

# Local Rules Changes for December 1, 2024

## New Rules

**1007-8. Motion for Exemption from Credit Counseling.** A motion for exemption from the 11 U.S.C. § 109(h)(4) credit counseling requirement must be accompanied by a supporting Declaration unless the exemption is based upon military duty.

(CSD 1027 amended to reflect the requirement in 1007-8.)

## Amended Rules

**1006-3. Waiver of Filing Fee.** An application to waive the chapter 7 filing Fee must substantially conform to ~~Local Form CSD 1020~~Official Form B 103B.

(also need to remove CSD 1020 in Appendix C and edit Admin Procedures 3.1(b) as shown below)

**2002-3. Noticing a PCM.** If a PCM adversely affects a party in interest, a hearing is required in every instance, and the PCM must be noticed using Local Form CSD 1170 in accordance with FRBP 2002. If a PCM will not adversely affect a party in interest, a hearing is not typically required, and notice is not governed by FRBP 2002. ~~Every PCM but must be noticed using Local Form CSD 1331.~~

## 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 ~~Local~~Official Form ~~CSD-2540~~B 2540.
- (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.
- (e) If the moving party is requesting only the production of documents and not the examination of an individual or entity, then the moving party may use ~~Local~~Official Form ~~CSD-B~~B 2570 for the production of documents.

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

### (f) 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(c);
  - 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 be supported by a Declaration and contain information substantially conforming to CSD 1027 – LBR 1007-8;
  - E. motion for order confirming that automatic stay is not in effect under 11 U.S.C. § 362(c)(4)(A) – LBR 4001;
  - 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.

~~**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.~~

**7026-1. Applicability of Rule.** In all adversary proceedings, failure to timely comply with FRBP 7026 and to follow the procedures set forth in LBR 7016-1 will be cause for

issuance of a notice of dismissal or denial of the matter. ~~FRCP 26(d)(1) is not applicable to requests under FRBP 7033, 7034, or 7036. But see LBR 9014-2 for limitations on discovery in contested matters.~~

**7041-3. ~~Voluntary or Stipulated~~ Dismissal of Objections to Discharge of the Debtor.** Content of Motion or Stipulation Notice. 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. Notice of such motion or notice of intended action is governed by LBR 9013-4(b). It must be filed in the main case and served upon the Chapter 7 trustee, the United States Trustee, and any parties that have appeared in the adversary proceeding, unless otherwise ordered by the Court.

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

- (a) PCM. When a plan amendment not adversely affecting a party in interest is required before confirmation, it ~~When an amendment to a plan is required before confirmation, a PCM must be noticed and separately filed on the docket. Where a PCM adversely affects a party in interest, the PCM must be noticed for a hearing at least 28 days after it is filed using Local Form CSD 1170. Where a PCM will not adversely affect a party in interest, the PCM~~ may be filed as a PCM at any time before a 341(a) meeting or confirmation hearing, and no separate notice is required. An amendment before confirmation that might adversely affect a party in interest must be filed and noticed as a proposed amended plan. See LBR 2002-3 and 3015-6. noticed using Local Form CSD 1331.
- (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.

### **3015-6. Time and Manner for Objecting to Modifications of a Chapter 13 Plan.**

- (a) Objections to ~~PCMs~~ Modifications with an Adverse Impact on Creditors. Objections to ~~the confirmation of a PCM~~ such a modification, which is to be noticed using Local Form CSD 1170 must be filed, along with a Proof of Service, within 28 days of service and served upon the Debtor(s), counsel, and the Chapter 13 Trustee. Any response to the objection will be considered at the time of the confirmation hearing.

~~(b) Objections to PCMs Without an Adverse Impact on Creditors. Objections to the confirmation of a PCM which is noticed using Local Form 1331 can be presented at the 341(a) meeting or confirmation hearing identified in the notice.~~

~~(e)~~(b) Objections to Post-Confirmation Modifications. Objections to a post-confirmation modification or amended plan noticed using CSD 1149 must be filed, along with a Proof of Service, within 28 days of the modification's service. Any response to the objection must comply with LBR 9013-7 and must be filed, along with a Proof of Service, within 14 days of the objection's service.

**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.

~~(d)~~(c) 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 by other than the debtor, except as otherwise provided in LBR 2002-2(a)(1) and 3015-1(c);
- (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 post-confirmation;

## **RULE 7069. WRITS OF EXECUTION AND ENFORCEMENT OF JUDGMENTS**

**7069-1. Required Forms for Writs of Execution.** Whenever a party seeks a Writ of Execution in accordance with state law as provided in FRBP 7069, the request and writ must confirm substantially to Local Forms CSD 3057 and CSD 3058.

~~(a)~~(b) If the request includes any new costs or partial satisfactions, it must be accompanied by a supporting Declaration using Local Form CSD 3057A stating the dates and amounts thereof. The request and Declaration must be served on the judgment debtor at the last known address available to the judgment creditor.

**7069-24. Examination in Aid of Enforcement of Judgment.** Whenever a party seeks to examine a judgment debtor or a third party in aid of enforcement of a judgment in accordance with state law as provided in FRBP 7069, the application and order must conform substantially to Local Form CSD 3060 and CSD 3061. 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.

**7069-32. 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 Form B 2650, and by payment of the Fee mandated by the Judicial Conference pursuant to 28 U.S.C. § 1930.

## **Admin Procedures** (to be added to the current)

### **3.1 Filing of Petition, Schedules, Statements, and Other Documents**

(b) Depending upon your circumstances, the following documents may or may not be needed. If the form is needed, it must be filed at the same time as the Voluntary Petition but filed separately.

- Application to Pay Filing Fees in Installments (CSD 1006) (for individual debtors only);
- Application for Waiver of Chapter 7 Filing Fee (Official Form B 103B) (for individual debtors only);

#### (d) Return of Exhibits

At the conclusion of ~~the a~~ trial or hearing, the attorney who produced them may remove every exhibit marked for identification or introduced in evidence ~~will be returned to the party who produced it~~ unless otherwise ordered by the Court. If Exhibits are not removed by the attorney with 14 days, the clerk will dispose of them. It will be the responsibility of the party to produce the exhibits on appeal.

## **Forms**

- CSD 1027 – Amend – Motion and Notice – Exemption of Credit Counseling
- CSD 1170 – Amend – Notice of Modified Chapter 13 Plan Filed Before Confirmation
- CSD 3057 – Amend – Request for Issuance of Writ of Execution

- **CSD 3057A – New – Declaration in Support of Request for Issuance of Writ of Execution**
- **CSD 3058 – Amend – Writ of Execution**
- **B\_2540 – Subpoena 2004 Exam – using Director’s Form**
- **B\_2570 – Subpoena to produce Docs – using Director’s Form**
- **B\_103 – Application for waiver of Ch 7 fee – Official Form taking place of Local Form CSD 1027**