

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY CMK GENERAL DEPUTY


In re: )  
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AMENDMENT OF LOCAL RULES )  
OF THE U. S. BANKRUPTCY COURT )  
)  
)  
\_\_\_\_\_ )


BANKRUPTCY GENERAL  
ORDER NO. 198


The Court, having considered all public comments submitted to the Court, adopts amendments to Local Bankruptcy Rules 2002-2(d); 2014-1(a) and (b); 6007-4; 7016-9(c); 7026-1; 7041-2; 9013-4(a)(17); 9013-9; 9014-1 (new); and 9014-2 (new). Administrative procedures 3.1(b) and 3.1(c) are revised to accommodate these Local Rules changes.

IT IS ORDERED that effective December 1, 2021, Local Bankruptcy Rules and Administrative Procedures are revised as attached.

DATED: November 1, 2021

  
CHRISTOPHER B. LATHAM  
Chief Judge, U.S. Bankruptcy Court

  
LOUISE DeCARL ADLER  
Judge, U.S. Bankruptcy Court

  
LAURA S. TAYLOR  
Judge, U.S. Bankruptcy Court

  
MARGARET M. MANN  
Judge, U.S. Bankruptcy Court

The Local Bankruptcy Rules are modified as follows:

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

- (d) Response. ~~Except as provided in LBR 4002-2(d)(5) (requiring a 14-day response time), a~~Any opposition or response to a notice of intended action must be filed and served not more than 214 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, FRBP 9006(f) applies.

**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. Otherwise, a noticed motion is required.~~
- (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. Otherwise, a noticed motion~~ is required.

**6007-4. Procedure for Expedited Abandonment of Personal Property.** Where a Movant seeks rejection of an unexpired nonresidential real property lease under LBR 9013-9(c), it may combine a Motion for Expedited Abandonment of Personal Property with a related Motion for Expedited Lease Rejection, and the procedures and notice provisions of LBR 9013-9 will apply.

**7016-9. Preparation for Trial.** Unless otherwise ordered or otherwise specified in the assigned Judge's Chamber Guidelines, the parties must complete the following at least 7 days before the start of trial:

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

**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 or denial of the matter. FRCP 26(d)(1) is not applicable to requests under FRBP 7033, 7034, or 7036. However, discovery may not be propounded in connection with a contested matter until after the responding party has filed written opposition to the matter. Discovery in unopposed contested matters may not be undertaken without leave of court. See LBR 9014-2.

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

(a) Except as provided in the following subsection, Whenever a bankruptcy case is dismissed, any pending related adversary proceeding within which a final judgment has not been entered will be closed 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 7-21 days of case dismissal.

(a)(b) If the pending related adversary proceeding was removed from another court, it will be remanded to that court upon dismissal of the underlying bankruptcy case unless a party files a motion seeking continuation of the adversary proceeding in this Court within 21 days of case dismissal.

(c) A party seeking continuation of an adversary proceeding under this rule may move for judgment or dismissal before the adversary proceeding is closed or after entry of an order reopening a closed adversary proceeding.

(b)(d) 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 adversary proceeding reopened and made applicable in the new case, as though the adversary proceeding were originally filed in the new case.

**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:

(17) motion for ~~none pre-tune~~ approval of applications to employ counsel or other professionals filed more than 30 days after the petition date or employment date, as relevant;

### 9013-9. Emergency Motions.

(b) General Contents of Motion. The motion must:

(c) Contents of Emergency Motion for Rejection of Unexpired Nonresidential Real Property Lease. In addition to the general requirements of 9013-9(b), the motion must:

(1) Identify the applicable statute, the other party to the lease, the location of the leased premises, and the status of possession as of the motion filing date;

(2) State that the lease is proposed to be rejected effective as of the Notice filing or other date proposed by Movant, subject to determination by the Court; and

(3) State whether Movant will seek abandonment of any personal property located on the leased premises by expedited motion pursuant to LBR 6007-4 or on regular notice pursuant to LBR 6007-2 and detail any arrangements for prompt removal of personal property by the Movant.

(e)(d) Service of Motion. A party must personally serve Documents supporting the emergency motion on parties or counsel for parties in interest including the U.S. Trustee, lessor, and property manager, or if the parties or counsel are located outside of the Southern District of California or personal service is impracticable, then serve the papers in a manner reasonably calculated to provide prompt notice, including express or overnight delivery or, with consent, by email or facsimile. If the motion seeks to reject a real property lease, service must also be made to the address for notices in the lease.

(d)(e) 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)(f) 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)~~(g) \_\_\_\_\_ 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)~~(h) \_\_\_\_\_ 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 to the emergency motion is not required to be filed ~~to the emergency motion~~, unless the Court otherwise directs.

~~(h)~~(i) \_\_\_\_\_ Court's Discretion. The Court reserves discretion to grant or deny an emergency motion without further hearing.

~~(i)~~(j) \_\_\_\_\_ 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.

## **RULE 9014. DISCOVERY IN CONTESTED MATTERS**

**9014-1. Applicability of Rule.** In all contested matters under FRBP 9014 to which the adversary rules apply, the parties must comply with FRBP 7026 and follow the procedures set forth in LBR 7016-1. Failure to timely comply will be cause for denial of the matter.

**9014-2. Timing and Limitations.** Discovery may not be propounded in connection with a contested matter until after the responding party has filed written opposition to the matter. Discovery in unopposed contested matters may not be undertaken without leave of court.

The Administrative Procedures are modified as follows:

### **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 (CSD 1020) (for individual debtors only);

- Statement of Exigent Circumstances and Motion Request to Extend Time (CSD1025).
- Motion for Exemption from Credit Counseling (CSD 1027);
- Disclosure of Compensation of Bankruptcy Petition Preparer (CSD 2800) (only in is cases for unrepresented debtors); or
- ~~Declaration and Signature of Non-Attorney Bankruptcy Petition, Bankruptcy Petition Preparer's Notice, Declaration, and Signature, [See Official Bankruptcy Form 119] (only in cases for unrepresented debtors);~~
- ~~Motion for Exemption from Credit Counseling (CSD 1027);~~  
or
- ~~Statement of Exigent Circumstances and Motion Request to Extend Time (CSD1025).~~

**(c) The following must be filed with the voluntary petition for individuals or non-individuals or within 14 days after the petition is filed.**

- Chapter 11 Statement of Your Current Monthly Income (122B) (not required in sSubchapter V cases);