney Declaration or Affidavit. In cases where attendance is required due to the existence of a reaffirmation agreement executed without representation by counsel in the course of negotiating the agreement, or where the debtor is unable to obtain an attorney declaration or affidavit complying with § 524(c)(3), it shall be the responsibility of the **debtor** to fix and notice the Hearing on Discharge and Reaffirmation by filing a Motion For and Notice of Hearing on Discharge and Reaffirmation conforming with **Local Rules Form #12-B**.

(c) Debtor Represented by Counsel of Record in Negotiation of Agreement. If a debtor has entered into a reaffirmation agreement in compliance with § 524(c)(3), and though a hearing is not required under these Rules the debtor wishes to attend a hearing on discharge and reaffirmation, the motion and notice shall conform in form and substance to **Local Rules Form #12-C** and shall request and fix the hearing in accordance with subsection (e) below.

(d) Procedure and Deadline for Filing Motion For and Notice of Hearing on Discharge and Reaffirmation (Forms 12-B and 12-C) and Motion for and Notice of Hearing on Discharge (Form 12-A).

(1) Chapter 7 Cases. The Motion for and Notice of Hearing on Discharge and Reaffirmation and the Motion for and Notice of Hearing on Discharge must be filed by the close of business on the last day for filing complaints under § 727 (including any extensions thereof) and shall fix and notice the hearing for the first hearing date that gives at least ten (10) days' notice of the motion to the debtor and trustee and is not more than 30 days following the entry of the discharge order.

(2) Chapter 11 Cases Involving Individual Debtors. The Motion for and Notice of Hearing on Discharge and Reaffirmation and the Motion for and Notice of Hearing on Discharge shall be filed at least five (5) days prior to the date fixed for hearing on confirmation of the plan.

(e) Days and Time of Hearings on Discharge and Reaffirmation and Hearings on Discharge. Hearings on Discharge and Reaffirmation and hearings on discharge shall be held at 1:00 p.m. on the first (1st) and third (3rd) Wednesdays of each month unless otherwise ordered by the Court. The Court's website should be consulted to obtain certain calendar dates for hearings on discharge and reaffirmation.

*[SOURCE: FORMER L.B.R. 308]*

## **PART V**

### **5003-1 Register of Governmental Units**

The Clerk's office shall keep a register that includes the mailing addresses of the federal and state governmental units as are provided to the court by the governmental units and as they may otherwise be obtained. If there is more than one address provided to the court for a single governmental unit, the Clerk's office shall provide information designed to assist in determining the circumstances under which each address is applicable. This register shall be maintained for inspection at the Clerk's office, and shall be maintained on the website of the court. The register shall be updated, annually, as of January 2nd of every year.

*[SOURCE: FEDERAL RULES OF BANKRUPTCY PROCEDURE, RULE 5003(e), effective December 1, 2000; NEW]*

**5005-1 Filing and Transmittal of Papers – Clerk's Office; Electronic Filings**

(a) Clerk's Office. Subject to subsections 5005-1(b) et seq. of these Rules, the Clerk's office accepts filings at the physical location of the Clerk's office designated by Rule 1071-1(a) between 8:00 a.m. and 5:00 p.m., Monday through Friday, except for holidays.

(b) Electronic Filing. On the authority of Rule 5005(a)(2), FRBP, all petitions, schedules, statements, matrices, complaints initiating adversary proceedings, motions, objections, notices, pleadings, proofs of claim, Chapter 13 plans and modifications thereof, Chapter 11 plans and modifications thereof, declarations, verifications, reports, disclosure statements, and any and all other papers and documents of whatever nature that are to be filed of record on the docket of the Clerk of Court in any case or proceeding shall, as of \_\_\_\_\_, 2001 and thereafter be filed by electronic means, either at the location of the Clerk's office designated by Rule 1071-1 of these Rules, or from a remote location.

(1) Papers to be filed at the location of the court shall be filed within the office hours of the Clerk's office as set forth in Rule 5005-1(a).

(2) Papers filed from a remote location may be filed at any time.

(c) Emergency Exceptions to Filing Papers Electronically. The requirement that all papers be filed electronically shall be suspended only if the system for electronic filings is down when the papers are to be filed. If the system for electronic filings is down but the papers to be filed cannot be filed until after the Clerk's open hours at the location of the Clerk's office, arrangements shall be made during those office hours for non-electronic filing. For extraordinary emergencies, such as the system for electronic filing going down after the close of business hours, the Clerk's office shall designate, monthly, an employee to receive filings in the event of such an occurrence, who can be located by means of the court's voice-mail telephone answering system.

*[SOURCE: NEW]*

**5005-2 Filing Papers - Size of Papers**

All pleadings shall be electronically sized to 8-1/2 by 11 inches. To the extent possible, attachments to papers shall likewise be electronically sized to 8-1/2 by 11 inches.

*[SOURCE; NEW]*

## 5011-1      **Withdrawal Of Reference**

Motions which seek relief from a district judge under 28 U.S.C. § 157(d), for withdrawal of reference, shall be governed by this rule as follows:

(a)      Original Motion.

(1)      Applicable Rules. The Local Rules for the District Court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a district judge. In those instances where the District Court refers the motion to the bankruptcy court for a hearing and a Report and Recommendation from the bankruptcy judge, these Rules shall apply until such report is issued.

(2)      Place of Filing. All motions subject to this Rule shall be filed with the Clerk of the Bankruptcy Court.

(3)      Contents of Motion. In addition to the normal requirements of papers filed in the bankruptcy court, motions subject to this Rule shall include:

(A)      a clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE";

(B)      a designation of the portions of the record of the proceedings in the bankruptcy court that will reasonably be necessary or pertinent for consideration of the motion by the district court; and

(C)      a list of each party with an interest in the motion and the attorney for each party, along with the attorney's mailing address.

(4)      Subsequent Filings. Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the Clerk of the District Court and shall comply with the rules of that Court.

(5)      Duties of the Clerk of the Bankruptcy Court. Upon filing of an original motion as set forth above the Clerk of the Bankruptcy Court shall promptly transmit to the Clerk of the District Court:

(A)      a certified copy of the original motion and all attachments to the motion; and

(B)      the portion of the bankruptcy court record designated in accordance with (3)(B) above.

(5)      No Automatic Stay. There shall be no automatic stay of bankruptcy court proceedings as a result of the filing of any motion under this Rule, except upon further order of the Bankruptcy Court or District Court.

(6) Obligation of the Parties. It shall be the obligation of all parties and their attorneys to advise the bankruptcy court and the district court of orders entered in either forum which significantly affect matters pending in the other forum.

*[SOURCE: FORMER L.B.R. 209]*

**5082-1 Fees - Form of Payment**

(a) Cash. Except as provided in subsections (b) – (c) of this Rule, payment of filing fees shall be by cash, cashier's check, or money order payable to "Clerk, U.S. Bankruptcy Court."

(b) Payment by Check in Certain Instances. Payment by check is permitted only if drawn on the account of the attorney for the party submitting the pleadings or documents for filing or on the account of a law firm of which said attorney is a member, partner, or associate. Any such checks, and the pleadings or documents filed in connection therewith, are accepted subject to collection.

(1) Reference List; Dishonored Checks. The Clerk of the Bankruptcy Court shall maintain a list of all attorneys and law firms whose checks have been dishonored. The Clerk may refuse future checks from such attorneys or firms.

(c) Credit Cards. Payment by credit card is permitted, subject to subsection (1), below. Any such credit card payment, and the pleadings or documents filed in connection therewith, are accepted subject to collection.

(1) Debtors. Debtors with active cases are not permitted to make any payments with credit cards.

*[SOURCE: FORMER L.B.R. 203; NEW]*

**PART VI**

**6007-1 Abandonment**

(a) By Trustee or Debtor-in-Possession, Notice Procedure. Abandonment may be obtained by the trustee or debtor in possession by means of the filing of a written "Notice of Abandonment," which shall be noticed to the U.S. Trustee, all creditors and parties in interest.

(1) No Order Necessary. The property subject to the notice shall be deemed abandoned without an order of court, if there is no objection thereto and request for hearing.

(2) Obtaining an Order. The trustee or debtor in possession, however, may proceed under the FRBP to obtain an Order of Abandonment. The provisions of Rules 9013-1

through 9014-3 of these Rules shall govern the procedure to obtain an order, except that no hearing shall be required under that Rule, unless there is a **timely filed** objection to the proposed abandonment. The proposed order shall be submitted by means of and in conformity with the method of submitting orders set forth in Rule 9013-4(b)(3) of these Rules.

(b) By Party in Interest. A party in interest other than the trustee or debtor in possession must, pursuant to FRBP, Rule 6007(b), proceed to obtain an order requiring abandonment by the trustee or debtor in possession by motion, which shall be noticed for hearing in accordance with Rules 9013-1 through 9014-3 of these Rules, to all creditors, the debtor, the trustee and all committees appointed or elected pursuant to the Code.

(1) Proposed Order. The proposed order shall be submitted by means of and in conformity with the method of submitting orders set forth in Rule 9013-4(b)(3) of these Rules.

(c) No Compensation and Reimbursement of Expenses. Without good cause shown, there shall be no compensation or reimbursement of expenses payable from the estate to the trustee, debtor-in-possession or attorneys for those entities for abandoning property of an estate.

*[SOURCE: FORMER L.B.R. 303]*

## **PART VII**

### **7003-1 Adversary Proceeding**

The complaint commencing an adversary proceeding shall contain the names and addresses of the parties to whom a summons shall be issued. The names and addresses required by this Rule shall be placed below (after) the signature of the person signing the complaint in the following format:

Please issue summons to:

Jane Doe  
1313 Highway Street  
City Town, Louisiana 70357-6352

James Doe  
1313 Highway Street  
City Town, Louisiana 70357-6352

*[SOURCE: NEW]*

## 7004-1 Summons

(a) Issuance and Service. Upon the filing of a complaint, a summons and order setting a scheduling and preliminary pretrial conference will be issued by the Clerk's office and delivered to the complainant's counsel for service. If complainant is not represented by counsel, the summons shall be issued to the complainant. Counsel for the complainant must serve, within the time provided under Rule 7004(e), FRBP, the following: (i) the Summons, (ii) the Complaint, and (iii) the Order Setting the Scheduling and Preliminary Pretrial Conference referred to in Rule 7016-1 of these Rules, which shall be prepared by the Court and provided, along with the summons, to complainant, through counsel, if complainant is represented by counsel. Counsel for the plaintiff must file proof of service of the summons, complaint and order setting the scheduling and preliminary pretrial conference at least five (5) days prior to the conference.

(b) Service of Scheduling Order by Clerk's Office. If the debtor is a defendant, the Clerk's Office shall serve a copy of the Order on counsel of record for the debtor if there is one. **This requirement in no way affects the requirements** placed upon the complainant or counsel for the complainant by Rule 7004-2(a) of these Rules.

*[SOURCE: FORMER L.B.R. 602; NEW]*

## 7016-1 Pretrial Procedures

(a) Time. The order setting a scheduling and preliminary pretrial conference, referred to in Rule 7004-2 of these Rules, shall fix the conference on a date within 50 days after filing of the complaint.

(b) Attendance. Unless otherwise ordered by the Court, all trial attorneys of record shall appear at the scheduling and preliminary pretrial conference and shall be familiar enough with the case to intelligently discuss the following:

(1) Content and Form of Orders. The content and form of the orders and scheduling referred to in subsection (c) of this Rule that might be necessary in the proceeding;

(2) Status. The issues presented by and present status of the proceeding; and

(3) Settlement. The prospects of settlement prior to trial.

(c) Scheduling Orders. Following the conference the Court may enter such orders as are appropriate, including:

(4) a determination as to core/noncore status pursuant to 28 U.S.C. § 157;

(5) requirements and deadlines for effecting service;

- (6) deadlines for joining other parties and for amendment of pleadings;
- (7) deadlines for taking a default judgment;
- (8) compliance with Rule 7026, FRBP, and other discovery schedules and deadlines;
- (9) deadlines for filing pretrial motions and the scheduling of hearings and decisions on pretrial motions;
- (10) a determination of whether a pretrial conference will be dispensed with or, if to be held, the date of the conference and whether it will be a preliminary or a final pretrial conference;
- (11) requirements concerning the form of pretrial order and the obligations of counsel concerning the pretrial order (in certain cases the Court may dispense with the requirement of a formal pretrial order or may authorize the submission of a short form of pretrial order); and
- (12) other matters to expedite trial and determination of the issues presented by the proceeding.

*[SOURCE: FORMER L.B.R. 604]*

#### **7016-2 Pretrial Procedures - Conference and Order**

(a) Pretrial Order. The pretrial order, if one is required, shall be prepared in accordance with the form required by the Scheduling Order which, generally, will be issued after the scheduling and preliminary pretrial conference.

(b) Pretrial Conference. Unless specifically dispensed with by order of the Court, in order to effectuate expeditious resolution of proceedings, a final pretrial conference shall be held in conformity with and for the purposes provided in Rule 16, FRCP, made applicable by Rule 7016, FRBP. Unless otherwise ordered by the Court, the Trial Attorney shall attend the final pretrial conference.

*[SOURCE: FORMER L.B.R. 605]*

#### **7026-1 Discovery - General**

(a) Rule 26, FRCP, and Rule 7026, FRBP, shall apply to all adversary proceedings unless the court, on a proceeding-by-proceeding basis, authorizes the parties otherwise to conduct discovery, as the FRBP and FRCP may allow.



(b) Number of Interrogatories. If interrogatories are authorized by the FRCP, or pursuant to a Court ordered discovery format (provided such is allowable under these Rules), no party shall serve on any other party more than twenty-five (25) interrogatories in the aggregate without leave of the Court. Each sub-part of an interrogatory shall count as an additional interrogatory. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

*[SOURCE: NEW AND FORMER L.B.R. 608]*

## **7026-2      Discovery - Non-filing of Requests and Responses**

(a) Interrogatories and the answers thereto, Requests for Production or Inspection, Requests for Admissions and responses thereto, as may be authorized under the general discovery rules or separately by Order of the Court, shall be served upon other counsel or unrepresented parties, but shall not be filed with the Court unless the Court orders that such be filed. Notices of depositions shall be filed with the Court, but depositions shall not be filed unless otherwise authorized. The party preparing and responsible for service of the discovery material shall retain the original and shall be the custodian of any such non-filed materials. This rule shall not be construed so as to preclude the filing of any discovery materials as exhibits or as evidence in connection with a motion, or at a trial or evidentiary hearing.

(b) Rule 7026-2(a) of these Rules shall not be construed so as to preclude the filing of any discovery materials as exhibits or as evidence in connection with a motion, or at a trial or evidentiary hearing.

*[SOURCE: FORMER L.B.R. 608, 609]*

## **7026-3      Discovery - Format of Responses**

(a) The responding party shall repeat each question or request contained in the original discovery request in full and shall follow the question or request with the answer, response or objection thereto. Pursuant to Rule 34, FRCP, made applicable to adversary proceedings by Rule 7034, FRBP, a response to a request for production of documents shall identify the specific documents that are produced in response to the specific requests or shall produce the documents for inspection as they are kept in the usual course of business.

(b) Objections to interrogatories and to requests for admission and objections to the answers to them shall set forth in full, immediately preceding each answer or objection, the interrogatory, request or answer to which objection is being made.

*[SOURCE: FORMER L.B.R. 610]*

## **7037-1      Discovery - Failure to Make: Sanctions**

### (a)      Discovery Motions.

(1)      Pre-Filing Contact, Motion, Proposed Order. No motion relative to compelling discovery or requesting relief from discovery shall be considered by the court except to the extent necessary to order its denial, unless it is accompanied by a certificate of counsel for the moving party, stating that counsel have conferred in person or by telephone for purposes of amicably resolving the specific issues and disputes raised by the motion and stating why they are unable to agree, or stating that opposing counsel has refused to confer after reasonable notice. Counsel for the moving party shall arrange the conference.

(2)      Proposed Order. A proposed order shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

(3)      Disputed Discovery Materials to be Filed With Request for Relief. If relief is sought under the FRCP concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the discovery materials in dispute shall be filed with the Court contemporaneously with any such motion.

*[SOURCE: FORMER L.B.R. 612]*

## **7041-1      Dismissal**

(a)      Dismissals. A complaint objecting to discharge wherein a party other than the trustee is a party plaintiff may not be dismissed under Rule 7041, FRBP, at the plaintiff's instance except by order of the Court after hearing on notice to the trustee, U. S. Trustee, all creditors, and other parties in interest, and after that party plaintiff has filed an affidavit stating that nothing has been received or promised to the plaintiff in consideration of the request for dismissal. The provisions and requirements of Rule 1008-1 of these Rules shall apply to the affidavit required by this Rule.

*[SOURCE: FORMER L.B.R. 616, 314]*

## **7055-1      Default**

(a)      Entry of Default. All requests for entry of default shall be in writing and filed of record on the docket of the adversary proceeding in the form of an application or motion, to which shall be attached any necessary affidavits, etc. Any affidavit signed by an affiant other than the attorney or party filing the motion through use of an attorney password shall be governed by Rule 1008-1 of these Rules.

(b) Obtaining Default Judgment.

(1) The Motion. After entry of default, the party obtaining the entry of default shall, in accordance with Rule 55, FRCP, move for entry of default judgment, which motion shall be governed by Rules 9013-1 through 9014-3 of these Rules.

(2) Proposed Judgment. A proposed Judgment shall be submitted upon the filing of the motion, by means of and according to the method of submitting proposed orders set forth in Rule 9013-4(b)(1) of these Rules, unless the motion is noticed for hearing pursuant to a requirement by the Court or determination by movant that hearing is necessary, in which case the proposed judgment shall be submitted by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(3) of these Rules.

*[SOURCE: NEW]*

**7056-1 Summary Judgment**

(a) Content of Motion. Every motion for summary judgment shall comply with Rule 9013-1 through 9014-3 of these Rules and shall be accompanied by a separate, short and concise statement of the material facts to which the moving party contends there is no genuine issue to be tried.

(b) Opposition to Motion. An opposition to a motion for summary judgment shall comply with Rule 9014-1(c) of these Rules. Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts to which there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of this motion, unless controverted as required by this Rule.

(c) Proposed Judgment. If a proposed judgment is submitted, it shall be submitted by means of and in accordance with the method for submitting proposed orders set forth in Rule 9013-4(b)(3) of these Rules.

*[SOURCE: FORMER L.B.R. 614, 615; NEW]*

**7065-1 Injunctions**

In addition to the provisions of Federal Rules of Civil Procedure Rule 65 as incorporated by Bankruptcy Rule 7065, the following rules apply to temporary restraining orders and preliminary injunctions:

(a) An application for a temporary restraining order or for a preliminary injunction shall be made in a document separate from the complaint.

(b) An application for a temporary restraining order shall be accompanied by a certificate of the applicant's attorney, or by an affidavit, which shall be governed by Rule 1008-1 of these Rules, if the affidavit is of a person different from the attorney filing the complaint and application through use of an attorney password, or by other proof satisfactory to the Court, stating:

(1) Service on Adverse Party. That actual notice of the time of making the application, and copies of all pleadings and other papers filed in the action to date or to be presented to the Court at the hearing, have been furnished to the adverse party's attorney, if known, and otherwise to the adverse party; or

(2) No Service; Efforts Made. The efforts made by the applicant to give such notice and furnish such copies.

(c) Proposed Restraining Order. A proposed form of restraining order shall be submitted upon the filing of the request, by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

*[SOURCE: FORMER L.B.R. 613; NEW]*

## **PART IX**

### **9001-1 General Definitions and References.**

In addition to the definitions contained within Rule 9001, FRBP, the following definitions or references shall be used within these Local Rules.

- (a) "FRCP" means Federal Rules of Civil Procedure.
- (b) "FRBP" means Federal Rules of Bankruptcy Procedure.
- (c) "These Rules" means these Local Rules and any amendments thereto.

### **9004-1 Captions; Designation of Character of Paper Filed**

The designation of the character of the paper filed shall be determined by the electronic case filing dictionary of titles for papers, which will be provided by the court as a component of the electronic filing process. The Clerk's office may, without Court approval, make additions to the list of titles for papers contained within the dictionary either upon or without request from a user of the electronic case filing system.

*[SOURCE: NEW]*

## **9010-1 Notice of Appearance; Child Support Creditors**

(a) Notice of Appearance. Prior to filing a Notice of Appearance, the filing party shall obtain a password from the Clerk, by submission of a properly completed application conforming either to **Local Rules Form #8** (if the person is an attorney authorized to practice before the Court) or **#9** (if the person is not). If the party is not authorized to be an attorney practicing before this Court, the Clerk will issue a Limited Use Password, only (**Local Rules Form #9**), which will authorize the filing of Notices of Appearance by the person obtaining the Limited Use Password.

(b) Child Support Creditors. Subject to the requirements of Rule 5005-1(a)(2) of these Rules, child support creditors or their representatives may appear without meeting the requirements of Rule 2090-1 of these Rules, provided that the creditor or representative shall appear by means of proof of claim or other pleading whereby information detailing the child support debt, its status, and/or other relevant characteristics. Prior to making an appearance as a child support creditor or representative, the party shall obtain a password from the Clerk, by submission of a properly completed application conforming either to **Local Rules Form #8** (if the person is an attorney authorized to practice before the Court) or **#9** (if the person is not). If the party is not authorized to be an attorney practicing before this Court, the Clerk will issue a Limited Use Password, only (**Local Rules Form #9**), which will authorize the filing of proofs of claim or other pleadings by the person obtaining the Limited Use Password.

*[SOURCE: SECTION 304(g) of Pub.L. 103-94, October 22, 1994, 108 Stat. 4106; NEW]*

## **9010-2 Persons Appearing Without an Attorney**

(a) Corporation, Partnership, or Unincorporated Association. A corporation, partnership, or unincorporated association may not file a petition or otherwise appear pro se in any case or proceeding, except that it may file a proof of claim, an application for compensation, or a reaffirmation agreement, if signed by an authorized officer or agent of the corporation, a general partner or authorized agent of the partnership, or an authorized member or agent of the unincorporated association.

(b) Individuals. Any person representing himself or herself without an attorney must appear personally for such purpose. The representation may not be delegated to any other person, including a spouse or relative, nor to any other party on the same side who is not represented by an attorney.

(c) Compliance With Rules. Any person appearing pro se will be required to comply with these Local Rules, the Federal Rules of Civil Procedure, the Bankruptcy Rules promulgated by the United States Supreme Court, and the Federal Rules of Evidence. Failure to comply may be grounds for dismissal or conversion of the case, appointment of a trustee or an examiner, dismissal of the adversary proceeding, or other appropriate sanctions.

*[SOURCE: FORMER L.B.R. 106]*

## **9011-1 Attorneys - Duties**

(a) Electronic Filing Password. Use of an attorney's electronic filing password number shall constitute acknowledgment and agreement that the attorney's electronic signature on any pleading, declaration, certification, or paper filed through the use of the attorney's electronic password is the original signature of the attorney under Rule 9011, FRBP, and for all purposes authorized by law, and acknowledgment and agreement to be subject to all requirements set forth within the Application For Attorney Password For Electronic Filing System (**Local Rules Form #8**) and these Rules.

(b) Retention of Original Signature. The obligation to file the Declarations referred to in Rule 1008-1 of these Rules and the obligation to maintain the originally signed documents imposed by that Rule, Rule 2090-2(b) of these Rules, and as may be otherwise required by these Rules, are reiterated here.

(c) Designation of Trial Counsel. All adversary complaints prepared by counsel shall specifically designate the Trial Attorney (by affixing "T.A." after the name). The Trial Attorney shall be the attorney responsible for prosecution of the proceeding, compliance with scheduling orders of the Court, and trial of the proceeding.

*[SOURCE: FORMER L.B.R. 603; NEW]*

## **9013-1 Motion Practice; The Motion**

(a) Form of Motions; Content of Notice of Opportunity for Hearing.

(1) Motions in Writing. All motions (except those made during a hearing or trial), applications, and requests for an order from the Court must be made in writing and shall be filed with the Clerk of the Bankruptcy Court. The motion shall, in addition to requirements set forth within these Local Rules, state with particularity the grounds for the relief requested and shall set forth, particularly, the relief or order sought.

(2) Notice of Hearing. Contemporaneously with the filing of a motion, counsel for movant shall notice opposing parties as well as any other parties to whom notices are required by the FRBP or these Rules.

(A) Reference to Motion and Hearing. The notice shall set forth the title of the motion, shall concisely describe the content of and relief requested within the motion, and shall state the date, time, and place of the scheduled hearing.

(B) Reference to Objection. The notice shall state that any party opposing the motion must object, in writing, and must file the objections or responses with the office of the Clerk of Court by 12:00 p.m. on the Monday before the scheduled hearing and must serve the attorney for the movant, or the movant, if the movant is not represented by counsel, and upon any

other party entitled to notice of the objection by that date, in accordance with Rule 9014-1(c) of these Rules.

(C) Hearing Only in the Event of Objections or Request for Hearing. In connection with all matters for which 11 U.S.C. § 102(1) is applicable, the notice shall state that hearing on the date and at the time provided will be held if and only if an objection to the motion or request for hearing is timely filed and served (by the date required under Rule 9014-1(c)(1) of these Rules), or if a hearing is required by the Court. As set forth in Rule 9014-1(c)(2) of these Local Rules, an objection to the relief requested by a motion shall constitute a request for hearing. This Rule shall not be construed to prejudice the rights of any party to request a hearing on a different date or at a different time than the date and time within the notice, for good cause shown.

(b) Contents of Motion.

(1) The Motion. A motion shall contain a short and plain statement of all facts necessary to entry of relief by default, and the movant shall attach relevant documentation supporting his motion; mere statement of the statutory grounds for relief is not sufficient.

(2) Motion Papers. If the motion requires consideration of facts not appearing of record, the mover shall also file with the motion a copy of all affidavits, pleadings, or documentary evidence the mover intends to submit in support of the motion. All such supporting material shall be labeled as such, and shall be served upon all parties entitled to receive service of the motion. A motion shall not be supplemented without leave of court.

(3) Reply Papers. Any affidavits or related documents sought to be filed in response to an opposition or request for hearing may be filed only upon leave of court. If granted, such papers in reply must be served according to order of the Court or, if there is no Court-imposed deadline, shall be served as far in advance of the hearing as possible so as to permit reasonable inspection thereof.

(c) Motions Not Requiring Notice and Opportunity for Hearing. In addition to those motions otherwise expressly provided for in these Rules or the FRBP, the following motions may be submitted for ex parte consideration without additional notice and opportunity for a hearing, subject to the authority of the Court to deny ex parte relief and to require hearing:

(1) Extension of Time; Joint Motions. Joint motions for extension of time for the performance of an act required or allowed to be done, provided that request therefore is made before the expiration of the period originally prescribed or as extended by previous orders;

(2) Continuance; Joint Motions. Joint motions signed by all counsel to continue a pretrial conference, hearing or trial of any action other than a hearing on approval of a disclosure statement or hearing on confirmation of a Chapter 11, 12, or 13 plan;

(3) Additional Parties. Motions to add additional parties;

(4) Appointment of Guardian. Motions to appoint next friend or guardian ad litem;

(5) Substitution. Motions for substitution of parties;

(6) Dismissal; Joint Motions. Joint motions to dismiss adversary proceedings, except motions pursuant to Rule 7041, FRBP, and Rule 7041-1 of these Rules;

(7) Administrative Orders. Motions for administrative orders requested by a trustee under Chapter 7, 11, 12, or 13; and

(8) Consensual Stay Motions. Consensual stay motions are covered by Rule 4001-1(e) of these Rules.

(d) Motion Day; Matters Other Than Chapter 13 Proceedings. **Friday** of each week shall be Motion Day and shall be the day on which the Court will hold hearings on all motions and in all contested matters except *those* otherwise provided for in these Local Rules or that may be fixed by Court order. Motion day may be canceled or changed on account of national holidays or other cause. Before scheduling a motion or application for hearing on a Motion Day, movant should confirm with the Court's website ([www.lamb.uscourts.gov](http://www.lamb.uscourts.gov)) to determine the particular hearing dates that are available. All motions and applications shall be set and noticed for hearing on Motion Day at 9:00 a.m.

(e) Motion Day; Chapter 13 Proceedings. All provisions of 9013-1 through 9014-3 of these Rules shall apply to motions and contested matters in Chapter 13 cases except that Wednesday shall be Motion Day for Chapter 13 motions and contested matters. In Chapter 13 cases, motions seeking relief under § 362 and all other motions or contested matters initiated by parties other than the standing Chapter 13 trustee, shall *ordinarily* be set for hearing at 9:30 a.m. on the first and third Wednesdays of each month and/or on any other Wednesday as deemed necessary by the Court. Before scheduling a Chapter 13 motion for hearing, movant should confirm with the Court's website ([www.lamb.uscourts.gov](http://www.lamb.uscourts.gov)) to determine the particular hearing dates that are available. Motions or contested matters initiated by the standing Chapter 13 trustee shall be set for hearing at 2:00 p.m. on the first and third Wednesday of each month and on any other Wednesday as deemed necessary by the Court, unless the motion or contested matter can be noticed for hearing contemporaneously with hearing on confirmation of a Chapter 13 plan. In such instances, the trustee's motion or contested matter may be noticed for hearing at the same time as hearing on confirmation of the plan.

[SOURCE: FORMER L.B.R. 402]

## **9013-2 Briefs and Memoranda of Law**

(a) Memorandum Required. All motions and applications, except those listed in Rule 9013-2(b) of these Rules or those specifically excepted from this Rule by an order of the Court, shall



be accompanied by a memorandum in support of the relief requested therein. The memorandum shall concisely state the grounds for the relief requested and shall cite the statutory and jurisprudential authority supporting the relief requested. A memorandum may not be supplemented except with leave of court.

(b) Motions Not Requiring Memoranda. Unless otherwise directed by the Court, no memorandum is required with respect to the following motions:

- for extension of time for the performance of an act required or allowed to be done, provided that request therefor is made before the expiration of the period originally prescribed or as extended by previous orders;
- to continue a pretrial conference, hearing, or the trial of an action;
- to add additional parties;
- to amend pleadings;
- to file supplemental pleadings;
- to intervene;
- for substitution of parties;
- for joint motions to dismiss or to consolidate;
- for appointment of professional persons;
- for Hearing on Discharge and Reaffirmation Agreements;
- for redemption of property under 11 U.S.C. § 722;
- for administrative orders requested by a Chapter 7, Chapter 12, or Chapter 13 trustee;
- for Objections to Chapter 13 Plans based solely on the issues of valuation of collateral, sufficiency of interest rate, lack of insurance or the failure to serve proof of insurance pursuant to Rule 2083-1(a)(2) of these Rules, or failure of the plan to provide payment in conformity with a proof of claim filed in accordance with Rules 3001, 3002, and 3004, FRBP;
- for relief from stay in Chapter 7 and Chapter 13 cases, provided that the motion complies with Rule 4001-1 of these Rules.
- for compensation of professionals, provided that the motion shall comply with Rule 2016-1 of these Rules.

*[SOURCE: FORMER L.B.R. 406, 407, NEW]*

### **9013-3 Certificate of Service - Motions, Notices of Hearing, Proposed Orders.**

A certificate of service of the motion, the notice of hearing and of any order proposed to the Court shall be filed within five (5) days after filing of the motion. The certificate shall specify the pleadings served, the names and addresses of the parties served, and the date of service of the notice of hearing and of the motion and other papers (in cases where service of the motion and other papers is required). A certificate stating that service has been effected on "all interested parties" or "all parties of record," or any other such general designation shall be insufficient. Counsel who file an

ex parte motion for expedited hearing shall serve that motion on the date of filing and shall file a certificate of service contemporaneously with the motion.

[SOURCE: FORMER L.B.R. 404]

#### **9013-4 Proposed Orders; Method of Submission.**

To correspond to the system of electronic filing and docketing of pleadings, proposed orders shall be submitted for consideration by the Court to a central e-mail address, which shall be used exclusively for submitting proposed orders. This requirement shall extend to all proposed orders submitted, including those types of orders previously submitted in open court. The designation/description of the "subject" of the e-mail transmission required hereby, shall be used by the party submitting the proposed order, so that the Court may use a "sort" mechanism for retrieving proposed orders for consideration.

(a) E-Mail Address. The address to which all proposed orders shall be sent is [orders@lamb.uscourts.gov](mailto:orders@lamb.uscourts.gov).

(b) Designation/Description of "Subject" of E-Mail Transmission. The "subject" designation/description shall determine the ability of the Court to retrieve the proposed orders efficiently. The subject shall correspond to the type or nature of the proposed order and the motion for which it is submitted. The required categories and methods of descriptions/designations are set forth below.

(1) Ex parte Matters. Orders submitted in connection with motions seeking ex parte (but not expedited) relief shall begin the "subject" description/designation with the term "Exparte" (with no space, and with quotation marks to be excluded), which shall be followed, after a space, by the seven digit case or six digit adversary proceeding number (e.g., for matters in cases: Exparte 01-11020; for matters in adversary proceedings: Exparte 01-1020).

(2) Expedited Matters. Orders submitted in connection with matters for which expedited relief is requested shall begin the "subject" description/designation with the word "Expedited" (quotation marks to be deleted), which shall be followed, after a space, by the seven digit case or six digit adversary proceeding number (e.g., for matters in cases: Expedited 01-11020; or for adversary proceeding matters: Expedited 01-1020).

(3) Matters Noticed for Hearing. Orders submitted in connection with motions or matters noticed for hearing shall begin the "subject" description/designation with the date of the hearing, set forth numerically: mm/dd/yy. Two numbers shall be contained for each component of the date. After a space, the numerical date designation shall be followed by the seven digit case or six digit adversary proceeding number (e.g., for matters in a case: 02/09/01 01-11020; or for matters in an adversary proceeding: 02/09/01 01-1020).

[SOURCE: NEW]

## 9014-1 Contested Matters - Generally

(a) Motion Day. **Friday** of each week shall be Motion Day and shall be the day on which the Court will hold hearings on all motions and in all contested matters except those otherwise provided for in these Rules or that may be differently fixed by Court order. Motion Day may be canceled or changed on account of national holidays or other cause. Before scheduling a motion or application for hearing on a Motion Day, movant should confirm with the Court's website ([www.lamb.uscourts.gov](http://www.lamb.uscourts.gov)) to determine the particular hearing dates that are available. All motions and applications shall be set and noticed for hearing on Motion Day at 9:00 a.m.

(b) Twenty Day Notice of Motion; Opportunity for Hearing. Except as otherwise specifically provided by the FRBP, ordered by the Court, or agreed to by all parties entitled to notice, motions shall be set for hearing on the first motion day which is at least 20 days after the motion is noticed for hearing. In case of a motion under 11 U.S.C. § 362(d), if there is no Motion Day more than 20 days after notice but less than 30 days after filing, the hearing shall be set for the last Motion Day that is not more than 30 days after the motion is filed.

(c) Expedited Hearing.

(A) Motion Required. When an expedited hearing is necessary, counsel for movant shall request an earlier date by motion agreed to in writing by opposing counsel or parties otherwise entitled to notice. If agreement of opposing counsel or such parties cannot be obtained, counsel may file an ex parte motion for expedited hearing with reasons set forth showing the need for an expedited hearing and a statement that opposing counsel or parties otherwise entitled to notice have been contacted and refuse consent to the expedited hearing or the reasons why such contact is impractical.

(B) Proposed Order. A proposed order granting the expedited hearing shall be submitted along with the motion by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(2) of these Rules.

(c) Responsive Pleadings; Requests for Hearings; Memorandum in Opposition.

(1) Objection. If the respondent or party in interest opposes a motion by filing a written objection or files a written request for hearing thereon, he shall file his response or request, including opposing affidavits and such supporting documents as are then available, by 12:00 p.m. on the Monday before the scheduled hearing and shall serve the response or request upon all parties by that date. **Please refer to standing order 2003-1.**

(2) Objection Construed as Request for Hearing. A written objection under this rule shall be construed as a request for hearing without the necessity of a separate request. If a request for hearing is submitted on grounds other than those set forth in the objection, these grounds shall be specifically stated.

(3) Memorandum. The respondent shall file a memorandum in support of the objection or request for hearing contemporaneously therewith, which shall contain the reasons and authorities supporting the opposition or request for hearing. If the memorandum filed under this rule is filed on the last day herein permitted, it shall be the responsibility of the filing party to hand deliver a copy to the judge's chambers. Otherwise, the Clerk shall deliver the judge's copy to him.

(4) Supplemental Papers. An opposition, request for hearing, or memorandum submitted under this rule shall not be supplemented except with leave of Court.

*[SOURCE: FORMER L.B.R. 401, 403 - 405; NEW]*

## **9014-2 Contested Matters - Court Proceedings on Motion Day**

(a) No Argument Matters. Initially the Court will call the matters that it has designated as matters not requiring appearance or argument.

(b) Special Settings. The Court may inquire as to whether any proceedings on the docket before it will entail extensive argument or evidence. Upon request of the parties and at the discretion of the Court, the Court may re fix hearing times on such matters as deemed appropriate.

(c) Agreed Orders; Orders in Matters Where There Has Been No Objection or Request for Hearing. The Court may in its discretion before calling the day's argument portion of the docket, request appearance by any party appearing in a matter in connection with which there is consent, or no objection or request for hearing, **AND** a proposed order has been submitted, but after the submission deadline for no oral argument.

(d) Scheduled Matters. The Court shall thereafter call matters for hearing in the order provided on the Court's docket though the Court, at its discretion, may take matters out of order as it deems appropriate.

(e) Attendance at Scheduled Hearings.

(1) Attendance Required. Appearance at hearing by a movant (and opposing party, if an opposition is filed) for oral argument is required, unless the motion is one to which ex parte consideration can be given, as provided in Rule 9013-1(c) of these Rules, and as may be otherwise provided in these Rules and the FRBP. The moving party (and opposing party, if an opposition is filed) shall be present on the hearing date and have such familiarity with the case as to permit informed discussion and argument of the motion.

(2) No Attendance Required. Appearance for oral argument of a motion is not required if:

(A) a motion for continuance is granted by formal court order in compliance with Rule 9014-3 of these Rules and the parties are notified by the Court that the continuance is granted; OR, **Please refer to standing order 2003-4.**

(B) the Court determines that appearance and argument are not necessary and notifies the parties that appearance is not necessary based on the following criteria having been satisfied: **Please refer to standing order 2003-4.**

(i) **a proposed order is submitted in conformity with Rule 9013-4(b)(3) of these Rules by 12:00 o'clock noon, on the day before the motion day on which the matter is to be heard;**

(ii) there have been no objections or requests for hearing timely filed and served, OR, if applicable, all parties have consented (and have evidence of their consent upon the proposed order) to the relief requested or to the entry of a specific order, OR, 11 U.S.C. § 102(1)(B) is applicable to the proceeding and no written objection or request for hearing has been timely filed and served; and

(iii) the matter was properly noticed and the pleadings, with all attachments, and the applicable law show the movant is entitled to the relief requested in the form of order submitted.

(f) Submission of Proposed Orders by Party Prevailing at Hearing. Unless otherwise directed by the Court, the party prevailing at any hearing shall submit a proposed Order conforming to the Court's decision, by means of and in conformity with the method of submitting proposed orders set forth in Rule 9013-4(b)(3) of these Rules, not later than seven (7) calendar days following the hearing.

*[SOURCE: FORMER L.B.R. 410, 411; NEW]*

### **9014-3 Contested Matters - Continuances**

(a) Motion. Relief under this Rule shall be sought by written motion and may be granted without a hearing. Telephone requests will not be considered except for emergencies after notification to opposing counsel and within the Court's discretion.

(b) Timeliness. Written motions under this Rule must be filed within two (2) days after the grounds for continuance are known, or prior to two (2) full business days before the hearing, whichever is earlier, if the motion is to be considered by the Court prior to the scheduled hearing. If an emergency renders a timely motion impossible, the motion shall describe the emergency and shall represent that a timely motion was impossible.

(c) Contact With Opposing Party or Parties in Interest. The motion shall state whether opposing counsel and parties entitled to notice do or do not have an objection or, if such opposing parties have not been contacted, the reasons contact has not been made. If there is no objection, the matter may be continued to a later date to be set by the Order. It shall be the responsibility of counsel for the parties to provide the Court with a mutually agreeable date though the Court, in its discretion, may continue the matter to a different date than that proposed. If an objection to the motion is raised, the Court may hear the matter via telephone conference call or may hear the motion for continuance immediately prior to hearing on the scheduled matter.

(d) Proposed Order. A Proposed Order submitted by means of and in conformity with methods of submitting proposed orders required by Rule 9013-4(b)(2) of these Rules shall be submitted along with all continuance motions.

*[SOURCE: FORMER L.B.R. 414; NEW]*

### **9019-1          Alternative Dispute Resolution**

Alternative dispute resolution will be utilized to assist the parties in reaching a more expeditious resolution of a proceeding or matter before the court, through use of ADR programs administered by the District Court or by this court, as is appropriate.

*[SOURCE: NEW]*

### **9021-1          Judgments & Orders - Entry of**

In addition to the substantive requirements set forth in these Rules and other requirements ordered by the Court at hearing, all Orders submitted by parties shall be set forth on a separate document and shall contain the following:

(a) Title of Motion. Recite within the body of the order the full title of the motion or application underlying the Order and identifying the movant (e.g., "The Motion to Lift Automatic Stay or Alternatively for Adequate Protection filed by First Suburban Bank (the Suburban motion) . . .");

(b) Date Line. Contain a date line at the end of the Order reflecting the location of the Court (e.g., "Baton Rouge, Louisiana, this \_\_\_ day of \_\_\_\_\_, 20\_\_."); and

(c) Identity of Party Submitting Order. Indicate the party submitting the Order, as well as the address and telephone numbers of counsel (or if not represented by counsel, of the party itself), e-mail addresses, bar roll number, e.g.:

Submitted by:  
*Attorney's Name (Bar Roll # \_\_\_\_\_)*  
Firm Name  
P. O. Box XXX  
Baton Rouge, LA 70821  
Telephone (xxx) xxx-xxxx  
*Facsimile (xxx) xxx-xxxx (if party has such a line)*  
E-Mail Address: \_\_\_\_\_  
Attorneys for First Suburban Bank

*[SOURCE: FORMER L.B.R. 413]*

**9029-1            Local Rules - General**

(a) Scope. These Rules, adopted pursuant to Title 28 U.S.C. § 2071, Rule 83, FRCP, and Rule 9029, FRBP, shall be known as the Local Rules of the United States Bankruptcy Court for the Middle District of Louisiana. These Local Rules and Forms govern procedure for the Middle District of Louisiana in cases under Title 11 of the United States Code, and all proceedings arising in, arising under, or related to Title 11 cases, whether before the district judges or the bankruptcy judge of this district, except as modified by a district judge with respect to any case or proceeding withdrawn by that judge.

(b) Purpose. These rules supplement the Bankruptcy Rules and Forms in cases under Title 11 of the United States Code and shall be construed so as to secure the just, speedy, and inexpensive determination of every case and proceeding. To the extent that any of these rules conflict or are inconsistent with the Bankruptcy Rules, the Bankruptcy Rules shall govern. Any of these rules shall be subject to modification as may be necessary to meet emergencies or to avoid injustice.

(c) Effective Date. These Local Rules and Forms shall become effective on the day following enactment and shall govern the practice and procedure before the United States Bankruptcy Court for the Middle District of Louisiana for all pending and future cases and proceedings. Upon the effective date of these Local Rules and Forms, all previously enacted local rules, local forms, and procedural orders of the Bankruptcy Court for the Middle District of Louisiana are rescinded.

*[SOURCE: FORMER L.B.R. 101]*

**9070-1 Exhibits**

(a) Custody. After being received in evidence, all exhibits shall be placed in the custody of the Clerk of Court unless otherwise ordered by the Court.

(b) Disposition. All exhibits in the custody of the Clerk shall be removed within 30 days of the final (unappealable) disposition of the case or proceeding. The party offering exhibits shall be responsible for their removal and shall give a detailed receipt for the Clerk's records. If the parties or their attorneys fail or refuse to remove exhibits within 30 days, the exhibits may be destroyed or otherwise disposed of by the Clerk upon specific authority from the Court.

*[SOURCE: FORMER L.B.R. 213]*



LOCAL RULES FORM #1

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DECLARATION UPON ELECTRONIC FILING OF BANKRUPTCY CASE

(Check the applicable documents)

- [ ] Petition, Schedules & Statements, and Accompanying Declarations; Amendments
[ ] Mailing Matrix Verification; Amendment to Mailing Matrix Verification
[ ] Affidavit in Support of Employment of Attorney or Other Professional
[ ] Affidavit in Support of or in Opposition to Motion For Summary Judgment
[ ] Verification Supporting Extension of deadline to File Statements, Schedules, Chapter 13 Plan
[ ] Verification of chapter 11 Monthly Reports
[ ] Other:(please describe)

PART I - DECLARATION OF PETITIONER

I [We], \_\_\_\_\_, the undersigned debtor(s), or representative of the Debtor(s) hereby declare under penalty of perjury as follows:

(1)(a) I [We] have reviewed the information contained in the documents designated (above, by check marks) in this Declaration to have been electronically filed in the captioned bankruptcy case (the Documents); or

(1)(b) (Only if the Debtor is a corporation or Partnership) that I [we] am [are] authorized to act for and on behalf of the debtor both in executing this Declaration and the Documents designated in this Declaration to have been electronically filed (the Documents);

(2) I [We] have provided my [our] social security number(s) that is [are] correct and true;

(3) I [We] have authorized the electronic filing of these Documents by our attorney, or, if applicable, we have filed the Documents on our own behalf;

(4) My [Our] attorney shall retain the originally signed Documents subject to the Rules of the Bankruptcy Court for a period of one year after the case or proceeding in which the Documents have been filed has been closed;

(5) I [We] understand that this Declaration shall be maintained by the Clerk of the Bankruptcy Court;

(6) I [We] affirmatively state that my [our] electronic signature(s) contained on the Documents is [are] my [our] signatures for purposes of the filing of the Documents on the record of the docket of the bankruptcy case, and for all purposes authorized by law, and that My/our electronic signatures on the Documents is/are a Declaration, Certification, Verification or Statement to the same extent and shall have the same effect as our signatures on the original Documents;

(7) [If represented by counsel] I [We] have signed the Documents and this Declaration after discussion with our attorney, before the Documents were electronically filed.

DATED: \_\_\_\_\_

Signed: \_\_\_\_\_
(Debtor)

Debtor SSN: \_\_\_\_\_

Signed: \_\_\_\_\_
(Joint Debtor)

Joint Debtor SSN: \_\_\_\_\_

Signed: \_\_\_\_\_
(Debtor Representative)

**PART II-DECLARATION OF AFFIANT OTHER THAN PETITIONER**

I [We], \_\_\_\_\_, the undersigned Affiant(s) **hereby declare under penalty of perjury** as follows:

- (1) I [We] have reviewed the information contained in the documents designated (above, by check marks) in this Declaration to have been electronically filed in the captioned bankruptcy case or proceeding (the Documents);
- (2) I [We] have authorized the electronic filing of these Documents by the undersigned attorney, Trustee, Committee, or Party;
- (3) the undersigned attorney, Trustee, Committee, or Party; shall retain the originally signed Documents, subject to the Rules of the Bankruptcy Court, for a period of one year after the case or proceeding in which the Documents have been filed has been closed;
- (4) I [We] understand that this Declaration shall be maintained by the Clerk of the Bankruptcy Court;
- (5) I [We] affirmatively state that my[our] electronic signature[s] contained on the Documents is[are] my [our] signatures for purposes of the filing of the Documents on the record of the docket of the bankruptcy case, and for all purposes authorized by law, and that My/our electronic signatures on the Documents is/are a Declaration, Certification, Verification or Statement to the same extent and shall have the same effect as our signatures on the original Documents.

DATED: \_\_\_\_\_

Signed: \_\_\_\_\_  
(Affiant)

**PART III – DECLARATION OF ATTORNEY**

**I declare under penalty of perjury** as follows:

- (1) I have reviewed the Documents designated (above, by check marks) in this Declaration as having been filed on behalf of the named debtors[s] or (if applicable) the affiant (the Documents);
- (2) the debtor[s] or representative of the debtor[s] or the affiant signed this Declaration after review of the originally signed Documents before I filed the Documents electronically on the docket of the record of this case or proceeding;
- (3) I acknowledge and accept the responsibility to maintain the original signed Documents under my care custody and control, subject to the rules of this Bankruptcy Court, for a period of one year after the case or proceeding in which the Documents were filed has been closed.

DATED: \_\_\_\_\_

Attorney for Debtor(s) or  
Attorney for Affiant or  
Attorney for Party submitting Affidavit or  
Trustee

**LOCAL RULES FORM #2**

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA**

**IN RE**

**CASE NO.**

DEBTOR(S)

**MAILING MATRIX**  
**Verification/Declaration**

(The penalties for making a false statement or for concealing property is a fine up to \$500.00 or imprisonment for up to five (5) years or both). (18 U.S.C. §§ 152 and 4571).

**DECLARATION**

I/We, \_\_\_\_\_, named as the debtor(s) in this case, and \_\_\_\_\_, counsel of record for the debtor(s) in this case, declare under penalty of perjury that we have read the foregoing mailing matrix, consisting of \_\_\_\_\_ pages, and that it is true and correct to the best of our information and belief.

DATE: \_\_\_\_\_  
DEBTOR

DATE: \_\_\_\_\_  
CO-DEBTOR

\_\_\_\_\_  
Attorney's Name (Bar Roll # \_\_\_\_\_)  
Street or P. O. Address  
City, State, Zip  
Telephone (xxx) xxx-xxxx  
Facsimile (xxx) xxx-xxxx (if party has such a line)  
E-Mail Address: \_\_\_\_\_  
Attorney for Debtor(s)

**LOCAL RULES FORM #3**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR

ORDER AUTHORIZING RETENTION OF COUNSEL  
FOR THE DEBTOR-IN-POSSESSION

Upon the annexed application of the debtor-in-possession, and the affidavit of counsel praying for the authority to employ \_\_\_\_\_ to represent the debtor-in-possession in this case under Chapter 11 of the Bankruptcy Code, no notice being given and none being necessary, and it appearing that said attorneys are disinterested persons and hold or represent no adverse interest and are duly admitted to practice in this Court, and it further appearing to the satisfaction of the Court that their employment is necessary and would be in the best interest of the estate and that the case is one justifying a general retainer, and it further appearing that, by accepting employment, the said attorneys, as officers of this Court, enter into a special relationship of trust to the Court, to the creditors, and to all parties in interest, and it appearing that such employment brings with it special duties and special responsibilities;

IT IS THEREFORE ORDERED that the debtor-in-possession be and is hereby authorized to retain \_\_\_\_\_ under general retainer as attorney(s) in all matters relating to the performance of its duties as debtor-in-possession; and

IT IS FURTHER ORDERED that the said attorneys be and they are hereby charged with the following special duties and responsibilities:

1. They shall advise the debtor-in-possession of the requirements placed upon it by the Bankruptcy Code, the Federal Bankruptcy Rules, and the Local Rules of this Court, particularly, but without limitation, those found in Local Bankruptcy Rules 2081-1 and 2081-2.

2. They shall advise the debtor-in-possession of the necessity of submission to the Court of all monthly reports required by the Local Rules of this Court, shall take all steps necessary to insure that such reports are in a form and contain sufficient information so as to comply with the requirements set forth in the Local Rules of this Court, and shall specifically advise the debtor as to the potential consequences of non-compliance.

3. They shall promptly inform the debtor that it may not pay any debt or obligation owed by the debtor on the date of the filing of the petition initiating this case.

4. They shall advise the debtor-in-possession of the prohibition against the sale of any of its assets outside the ordinary course of business except upon appropriate further order of this Court.

5. They shall advise the debtor-in-possession as to the necessity of compliance with all requirements of the Internal Revenue Code and applicable state and local taxation laws and, in particular, the depository receipt requirements of the Internal Revenue Code and regulations.

6. They shall advise the debtor-in-possession of the Operating Guidelines established by the office of the U.S. Trustee, of the necessity of compliance therewith, and further, that compliance with said guidelines does not constitute a substitute for compliance with the Local Rules of this Court.

Baton Rouge, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
LOUIS M. PHILLIPS  
UNITED STATES BANKRUPTCY JUDGE

I/We agree to accept and agree to be bound in all particulars by the provisions of the foregoing order authorizing my/our employment.

\_\_\_\_\_, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Firm Name  
Address  
Telephone Number  
Attorneys for the  
Debtor-in-Possession

By: \_\_\_\_\_

I/We have read the foregoing order and understand its content.

\_\_\_\_\_, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Debtor

**LOCAL RULES FORM #4**

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR

**ORDER FOR TRUSTEE TO ACT AS ATTORNEY/ACCOUNTANT FOR THE ESTATE**

Considering the foregoing application, and it appearing that the attorney/accountant is a disinterested party and does not hold or represent an interest adverse to the estate, and notice not being required,

IT IS ORDERED that \_\_\_\_\_, trustee herein, be and he is hereby authorized to act as attorney/accountant for the estate under a general retainer pursuant to § 327 of the Bankruptcy Code, but only to the extent specific legal/accounting services are required, with compensation, if any, for professional fees and expenses to be fixed upon application hereafter, but only to the extent specific legal/accounting services are required in this case, as opposed to trustee duties. [If applicable, specific fee arrangement for which pre approval is requested should be described].

Baton Rouge, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
LOUIS M. PHILLIPS  
UNITED STATES BANKRUPTCY JUDGE

**LOCAL RULES FORM #5**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR

**DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR**

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept \$ \_\_\_\_\_.

Prior to the filing of this statement I have received \$ \_\_\_\_\_.

Balance Due \$ \_\_\_\_\_.

2. The source of the compensation paid to me was:

\_\_\_\_\_ Debtor                      \_\_\_\_\_ Other (specify)

3. The source of compensation to be paid to me is:

\_\_\_\_\_ Debtor                      \_\_\_\_\_ Other (specify)

4. \_\_\_\_\_ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

\_\_\_\_\_ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation, is attached (*as is set forth below*).

5. In return for the above-disclosed fee, I have agreed to render legal service for and in the bankruptcy case, including:

[For example:

- a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
  - b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
  - c. Representation of the debtor at the meeting(s) of creditors and confirmation hearing(s), and any continued meetings or hearings, and, generally, in the bankruptcy case;
  - d. Representation of the debtor in adversary proceedings and other contested bankruptcy matters and proceedings;
  - e. Other provisions as needed.]
6. By agreement with the debtor(s), a copy of which is either set forth herein or attached hereto, the above-disclosed fee does not include the following services, for which, if I am to be retained, the debtor will be charged and will have to agree to pay fees and reimbursement of expenses as follows:

CERTIFICATION OF ATTORNEY

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Name of Law Firm

SEE NEXT PAGE FOR CERTIFICATION OF DEBTOR(S)



CERTIFICATION OF DEBTOR(S)

[if applicable, i.e. services limited and agreement is contained in disclosure as opposed to being separately attached].

I certify that the above agreement with my attorney has been explained to me by my attorney and accurately reflects the services that my attorney has agreed to provide for the fees paid or promised as stated in this disclosure. Further, I agree that the description of those services that will not be provided by my attorney for the fees paid or promised in the disclosure is accurate and that I understand that if any of these excluded services become necessary, my attorney is under no duty to represent me unless I make further arrangements, as set forth by my attorney above, for the attorney to act on my behalf.

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Date

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Signature of Debtor

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Signature of Joint Debtor

**LOCAL RULES FORM #8  
UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA**

**APPLICATION FOR ATTORNEY PASSWORD  
FOR ELECTRONIC CASE FILING SYSTEM**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**PHONE #:** \_\_\_\_\_ **FAX #:** \_\_\_\_\_

**E-MAIL ADDRESS:** \_\_\_\_\_

**BAR ID #:** \_\_\_\_\_ **STATE OF** \_\_\_\_\_

1. I affirm that I am admitted to practice in the United States Courts for the Middle District of Louisiana and that the information set forth above is true and correct.
2. I understand that use of the password to be obtained pursuant to this Application (my password) to file a document in the record of a bankruptcy case or proceeding will constitute my signature upon and my signing of any petitions, schedules, statements, matrixes, declarations, verifications, pleadings or other papers or documents filed by use of my password, for all purposes authorized and required by law, including, without limitation, the United States Code, Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, Federal rules of Criminal Procedure and any applicable non bankruptcy law.
3. I understand and acknowledge my obligation to transmit to the Bankruptcy Court the "Declaration Re; Electronic Filing Of [...documents]" as required by the Local rules of the Bankruptcy Court.
4. I understand that it is my responsibility to maintain in my records all documents bearing my original signature that are file using my password, and all documents bearing the original signature of any signer on whose behalf I file the documents using my password, for a period of \_\_\_ years.
5. I understand that it is my responsibility to protect and secure the confidentiality of my password. If I believe that my password has been compromised, it is my responsibility to notify the court in writing, immediately.
6. I understand that it is my responsibility to notify the court, immediately, of any change in my address, telephone number, fax number, or e-mail address.
7. I agree to adhere to court procedures for the Electronic Case Filing System. I understand that it is my responsibility to learn and use any and all updates to the electronic case filing procedures, and acknowledge and accept the requirement that I have undergone training by the office of the Clerk of the Bankruptcy Court prior to issuance of my password.

\_\_\_\_\_  
**ATTORNEY SIGNATURE**

\_\_\_\_\_  
Date

**APPROVED BY:** \_\_\_\_\_

**PASSWORD #** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**LOCAL RULES FORM #9**  
**UNITED STATES BANKRUPTCY COURT**  
**MIDDLE DISTRICT OF LOUISIANA**  
APPLICATION FOR LIMITED USE/CLAIM PASSWORD  
FOR ELECTRONIC CASE FILING SYSTEM

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE #: \_\_\_\_\_ FAX #: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

BAR ID # (if applicable): \_\_\_\_\_ STATE OF \_\_\_\_\_

1. **Pro Hac Vice Application:** I affirm that I am admitted to practice in the United States Courts for the \_\_\_\_\_ District of \_\_\_\_\_ (applicable state) and that the information set forth above is true and correct.
2. **Claims or Other Limited Use Application:** I affirm that I am authorized to prepare and file Proofs of Claim on behalf of \_\_\_\_\_, and/or am authorized to prepare and file Application(s) To Withdraw Unclaimed Funds on behalf of \_\_\_\_\_, and/or I am authorized to prepare and file Notice(s) of Appearance on behalf of \_\_\_\_\_, and/or that I am authorized to prepare and file Proof(s) of Claim and to appear on behalf of \_\_\_\_\_, a child support creditor, and/or am authorized to execute and submit Reaffirmation Agreements on behalf of \_\_\_\_\_.
3. I understand that use of my Limited Use password to file a document in the record of a bankruptcy case or proceeding will constitute my signature upon and my signing of any declarations, verifications, proofs of claim, applications to withdraw unclaimed funds, notices of appearance, assignments of claims, reaffirmation agreements, or proofs of claim or other papers involving a child support creditor, or other papers or documents filed by use of the password obtained pursuant to this Application (my password), for all purposes authorized and required by law, including, without limitation, the United States Code, Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, Federal rules of Criminal Procedure and any applicable non bankruptcy law.
4. I understand that it is my responsibility to maintain in my records all documents bearing my original signature that are file using my password, and all documents bearing the original signature of any signer on whose behalf I file the documents using my password, for a period of \_\_\_ years.
5. I understand that it is my responsibility to protect and secure the confidentiality of my password. If I believe that my password has been compromised, it is my responsibility to notify the court in writing, immediately.
6. I understand that it is my responsibility to notify the court, immediately, of any change in my address, telephone number, fax number, or e-mail address.
7. I agree to adhere to court procedures for the Electronic Case Filing System. I understand that it is my responsibility to learn and use any and all updates to the electronic case filing procedures.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

APPROVED BY: \_\_\_\_\_

PASSWORD # \_\_\_\_\_ DATE: \_\_\_\_\_

**LOCAL RULES FORM #10**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

**CHAPTER 13 PLAN[/MOTION FOR 3012 VALUATION HEARING]**

The debtor's future earnings are submitted to the supervision and control of the trustee, and the debtor shall pay to the trustee all disposable income in the amount of \$\_\_\_\_\_ monthly for \_\_\_\_\_ months.

[If the plan provides for payment of the full value of all claims (a 100% plan) and the debtor proposes to submit less than all disposable income to the trustee, this provision shall read as follows: A portion of the debtor's future earnings sufficient to fund the following full payment plan is submitted to the supervision and control of the trustee, and the debtor shall pay to the trustee the sum of \$\_\_\_\_\_ monthly for \_\_\_\_\_ months.]

[If applicable - The "cause" for extending the term of the plan beyond the three-year period provided for in 11 U.S.C. § 1322(c) is \_\_\_\_\_.]

From the payments by the debtor to the trustee, claimants shall be entitled to distribution as follows:

(1) The trustee shall be paid \$\_\_\_\_\_ as an administrative expense entitled to priority under 11 U.S.C. § 507(a)(1) (ten percent (10%) of payments under the plan).

(2) The following claims entitled to priority under 11 U.S.C. § 507 shall be paid in full in deferred cash payments unless the holder of a particular claim has agreed to a different treatment of such claim, as indicated below:

<u>Name of Creditor</u>	<u>Value of Claim</u>	<u>Annual* Interest Rate (if applicable)</u>	<u>Term (Months)</u>	<u>Monthly Installment</u>
(a) _____	\$ _____	_____	_____	_____

(3) Secured Claims.

(A) Principal Residence. Except as otherwise provided herein or by order of the Court, and pursuant to 11 U.S.C. § 1322(b)(2), the debtor, during the pendency of this case and this plan, shall make the usual and regular payments called for by the *debt instruments and security agreements supporting non-voidable liens upon debtor's principal residence that is immovable/real property directly* to each lien holder in a current manner from the date of the petition.

<u>Lien holder</u>	<u>Security Interest</u>	<u>Description of Property/Collateral</u>	<u>Monthly Installment</u>
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(If treatment different from that required by the debt instruments and security agreements is proposed, such treatment shall be specifically described and shall become an issue to be resolved either by consent of all parties or at confirmation.)

(B) Other Direct Payments. The debtor, during the pendency of this case and this plan, shall make the usual and regular payments called for by the debt instruments and, if applicable, the security agreements supporting non-voidable liens against the following property directly to each creditor in a current manner from the date of the petition as follows:

<u>Creditor</u>	<u>Security Interest*</u>	<u>Description of Property/Collateral*</u>	<u>Monthly Installment</u>
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\*if applicable

(C) Curing of Arrearages. Arrearages to named lien holders shall be made in installments by the trustee from funds available for distribution monthly. Payments shall be made in installments set forth below until the amount allowed each lien holder on a claim for arrearages as provided herein has been paid.

<u>Creditor/Lien holder</u>	<u>Total Amount of Arrearages*</u>	<u>Annual Interest Rate**</u>	<u>Terms (Months)</u>	<u>Monthly Installment</u>
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\*[If applicable - includes attorney's fees, costs, late charges of \$\_\_\_\_\_ and interest rate of \_\_\_% /or includes pre-petition principal and interest or principal only].

\*\*if applicable.

Provisions of this paragraph shall operate to cure any default of any security agreement notwithstanding that by the terms of the security agreement the time for reinstatement has expired.

(D) Surrender of Property. The debtor shall surrender to the following holders of secured claims any right that might arise under the Bankruptcy Code or this plan to maintain an interest in the property securing the claims, in full satisfaction of the secured claim of each of these following creditors:

<u>Lien holder</u>	<u>Amount of Secured Claim</u>	<u>Description of Property/Collateral</u>
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The debtor's right to assert under the Bankruptcy Code or this Plan an interest in the property securing the claim(s) is deemed surrendered as of the date of entry of the Order of Confirmation. Confirmation of this plan will operate to lift the § 362 stay, with consent of the debtor, also to allow enforcement of the security interests held by the above claimants, under applicable non-bankruptcy law.

(E) Other Secured Claims. Any secured claims not treated in subsections (A), (B), (C), or (D) of this provision shall be determined under 11 U.S.C. § 506 and Rules 3004 and 3012, Federal Rules of Bankruptcy Procedure, and Rules 3012-1 of the Local Rules of this Court, and shall receive payments under the plan equivalent to the value of the claim as of the effective date of the plan. Each holder of a secured claim shall retain the lien securing such claim until the claim is paid. The holders of claims secured by liens on property other than the principal residence, the value of the claims as proposed by the debtor, and the treatment afforded such claims are set forth below:

<u>Name of Creditor</u>	<u>Description of Property</u>	<u>Value of Claim</u>	<u>Interest Rate</u>	<u>Term (Months)</u>	<u>Monthly Installment</u>
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In the event any creditor contests the value of a secured claim as proposed by the debtor, the creditor must file a timely objection pursuant to Local Rule 3015.3-1. In the event of such an objection, the Court will take evidence and shall determine the value of the secured claim at the hearing on confirmation, pursuant to Rule 3012, FRBP, and Local Rule 3012-1 or in connection with such other proceedings as are appropriate in the interest of justice. [If applicable - the debtor intends to avoid the lien which purports to secure the claim of the following creditor, pursuant to Bankruptcy Rule 7001 and Local Rule 3012-1(c) and has brought (will bring) a separate adversary proceeding to effect cancellation of the lien so as to render the following creditor(s)' claim(s) unsecured: \_\_\_\_\_.]

(4) Unsecured Claims. Creditors holding unsecured claims shall be treated as follows:

(A) Class A shall consist of those creditors holding allowed unsecured claims, except those allowed unsecured claims treated in subsection (B). The claims of such creditors shall be paid pro rata over the period of the plan as follows:

<u>Aggregate Amount of Unsecured Claims (as scheduled)*</u>	<u>Interest Rate**</u>	<u>Term (Months)</u>	<u>Monthly Installment</u>
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**\*Informational purposes only; to be included in Class A the claims must be allowed.**

\*\*[If applicable; e.g., in cases requiring 100% repayment due to liquidation value of the estate].

(B) [If applicable] Class B shall consist of creditors who have allowed unsecured claims with a co-debtor liable thereon. In order to insure continuance of the co-debtor stay pursuant to 11 U.S.C. § 1301, the claims of such creditors shall be paid 100% of the claim as allowed plus interest as follows:

<u>Name of Creditor</u>	<u>Claim and Monthly Installment*</u>	<u>Interest Rate**</u>	<u>Term (Months)***</u>	<u>Monthly Installment Under Plan</u>
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\*The remaining balance and installment under the applicable debt instrument.

\*\*As provided in the debt instrument.

\*\*\*Left according to the terms of the debt instrument.

(5) Liquidation Value. The liquidation value of the estate = \$\_\_\_\_\_.

(6) Present Value of Payments to Class A Unsecured Creditors. The present value of the payments to be made to unsecured creditors under the plan using a \_\_\_\_\_% annual discount rate = \$\_\_\_\_\_.

(7) The debtor hereby accepts/rejects the following leases or executory contracts:

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(8) Attorney's Fees for Debtor's Counsel. The debtor's attorney has been paid or promised \$\_\_\_\_\_ plus \$\_\_\_\_\_ court costs by the debtor for professional services and expenses incurred in this Chapter 13 case. Approval of said fees and expenses will be sought in

conjunction with confirmation of this plan. Confirmation of the plan shall be deemed as approval of said fees and expenses unless disallowed or reduced by the Court.

(9) Vesting of Property. Upon confirmation of this plan, all of the property of the debtor's estate shall vest in the debtor. [Or, if applicable, such other provisions regarding vesting of property as are appropriate].

(10) Other Matters. [For example: The debtor shall execute an assignment of the proceeds of that certain lawsuit described as "Debtor v. ABC Ins. Co., Suit # \_\_\_\_\_, Division \_\_\_\_\_ of the \_\_\_\_\_ Judicial District Court, State of \_\_\_\_\_," in form and substance satisfactory to the Chapter 13 trustee, in order to aid in payment of the liquidation value of the estate, and/or in effectuating payments under this plan.]

CERTIFICATION OF COUNSEL

[May be on separate page]

I hereby certify that I have explained the terms and conditions of, and obligations under, the foregoing plan to the debtor(s).

\_\_\_\_\_, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Counsel for Debtor(s)

Plan Dated: \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor



LOCAL RULES FORM #11

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UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR(S)

ATTORNEY DECLARATION

I, \_\_\_\_\_ (attorney's name), am an attorney admitted to practice before this Court and have been retained as attorney for the debtor(s) in this bankruptcy case.

I have generally advised the debtor(s) about (i) the scope and effect of the discharge; (ii) the option of reaffirming debts under 11 U.S.C. § 524, and the statutory requirements and consequences of reaffirmation; (iii) the option of redemption of property under 11 U.S.C. § 722; (iv) the possible options to avoid liens under 11 U.S.C. § 522; (v) the definition of "property of the estate," the debtor's obligation to provide full and accurate disclosure of information, and the requirement that the debtor turn over all property of the estate, except that specifically exempted, to the trustee; and (vi) the possible consequences of failure to provide full and accurate disclosure of property and debts, and the failure to turn over to the trustee property which could be property of the estate, such as revocation of discharge, interest and other charges by the trustee, and criminal prosecution. I have specifically reviewed with the debtor(s), by reading to the debtor(s) when it was thought necessary, the content of this declaration.

The discharge in bankruptcy is intended to relieve honest but unfortunate debtors from oppressive debt and to provide them with a financial fresh start. The document which notifies the debtor of the discharge is a court order entitled "Discharge of Debtor." It is mailed to the debtor and creditors by the bankruptcy court.

The discharge in bankruptcy releases a debtor from any further personal liability for any debt owed to a creditor listed in the schedules filed with the court, unless the debt is a nondischargeable debt or is a debt, after timely complaint and upon final judgment, excepted from discharge. I have advised the debtor(s) as to the types of debts which are not discharged by the Order of discharge (such as many tax obligations, debts in the nature of alimony, maintenance and support, government-guaranteed student loans, debts not properly listed or scheduled, etc.) and the types of debts which may be excepted from discharge (fraud, willful and malicious injury, fraud or defalcation while acting in a fiduciary capacity, certain community property obligations, etc.). Though nothing prevents a debtor from voluntarily repaying a discharged debt,

creditors can take no action to encourage or require a debtor to repay a discharged debt. They cannot personally contact a debtor at home or at work; they cannot send demand letters to a debtor; they cannot file suits against a debtor; they cannot obtain judgments against a debtor; they cannot execute on property of a debtor unless the creditor holds a valid security interest in the property and, in conformity with state law and the Bankruptcy Code, is entitled to execute upon **the property**; they cannot garnish a debtor's wages or take any action which harasses a debtor for having filed bankruptcy or which attempts to require repayment of any debt that has been discharged.

If a creditor engages in any conduct aimed at encouraging or forcing repayment of a discharged debt, the debtor should contact his or her attorney immediately so that appropriate legal action can be taken against the creditor. As part of my representation of the debtor in this case, I acknowledge my responsibility to act on behalf of the debtor to protect the debtor's rights under his or her discharge and to bring to the bankruptcy court's attention, if necessary or proper, actions thought by me to be in violation of the Order of Discharge.

There are differences between secured and unsecured debt and in the manner in which a debtor may treat a secured debt in a Chapter 7 bankruptcy case. Some debtors may desire to surrender property which is collateral or security for a secured debt. Upon surrender of the property to the creditor, the debtor has no further liability to the creditor. Some debtors will redeem property pledged as security for a debt by paying the creditor the fair market value of the property. Other debtors may wish to reaffirm the debt secured by the debtor's property.

Debtors should consider reaffirmation of a secured debt only where the value of the property equals or exceeds the debt, and the payments on the debt are reasonable and within the debtor's means. To reaffirm a debt, the debtor must sign a new agreement with the creditor, and that agreement, along with an attorney's affidavit or declaration pursuant to 11 U.S.C. § 524(c), if applicable, must be filed with the court within the time afforded under the Local Rules of the United States Bankruptcy Court for the Middle District of Louisiana. Even after signing a reaffirmation agreement, the debtor still has a right to cancel that reaffirmation at any time prior to the discharge, or within 60 days after filing the Agreement with the Court, whichever is later (30 days for cases filed before October 8, 1984) by taking the proper action to rescind it. A debtor should consider the effect of a catastrophic event, such as medical problems, on the debtor's ability to pay any reaffirmed debts because, once a Chapter 7 discharge is received, a debtor cannot again seek this same benefit for six years. I have reviewed with the debtor(s) the substantive and form requirements of § 524(c) and recognize, as a component of my attorney obligation, my responsibility to advise the debtor(s) as to whether or not the reaffirmation agreement(s) in connection with which I assist the debtor(s) comply with § 524(c).

I have informed the debtor of his or her obligations under this Court's Local Rules (particularly rules 4008-1 and 4008-2) in the event the debtor wishes to reaffirm a debt without my assistance in the course of negotiating the agreement or in the event I, in fulfillment of my ethical duties to my client, cannot assist or provide the debtor with the declaration or affidavit as required by 11 U.S.C. § 524(c)(3). Further, I have advised the debtor of the consequences of

failure to comply with this Court's Local Rules in this event, and of the necessity of court approval of such an agreement.

I have informed the debtor(s) that he (she) has fulfilled the requirements of the Bankruptcy Code and, as of the date of the entry of the Discharge Order, will receive the fresh start envisioned by the Code. I have further urged the debtor(s) that debt should be avoided which would again place the debtor(s) in a position to need protection under the bankruptcy law. I have advised the debtor of my willingness to assist in negotiating reaffirmation agreements that I, in performance of my representation according to ethical standards, can make the subject of a declaration or affidavit conforming to the requirements of 11 U.S.C. § 524(c)(3).

\_\_\_\_\_, Louisiana, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

(Debtor's attorney)

The undersigned debtor(s) in the captioned bankruptcy case hereby acknowledge(s) that I/we have read the Attorney Declaration and that \_\_\_\_\_, my/our attorney in this case as advised me/us as is stated in the Declaration.

\_\_\_\_\_

(Debtor)

\_\_\_\_\_

(Debtor)

**LOCAL RULES FORM #12-A**

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR(S)

**MOTION FOR AND NOTICE OF HEARING ON DISCHARGE**  
**(Discharge Hearing (if Represented by Counsel); Hearing Optional)**

The debtor(s) represent(s) to the Court that he/she/they is/are entitled to a discharge and desire(s) to attend a Discharge Hearing. Therefore, the debtor(s) request(s) that a Hearing on Discharge be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at 1:00 p.m.

**NOTICE OF HEARING AND CERTIFICATE OF SERVICE**

The trustee is hereby notified that a Hearing on Discharge will be held on the date indicated above. I/we hereby certify that I/we have served a copy of this motion and notice upon the trustee at the address listed below on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Trustee's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Submitted by:

Name of Firm

Address

Telephone Number

Attorney for the Debtor

By: \_\_\_\_\_

**LOCAL RULES FORM #12-B**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR(S)

**MOTION FOR AND NOTICE OF HEARING ON DISCHARGE AND REAFFIRMATION**

**(Reaffirmation Without Affidavit of Counsel; Hearing Required)**

The debtor(s) represent(s) to the Court that he/she/they has/have executed the attached reaffirmation agreement(s), which were filed in the record of this bankruptcy case on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and hereby request(s) that a Hearing on Discharge and Reaffirmation be held on the \_\_ day of \_\_\_\_\_, 20\_\_, at 1:00 p.m.

The reaffirmation agreement(s) does/do not contain the attorney's declaration and/or is/are not accompanied by an attorney affidavit provided for in 11 U.S.C. § 524(c)(3), as I/we was/were not assisted by counsel in the negotiation of the attached agreement(s).

The reaffirmation agreement(s) should be approved by the Court for the following reasons, notwithstanding the absence of assistance by an attorney in the negotiation of the agreements(s):

\_\_\_\_\_

Therefore, the debtor(s) request(s) an order approving the reaffirmation agreement(s) in accordance with § 524(c)(6) and (d) of the Bankruptcy Code.

**NOTICE OF HEARING AND CERTIFICATE OF SERVICE**

All creditors who are parties to reaffirmation agreements are hereby notified that a Hearing on Discharge and Reaffirmation will be held on the date indicated above. I/we hereby certify that I/we have served a copy of this motion and notice (including any attachments) upon the following creditors on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Creditor(s):**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Date Executed: \_\_\_\_\_  
Date Filed: \_\_\_\_\_

\_\_\_\_\_  
Name of Debtor(s)  
Address  
Telephone Number

By: \_\_\_\_\_

By: \_\_\_\_\_

**LOCAL RULES FORM #12-C**

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF LOUISIANA

IN RE

CASE NO.

DEBTOR(S)

**MOTION FOR AND NOTICE OF HEARING ON DISCHARGE AND REAFFIRMATION**

**(Reaffirmation With Affidavit of Counsel; Hearing Optional)**

The debtor(s) represent(s) to the Court that he/she/they has/have executed the attached reaffirmation agreement(s) with the assistance of counsel, who has complied with 11 U.S.C. § 524(c)(3). Further, notwithstanding that appearance at a hearing is not required under this Court's Local Rules, the debtor(s) hereby request(s) that a Hearing on Discharge and Reaffirmation be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at 1:00 p.m.

**NOTICE OF HEARING AND CERTIFICATE OF SERVICE**

All creditors who are parties to reaffirmation agreements are hereby notified that a Hearing on Discharge and Reaffirmation will be held on the date indicated above. I/we hereby certify that I/we have served a copy of this motion and notice (including any attachments) upon the following creditors on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Creditor(s):**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Date Executed: \_\_\_\_\_  
Date Filed: \_\_\_\_\_

Submitted by:  
Name of Debtor(s)  
Address  
Telephone Number

**OR** Submitted by:  
Name of Attorney for Debtor(s)  
Address  
Telephone Number

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

**ORDER**

The foregoing Local Rules and the accompanying Local rules forms having been prepared and submitted by the United States Bankruptcy Court for the Middle District of Louisiana, Louis M. Phillips, Bankruptcy Judge, and having been properly noticed FOR COMMENT,

IT IS ORDERED that the Local Rules of Court Applicable to Bankruptcy Cases and Proceedings, as amended and renumbered, are enacted and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

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**LOUIS M. PHILLIPS**, Bankruptcy Judge  
United States Bankruptcy Court