

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

IN RE:
ORDER AMENDING
LOCAL BANKRUPTCY RULES

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GENERAL ORDER 16-0005

ORDER

Notice of proposed amendments to the local rules of this Court was given to the bar and the public on November 4, 2016. The last date for submitting comments concerning the proposed amendment was November 22, 2016.

Effective December 1, 2016, the local rules are amended as shown in the attachment to this order.

Date: November 23, 2016


ROBYN L. MOBERLY
CHIEF BANKRUPTCY JUDGE

ATTACHMENT TO GENERAL ORDER 16-0005

B-1009-1. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES, AND STATEMENTS OF FINANCIAL AFFAIRS

(a) Form of Amendments

(1) Generally

All amendments to voluntary petitions, lists, schedules, statements and other documents shall:

- (A) comply with Fed.R.Bankr.P. 1009 and S.D.Ind. B-1007-1, and shall be accompanied by the appropriate filing fee;
- (B) ~~Each amendment shall also be verified and signed by the Debtor under penalty of perjury;~~
- (C) note the information that has changed in the document, by highlighting, or by describing the change on the first page of the amendment or summarized in an attachment;
- (D) include all information from the original document that remains accurate; and
- (E) ~~then the Debtor shall also file~~ be accompanied by an amended summary of schedules and if appropriate an amended statistical summary of certain liabilities ~~if an~~ the amendment changes the total of any schedule.

(2) Amendments Adding Creditors

Any amendment which adds a creditor shall state the date the debt was incurred. An amendment which adds creditors and is filed non-electronically shall be accompanied by a CD, diskette, DVD, flash drive, or other acceptable medium listing the added creditors only.

B-4001-4. MOTIONS TO MODIFY SECURED DEBT: MORTGAGES

Any motion to modify a mortgage ~~a mortgage~~ a debt secured by real estate shall include in the body of the motion the following information as to the loan both immediately before and after the proposed modification: the principal loan balance, the rate of interest, the amount of the monthly escrow for taxes and insurance, the monthly payment, and the maturity date of the proposed modified note. Sample motions for Chapter 7 and Chapter 13 cases are available on the Court's website.

B-6005-1. LIQUIDATORS/AUCTIONEERS AND APPRAISERS

(a) Bond Required

All liquidators/auctioneers retained by a trustee or Debtor in any case who will come into possession or control of the assets or proceeds of assets of an estate shall ~~either participate in the bond program administered by the UST or~~ post a bond with the **UST on behalf of the United States of America** as obligee for the full value of the assets in the possession or control of the liquidator/auctioneer, unless otherwise ordered by the Court.

(b) Remittance of Gross Proceeds

Unless otherwise ordered by the Court, all gross proceeds shall be remitted to the trustee or Debtor within fourteen (14) days of the sale. Upon motion of any party in interest and for good cause shown, the Court may authorize the liquidator/auctioneer to submit net proceeds or to turn over to a secured creditor the net proceeds realized from the sale of that creditor's collateral.

(c) Validity of Checks

The validity of any checks or bank drafts accepted by the liquidator/auctioneer shall be the sole responsibility of the liquidator/auctioneer.

~~(d) Separate Escrow Account~~

~~If the liquidator/auctioneer does not make an immediate settlement with the trustee or Debtor in any case, and the proceeds of the property sold are \$50,000.00 or more, the auctioneer shall open a segregated escrow or trust account for deposit of the sale proceeds. This account shall be designated by the bankruptcy estate case name and shall require the co-signature of the trustee for any withdrawals. If the proceeds of the sale are less than \$50,000.00, the proceeds may be deposited in the auctioneer's trust or client fund account.~~

~~(e) Appraiser Serving as Liquidator/Auctioneer~~

~~No appraiser, agent, or employee of an appraiser who has been employed in a bankruptcy case may serve as the liquidator/auctioneer in that same case without the approval of the Court.~~

(d) Liquidator/Auctioneer Purchasing at Sale

No liquidator/auctioneer, or any agent or employee of a liquidator/auctioneer employed in a case, may purchase an asset from the estate.

~~B-7008-1. REQUIRED STATEMENT REGARDING CONSENT TO ENTRY OF ORDERS OR JUDGMENT IN CORE PROCEEDING~~

~~In an adversary proceeding, in addition to the statements required by Fed.R.Bankr.P. 7008(a), the complaint, counterclaim, cross-claim, or third party complaint shall contain a statement that the pleader does or does not consent to the entry of final orders or judgment by the Bankruptcy Judge.~~

~~B-7012-1. REQUIRED STATEMENT IN RESPONSIVE PLEADING REGARDING CONSENT TO ENTRY OF ORDERS OR JUDGMENT IN CORE PROCEEDING~~

~~In addition to statements required by Fed.R.Bankr.P. 7012(b), a responsive pleading shall include a statement that the party does or does not consent to the entry of final orders or judgment by the Bankruptcy Judge.~~

B-9027-1. REMOVAL

- (a) Claim or Cause of Action Filed or Pending in a State Court within the Jurisdiction of the Southern District of Indiana

If the bankruptcy case is filed or pending in the Southern District of Indiana, removal is accomplished by filing a notice of removal as an adversary proceeding in the bankruptcy case. If the bankruptcy case is filed or pending in another jurisdiction, **the party requesting the removal (or movant) shall** contact the Clerk of the Bankruptcy Court to open a miscellaneous proceeding. (After the filing with the Bankruptcy Court, a copy of the notice of removal should be filed in the state court where the matter is pending.)

- (b) Claim or Cause of Action Filed or Pending in the District Court for the Southern District of Indiana and the Bankruptcy Case Is Pending in this District

A motion for a directed reference to the Bankruptcy Court may be filed with the District Court.

- ~~(c) Required Statement in Notice of Removal Regarding Consent to Entry of Orders or Judgment in Core Proceeding~~

In addition to the statements required by Fed.R.Bankr.P. 9027(a), the notice of removal shall contain a statement that upon removal of the claim or cause of action the party filing the notice does or does not consent to the entry of final orders or judgment by the Bankruptcy Judge.

(d) ~~Required Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding~~

~~The statement filed pursuant to Fed.R.Bankr.P. 9027(e)(3) by a party who files a pleading in connection with a removed claim or cause of action shall contain a statement that the party does or does not consent to the entry of final orders or judgment by the Bankruptcy Judge.~~

(ec) Court Review of Removal

The Bankruptcy Court may set a hearing, upon notice to the parties, to determine the propriety of the removal and whether the Court should abstain or remand.

~~B-9033-1. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW IN CERTAIN CORE PROCEEDINGS~~

~~If the Court hears a proceeding and determines that it cannot enter a final order or judgment consistent with Article III of the United States Constitution in a particular proceeding referred to the Court and designated as core under 28 U.S.C. §157(b), and if the parties have not consented to entry of final orders or judgment, then Fed.R.Bankr.P. 9033(a), (b), and (c) shall apply as if it is a non-core proceeding.~~