# UNITED STATES BANKRUPTCY COURT
# SOUTHERN DISTRICT OF CALIFORNIA

# Local Bankruptcy Rules

March 1, 2015

Jacob Weinberger United States Courthouse
325 West F Street
San Diego, CA 92101-6991

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## RULE 1001. SCOPE OF RULES; SHORT TITLE

**1001-1. Adoption of the Local Bankruptcy Rules.** The United States Bankruptcy Court for the Southern District of California (the "Court") adopts the following rules (the "Local Bankruptcy Rules") as of 03/01/2015 (the "Effective Date"). The Local Bankruptcy Rules govern all cases and all adversary proceedings, contested matters, and other proceedings pending on or commenced after the Effective Date and bind all parties appearing therein. These rules supersede all previous local rules and incorporate General Orders 162a (Electronic Filing), 168 (securing personal information in Proofs of Claim), and 181 (Rent Deposits).

**1001-2. Amendment by General Order.** The Court may amend the Local Bankruptcy Rules subsequent to the Effective Date by a "General Order" of the Court. The Court posts General Orders on the Court's website: http://www.casb.uscourts.gov/html/general_orders.html.

**1001-3. Judges of the Court May Modify These Rules in a Specific Case or Action.** Each judge of the Court may deviate from the procedures set forth in any Local Bankruptcy Rule in a specific case or proceeding and on the Court's own motion or at the request of any party.

**1001-4. Local Bankruptcy Rules Supplement Federal Bankruptcy Rules.** The Local Bankruptcy Rules supplement the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"). In the event of any conflict between the Local Bankruptcy Rules and the Bankruptcy Rules, the provisions of the Bankruptcy Rules govern.

**1001-5. Adoption of Certain Local Rules of the District Court.** Appendix B, as amended from time to time, lists provisions of the Local Civil Rules of Practice of the United States District Court for the Southern District of California ("District Court") that are applicable to proceedings in the Bankruptcy Court.

**1001-6. Definitions; Rules of Construction.**

(a) Definitions and Rules of Construction from External Sources. Capitalized terms not otherwise defined in the Local Bankruptcy Rules have the meaning set forth in 11 U.S.C. § 101 and FRBP 9001 and 9002. The rules of construction of 11 U.S.C. § 102 also govern the Local Bankruptcy Rules.

(b) Definitions. The Local Bankruptcy Rules employ the following additional definitions:

(1) "Action" means an adversary proceeding, contested matter, motion governed by FRBP 9013, notice of intended action,

application, or other proceeding of any type pending before the Court.

(2) "Administrative Procedures" means Local Form CSD 1800 which is found on the Court's website at www.casb.uscourts.gov, as it is amended from time to time. The Administrative Procedures provide requirements for practice before the Court in the areas of filing, including electronic filing, payment, Document preparation, service, notice, signatures, and general practice.

(3) "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure.

(4) "Civil Rules" means the Federal Rules of Civil Procedure.

(5) "Clerk" means the Clerk of the Court.

(6) "Court" means the United States Bankruptcy Court for the Southern District of California.

(7) "Courtroom Deputy" means the Individual responsible for administrative matters in the department of the Court in which a case or Action is pending. A list of Courtroom Deputies is available on the Court's website.

(8) "Declaration" means a Document containing admissible evidence that is signed and verified by the Individual providing the evidence such that the evidence provided is the equivalent of oral testimony under oath. The preferred form of Declaration in the Court is a Document that complies with 28 U.S.C. § 1746.

(9) "Document" means a writing filed with the Court in electronic or paper form.

(10) "EDOC System" means the Electronic Document System that routes documents to a chapter 7 or chapter 13 trustee. These documents are not filed with the Clerk.

(11) "Entity" means a corporation, partnership, limited liability company, Governmental Unit, or other non-natural person.

(12) "Fee" means a payment collected by the Clerk as required by 28 U.S.C. § 1930(a) or (b).

(13) "FRBP" is used for citations to the Bankruptcy Rules.

(14) "FRCP" is used for citations to the Civil Rules.

(15) "General Order" means, as relevant here, an order of Court that modifies existing Local Bankruptcy Rules, creates new Local Bankruptcy Rules, or otherwise creates or modifies procedures of the Court.

(16) "Individual" means a natural person.

(17) "LBR" is used for a citation to the Local Bankruptcy Rules.

(18) "Movant" means the party seeking relief from the Court pursuant to a motion, application, or request.

(19) "NEF" means "Notice of Electronic Filing" and is a notice automatically generated by the System when a Document is filed with the Court. The NEF sets forth the date and time of filing, the name of the attorney or party filing the Document, the type of Document, the text of the docket entry, the name of the party or attorney receiving the notice, and an electronic link (hyperlink) to the filed Document which allows recipients to retrieve the Document automatically.

(20) "Petition Date" means the date on which the debtor files a Petition and a bankruptcy case commences.

(21) "Plan/DS" means the form chapter 11 Individual combined plan of reorganization and disclosure statement (CSD 1152).

(22) "Proof of Service" means a Document evidencing notice or service as required by the Federal Rules, Local Bankruptcy Rules, or Court order and described in LBR 9006-2. Local Form CSD 3010 may be used for Proof of Service.

(23) "Registered User" means an Individual who has been issued a login and password by the Court to electronically file Documents in the System.

(24) "Stipulation" means a Document that evidences an agreement between the parties who sign the Document individually or through a representative.

(25) "System" means the Electronic Filing System utilized by the Court.

(26) "U.S. Trustee" means the United States Trustee responsible for Region 15, where the Court is located.

(c) General Notice or Service Requirements. When the Local Bankruptcy Rules or Bankruptcy Rules require notice or that a party serve a Document, a party must provide notice or service that generally compiles with 11 U.S.C. § 102(1) and that more specifically compiles with any relevant Bankruptcy Rule or Court order. Delivery of Documents by facsimile does not constitute service absent Court order or agreement of the relevant parties.

(d) FRBP 7004 Service. When the Local Bankruptcy Rules require FRBP 7004 Service, a party must provide service that complies with FRBP 7004.

(e) Filing of a Proof of Service. A Proof of Service must be filed with the Court no later than the business day following the date of service.

(f) Obtaining Hearing Dates. When the Local Bankruptcy Rules require that a party obtain a hearing date, the party must do so by contacting the Courtroom Deputy, unless the Court otherwise provides a hearing date by order or on the record at a hearing. The hearing date and time must be referenced on all notices and on the first page of all Documents filed in connection with the Action.

(g) Vacating a Hearing. The party obtaining a hearing date is responsible for advising the Courtroom Deputy promptly when a hearing is no longer necessary. In such a case, the Court, however, retains discretion to conduct a hearing notwithstanding the position of the parties. Parties should appear at the hearing unless the hearing date is formally vacated by docket entry or order or appearance is informally waived by other communication from the Court.

(h) Court Enforcement of Stipulations. A Stipulation will not be enforced by the Court and cannot modify an order of the Court unless approved by another Court order.

(i) When any party files an amended Document, the party must clearly identify all changes within the amended Document or in another concurrently filed Document. If the reason for the amendment is not obvious, the party also must concurrently provide written explanation for the change.

**1001-7. Sanctions for Non-Compliance.** Failure to comply with the Local Bankruptcy Rules, the Administrative Procedures, or with any order of the Court may be grounds for any and all sanctions authorized by statute or rule or within the inherent power of the Court.

## RULE 1002. COMMENCEMENT OF CASE

**1002-1. Representation.**

(a) Entities. An Entity may not file a Petition or otherwise appear in any case or Action except through an attorney, but may file a proof of claim or a reaffirmation agreement and may appear as a creditor at a section 341(a) meeting.

(b) Individuals. An Individual may represent himself or herself and appear in the Court without an attorney. But, an Individual who does not retain an attorney must appear personally and cannot delegate the representation to any non-lawyer, including a spouse or relative. An Individual, however, may utilize another Individual as an interpreter when before the Court. YOU MUST PROVIDE YOUR OWN INTERPRETER, AS THE COURT DOES NOT PROVIDE THIS SERVICE.

(c) Attorneys for Chapter 7 and Chapter 13 Debtors. Any attorney representing a chapter 7 or chapter 13 debtor must:

(1) comply with and meet the standards established by the then-applicable General Order governing rights and responsibilities of chapter 7 or chapter 13 debtors and their attorneys; and

(2) file an executed Rights and Responsibility Statement in the form required by then-applicable General Order.

[The next Rule is 1006]

## RULE 1006. FILING FEE AND OTHER CHARGES

**1006-1. Schedule of Fees and Other Charges.** The Clerk collects Fees in connection with the filing of a Petition, the initiation of an adversary proceeding or stay relief motion, and in other appropriate circumstances. Appendix A, as amended from time to time, lists all Fees.

**1006-2. Method of Payment.** A debtor or attorney must pay Fees through the methods allowed by the Administrative Procedures.

**1006-3. Waiver of Filing Fee.** An application to waive the Chapter 7 filing Fee must substantially conform to Local Form CSD 1020.

**1006-4. Approval of Installment Fees.** An application to pay the filing Fee in installments must substantially conform to Local Form CSD 1006. The Clerk may grant an Individual's application to pay the filing Fee in installments within 120 days after the Petition Date.

**1006-5. Dishonored Checks and Declined Credit Cards.** The Clerk accepts non-cash payment of Fees subject to collection and provides full credit only when the non-cash payment is paid or accepted by the relevant financial institution or credit card company. The Clerk will collect a service charge as set forth in Appendix A in connection with any non-cash payment that is reversed, returned for lack of funds, or not honored for any reason. The Administrative Procedures outline further consequences of a failure to properly pay Fees.

## RULE 1007. LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS

**1007-1. Special Requirements for Mailing Addresses.** The System has specific requirements for the submission of names and addresses for creditors and other parties in interest. The debtor must prepare the list of creditors consistent with the most current version of Local Form CSD 1007.

**1007-2. Signatures.** Documents requiring an original signature may be filed electronically, but the filer must comply fully with LBR 5005-4 as to signature format and LBR 5005-8 as to maintenance of the original Documents.

**1007-3. Extension of Time; Required Notice.** A debtor filing a motion for extension of the time for filing schedules and statements must comply with LBR 9034-1 or LBR 9034-2, as appropriate, and also must serve such motion on any chapter 7, 11, 12, or 13 trustee.

**1007-4. Required Notice When Schedules Are Filed After the Petition Date.** When filing any lists, statements, or schedules after the Petition Date, the debtor must:

(a) Service. File and serve a Proof of Service of a copy of these Documents on the U.S. Trustee, any interim trustee or trustee, and each member of any committee appointed in the case; and

(b) Notice. Give notice of the Petition Date to any Entity or Individual newly listed in the lists, schedules, and statements. If applicable, this notice must be accompanied by:

(1) a copy of the "Order for and Notice of Section 341(a) Meeting";

(2) any "Discharge of Debt" or "Notice of Order Confirming Plan"; and

(3) in a chapter 13 case, a claim form and the date, time, and location of any pending section 341(a) meeting or confirmation hearing currently scheduled.

(c) Form of Notice. When noticing any Entity or Individual not previously named in the original mailing matrix, the debtor must comply with LBR 1007-1.

**1007-5. Payment Advices.** The debtor must submit the evidence of payment required by FRBP 1007(b)(1)(E) to the chapter 7, 12, or 13 trustee assigned to the debtor's case or to the U.S. Trustee in a chapter 11 case, preferably through the EDOC System. A debtor should not file this evidence with the Court.

**1007-6. Consumer Debts Secured by Property of the Estate.** A trustee is not required to obtain a debtor's compliance with 11 U.S.C. § 521(a)(2)(B), if the trustee claims no interest in the property listed in an Individual debtor's Statement of Intention.

[The next Rule is 1009]

## RULE 1009. AMENDMENT OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS

**1009-1. Notice and General Requirements.** When a debtor files post-Petition amendments to the lists, schedules, and statements required by FRBP 1007 any such amendment must: (i) substantially conform to Local Form CSD 1100; (ii) be served as required by LBR 1007-4; (iii) comply with LBR 1001-6(i); and (iv) include a notice that substantially conforms to Local Form CSD 1101.

**1009-2. Special Requirements for Mailing Addresses.** The debtor must comply with LBR 1007-1 when filing amendments to the schedule of liabilities.

**1009-3. Effect of Amendments.** An amendment of a Petition, list, schedule, or statement does not reopen or extend the period for an objection to any information that is not changed.

[The next Rule is 1015]

## RULE 1015. CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT

**1015-1. Joint Petitions.** The Court will jointly administer the estates of debtors filing a joint Petition without further Court order.

**1015-2. Related Cases.**

(a) When a Case Is Deemed Related. A case is deemed related to another case if it meets the criteria set forth in FRBP 1015(a) or if the cases involve related parties, creditors, or assets and if treating the cases as related promotes efficient administration of the estates or cases.

(b) Notice. If a case is related to a case that is pending or was pending within 3 years of the filing of the later Petition, the debtor must and any other party in interest may: (i) file a Document entitled "Notice of Related Case(s)" that lists the title, number, and filing date of the related case and briefly describes the relationship between the cases; and (ii) serve it on the U.S. Trustee.

[The next Rule is 1017]

## RULE 1017. MOTION FOR DISMISSAL OR CONVERSION OF CASE

### 1017-1. Required Notice of Non-Debtor's Motion to Dismiss.

(a) Chapter 7 or 11 Case. LBR 1017-3 governs notice of a motion by the U.S. Trustee or a trustee to dismiss a case based on the debtor's failure to file Documents as required by FRBP 1007(b) or to attend the section 341(a) meeting.

(b) LBR 9013-4(a)(1) and (2) otherwise govern notice of a motion to dismiss or convert a case filed by a party other than the debtor.

### 1017-2. Motion by Debtor to Dismiss or Convert Case; Notice to U.S. Trustee and Trustee.

(a) Chapter 7 or Chapter 11 Case. A debtor converting a chapter 7 or 11 case must:

(1) accompany a motion to convert a chapter 7 or 11 case with the appropriate Fee and a proposed order using the applicable Local Form: CSD 1105; CSD 1106; CSD 1107; CSD 1108; or CSD 1109;

(2) file a separate set of schedules and statements which are dated and accurate as of the date of the notice of conversion;

(3) serve a copy of the motion to convert, the Documents required by LBR 1017-2(a)(2), and the proposed order on any chapter 7 or 11 trustee appointed in the case; and

(4) file a Proof of Service.

(b) Chapter 13 Case.

(1) A debtor dismissing a chapter 13 case must:

(A) use Local Form CSD 1174 or a substantially similar Document;

(B) use a proposed dismissal order that substantially conforms to Local Form CSD 1176;

(C) serve these Documents on the chapter 13 trustee; and

(D) file a Proof of Service.

(2) A debtor converting a chapter 13 case to a case under chapter 7 must:

(A) use Local Form CSD 1129;

(B) pay the appropriate Fee;

(C) file with the notice of conversion;

(i) the schedules and statements listed in FRBP 1007(b)(1), if not yet filed; or

(ii) a separate set of schedules and statements which are dated and accurate as of the date of the notice of conversion;

(D) serve only the notice of conversion on the chapter 13 trustee; any Documents required by subpart (iii) above must be served on the chapter 7 trustee upon appointment; and

(E) file a Proof of Service.

**1017-3. Dismissal for Lack of Prosecution.**

(a) Procedure. The Court, on its own motion or on a motion by the trustee or U.S. Trustee, after notice to the debtor, the debtor's attorney, and to all creditors through a section 341(a) notice, a deficiency notice, or otherwise, may dismiss a case for the reasons set forth in section (b) below unless the debtor or any party in interest:

(1) cures any deficiency in filing of required Documents within 14 days of the Petition Date; or

(2) files a motion requesting an extension of time or an excuse from performance within 14 days of service of such notice.

(b) Grounds for Dismissal. For purposes of section (a) above, the following are grounds for dismissal:

(1) failure to file lists, schedules, statements, a certificate of credit counseling, and all other required Documents within the time allowed by FRBP 1007;

(2) failure to timely file a chapter 13 plan; or

(3) failure to attend 341(a) meeting. The Court, on its own motion or on a motion by the trustee or U.S. Trustee, after notice to the debtor, the debtor's attorney, and to all creditors through a section 341(a) notice, may dismiss a case for failure of a debtor to appear at the initial section 341(a) meeting or any continued meeting.

[The next Rule is 1019]

## RULE 1019. DUTY OF DEBTOR-IN-POSSESSION OR TRUSTEE TO FILE REPORTS IN CHAPTER 11 CASE CONVERTED TO CHAPTER 7

**1019-1. Required Reports.** Upon entry of an order converting a case to chapter 7, the debtor or chapter 11 trustee must:

(a) Secure, preserve, and refrain from disposing of property of the estate;

(b) Contact the chapter 7 trustee and arrange to deliver property of the estate and all books and records to the trustee or the trustee's designated agent upon request; and

(c) Within 7 days after entry of the order for relief, file and serve upon the U.S. Trustee and chapter 7 trustee, if appointed, a verified schedule of all property of the estate as of the date of conversion, and File a Proof of Service showing compliance with this Local Bankruptcy Rule and LBR 9006-2.

[The next Rule is 2002]

## RULE 2002. NOTICE TO CREDITORS, EQUITY SECURITY HOLDERS, THE UNITED STATES, AND U.S. TRUSTEE

**2002-1. Notice to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief Is Sought in Ancillary and Other Cross-Border Cases, the United States and the U.S. Trustee.**

(a) General. Notice requirements under this Local Rule are governed by FRBP 2002.

(b) Motion to Extend or Impose the Automatic Stay.

(1) The notice required under 11 U.S.C. § 362(c)(3)(B) to extend the automatic stay must be filed and served within the 7 days after the Petition Date.

(2) A debtor or party in interest must give at least 14 days' notice of the hearing on a motion brought under 11 U.S.C. § 362(c)(3)(B) to extend the automatic stay.

(3) The notice required under 11 U.S.C. § 362(c)(4)(B) to impose the automatic stay must be served within 30 days after the Petition Date.

(4) A debtor or party in interest must give at least 14 days' notice of the hearing on a motion brought under 11 U.S.C. § 362(c)(4)(B) to impose the automatic stay.

(c) Notice by Chapter 7 Trustee. In cases where the estate has less than $1,000 in cash, the Clerk must serve any notices required to be served on all creditors by the chapter 7 trustee.

(d) Notice of Section 341(a) Meeting by Chapter 11 or 12 Debtor to Equity Security Holders. The debtor must serve notice of the order for relief and any other notices required by FRBP 2002(d) on any Equity Security Holder not listed in the schedules.

**2002-2. Notices of Intended Action and Opportunity for Hearing.**

(a) Matters Where a Notice of Intended Action May Be Used. The matters set forth below may be determined by notice of intended action and opportunity for hearing. Notice requirements are governed by FRBP 2002(a).

(1) Request by the U.S. Trustee or trustee for dismissal of a chapter 7, 11, 12, or 13 case if the debtor fails to file the schedules and statements required by FRBP 1007, or if the debtor or joint debtor fails to appear at the scheduled section 341(a) meeting or continued section 341(a) meeting under FRBP 2003 and LBR 1017-3, without further notice to the debtor or Creditors.

(A) The noticing requirements of FRBP 2002 and this subsection are satisfied by including the notice of intended action within the section 341(a) notice; and

(B) A party in interest may object to the motion for dismissal at the section 341(a) meeting, at which time a hearing on the objection will be scheduled.

(2) Intended use, sale, or lease of property other than in ordinary course of business as governed by FRBP 6004 and LBR 6004, but excluding motions for sale or lease of Personally Identifiable Information as provided for in LBR 6004-3 and sales free and clear of liens and interests which require FRBP 7004 service.

(3) Intended abandonment of property by the debtor or trustee as governed by FRBP 6007 and LBR 6007.

(4) Intended compromise or settlement of controversy by the debtor or trustee as governed by FRBP 9019 and LBR 9019.

(5) Allowance of compensation or other remuneration to the debtor or Insiders as provided by LBR 4002-2.

(6) Applications for compensation, commissions, or expenses of auctioneers, appraisers, or brokers to the extent the aggregate compensation and expenses exceed $1,000 as governed in FRBP 2002(a)(6).

(7) Application for compensation or reimbursement of expenses from the estate when the application is that of the trustee only.

(8) Requests for consolidation of Actions pursuant to LBR 7042-1.

(9) Intended dismissal of a complaint or cause of action for denial of discharge under 11 U.S.C. § 727.

(10) All other matters where the Court or the Bankruptcy Rules may direct.

(b) Limitation on Use. Notices of intended action may not be used except as set forth above.

(c) CSD 1180. Any notice of intended action served under this section must substantially conform to Local Form CSD 1180. The notice must be filed not later than 2 court days after service and must be accompanied by the moving papers described in LBR 9013-7(a) other than the notice of motion.

(d) Response. Except as provided in LBR 4002-2(c)(2) (requiring a 14-day response time), any opposition or response to a notice of intended action must be filed and served not more than 21 days after service of the notice of intended action, along with a request and notice for hearing substantially conforming to Local Form CSD 1184. If service of the notice of intended action and opportunity for hearing was by mail or through the System, FRBP 9006(f) applies.

(e) Submission of Order. If the opposition period expires without the timely filing of any opposition or other response and a request for hearing, the Movant must promptly upload a proposed order and comply with LBR 9013-10.

(f) Stay Pending Decision. The filing of a timely opposition or response to a notice of intended action will automatically stay the matter until after the hearing.

(g) LBR 9013 Motion. Upon the affirmative representation of counsel for the Movant that opposition to the notice of intended action is reasonably anticipated, a hearing date may be obtained from the Courtroom Deputy and the Movant may proceed as a contested matter pursuant to LBR 9013.

**2002-3. Notices of Hearing.** In connection with motions for modification of a chapter 12 or 13 plan, the Movant is not required to notice parties in interest who are not adversely affected by the modification.

**2002-4. Noticing Procedure and Service Lists.**

(a) Service of Notice. When giving notice under LBR 2002-2, a party must serve a copy of the required notice without the moving papers on all creditors and Indenture Trustees and, if applicable, Equity Security Holders whose names and addresses appear in the case records. In a chapter 11 case, a copy of the notice must also be served on the Internal Revenue Service and, if the chapter 11 debtor is a corporation, on the United States Securities and Exchange Commission.

(b) Listing the United States as a Creditor: Notice to the United States. When listing an indebtedness to the United States for other than taxes and when giving notice, as required by FRBP 2002(j)(4), the debtor must list and notice BOTH the United States Attorney for this district and the federal agency or other federal component through which the debtor became indebted. The address of the notice to the United States Attorney must include, in parenthesis, the name of the federal agency or other component. For example:

United States Attorney for Southern District of California
(For the Department of Energy or other agency)
Street Address, City, State, and Zip

The notice must also be sent directly to the component agency. For example:

Department of Energy, Street Address, City, State and ZIP.

(c) Register of Addresses. A registry of federal and state agencies and addresses to be used for service under these rules is available via the Court's website at **www.casb.uscourts.gov**.

(d) Service List. Creditor lists are readily available through ECF. Parties may obtain and print creditor lists without requiring assistance from the Court

[The next Rule is 2004]

## RULE 2004. EXAMINATION OF AN INDIVIDUAL OR ENTITY

### 2004-1. Examination and Service.

(a) FRBP 2004 governs examinations of an Individual or Entity.

(b) Any party in interest seeking to examine any Individual or Entity pursuant to FRBP 2004 must make every reasonable effort to stipulate with the Individual or Entity to be examined to the date, time, place, and scope of the examination.

(c) The party requesting an examination under FRBP 2004 must use Form B 254.

(d) An order for examination under FRBP 2004 must require a minimum of 21 days' notice from the date of service of the Court's order, unless otherwise agreed to by the parties or ordered by the Court.

[The next Rule is 2014]

## RULE 2014. EMPLOYMENT OF PROFESSIONALS

### 2014-1. Employment of Professionals.

(a) Chapter 11 Debtor; Case Initiation. Chapter 11 debtors within 30 days from the Petition Date must file an application to retain all professionals as of the outset of the case in accordance with FRBP 2014(a) along with a Declaration of disinterestedness and the proposed order. Untimely applications require a noticed motion seeking nunc pro tunc approval as required by applicable case law.

(b) Other Professionals. The application for employment of chapter 11 debtor professionals entering a case at a later date or applications by a trustee, official committee, or other party where Court approval is required, must conform to FRBP 2014(a) and be filed within 30 days from the commencement of employment, or a noticed motion requesting nunc pro tunc approval is required.

(c) U.S. Trustee Statement of Position. Applications to employ counsel and other professionals must first be submitted to the U.S. Trustee as provided in LBR 9034-1.

(d) Required Information. Any application to employ professionals must include a copy of the FRBP 2016(b) disclosure statement, if applicable, and a copy of any retainer agreement, guarantee, security agreement, or other agreement relevant to the employment. A contract for employment must not contain an arbitration provision or other provisions inconsistent with employment as a bankruptcy professional.

(e) Substitution. The substitution of an attorney for the debtor also must comply with the Bankruptcy Code, Bankruptcy Rules, and this Local Bankruptcy Rule.

**2014-2. Contract for Employment of Agents and Brokers.**

(a) All applications for employment of an agent or broker for the sale or lease of estate property must be accompanied by a copy of the signed written contract employing the agent or broker. All contracts for employment must provide that they are effective only upon Court approval and must be for a term not to exceed 180 days. A contract for employment must not contain an arbitration provision or other provisions inconsistent with employment as a bankruptcy professional.

(b) To the extent the aggregate compensation and expenses of the agent or broker exceed $1,000, a trustee or debtor-in-possession must give the notice required by LBR 2002-2(a)(6). Otherwise, the compensation and expenses may be paid without further notice, subject to final review pursuant to 11 U.S.C. § 330.

## RULE 2015. DUTY TO KEEP RECORDS AND MAKE REPORTS

**2015-1. Duty to Make Reports.** A debtor's responsibility to keep records and to prepare, file, or serve reports is the joint and several obligation of the following Individual(s):

(a) If the debtor is a corporation, the chief executive officer of the debtor, and the chief financial officer of the debtor;

(b) If the debtor is a partnership, each general partner;

(c) If the debtor is a limited liability company, both the managing member and chief executive officer of the debtor;

(d) If the debtor is a limited liability partnership, both the managing partner and chief executive officer of the debtor;

(e) The Individual who executed the chapter 11 Petition on behalf of the debtor; and

(f) The Individual who executed the last operating report submitted at or before the hearing at which the Court ruled that a chapter 11 trustee should be appointed.

**2015-2. Payment of Routine Expenses.** The trustee or debtor-in-possession is authorized, without notice or order of the Court, to pay appropriate routine administrative expenses up to an aggregate of $1,000. These expenses include, but are not limited to, expenses for adjuster services, insuring property, bond premiums, banking fees, and changing locks. Any such payments are subject to final review pursuant to 11 U.S.C. § 330.

## RULE 2016. COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

**2016-1. Case with Multiple Professionals.** In a case with multiple professionals, the debtor, the debtor's counsel, if the debtor is in possession, or the trustee or the trustee's counsel must coordinate the service of one notice of hearing regarding interim and final applications for compensation for all professionals employed by the estate. LBR 2002-2(c) governs the form of notice.

**2016-2. Application for Allowance of Compensation and Expenses for Professionals.**

(a) FRBP 2016. Applications for allowance of compensation and expenses for professionals must conform with FRBP 2016.

(b) U.S. Trustee Guidelines; CSD 1143. Except as otherwise set forth in subsection (e) below, all applications for professional fees must comply with the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses. These requirements include a categorized listings of services rendered attached as an exhibit to the application. In addition, all fee applications must be accompanied by an analysis that substantially conforms to Local Form CSD 1143.

(c) Large Cases. Applications in large cases, as defined by the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses, must comply with these guidelines applicable to large cases.

(d) Reference to Retention Date. The initial fee application must include the date of entry of the order authorizing employment and the effective date of the order.

(e) Chapter 13 Cases. LBR 2016-2(b) does not apply to applications for professional fees in a chapter 13 case unless the amount of fees sought is in excess of fees set forth in the currently effective guidelines governing chapter 13 attorney fees issued by the Court.

**2016-3. Final Fee Applications.**

(a) Unless otherwise ordered by the Court, all professionals must file final fee applications.

(b) Motions for final fee awards must contain the following:

(1) all information required of interim fee applications under LBR 2016-2;

(2) a request for approval of all prior interim fee awards; and

(3) a request for payment of all amounts previously allowed but unpaid pursuant to LBR 2016-2.

**2016-4. Orders for Compensation**. All orders for interim or final compensation of professionals must substantially conform to Local Form CSD 1144.

[The next Rule is 3002]

## RULE 3002. NOTICES RELATING TO CLAIMS SECURED BY SECURITY INTERESTS IN THE DEBTOR'S PRINCIPAL RESIDENCE

**3002-1. Notices for Chapter 13 Cases Where No Proof of Claim Has Been Filed by the Creditor Holding a Claim Against the Debtor's Principal Residence.** A creditor holding a claim secured by a chapter 13 debtor's principal residence may electronically file the mandatory notices of mortgage payment change or notices of post-Petition mortgage fees, expenses, and charges on the claims register in the debtor's case pursuant to FRBP 3002.1(b) and (c) regardless of whether the creditor previously filed a proof of claim.

**3002-2. Objection to Notice of Payment Change.**

(a) Objections to a notice of mortgage payment change, together with Local Form CSD 1184 and a Proof of Service, must be filed and served on the creditor, chapter 13 trustee, and U.S. Trustee.

(b) Before filing the objection to a notice of mortgage payment change, the objecting party must obtain a hearing date.

(c) Any hearing on an objection to a notice of mortgage payment change requires at least 21 days' notice to the creditor. The creditor must file a response to the objection to notice of mortgage payment change, along with Proof of Service, within 14 days after service of the objection.

## RULE 3003. CLAIMS BAR DATE IN CHAPTER 11 CASES

**3003-1. Claims Bar Date.** In a chapter 11 case, the claims bar date is fixed pursuant to FRBP 3003 by the debtor-in-possession or other plan proponent on motion to the Court in accordance with FRBP 3003(c)(3) and LBR 9013-3(b).

**3003-2. Notice.** All motions to fix claims bar dates in a chapter 11 case must contain, as an exhibit, the form of notice proposed to be given to creditors and parties in interest.

**3003-3. Order.** All orders approving the fixing of a claims bar date in a chapter 11 case must provide that creditors will receive at least 60 days' notice of the last date to file proofs of claim.

[The next Rule is 3007]

## RULE 3007. OBJECTION TO CLAIM

**3007-1. Claims – Objections.**

(a) Content of Objection. The objection must be filed by motion using Local Form CSD 2015. If an objection to a claim is joined with a demand for relief specified in FRBP 7001, then LBR 7003 et seq. pertaining to adversary proceedings applies.

(b) Designation of Claim. The objecting party must note the number of the claim in the objection filed with the Court.

[The next Rule is 3013]

## RULE 3013. CLASSIFICATION OF CLAIMS IN CHAPTER 13 CASES

**3013-1. Objection to Classification by Creditor.** If a party in a chapter 13 case objects to the trustee's classification of a claim, the party must file and serve an objection to the classification, along with Proof of Service, within 30 days after service of the notice of classification.

[The next Rule is 3015]

## RULE 3015. CHAPTER 13 PLANS; EXTENSIONS; MODIFICATION OF OR OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLANS

**3015-1. Chapter 13 Plan.**

(a) Extension of Time for Filing. A motion for extension of time to file a plan is governed by LBR 9006-1(d) and LBR 9034-2.

(b) Dismissal by Chapter 13 Trustee. A motion by the trustee to dismiss after plan confirmation may be made on notice only to the debtor and the debtor's attorney, with Proof of Service filed with the Court. As the respondent, the debtor must obtain a hearing date pursuant to LBR 9013-4**.**

**3015-2. Chapter 13 – Amendments to Plan.**

(a) Pre-Confirmation. When an amendment to the plan is required before confirmation of the plan, a copy of the amended plan must be attached to Local Form CSD 1170 and separately filed on the docket.

(b) Post-Confirmation. When an amendment to the plan is required after confirmation of plan, the proposed amended plan must be attached to Local Form CSD 1149 and separately filed on the docket.

(c) Amended Plan. Any objections to an amended plan that were not stated as part of the original objection must be filed and served within 28 days after the filing of the amended plan.

**3015-3. Chapter 13 – Confirmation.** Hearing on Confirmation of Plan. Unless an objection to confirmation is timely filed in accordance with this rule, a plan confirmation hearing will not be required.

**3015-4. Form of Objection to Chapter 13 Plan.** All objections to confirmation of any original or amended plan, including, but not limited to, objections of the trustee, must be in writing and must set forth with specificity all provisions of the Bankruptcy Code or Bankruptcy Rules relied upon in support of the objection in a form substantially conforming to Local Form CSD 1172 together with any additional Documents required by LBR 9013-7(b).

**3015-5. Time and Manner for Objecting to Chapter 13 Plan.**

(a) Timing. Objections to the confirmation of the plan must be filed, along with Proof of Service, within 7 days after the filing of the Notice of Meeting of Creditors Held and Concluded. Untimely objections may not be considered. Any such objections must be noticed for hearing at least 28 days after filing the objection.

(b) Notice. The objector must: (i) file a notice substantially conforming to Local Form CSD 1173 filed contemporaneously with an objection to confirmation; (ii) file along with Proof of Service; and (iii) obtain a hearing date.

(c) Response. Any response to the objection must comply with LBR 9013-7 and must be filed, along with Proof of Service, within 14 days after service of the objection. If no response is timely filed to the objection, then the objecting party may request an order sustaining the objection and granting other relief appropriately requested in connection with the objection.

(d) Reply. Any reply to a response must be filed with the Documents required in LBR 3015-6**.**

**3015-6. Duty to Meet and Confer.** The plan proponent and objecting party must confer within 14 days after the section 341(a) meeting to attempt to resolve plan objections. If the objections remain unresolved, then at least 7 days before the confirmation hearing, each party must file a status report that states with specificity the nature and extent of any unresolved issues.

**3015-7. Order Confirming Chapter 13 Plan; Duty of Debtor's Attorney.** The debtor must prepare and upload Local Form CSD 1177 for the chapter 13 trustee to review within 14 days of the time that the plan is first ready for confirmation (e.g., if no timely objection is filed or when all objections are withdrawn or resolved). The trustee must then either reject the order with notes or forward the approved order to the Court within 14 days of receipt. If counsel provides no order, the chapter 13 trustee may upload Local Form CSD 1178.

**3015-8. Motions to Value Property Subject to Lien Under Plan.**

(a) Format. A request to value property subject to a lien and to treat a claim as unsecured pursuant to §§ 506(a) and 1322 and FRBP 3012 must be noticed as a motion in accordance with FRBP 9014 and LBR 9013-4 by using Local Form CSD 1171.1. If timely opposition of the motion is not filed, then LBR 9013-10(a) will apply and the Court may deem the non-Movant to have consented to the motion.

(b) Party to Be Named. If a proof of claim has been filed, the party to be named in the motion is the "Name of Creditor" listed on CSD Form B 10.

(c) Service. The motion must be served in accordance with FRBP 7004 Service.

(d) Deadlines for Motions to Value.

(1) The motion must be filed no later than 28 days after a proof of claim is filed by the creditor whose lien the debtor seeks to treat as unsecured, or 28 days after the claims bar date, whichever is earlier.

(2) If a motion is not timely filed, the Court may upon proper motion grant an extension for good cause. Alternatively, the failure of a debtor to timely file a motion may form the basis for: a denial of the confirmation of a plan containing a paragraph that seeks to value property subject to a lien and treat the claim as unsecured; dismissal of the chapter 13 case based on a finding of unreasonable delay that is detrimental to creditors; or other similar action appropriate under the facts of the case.

(3) A hearing must be obtained that is no later than 42 days after the date the motion is served. Untimely motions will not be given a hearing date without further order of the Court.

(4) Opposition to a lien strip motion is due 28 days after service of the motion.

(5) If no opposition is timely filed, then the debtor may submit to the Court an order granting the motion substantially conforming to Local Form CSD 1171.2.

**3015-9. Adequate Protection.** Adequate protection payments are governed by General Order 175(d).

[The next Rule is 3017]

## RULE 3017. MODIFICATION OF OR OBJECTIONS TO DISCLOSURE STATEMENT AND CHAPTER 11 PLAN

**3017-1. Disclosure Statement – Approval.** Whenever the proponent of a plan amends either the chapter 11 disclosure statement or chapter 11 plan, the proponent must file a separate "redlined" copy that identifies the added language by underlining and the deleted or substituted language by strikeouts. This separate copy must be filed and served at the time the unmarked original of the amended Document is filed.

**3017-2. Individual Chapter 11 Combined Plan and Disclosure Statement.**

(a) In an Individual chapter 11 case, the Plan/DS may be used. Local forms and instructions for the Plan/DS are posted on the Court's website.

(b) If the Plan/DS is used:

(1) Notice of hearing on motion for review and conditional approval of the Plan/DS (CSD 1153) must be given in accordance with LBR 9013-6(a)(1).

(2) Any written opposition must be filed in accordance with LBR 9013-6(a)(2).

(c) Notwithstanding section (b)(2) above, any party may attend the hearing and present oral comments in lieu of filing written comments by the opposition deadline.

(d) No party waives the right to object to the adequacy of disclosure or the propriety of confirmation, or to vote on the proposed plan, by not responding to the motion for review.

## RULE 3018. ACCEPTANCE OR REJECTION OF CHAPTER 11 PLAN

**3018-1. Ballots – Voting on Plans.**

(a) Notice re: Ballots. The notice of a chapter 11 confirmation hearing must contain a statement advising creditors to return their ballots to the plan proponent or as otherwise directed by the Court.

(b) Assembly. The plan proponent must assemble the ballots, arranged by class, keeping acceptances and rejections separate, and must note on the lower right corner of the ballots the appropriate claim numbers to the extent that such numbers are available from the Clerk. A cover page must be added showing the case caption and titled "ACCEPTANCES TO PLAN" or "REJECTIONS TO PLAN."

**3018-2. Acceptance/Rejection of Plans.** If ordered by the Court, the proponent of a chapter 11 plan must file and serve completed ballots at least 7 days before the confirmation hearing and serve them as ordered by the Court. The proponent must simultaneously file a summary using Local Form CSD 1151.

[The next Rule is 3020]

## RULE 3020. ESTIMATING DEPOSIT IN CHAPTER 11 CASE

**3020-1. Chapter 11 – Confirmation.** At least 21 days before the confirmation hearing, the plan proponent must request the appropriate case administrator to provide a statement of any unpaid assessments to be collected from the debtor using Local Form CSD 1148.

**3020-2. Schedule of Estimated Expenses.** At least 7 days before the date fixed for the confirmation hearing, the plan proponent must file with the Clerk a schedule of the estimated costs of administration and any other funds required to

be distributed upon the effective date of the plan, together with the Documents required by LBR 3018.

[The next Rule is 4001]

## RULE 4001. RELIEF FROM AUTOMATIC STAY; JOINDER OF PARTIES IN INTEREST; USE OF CASH COLLATERAL

### 4001-1. Applicability of Rule and Assignment of Identification Number to Relief from Stay Motions.

(a) Applicability of Rule. This rule read in conjunction with FRBP 4001 prescribes procedures for filing motions for relief from the automatic stay pursuant to 11 U.S.C. § 362. This rule does not govern motions for use of cash collateral or to obtain credit. Such motions are governed by FRBP 4001(b), (c), and (d) and LBR 9013.

(b) Assignment of Identification Number to Motions for Relief from Stay. Before serving and filing the motion and the notice of motion, the Movant must assign a relief from stay number ("RS No."), inserted two lines below the case number. This RS No. must appear on all copies of the motion and notice of motion which are served on any party and on all subsequent Documents relating to the motion. The RS No. must consist of not more than 3 initials of the attorney for Movant and the number which is one number higher than the number of relief from stay motions previously filed by the attorney in conjunction with that specific case. [Example: the first RS No. assigned by Attorney John D. Doe in the "Smith" case would be JDD-1, the second JDD-2, the third JDD-3, and so on.]

### 4001-2. Content of Motion for Relief from Stay; Service.

(a) Content. A motion for stay relief must substantially conform to Local Form CSD 1160 or 1163, as appropriate, and must:

(1) name the debtor, co-debtor, and the trustee as respondents;

(2) state with particularity the relief or order sought and the grounds for such relief or order;

(3) state the status of any pending foreclosure, repossession, or unlawful detainer proceeding;

(4) if the motion is filed in a chapter 11 or 13 case and if non-payment of any post-Petition payment is a ground for relief, provide an accounting of each post-Petition payment received, the amount and date received, and date posted to the account;

(5) where the value of an asset is relevant, provide admissible evidence of value and any known encumbrances; and

(6) if the motion is brought for cause, provide admissible evidence of the specific facts that constitute such cause.

(b) Service. The Movant must serve the motion, together with Local Form CSD 1185, on the debtor, co-debtor, any counsel for the debtor, the trustee, and other Entities or Individuals entitled to receive notice of default or notice of sale under applicable non-bankruptcy law governing foreclosure of real or personal property which is the subject of the motion.

**4001-3. Time for Filing Oppositions to Motion; Duty of Objecting Party to Give Notice.**

(a) If personally served, oppositions to a motion for relief from stay, together with Local Form CSD 1186, must be filed and served upon the Movant, named respondents and the U.S. Trustee not later than 11 days after service of the motion for relief from stay and notice. If the opposition relates to real or personal property, the opposition must substantially conform to Local Form CSD 1161.

(b) Before serving the objection, the objecting party must obtain a hearing date.

**4001-4. Content of Declaration in Opposition to Motion.** Any Declaration filed in opposition to a motion for relief from stay must:

(a) Identify the interest of the opposing party in the property;

(b) State with particularity the grounds for the opposition; and

(c) Provide admissible evidence of value and any known encumbrances on the asset, which is the subject of the motion, if value is relevant.

**4001-5. Content of Order.**

(a) Noncontested Motion. If no opposition to the motion for stay relief is timely filed and served, the Movant may submit to the Court an appropriate order which substantially conforms to Local Form CSD 1162. The order must:

(1) state the date the motion was filed;

(2) state the particular relief requested; and

(3) if pertaining to foreclosure of real property, provide a full legal description and any street address for the property.

(b) Contested Motion. At the conclusion of the hearing on a contested motion for stay relief, the prevailing party must submit an order in accordance with LBR 7054-3.

(c) Stipulated Motion. An order approving a motion for approval of a Stipulation for relief from stay must comply with LBR 4001-5(a) and, in chapter 11 cases, provide evidence of compliance with FRBP 4001(d)(1) and (2).

**4001-6. Points and Authorities.** A motion for relief from the automatic stay or opposition to the motion, need not be accompanied by points and authorities. If points and authorities are filed, they may be incorporated, if so desired, into one captioned Document containing the supporting or opposing papers.

**4001-7. Content of Notice; Ex Parte Relief.** Service of Form CSD 1185 is excused when an ex parte motion for relief from stay is otherwise in compliance with the provisions of FRBP 4001(a)(2).

**4001-8. Rent Deposit.**

(a) Any rent deposited with the Clerk pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified or cashier's check or money order payable to the lessor or landlord in the full amount of any rent that would become due during the 30-day period following the filing of the Petition.

(b) The debtor must deposit rent with the Clerk on the Petition Date. A copy of the judgment for possession must accompany the rent deposit and the Petition. The Clerk is directed to refuse any rent check not accompanied by a copy of the judgment for possession.

(c) The debtor should use the Court-approved form CSD 1033, to meet the certification, filing, and service requirements of 11 U.S.C. § 362(l)(2).

(d) Pursuant to 11 U.S.C. § 362(l)(5)(D), the Clerk will transmit the payment to the lessor at the address listed in the section on page 2 of the Petition entitled "Statement by a Debtor Who Resides as a Tenant of Residential Property."

(e) 11 U.S.C. § 362(l)(1) and (2) are inapplicable to post-foreclosure judgments for possession, and the Clerk will not accept deposits tendered in connection with post-foreclosure judgments for possession.

## RULE 4002. DUTIES AND COMPENSATION OF DEBTOR

### 4002-1. Safekeeping of Books and Records.

(a) Safekeeping of Books and Records. The debtor must maintain, preserve and keep in safe storage all of the debtor's books and records during the time the case remains open.

(b) Turnover of Books and Records. Upon request, the debtor must make the debtor's books and records immediately available to the trustee, the U.S. Trustee or their designated agents.

### 4002-2. Compensation of Debtor and Insiders.

(a) Compensation. Except in chapter 13 cases and as provided in LBR 4002-2(b) in Individual chapter 11 cases, no compensation or other remuneration will be paid from property of the estate to the debtor or any Insider unless approved by the Court, after notice of intended action to all creditors in accordance with LBR 2002-2, but subject to the response times of LBR 4002(b) where applicable. In chapter 13 cases, payment of salary and expenses consistent with the debtor’s Schedule I and J is appropriate unless an interested party objects and the Court orders otherwise.

(b) Individual Chapter 11 Cases. In an Individual chapter 11 case, provided that the Individual chapter 11 debtor files the Notice described in LBR 4002-2(c) within 7 days of the Petition Date, the Court allows payment of salary and expenses consistent with the debtor's schedules I and J for 45 days from the Petition Date unless an interested party objects.

(c) Notice of Setting/Increasing Insider Compensation. No compensation or other remuneration may be paid from the property of the estate to debtor's owners, partners, officers, directors, shareholders, Relatives, or other Insiders, from the time of filing of the Petition until confirmation of a plan, and in the case of an Individual chapter 11 debtor after the seventh day following the Petition Date, unless the debtor serves notice of proposed Insider or proposed Individual chapter 11 debtor compensation in accordance with the procedures in these local rules. Further, compensation may not be increased unless the debtor serves a notice of the proposed increase in Insider or Individual chapter 11 debtor compensation.

(1) The debtor must: file and serve the notice on the U.S. Trustee, the creditors committee, or the 20 largest creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, and any secured creditor that claims an interest in the cash collateral; and file a Proof of Service.

(2) Any Insider may receive compensation or other remuneration from the estate if no objection is received within 14 days after service of the notice. And the Insider may receive an increase in the amount of Insider compensation previously approved if no objection is received within 30 days after service of notice.

(3) Any objecting party must obtain a hearing date and file an objection, a notice of hearing, and a Proof of Service.

## 4003. RULE EXEMPTIONS

**4003-1. Motions to Avoid Liens Under 11 U.S.C. § 522(f).** The debtor's motion to avoid a lien or other transfer of property under § 522(f) must be accompanied by:

(a) a Declaration of the debtor or other competent evidence of the fair market value of the property;

(b) the amount of the lien to be avoided;

(c) the value claimed exempt;

(d) the nature and amount of other liens against the property; and

(e) the statutory basis for the exemption. Lien avoidance motions on declared homesteaded property must also be accompanied by a copy of the recorded homestead declaration.

## RULE 4004. CHAPTER 13 OR CHAPTER 11 INDIVIDUAL DISCHARGE

**4004-1. Certification.** To obtain a discharge, a chapter 11 Individual debtor or a chapter 13 debtor must file a certification concerning Domestic Support Obligations which must substantially conform to Local Form CSD 2120 or 2121 as appropriate. In joint cases, each debtor must complete and file a separate form.

[The next Rule is 5005]

## RULE 5005. FILING AND TRANSMITTAL OF PAPERS

**5005-1. Electronic Filing.**

(a) Official Record. The electronic file is the official record of the Court.

(b) Mandatory Requirement. Except as expressly provided in the Administrative Procedures or in exceptional circumstances that prevent a user from filing electronically, all Documents required to be filed or lodged with the Court must be electronically filed through the System.

(c) Entry on Docket. The electronic filing of a Document in accordance with the Administrative Procedures constitutes entry of that Document on the docket kept by the Clerk under FRBP 5003.

(d) Controlling Rule. The Administrative Procedures and this Bankruptcy Local Rule govern electronic filing and CM/ECF and control in the event of a conflict with any other Local Bankruptcy Rule or General Order.

**5005-2. Eligibility to Participate.** The Administrative Procedures define a Registered User as an Individual who has been issued a login and password by the Court to electronically file Documents.

**5005-3. Registration.** A Registered User must keep the user's unique CM/ECF information current at all times (e.g., name, address, e-mail service address, contact name, and telephone number). A Registered User must also maintain adequate e-mail capacity (e.g., for receipt of notices and service).

**5005-4. Logins, Passwords, and Signatures.**

(a) Registered User's Signature. The Registered User login and password serve as the user's signature on all electronic Documents filed with the Court. The login and password also serve as a signature for purposes of FRBP 9011, the Local Bankruptcy Rules, the Administrative Procedures, and any other purpose for which a signature is required in connection with proceedings before the Court.

(b) Form of Signature. Each Document filed electronically must include a signature block in compliance with the Administrative Procedures. Each electronically filed Document shall bear the typed name of the person purporting to have signed the document. The name of the attorney or party who signed the original must be typed in the space where the signature would otherwise appear preceded by an "/s/" or "s/", or appear as a scanned image; an example of the correct format for an electronic signature is as follows: "/s/" or "s/" Adam Attorney, "/s/" or "s/" Sally Declarant.

(c) Debtor's Signature. In addition to the signature requirements of the Administrative Procedures, the signature of the debtor or joint debtor authorizing the electronic filing of the bankruptcy case must be accomplished by the electronic filing of an executed Local Form CSD 1801 on the Petition Date. Local Form CSD 1801 as well as CSD 1099 and CSD 1100 must provide the original debtor signature(s) in a scanned format.

(d) Signatures of Other Persons. Signatures of persons signing a document other than the registered user or the debtor as discussed in LBR 5005-4(c) may be indicated either by:

(1) submitting a scanned copy of the originally signed document; or

(2) through the use of "/s/ Name" in the signature block where signatures would otherwise appear indicating that the original has been signed before filing.

(e) Stipulations and Orders. Physical, facsimile, or electronic scanned signatures are permitted. Stipulations and Orders (approved as to form) requiring signatures of more than one party must be electronically filed either by:

(1) scanning and submitting the stipulation or order containing all necessary signatures; or

(2) certifying within the document that the content of the document is acceptable to all persons required to sign the document (the filer must electronically file the document indicating the signatories as "s/Jane Doe," "s/John Smith," etc., for each electronic signature); or

(3) in any other manner approved by the Court.

(f) Unauthorized Use Prohibited. A Registered User may not knowingly permit or cause a password to be used by anyone other than an authorized law firm or office employee. The Registered User is responsible for all Documents filed using their assigned CM/ECF login as if they filed the Documents themselves.

**5005-5. Consent to Electronic Service.**

(a) General. Except as discussed in LBR 5005-5(b) below, Registered Users are deemed to have:

(1) requested and agreed to electronic service and notice; and

(2) waived the right to receive any other form of service and notice.

This request, agreement, and waiver satisfies FRBP 9036 and includes notices under FRBP 9022.

(b) Exceptions. The deemed request, agreement, and waiver discussed in LBR 5005-5(a) does not apply to FRBP 7004 Service or to service under FRBP 9016 of a subpoena directed to a Registered User.

**5005-6. Service.** A Proof of Service where required by these Local Bankruptcy Rules must be included with Documents filed electronically, indicating that service was accomplished through an NEF for parties and counsel who are participants in the System and indicating how service was accomplished on any party or counsel who is not a participant in the System.

**5005-7. Consequences of Electronic Filing.**

(a) Filing Deadline. Electronic filing must be completed before midnight in order to be considered timely filed that day.

(b) Fees Payable to the Clerk. Fees are due at time of filing. The requisite Fee must be paid within 24 hours or the user will be locked out of the System until the Fee is paid.

**5005-8. Retention Requirement.** The Registered User must maintain in paper form or in a scanned format any Document that is filed using their login and password that contains an original signature, other than that of the Registered User, or proof of the consent in the case of a Document filed under LBR 5005-4(e), until 5 years after the case is closed or the adversary proceeding is terminated. The Registered User must provide the original paper or printed copy for review upon request.

[The next Rule is 5008]

## RULE 5008. FACSIMILE FILINGS

**5008-1. Filing.**

(a) A fax filing agency will file all fax transmitted papers on behalf of the parties or their counsel. No papers may be transmitted directly to the Clerk by facsimile for filing. Any papers so transmitted will be rejected and not filed.

(b) The fax filing agency acts as the agent of the filing party and not as agent of the Court. A paper is deemed filed when it is submitted by the fax filing agency, received in the Clerk's office, and filed by the Clerk. Mere transmission to or receipt by the fax filing agency is not a filing.

(c) The fax filing agency must meet all technical requirements under the Administrative Procedures.

**5008-2. Original Signature.** The image of the original manual signature on the fax copy of the paper will constitute an original signature for all Court purposes. The original signed paper must not be substituted except by Court order. The original signed paper must be maintained pursuant to LBR 5005-8.

[The next Rule is 5010]

## RULE 5010. MOTION TO REOPEN A CASE

**5010-1. Motion; Notice.** A motion to reopen a closed bankruptcy case must comply with LBR 9013-7 and be accompanied by Local Form CSD 1182, Proof of Service on all parties affected by the motion to reopen, and the appropriate Fee.

**5010-2. Order; Fee.** After expiration of the last day for serving and filing objections or after hearing, the Movant must submit Local Form CSD 1490. The order must be submitted in accordance with LBR 7054-3, if contested, or LBR 9013-10(a), if noncontested.

## RULE 5011. WITHDRAWAL OF REFERENCE; ABSTENTION

**5011-1. Withdrawal of Reference.**

(a) Motion. A motion to withdraw reference of a case or Action referred to the Court in accordance with 28 U.S.C. § 157(a) must be filed initially with the Clerk.

(b) Response. Responses to a motion to withdraw reference must be filed with the Clerk within 14 days from service of the motion.

(c) Reply. Replies must be filed within 7 days after service of the response with the Clerk. Once the 7-day period expires, the motion and any responses and replies will be forwarded to the District Court clerk for issuance of a case number and assignment to a district judge. All further Documents regarding the case or Action must be filed with the District Court clerk.

(d) Specific Requirements. The motion to withdraw and the response thereto, must list all Actions and related cases pending in the Court and their assigned number, and must state:

(1) whether the request is to withdraw reference of the entire case or Action, or only a part thereof;

(2) whether the matter to be withdrawn involves similar issues presently pending or previously determined by the Court in the same or in a related case;

(3) whether substantial discovery has been completed in the case or Action;

(4) whether the presentation of evidence has begun before the Court;

(5) whether Movant is a creditor and is listed in the debtor's schedules; and

(6) when the Movant first became aware of the case or Action and its interest therein.

**5011-2. Abstention.** Motions for abstention under 28 U.S.C. § 1334(c) must be filed with the Clerk. Such motions are governed by LBR 9013 and must be calendared for hearing before the Court.

[The next Rule is 6004]

## RULE 6004. USE, SALE, OR LEASE OF PROPERTY NOT IN THE ORDINARY COURSE OF BUSINESS

**6004-1. Publication of Notice.**

(a) If an advertisement of sale is required by the Court, any such advertisements of sale must be published in publications most likely to reach interested purchasers; provided, however, that when the anticipated costs of publication will exceed 5 percent of the estimated sales proceeds, an ex parte motion and proposed order excusing compliance may be submitted to the Court.

(b) See Appendix E for a current list of designated publications as required by this rule.

**6004-2. Report of Sale.** A Court order is not required to consummate a noncontested sale, but the trustee or debtor-in-possession must file a report of non-contested sale as required by FRBP 6004(f) within a reasonable amount of time. The report of sale must:

(a) include a description of the property in the report required by FRBP 6004(f) (see Local Form CSD 2024); and

(b) attach a copy of the escrow statement or other documentation to the final report and accounting showing distribution of the total proceeds of sale.

**6004-3. Appointment of a Consumer Privacy Ombudsman.**

(a) Motion. Any motion to sell or lease Personally Identifiable Information must be accompanied by a separate motion and proposed order directing the U.S. Trustee to appoint a consumer privacy ombudsman. The Movant must provide telephonic notice of the filing of the motion within 24 hours to the U.S. Trustee.

(b) Appointment. The U.S. Trustee must file a notice of the appointment of a privacy ombudsman at least 14 days before the hearing on the motion to sell or lease Personally Identifiable Information.

(c) Report. The ombudsman must file a report at least 7 days before the hearing.

## RULE 6005. APPOINTMENT OF AUCTIONEERS

**6005-1. Content of Application and Order.**

(a) Auctioneer. An application and order for the appointment of an auctioneer must comply with FRBP 6005 and conform to Local Forms CSD 2044 and CSD 2045.

(b) Additional Requirements. The trustee or debtor-in-possession must attach to the application required by subsection (a) of this Local Bankruptcy Rule:

(1) a detailed explanation of anticipated expenses;

(2) a Declaration of the proposed auctioneer as required by FRBP 2014(a) and 2016(a); and

(3) a statement of the maximum amount of compensation to be paid for services.

**6005-2. Duty of Auctioneer.** Immediately after completing the auction, and before receiving any compensation or reimbursement of expenses, the auctioneer must serve on the trustee or debtor-in-possession and file the auctioneer's report required by FRBP 6004(f);

**6005-3. Payment of Compensation.** To the extent the aggregate compensation and expenses of the auctioneer exceeds $1,000, a trustee or debtor-in-possession must give the notice required by LBR 2002-2(a)(6). Otherwise, the compensation and expenses may be paid without further notice, subject to final review pursuant to 11 U.S.C. § 330.

[The next Rule is 6007]

## RULE 6007. ABANDONMENT OR DISPOSITION OF PROPERTY

**6007-1. Applicability of Rule.**
This rule is to be read in conjunction with FRBP 6007 and applies to all cases under chapters 7, 11, 12, and 13.

**6007-2. Notice Requirements.**

(a) Voluntary Abandonment.

(1) Property with Total Value of Less than $2,500. When the property to be abandoned has a total value of less than $2,500, the trustee or debtor-in-possession must give notice of the proposed abandonment to the following: the debtor; the debtor's attorney; the U.S. Trustee; any other Individual or Entity entitled to receive notice of default or notice of sale under applicable non-bankruptcy laws governing foreclosure of the real or personal property which is the subject of the motion, or the agents for such parties; and to any committees appointed or elected pursuant to the Bankruptcy Code.

(2) Property with Total Value of $2,500 or More. When the property to be abandoned has a total value of $2,500 or more, the trustee or debtor-in-possession must give notice of the proposed abandonment pursuant to LBR 2002-2.

**6007-3. Procedure Following Notice of Abandonment.**

(a) Uncontested Notice. Where a voluntary abandonment of property is not contested in a timely manner, the trustee or debtor-in-possession need only file the notice required by LBR 2002-2(a)(3) and Proof of Service; no further report need be filed.

(b) Proof of Service. The Proof of Service required by this subsection must be attached to the original showing service on the debtor and U.S. Trustee.

[The next Rule is 7003]

## RULE 7003. COMMENCEMENT OF ADVERSARY PROCEEDING

**7003-1. Commencement of Adversary Proceedings.** The plaintiff must prepare and file the completed Form B 104, complaint, and, if needed, Local Form CSD 3007 in accordance with the Administrative Procedures.

**7003-2. Notice of Related Adversary Proceeding or Contested Matter.** Where a party has reason to believe that an Action on file or about to be filed is related to another Action pending currently or pending in the past in this Court, it must promptly file and serve on all known parties to each related Action a Notice of Related Proceeding. Related cases and proceedings include, but are not limited to, those that involve: some of the same parties and are based on the same or similar claims; the same property, transaction, or event; or substantially the same facts and the same questions of law. The Notice of Related Proceeding must: state the title, number, and filing date of each related Action; and set forth a brief statement detailing the relationship and the reasons why assignment to a single judge would save judicial effort or provide other economies.

## RULE 7004. PROCESS ISSUANCE AND SERVICE

**7004-1. Service of Process.** If a summons is not timely served as provided in FRBP 7004(e), another summons must be prepared pursuant to Local Form CSD 3007, with the word "ALIAS" typed above the word "SUMMONS."

[The next Rule is 7008]

## RULE 7008. GENERAL RULES OF PLEADING

**7008-1.** In addition to the statement required by FRBP 7008(a), the pleading must also contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge if any matters are determined to be core.

**7008-2.** If the pleading contains a demand for a jury trial, the words "JURY DEMAND" must also appear immediately following the title of the Document. A notation of a jury demand solely on the cover sheet does not constitute a demand for jury trial.

**7008-3.** If the pleading does not contain consent to the entry of final orders or a final judgment by the bankruptcy judge, the words "DEMAND FOR JUDGMENT BY DISTRICT JUDGE" must also appear immediately following the title of the Document. A notation of a demand solely on the cover sheet does not constitute a demand for judgment by a district judge.

[The next Rule is 7012]

## RULE 7012. ANSWER

**7012-1.** Responsive pleadings must contain numbered paragraphs that correspond to the paragraphs in the complaint, cross-complaint, or counterclaim to which it is directed.

**7012-2.** In addition to the statement required by FRBP 7012(b), the pleading must also contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge if any matters are determined to be core.

**7012-3.** If the pleading contains a demand for a jury trial, the words "JURY DEMAND" must also appear immediately following the title of the Document.

**7012-4.** If the pleading does not consent to the entry of final orders or judgment by the bankruptcy judge, the words "DEMAND FOR JUDGMENT BY DISTRICT JUDGE" must also appear immediately following the title of the Document.

[The next Rule is 7016]

## RULE 7016. PRE-TRIAL PROCEDURES

### 7016-1. Early Conference of Counsel.

(a) Time of Early Conference. In all Actions governed by Part VII of the Bankruptcy Rules unless all defendants default:

(1) Plaintiff must serve with the summons and complaint, a notice that compliance with this rule is required, and a copy of Local Form CSD 3018.

(2) Plaintiff must file the Proof of Service of the notice together with the Proof of Service of the summons and complaint within the time provided by LBR 9006-2.

(3) Counsel for the parties must confer in person, by email, or by telephone within 30 days after the date all defendants have appeared or defaulted or 45 days from the date of the first appearance of any defendant, whichever occurs first. Where there are multiple defendants, plaintiff must take all reasonable steps to schedule the meeting or conference call so that all parties can attend. Where necessary, in multi-defendant cases and upon a showing of good cause, the Court may grant an application for an extension of time within which to hold the early meeting.

(b) Purpose of Conference. At the conference required by this Local Bankruptcy Rule, the parties must:

(1) Civil Rule 26 Exchanges. Exchange all documents and make all disclosures required by FRBP 7026(a)(1) or fix a date to make such exchange.

(2) Discovery. Discuss a deadline to complete discovery and any agreements with respect to discovery.

(3) Settlement. Discuss settlement possibilities, including the parties' willingness to go to mediation. If mediation is agreed to, the parties must designate the first choice and alternate choice of mediator, using the Court-maintained mediator list or other mutually acceptable mediator. A list of mediators is available from the Clerk or on the Court's website, **www.casb.uscourts.gov**.

(4) Exception from Pre-Trial Order. Determine whether the Action should be excluded from any or all of the requirements of LBR 7016-6.

(c) Certificate of Compliance with Early Conference of Counsel. All counsel and unrepresented parties must complete and jointly sign Local Form CSD 3018. No later than 7 days after the early conference, plaintiff's counsel must file and serve the completed Local Form CSD 3018 on all parties.

**7016-2. Setting and Notice.** After 45 days from the date of the first appearance of any defendant, the Clerk will serve on the plaintiff and any parties who have appeared in the matter a Notice of the date and time for a Pre-Trial Status Conference. Plaintiff must give notice of the Pre-Trial Status Conference to any party who makes an appearance thereafter.

**7016-3. Discussion of Mediation Alternatives.** Before the pre-trial status conference, any counsel in the Action must confer with the client and discuss the mediation program and ask the client for authorization to participate in the mediation program. See LBR 7016-11 and Administrative Procedures.

**7016-4. Status Conference.**

(a) Required Appearances. Each party appearing at the initial status conference must be represented by an attorney (or the party, if unrepresented) who is expected to conduct the trial on behalf of such party.

(b) Required Preparation. Parties appearing at the status conference must be prepared to discuss the following:

(1) state of discovery, including a description of completed discovery and a detailed schedule of all further discovery contemplated;

(2) a discovery cut-off date;

(3) a schedule of contemplated law and motion matters;

(4) prospects for settlement;

(5) whether the client has given authorization to participate in the mediation program as described in the Administrative Procedures;

(6) as to each claim for relief, whether the matter is core or non-core as defined by 28 U.S.C. § 157(b), whether the party consents to entry of a final judgment or order by the Court, and whether any party intends to seek to withdraw the reference and, if so, the proposed timing of such a motion;

(7) jury demands;

(8) a deadline to complete mediation, if desired;

(9) whether any pretrial requirements of LBR 7016-9 should be modified or waived; and

(10) any other issues affecting the status or management of the Action.

**7016-5. Preparation for Final Pre-Trial Conference.**

(a) Meetings of Counsel. The parties must convene at a suitable time and place at least 28 days before the final pre-trial conference. The purpose of the meeting is to draft Stipulations and reach agreements resulting in simplification of the triable issues. Plaintiff must arrange for meetings of counsel and insure preparation of the pre-trial order mandated by LBR 7016-6. Plaintiff must file the prepared pre-trial order at least 7 days before to the final pre-trial conference.

(b) Exchanges Between Counsel. At the meeting, the following information must be displayed or exchanged:

(1) lists of exhibits (other than those intended solely for purposes of impeachment); and

(2) lists of the names and addresses of witnesses, including experts, who will be called at trial (exclusive of witnesses whose testimony is to be used solely for purposes of impeachment).

(c) Content of Exhibits Exchanged. At the meeting or on other dates agreeable to the parties, but at least 14 days before the final pre-trial conference, each party must exchange exhibits other than those designed solely for purpose of impeachment or rebuttal. Each photograph, map, drawing and the like must contain a legend on its face or reverse side. The legend must state by date the matters of fact which the party offering the exhibit claims are fairly depicted.

(d) Failure to Display or Exchange Exhibits or Lists. Failure to display or exchange exhibits or lists to or with opposing counsel will permit the Court to decline admission of same into evidence.

(e) Lists of Exhibits. The parties must determine whether any documents should be identified as:

(1) joint exhibits to avoid duplication of identical documents on each party's list of exhibits;

(2) exhibits expected to be proffered by only one party; and

(3) exhibits which a party reserves the right to proffer at trial. Copies of such exhibits need not be pre-marked nor provided to the Court until marked and offered during trial.

**7016-6. Pre-Trial Order.**

(a) Responsibility of Plaintiff's Counsel. Plaintiff's counsel is responsible for submission of a pre-trial order that reasonably complies with this Local Bankruptcy Rule.

(b) Format. The format of the order must substantially conform to Local Form CSD 3021. Parties appearing in the Action must approve the pre-trial order as to form and substance.

(c) Abandoned Issues. Each party must identify abandoned issues.

(d) Unresolved Issues. The parties must agree upon a joint, and not separately listed, statement of the claim for relief and affirmative defenses which remain to be litigated. Where there is disagreement as to whether a particular claim for relief or defense is in issue, it will be deemed to be at issue and, therefore, to be litigated.

(e) Exhibits. The parties must prepare a joint list of exhibits, and a list of all additional exhibits that each party expects to offer at the trial (other than those to be used for impeachment). The list must sufficiently describe each exhibit. The list must substantially conform to Local Form CSD 3026.

(f) Objections to Exhibits. All objections to the admissibility of any exhibits listed in paragraph (e), the applicable rule of evidence that supports the objection, and any case authority must be set out with specificity and attached as an appendix to the pre-trial order.

(g) Witnesses. The parties must jointly prepare a list of the names and addresses of all prospective witnesses, except impeaching witnesses, and, in the case of expert witnesses, the parties also must provide a brief narrative statement of the qualifications of such witnesses and the substance of the testimony which such witnesses are expected to give. Only witnesses so listed, and impeachment witnesses, can testify at the trial, without further Court order.

**7016-7. Trial Counsel to Be Present.** Unless otherwise ordered by the Court, trial counsel must appear at the final pre-trial conference.

**7016-8. Sanctions; Pre-Trial.** Failure of trial counsel to attend the final pre-trial conference or to comply with LBR 7016-5 or 7016-6 may be deemed an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party with respect to a specific issue or the entire Action.

**7016-9. Preparation for Trial.** Unless otherwise ordered, the parties must complete the following at least 7 days before the start of trial:

(a) Briefing. Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth concisely the party's position and supporting arguments and authorities;

(b) Jury Trial Documents. In jury cases, serve and file proposed voir dire questions, jury instructions, and forms of verdict;

(c) Proposed Findings. In proceedings tried without jury, and otherwise when so ordered, serve and file proposed findings of fact and conclusions of law;

(d) Designations. Serve and file statements designating excerpts from depositions (specifying the witness and page and line references), from interrogatory answers and from responses to requests for admission to be offered at the trial for purposes other than impeachment or rebuttal; and

(e) Motions. Serve and file pre-trial motions.

**7016-10. Return of Exhibits.** At the conclusion of the trial or hearing, every exhibit marked for identification or introduced in evidence will be returned to the party who produced it unless otherwise ordered by the Court. It will be the responsibility of the party to produce the exhibits on appeal.

**7016-11. Mediation.** Parties may participate in mediation pursuant to the provisions of the Administrative Procedures. Upon conclusion of the mediation:

(a) If the parties reach agreement, the parties must designate a party to document the settlement.

(b) The mediator must prepare and file, within 14 days, Local Form CSD 4004, indicating whether a settlement was reached, and if so, whether there was compliance with the settlement and mediation requirements of the Administrative Procedures.

[The next Rule is 7026]

## RULE 7026. DISCOVERY

**7026-1. Applicability of Rule.** All adversary proceedings, and all contested matters under FRBP 9014 to which the adversary rules apply, must comply with FRBP 7026 and follow the procedures set forth in LBR 7016-1. Failure to timely comply will be cause for issuance of a notice of dismissal. Civil Rule 26(d)(1) is not applicable to requests under Bankruptcy Rule 7033, 7034, or 7036.

**7026-2. Conference Required.** Before submitting a motion pursuant to FRBP 7026 through 7037, the parties must meet and confer by telephone or in person concerning all disputed discovery issues. The parties must meet within 14 days of service of a letter or email requesting such meeting and specifying the nature of the dispute. A failure to cooperate in such a meeting may support an award of fees under FRBP 7037.

**7026-3. Certificate of Compliance.** At the time of filing any motion with respect to FRBP 7026 to 7037, counsel for the Movant must serve and file a certificate of compliance with LBR 7026-2.

**7026-4. Protective Order.** Any Individual or Entity may seek a protective order under FRCP 26(c).

**7026-5. Filing Discovery Responses and Transcripts.** A party need not file the following:

(a) Transcripts of depositions upon oral examination, except that whenever a portion of a deposition is read in Court, the party must furnish a copy to the Court;

(b) Responses to Requests for Admission;

(c) Responses to Interrogatories; or

(d) Responses to Requests for Production of Documents.

[The next Rule is 7030]

## RULE 7030. DEPOSITIONS

**7030-1. Attorney's Duty to Stipulate.** Before giving notice, parties must make every reasonable effort to stipulate to the exact time and place for the commencement and resumption of all depositions. If an agreement cannot be reached, any party may apply by ex parte application to the Court for an order fixing the time, place, or other terms and conditions governing such a deposition and for any related order of relief.

[The next Rule is 7033]

## RULE 7033. INTERROGATORIES TO PARTIES

**7033-1. Motion for Leave to Serve Additional Interrogatories.** Any motion for leave to serve additional interrogatories must be made pursuant to LBR 9013-4(a)(17).

**7033-2. Answers or Objections to Interrogatories.** Answers or objections to each interrogatory must first identify and quote the interrogatory in full.

[The next Rule is 7036]

## RULE 7036. REQUESTS FOR ADMISSION

**7036-1. Response or Objections to Requests for Admission.** Responses or objections to each request for admission must first identify and quote the request for admission in full.

[The next Rule is 7041]

## RULE 7041. DISMISSAL OF ADVERSARY PROCEEDING

**7041-1. Dismissal for Want of Prosecution.** After notice, Actions which have been inactive for more than 3 months may be dismissed without prejudice by the Court.

**7041-2. Dismissal of Related Title 11 Case.**

(a) Whenever a case is dismissed, any pending related adversary proceeding within which a final judgment has not been entered may be dismissed without prejudice and without further order of the Court, unless a party files a motion seeking continuation of the adversary proceeding within 7 days of case dismissal.

(b) If the debtor files another Petition for relief under Title 11 within 90 days following entry of the order dismissing the prior case, any plaintiff whose adversary proceeding was dismissed under this rule may file a motion, subject to objection, and proposed order to have the proceeding reopened and made applicable in the new case, as though the proceeding were originally filed in the new case.

**7041-3. Voluntary or Stipulated Dismissal of Objections to Discharge of the Debtor.** Content of Motion or Stipulation. The motion, stipulation, or notice of intended action requesting dismissal or approval of a Stipulation for dismissal of a complaint or cause of action which contains or consists of an objection to discharge under 11 U.S.C. § 727 must include a Declaration identifying whether there has been any monetary settlement or other agreement made as consideration for the dismissal of the § 727 claims for relief.

## RULE 7042. CONSOLIDATION OF ACTIONS

**7042-1. Motion to Consolidate Actions Involving Common Question of Law or Fact.**

(a) When Appropriate. A party may file a motion to consolidate two or more Actions into one lead Action if a common question of law or fact exists.

(b) Low Number Case Governs. If the Actions arise in different bankruptcy cases, the motion to consolidate must be filed in the lowest numbered case which will become the lead case. If the motion to consolidate includes both adversary proceedings and contested matters, the party must file the motion to consolidate in the lowest numbered adversary proceeding only regardless of the main bankruptcy case number in which contested matters are pending. The judge assigned to the lowest numbered case will rule on the motion to consolidate.

(c) Form. The motion to consolidate must identify the other cases to be consolidated by case name and number.

(d) Order. The motion to consolidate must include a proposed order that follows Paragraph 1 of the Guidelines for the Substantive Consolidation or Joint Administration of Related Debtor Entities, CSD 1514. In addition, the proposed order to consolidate must:

(1) specify parties that will be on the combined service list;

(2) provide that the docket entry to be entered for all member matters and member adversary proceedings identified must be in substantially the following form:

> An order consolidating this case/adversary proceeding with other cases/adversary proceedings has been entered pursuant to FRBP 7042, with the lead case designated as _____[fill in lead case name and number]_____, for the joint administration and adjudication of __[fill in core issue that was consolidated]____. The docket of ___[fill in lead case name and number]_____ should now be consulted on matters regarding ___[fill in core issue that was consolidated]_____.

**7042-2. Notice and Service of Motion to Consolidate Actions Involving Common Question of Law or Fact.** The party filing the motion to consolidate must give notice under LBR 2002-2(a)(8) and serve the motion to consolidate to all affected parties.

**7042-3. Effect of Consolidation of Actions Involving Common Question of Law or Fact.** The order consolidating two or more Actions is for procedural purposes of determining common question of law or fact only and will not cause a "substantive" consolidation of the respective debtors' estates. Immediately after the entry of the order, the party moving to consolidate under LBR 7042 must contact each applicable Courtroom Deputy regarding the order to consolidate and the docket entry that must be entered in each member matter and member adversary proceeding. After the entry of the order consolidating Actions, the parties must file Documents in the lead case.

[The next Rule is 7054]

## RULE 7054. FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDERS, AND JUDGMENTS

**7054-1. Applicability of Rule.** This rule is to be read in conjunction with FRBP 7052, 7054 and 9021 and governs the preparation, submission, and approval of findings of fact, conclusions of law, judgments, and orders.

**7054-2. Duty of Prevailing Party.** Within 14 days after the date of a ruling, the prevailing party must prepare and submit any final or proposed judgment or orders and, if required, separate final or proposed findings of fact and conclusions of law, in the manner provided in LBR 7054-3.

**7054-3. Procedures for Submission of Orders After Hearing.**

(a) Orders Approved as to Form. Where all opposing parties approve the form of any final or proposed order, judgment, findings of fact, or conclusion of law ("Proposed Order"), compliance with LBR 7054-3(b) is excused. The parties must indicate approval as to form of the Proposed Order by signing "approved as to form" at the end of the text of the Proposed Order.

(b) Lodgment of Orders. Where any opposing party does not approve the form of any Proposed Order or where the prevailing party elects not to seek approval, the Proposed Order must be lodged (the "Lodged Order") together with a Notice of Lodgment conforming to the Administrative Procedures. The notice must inform the opposing party that any objection to the form and content of the Lodged Order must be filed and served within 7 days from the date of service of the Proposed Order.

(c) Opposition to Lodged Order. Any party who opposes the Lodged Order must file any objection, an alternate Proposed Order, and a Document that identifies by redline or other reasonable method the changes from the Lodged Order within 7 days from the date of service of the original Notice of Lodgment. No further Documents regarding the Lodged Order will be considered except upon leave of Court.

## RULE 7055. DEFAULT

**7055-1. Required Form for Request to Enter Default.**

(a) A request to enter default under FRBP 7055 must conform substantially to Local Form CSD 3030.

(b) Unless previously filed, the request must be accompanied by a supporting Declaration.

[The next Rule is 7065]

## RULE 7065. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

**7065-1. Requirements.**

(a) Adversary Proceeding Required. Before a party files an application for a temporary restraining order or for a preliminary injunction, the party must file an adversary proceeding that includes a request for injunctive relief.

(b) Documents Required. The application must be made in a Document separate from the complaint and must be accompanied by:

(1) a separate memorandum of points and authorities in support of the application;

(2) a proposed temporary restraining order or preliminary injunction; and

(3) a Declaration evidencing compliance with FRBP 7065's notice requirements.

[The next Rule is 7069]

## RULE 7069. ENFORCEMENT OF JUDGMENTS

**7069-1. Form.** Whenever a party seeks a provisional remedy or enforcement of a judgment in accordance with state law as provided in FRBP 7064 and 7069, the application and order must conform substantially to Local Form CSD 3060.

**7069-2. Discovery in Aid of Enforcement of Judgments.** As allowed by FRBP 7069, except to the extent that a federal statute applies, a judgment creditor may obtain discovery from any Individual or Entity to aid in enforcing a judgment in the manner provided by FRBP 7026 through 7037 or in the manner provided by state law. A judgment creditor may not use FRBP 2004 to collect information to use to enforce a judgment, but must use the remedies provided by state law and FRBP 7069.

**7069-3. Registration of Judgments.** A judgment by a bankruptcy judge from any other district may be registered in the Southern District of California by filing with the Clerk a certified copy of such a judgment accompanied by Local Form CSD 3054, and by payment of the Fee mandated by the Judicial Conference pursuant to 28 U.S.C. § 1930.

[The next Rule is 9006]

## RULE 9006. TIME FOR MOTIONS AND OBJECTIONS; LENGTH OF BRIEFS; PROOF OF SERVICE

### 9006-1. Time for Motions and Opposition.

(a) Service of Motion. FRBP 9006(d), LBRs 2002, 4001, 4002, and 9013 govern service of a written motion.

(b) Notice of Hearing. FRBP 9006(d) and LBRs 2002-3, 4001-3, 4002-2(c) and 9013 govern notice of hearing unless the hearing is deemed waived.

(c) Opposition. FRBP 9006(d) and LBRs 2002, 4001, 4002, and 9013 govern the time for filing any opposing affidavits or objections.

(d) Extending and Shortening Time. Subject to the limitations of FRBP 9006, a motion for an order extending or shortening time under the Bankruptcy Rules or Local Bankruptcy Rules may be submitted ex parte pursuant to LBR 9013-3(e) with a proposed order.

(e) Inaccessibility of the Court. The Clerk's office is "inaccessible" within the meaning of FRBP 9006 on any day when it is not available for both electronic filing of Documents and paper filing of Documents.

### 9006-2. Proof of Service.

(a) Filing. Proof of Service of all Documents served must be filed with the Clerk's office on the next Court day following the date of service of the Documents and must indicate the date and manner of service by attaching:

(1) written acknowledgment of service by the attorney or authorized Individual served; or

(2) attorney's certificate or Declaration of the Individual who mailed or otherwise served the Documents.

(b) Validity of Service. The validity of the service is not affected by the failure to file the Proof of Service.

(c) Required Information. A Proof of Service of a Document must identify the following:

(1) documents(s) served;

(2) service date;

(3) name of the Individual or Entity served and that Individual's or Entity's:

(A) mailing or street address if served by mail or hand delivery;

(B) email address if served electronically; or

(C) fax number if served by fax transmission;

(4) name of the party if service was made on a party's attorney; and

(5) method of service (personal, hand delivery, first class mail, the System, or other delivery method with written consent).

(d) Written Consent to Electronic Service. If service is made by electronic means, other than through the System, the Proof of Service must include a statement that the party being served consented to the particular method of service. Facsimile and email service require such consent.

(e) Service by the System. If service is made using the System, the party filing the Proof of Service may rely on the NEF to indicate that service was made, except as set forth in LBR 2002-1 where the Clerk will file the proof of service and LBR 5005-6 where service is made on parties who are not participants in the System. The NEF, however, is not a substitute for a Proof of Service.

[The next Rule is 9010]

## RULE 9010. APPEARANCE OF ATTORNEYS

**9010-1. Applicability of Rule.** FRBP 9010 and Local District Court Rule 83.3 govern the appearance of attorneys in bankruptcy cases and Actions.

**9010-2. Applications for Admission.** Applications for admission under Local District Court Rule 83.3(c)(1) must be presented to the clerk of the United States District Court for the Southern District of California. The application must be accompanied by the required fee. Checks should be made payable to "Clerk, United States District Court."

**9010-3. Pro Hac Vice Application.** Pro hac vice applications under Local District Court Rule 83.3(c)(4) for appearance in bankruptcy cases and Actions must be presented to the Clerk. The application must be accompanied by the required fee. Checks must be made payable to "Clerk, United States District Court."

**9010-4. Attorney's Duty to Keep Mailing Address and Telephone Information Current.** Attorneys appearing in ongoing bankruptcy cases and Actions must keep the Court apprised of their current mailing address and telephone number. Any change of address must be submitted in writing; Local Form CSD 1546 may be used for this purpose. Merely noting such a change on a Document submitted for filing will not constitute compliance with this Local Bankruptcy Rule.

**9010-5. Substitution of Attorneys.** Substitution of attorneys is governed by Local Rule 83.3(g)(2) of the United States District Court for the Southern District of California and, if applicable, LBR 2014-1 and must conform substantially to Local Form CSD 3011.

**9010-6. Appearance Attorneys.**

(a) Section 341(a) Meeting. An attorney may attend a meeting of creditors on behalf of the attorney of record. The attorney attending a meeting of creditors must be familiar with the facts and circumstances of the case and must be prepared to act as the attorney of record for all purposes of the 341(a) meeting;

(b) Hearings. Except as otherwise required by these Local Bankruptcy Rules or Court order, an attorney may attend a hearing on behalf of the attorney of record. The attorney must be familiar with the relevant facts and legal issues and must be prepared to commit to future scheduling and to address all issues reasonably anticipated in connection with the hearing.

[The next Rule is 9013]

## 9013. RULE MOTION PRACTICE AND CONTESTED MATTERS

**9013-1. Applicability of Rule.** This rule applies to any motion, application, or objection with respect to which the Bankruptcy Code provides that relief may be obtained after "notice and a hearing" or similar phrase. This rule does not apply to the extent it conflicts with the specific provisions applicable to: (1) motions for relief from stay or motions to confirm or extend the automatic stay under FRBP 4001 and LBR 4001; (2) objections to notices of setting/increasing Insider compensation in Individual chapter 11 cases under LBR 4002-2; (3) proceedings that must be initiated by complaint under FRBP 7001 (adversary proceedings); or (4) any other matters in which there is a specific applicable Local Bankruptcy Rule.

**9013-2. Categories of Motions, Applications, and Notices of Intended Action.** The types of motions and applications permitted under these Local Bankruptcy Rules are as follows:

(a) Motions and Applications Not Requiring Notice. See LBR 9013-3;

(b) Noticed Motions and Applications. See LBR 9013-4(a) (required hearing) and 9013-4(b) (hearing upon request);

(c) Notices of Intended Action. See LBR 2002-2, 2002-3, and 9013-4(b)(1); and

(d) Emergency Motions. See LBR 9013-9.

**9013-3. Motions and Applications Not Requiring Notice.** The following motions and applications may be filed without notice and must be accompanied by an order submitted to the Court in accordance with the Administrative Procedures:

(a) Application for permission to pay filing Fee in installments, as governed by LBR 1006-2;

(b) Motion for order fixing claims bar date in chapter 11 case, as governed by LBR 3003;

(c) Motion for order authorizing examination of an Individual or Entity under FRBP 2004;

(d) Motion for extension of time to file certificate of credit counseling under 11 U.S.C. § 109(h)(3) due to exigent circumstances;

(e) Motion for order extending or shortening time, as governed by LBR 9006-1(d), except a motion for an order extending time to file bankruptcy schedules and statements required by FRBP 1007 and LBR 1007;

(f) Motion to file Document under seal under FRBP 9018, except that service on the U.S. Trustee is required;

(g) Motion to restrict access to Documents containing any of the personal identifiers in FRBP 9037(a). See LBR 9018;

(h) Motions under 11 U.S.C. § 362(c)(4)(A)(ii); and

(i) Application for a modified hearing date or filing deadline pursuant to stipulation between parties.

**9013-4. Hearings and Hearing Dates.** Certain motions require a notice of hearing in every instance (LBR 9013-4(a)). Hearings on all other motions and on notices of intended action are set only upon request of the Movant or respondent (LBR 9013-4(b)). In all instances, hearing dates must be requested from the Courtroom Deputy. A judge may, in the judge's discretion, decide a motion without oral argument even if a hearing date was assigned.

(a) Hearing Required (Movant Requests Hearing). This rule governs any motion or application where the Movant requests a hearing date or an actual hearing is required by the Bankruptcy Code or FRBP including, but not limited to, the following motions and applications:

(1) motion for conversion of chapter 7, 11, or 12 case, by other than the debtor;

(2) motion for dismissal of a case, except as otherwise provided in LBR 2002-2(a)(1) and 3015-1(b);

(3) motion for approval of a chapter 11 disclosure statement;

(4) motion for confirmation of a chapter 11 plan;

(5) motion for modification of a chapter 9 or 11 plan;

(6) motion for modification of a chapter 12 or 13 plan;

(7) application for allowance of compensation or reimbursement of expenses in excess of $1,000 as provided in FRBP 2002(a)(6) and 2016 and LBR 2016, except as otherwise allowed by LBR 2014-2(a);

(8) motion to appoint a trustee or examiner in a chapter 11 case;

(9) motion by the debtor or other party in interest to extend automatic stay under 11 U.S.C. § 362(c)(3)(B);

(10) motion for order imposing automatic stay under 11 U.S.C. § 362(c)(4)(B);

(11) motion to extend time within which to object to discharge under § 727 or to object to the dischargeability of a debt under § 523;

(12) motion to extend the debtor's exclusive time to file and confirm a chapter 11 plan;

(13) motion to approve a loan modification;

(14) motion to avoid liens under 11 U.S.C. § 522(f);

(15) motion to value real property, treat claim as unsecured, and avoid junior lien;

(16) application for order to show cause regarding contempt under FRBP 9020;

(17) motion for nunc pro tunc approval of applications to employ counsel or other professionals;

(18) all motions filed in an Adversary Proceeding governed by Part VII of the Bankruptcy Rules;

(19) motion for remand;

(20) motion under LBR 7041-2(b); and

(21) other matters as the Court directs, the Bankruptcy Code or Bankruptcy Rules provide, or the Movant desires.

The following Notice of Hearing forms should be used for motions and applications described in this section as applicable: CSD 1181 (All Creditors), CSD 1181A (Exhibit A to 1181 required with fee notices), CSD 1183 (Less than all creditors), CSD 3015, (Adversary Proceedings), CSD 1171.1 (Value Property), CSD 1149, (Approval of Disclosure Statement/Plan), CSD 1158 (Impose/Extend Stay), and CSD 1173 (Objection to Ch. 13 Plan).

(b) Hearing upon Request.

(1) Notice of Intended Action and Opportunity for Hearing (Respondent Requests Hearing). A party in interest may initiate a request for relief through a notice of intended action as set forth in LBR 2002-2. A Notice of Intended Action and Opportunity for Hearing form, CSD 1180, is available for use.

(2) Hearings Permitted (Respondent Requests Hearing). Unless otherwise provided in the Bankruptcy Rules or Local Bankruptcy Rules, a motion, application, or objection may be noticed with an opportunity for hearing.

(3) The Movant also may request a hearing on any motion or application. Any party who is permitted to give only LBR 9013-4(b)(1) or (2) notice may nevertheless request a hearing date be set for the motion or application upon a representation to the Court that opposition is expected or that a hearing otherwise is required.

The following Notice of Motion or Notice of Objection forms should be used as applicable: CSD 1182 (Blank Description), CSD 1027 (Exemption re: Credit Counseling), and CSD 1140 (Debtor's Claim of Exemption).

**9013-5. Motions and Applications Requiring a Statement of Position.** LBR 9034-1 enumerates motions and applications, which require notice to and a statement of position from the U.S. Trustee as well as the procedures for obtaining a statement of position. LBR 9034-2 sets forth motions and applications, which require notice to and a statement of position from chapter 13 trustees as well as the procedures for obtaining a statement of position.

**9013-6. Time for Service.**

(a) Movant Requests Hearing. In all matters where the Movant is requesting a hearing as set forth in LBR 9013-4, the time for service of motions and oppositions is as follows:

(1) Time for Serving Motion. A motion, along with all Documents set forth in LBR 9013-7(a), and, if relevant, the notice of motion as required by LBR 2002-4, must be filed and served at least 28 days before the hearing date.

(2) Time for Serving Opposition, Generally. Except as otherwise provided by the Bankruptcy Rules or Local Bankruptcy Rules, each party opposing a motion must serve that opposition, together with all Documents set forth in LBR 9013-7(b), at least 14 days after service of the notice of motion, if personally served.

(3) Time for Serving Opposition to Motion for Approval of Disclosure Statement and Motion for Confirmation of Plan. Each party opposing a motion for approval of a disclosure statement or a motion for confirmation of a plan must serve that opposition within 28 days after service of the notice of motion, if personally served.

(4) Time for Serving Opposition to Motion to Value Real Property, Treat Claim as Unsecured and Avoid Junior Lien (Motion to Value Real Property). See LBR 3015-8(d)(4).

(b) Respondent Requests Hearing. For all matters where the respondent is requesting a hearing as set forth in LBR 9013-4(b) (1) and (2), except as otherwise provided by an order shortening time or the Bankruptcy Rules and Local Bankruptcy Rules, each respondent must serve the opposition plus items set forth in LBR 9013-7(b) and Local Form CSD 1184 within 14 days after service of the notice of motion, if personally served.

(c) Replies. Any reply, including any supporting Documents, must be filed and served on the adverse party the earlier of 7 days after service of the opposition or 3 business days before the hearing date. Responses to a reply are not permitted without Court order.

**9013-7. Form, Content, and Length of Documents.**

(a) Moving Papers.

(1) General Requirements. Except as provided otherwise in the Bankruptcy Rules and Local Bankruptcy Rules, all motions and applications must be in writing. Each motion and application must be filed and served. Each motion and application must include a complete statement of the relief requested and evidence as necessary supporting that relief including, but not limited to, Declarations.

(2) Special Requirements. Additional requirements are set forth in the following Local Bankruptcy Rules relating to specific matters:

(A) motion to dismiss case – LBR 1017, 2002-2(a)(1), and 3015-1(b);

(B) motion for dismissal of complaint objecting to debtor's discharge – LBR 7041-3;

(C) motions to avoid liens under 11 U.S.C. § 522(f) – LBR 4003-1;

(D) motion for exemption from credit counseling under 11 U.S.C. § 109(h)(4) – motion must contain information substantially conforming to CSD 1027;

(E) motion for order confirming that automatic stay is not in effect under 11 U.S.C. § 362(c)(4)(A) – LBR 4001 and 1007;

(F) certificate of cure of entire monetary default under 11 U.S.C. § 362(1) – LBR 4001-8;

(G) motion to access federal income tax returns under 11 U.S.C. § 521(f) – Movant must serve the motion on the debtor in addition to the parties required by FRBP 9013; and

(H) Insider compensation requests in Individual chapter 11 cases – LBR 4002-2.

(b) Oppositions and Responses.

(1) General Requirements. Except as provided otherwise in the Bankruptcy Rules or the Local Bankruptcy Rules, all oppositions and responses to motions and applications must be in writing. Each opposition and response to a motion or application must be filed and served. Each opposition and response to a motion or application must include a complete statement of the reasons in opposition to or in support of the motion and evidence as necessary supporting the reasons including, but not limited to, Declarations.

(2) Failure to File Opposition. The Court may treat a failure to timely file opposition to a motion or application by any party in interest, including the U.S. Trustee and the chapter 13 trustee, as the non-objecting party's consent to the granting of the motion and waiver of oral argument. The Court, as a result, may vacate any then pending hearing and promptly enter an order granting the requested relief.

(c) Replies. Parties are permitted to file replies to oppositions.

(d) Length of Papers; Tables.

(1) Briefs and memoranda in support of or in opposition to any pending motion or application must not exceed 25 pages.

(2) Reply memoranda must not exceed 10 pages.

(3) Briefs and memoranda exceeding 10 pages must include a table of contents and table of cited authorities.

**9013-8. Motions for Reconsideration.** A motion for reconsideration must expressly indicate whether it is brought under FRBP 9023 or 9024. Substantiation of the relevant ground for relief must be by admissible evidence and, if applicable, citation to the newly adopted statutory or case authority.

**9013-9. Emergency Motions.**

(a) Scope of Rule. If an emergency motion requiring an order must be obtained, comply with this rule.

(b) Contents of Motion. The motion must:

(1) state the relief requested;

(2) comply with any other applicable provisions of these rules regarding the relief requested; and

(3) be accompanied by a Declaration that:

(A) justifies the setting of a hearing on an emergency basis; and

(B) supports the granting of the motion itself on the merits.

A separate motion for an expedited hearing is not required under this rule.

(c) Service of Motion. A party must personally serve written Documents supporting the emergency motion on parties or counsel for parties in interest including the U.S. Trustee or, if the parties or counsel are located outside of the Southern District of California or personal service is impracticable, then serve the pleadings in a manner reasonably calculated to provide prompt notice, including express or overnight delivery or, with consent, by email or facsimile.

(d) Telephonic Notice. The Movant must make reasonable efforts to telephonically or personally notify parties, including the U.S. Trustee, of the emergency relief requested. In addition, the Movant must make a good faith effort to determine whether any party intends to oppose the relief requested.

(e) Declaration Regarding Notice and Opposition. A Declaration must accompany any emergency motion, indicating what notice was given to parties in interest and whether any noticed party plans to oppose the relief requested.

(f) Caption of Motion. The word "Emergency" must appear in the caption of all emergency motions and orders related to the emergency motion. Movant must provide the judge's law clerk with telephonic notice of the motion when it is filed.

(g) Response to Motion and Notification of Law Clerk. Any party in interest who opposes an emergency motion must immediately notify the judge's law clerk by telephone of intent to oppose. Written opposition is not required to be filed to the emergency motion, unless the Court otherwise directs.

(h) Court’s Discretion. The Court reserves discretion to grant or deny an emergency motion without further hearing.

(i) Sanctions. If sanctions are appropriate based on improper use of the emergency motion procedure, sanctions may be awarded regardless of the ultimate determination of the merits if later heard as a fully noticed matter.

**9013-10. Orders.**

(a) Content of Orders or Reports on Non-Contested Motions. After expiration of the last date for serving and filing objections, if no objections have been filed to a motion filed pursuant to LBR 9013, the Movant must submit promptly to the Court an appropriate order or, if applicable, the report required by LBR 6004-3 or 6007-3. If an order is required, the order must attach as Exhibit "A" a file-stamped copy of the notice of motion or notice of intended action and Proof of Service and must set forth the following:

(1) the date the motion was filed with the Clerk;

(2) a complete and concise statement of the relief to be granted;

(3) a statement that the Movant has received no Documents in opposition; and

(4) the full legal description and any street address for the property if the motion pertains to real property.

(b) Orders on Contested Motions. FRBP 7054 and LBR 7054 govern the preparation of orders following hearing on all Actions governed by Part VII of the Bankruptcy Rules.

(c) Service of Orders. The party obtaining relief is responsible for serving the entered order on the persons affected by the order and must file a Proof of Service with the Court no later than the next business day following the date of service.

[The next Rule is 9018]

## RULE 9018. FILING OF SECRET, CONFIDENTIAL, SCANDALOUS, OR DEFAMATORY DOCUMENTS UNDER SEAL

**9018-1. Documents Containing Personal Identifiers.** All requests to restrict public access to Documents, including proofs of claims and attachments, containing any of the personal identifiers enumerated in FRBP 9037(a) must be made by motion to restrict (redact) the Document. The entry of an order on the motion under this Local Bankruptcy Rule is considered an administrative function and is delegated to the Clerk. The Movant must file the amended Document with the redacted information, concurrently with the motion to restrict access.

**9018-2. Content of Motion and Order.** A motion to file Documents or pleadings containing secret, confidential, scandalous, or defamatory matter under seal may be made ex parte pursuant to LBR 9013-3(f). The ex parte motion must be accompanied by an order, which sets forth the term, if any, of the

sealing as well as a general description by title of the Documents to be filed under seal. The order will be placed on the Court docket for public inspection.

**9018-3. Filing Documents Under Seal.** All Documents filed under seal must contain the following legend to be contained on the face page of the Document or pleading 2 lines under the department listed for any hearing, or if no hearing has been scheduled, 2 lines under the title of the Document: "THIS DOCUMENT IS FILED UNDER SEAL PURSUANT TO COURT ORDER."

**9018-4. Return of Documents Under Seal.** Documents filed under seal will be returned to the party submitting them upon entry of the final judgment or termination of the appeal, if any, unless otherwise ordered by the Court.

## RULE 9019. COMPROMISE AND SETTLEMENT OF CONTROVERSY

**9019-1. Notice to All Creditors.** When FRBP 9019 governs notice of a Stipulation, settlement, or compromise of a controversy requiring Court approval, the Document requesting approval must describe the nature of the controversy, the terms of the settlement, the financial impact upon the estate, if any, and the settlement's compliance with the requirements for settlement approval under controlling case law authority. The Movant also must:

(a) Form of Order. Either attach a copy of the notice and Proof of Service as Exhibit "A" to the Order or referenced these Documents by docket number within any proposed order; and

(b) Evidence. File a Declaration providing evidence of the appropriateness of the Stipulation, settlement, or compromise.

[The next Rule is 9021]

**9021-1. Orders** (See LBR 9013-10)

[The next Rule is 9025]

## RULE 9025. SECURITY AND BONDS; DEPOSIT AND APPROVAL

**9025-1. Surety Bonds.** Non-institutional surety bonds of $1,000 or less and all corporate surety bonds, will be approved by the Clerk. The Clerk will append the following statement to the bond:

"I hereby approve the foregoing bond.
Dated:
Clerk"

Approval of all other non-institutional surety bonds or other forms or security under FRBP 9025 must be obtained by Court order.

[The next Rule is 9027]

## RULE 9027. REMOVAL AND REMAND

**9027-1. Commencement of a Removal Action.** A notice of removal pursuant to FRBP 9027 is filed with the Clerk together with:

(a) Form B 104 and the complaint; and

(b) Additional process and Documents required by FRBP 9027(a)(1);

**9027-2. Statement in Notice of Removal Regarding Consent to Entry of Orders or Judgment in Core Proceeding.** If, pursuant to FRBP 9027(a)(1), a notice of removal states that the removed claim or cause of action or any part of it is core, the notice must also state that the party removing the proceeding does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

**9027-3. Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding.** If a statement filed pursuant to FRBP 9027(e)(3) by a party who filed a pleading in connection with a removed claim or cause of action, other than the party filing the notice of removal, states that the proceeding or any part of it is core, the party must state that the party does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.

**9027-4. Jury Trial.** If a notice of removal or answer contains a demand for a jury trial, the words "JURY DEMAND" must also appear immediately following the title of the Document. The words "JURY DEMAND" must also appear on the cover sheet required by LBR 9027-1(a). Notation of the jury demand solely on the cover sheet does not constitute a demand for jury trial under these Local Bankruptcy Rules.

**9027-5. Remand.** A motion for remand under FRBP 9027(d) must be filed with the Clerk.

[The next Rule is 9034]

## RULE 9034. TRANSMITTAL OF MOTIONS AND APPLICATIONS TO THE U.S. TRUSTEE OR CHAPTER 13 TRUSTEE FOR STATEMENT OF POSITION

### 9034-1. Motions and Applications Requiring a Statement of Position of the U.S. Trustee.

(a) When Required. In chapter 7, 11, and 12 cases, a statement of position from the U.S. Trustee must be requested for the following matters:

(1) motions for extension of time for filing schedules and statements required by FRBP 1007 and LBR 1007-3;

(2) applications to employ attorneys and other professionals including, but not limited to, accountants, appraisers, auctioneers, agents, and brokers pursuant to 11 U.S.C. § 327 or § 1103 and as required by LBR 2014 and 6005; and

(3) applications for entry of final decree on consummation of a chapter 11 plan and governed by FRBP 3022.

(b) Procedure. To obtain a statement of position, a Movant must, on the same day, file with the Court and serve on the U.S. Trustee's Office at ustp.region15sop@usdoj.gov the following:

(1) motion or application;

(2) proposed order attached to the motion or application as an exhibit; and

(3) supporting Declarations attaching any other supporting Documents.

(c) The U.S. Trustee will only accept service at ustp.region15sop@usdoj.gov for requests for statements of position in connection with the 3 matters set forth in LBR 9034-1(a). The Movant's email to the U.S. Trustee must clearly set forth a return email or mailing address.

(d) For a motion for extension of time for filing schedules and statements, the U.S. Trustee has 7 days from the date of filing and service of the motion to file a statement of position that may include a request that the Movant set the matter for hearing.

(e) For applications to employ attorneys and other professionals and for entry of final decree, the U.S. Trustee has 14 days from the date of filing and service of the application to file a statement of position that may include a request that the Movant set the matter for hearing.

(f) If the U.S. Trustee has no objection to a motion or application, the U.S. Trustee may file a statement of position. No service on the Movant is required. If the U.S. Trustee objects to the motion or application, the U.S. Trustee must file a statement of position with the Court with a Proof of Service showing service on the Movant at the email or mailing address provided in the request for a statement of position.

(g) After the filing of, or the expiration of the time to file, a statement of position objecting to the motion or application, if no hearing is requested by the U.S. Trustee, the Movant may take any of the following actions:

(1) submit an order to the Court requesting approval of the motion or application, that must reference the docket number for any U.S. Trustee's statement of position;

(2) file supplemental Documents in response to the statement of position; or

(3) schedule a hearing with proper notice to the U.S. Trustee and other parties in interest.

(h) If the U.S. Trustee requests a hearing in the statement of position, the Movant must schedule the hearing with proper notice to the U.S. Trustee and other parties in interest.

**9034-2. Motions Requiring a Statement of Position of the Chapter 13 Trustee.**

(a) When Required. In a chapter 13 case, the debtor must request a statement of position from the chapter 13 trustee in connection with the following matters:

(1) motions for extension of time for filing schedules and statements required by FRBP 1007 and LBR 1007-3;

(2) motions for extension of time for filing a chapter 13 plan, as governed by LBR 3015-1; and

(3) motions to sell real or personal property of the debtor, as governed by FRBP 6004.

(b) Procedure. To obtain a statement of position of the chapter 13 trustee, the Movant must file the underlying motion and serve it upon the chapter 13 trustee. The Movant must then upload the CSD form 1179, Request for Statement of Position of the chapter 13 trustee, and the chapter 13 trustee, as appropriate, must execute the CSD 1179 and upload it into the System. Once the executed CSD form appears on the Court docket, the Movant must upload an order which will be subject to Court approval.

[End]

APPENDIX A

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# SCHEDULE OF FEES AND SPECIAL CHARGES COLLECTIBLE BY THE CLERK OF THE BANKRUPTCY COURT [28 U.S.C. §1930]

EFFECTIVE DECEMBER 1, 2014

## Filing Fees:

Chapter 7 Case ($245 filing fee, $75 administrative fee, $15 trustee surcharge)…….. $ 335.00*
Involuntary Chapter 7 Case ($245 filing fee, $75 administrative fee, $15 trustee surcharge)……... $ 335.00*
Chapter 13 Case ($235 filing fee, $75 administrative fee)……$ 310.00*
Chapter 9 Case ($1167 filing fee, $550 administrative fee)…….. $ 1717.00
Chapter 11 Case ($1167 filing fee, $550 administrative fee)……$ 1717.00*
Chapter 12 Case ($200 filing fee, $75 administrative fee)……$ 275.00
Chapter 15 Case ($1167 filing fee, $550 administrative fee)……$ 1717.00
Complaint Commencing Adversary Proceeding (including Removals)……..... $ 350.00
Motion for Relief from Stay [11 U.S.C. §362(a)]…….. $ 176.00
Motion to Compel Abandonment of Property by Parties in Interest [FRBP 6007(b)]…….. $ 176.00
Motion to Withdraw Reference of Case or Proceeding to U.S. District Court [28 U.S.C.§157(d)]…….. $ 176.00
Motion to Redact/Restrict a Record, per affected case ……$ 25.00
Motion to Sell Property of the Estate Free and Clear of Liens under 11 U.S.C. § 363(f)…… $ 176.00
Motion to Reopen Case……..See CASE REOPENING FEES below
Amendment to Add or Delete Names and Addresses of Creditors or
Equity Security Holders; Change Amounts Owed or Classification of Debt…… $ 30.00
Notice of Appeal including the Appellate Docket Fee[1] (to District Court, Bankruptcy Appellate Panel,
or Ninth Circuit Court of Appeals)…….. $ 298.00
Cross Appeal including Appellate Docket Fee[1] …… $ 298.00
Motion for Leave to Appeal when accompanied by the required Notice of Appeal…… $ 5.00
If leave is granted, the $293 Docket Fee[1] becomes due..... $ 293.00
Request for Authority to file Direct Appeal or Cross Appeal to the Ninth Circuit Court of Appeals
including Appellate Docket Fee[1]…… $ 298.00
If authorized, an additional fee of $ 207 becomes due …… $ 207.00

## Conversion Fees:

For a Case commenced under Chapter 7 and converted to Chapter 11
at the Request of the Debtor [28 U.S.C. §1930(a)]……..$ 922.00*
For a Case commenced under Chapter 13 and converted to Chapter 11
at the Request of the Debtor [28 U.S.C. §1930(a)]……..$ 932.00*
For a Case commenced under Chapter 13 and converted to Chapter 7
upon Notice by the Debtor……... $ 25.00*
For a Case commenced under Chapter 12 and converted to Chapter 7 upon Notice by the Debtor …….. $ 60.00*
Upon the filing of a Motion to Convert a Chapter 11 Case to Chapter 7 ……$ 15.00*

## Division of Joint Case at Request of Debtor Fees:

Chapter 7 ($245 filing fee, $75 administrative fee, $15 trustee surcharge)……... $ 335.00
Chapter 13 Case ($235 filing fee, $75 administrative fee)……$ 310.00
Chapter 11 Case ($1167 filing fee, $550 administrative fee)……$ 1717.00
Chapter 12 Case ($200 filing fee, $75 administrative fee)……$ 275.00

*Only one fee payable for joint petition by husband and wife.
[1]If appellant is the trustee or debtor-in-possession, the $293 Appellate docket fee shall be paid from the assets of the estate.

APPENDIX A

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# SCHEDULE OF FEES AND SPECIAL CHARGES COLLECTIBLE BY THE CLERK OF THE BANKRUPTCY COURT [28 U.S.C. §1930]

EFFECTIVE DECEMBER 1, 2014

## Case Reopening Fees:

The reopening fee must not be charged in the following situations:

- to permit a party to file a §727(d) adversary proceeding.

CODE CASES:

| | |
|---|---|
| Chapter 7 ($245 filing fee, $15 trustee surcharge) | $ 260.00* |
| Chapter 13 Case | $ 235.00* |
| Chapter 11 Case | $ 1167.00* |
| Chapter 12 Case | $ 200.00* |
| Chapter 15 Case | $ 1167.00 |
| Chapter 9 Case | $ 1167.00 |

ACT CASES: - same as original fee

## Miscellaneous Fees:

| | |
|---|---|
| Filing and indexing any document not part of local case | $ 46.00 |
| Photocopy (does not include certification)(per page) | $ .50 |
| Certifying any document including Abstract of Judgments | $ 11.00 |
| Abstract of Judgment ($30 search fee, $11 certification fee) | $ 41.00 |
| Search of record (per name or item searched) | $ 30.00 |
| Retrieval of one box of records from the Federal Record Center or National Archives | $ 64.00 |
| Retrieval of multiple boxes from the Federal Record Center/National Archives, each additional box | $ 39.00 |
| Reproduction of recording of proceedings (per recording) | $ 30.00 |
| Exemplifications | $ 21.00 |
| Any payment returned or denied for insufficient funds | $ 53.00 |
| Filing a transfer of claim (per claim transferred) | $ 25.00 |

## Electronic Public Access Fee:

| | |
|---|---|
| Printed copies from courthouse public terminal (does not include certification)(per page) | $ .10 |

**MAKE ALL CHECKS OR MONEY ORDERS PAYABLE TO:**
**"CLERK, U.S. BANKRUPTCY COURT"**

## Admission to Practice in United States District Court under U.S. District Court Local Rule 83.3 (effective November 1, 2011):

| | |
|---|---|
| Full Admission ($176.00 fee, balance to the Library and Pro Bono Funds) | $ 206.00 |
| Pro Hac Vice Application (first application) | $ 206.00 |
| Duplicate Certificate of Admission or Certificate of Good Standing | $ 18.00 |

**MAKE ALL CHECKS FOR ADMISSION FEES PAYABLE TO:**
**"CLERK, U.S. DISTRICT COURT"**

APPENDIX B
LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

**CROSS-REFERENCE TABLE**

| District Court Local Rule | Bankruptcy Court Local Rule |
|---|---|
| 1.1 | Not Applicable |
| 1.2 | Not Applicable |
| 3.1 | Not Applicable |
| 3.2 | Not Applicable |
| 4.1 | Not Applicable |
| 4.5 | Not Applicable; see Appendix A |
| 5.1 | Not Applicable |
| 5.2 | Not Applicable |
| 5.3 | Not Applicable |
| 5.4 | Not Applicable |
| 7.1(a) | Relevant to withdrawal of reference and bankruptcy appeals |
| 7.1(b) | Not Applicable |
| 7.1(c) | Not Applicable |
| 7.1(d)(1) | Applies |
| 7.1(d)(2) | Not Applicable |
| 7.1(e) | Not Applicable |
| 7.1(f) | Not Applicable |
| 7.1(g) | Not Applicable |
| 7.1(h) | Not Applicable |
| 7.1(i) | Not Applicable |
| 7.1(j) | Not Applicable |
| 7.2 | Not Applicable |
| 8.2 | Not Applicable |
| 9.2 | Not Applicable |
| 12.1 | Applies |
| 15.1 | Not Applicable |
| 16.1(a) | Not Applicable |
| 16.1(b) | Applies |
| 16.1(c) | Not Applicable |
| 16.1(d) | Not Applicable |
| 16.1(e) | Not Applicable |
| 16.1(f) | Not Applicable |
| 16.2 | Not Applicable |
| 16.3 | Not Applicable |
| 16.4 | Applies |
| 17.1 | Applies |
| 23.1 | Applies |
| 26.1 | Not Applicable |
| 30.1 | Not Applicable |
| 33.1 | Not Applicable |
| 36.1 | Not Applicable |
| 38.1 | Not Applicable |
| 40.1 | Not Applicable |
| 40.2 | Applies |
| 41.1 | Not Applicable |
| 47.1 | Applies |
| 51.1 | Applies |
| 53.1 | Not Applicable |
| 54.1 | Applies |
| 55.1 | Not Applicable |
| 58.1 | Not Applicable |

APPENDIX B
LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

## CROSS-REFERENCE TABLE

| District Court Local Rule | Bankruptcy Court Local Rule |
|---|---|
| 65.1.2 | Applies, supplemented by 9025 |
| 66.1 | Not Applicable |
| 67.1 | Not Applicable |
| 72.1 | Not Applicable |
| 72.2 | Not Applicable |
| 72.3 | Not Applicable |
| 73.1 | Not Applicable |
| 77.1 | Not Applicable |
| 77.2 | Applies, except for 77.2(c) |
| 77.3 | Not Applicable |
| 77.4 | Applies |
| 77.6 | Applies |
| 79.1 | Not Applicable |
| 79.2(a) | Applies |
| 79.2(b) | Not Applicable, see 9018-4 |
| 79.2(c) | Not Applicable, see 9018-2, 9018-3 |
| 83.1 | Not Applicable |
| 83.2 | Not Applicable |
| 83.3 | Applies, except for 83.3(c)(6) |
| 83.4 | Applies |
| 83.5 | Applies |
| 83.6 | Applies |
| 83.7 | Not Applicable |
| 83.8 | Not Applicable |
| 83.9 | Applies |
| 83.10 | Relevant if jury requested |
| 83.11 | Not Applicable |
| HC.1 | Not Applicable |
| HC.2 | Not Applicable |
| HC.3 | Not Applicable |
| A.1 | Not Applicable |
| B.1 | Not Applicable |
| C.1 | Not Applicable |
| E.1 | Not Applicable |
| F.1 | Not Applicable |
| Patent Local Rules 1.1 thru 4.2 | Not Applicable |
| Criminal Rules 1.1 thru 58.2 | Not Applicable |

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| B 1 | VOLUNTARY PETITION | Admin. Procedures |
| B 19 | DECLARATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER | Admin. Procedures |
| B 21 | STATEMENT OF SOCIAL SECURITY NUMBER | Admin. Procedures |
| B 104 | ADVERSARY PROCEEDING COVER SHEET | LBR 7003-1<br>LBR 9027-1(a) |
| B 254 | SUBPOENA FOR RULE 2004 EXAMINATION | LBR 2004-1 |
| B 255 | SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING) | FRBP 9016 |
| B 256 | SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING) | FRBP 9016 |
| B 257 | SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING) | FRBP 9016 |
| CSD 1001A | ORDER TEMPLATE FOR CASES | Admin. Procedures |
| CSD 1001B | ORDER SHORTENING TIME FOR HEARING TEMPLATE FOR CASES | Admin. Procedures |
| CSD 1001C | ORDER LODGED TEMPLATE FOR CASES | Admin. Procedures |
| CSD 1001D | FINDINGS OF FACT AND CONCLUSIONS OF LAW TEMPLATE FOR CASES | Admin. Procedures |
| CSD 1001E | FINDINGS OF FACT AND CONCLUSIONS OF LAW LODGED TEMPLATE FOR CASES | Admin. Procedures |
| CSD 1003 | NOTICE OF RELATED CASE | LBR 1015-2 |
| CSD 1004 | DECLARATION RE: FILING OF PETITION, SCHEDULES & STATEMENTS ON ELECTRONIC MEDIA | Admin. Procedures |
| CSD 1006 | APPLICATION TO PAY FILING FEES IN INSTALLMENTS | LBR 1006-4 |
| CSD 1007 | CREDITOR MATRIX INSTRUCTIONS (SPECIAL REQUIREMENTS FOR MAILING ADDRESSES) | LBR 1007-1 |
| CSD 1009 | DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR | FRBP 2016(b) |

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 1020 | APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE FOR INDIVIDUALS WHO CANNOT PAY THE FILING FEE IN FULL OR IN INSTALLMENTS | LBR 1006-3 |
| CSD 1025 | CERTIFICATE OF EXIGENT CIRCUMSTANCES AND MOTION FOR EXTENSION OF TIME TO FILE CERTIFICATE OF CREDIT COUNSELING | LBR 9013-3(d)<br>Admin. Procedures |
| CSD 1027 | MOTION FOR EXEMPTION FROM CREDIT COUNSELING AND NOTICE OF OPPORTUNITY FOR HEARING | LBR 9013-4(b)<br>LBR 9013-7(a)<br>Admin. Procedures |
| CSD 1033 | CERTIFICATE OF CURE OF ENTIRE MONETARY DEFAULT PURSUANT TO 11 U.S.C. § 362(l) AND NOTICE OF OPPORTUNITY FOR HEARING | LBR 4001-8(c) |
| CSD 1099 | BALANCE OF SCHEDULES AND/OR CHAPTER 13 PLAN | LBR 5005-4(c)<br>Admin. Procedures |
| CSD 1100 | AMENDMENT | LBR 1009-1<br>LBR 5005-4(c)<br>Admin. Procedures |
| CSD 1101 | NOTICE TO CREDITORS OF THE ABOVE-NAMED DEBTOR ADDED BY AMENDMENT | LBR 1009-1<br>Admin. Procedures |
| CSD 1105 | ORDER CONVERTING CASE UNDER CHAPTER 7 TO CASE UNDER CHAPTER 11 | LBR 1017-2(a)(1) |
| CSD 1106 | ORDER CONVERTING CASE UNDER CHAPTER 7 TO CASE UNDER CHAPTER 12 | LBR 1017-2(a)(1) |
| CSD 1107 | ORDER CONVERTING CASE UNDER CHAPTER 7 TO CASE UNDER CHAPTER 13 | LBR 1017-2(a)(1) |
| CSD 1108 | ORDER CONVERTING CASE UNDER CHAPTER 11 TO CASE UNDER CHAPTER 7 | LBR 1017-2(a)(1) |
| CSD 1109 | ORDER CONVERTING CASE UNDER CHAPTER 11 TO CASE UNDER CHAPTER 12 | LBR 1017-2(a)(1) |
| CSD 1119 | SUMMONS TO DEBTOR IN INVOLUNTARY CASE | FRBP 1004<br>FRBP 1010 |

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 1129 | NOTICE OF CONVERSION OF CASE UNDER CHAPTER 13 TO A CASE UNDER CHAPTER 7 BY DEBTOR | LBR 1017-2(b)(2) |
| CSD 1143 | FEE APPLICATION SUMMARY (EXHIBIT "A") | LBR 2016-2(b) |
| CSD 1144 | ORDER APPROVING (INTERIM)(FINAL) APPLICATION OF (APPLICANT) FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES | LBR 2016-4 |
| CSD 1148 | REQUEST FOR SPECIAL CHARGES BY CHAPTER 11 PLAN PROPONENT | LBR 3020-1 |
| CSD 1149 | NOTICE OF HEARING AND MOTION FOR APPROVAL OF DISCLOSURE STATEMENT, PLAN, OR MODIFIED PLAN | LBR 2002-3<br>LBR 3015-2(b)<br>LBR 9013-4(a) |
| CSD 1151 | SUMMARY OF BALLOTING ON CHAPTER 11 PLAN DATED | LBR 3018-2 |
| CSD 1152 | CHAPTER 11 INDIVIDUAL COMBINED PLAN OF REORGANIZATION AND DISCLOSURE STATEMENT | LBR 1001-6(b)(21)<br>LBR 3017-2 |
| CSD 1153 | NOTICE OF HEARING AND MOTION FOR REVIEW AND CONDITIONAL APPROVAL OF INDIVIDUAL CHAPTER 11 COMBINED PLAN OF REORGANIZATION AND DISCLOSURE STATEMENT | LBR 3017-2 (b)(1) |
| CSD 1154 | ORDER GRANTING CONDITIONAL APPROVAL OF INDIVIDUAL CHAPTER 11 COMBINED PLAN OR REORGANIZATION AND DISCLOSURE STATEMENT | LBR 3017-2(a) |
| CSD 1158 | NOTICE OF HEARING AND MOTION TO EXTEND OR IMPOSE THE AUTOMATIC STAY | LBR 9013-4(a) |
| CSD 1159A | ORDER TEMPLATE FOR R/S MOTIONS | Admin. Procedures |
| CSD 1159B | ORDER SHORTENING TIME FOR HEARING FOR R/S MOTIONS | Admin. Procedures |
| CSD 1159C | ORDER LODGED TEMPLATE FOR R/S MOTIONS | Admin. Procedures |
| CSD 1159D | FINDINGS OF FACT AND CONCLUSIONS OF LAW TEMPLATE FOR R/S MOTIONS | Admin. Procedures |
| CSD 1159E | FINDINGS OF FACT AND CONCLUSIONS OF LAW LODGED TEMPLATE | Admin. Procedures |

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 1160 | MOTION FOR RELIEF FROM AUTOMATIC STAY (REAL PROPERTY/PERSONAL PROPERTY) | LBR 4001-2(a) |
| CSD 1161 | OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY (REAL PROPERTY/PERSONAL PROPERTY) | LBR 4001-3(a) |
| CSD 1162 | ORDER ON NONCONTESTED MOTION FOR RELIEF FROM STAY (REAL PROPERTY/PERSONAL PROPERTY) | LBR 4001-5(a) |
| CSD 1163 | MOTION FOR RELIEF FROM AUTOMATIC STAY (UNLAWFUL DETAINER) | LBR 4001-2(a) |
| CSD 1165 | ORDER ON NONCONTESTED MOTION FOR RELIEF FROM AUTOMATIC STAY (UNLAWFUL DETAINER) | LBR 4001-5(a) |
| CSD 1170 | NOTICE OF MODIFIED CHAPTER 13 PLAN PRIOR TO CONFIRMATION | LBR 3015-2(a) |
| CSD 1171 | DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN | LBR 3015-8 |
| CSD 1171.1 | NOTICE OF HEARING AND DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN | LBR 3015-8(a)<br>LBR 9013-4(a) |
| CSD 1171.2 | ORDER GRANTING DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN | LBR 3015-8(d)(5) |
| CSD 1172 | OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN (See CSD 1173 for Notice) | LBR 3015-4 |
| CSD 1173 | NOTICE OF HEARING ON OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN | LBR 3015-5(b)<br>LBR 9013-4(a) |
| CSD 1174 | REQUEST BY DEBTOR FOR DISMISSAL OF CHAPTER 13 | LBR 1017-2(b)(1) |
| CSD 1176 | ORDER DISMISSING CHAPTER 13 CASE ON DEBTOR'S REQUEST (CSD 1174) | LBR 1017-2(b)(1) |
| CSD 1179 | REQUEST BY DEBTOR FOR STATEMENT OF POSITION OF THE CHAPTER 13 TRUSTEE | LBR 9034-2 |
| CSD 1180 | NOTICE OF INTENDED ACTION AND OPPORTUNITY FOR HEARING (for notice to all creditors) | LBR 2002-2(c)<br>LBR 9013-4(b)(1) |
| CSD 1181 | NOTICE OF HEARING AND MOTION AND EXHIBIT A (for notice to all creditors) **NOTE:** Exhibit "A" is required with all notices of fee hearings. | LBR 9013-4(a) |

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 1182 | NOTICE OF MOTION FOR (DESCRIPTION OF ACTION)<br>(for notice to less than all creditors) | LBR 5010-1<br>LBR 9013-4(b) |
| CSD 1183 | NOTICE OF HEARING AND MOTION<br>(for notice to less than all creditors) | LBR 9013-4(a) |
| CSD 1184 | REQUEST AND NOTICE OF HEARING | LBR 2002-2(d)<br>LBR 3002-2(a)<br>LBR 9013-6(b) |
| CSD 1185 | NOTICE OF FILING OF A MOTION FOR RELIEF FROM AUTOMATIC STAY | LBR 4001-2(b)<br>LBR 4001-7 |
| CSD 1186 | REQUEST FOR HEARING ON MOTION FOR RELIEF FROM AUTOMATIC STAY AND NOTICE OF HEARING | LBR 4001-3(a) |
| CSD 1226 | REAFFIRMATION AGREEMENT with COVER SHEET | 11 USC §524(c)<br>Admin. Procedures<br>LBR 1002-1 |
| CSD 1490 | ORDER REOPENING ESTATE | LBR 5010-2 |
| CSD 1514 | GUIDELINES FOR THE SUBSTANTIVE CONSOLIDATION OR JOINT ADMINISTRATION OF RELATED DEBTOR ENTITIES | FRBP 1015<br>LBR 7042-1(d) |
| CSD 1546 | ATTORNEY CHANGE OF INFORMATION FORM | LBR 9010-4 |
| CSD 1800 | ADMINISTRATIVE PROCEDURES FOR FILING, SIGNING AND VERIFYING PLEADINGS AND PAPERS BY ELECTRONIC MEANS | LBR 1001-6(b)(2) |
| CSD 1801 | DECLARATION RE: ELECTRONIC FILING OF PETITION, SCHEDULES & STATEMENTS AND/OR AMENDMENT | LBR 5005-4(c)<br>Admin. Procedures |
| CSD 2015 | OBJECTION TO CLAIM AND NOTICE THEREOF | LBR 3007-1(a) |
| CSD 2018 | REPORT OF ABANDONMENT OF REAL PROPERTY | LBR 6007 |
| CSD 2024 | REPORT OF SALE | LBR 6004-2 |
| CSD 2044 | APPLICATION TO EMPLOY AUCTIONEER | LBR 6005-1(a) |
| CSD 2045 | ORDER APPOINTING AUCTIONEER | LBR 6005-1(a) |

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 2120 | CHAPTER 13 INDIVIDUAL DEBTOR'S CERTIFICATIONS REGARDING DOMESTIC SUPPORT OBLIGATIONS, SECTION 522(q) AND ELIGIBILITY FOR DISCHARGE | LBR 4004-1 |
| CSD 2121 | CHAPTER 11 INDIVIDUAL DEBTOR'S REQUEST FOR DISCHARGE, CERTIFICATIONS REGARDING DOMESTIC SUPPORT OBLIGATIONS, AND SECTION 522(q) | LBR 4004-1 |
| CSD 3000A | ORDER TEMPLATE FOR ADVERSARIES | Admin. Procedures |
| CSD 3000B | ORDER SHORTENING TIME FOR HEARING TEMPLATE FOR ADVERSARIES | Admin. Procedures |
| CSD 3000C | ORDER LODGED TEMPLATE FOR ADVERSARIES | Admin. Procedures |
| CSD 3000D | FINDINGS OF FACT AND CONCLUSIONS OF LAW TEMPLATE FOR ADVERSARIES | Admin. Procedures |
| CSD 3000E | FINDINGS OF FACT AND CONCLUSION OF LAW LODGED TEMPLATE FOR ADVERSARIES | Admin. Procedures |
| CSD 3007 | SUMMONS IN AN ADVERSARY PROCEEDING | Admin. Procedures<br>LBR 7003-1<br>LBR 7004-1<br>LBR 9027-1(b) |
| CSD 3008 | THIRD-PARTY SUMMONS IN AN ADVERSARY PROCEEDING | Admin. Procedures<br>FRBP 7014 |
| CSD 3010 | PROOF OF SERVICE (ADVERSARY) | Admin. Procedures<br>LBR 1001-6 |
| CSD 3011 | SUBSTITUTION OF ATTORNEY AND ORDER THEREON | LBR 9010-5 |
| CSD 3015 | NOTICE OF HEARING AND MOTION (ADVERSARY) | Admin. Procedures<br>LBR 9013-4(a) |
| CSD 3018 | CERTIFICATE OF COMPLIANCE WITH EARLY CONFERENCE OF COUNSEL | LBR 7016-1 |
| CSD 3019 | NOTICE OF PRE-TRIAL STATUS CONFERENCE | LBR 7016-2 |
| CSD 3021 | PRE-TRIAL ORDER | LBR 7016-6 |

APPENDIX C

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# FORMS REQUIRED BY THE LOCAL RULES OR THE ADMINISTRATIVE PROCEDURES

| Number | Title | Reference |
|---|---|---|
| CSD 3026 | LIST OF EXHIBITS SUBMITTED BY ATTORNEY | LBR 7016-6(e) |
| CSD 3029 | JUDGMENT BY DEFAULT (See CSD 3030 for Request to Enter Default) | FRBP 7055 |
| CSD 3030 | REQUEST TO ENTER DEFAULT | LBR 7055-1(a) |
| CSD 3054 | CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT | LBR 7069-3 |
| CSD 3060 | APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION | LBR 7069-1 |
| CSD 3061 | ORDER TO APPEAR FOR EXAMINATION | LBR 7069-1 |
| CSD 3066 | BILL OF COSTS | FRBR 7054(b) |
| CSD 4000 | APPLICATION TO JOIN COMPENSATED MEDIATION PANEL | Admin. Procedures |
| CSD 4001 | APPLICATION TO JOIN VOLUNTARY MEDIATION PANEL | Admin. Procedures |
| CSD 4002 | ORDER APPOINTING MEDIATOR AND ASSIGNMENT TO MEDIATION | Admin. Procedures |
| CSD 4003 | CASE QUESTIONNAIRE IN CONNECTION WITH MEDIATION PROCEDURE | Admin. Procedures |
| CSD 4004 | MEDIATOR'S CERTIFICATE OF COMPLIANCE | Admin. Procedures |
| | RIGHTS AND RESPONSIBILITIES OF CHAPTER 7 DEBTORS AND THEIR ATTORNEY | LBR 1002-1(c) |
| | RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEY (Business Case) | LBR 1002-1(c) |
| | RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEY (Consumer Case) | LBR 1002-1(c) |

## GUIDELINES FOR FIRST DAY MOTIONS

1. The court recognizes that certain matters must be addressed immediately after the commencement of a chapter 11 case in order to ensure the least possible disruption to the debtor's ongoing business operations and thereby enhance the chances for success in chapter 11. Matters that typically require expedited consideration include, without limitation, requests to pay prepetition payroll, to honor customer deposits and obligations, to authorize maintenance of existing bank accounts and cash management systems, and to determine adequate assurance for utility companies. When expedited relief is sought by the debtor-in-possession at the outset of the case in the form of motions ("First Day Motions"), the debtor-in-possession shall serve written pleadings on parties or counsel for parties in interest, including the United States Trustee, any committee of creditors or equity security holders established prior or subsequent to the chapter 11 filing or, if none, the twenty largest unsecured creditors and any secured creditor whose collateral includes cash collateral or whose lien(s) might be affected by the relief sought.

2. When made in advance of the chapter 11 filing, service of the moving papers may be by Express or Overnight Mail. When made after the chapter 11 filing, service shall be made by facsimile, personal service or other electronic means (by consent) provided, however, that Express or Overnight Mail may be used where a party is unable to notify by facsimile, personal service or other electronic means (by consent).

3. The First Day Motion, declaration, and order for the relief requested should be filed in the clerk's office with a note that it be directed to the judge's law clerk. The words "First Day Motion" shall appear in the caption of all emergency motions and orders thereon.

4. The debtor-in-possession shall advise the judge's law clerk and the United States Trustee by telephone of the filing of any First Day Motion(s).

5. First Day Motions with respect to the use of cash collateral and/or post-petition financing shall comply with Fed. R. Bankr. P. 4001(b) or (c).

6. Authorization for payment of insiders of the debtor may be obtained pursuant to First Day Motions. Any such motion shall state the nature and extent of the duties to be performed by the person to be compensated and the business justification for the amount of the compensation proposed and shall be limited in duration to sixty (60) days. A personal financial declaration is required if the insider applicant has a 20% or greater ownership interest in the debtor or is a sole member of the Board of Directors.

7. The court reserves discretion to grant or deny a First Day Motion without further hearing. A denial without a hearing is not a disposition on the merits.

8. Any party in interest who opposes a First Day Motion shall immediately notify the judge's law clerk of its position by telephone. No opposition shall be filed to a First Day Motion unless the court otherwise directs.

## GUIDELINES FOR FIRST DAY MOTIONS

9. Within two (2) business days after the entry of any First Day Order, the debtor-in-possession shall serve a conformed copy of the order on any committee of creditors or equity security holders established prior or subsequent to the chapter 11 filing or, if none, the twenty largest unsecured creditors and any secured creditor whose collateral includes cash collateral or whose lien(s) might be affected by the relief sought, on the United States Trustee and on such other entities as the court may direct. A proof of service shall be filed with the court no later than the next business day following the date of service.

10. Any party in interest may file a motion to modify any First Day Order under this rule, other than any order entered pursuant to 11 U.S.C. §§ 363 and 364 with respect to the use of cash collateral and/or approval of post-petition financing, within thirty (30) days of the entry of such order, unless otherwise ordered by the court. Any such motion for modification shall be given expedited consideration by the court. In any such motion for modification, the debtor-in-possession shall have the burden of proof with respect to the propriety of the relief granted in the original First Day Order

# GUIDELINES FOR MOTIONS TO USE CASH COLLATERAL OR TO OBTAIN CREDIT

This court is often requested to rule on requests by debtors (and sometimes chapter 11 trustees) for authority to use cash collateral or obtain credit. In an effort to provide guidance to debtors and secured creditors, the court has adopted the following guidelines. As a preliminary matter, all financing motions should be by motion pursuant to Fed. R. Bankr. P. 2002, 4001, and 9014 and Local Bankruptcy Rule 9013 and should provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g.; the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, points or other costs, interest rate, maturity, events of default, use of funds limitations, and protections afforded under 11 U.S.C. §§ 363 and 364). The debtor should be prepared to present a budget at the interim hearing on such cash collateral usage and/or financing that would support the need for such interim funding. The budget should cover the period for which cash collateral use is sought.

In addition, the court will typically NOT authorize (particularly in interim orders) use of cash collateral and/or financing agreements that contain any one or more of the following:

1. Provisions that grant cross-collateralization protection (other than replacement liens) to the prepetition secured creditor (i.e.; clauses that secure prepetition debt by post-petition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law).

2. Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditors without first giving parties in interest at least seventy-five (75) days from the entry of the interim order and the official committee of unsecured creditors, if formed, no less than sixty (60) days notice from the later of the date of its formation or the date of its retention of counsel to investigate such matters, unless otherwise directed by the court.

3. Provisions that seek to waive rights under 11 U.S.C. § 506(c).

4. Provisions that grant immediately to the prepetition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548, and 549.

5. Provisions that "roll over" prepetition debt of the prepetition secured creditor to post-petition debt.

6. Provisions which provide carveouts for administrative expenses that do not treat all professionals equally or on a pro rata basis.

7. Provisions in any agreement for use of cash collateral, financing or conditioning the automatic stay that in effect operate to divest the debtor-in-possession of any discretion in the formulation of a plan or administration of the estate or limit access to the court to seek any relief under other applicable provisions of law. Such provisions include, without limitation, agreements with respect to the treatment of claims.

## GUIDELINES FOR MOTIONS TO USE CASH COLLATERAL OR TO OBTAIN CREDIT

If a party believes that compelling circumstances justify a departure from these guidelines, the motion must: (a) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated above, (b) identify the location of any such provision in the proposed form of interim order, cash collateral stipulation and/or loan agreement, and (c) justify for the inclusion of such provision. In particular, the motion shall, in checklist fashion set forth below, identify departures from the guidelines:

| **Description of Provision** | Page No. | Line No. (If Applicable) |
|---|---|---|
| ❑ Cross-collateralization clauses | _____ | _____ |
| ❑ Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt | _____ | _____ |
| ❑ Provisions that seek to waive rights under 11 U.S.C. § 506(c) | _____ | _____ |
| ❑ Provisions that grant immediately to the prepetition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548, and 549 | _____ | _____ |
| ❑ Provisions that "roll over" prepetition debt of the prepetition secured creditor to post-petition debt | _____ | _____ |
| ❑ Provisions which provide carveouts for administrative expenses that do not treat all professionals equally or on a pro rata basis | _____ | _____ |
| ❑ Provisions that operate, as a practical matter, to divest the debtor-in-possession of any discretion in the formulation of a plan or administration of the estate or limit access to the court to seek any relief under other applicable provisions of law | _____ | _____ |

If the above-described checklist is not submitted, counsel for the proponent of the cash collateral or relief from stay stipulation, must certify that no such provisions are contained in the agreement submitted for approval.

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# GUIDELINES FOR THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER § 363 WITHIN 60 DAYS OF THE FILING OF THE PETITION

## 1. DECLARATION OF COUNSEL FOR DEBTOR-IN-POSSESSION.

In connection with any hearing to approve the sale of substantially all assets within sixty (60) days of the filing of the petition, the request for the special setting of a hearing or the sale motion itself when regularly noticed, should comply with Local Bankruptcy Rules 2002 and 6004 unless otherwise ordered by the court and be supported by a separate declaration by counsel for the debtor-in-possession covering the following points:

A. Retention of Counsel. The date counsel was retained by the debtor, the approximate number of hours of professional time expended prepetition, compensation paid to counsel prepetition including source of payment and the approximate amount of accrued but unpaid compensation.

B. Communications with Creditors. A description of any written communications of the debtor with creditors during the prepetition reorganization process. Copies of letters should be attached. If letters contain confidential information, counsel may apply to the court to submit such documents under seal pursuant to Local Bankruptcy Rules 9018-2 and 9018-3.

C. Communications with Shareholders or Partners. A description of any written communications with shareholders or partners of a partnership during the prepetition reorganization process. Copies of letters should be attached. If letters contain confidential information, counsel may apply to the court to submit such documents under seal pursuant to Local Bankruptcy Rules 9018-2 and 9018-3.

D. Creditors' Committee. If a creditors' committee existed prepetition, indicate the date and manner in which the committee was formed.

E. Counsel for Committee. If the prepetition creditors' committee retained counsel, indicate the date counsel was engaged and the selection process.

F. Sale Contingencies. Statement of all contingencies to the sale agreement together with a copy of the agreement.

G. Creditor Contact List. If no committee has been formed, a list of contact persons together with fax and phone numbers for each of the largest 20 unsecured creditors.

H. Administrative Debts. Assuming the sale is approved, an estimate of administrative debts to be incurred prior to closing and the source of payment for such debts.

I. Proceeds of Sale. An estimate of the gross proceeds anticipated from the sale together with an estimate of the net proceeds coming to the estate with an explanation of the items making up the difference.

## GUIDELINES FOR THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER § 363 WITHIN 60 DAYS OF THE FILING OF THE PETITION

J. Debt Structure of Debtor. A brief description of the debtor's debt structure including the amount of the debtor's secured debt, priority claims and general unsecured claims.

K. Disposition of Proceeds. A statement setting forth, to the best of declarant's knowledge, the likely distribution of proceeds to secured claimants, administrative claimants, priority claimants and general unsecured creditors.

### 2. DECLARATION OF RESPONSIBLE INDIVIDUAL FOR DEBTOR-IN-POSSESSION.

Counsel's declaration referred to in paragraph 1 above should be accompanied by a declaration from the responsible individual covering the following matters:

A. Alternatives to Sale. A description of the efforts, if any, to pursue other alternatives such as financing, capital infusion, etc., including the period of time involved and the results achieved.

B. Marketing of Assets. A description of the manner in which the assets were marketed for sale including the period of time involved and the results achieved.

C. Decision to Sell. The date on which the debtor agreed to sell the assets.

D. Asset Valuation. Disclosure of the debtor's prior valuations, within the last year, of the assets to be sold, if any (i.e.; book value, appraisals, financial statements, etc.).

E. Tax Consequences of the Sale. A statement by a qualified person describing the tax consequences of the proposed sale.

F. Relationship of Buyer. A statement identifying the buyer and setting forth, to the best of declarant's knowledge, all of the buyer's (including its officers, directors and shareholders) connections with the debtor, creditors, any other party in interest, their respective attorneys, accountants, the United States Trustee or any person employed in the office of the United States Trustee.

G. Post Sale Relationship with Debtor. A statement setting forth, to the best of declarant's knowledge, any relationship or connection the debtor (including its officers, directors, shareholders, and employees) will have with the buyer after the consummation of the sale, assuming it is approved.

H. Relationship with Secured Creditors. If the sale involves the payment of all or a portion of secured debt(s), a statement of all connections between debtor's officers, directors, employees or other insiders and each secured creditor involved (for example, release of insider's guaranty).

## GUIDELINES FOR THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER § 363 WITHIN 60 DAYS OF THE FILING OF THE PETITION

I. Insider Compensation. Disclosure of current compensation received by officers, directors, key employees or other insiders pending approval of the sale. Declaration shall include the dates the orders approving compensation were entered, the terms of the orders, and whether the current compensation differs from the approved terms.

### 3. DECLARATION OF COUNSEL FOR CREDITORS' COMMITTEE.

Any counsel who has represented a prepetition creditors' committee should submit a declaration covering the following points:

A. Retention of counsel. Same as paragraph 1.A above.

B. Communications with Creditors. Same as paragraph 1.B above.

C. Communications with Shareholders or Partners. Same as paragraph 1.C above.

D. Involvement in Sale. A description of the committee's and counsel's involvement in the negotiation of the sale.

### 4. HEARING AND NOTICE REGARDING BID PROCEDURES MOTIONS AND SALE MOTIONS.

Generally, the sale of substantially all assets must proceed in two steps as follows:

A. Sale Procedures Motions. In all assets sales where a debtor-in-possession seeks to set a procedure for overbids, including credit bidding, other than as provided in paragraph 8 below or to pay damages to a prospective purchaser as defined in paragraph 9 below, a motion to approve sale procedures must be filed and hearing held before notice of the sale is given.

B. Notice of Sale. All notices of sale given to creditors and other parties in interest must contain the information required by paragraphs 1.H through 1.K and paragraphs 2.A through 2.H above, in addition to any other orders made as a result of a Sale Procedures Motion. Unless the court orders otherwise, all sales will be governed by these guidelines, including auctions or presentation of competing bids.

### 5. GOOD FAITH FINDING.

There must be an evidentiary basis for a finding of good faith under § 363(m). Evidence can be presented in the form of a declaration from the prospective purchaser.

## GUIDELINES FOR THE SALE OF SUBSTANTIALLY ALL ASSETS UNDER § 363 WITHIN 60 DAYS OF THE FILING OF THE PETITION

### 6. COMPETING BIDS.

Unless the court orders otherwise, competing bids may be presented at the time of the hearing.

### 7. FINANCIAL ABILITY TO CLOSE.

Unless the court orders otherwise, any competing bidder must be prepared to demonstrate to the satisfaction of the court its ability to consummate the transaction if it is the successful bidder.

### 8. OVERBIDS.

Unless the court orders otherwise, each overbid must be at least 5% more than the amount of the original offer. The amount of the original offer is determined without regard to any commission or payment to a broker or agent.

### 9. DAMAGES PAYABLE TO PROSPECTIVE PURCHASER.

Whether denominated liquidated damages, breakup fee, topping fee or other designation, no damages of any kind are payable to a prospective purchaser or its agents absent approval of the court. If a provision for damages is contained in the original purchase agreement, the provision should provide that it must be approved separately from the agreement itself as part of the Sale Procedure Motion.

A request for the approval of a damage provision shall be supported by, in addition to any other required papers, a declaration from counsel for the debtor-in-possession setting forth the precise conditions under which damages would be payable and the factual basis on which the seller determined the provision was reasonable. Counsel for the proposed buyer may, but is not required to, submit a similar declaration.

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# GUIDELINES FOR PREPACKAGED CHAPTER 11 CASES

## 1. GOALS.

The purpose of this guideline is to establish a uniform approach for commencing and administering "prepackaged chapter 11 cases" in the United States Bankruptcy Court for the Southern District of California. Specifically, this guideline defines a "prepackaged chapter 11 case" and attempts to provide bankruptcy practitioners with help in dealing with practical matters which either are not addressed at all by statute or rules or are addressed indirectly in a piecemeal fashion by statutes, general rules, and/or local rules that were not enacted specifically with prepackaged chapter 11 cases in mind. Although each case is different, many issues are common to all prepackaged cases. Judicial economy, as well as procedural predictability for debtors and creditors, will be enhanced by promulgation of uniform guidelines to deal with these common issues. The guidelines are advisory only; the court retains the power to depart from them.

## 2. DEFINITION OF PREPACKAGED CHAPTER 11 CASE.

For purposes of these guidelines, a "prepackaged chapter 11 case" is one in which the debtor negotiates terms of a plan and solicits acceptances thereof prior to filing the petition. In these circumstances, the debtor shall file a motion scheduling a confirmation hearing for the prepackaged plan ("Prepackaged Scheduling Motion") as set forth below.

## 3. CRITERIA FOR PREPACKAGED CHAPTER 11 CASE; CONTENTS OF PREPACKAGED SCHEDULING MOTION.

A. Content of Prepackaged Scheduling Motion. The Prepackaged Scheduling Motion shall:

(1) represent that (a) the solicitation of votes to accept or reject the debtor's plan required for confirmation of that plan was completed prior to commencement of the debtor's chapter 11 case, and that no additional solicitation of votes on that plan is contemplated by the debtor, or (b) the solicitation of all votes to accept or reject the debtor's plan required for confirmation of that plan has been deemed adequate by the court pursuant to paragraph 3.C.(2) below such that no additional solicitation will be required;

(2) represent that the requisite acceptances of such plan have been obtained from each class of claims or interests as to which solicitation is required except as provided in paragraph 3.A.(3) below; and

(3) with respect to any class of interests that has not accepted the plan, whether or not it is deemed not to have accepted the plan under § 1126(g), represent that the debtor is requesting confirmation under § 1129(b); and

(4) request entry of an order scheduling the hearing (a) on confirmation of the plan and (b) to determine whether the debtor has satisfied the requirements of either 11 U.S.C. § 1126 (b)(1) or 11 U.S.C. § 1126(b)(2), for a date that is not more than ninety (90) days following the petition date.

## GUIDELINES FOR PREPACKAGED CHAPTER 11 CASES

(5) The motion shall be supported by a declaration and have attached (a) a summary of the votes accepting or rejecting the debtor's plan; and (b) copies of any solicitation used to solicit those votes.

B. Confirmation Pursuant to 11 U.S.C. § 1129(b)(2)(c). A chapter 11 case may constitute a "prepackaged chapter 11 case" for purposes of these guidelines notwithstanding the fact that the debtor proposes to confirm the plan pursuant to 11 U.S.C. § 1129(b)(2)(c) as to a class of interests.

C. Filing of Petition After Solicitation has Commenced but Before Expiration of Voting Deadline. Unless the court orders otherwise, if a chapter 11 case is commenced by or against the debtor, or if a chapter 7 case is commenced against the debtor and converted to a chapter 11 case by the debtor pursuant to 11 U.S.C. § 706(a), after the debtor has transmitted all solicitation materials to holders of claims and interests whose vote is sought but before the deadline for casting acceptances or rejections of the debtor's plan (the "Voting Deadline"),

(1) the debtor and other parties in interest shall be permitted to accept but not solicit ballots until the Voting Deadline; and

(2) after notice and a hearing the court shall determine the effect of any and all such votes.

D. Applicability of Guidelines to Cases Involving Cramdown of Classes of Claims and "Prepackaged Chapter 11 Cases." The court may, upon request of the debtor or other party in interest in an appropriate case, apply some or all of these guidelines to

(1) cases in which the debtor has satisfied the requirements of paragraph 3.A.(1) above but intends to seek confirmation of the plan pursuant to 11 U.S.C. § 1129(b) as to a class of claims (a) which is deemed not to have accepted the plan under 11 U.S.C. § 1126(g); (b) which is receiving or retaining property under or pursuant to the plan but whose members' votes were not solicited prepetition and whose rejection of the plan has been assumed by the debtor for purposes of confirming the plan; or (c) which is receiving or retaining property under or pursuant to the plan and which voted prepetition to reject the plan, as long as no class junior to such rejecting class is receiving or retaining any property under or pursuant to the plan; and

(2) "partial prepackaged chapter 11 cases" — i.e.; cases in which acceptances of the debtor's plan were solicited prior to the commencement of the case from some, but not all, classes of claims or interests whose solicitation is required to confirm the debtor's plan.

## GUIDELINES FOR PREPACKAGED CHAPTER 11 CASES

### 4. PREFILING NOTIFICATION TO THE UNITED STATES TRUSTEE AND THE CLERK OF COURT.

A. Notice of Proposed Filing to the United States Trustee. At least five (5) business days prior to the anticipated filing date of the prepackaged chapter 11 case, the debtor should (1) notify the United States Trustee of the Debtor's intention to file a prepackaged chapter 11 case and (2) supply the United States Trustee with one (1) copy of the debtor's plan and disclosure statement (or other solicitation document).

B. Notice of Proposed "First Day Orders" to the United States Trustee. If possible, drafts of all motions pursuant to which the debtor seeks entry of orders on or shortly after the filing of the petition ("First Day Motion"), with the proposed orders attached as exhibits, should be furnished to the United States Trustee at least two (2) business days in advance of the filing of the petition or as soon as practicable after the filing of an involuntary petition.

C. Notice of Proposed Filing to the Clerk of Court. At least two (2) business days prior to the anticipated filing of the prepackaged chapter 11 case, counsel should contact the Clerk of Court to discuss the anticipated filing, the amount of the debtor's assets, number and type of creditors, procedures for handling public inquiries (i.e.; the names, addresses and telephone numbers of the persons to whom such inquiries should be directed), procedures for handling claims and proofs of claim or interest. The Clerk of Court will not assign the case to or discuss the case with a judge until the petition is filed.

### 5. FILING OF PREPACKAGED CHAPTER 11 CASE.

As soon as practicable following filing of a prepackaged chapter 11 case, the debtor shall furnish to the judge assigned to the case a copy of the plan, the disclosure statement (or other solicitation document), a summary of balloting as required by Local Bankruptcy Rule 3018, First Day Motions, and any other filed motion. To the extent that documents filed by the debtor at or following the commencement of the debtor's chapter 11 case differ in substance from the versions supplied to the United States Trustee under paragraphs 4.A and 4.B above, the debtor shall furnish to the United States Trustee one (1) copy of any such documents that have been modified, preferably black lined to show changes.

LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

# GUIDELINES FOR ESTABLISHING INTERIM COMPENSATOIN PROCEDURES FOR PROFESSIONALS

The Bankruptcy Code (11 U.S.C. § 331) limits the frequency with which professionals employed under 11 U.S.C. § 327 or § 1103 may apply for compensation for services rendered and reimbursement for expenses to once every 120 days after the date of the order for relief unless the court otherwise permits.

These guidelines are intended to assist professionals in obtaining orders setting forth procedures for interim compensation provided that professionals satisfy the requirements of Knudsen Corp v. U.S. Trustee, 84 B.R. 668 (9th Cir. B.A.P. 1988).

## 1. NOTICE.

Notice of a hearing on a motion to approve interim compensation procedures should be given to the United States Trustee, all creditors and equity holders, the debtor, and parties requesting special notice in accordance with Local Bankruptcy Rule 2002.

## 2. CONTENT OF MOTION.

The motion to approve interim compensation procedures should describe in detail the proposed procedures.

## 3. GUIDELINES.

The court will generally approve interim procedures which:

A. Provide for the monthly payment of fees and reimbursement of expenses (subject to the other guidelines set forth herein).

B. Require service of copies of the invoices for which fees and costs are requested on the debtor, the United States Trustee, all official committees (or, if none appointed, the 20 largest unsecured creditors), and parties requesting special notice.

C. Provide those served in paragraph 3.B with an opportunity to object within ten (10) days after the service of the invoices by notifying the applicant in writing and setting forth the specific grounds for the objection;

D. Provide the applicant with the option to either request a hearing on the objection or hold back the amount of fees and/or expenses that are the subject of the objection until the hearing on the application for interim compensation.

E. Provide for an award of 80% of the fees requested with a hold-back of 20% of such fees and for an award of 100% of expenses; provided that the 20% hold-back of fees may include any fees to which an objection was raised.

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F. Require that an application for an interim award of compensation and expenses, in compliance with applicable federal and local bankruptcy rules and the Guidelines of the Office of the United States Trustee for the Southern District of California, be filed with the court and noticed for hearing in accordance with Local Bankruptcy Rule 2002-2 approximately once every 120 days.

G. State that neither the United States Trustee nor any party in interest shall be barred from raising objections to any charge or expense in any professional fee application filed with the court on the ground that no objection was raised with respect to the invoice.

H. Provide that if the applicant fails to comply with the 120-day fee application procedure set forth in paragraph 3.F, said applicant shall not be entitled to continue to utilize the interim fee compensation procedure previously approved.

# DESIGNATED PUBLICATIONS

The "Union Tribune" of San Diego and the “Daily Transcript” of San Diego, being newspapers of general circulation within the County of San Diego and within above district, and the "Imperial Valley Press" of El Centro, California, being a newspaper of general circulation in the County of Imperial and within the above district, are designated as the official newspapers for publication of all notices required to be published by law or order of this court.

The court may, in any case for the convenience of the parties in interest or in the interest of justice, designate any other newspaper for publication of notices as the court may determine.